

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** November 20, 2023

**CASE NO(S).:**

OLT-22-004548

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                          |   |
|--------------------------|---|
| Applicant and Appellant: | 30 Eglinton Avenue West Limited   |
| Subject:                 | Request to amend the Official Plan – Failure to adopt the requested amendment |
| Description:             | To permit the construction of three mixed-use high-rise buildings             |
| Reference Number:        | OZ 21/002 W4  |
| Property Address:        | 30 Eglinton Avenue West   |
| Municipality/UT:         | Mississauga/Peel  |
| OLT Case No.:            | OLT-22-004548   |
| OLT Lead Case No.:       | OLT-22-004548   |
| OLT Case Name:           | 30 Eglinton Avenue West Limited v. Mississauga (City)                         |

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                          |  |
|--------------------------|--|
| Applicant and Appellant: | 30 Eglinton Avenue West Limited  |
| Subject:                 | Application to amend the Zoning By-law – Refusal or neglect to make a decision |
| Description:             | To permit the construction of three mixed-use high-rise buildings              |
| Reference Number:        | OZ 21/002 W4   |
| Property Address:        | 30 Eglinton Avenue West  |
| Municipality/UT:         | Mississauga/Peel   |
| OLT Case No.:            | OLT-22-004549  |
| OLT Lead Case No.:       | OLT-22-004548  |

**PROCEEDING COMMENCED UNDER** subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

|                    |   |
|--------------------|---|
| Appellant:         | 30 Eglinton Avenue West Limited                                   |
| Subject:           | Site Plan   |
| Description:       | To permit the construction of three mixed-use high-rise buildings |
| Reference Number:  | SP 22/15 W4   |
| Property Address:  | 30 Eglinton Avenue West   |
| Municipality/UT:   | Mississauga/Peel  |
| OLT Case No.:      | OLT-22-004550   |
| OLT Lead Case No.: | OLT-22-004548   |

**Heard:** October 27, 2023 by Video Hearing

## **APPEARANCES:**

### **Parties**

### **Counsel**

|  |                                      |
|--|--------------------------------------|
| 30 Eglinton Avenue West Limited          | I. Andres                            |
| City of Mississauga ("City")             | M. Minkowski                         |
| Regional Municipality of Peel ("Region") | R. Godley<br>S. Ovas, Student-at-Law |

## **MEMORANDUM OF ORAL DECISION DELIVERED BY D. ARNOLD ON OCTOBER 27, 2023 AND INTERIM ORDER OF THE TRIBUNAL**

---

### **INTRODUCTION**

[1] 30 Eglinton Avenue West Limited ("Appellant") is the owner of the property municipally known as 30 Eglinton Avenue West in the City of Mississauga ("Subject Property"). The Subject Property is approximately 6.33 acres and is located at the southwest corner of Hurontario Street and Eglinton Avenue West. There is an eight-storey office building with one-storey commercial wings as well as three low-rise commercial buildings, one of which is a two-storey building designated under the Ontario Heritage Act and being used as a restaurant, on the Subject Property currently.

[2] The Appellant filed appeals with the Tribunal arising from the City's failure to make decisions within the prescribed statutory timelines set out in the Planning Act, R.S.O. 1990, c. P. 13, as amended ("Planning Act") on applications for an official plan amendment ("OPA") and a zoning by-law amendment ("ZBA") to permit redevelopment of the Subject Property with three mixed-use buildings.

[3] Subsequent to the appeals being filed with the Tribunal, the parties entered into discussions, including mediation, and agreed upon a settlement of the appeals that is being presented to the Tribunal for its consideration at today's Hearing. The proposed settlement entails an OPA and a ZBA that would permit the development of three mixed-use buildings on the Subject Property, with certain modifications to the original applications. The development proposed pursuant to the settlement would consist of 3 buildings (29, 36, and 31 storeys, respectively) containing 1,432 dwelling units in total ("Proposed Development").

