

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: September 9, 2015

CASE NO(S): PL130670

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

Applicant and Appellant: Credit Mills Development Corporation
Subject: Request to amend the Official Plan - Failure of City of Mississauga to adopt the requested amendment

Existing Designation: Residential Density II
Proposed Designated: Residential Density, mixed Use –Special Site and Greenbelt

Purpose: To permit 5 commercial buildings and 11 detached dwellings

Property Address/Description: 5267 Mississauga Road
Municipality: City of Mississauga
Approval Authority File No.: TM 11/006
OMB Case No.: PL130670
OMB File No.: PL130670
OMB Case Name: Credit Mill Development Corporation 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: Credit Mills Development Corporation
Subject: Application to amend Zoning By-law No. 0225-2007 – Refusal or neglect of City of Mississauga to make a decision

Existing Zoning: “D” (Development)
Proposed Zoning: R4-Exception”
Purpose: To permit detached dwellings along the southern edge of the site, to a “C2-Exception” (Neighbourhood Commercial) zone to permit office and retail commercial development on the

bulk of the site and to G1” and “G2”-1
(Greenbelt-Natural Features) zone categories
with respect to areas below top-of-bank of the
Credit River and associated area with natural
features

Property Address/Description: 5267 Mississauga Road
Municipality: City of Mississauga
Municipality File No.: OZ 11/019
OMB Case No.: PL130670
OMB File No.: PL130671

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O.
1990, c. P.13, as amended

Applicant and Appellant: Credit Mills Development Corporation
Subject: Proposed Plan of Subdivision - Failure of City of
Mississauga to make a decision
Purpose: To permit a proposed plan of subdivision
Property Address/Description: 5267 Mississauga Road
Municipality: City of Mississauga
Municipality File No.: TM 11/006
OMB Case No.: PL130670
OMB File No.: PL130672

Heard: April 20 to April 28, 2015 in Mississauga,
Ontario

APPEARANCES:

Parties

Counsel

Credit Mills Development Corporation	G. Swinkin
City of Mississauga	P. DeMelo R. Kehar
Mondelez Canada Inc.	M. Bull
Metrolinx	B. Kussner

DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER

INTRODUCTION

Site and Area Description

[1] Credit Mills Development Corporation (“Credit Mills”) wishes to develop a vacant site on the east side of Mississauga Road south of, and abutting, the Canadian Pacific Railways (“CP”) rail line.

[2] North of the rail line, Mississauga Road becomes Queen Street South where it continues to the downtown area of Streetsville.

[3] East of the Credit Mills site are valley lands.

[4] The southern boundary of the Credit Mills site is Melody Drive.

[5] The south side of Melody Drive is residential and is currently the northern limit of the stable residential community to the south of the Credit Mills site.

[6] The north side of Melody Drive, like the remainder of the Credit Mills site, is currently vacant.

[7] There is an old automotive repair facility, no longer in use, at the northeast corner of Mississauga Road and Melody Drive that is not part of the Credit Mills matters now before the Board.

[8] Melody Drive stops at a T intersection at Mississauga Road. The intersection of Melody Drive and Mississauga Road is not signalized.

[9] Erin Centre Boulevard is north of Melody Drive and runs west from Mississauga Road. Erin Centre Boulevard currently stops at a T intersection at Mississauga Road. This T intersection is signalized. At present, the intersection does not have a fourth leg that would enter the Credit Mills site.

[10] Opposite the Credit Mills site, on the west side of Mississauga Road and at the northwest intersection of Mississauga Road and Erin Centre Boulevard, is the Kingdom Hall of Jehovah's Witnesses ("Kingdom Hall").

[11] The Kingdom Hall has a large surface parking lot that is adjacent to Mississauga Road and extends north along the road toward the rail line. The difference in elevation between the parking lot and Mississauga Road means that the parking lot, while fully visible as part of the streetscape, is very slightly lower than the grade of Mississauga Road.

[12] North of the rail line is a long-established industrial and major grain milling facility, owned and operated by Mondelez Canada Inc. ("Mondelez").

[13] The Mississauga Road rail crossing is a level crossing.

