

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 14, 2017

CASE NO(S): PL140792

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

Applicant and Appellant: 7838794 Canada Inc.
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment
Purpose: To permit the redevelopment of the southwestern portion of the property
Property Address/Description: 2700 Aquitaine Avenue
Municipality: City of Mississauga
Approval Authority File No.: OZ 13 /013 W19
OMB Case No.: PL140792
OMB File No.: PL140792
OMB Case Name: 7838794 Canada Inc. 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: 7838794 Canada Inc.
Subject: Application to amend Zoning By-law No.0225-2007 – Neglect of application by the City of Mississauga
Existing Zoning: "R4A-32" (Apartment Dwellings)
Proposed Zoning: "RA5-Exception" (Apartment Dwellings)
Purpose: To permit the replacement of three existing 3 storey rental apartment buildings with three rental apartment buildings with heights of 19, 22 and 25 respectively
Property Address/Description: 2700 Aquitaine Avenue
Municipality: City of Mississauga
Municipal File No.: OZ 13 /013 W19
OMB Case No.: PL140792
OMB File No.: PL140834

Heard: January 20, 2017 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

7838794 Canada Inc. ("Applicant")

M. Flynn-Guglietti

City of Mississauga ("City")

M. Minkowski

**MEMORANDUM OF ORAL DECISION OF THE BOARD DELIVERED BY BLAIR
S. TAYLOR JANUARY 20, 2017 AND ORDER OF THE BOARD**

INTRODUCTION

[1] The Board had issued a decision dated February 18, 2016 concerning a development proposal for the property known municipally as 2700 Aquitaine Avenue ("Subject Lands"). The Applicant had sought to demolish some portions of the existing development on the Subject Lands and build three new rental apartment buildings with heights of 15, 15 and 12 storeys at a Floor Space Index ("FSI") of 1.91.

[2] In its 2016 decision, the Board declined to approve the development proposal, but due to the number of positive attributes of the Subject Lands, withheld its Final Order to enable the parties to continue their informal negotiations to see if a settlement could be achieved.

[3] The Board was advised that a settlement had been reached and the Board convened a hearing to consider the proposed settlement.

[4] For the reasons set out below, the Board approved the settlement.

HEARING

[5] At the commencement of the hearing, the Board was advised that the parties had engaged in Board led mediation that had resulted in the parties reaching a settlement.

[6] The Board heard expert land use planning evidence from the Applicant's land use planner and also from the City's land use planner in support of a settlement that included the following: reductions from the proposed heights of 15, 15 and 12 storeys, to 12, 9, and 7 storeys; reduction in FSI from 1.91 to 1.6; reduction in the number of new dwelling units from 516 to 451; an increased side yard setback to the municipal trail on the westerly side of the Subject Lands; the maintenance of the view corridor through the Subject Lands; maintenance of the proposed underground parking; and a new s. 37 agreement requiring the payment to the City of \$450,000, to be applied toward affordable housing.

[7] The land use planners both opined that the proposed settlement was consistent with the Provincial Policy Statement ("PPS"), conformed to the Growth Plan for the Greater Golden Horseshoe ("Growth Plan"), conformed to the Region of Peel Official Plan and conformed to the City's Official Plan and represented good planning.

[8] The Board was advised that the settlement proposal had been taken to City Council and City Council had passed a resolution consenting to the proposed settlement (see Exhibit 7).

[9] The Board was provided with a series of visual exhibits (see Exhibit 3) that contrasted the former development proposal with the settlement proposal and well-illustrated the results of the reductions in height in terms of scale and massing as they transitioned toward Lake Aquitaine.

[10] No contrary evidence was heard by the Board.

[11] One participant expressed her disappointment with the process that had taken place. However, having heard the evidence of the City's land use planner, she felt they

had to accept the result.

DECISION

[12] Based on the uncontroverted expert land use planning evidence on behalf of the Applicant and the City, the Board will allow the appeal, and approve the revised proposal for the Subject Lands whereby the heights, FSI, scale, and massing are all reduced.

