

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



**ISSUE DATE:** November 28, 2017

**CASE NO(S):** PL151083

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

Applicant and Appellant: Carlyle Communities (Crestview) Inc.  
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment

Existing Designation: Convenience Commercial  
Proposed Designated: Medium Density Residential  
Purpose: To permit 26 common elements, 3-storey condominium townhouses

Property Address/Description: 1640 Crestview Avenue  
Municipality: City of Mississauga  
Approval Authority File No.: OPA/OZ 14/004  
OMB Case No.: PL151083  
OMB File No.: PL151083  
OMB Case Name: Carlyle Communities (Crestview) 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: Carlyle Communities (Crestview) Inc.  
Subject: Application to amend Zoning By-law No. 0225-2007 - Neglect of The City of Mississauga to make a decision

Existing Zoning: C1 (Convenience Commercial)  
Proposed Zoning: RM7-Exception  
Purpose: To permit 26 common elements, 3-storey condominium townhouses

Property Address/Description: 1640 Crestview Avenue  
Municipality: City of Mississauga  
Municipality File No.: OZ-14/004  
OMB Case No.: PL151083  
OMB File No.: PL151084

**Heard:** August 11, 2017 in Mississauga, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

Carlyle Communities (Crestview) Inc. Mary Flynn-Guglietti

City of Mississauga Michal Minkowski

**MEMORANDUM OF ORAL DECISION DELIVERED BY ANNE MILCHBERG ON  
AUGUST 11, 2017 AND ORDER OF THE BOARD**

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[1] This was a hearing on appeals under s. 22(7) and s. 34(11) of the *Planning Act* (“Act”) by Carlyle Communities (Crestview) Incorporated (the “Applicant” and “Appellant”) respecting the property at 1640 Crestview Avenue in Mississauga (“the subject lands”), due to the City of Mississauga’s (“City’s”) failure to make decisions on Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) applications.

[2] The subject lands are 0.569 hectares in size, and are located just south of the Queen Elizabeth Way, at the south-west corner of Crestview Avenue and the South Service Road, in the Mineola East planning community. Currently, they are occupied by a mostly-vacant, struggling, neighbourhood-oriented commercial strip plaza. Immediately to the west is a sizable, existing townhouse development, Colonial Woods.

[3] Proposed is a 20 unit, 3-storey freehold townhouse development on three blocks in a common element condominium, to be serviced by a private, L-shaped road which would connect to both the South Service Road and to Crestview Avenue.

[4] The proposed OPA would re-designate the lands from Convenience Commercial to Medium Density Residential. The proposed ZBA involves amending the City’s Zoning By-law No. 0225-2007 (“ZBL”) to rezone the lands from C1 (Convenience

Commercial) to RM-6-18 (Townhouse Dwellings on a Common Element Condominium – Private Road – Exception with a Holding Provision).

[5] At the time of appeal in 2015, the proposal had 26 townhouse units with peaked roofs, at a density of 45.69 units per hectare (“UPH”). The Parties advised that they benefitted from two days of Board-assisted mediation in December, 2016, successfully grappling with issues of height, density, massing and scale.

[6] The resulting proposal now before the Board is one of resolution and settlement, in which the development now has 20 townhouses, a lower roof profile with a mansard design at the third storey, landscaped buffering on the perimeter of the development, and five visitor parking spaces on the perimeter. The overall density is now 35.15 UPH.

[7] The Parties submitted a Proposed Amendment No. 69 to the City’s Official Plan [Exhibit 1, Tab 13] and a Proposed ZBA [Exhibit 1, Tab 14] reflecting their proposed resolution of the matter.

[8] Aside from the Appellant, the City, a planning witness, and two participants, no other interested individuals attended the hearing, for which statutory public notice had been given. The participants in attendance were Chris Roach on behalf of the Colonial Woods Condo Corporation (“Colonial Woods”), and Bill Hotson, who lives in the neighbourhood. Mr. Roach testified on Colonial Woods’ concerns about the proposed settlement.