[4] The parties requested that the Tribunal consider the issuance of an interim order with respect to the proposed settlement, with the issuance of a final order by the Tribunal being contingent upon receipt by the Tribunal of (a) the OPA and ZBA in final forms that are satisfactory to the Tribunal and (b) written confirmation from the City's Solicitor that the OPA and ZBA in final forms are satisfactory to the City's Solicitor and Chief Planner.

[5] The Parties also requested, on consent, that the Site Plan Appeal (OLT File No. 22-004550) ("Site Plan Appeal") be adjourned *sine die* in order to allow time for the Parties to discuss potential settlement of the Site Plan Appeal.

[6] At the Hearing the Tribunal issued an oral decision approving, on an interim basis, the OPA and ZBA subject to conditions and the following is a written memorandum of that decision.

## EVIDENCE

[7] At the Hearing, the Appellant called one witness, David Sajecki, who was qualified by the Tribunal to provide expert opinion land use planning evidence. The Affidavit of Mr. Sajecki, sworn on October 24, 2023, was entered as Exhibit No. 1 in evidence, with Mr. Sajecki's Curriculum Vitae and Acknowledgement of Expert's Duty included as Exhibit "A" to that Affidavit.

[8] Mr. Sajecki provided expert professional land use planning opinion evidence that the OPA and ZBA represent good land use planning and, in particular, provided evidence as follows:

- (a) The OPA and ZBA are consistent with the Provincial Policy Statement (2020) (the "PPS"). In particular, with reference to specific applicable policies, Mr. Sajecki opined that the Proposed Development represents residential intensification with direct access to both local and regional transportation and makes efficient use of the existing infrastructure. As well, the Proposed Development encourages a sense of place by incorporating a diverse mix of uses and providing high-quality public spaces in the form of Privately-Owned Public Space and other amenity spaces throughout the Subject Property. Moreover, the Proposed Development represents intensification that promotes efficient development and land use patterns, contributes to the supply and range of housing options, and makes efficient use of existing public service infrastructure and facilities, and transit investment. With respect to the latter point, Mr. Sajecki testified that the Subject Property is located adjacent to a light rail transit stop and is within the Eglinton Major Transit Station Area ("MTSA") as included in the City's Official Plan, providing higher-order and surface transit connections across the Greater Toronto and Hamilton Area.

- (b) The OPA and ZBA conform with the Growth Plan for the Greater Golden Horseshoe (2019), as amended (“Growth Plan”). Mr. Sajecki provided evidence that minimum density targets apply to the development of the Subject Property as it is located within a MTSA. Moreover, the Growth Plan states, at Policy 5.2.5(1), that municipalities are “encouraged to go beyond these minimum targets, where appropriate.” Mr. Sajecki opined that the OPA and ZBA conform to the Growth Plan by making efficient use of land, infrastructure, and public service facilities and providing compact, transit-supportive development, as well as adding to the range and supply of housing through intensification in a strategic growth area where residents can make use of transit and active transportation options.
- (c) The OPA and ZBA conform to the Region’s Official Plan (the “Regional OP”) that is applicable, being the 1996 Regional OP. In addition, Mr. Sajecki opined that the OPA and ZBA conform to the current Regional OP that came into force in November 2022. Mr. Sajecki provided evidence that the Subject Property is located within the Urban System, as shown in the Regional OP. As such, Mr. Sajecki opined that the Proposed Development conforms to the Regional OP policies pertaining to the Urban System as it represents an intensified and compact form that efficiently uses land, services, infrastructure, and public finances as it has access to existing services and infrastructure. Moreover, the Subject Property is adjacent to a higher-order transit corridor with significant recent public investment.
- (d) The OPA and ZBA conform to the City’s Official Plan (“City’s OP”). In particular, Mr. Sajecki testified that the Subject Property is located within an Intensification Corridor, a MTSA, and Major Node in the City’s OP. Mr. Sajecki opined that the OPA and ZBA conform to the applicable policies in this regard, including the policies directing growth to the Intensification Corridor, and encouraging compact, mixed-use development that is

