

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** March 10, 2016

**CASE NO(S):** PL111148

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	A & W Food Services of Canada Inc.
Appellant:	Azuria Group
Appellant:	Derry-Ten Limited
Appellant:	White Elm Investments Ltd. and others
Subject:	Proposed Official Plan Amendment No. P13-MOP 08.0
Municipality:	City of Mississauga
OMB Case No.:	PL111148
OMB File No.:	PL111148
OMB Case Name:	Qureshi v. Mississauga (City)

**PROCEEDING COMMENCED UNDER** subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant (jointly):	2188101 Ontario Inc. et al
Subject:	Failure of to announce a decision respecting Proposed Official Plan Amendment No. OPA 95
Municipality:	City of Mississauga
OMB Case No.:	PL111148
OMB File No.:	PL110973

**Heard:** March 2, 2016 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel**

City of Mississauga

Michal Minkowski

White Elm Investments Ltd.

Mark Flowers

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI VIA  
TELECONFERENCE CALL ON MARCH 2, 2016 AND ORDER OF THE BOARD**

---

[1] The parties have asked the Ontario Municipal Board (“Board”) to consider a settlement of the appeal of White Elm Investments Ltd. (“White Elm”) against Official Plan Amendment No. P13-MOP 08.0 of Mississauga Official Plan of the City of Mississauga (“City”). The parties are requesting an Order from the Board accepting this settlement. Although the parties did not issue Minutes of Settlement, they did offer to the Board a comprehensively-prepared document book (Exhibit 1) that included the specific elements of concurrence and these are found in sections (Tabs 18 and 19) related to the resolution of the White Elm matter.

[2] The parties have settled the White Elm matters as follows:

- White Elm’s withdrawal of various appeals to specific policies of Mississauga Official Plan (Tab 18); and
- Modifications to certain policies and certain schedules of Mississauga Official Plan (Tab 19)

[3] The parties provided the Board with a comprehensive document book that included the intended modifications to the planning instrument under appeal as well as excerpts of this document and related planning documents. For clarity, Tab 6 of the document book contains a copy of City Council’s resolution that confirms the settlement between the City and White Elm. Tab 11 contains a copy of the letter from Toronto Region Conservation Authority to the City, which facilitated this resolution.

[4] Angela Dietrich is the Manager, City Wide Planning and she participated in this hearing event to offer her professional land use planning evidence and expert opinion in support of the modifications to the planning instrument. Ms. Dietrich opined that the settlement reached conforms with current policies and plans of the relevant provincial

upper-tier instruments as well as with the policies of Mississauga Official Plan (“MOP”). Ms. Dietrich stated that approval of these policies will contribute to the achievement of the goals and objectives of MOP. As such, she opined that the settlement constitutes good planning and it should be approved.

[5] Having considered the professional planning evidence and opinion of Ms. Dietrich and recognizing that these parties have reached an agreement, the Board was persuaded that the settlement documents facilitate good planning as evidenced.

## **ORDER**

[6] On consent, the Board allows in part the appeals of White Elm as per Tab 18 and Tab 19 of the document book. The Board has attached both of these sections to its Order as Attachment 1.

*“R. Rossi”*

R. ROSSI  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

### **Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

**White Elm Settlement**

**The appeals to the following policies are to be withdrawn:**

1.1.4.c – except second bullet	6.3
5.1 – second paragraph on page 5.2	6.3.2
5.1.8	9.5.2.4
5.2 – last paragraph	9.5.3.2.a
5.3.3 – last paragraph	9.5.3.5
5.3.3.4	10.1.4
5.3.3.6	10.3.2
5.3.3.10	10.4 – fifth paragraph
5.3.6 – first and second paragraph	11.2.3.8
5.3.6.5	14.1.1.2
5.3.6.8	14.1.1.3
5.3.6.9	17.4.3.1
5.4.8	17.4.4 except 17.4.4.1.1 second and third paragraph
5.5.13	Chapter 20 – Glossary: Major Retail
Figure 5-5	Schedule 10: Land Use Designations*

*\*Note: The identification of Natural Hazard lands on Schedule 10: Land Use Designation is considered “base information” (i.e. for information purposes only). Base information can be changed without an official plan amendment. The extent of the lands subject to Natural Hazard will be updated based on amendments made to Schedule 3: Natural System.*