[14] Metrolinx currently operates a GO commuter rail service on the CP rail line. Metrolinx intends to have more frequent commuter service along this rail line and has proposed a grade separation that will accommodate the street traffic on Mississauga Road/Queen Street South and the more frequent commuter rail service.

Proposal before the Board

[15] Credit Mills proposes to develop the site for retail and office use, with some limited residential.

[16] The proposed residential use is to be located at the southernmost edge of the site, on the north side of Melody Drive. The remainder of the site is proposed to be retail, office and some other commercial uses.

[17] In support of its proposed development, Credit Mills has applied for a site-specific amendment to the City's official plan ("OPA"), an associated zoning by-law amendment ("ZBLA") and a draft plan of subdivision.

[18] There is no site plan application before the Board but there is a conceptual site plan for the site.

[19] The current designation on the entire site is Residential - Low Density II. The OPA re-designates the proposed residential strip on the north side of Melody Drive as Residential – Low Density II – Special Site. The rest of the site is to be re-designated from Residential - Low Density II to Mixed Use – Special Site and Greenbelt.

[20] The OPA also contemplates a holding provision in the ZBLA to deal with certain matters to ensure compatibility between the proposed residential use and the grain milling facility to the north.

[21] The ZBLA implements the OPA and includes additional details regarding the holding provision.

[22] The draft plan of subdivision has 10 residential lots on the north side of Melody Drive, a registered easement in favour of the Region of Peel (“Region”) for municipal services, a strip of land adjacent to the rail line that may be needed by Metrolinx as part of its increased commuter rail service, a 3.0 metre (“m”) strip adjacent to Mississauga Road for a road widening, a small strip along the southwestern edge for a Green Belt designation to protect the top of bank of the valley lands, and a single large lot intended for the commercial uses.

[23] The conditions of draft plan approval, originally recommended by City staff and accepted by Credit Mills, have been expanded to include additional conditions sought by Mondelez and accepted by Credit Mills.

[24] The City does not support the proposed development and Credit Mills has appealed these matters to this Board.

[25] At earlier prehearings, where the Board was differently constituted, several area residents were added as participants. Two parties were also added: Metrolinx and

Mondelez.

[26] At these earlier proceedings, the participants, Metrolinx and Mondelez appeared at these prehearings in opposition to Credit Mills.

PARTIAL SETTLEMENT

[27] At the outset of the hearing, the Board was advised that Credit Mills had reached certain agreements with Metrolinx and with Mondelez.

The Metrolinx Settlement

[28] The agreement with Metrolinx is in the form of minutes of settlement regarding a proposed grade separation between Mississauga Road and the rail line, filed as Exhibit 1 in these proceedings.

[29] Block 3 in the proposed draft plan of subdivision is a strip of land along part of the northern edge of the site that is adjacent to the rail line. This strip is reserved for potential GO transit lands associated with the planned increase in commuter service and the proposed grade separation.

[30] The grade separation is intended to take the roadway under the rail tracks. The downward slope toward the tracks begins at about the intersection of Erin Centre Boulevard and Mississauga Road. As the road drops down, the difference in elevation to the adjacent Credit Mills site becomes more pronounced, raising certain issues about the future streetscape and interface between the proposed Credit Mills development and Mississauga Road as the roadway approaches the rail line.

[31] Work on the grade separation will require lands on the Credit Mills site that Metrolinx is able to use for a temporary detour roadway, construction staging area, and so on. A 20 m wide strip along Mississauga Road is one such temporary area. The settlement agreement with Metrolinx sets these areas aside, with the understanding that

these areas, as set out in paragraph six of the agreement:

...are kept free and clear of any buildings, structures or uses, save and except as driveway, landscaped open space or the temporary parking of motor vehicles or storing of machinery for construction or maintenance purposes...

[32] Metrolinx then withdrew from daily attendance at these proceedings and called no evidence in these matters.

The Mondelez Settlement

[33] Mondelez's industrial grain milling facility operates 24 hours a day, seven days a week. It is the largest soft wheat flour mill in Canada and has been producing flour since the 1830s.