[13] In coming to this decision the Board has taken into account the Provincial Interests as set out in s. 2 of the *Planning Act*, and pursuant to s. 2.1 of the *Planning Act* has had regard for the decision of City Council as set out in the resolution of Council found in Exhibit 7.

[14] The Board finds that the revised development proposal with its reduced heights, scale, and massing is consistent with the PPS, conforms to the Growth Plan, conforms to the Regional Official Plan and conforms to the City's Official Plan as providing an appropriate level of intensification for the Subject Lands that are within the built up area of the City, utilizes existing infrastructure and community services, and is transit supportive.

[15] Thus the Board allows the appeal and: approves the draft Official Plan Amendment as found in Exhibit 5 and appended to this decision as Attachment 1; and approves the Zoning By-law Amendment as found in Exhibit 6, and appended to this decision as Attachment 2.

[16] In so doing, the Board recognizes the Subject Lands are found in a unique location with a number of significant locational attributes.

[17] The Board also found the visual evidence in Exhibit 3 to be most helpful in the consideration of the reductions of height, scale, and massing.

[18] Finally the Board does wish to note its appreciation for the willingness of the parties to attempt to reach a settlement whereby the policies of the Official Plan are met

and there is a benefit to the supply of both market rental and affordable housing.

[19] This is the Order of the Board.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

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

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Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

PL140792

Amendment No. 57
to
Mississauga Official Plan

Amendment No. 57

to

Mississauga Official Plan

The following text and map designated Schedule "A" attached constitutes Amendment No. 57.

Also attached but not constituting part of the Amendment is Appendix I.

Appendix I is a description of the Public Meeting held in connection with this Amendment.

PURPOSE

The purpose of this Amendment is to permit 223 existing dwelling units on the subject site and also allow an additional 451 apartment dwelling units in 3 residential apartment buildings of 7, 9 and 12 storeys.

LOCATION

The lands affected by this Amendment are located on the south side of Aquitaine Avenue, north of Lake Aquitaine and east of Glen Erin Drive. The subject lands are located in the Meadowvale Neighbourhood Character Area, as identified in Mississauga Official Plan.

BASIS

Mississauga Official Plan came into effect on November 14, 2012, save and except for those policies and land use designations which have been appealed to the Ontario Municipal Board.

The subject lands are designated Residential High Density which permits apartment dwellings. Special Site policy 16.16.3.1.2, allows for townhouse dwellings. This Amendment adds horizontal multiple dwellings to the Special Site policy.

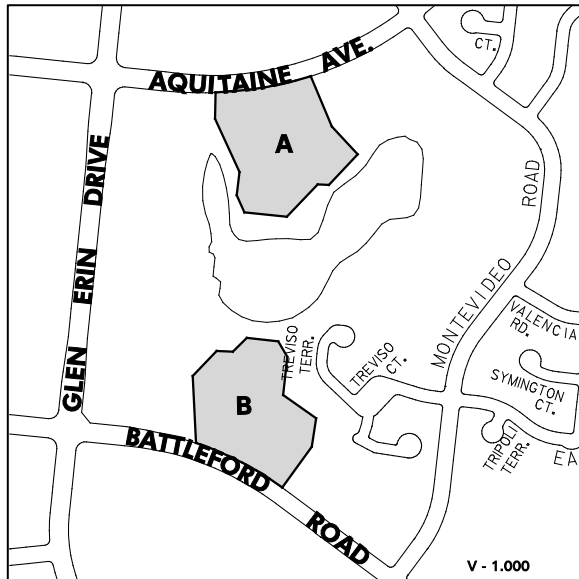
The proposed Official Plan Amendment is acceptable from a planning standpoint and should be approved for the following reasons:

1. The proposed development is compatible with the land uses adjacent to the site and the design and layout achieve appropriate relationships with the surrounding built form.
2. The proposed Official Plan policies are appropriate as it provides a transition to Lake Aquitaine and the abutting existing horizontal multiple dwellings to accommodate the requested uses based on the proposed height, massing, setbacks and general site design.