**The following modifications are to be made to Mississauga Official Plan (2011)**

- 1. Policy 1.1.4.c – second bullet point is modified by deleting the wording and replacing it with the following:**

- a local area review may be undertaken for all or part of one or more Character Areas. It may develop a vision for the study area as well as address a variety of matters such as land use, transportation, environment or urban design. While a local area review would generally result in an amendment to Character Area policies which may be contained within a Local Area Plan, it may also identify a need for amendments to city wide policies. These reviews are typically undertaken by or on behalf of the City. An official plan amendment would be required to implement the results of a local area review;

- 2. Policy 5.5.11 is modified by deleting the wording and replacing it with the following:**

Where there is a conflict between the Intensification Area policies and policies regarding the Natural Heritage System and heritage resources, the policies of the Natural Heritage System and heritage resources will take precedence.

- 3. Policy 9.3.5.3 is modified by deleting the wording and replacing it with the following:**

Natural features, parks and open spaces will contribute to a desirable urban form by:

- a. assisting with the protection, enhancement, restoration and expansion of the Natural Heritage System, identified in Schedule 3: Natural System;
- b. connecting to the city's system of trails and pathways;
- c. connecting to other natural areas, woodlands, wetlands, parks, and open spaces, including streets, schools, cemeteries and civic spaces;
- d. ensuring that all new parks and Open Spaces address the street, providing clear visibility, access and safety;
- e. ensuring that adjacent uses, buildings and structures front onto them, with direct access, and encouraging natural surveillance; and
- f. appropriately sizing parks and open spaces to meet the needs of a community and ensuring they are able to accommodate social events

and individual needs, inclusive of recreation, playgrounds, sports and community gardens, where possible.

- 4. Policy 11.2.3.3 is modified by deleting the wording and replacing it with the following:**

Lands may be zoned Greenlands within any land use designation.

- 5. Policy 17.4.4 is modified by adding the following:**

**17.4.4.4 Site 4**

**17.4.4.4.1** The lands identified as Special Site 4 are located on the south side of Dundas Street East and east of Dixie Road.

**17.4.4.4.2** Notwithstanding the policies of this Plan, a minimum building height of two storeys or the equivalent building height in a single storey building massing will only be required for development adjacent to Dundas Street East.

**17.4.4.4.3** A development master plan may be required that addresses matters such as:

- a. height, scale and location of proposed uses;
- b. community and physical infrastructure requirements (e.g. roads, transit stations); and
- c. transition and connectivity to surrounding development.

- 6. Policy 17.4.4.1.1 second and third paragraph is modified by deleting the wording and replacing it with the following:**

Site 1 is a special policy area defined by Provincial Government criteria and as established by the Toronto and Region Conservation Authority (TRCA).

Notwithstanding the policies of this Plan which relate to development within the Regional Storm floodplain, and the provisions of the Mixed Use, Business Employment and Greenlands designations, the following policies will apply:

**7. Policy 19.18 is modified by deleting the wording and replacing it with the following:**

**19.18 Greenlands**

**19.18.1 As a condition of development approval, *natural hazard lands* may be placed in public ownership for their long term protection.**

**19.18.2 Greenlands is determined on a site by site basis and is defined by natural hazards associated with *watercourse* corridors and Lake Ontario, and the limits of identified natural areas. The limits of the Greenlands are determined in consultation with the City and appropriate conservation authority and through studies, where required, completed by the proponent to the satisfaction of the City and the appropriate conservation authority.**

**19.18.3 Surface drainage and stormwater management facilities and associated hazards will be designated Greenlands. Where possible, surface drainage and stormwater management facilities should be designed in a manner that restores natural habitat links or buffers natural areas. The location of these facilities will not be detrimental to the natural heritage system.**

**19.18.4 Greenlands lands will be conveyed to the City or other public agency. Such lands will not be accepted as part of the dedication of land for park or other public recreational purposes contribution or credited against any cash in lieu for park or other public recreational purposes or be included in the calculation of density for building coverage.**