[34] Mondelez has no objection to the proposed commercial or greenbelt uses on the Credit Mills site. Mondelez's concerns focus on the proposed residential use on the north side of Melody Drive since residential uses are sensitive receptors.

[35] Mondelez wishes to ensure that any development of the residential use occurs in such a fashion that does not result in negative impacts on the mill's ability to continue to comply with various regulatory approvals, guidelines and standards relative to its current operations.

[36] Mondelez also wishes to ensure that any residential development does not result in negative impacts on the mill's ability to obtain and maintain applicable environmental approvals for reasonable changes to its operation or for a reasonable expansion.

[37] The settlement with Mondelez is very detailed. Two agreements set out the terms of the settlement and have been filed as Exhibit 2 and Exhibit 3 in these proceedings.

[38] In summary, the settlement deals with extensive studies and notice to Mondelez before any site plan application, building permit application or building occupancy

application regarding the proposed residential portion of the development is made. It includes requirements for warning clauses, noise mitigation, and a restriction on transfer dealing with the proposed residential lots on the north side of Melody Drive.

[39] The settlement also sets out the details of the holding provision and the conditions of draft plan approval.

[40] From the perspective of site development, a key element is the requirement for a two-storey commercial building to be built as a noise mitigation element prior to the construction of the dwellings at the southernmost edge of the Credit Mills site.

[41] Following the filing of these agreements, Mondelez withdrew from daily attendance at these proceedings and called no evidence in these matters.

ISSUES, ANALYSIS AND FINDINGS

[42] The Board heard from three qualified land use planners, one called by Credit Mills and two called by the City. The Board also heard from a qualified transportation planning and traffic operations engineer, called by Credit Mills.

[43] Between the City and Credit Mills, the principal issue may be distilled down to the magnitude of the proposal with some secondary concern about built form.

[44] The Board also heard from four participants. The participants worked together on their presentations and referred to themselves as Affected Neighbours. The Board understands that while only four participants addressed the Board, these four are part of a group that worked to understand the concerns of neighbours unable to attend and tried to reflect those concerns in their evidence to the Board.

[45] Of those who addressed the Board, one is a resident in the subdivision just south of the Credit Mills site on the east side of Mississauga Road. Two of the participants are residents within the subdivision on the west side of Mississauga Road south of the CP

rail line and along the Erin Centre Boulevard corridor as it progresses west from Mississauga Road. One is a resident on the west side of Queen Street, the northerly extension of Mississauga Road north of the CP rail corridor.

[46] The principal concern of the participants is traffic congestion, particularly wait times on Mississauga Road when freight trains are on the rail corridor along the level crossing.

Traffic

Mississauga Road

[47] The City raised no issue related to traffic.

[48] Credit Mills called a transportation and traffic operations engineer to review the traffic impact study prepared for Credit Mills.

[49] There is no question that those wanting to get across the rail line as they travel up and down Mississauga Road may have to wait a bit for rapidly moving commuter trains and wait a bit longer for the slower, and longer, freight trains to clear the crossing. That condition is simply a fact of life in a rapidly urbanizing community where there is a well-traveled route that crosses an active rail line at grade.

[50] Erin Mills Parkway, to the west of Mississauga Road, is an alternate north/south route easily available to area residents, particularly those living on the west side of Mississauga Road and south of the CP rail line.

[51] Erin Centre Boulevard, signalized at its intersection with Mississauga Road, connects Mississauga Road and Erin Mills Parkway. Erin Mills Parkway is grade-separated where it crosses the CP rail line.

[52] Metrolinx is proposing a grade separation for the Mississauga Road crossing.

Assuming the grade separation goes ahead, once complete it removes entirely the concern about wait times on the road as a result of trains having to clear the crossing.

[53] At present, there is no grade separation. The issue before the Board now is whether the traffic on Mississauga Road and the wait times are such that no, or lesser, development should occur on the Credit Mills site.

[54] The traffic impact study considered the existing condition on Mississauga Road and assessed the impact of the proposed development. In cross-examination by the City, the traffic expert reaffirmed that the Credit Mills site would likely contribute only one car to a queue if the wait is the result of a GO commuter train crossing and three to four cars to a queue if the wait is the result of the occasional freight train crossing. The conclusion is that the impact is reasonable and acceptable.