transit-supportive as well as Policy 19.5.1, which sets out criteria for site-specific official plan amendments. With regard to Policy 9.2.1, Mr. Sajecki provided evidence that the tallest proposed buildings would be located internal to the site and opined that such a position would ensure a pedestrian scale along the Eglinton Avenue West and Hurontario Street frontages; Moreover, the intent of the ground-floor retail uses and residential lobby entrances along those frontages would be to create active facades along those streets. Mr. Sajecki also opined that the stepped podiums and towers further mitigate pedestrian perception of height and create an interesting architectural appearance. With respect to the existing Wilcox House heritage building on the Subject Property, Mr. Sajecki opined that the Proposed Development would include landscape enhancements and privately-owned public space that is proposed at the intersection of Eglinton Avenue West and Hurontario Street to further enhance the location of the Wilcox House.

- (e) The OPA and ZBA have appropriate regard for the relevant matters of provincial interest set out in Section 2 of the Planning Act, including the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems, the orderly development of safe and healthy communities, the adequate provision of a full range of housing, including affordable housing, the appropriate location of growth and development, the promotion of development that is designed to be sustainable, support public transit and oriented to pedestrians, and the promotion of built form that is (i) well designed, (ii) encourages a sense of place, and (iii) provides for public spaces that are of high quality, safe, accessible, attractive, and vibrant.

- (f) With regard to the concerns identified by the Participant in the proceedings (Doug Colling) as set out in Mr. Colling's written party request form, Mr. Sajecki opined that the Proposed Development is appropriate and desirable in land use planning and urban design terms, including with respect to height and density, and that the Proposed Development appropriately implements the applicable policies and plans as described in the foregoing paragraphs. Mr. Sajecki testified that approximately 2,031 square metres of retail space will be included in the Proposed Development. Mr. Sajecki noted that the Proposed Development and supporting technical studies, including with respect to traffic impacts, were provided to the City and found to be acceptable. Mr. Sajecki also noted that the ZBA would contain a "holding provision," including the requirement for an executed development agreement and any required land dedications.

## **FINDINGS**

[9] Upon consideration of Mr. Sajecki's Affidavit of Evidence (Exhibit 1) and Mr. Sajecki's oral evidence, all of which was uncontroverted, the Tribunal finds that the proposed OPA and the ZBA are consistent with the PPS, conform with the Growth Plan, the Regional OP, and the City's OP, and constitute good land use planning. In this regard, the Tribunal has had regard for the matters of Provincial interest set out in Section 2 of the Planning Act and the decision of the City's Council with respect to the OPA and ZBA settlement.

## INTERIM ORDER

[10] **THE TRIBUNAL ORDERS** that the appeals are allowed, in part, on an interim basis, contingent upon confirmation, satisfaction, or receipt of those requisite matters identified in paragraph 11 below, and the amendment to the City of Mississauga's Official Plan set out in Schedule "A" to this Interim Order and the amendment to the City of Mississauga's Zoning By-law set out in Schedule "B" to this Interim Order are hereby approved in principle.

[11] The Tribunal will withhold issuance of its Final Order contingent upon receipt by the Tribunal of the OPA and the ZBA in final draft form, together with written confirmation that the same is satisfactory to the City's Solicitor and Chief Planner, and the Tribunal's final approval of the OPA and ZBA.

[12] The Panel Member will remain seized for the purposes of reviewing and approving the final draft OPA and ZBA and issuance of the Final Order.

[13] If the Parties do not submit the final drafts of the OPA and the ZBA, together with written confirmation that the same are satisfactory to the City's Solicitor and Chief Planner, and request issuance of the Final Order by no later than **Friday December 1, 2023**, the Appellant and the City shall provide a written status report to the Tribunal by that date as to the timing of the expected confirmation and submission of the final form of the draft OPA and the draft ZBA and the issuance of the Final Order by the Tribunal. In the event the Tribunal fails to receive the required status report and/or in the event that the contingent pre-requisites are not satisfied by the date indicated above or by such other deadline as the Tribunal may impose, the Tribunal may then dismiss the Appeals.