The proposed Amendment has been approved by the Ontario Municipal Board.

DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Section 16.16, Meadowvale Neighbourhood Character Area of Mississauga Official Plan, is hereby amended by revising the **floor space index (FSI)** ranges on Map 16-16: Meadowvale Neighbourhood Character Area in accordance with the changes to the Special Site Policies.
2. Section 16.16.3, Site 1, Special Site Policies, Meadowvale Neighbourhood Character Area of Mississauga Official Plan, is hereby amended by deleting Special Site 1 map and replacing with the following:



3. Section 16.16.3.1.2, Site 1, Special Site Policies, Meadowvale Neighbourhood Character Area of Mississauga Official Plan, is hereby amended by adding "for lands identified as Area B" at the end of the sentence.
4. Section 16.16.3, Site 1, Special Site Policies, Meadowvale Neighbourhood Character Area of Mississauga Official Plan, is hereby amended by adding the following:
 - 16.16.3.1.3 Notwithstanding the provisions of the Residential High Density designation, the following additional policies will apply for the lands identified as Area A:
 - a. horizontal multiple dwellings will be permitted; and
 - b. the maximum **floor space index (FSI)** will be 1.6.

IMPLEMENTATION

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

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

This Amendment has been prepared based on the Office Consolidation of Mississauga Official Plan July 13, 2016.

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.

http://teamsites.mississauga.ca/sites/18/mopa/oz13_013ombmopa57.november28.2016.mh.jmcc.docx

APPENDIX I

PUBLIC MEETING

All property owners within a radius of 120 m of the subject lands were invited to attend a Public Meeting of the Planning and Development Committee held on May 4, 2015 in connection with this proposed Amendment.

At the public meeting, staff recommended refusal of the application. Residents were supportive of staffs' recommendation to refuse the Amendment. An Ontario Municipal Board Hearing was held on February 18, 2016 and the Board upheld the decision of Council to refuse the application and an option for mediation was presented to the parties. This Amendment is the response of the mediation negotiations.

SCHEDULE "A" TO
 ONTARIO MUNICIPAL BOARD
 ORDER DATED _____

OMB File No. PL140834
 OMB Case No. PL140792
 (7838794 Canada Inc.)