Vehicular Connection from Melody Drive to the Credit Mills Site

[55] The City had proposed a vehicular connection from Melody Drive into the non-residential portion of the Credit Mills site. To be clear, this proposed vehicular connection was to be located to the west of the proposed dwellings on the north side of Melody Drive and was intended as a direct connection to the commercial part of the Credit Mills site.

[56] As noted above, the intersection of Melody Drive and Mississauga Road is not signalized. The Board understands this proposed connection to have been suggested as a convenience to the residents in the subdivision south of the Credit Mills site to be able to access the site without using Mississauga Road. In addition, if residents then wished to access Mississauga Road, they would be able to use the signalized intersection of Mississauga Road and Erin Centre Boulevard from the Credit Mills site rather than the un-signalized intersection of Mississauga Road and Melody Drive.

[57] Credit Mills has no preference regarding whether such a vehicular connection to Melody Drive is provided or not.

[58] The residents on and south of Melody Drive are opposed to any such vehicular connection.

[59] The City did not pursue this suggestion.

[60] The dwellings on the north side of Melody Drive are intended to face Melody Drive and would have appropriate vehicular connections to Melody Drive.

[61] No objection was raised to the necessary vehicular connection to Melody Drive for the dwellings to be built on the north side of Melody Drive.

[62] With no party in these proceedings seeking a vehicular connection between Melody Drive and the commercial portion of the Credit Mills site, and with the area residents opposed to such a vehicular connection, the Board finds that such a vehicular connection is unnecessary and should not be pursued.

[63] The Board sees no difficulty in the possibility of maintaining an appropriately located and landscaped pedestrian connection from Melody Drive to the commercial area of the Credit Mills site.

Places of Religious Assembly

[64] The Board has already noted the Kingdom Hall at the northwest corner of Erin Centre Boulevard and Mississauga Road. There is a second existing place of religious assembly on Barbertown Road at the southern end of the subdivision south of the Credit Mills site.

[65] Both places of religious assembly produce a substantial influx of cars to the area at times of religious observance and related events. The participants expressed concern about the possibility of one or more places of religious assembly renting space in the commercial portion of the proposed Credit Mills development with the potential for a third major traffic generator in the immediate area at times of religious observance.

[66] The Board notes that places of religious assembly have already been removed in the proposed ZBLA as a permitted use on the Credit Mills site.

Residences on Melody Drive

Frontage

[67] No objection was raised to the idea of residential development on the north side of Melody Drive. The objection raised by the participants relates to the size of the lots and, particularly, the frontage on Melody Drive.

[68] Credit Mills initially proposed 11 lots for single family dwellings on the north side of Melody Drive.

[69] The proposal now before the Board has reduced that to 10 lots with some increase in the frontage for each lot.

[70] The proposed lots have a frontage of 14 m. The lots on the south side of Melody Drive have an average frontage of 15.3 m. The difference is 1.3 m.

[71] The north side dwellings complete Melody Drive and reinforce its character as residential and as part of the residential community south of the Credit Mills site. The removal of the vehicular connection from Melody Drive to the commercial portion of the Credit Mills site further reinforces the intention to maintain the residential character of Melody Drive and its residential neighbourhood.

[72] The Board finds that the proposed frontage of 14 m is reasonable, appropriate and compatible with the lots on the south side of Melody Drive.

Holding Provisions

[73] The holding provisions in the proposed ZBLA are tied to the settlement with

Mondelez. They are designed to ensure that the development of the residential use does not negatively impact Mondelez and that, in turn, the mill operation does not negatively impact these proposed residential dwellings.

[74] One important element is the construction of a two-storey commercial building on the commercial portion of the Credit Mills site that is designed to provide acoustical protection for the proposed residences from the mill operation. This building is to be located north of the proposed residences on the north side of Melody Drive and must be constructed prior to the residences.

[75] The requirement for this building to be two storeys arises from the intention to use the building as an acoustical barrier to protect the residences from noise generated by the mill operation.