[14] The Tribunal may, as necessary, arrange the further attendance of the Parties by Telephone Conference Call to determine the additional timelines and deadline for the submission of the final form of the instrument(s), the satisfaction of the contingent pre-requisites, and the issuance of the Final Order.

[15] The Site Plan Appeal is hereby adjourned *sine die*, with the Appellant to provide the Tribunal, through the case coordinator assigned to this proceeding, with a written status update on settlement discussions amongst the Parties by no later than **Friday, April 26, 2024**.

*“D. Arnold”*

D. ARNOLD  
MEMBER

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

## **Schedule “A” to Tribunal Interim Order issued November 20, 2023**

By-law No. \_\_\_\_\_  
A by-law to Amend Mississauga Official Plan  
Amendment No. XX  
to  
Mississauga Official Plan

### **PURPOSE**

The purpose of this Amendment is to permit maximum heights of 29, 31 and 36 storeys and a floor space index of 4.32 for Special Site 1, Area A.

### **LOCATION**

The subject lands are located at the southwest corner of Hurontario Street and Eglinton Avenue West. The subject lands are located within the *Uptown Major Node* Character Area, as identified in the Mississauga Official Plan.

### **BASIS**

Mississauga Official Plan came into effect on November 14, 2012, save and except for the outstanding site specific appeals to the Local Planning Appeal Tribunal (LPAT).

The subject lands are designated Office within the Mississauga Official Plan and Special Site 1, Area A, within the Uptown Major Node Character Area. The special site provisions permit Residential High Density development in combination with office uses, either within one building or in separate buildings.

An Official Plan Amendment is required to permit an increase in maximum building height ranging between 29 storeys and 36 storeys.

The proposed Amendment is acceptable from a planning standpoint and should be approved for the following reasons:

1. The proposal meets the intent, goals and objectives of the Mississauga Official Plan.
2. The site is well served by a variety of existing and planned public transportation and active transportation options, community services, public open spaces, residential, commercial, retail and employment uses.
3. The proposed mixed use development incorporates residential, office, retail and commercial uses and provides new open space while retaining an important heritage structure. The proposed development makes efficient use of available and planned infrastructure and public service facilities.

4. The proposed densities are appropriate for the site's location along the Hurontario Intensification Corridor, Uptown Major Node and Eglinton Major Transit Station Area, and is within walking distance of planned higher order transit.
5. The proposed built form is compatible with the planned urban character and vision for the Hurontario Corridor. The proposed buildings will reinforce a street edge and create visual interest along Hurontario Street and Eglinton Avenue West through podiums that respect the scale of the street, provide active at-grade uses and ensure appropriate separation distances from the existing office building and surrounding residential buildings.
6. The proposed mixed-use development provides new housing supply through the intensification of underutilized lands.

## **DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO**

1. Section 13.4.9, Special Site Policies, Uptown Character Area, Mississauga Official Plan, is hereby amended by adding the following:

*13.4.9.1.4 Notwithstanding the policies of this Plan, the following additional policies will apply to the lands identified as Area 1A:*

*f. three apartment buildings with maximum heights of 29, 31 and 36 storeys.*

*g. total maximum floor space index (FSI) of 4.32 will be permitted (includes the retained office building and heritage building).*

## **IMPLEMENTATION**

Upon the approval of this Amendment, the Mississauga Official Plan will be amended in accordance with this Amendment. The lands will be rezoned to implement this Amendment.

This Amendment has been prepared based on the Office Consolidation of Mississauga Official Plan July 27, 2023.

## **INTERPRETATION**

The provisions of the Mississauga Official Plan, as amended from time to time regarding the interpretation of that Plan, will apply in regard to this Amendment.

