

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: March 12, 2025

CASE NO(S).:

OLT-23-000484

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

Appellant:	33HC TAS LP, 33HC Corp., 3168HS LP and 3168HS Corp.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit five apartments, 46, 43, 43, 39, and 34 storeys
Reference Number:	OZ/OPA 22-19 W7
Property Address:	0, 25 Hillcrest Avenue and 3154, 3168 Hurontario Street
Municipality/UT:	Mississauga/Peel
OLT Case No:	OLT-23-000484
OLT Lead Case No:	OLT-23-000484
OLT Case Name:	33HC TAS LP, 33HC Corp., 3168HS LP and 3168HS Corp. v. Mississauga (City)

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

Appellant:	33HC TAS LP, 33HC Corp., 3168HS LP and 3168HS Corp.
Subject:	Application to amend the Zoning By-law – neglect to make a decision
Description:	To permit five apartments, 46, 43, 43, 39, and 34 storeys
Reference Number:	OZ/OPA 22-19 W7
Property Address:	0, 25 Hillcrest Avenue and 3154, 3168 Hurontario Street
Municipality/UT:	Mississauga/Peel
OLT Case No:	OLT-23-000485
OLT Lead Case No:	OLT-23-000484

Heard:

January 13, 2025 by Video Hearing

APPEARANCES:**Parties**33HC TAS LP, 33HC Corp., 3168HS LP
and 3168HS Corp.

City of Mississauga

Metrolinx

CounselDavid Bronskill
Rodney GillMark Joblin
Katie Pfaff
Alexandra Whyte
Quinto Annibale (*in absentia*)

Isaac Tang

**MEMORANDUM OF ORAL DECISION DELIVERED BY C.I. MOLINARI AND INTERIM
ORDER OF THE TRIBUNAL**

[Link to Interim Order](#)**INTRODUCTION AND BACKGROUND**

[1] This matter involves a settlement hearing related to appeals filed by 33HC TAS LP, 33HC Corp., 3168HS LP and 3168HS Corp. (“Appellant”) pursuant to ss. 22(7) and 34(11) of the *Planning Act* (“Act”) against the failure of the City of Mississauga (“City”) to make decisions within the statutory time frame regarding the Appellant’s Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) applications (collectively “Applications”) relating to four properties known municipally as 0 and 25 Hillcrest Avenue, and 3154 and 3168 Hurontario Street (“Property”).

[2] The purpose of the Applications, as filed, was to facilitate the redevelopment of the Property with a mix of uses, including five residential towers ranging from 34 to 46 storeys in height.

[3] The Property is located within the Downtown Cooksville area of the City, on the west side of Hurontario Street, north of Hillcrest Avenue and south of John Street. It has an area of approximately 2.14 hectares, with frontage on Hurontario Street, Hillcrest Avenue, John Street and GO Access Road.

[4] The Property is currently developed with a local retail plaza and surface parking areas. To the north is the Cooksville GO Station and surface parking area as well as a rail corridor. To the east are retail plazas and surface parking areas, low-rise apartment buildings and townhouse dwellings, and John C Price Park. Immediately south of the Property are a mixture of uses including mid-rise apartment buildings, a secondary school site, a park, low-rise residential dwellings, and low-rise commercial buildings. To the west of the Property, is a surface parking area and parkade structure associated with the Cooksville GO Station, four high-rise apartment buildings, and Confederation Parkway.

[5] The Property is within a designated Major Transit Station Area (“MTSA”) and is well-served by existing and planned transit including the Cooksville GO Station, Mississauga Transit (MiWay) and GO transit bus routes. Additional rapid transit is currently under construction including the Hurontario Light Rail Transit Line with a planned stop directly in front of the Property and higher-order transit planned along Dundas Street.

[6] The Property is currently designated ‘Residential High Density’ on the west and ‘Mixed Use’ on the east. It is also identified as being within the ‘Downtown’, an MTSA, and the Dundas Street ‘Intensification Corridor’ in the City Official Plan (“COP”). Under Zoning By-law No. 0225-2007, the Property is currently zoned Commercial ‘C4’ fronting Hurontario Street, Apartment exception zone ‘RA5-33’ in the southwest corner, and Development ‘D’ in the northwest corner.