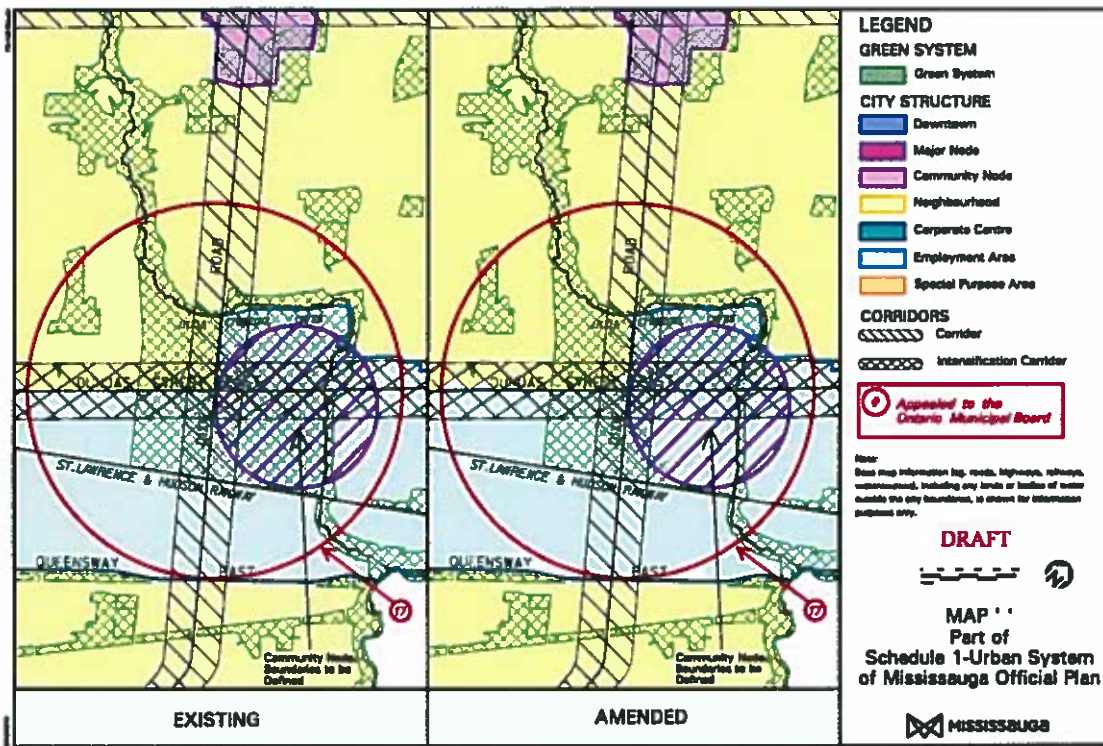
**19.18.5 Development adjacent to Greenlands lands will be subject to the delineation of natural hazards, natural areas, buffers and setbacks by the City in consultation with the appropriate conservation authority. Dedication and/or restrictive zoning of buffers to Greenlands may also be required by the City in consultation with the appropriate conservation authority.**

**19.18.6 Prior to conveyance of Greenlands lands, the proponent may be requested to conduct a Phase 1 Environmental Site Assessment (ESA) in accordance with the latest standards of the Canadian Standards Association and the Ministry of Environment. Should the Phase 1 ESA indicate that further investigation is required, the proponent may be requested to conduct further investigation, perform site clean up and provide the appropriate environmental documentation. The conveyance of the Greenlands lands will occur after the proponent has completed all requirements to the satisfaction of the City.**

19.18.7 The Greenlands designation applies to both public and privately owned lands. Where Greenlands land is privately owned, this Plan does not imply that it is free and open to the general public or that it will be acquired by the City or any other public agency. Consideration will be given, however, to public acquisition of these areas.