This Amendment supplements the intent and policies of the Mississauga Official Plan.

## Schedule “B” to Tribunal Interim Order Issued November 20, 2023

Draft ZBA – October 23, 2023

### Without Prejudice – Rezoning Settlement Proposal

THE CORPORATION OF THE CITY OF MISSISSAUGA

BY-LAW NUMBER XXX-2023

A by-law to amend By-law Number 0225-2007, as amended.

WHEREAS pursuant to Section 34 and 36 of the Planning Act, R.S.O. 1990, c.P.13, as amended, the Council of a local municipality may, respectively, pass a zoning by-law and enact a by-law to impose a holding provision;

NOW THEREFORE, the Council of the Corporation of the City of Mississauga ENACTS as follows:

1. The lands subject to this By-law consist of Part of Lot X, Concession X, City of Mississauga, as **shown on Schedule “A” attached hereto, and that Schedule “A” forms part of this By-law.**
2. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by rezoning the lands subject to this By-law from "O-8" to "H-RA5-XX" with the following exceptions:

|   |  |         |                  |
|---|--|---------|------------------|
| 4.15.2.X  | Exception RA5-XX   | Map #29 | By-law: XXX-2023 |
| In an RA5-XX zone the permitted uses and applicable regulations shall be as specified for an RA5 zone except that the following uses/regulations shall apply: |  |         |                  |
| <b>Additional Permitted Uses</b>  |  |         |                  |
| 4.15.2.X.1  | (1) <b>Office</b><br>(2) <b>Medical Office</b><br>(3) <b>Retail Store</b><br>(4) <b>Restaurant</b><br>(5) <b>Convenience Restaurant</b><br>(6) <b>Take-out Restaurant</b><br>(7) <b>Veterinary Clinic</b><br>(8) <b>Animal Care Establishment</b><br>(9) <b>Funeral Establishment</b><br>(10) <b>Service Establishment</b><br>(11) <b>Commercial School</b><br>(12) <b>Financial Institution</b><br>(13) <b>Recreational Establishment</b><br>(14) <b>Entertainment Establishment</b><br>(15) <b>Open Space</b> (Passive Recreational Use) |         |                  |
| <b>Regulations</b>  |  |         |                  |
| 4.15.2.X.2  | An apartment shall comply with the RA5 zone regulations contained in Subsection 4.15.1 of this By-law except that:<br><br>(1) Maximum <b>building height</b> of all building and structures, excluding a mechanical penthouse on Areas 'A1', 'A2' and 'A3' identified in Schedule A of this Exception shall comply with the following:   |         |                  |

Draft ZBA – October 23, 2023

| Area | Maximum Building Height (storeys) | Maximum Building Height (metres) |
|------|-----------------------------------|----------------------------------|
| A1   | 29 storeys                        | 93.5 m                           |
| A2   | 36 storeys                        | 113.1 m                          |
| A3   | 31 storeys                        | 100.0 m                          |

- (2) Maximum total gross floor area – non-residential used for uses identified in Sentence 4.15.2.X.1, in Areas 'A1', 'A2' and 'A3' identified on Schedule RA5-XX of this Exception shall comply with the following:

| Area | Maximum Gross Floor Area – Non-Residential |
|------|--|
| A1   | 980 m <sup>2</sup>                         |
| A2   | 0 m <sup>2</sup>                           |
| A3   | 1,155 m <sup>2</sup>                       |
| A4   | 12,500 m <sup>2</sup>                      |