[7] Metrolinx and the Regional Municipality of Peel (“Region”) were added as Parties to the appeals, but the Region has since withdrawn their Party status. There are no Participants to the appeals. As such, only the Appellant, the City and Metrolinx are Parties to the appeals.

[8] The Tribunal received correspondence from the Appellant in advance of the Hearing, advising that the Parties had settled the issues and requesting that the Tribunal convert the proceedings to a settlement hearing. The Parties submitted their Minutes of Settlement (“MOS”) setting out the conditions of settlement (“Settlement Proposal”).

[9] In accordance with Rule 12 of the Tribunal’s *Rules of Practice and Procedure*, the Tribunal convened the proceedings as a hearing on the terms of the Settlement Proposal.

LEGISLATIVE FRAMEWORK

[10] When considering appeals filed pursuant to ss. 22(7) and 34(11) of the Act, the Tribunal must have regard to the relevant matters of provincial interest as set out in s. 2 of the Act. Section 3(5) of the Act requires decisions of the Tribunal affecting planning matters to be consistent with the Provincial Planning Statement, 2024 (“PPS”). The Tribunal must also be satisfied that the Applications conform with the Region Official Plan (“ROP”) and the COP.

[11] In consideration of the statutory requirements set out above, the Tribunal must also be satisfied that the Settlement Proposal represents good land use planning and is in the public interest.

THE PROPOSAL

[12] The Settlement Proposal includes five residential towers ranging from 35 to 42 storeys in height, 7,240 square metres of non-residential space, underground parking with approximately 1,522 parking spaces, and an estimated residential unit count of 2,341, including a component of affordable housing.

[13] The Appellant advised that a revised functional servicing report and waste management plan will be submitted to the Region as requested in their email withdrawing their Party status.

WITNESSES

[14] Prior to the commencement of the hearing, the Tribunal received the Affidavit of Pino Di Mascio in support of the Settlement Proposal. The Tribunal qualified Mr. Di Mascio, on consent of the Parties, to provide expert opinion evidence in the area of land use planning.

LAND USE PLANNING EVIDENCE

[15] Mr. Di Mascio provided background information on the Property, the surrounding area, the proposed use, and the history and processing of the Applications and opined that the Settlement Proposal meets the applicable regulatory and policy requirements, represents good land use planning and should be approved.

[16] In addition, Mr. Di Mascio submitted that, through mediation, issues with the City and Metrolinx were able to be resolved resulting in:

- “Improvements to John Street extension lands, following the gratuitous conveyance of these lands from Metrolinx to the City”;

- “The realignment of the internal streets to provide greater distance from existing intersections”;
- “The relocation of the primary open space from the centre of the block to the southwest corner”;
- “The redeployment of building heights so the tallest buildings are located on the Hurontario Street frontage, stepping down towards the southwest corner of the site”; and
- “The provision of a continuous 6-storey podium on Hurontario Street, with first storey of the linear building frontage reserved for non-residential uses...”.

The Planning Act

[17] Mr. Di Mascio opined that the Settlement Proposal has regard to the applicable matters of provincial interest pursuant to s. 2 of the Act, as the Property is located both within an identified intensification area and an MTSA and therefore the proposed densities are appropriate for the existing and planned transit in the area. In addition, the Settlement Proposal includes a component of affordable housing and a public park.

Provincial Planning Statement 2024

[18] Mr. Di Mascio proffered that the Settlement Proposal meets the PPS policies relating to residential intensification, the redevelopment of underutilized commercial sites for residential uses, prioritizing transit-supportive development within MTSAs, and promoting complete communities. He opined that the PPS is supportive of a high-density infill development on the Property and that the Settlement Proposal, and the OPA and ZBA, are consistent with the PPS.