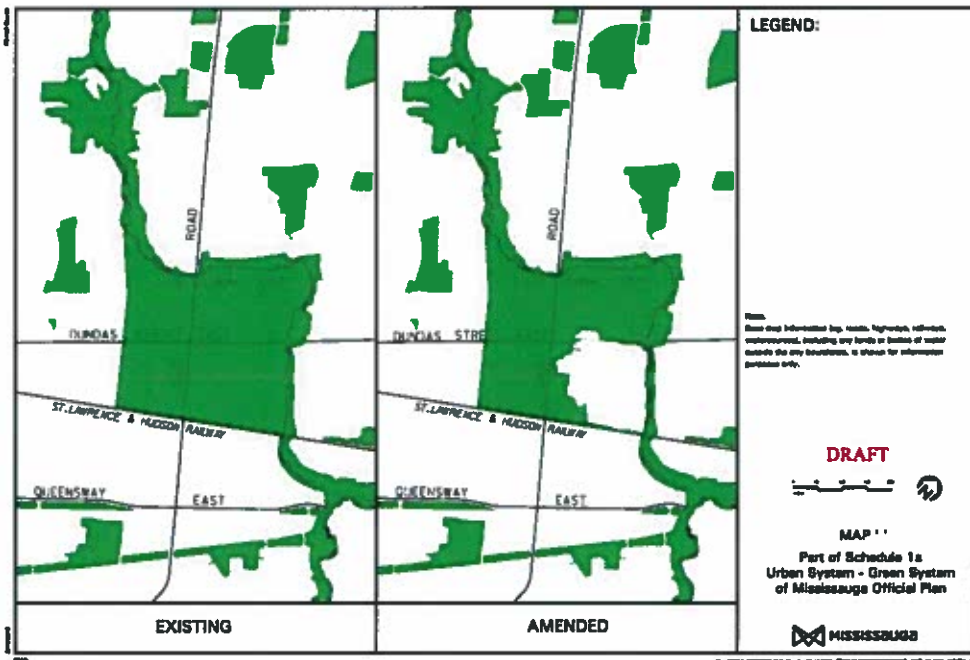
19.18.8 Reconstruction, minor additions, and maintenance of legal non-conforming facilities, buildings, and structures may be permitted in Greenlands. With respect to reconstruction, the development should be relocated to an area that is least susceptible to natural hazards.

8. Schedule 1 is modified by removing the lands within the Green System as set out below:

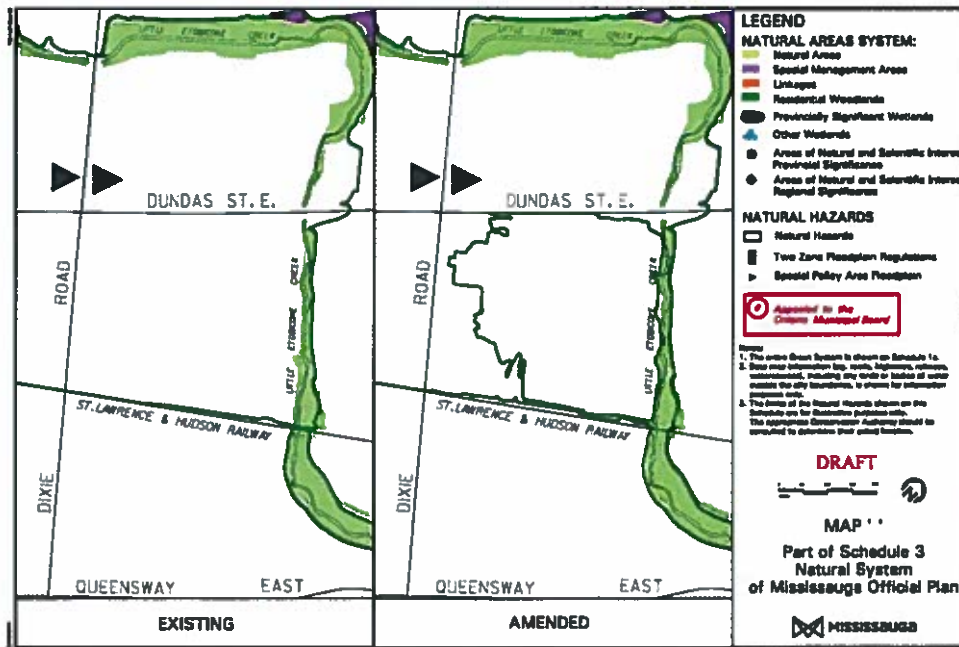




9. Schedule 1a is modified by removing the lands within the Green System as set out below:



10. Schedule 3 is modified by removing the lands identified as Natural Hazard as set out below:



**11. That the Appendix titled “Regional Storm Floodline – Special Policy Area” be deleted.**

*K:\PLAN\POLICY\GROUP\2015 Mississauga Official Plan\Appeals\White Elm\Appeal withdrawal and modifications\_revised 2016Jan19.docx*