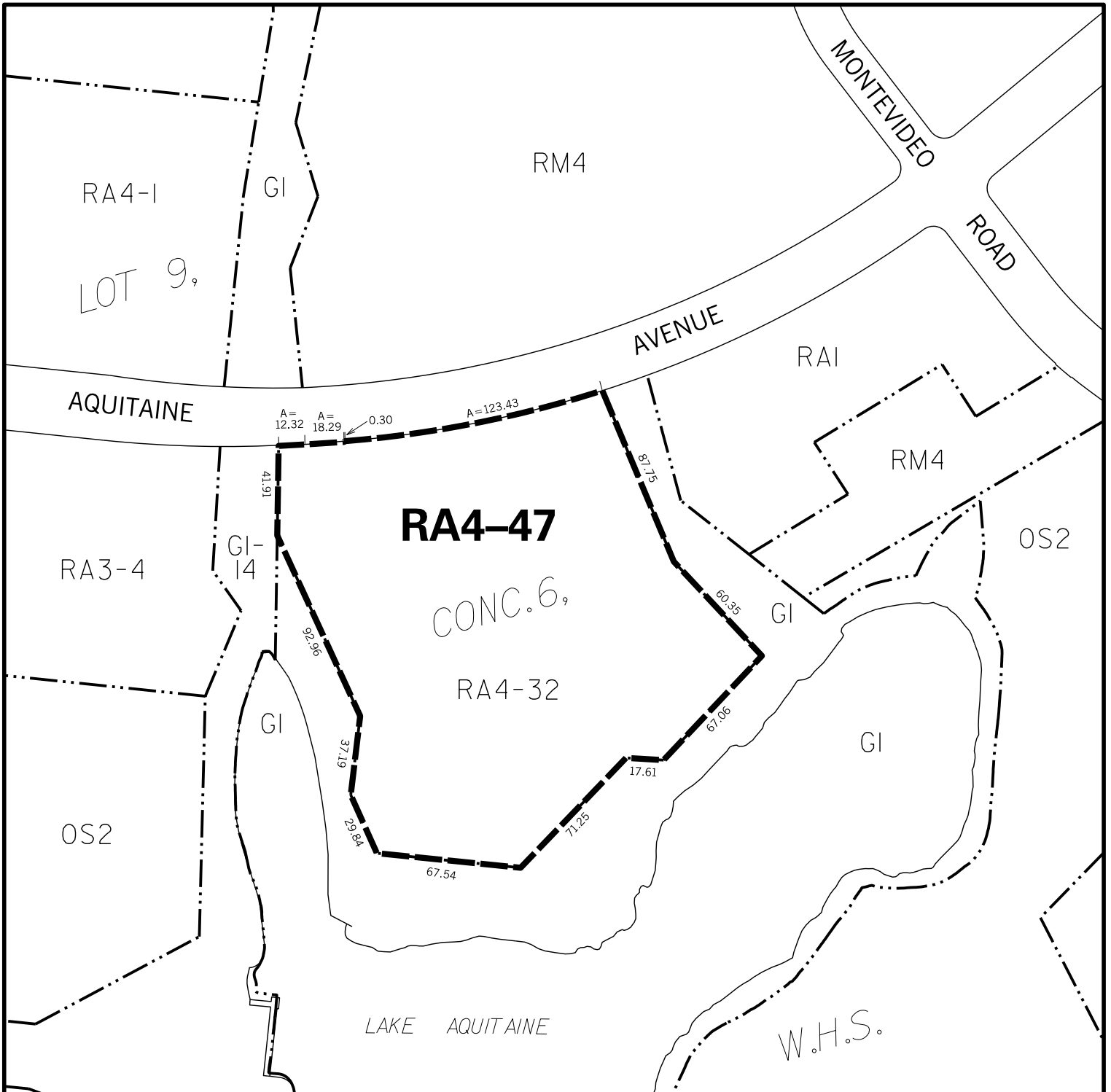
1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by adding the following Exception Table:

4.15.5.47	Exception: RA4-47	Map # 46W	By-law:
In a RA4-47 zone the permitted uses and applicable regulations shall be as specified for a RA4 zone except that the following uses/regulations shall apply:			
Additional Permitted Use			
4.15.5.47.1	(1)	Horizontal Multiple Dwelling	
Regulations			
4.15.5.47.2	Horizontal multiple dwellings shall only be permitted in Buildings 'A', 'B' and 'C' identified on Schedule RA4-47 of this Exception		
4.15.5.47.3	Maximum number of dwelling units per hectare		208
4.15.5.47.4	Maximum number of dwelling units in Buildings 'A', 'B', 'C' and 'D' identified on Schedule RA4-47 of this Exception		223
4.15.5.47.5	Maximum number of dwelling units in Buildings 'E', 'F' and 'G' identified on Schedule RA4-47 of this Exception		451
4.15.5.47.6	Maximum floor space index - apartment dwelling zone		1.6
4.15.5.47.7	Maximum gross floor area - apartment dwelling zone		51 750 m ²
4.15.5.47.8	Maximum projection of a balcony located above the first storey measured from the outermost face or faces of the building from which the balcony projects		2.0 m
4.15.5.47.9	Maximum projection of a balcony outside the buildable area in Buildings 'E', 'F' and 'G' identified on Schedule RA4-47 of this Exception		1.5 m