Region Official Plan

[19] It was Mr. Di Mascio's testimony that the Settlement Proposal conforms to the ROP as it supports the achievement of the Region's MTSA density target and conforms to the various policy priorities that guide the intensification of strategic growth areas in the Region.

City Official Plan

[20] Mr. Di Mascio noted that the Property is on an identified 'Intensification Corridor' in the COP, is within an MTSA and is adjacent to existing and planned higher-order transit as well as existing frequent bus service along Hurontario Street and Dundas Street. He opined that the Settlement Proposal meets the City-wide policies in the COP as it supports the achievement of the intensification objectives for the Downtown, an Intensification Corridor, and an MTSA.

[21] Mr. Di Mascio proffered that the proposal conforms to the urban design policies in the COP as the tallest buildings are located closest to Hurontario Street, and a continuous street wall with a podium height of six storeys helps to animate and enclose Hurontario Street. He further noted that a streetscape plan for the boundary streets implements the City's design objectives and creates an appealing and comfortable experience for pedestrians and that adverse impacts from shadow and wind have been minimized through building orientation and design.

[22] It was Mr. Di Mascio's opinion that, as the Mixed Use designation permits a wide array of uses and residential uses are required to be provided in conjunction with other uses, the Settlement Proposal, with both residential and commercial uses, maintains the intent of the Mixed Use policies in the COP. He furthered that the Settlement Proposal is consistent with the COP policies requiring mixed use development to be pedestrian-oriented, street related, and compatible in scale.

[23] Mr. Di Mascio opined that the Settlement Proposal implements several policy objectives of the COP in contributing to the urbanization of an MTSA on an 'Intensification Corridor' with a mix of uses and new public amenities. It was his opinion that the Settlement Proposal conforms with, and maintains the general intent of, the COP, including the City's draft MTSA policies in OPAs no. 143 to 146.

Zoning By-law

[24] As submitted by Mr. Di Mascio, the settlement proposes to rezone the Property to a Residential Apartment 5 exception zone 'RA5-XX', introducing site-specific performance standards based on the built form ("Settlement ZBA"). The Settlement ZBA will include minimum outdoor and indoor amenity space provisions, contiguous non-residential uses on the first storey along the Hurontario Street frontage, minimum commercial office space to be confirmed through a market study, and provisions for affordable housing in accordance with the City's inclusionary zoning requirements under Zoning By-law No. 0213-2022.

[25] Mr. Di Mascio advised that the Settlement ZBA includes a holding provision ("H") requiring the execution of a development agreement, securing streetscape improvements, providing an easement for public access over the proposed private streets, and the execution of an agreement to secure affordable housing as part of the development. The foregoing conditions are to be met prior to the removal of the H through a rezoning application.

Conclusions

[26] It was Mr. Di Mascio's view that the Property is an ideal location for high-density development, given its location within the downtown and its proximity to higher-order transit.

[27] Mr. Di Mascio opined that the Settlement Proposal has regard for the relevant matters of provincial interest in s. 2 of the Act, is consistent with the PPS, and conforms with the ROP and the COP. Based on the foregoing, it was Mr. Di Mascio's opinion that the Settlement Proposal represents good land use planning, is in the public interest and should be approved.

[28] Further, it was Mr. Di Mascio's opinion that the appeals should be allowed in part, and that the OPA and ZBA be approved in principle, subject to finalization in accordance with the MOS.

ANALYSIS AND FINDINGS

[29] The Tribunal accepted the uncontroverted testimony and evidence of Mr. Di Mascio. The Tribunal was satisfied that the Settlement Proposal has sufficient and proper regard for the applicable matters of provincial interest as set out in s. 2 of the Act. The Tribunal was further satisfied that the Settlement Proposal is consistent with the PPS and is in conformity with the ROP and the COP, represents good land use planning and is in the public interest.

[30] The Tribunal found that the H is appropriate for the ZBA and will ensure any outstanding technical matters are adequately addressed prior to the proposed development being permitted.