[76] The residences on the north side of Melody Drive are intended to be two storeys in height. They will largely block any perceived visual intrusion of the two-storey commercial building that is intended to act as an acoustical barrier.

Conditions of Draft Plan Approval

[77] Those portions of the conditions of draft plan approval that relate specifically to the residential lots echo the settlement with Mondelez and the holding provisions in the ZBLA.

The Commercial Development

Size

[78] All three expert land use planners agree that re-designating the Credit Mills site to Mixed Use to allow commercial uses over the majority of the site north of Melody Drive is appropriate.

[79] Credit Mills has proposed a commercial development of 10,400 square metres (“sq m”) within the C2 zone category. This category permits a maximum size of 12,000 sq m.

[80] There is no dispute over the amount of general office space to be accommodated on the site. The issue that separates these planning opinions relates to the amount of retail and retail-like uses to be permitted on the site.

[81] The City has proposed a maximum combined cap of 5,000 sq m on the retail, service commercial, restaurant and medical office uses on the site. The Board understands that the intent is to have this proposed cap apply only to certain uses within the total of the 10,400 sq m proposal for the site. Those permitted uses that are not subject to the proposed cap could then develop to whatever size that meets any other requirements, such as parking standards, so long as the total size of all uses on the site as a whole does not exceed the permitted maximum.

[82] Credit Mills opposes the City’s proposed cap.

[83] The Credit Mills site is within the Central Erin Mills neighbourhood. The linear main street commercial area of Streetsville is 1.0 to 1.8 kilometres (“km”) north of the site. The next nearest shopping area is about 1.2 km to the southwest of the site.

[84] The Credit Mills site is not within the designation of Downtown. It is also not designated Major Node or Community Node. Section 10.4.5 of the City Official Plan (“OP”) is clear in its direction that retail uses that are not within the Downtown, Major Node or Community Node designations are to be directed to Corridors and Major Transit Station Areas.

[85] The Credit Mills site is on Mississauga Road, which is a designated Corridor.

[86] A portion of the Credit Mills site is also within the standard 500 m of the Streetsville GO station, placing this part of the site within a Major Transit Station Area.

[87] The Credit Mills site is within a neighbourhood and is seeking a C2 exception zone for its commercial component. This zone is Neighbourhood Commercial. The exception addresses the slightly different list of permitted uses than is found in the standard C2 zone.

[88] The justification for the City's proposed 5,000 sq m cap for retail and retail-like uses within the proposed commercial development rests on two points.

[89] The first point is a stated concern for the economic well-being of the historic main street commercial district of Streetsville. This concern is highlighted in the staff reports contained in the joint document book filed as Exhibit 6 in these proceedings. Though not expressed directly, this is a concern that commercial competition from the proposed Credit Mills development would negatively impact the historic main street commercial district of Streetsville.

[90] The City produced no evidence of a negative impact arising from commercial competition.

[91] Under cross-examination, one City witness acknowledged that the shopping draw for the historic main street commercial district of Streetsville is primarily a tourist draw and primarily on weekends.

[92] The target market for the Credit Mills commercial development is the neighbourhood around the site, which the City acknowledged in its staff reports is a neighbourhood lacking a neighbourhood commercial centre.

[93] In support of the overall proposed size of the commercial component, Credit Mills presented an analysis of other neighbourhood commercial centres.

[94] The analysis considered only those developments that are 8,000 sq m or larger. Under cross-examination, the planner for Credit Mills acknowledged that no other characteristic or criteria was considered although he agreed they should have been

considered.

[95] Specifically, the analysis for Credit Mills did not consider:

1. when the centre was approved, thereby bringing into play whether a different planning regime was applicable;
2. the surrounding residential community in terms of its scale, density or built form; or
3. the number of major streets on which the centre had frontage, resulting in several examples being included that are located at the intersection of two major streets while the Credit Mills site has frontage on only one.

[96] The Board does not find this analysis helpful to assist the Board in understanding whether a limit on the size of *part* of the proposed commercial component is appropriate.

[97] City staff examined five of the closest neighbourhood commercial centres and found that 5,000 sq m was the average for a neighbourhood commercial centre in this area.