4.15.5.47	Exception: RA4-47	Map # 46W	By-law:
4.15.5.47.10	Minimum number of resident parking spaces per dwelling unit		1.16
4.15.5.47.11	Minimum number of visitor parking spaces per dwelling unit		0.18
4.15.5.47.12	All site development plans shall comply with Schedule RA4-47 of this Exception		
Section 37 Public Benefits Contribution			
<p>Pursuant to section 37 of the <i>Planning Act</i>, R.S.O 1990, c.P.13, as amended, the height and density of development provided by this Exception shall be permitted subject to the owner of the lands zoned RA4-47 entering into an agreement with The Corporation of the City of Mississauga (the City) for the provision of certain facilities, services or matters in return for the increase in height and density of the development granted by this Exception as provided by section 37(3) of the <i>Planning Act</i>, R.S.O. 1990, c.P.13, as amended. This agreement shall be registered on title to the lands zoned RA4-47 and shall require the owner to:</p> <ol style="list-style-type: none"> 1. make payment to the City the sum of \$450,000 to be applied toward affordable housing, and be in compliance with all other terms and conditions of the agreement. 			

2. Map Number 46W 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 "RA4-32" to "RA4-47", the zoning of Part of Lot 9, Concession 6, West of Hurontario Street, in the City of Mississauga, PROVIDED HOWEVER THAT the "RA4-47" zoning shall only apply to the lands which are shown on the attached Schedule "A", which is deemed to be an integral part of this By-law, outlined in the heaviest broken line with the "RA4-47" zoning indicated thereon.

3. This By-law shall not come into force until Mississauga Official Plan Amendment Number 57 is in full force and effect.



This is not a Plan of Survey. For accurate boundary information refer to Registered Plan M-186.

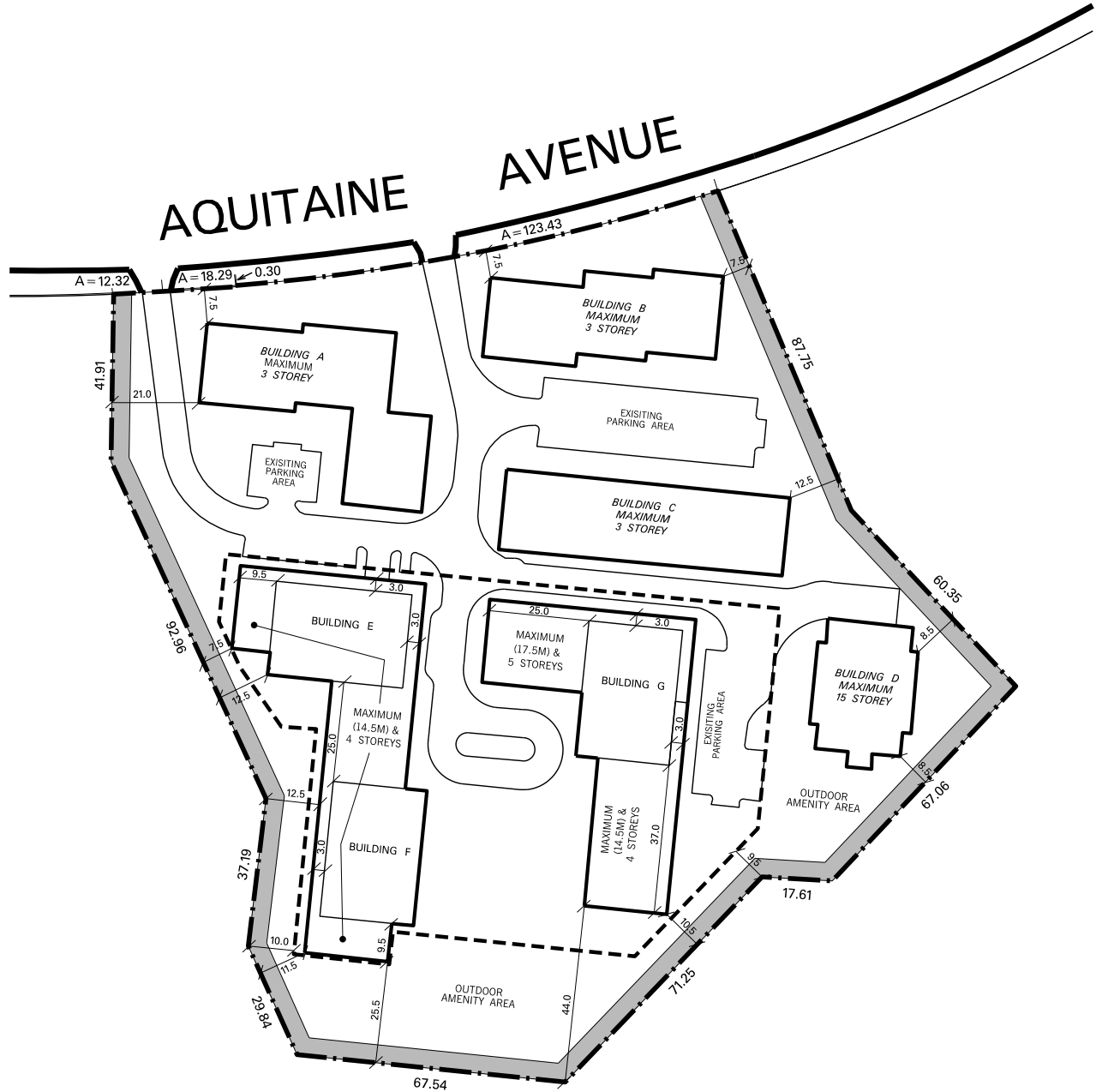
**THIS IS SCHEDULE "A" TO
SCHEDULE "A" OF O.M.B.**