[31] The Parties did not submit draft OPA or ZBA instruments for consideration and approval at the hearing, but undertook to submit them by **Friday, February 28, 2025**. The Tribunal thus made an oral decision to approve the OPA and ZBA in principle, conditional on the receipt, review, and approval of the instruments once submitted.

[32] The Tribunal has since reviewed and approved the OPA and ZBA instruments as submitted and attached hereto.

INTERIM ORDER

[33] **THE TRIBUNAL ORDERS** that the appeals under subsections 22(7) and 34(11) of the *Planning Act* are allowed, in part, on an interim basis, contingent upon confirmation, satisfaction or receipt of those pre-requisite matters identified in paragraph [34] below, and the Official Plan Amendment and Zoning By-law Amendment set out in **Attachments 1 and 2** to this Interim Order, are hereby approved in principle.

[34] The Tribunal will withhold the issuance of its Final Order contingent upon confirmation of the City Solicitor, of the following pre-requisite matters:

- a. the form and content of the implementing official plan amendment and zoning by-law amendment are finalized to the satisfaction of the City and Metrolinx. Without limiting the generality of the foregoing, the zoning by-law amendment will include requirements that:
 - i. the first storey of the linear building frontage along Hurontario Street, except for exit staircases and lobby areas (including to secondary accesses to residential uses), shall only be used for non-residential uses. Secondary accesses to residential uses will not exceed 10% of the linear building frontage on Hurontario Street, with an individual access not exceeding 2.5m in width; and

- ii. A minimum 60% of the first storey of the linear building frontage along Hurontario shall be contiguous with a minimum total non-residential floor area of 920 square metres, but may be developed as multiple non-residential units. The contiguous frontage may be interrupted by exit staircases where minimum to allow for contiguous unit area.
- b. the John Street extension lands (except for lands required for the delivery of the Hazel McCallion LRT, identified in Schedule “B”, which are to be conveyed to the City upon completion of the Hazel McCallion LRT) abutting the north side of the Site (the “John Street Lands”) have been conveyed gratuitously from Metrolinx to the City as a public street upon finalization of the terms of the gratuitous conveyance as agreed between the City and Metrolinx, including in respect of treatment of existing infrastructure;
- c. the City has completed the peer review of the market analysis report by an external consultant, the cost of which shall be reimbursed by the Applicant, in respect of the proposed minimum of 3,866 square metres of commercial office space shown on the Revised Plans, and the amount of commercial office space required by the zoning by-law amendment has been either confirmed or increased accordingly;
- d. submission of a revised Traffic Impact Study, with updated site statistics and layout, to confirm necessary roadway improvements, including but not limited to appropriate storage length and taper lengths to the satisfaction of the City and Metrolinx; and
- e. submission of an updated wind study and where appropriate update wind-responsive design with improved conditions, to the satisfaction of the City, to address exceedances and improve conditions at-grade and above-grade, with appropriate matters to be incorporated into the final zoning by-law amendment or where appropriate secured as part of any application for site plan control.

[35] If the Parties do not submit the final drafts of the Official Plan Amendment and Zoning By-law Amendment and do not request the issuance of the Final Order by **Monday, July 28, 2025**, the Parties 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 amendments and request for issuance of the Final Order by the Tribunal.

[36] 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 instruments.

[37] The Member will remain seized for the purposes of reviewing and approving the final draft of the Official Plan Amendment and Zoning By-Law Amendment and the issuance of the Final Order.

“C. I. Molinari”

C. I. MOLINARI
MEMBER

Ontario Land Tribunal

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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.

ATTACHMENT 1

Amendment No. #

to

Mississauga Official Plan

Amendment No. #
to
Mississauga Official Plan

The following text and Map "A" attached constitute Amendment No. #.

PURPOSE

The purpose of this Amendment is to change the land use designation of a portion of the subject lands from Residential High Density to Mixed Use and Public Open Space, and to amend Section 12.4 - Downtown Cooksville Character Area Policies.