[98] The Board does not find this analysis helpful to assist the Board in understanding whether a limit on the size of *part* of the proposed commercial component is appropriate.

[99] The City did not require Credit Mills to undertake a market impact analysis to assess the market impact of commercial competition as a result of the proposed Credit Mills commercial development.

[100] City witnesses acknowledged that the City had abandoned the practice of requiring market impact analyses some years ago.

[101] City witnesses pointed instead to OP policy 19.5.1(a).

[102] OP policy 19.5.1(a) is part of the section of the OP that sets out the criteria for a site-specific official plan amendment. This policy states in part:

... The proponent of an official plan amendment will be required to submit satisfactory reports to demonstrate the rationale for the amendment; including, among other matters:

a. that the proposed redesignation would not adversely impact or destabilize the following:

...the development or functioning of the remaining lands that have the same designation, or neighbouring lands...

[103] The proposed designation is Mixed Use. That designation is widely used throughout the City. Under these circumstances, the Board finds that a reasonable reading of this policy would not lead to the conclusion that a proponent must canvas all sites designated Mixed Use and undertake an impact assessment for each site with this designation.

[104] There are no neighbouring lands designated Mixed Use.

[105] The neighbouring lands are the residential community to the south, the valley lands to the east and the CP rail corridor to the north with the Mondelez mill on the north side of the rail corridor.

[106] In the preceding paragraphs, the Board has dealt with the requirements and restrictions that ensure compatibility of this proposed designation with neighbouring lands and that the proposed redesignation would not adversely impact the functioning of those lands.

[107] The Board finds that the proposed cap of 5,000 sq m on certain uses is anchored neither in authorized policy nor in impact analysis. The Board will not impose the proposed cap on the aggregate size of certain uses, as proposed by the City.

Built Form

[108] The OP policies dealing with built form would normally call for the buildings to be built to the street rather than having them set back with parking between the buildings and the street. For the commercial component, there is only one street and that is Mississauga Road.

[109] With no grade separation for the rail line crossing, such a policy presents little or no difficulty.

[110] The Board heard no evidence that a grade separation is undesirable.

[111] The Board finds it eminently reasonable that Metrolinx has sought, and Credit Mills has agreed, to provide a 20 m wide temporary construction easement adjacent to Mississauga Road to accommodate the grade separation.

[112] Preliminary plans provided by Metrolinx indicate a considerable difference in elevation between the lowered Mississauga Road as it approaches the rail line and the Credit Mills site.

[113] The combination of the temporary construction easement and the likely final difference in elevation creates a challenge for the determination of appropriate and desirable landscaping, siting and built form.

[114] Development standards initially identified by City staff to be included in the ZBLA contained the requirement that buildings fronting on Mississauga Road be two storeys in height and built close to the street. This requirement is not now in the ZBLA and may, or may not, be appropriate in light of the challenges of the temporary construction easement and the likely resulting elevation differences once the grade separation is completed.

[115] The Board finds that simply leaving the matter open does not advance the City's

reasonable wish to ensure that a desirable and safe streetscape is the ultimate result of development decisions.

[116] The Board is satisfied that language can be found for the development standards in the ZBLA that appropriately meets these several needs. The Board directs the City and Credit Mills to identify appropriate language to be inserted in the ZBLA to deal with these challenges.

Landscape Buffers and Setbacks

[117] The following setbacks proposed by the City are not now in the ZBLA. They include:

1. a 13.0 m setback from the CP rail line,
2. a 4.5 minimum landscape buffer abutting the 10 residential lots and abutting Mississauga Road,
3. a minimum 8.0 m landscape buffer depth, inclusive of trails or walkways, between the south lot line and the proposed parking area at the southeast corner of the site.

[118] The planner appearing for Credit Mills testified that these setbacks should be in the ZBLA and, hearing no contrary evidence, the Board agrees.

[119] The Board directs the City and Credit Mills to identify appropriate language to be inserted in the ZBLA to effect these additional development standards.