ORDER DATED _____

O.M.B. FILE NO. PL140834







O.M.B. CASE NO. PL140792

CITY OF MISSISSAUGA



Note:
All measurements are in metres
and are minimum setbacks,
unless otherwise noted.

This is not a Plan of Survey.

-  BUILDABLE AREA
-  4.5m LANDSCAPED BUFFER
-  LIMIT OF UNDERGROUND GARAGE
-  BUILDING E – MAXIMUM 40m AND 12 STOREYS
-  BUILDING F – MAXIMUM 25m AND 7 STOREYS
-  BUILDING G – MAXIMUM 31m AND 9 STOREYS

**THIS IS SCHEDULE "RA4-47"
AS ATTACHED TO
SCHEDULE "A" OF O.M.B.**

ORDER DATED _____
O.M.B. FILE NO. PL140834
O.M.B. CASE NO. PL140792

APPENDIX "A" TO SCHEDULE "A" OF

OMB ORDER DATED _____

OMB File No. PL140834

OMB Case No. PL140792

Explanation of the Purpose and Effect of the By-law

The purpose of this By-law is to permit 471 new dwelling units in 3 apartment buildings with 7, 9 and 12 storeys, in addition to 223 dwelling units contained in both the existing 3 storey horizontal multiple dwelling and 15 storey apartment buildings.

This By-law amends the zoning of the property outlined on the attached Schedule "A" from "RA4-32" (Apartment Dwelling - Exception) to "RA4-47" (Apartment Dwelling - Exception).

"RA4-32" permits townhouse dwellings in addition to an apartment building with a maximum floor space index (FSI) of 1.0 and a maximum height of 15 storeys.

"RA4-47" permits horizontal multiple and apartment buildings with a FSI of 1.6, a gross floor area - apartment dwelling zone of 51 750 square metres (557,050 square feet) and a total of 674 dwelling units.

Location of Lands Affected

South side of Aquitaine Avenue, north of Lake Aquitaine and east of Glen Erin Drive in the City of Mississauga, as shown on the attached Map designated as Schedule "A".

http://teamsites.mississauga.ca/sites/18/Bylaws/OZ13_013OMBZBL.November28.2016.option2.mh.jmcc.docx