This Amendment also adds Special Site 11 map and amends the Downtown Cooksville Special Site policies.

LOCATION

The lands affected by this Amendment are located on the northwest corner of Hurontario Street and Hillcrest Avenue. The subject lands are located in the Downtown Cooksville Character Area, as identified in Mississauga Official Plan.

BASIS

The Mississauga Official Plan came into effect on November 14, 2012, save and except for the outstanding site specific appeals to the Ontario Land Tribunal.

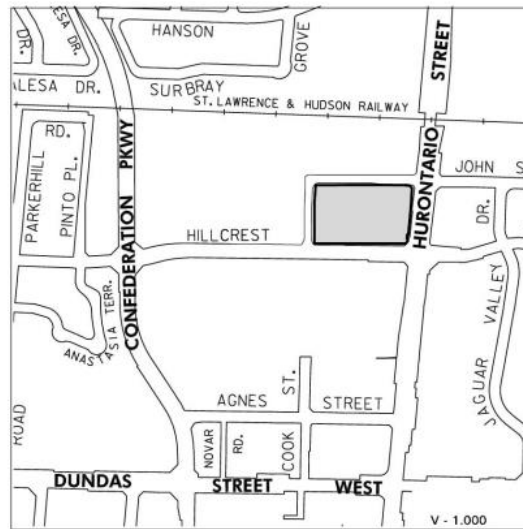
The subject lands are designated Mixed Use and Residential High Density, which permits high density residential uses, as well as commercial uses on the portion that is currently designated Mixed Use. They are within an area subject to Special Site policy 2, which requires a minimum of three floors of non-residential uses on lands that are immediately adjacent to Hillcrest Avenue and Hurontario Street.

An Official Plan Amendment is required to redesignate the west side of the site from Residential High Density to Mixed Use and Public Open Space, and to add a new Special Site Policy 11 to the Cooksville Character Area Policies.

DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Section 12.4, Downtown Cooksville Character Area, of Mississauga Official Plan, is hereby amended by adding Special Site 11 on Map 12-4, Downtown Cooksville Character Area, in accordance with the Special Site Policies.
2. Section 12.4.3, Downtown Cooksville Character Area, of Mississauga Official Plan, is hereby amended by adding the following:

12.4.3.11 Site 11



12.4.3.11.1 The lands identified as Special Site 11 are located on west sides of Hurontario Street between John Street and Hillcrest Avenue.

12.4.3.11.2 Notwithstanding the policies of this Plan, the lands identified as Special Site 11 may be developed for a mix of uses in an assembly of 5 tall buildings with the heights of 35, 36, 39, 39, and 42 storeys in height.

12.4.3.11.2 The development shall provide a minimum non-residential Gross Floor Area of 7,000 square metres.

3. Section 12.4.3.2, Downtown Cooksville Character Area, of Mississauga Official Plan, is hereby amended by removing the subject lands from Special Site Policy 2.
4. Schedule 10, Land Use Designations, of Mississauga Official Plan, is hereby amended by changing the land use of the subject lands from Residential High Density to Mixed Use and Public Open Space as shown on Map "A" of this Amendment.

IMPLEMENTATION

Upon receipt of the Ontario Land Tribunal's Final Order, Mississauga Official Plan will be amended in accordance with the Order.