[9] First, on consent of the Parties, the Board heard planning opinion evidence on the proposed settlement from Jim Levac, a qualified land use planner retained by the Appellant.

[10] Mr. Levac gave his uncontroverted professional planning opinion that the proposed OPA and ZBA have regard for matters of provincial interest and are consistent with:

- the Provincial Policy Statement (2014), with relevant excerpts at Exhibit 1, Tab 16;
- the Growth Plan for the Greater Golden Horseshoe (2017), with relevant excerpts at Exhibit 1, Tab 15;
- the Region of Peel OP, which defers to the City's OP; and
- the City's OP, especially s. 5.3.5 – Neighbourhoods, in particular as it relates to intensification and infill [Exhibit 1, Tab 18, p. 233].

[11] It was Mr. Levac's opinion that the proposal fits in well with the neighbourhood and constituted good planning.

[12] Mr. Roach, who has lived in area for 22 years and is currently a resident of Colonial Woods, did not think the proposed townhouse use was compatible with the character of the neighbourhood. Also, he was concerned that the proposal's grading, drainage and storm water management would have a negative effect on Colonial Woods, and he posited that 20 new townhouses would add congestion on South Service Road.

[13] On the matter of character and fit, the evidence showed that Colonial Woods, right next door, is also a townhouse development. This seemed to undermine Mr. Roach's position on compatibility to some degree. An aerial context photograph [Exhibit 1, Tab 3], and the City's OP definition for "compatible" development [Exhibit 1, Tab 18, p. 222] helped the Board come to the firm conclusion that the proposal was indeed "compatible". The definition is as follows:

[C]ompatible" means development, which may not necessarily be the same as, or similar to, the existing or desired development, but nonetheless enhances an established community and coexists with existing development without unacceptable adverse impact on the surrounding area.

[14] Concerning grading, drainage and storm water management, Mr. Roach provided no detailed evidence relating to his concerns. Though it appears that, at one time, the City had concerns about these matters [Exhibit 1, Tab 10, p. 113], the

concerns appear to have been addressed in the project design [Exhibit 1, Tabs 11 and 12] arrived at a result of the Board-led mediation. Detailed grading, drainage and storm water management conditions could be secured at the Site Plan Approval stage, which is not before the Board.

[15] On the matter of traffic, Mr. Roach acknowledged that City staff had reviewed the proposal for adverse impacts and did not conclude that the 20 proposed units would add congestion to the South Service Road. Indeed, the Board notes that the access to the private road from the South Service Road would be restricted to “right in only” [Exhibit 1, Tab 8].

### **DECISION AND ORDER**

[16] The Board accepts Mr. Levac’s uncontroverted expert planning opinion evidence on consistency/conformity with applicable planning policies. Further, the Board finds that the proposed settlement is appropriate, and finds that it represents good planning.

[17] In summary, the Board finds the compatibility, traffic, grading, drainage and storm water concerns raised by Mr. Roach to be abated by the evidence of Mr. Levac and by the submitted exhibits.

[18] Accordingly, the Board orders:

- (a) that the appeal under s. 22(7) of the Act is allowed, and the OP for the City of Mississauga is amended as set out in Attachment 1 to this order; and
- (b) that the appeal under s. 34(11) of the Act is allowed, and City of Mississauga ZBL is amended as set out in Attachment 2 to this order.

*“Anne Milchberg”*

ANNE MILCHBERG  
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**

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**ATTACHMENT 1**

**PL151083**

**Amendment No. 69  
to  
Mississauga Official Plan**

**Amendment No. 69**  
**to**  
**Mississauga Official Plan**

**The following text and Map "A" attached constitutes Amendment No. 69.**



**PURPOSE**

The purpose of this Amendment is to change the land use designation of the subject lands from Convenience Commercial to Residential Medium Density.

**LOCATION**

The lands affected by this Amendment are located at the southwest corner of South Service Road and Crestview Avenue. The subject lands are located in the Mineola Neighbourhood Character Area, as identified in Mississauga Official Plan.