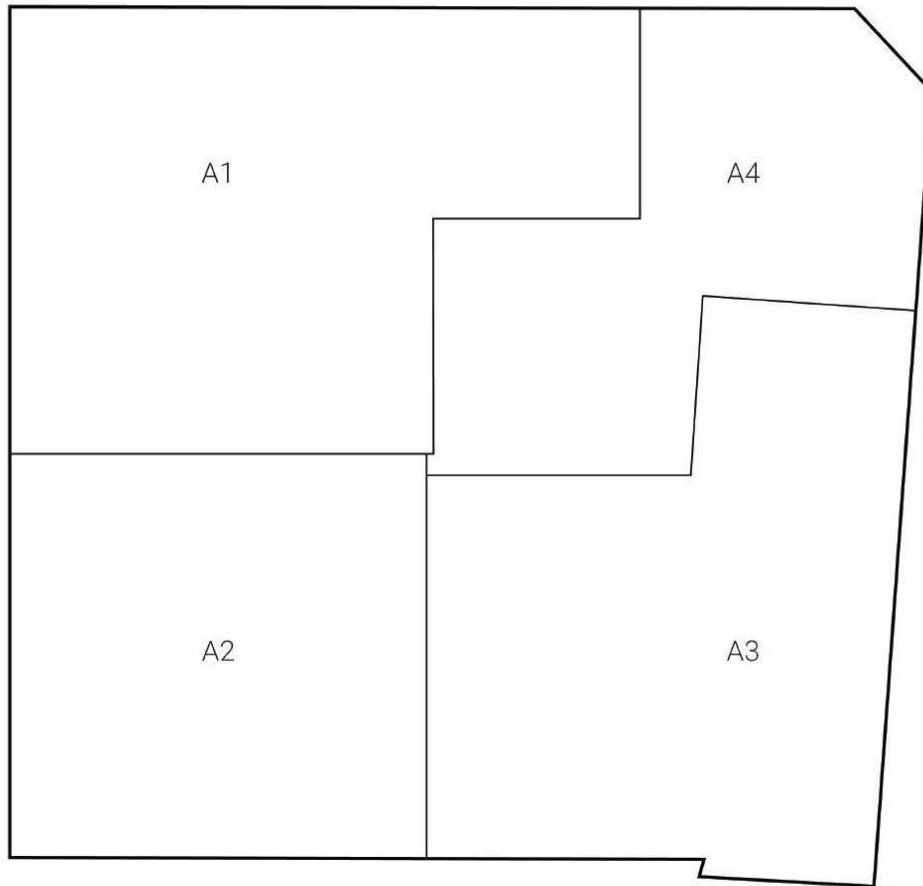
- (3) Maximum Floor Space Index 4.32
- (4) Minimum number of residential **parking** spaces per condominium apartment dwelling unit 0.80
- (5) Minimum number of **parking** spaces for non-residential and visitor **parking** spaces (combined) 377
- (6) Maximum projection of a balcony into a required yard 1.8 m
- (7) Minimum percentage of total required amenity area to be provided in one contiguous area 23%
- (8) All site development plans shall comply with the building envelopes and setbacks **Schedule "B" of this Exception**

Draft ZBA – October 23, 2023

|  |                  |         |                  |
|--|------------------|---------|------------------|
| 4.15.2.X   | Exception RA5-XX | Map #29 | By-law: XXX-2023 |
| <b>Holding Provision</b>   |                  |         |                  |
| <p>The holding symbol H is to be removed from the whole or any part of the lands zoned H-RA5-XX by further amendment to Map 29 of Schedule B contained in Part 13 of this By-law, as amended, upon satisfaction of the following requirements:</p> <ol style="list-style-type: none"><li>(1) Receipt of a satisfactory Functional Servicing and Stormwater Management Report</li><li>(2) Receipt of a satisfactory addendum letter, signed and stamped from an acoustical consultant</li><li>(3) Receipt of a satisfactory executed Development Agreement</li><li>(4) Receipt of satisfactory land dedications and easements</li></ol> |                  |         |                  |

Draft ZBA – October 23, 2023

**SCHEDULE "A" (EXCEPTION SCHEDULE RA5-XX ZONE)**



**SCHEDULE "B" (EXCEPTION SCHEDULE RA5-XX ZONE)**