Co-ordinated and Signalized Access

[120] The intersection of Erin Centre Boulevard and Mississauga Road is currently a T intersection that is signalized. Access to the commercial portion of the Credit Mills site

should be located as the fourth leg of this signalized intersection. The Board notes that the precise location of this signalized intersection may shift a bit as final plans are produced for the grade separation work. As such, the Board will not fix the Credit Mills commercial access at the precise *existing* point of the signalized intersection. Rather the Board fixes the access to the commercial component of the Credit Mills site as being the fourth leg of a signalized intersection of Erin Centre Boulevard and Mississauga Road.

[121] The Board directs the City and Credit Mills to identify appropriate language to be inserted in the ZBLA to effect this intersection requirement.

Draft Plan of Subdivision

[122] The various elements of the draft plan of subdivision, filed as Exhibit 9 in these proceedings, have been set out in earlier paragraphs. The proposed conditions of draft plan approval were filed as Exhibit 14 in these proceedings.

[123] The conditions of draft plan approval combine the conditions initially sought by the City with the additional conditions arising from the agreement with Mondelez.

[124] Section 51(24) of the *Planning Act*, R.S.O. 1990 c. P. 13 (“Act”) sets out the criteria to which the Board must have regard when considering a draft plan of subdivision.

[125] The Board has had regard for the matters set out in s. 51(24) of the Act and, subject to the conditions set out in Exhibit 14, finds that approval should be given to this draft plan of subdivision.

[126] The Board further finds, in accordance with s. 51(56.1) of the Act, that final approval of the plan of subdivision for the purposes of s. 51(58) of the Act should be by the approval authority in which the lands are situate.

Other Matters

Region of Peel Official Plan

[127] On the expert evidence of the land use planning witnesses, the Board finds that the proposed OPA conforms to the requirements of the Region's Official Plan.

2014 Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe

[128] Both the 2014 Provincial Policy Statement ("PPS") and the Growth Plan for the Greater Golden Horseshoe ("GGH") emphasize healthy, livable and active communities that make efficient use of land and infrastructure, provide an appropriate range of housing, direct growth to settlement areas with full municipal services, protect natural heritage features and encourage employment investment.

[129] The Board finds that the OPA, ZBLA with the additions directed by the Board, and the draft plan of subdivision subject to conditions are consistent with the PPS and conform to the GGH.

Matters of Provincial Interest

[130] Section 2 of the Act sets out matters of provincial interest. In analysing the OPA, ZBLA and draft plan of subdivision, the Board has had regard for the matters of provincial interest as set out in s. 2.

[131] The Board finds that the OPA, ZBLA with additions directed by the Board and the draft plan of subdivision subject to conditions appropriately implement matters of provincial interest.

The Decision of Council and Associated Material

[132] Section 2.1 of the Act requires the Board to have regard for the decision of

Council and for the materials before Council in support of that decision, and the Board has done so.

[133] Although the City appeared in opposition to Credit Mills in these proceedings, the City's opposition focused on the question of whether certain proposed uses should be subject to a size cap within the total size of the proposal. Apart from the proposal to cap the maximum area of certain proposed uses, but not all uses, the March 2014 staff report before Council generally supported the proposal.

[134] In April 2014, Council expressed concern about the impact of the proposed grade separation and sought additional time to consider the matter.

[135] This hearing commenced more than a year after the expressed wish of Council to have additional time and the Board is satisfied that Council has had ample time to consider its position.

[136] At this hearing, the proposed introduction commercial uses, the proposed dwellings on the north side of Melody Drive, the Green Belt designation to protect the top of bank lands, and the anticipated traffic impact are all matters that were unopposed by the City.

Conclusion

[137] The Board's order is withheld until the Board receives a revised form of zoning by-law amendment to address the Board's directions, all of which are set out in preceding paragraphs, regarding additional provisions in the by-law to address setbacks, landscape buffers, the fixing of the access from Mississauga Road, the removal of any access from Melody Drive to the commercial component of the site, and the appropriate landscape and/or built form provisions to address the Mississauga Road frontage.

[138] If difficulties arise, the Board may be spoken to.

“Susan de Avellar Schiller”

SUSAN de AVELLAR SCHILLER
VICE-CHAIR

If there is an attachment referred to in this document,
please visit 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 Telephone: 416-212-6349 Toll Free: 1-866-448-2248