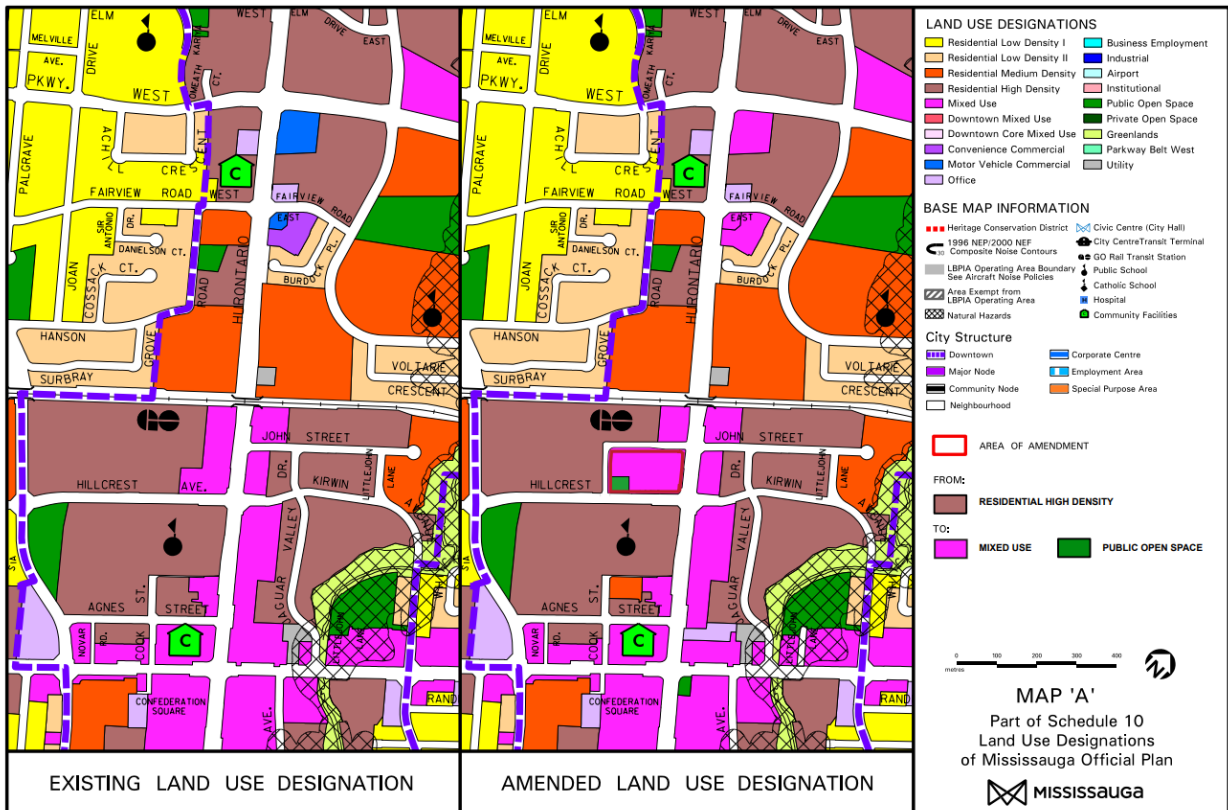
The lands will be rezoned as part of the same Tribunal Order.

This Amendment has been prepared based on the Office Consolidation of Mississauga Official Plan dated August 7, 2024 and MOPA 146, approved and in effect on May 9, 2024.

INTERPRETATION

The provisions of 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 Mississauga Official Plan.



ATTACHMENT 2

ONTARIO LAND TRIBUNAL

OLT Lead Case No. OLT-23-000484

ORDER DATED _____

OLT Case No. OLT-23-000484,

OLT-23-000485

33HC TAS LP, 33HC Corp., 3168HS LP

and 3168HS Corp

1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by adding the following Exception Table:

4.15.##	Exception: H-RA5-##	Map # 22	By-law:
In a H- RA5-## zone the permitted uses and applicable regulations shall be as specified for the <u>RA5</u> zone except that the following uses/regulations shall apply:			
Additional Permitted Uses			
4.15.##	(1) Day Care (2) Community Centre and/or Library (3) Community Garden (4) Home Office (5) Short-Term Accommodation (6) Seasonal Outdoor Patio (7) Seasonal Outdoor Retail Sales and Display (8) Permanent Outdoor Patio (9) Retail Store (10) Restaurant (11) Take-out Restaurant (12) Veterinary Clinic (13) Service Establishment (14) Financial Institution (15) Medical Office (16) Office (17) Recreational Establishment (18) Entertainment Establishment (19) Private Club (20) Repair Establishment		