**BASIS**

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

The subject lands are designated Convenience Commercial which permits a range of uses including retail store, personal service establishment, restaurant, financial institution, gas bar, and secondary office uses.

An Official Plan Amendment is required to permit townhouses on the subject lands.

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

1. Schedule 10, Land Use Designations, of Mississauga Official Plan, is hereby amended by changing the land use designation of the subject lands from Convenience Commercial to Residential Medium Density, as shown on Map "A" of this Amendment.

**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 dated March 13, 2017.

**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.

**LAND USE DESIGNATIONS**

- Residential Low Density I
- Residential Low Density II
- Residential Medium Density
- Residential High Density
- Mixed Use
- Convenience Commercial
- Motor Vehicle Commercial
- Office
- Business Employment
- Industrial
- Residential Medium Density
- Public Open Space
- Private Open Space
- Greenlands
- Parkway Belt West
- Utility
- Special Waterfront
- Partial Approval Area

**BASE MAP INFORMATION**

- Heritage Conservation District
- 1988 NEP/2000 NEF
- Corporate Noise Contours
- LBRIA Operating Area Boundary
- See Aircraft Noise Policies
- LBRIA Operating Area
- Natural Hazards
- City Centre (City Hall)
- City Centre Transit Terminal
- GO Rail Transit Station
- Public School
- Catholic School
- Hospital
- Community Facilities

**City Structure**

- Corporate Centre
- Employment Area
- Special Purpose Area
- Downtown
- Major Node
- Community Node
- Neighbourhood