4.15.##	Exception: H-RA5-##	Map # 22	By-law:
Regulations			
4.15.##	The regulations of Lines 5.0 to 12.0 inclusive, and 15.0, contained in Table 4.15.1 of this By-law shall not apply.		
4.15.##	All site development plans shall comply with Map B, RA5-## of this Exception		
4.15.##	Maximum total gross floor area	160,000 m ²	
4.15.##	Minimum total gross floor area – non-residential	7,000 m ²	
4.15.##	The maximum tower floor plate for a building greater than or equal to 6 storeys	805 m ²	
4.15.##	The first storey of the linear building frontage along Hurontario Street, except for exit staircases and lobby areas (including to secondary accesses to residential uses), shall only be used for non-residential uses. Secondary accesses to residential uses will not exceed 10% of the linear building frontage on Hurontario Street, with an individual access not exceeding 2.5m in width;		
4.15.##	A minimum 60% of the first storey of the linear building frontage along Hurontario shall be contiguous with a minimum total non-residential floor area of 920 square metres, but may be developed as multiple non-residential units. The contiguous frontage may be interrupted by exit staircases where minimum to allow for contiguous unit area.		
4.15.##	Pedestrian access for any non-residential use shall be provided facing a street line or private laneway.		
4.15.##	For the purposes of this By-law, all lands zoned RA5-xx shall be considered one lot		
4.15.##	Maximum projection of a balcony measured from the outermost face or faces of a building from which the balcony projects	1.8 m	
4.15.##	Maximum encroachment of a balcony located above the first storey into a required yard	1.8 m	
4.15.##	Canopies and/or awnings on the first storey shall be permitted to encroach into a required yard with a 0 m setback from the lot line		
4.15.##	Maximum encroachment of a window, pilaster, cornice, balustrade, roof eaves or architectural features into a required yard	1.0 m	
4.15.##	Minimum indoor amenity area	2.0 m ² per dwelling unit	

4.15.##	Exception: H-RA5-##	Map # 22	By-law:
4.15.##	Minimum outdoor amenity area		2.0 m ² per dwelling unit
4.15.##	Minimum amenity area to be provided outside in a contiguous area		40 m ²
4.15.##	An outdoor patio or seasonal outdoor patio is permitted on a rooftop at the 7 th floor or below		
4.15.##	Minimum setback from a parking structure completely below finished grade, inclusive of external access stairwells and vents, to any lot line that is not a street line		1.0 m
Holding Provision			
The holding symbol H is to be removed from the whole or any part of the lands zoned H-RA5-## by further amendment to Map 22 of Schedule B contained in Part 13 of this By-law, as amended, upon satisfaction of the following requirements:			
(1) Entering into a development agreement for removal of the “H” Holding Provision, which shall secure, among other matters, the public road conveyances and the improvements to John Street as described in the Minutes of Settlement			
(2) Securing streetscape feasibility matters, including provision of street trees in accordance with the City’s Amended Boulevard Treatment terms of reference			
(3) Provision of an at-grade easement to the City for public access over Street A, Street B and Street C to facilitate vehicular and pedestrian connectivity through the Site			
(4) Execution of an agreement to secure affordable housing as part of the Development, which shall be in accordance with the City of Mississauga inclusionary zoning by-law, as it may be amended from time to time, provided however that for these purposes a complete application for any site plan on the Site shall be deemed to have been received more than two years after the date the rezoning application for the Site was deemed complete.			

2. Map Number 22 of Schedule "B" to By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by changing thereon from "D, C4, and RA5-33" to "H-RA5-##" and "OS1", the zoning of Block 4, Plan 43M-501 and Part of Lot 16, Concession 1, North of Dundas Street, in the City of Mississauga, PROVIDED HOWEVER THAT the " RA5-##" zoning shall only apply to the lands which are shown on the attached Map "A", which is deemed to be an integral part of this By-law, outlined in the heaviest broken line with the " RA5-##" zoning indicated thereon.
3. This By-law shall not come into force until Mississauga Official Plan Amendment Number _____ is in full force and effect.