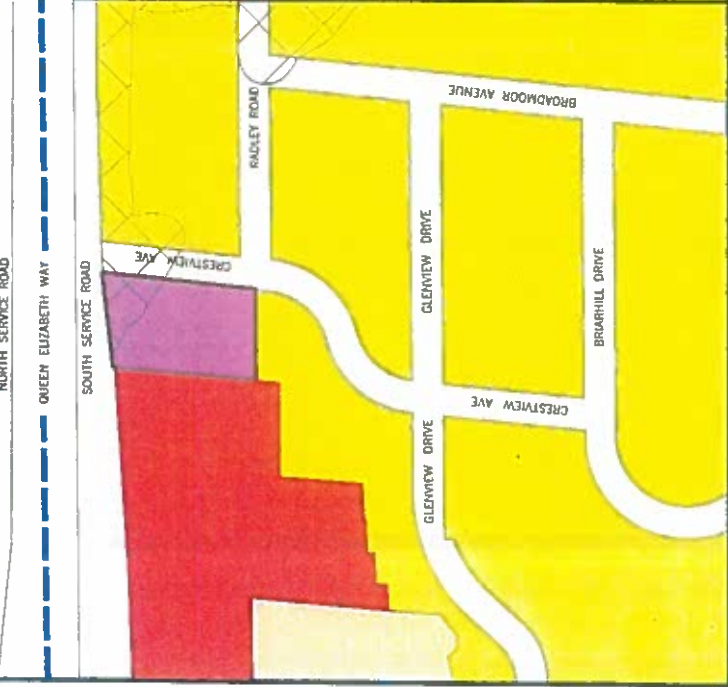
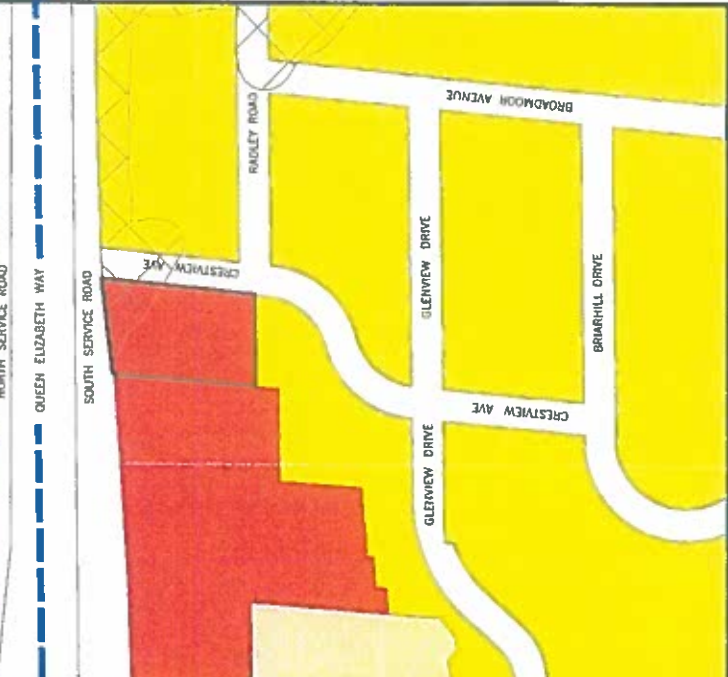
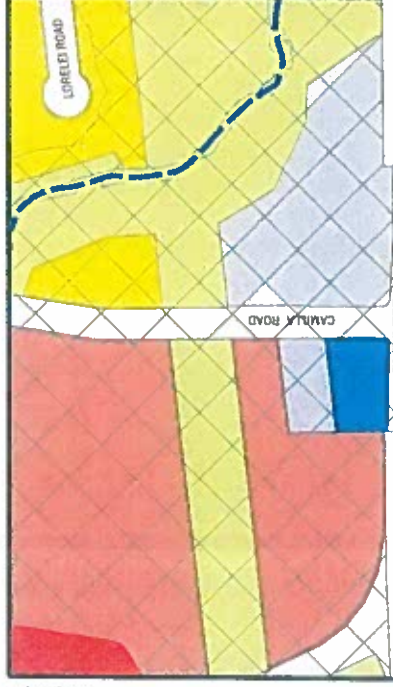
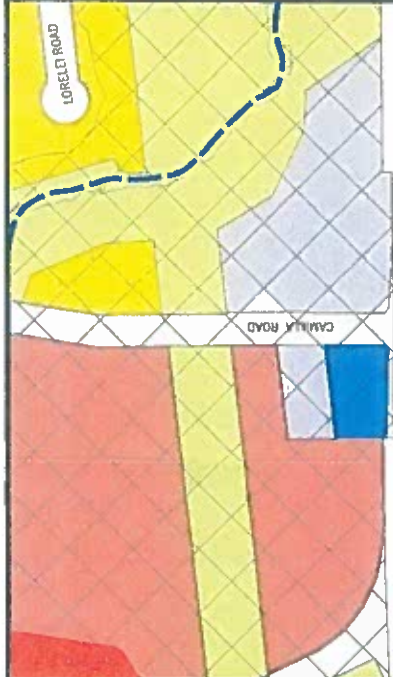
**AREA OF AMENDMENT**

- FROM: CONVENIENCE COMMERCIAL
- TO: RESIDENTIAL MEDIUM DENSITY



**MAP 'A'**

Part of Schedule 10  
Land Use Designations  
of Mississauga Official Plan



**EXISTING LAND USE DESIGNATION**

**AMENDED LAND USE DESIGNATION**

## ATTACHMENT 2

PL150183

SCHEDULE "A" TO  
 ONTARIO MUNICIPAL BOARD  
 ORDER DATED \_\_\_\_\_

OMB Case No. PL151083

OMB File No. PL151084

Carlyle Communities (Crestview) Inc.

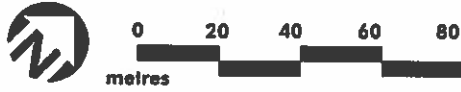
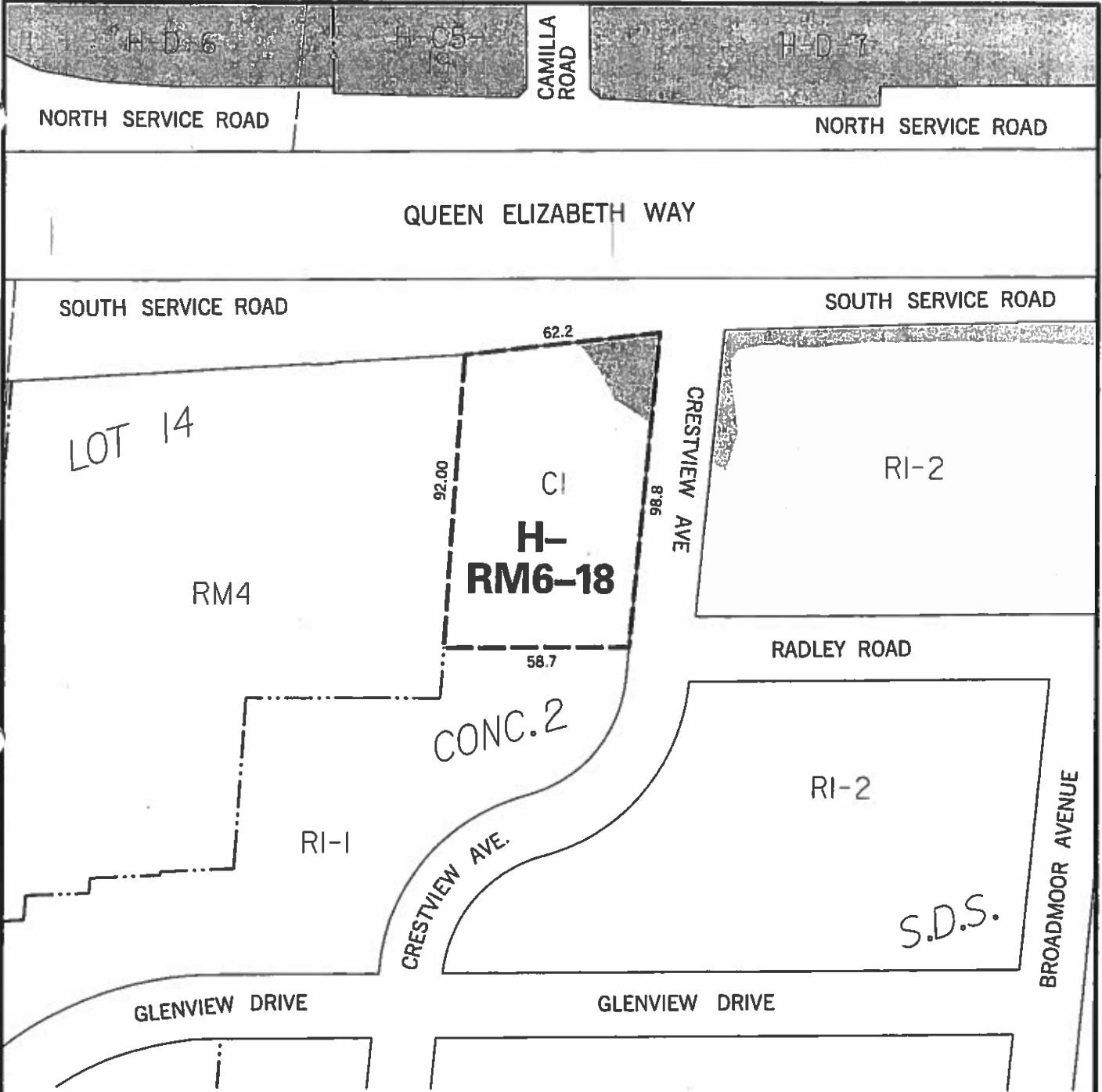
1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by adding the following Exception Table:

4.12.2.18	Exception: RM6-18	Map # 07	By-law:
In a RM6-18 zone the permitted uses and applicable regulations shall be as specified for a RM6 zone except that the following uses/regulations shall apply:			
<b>Regulations</b>			
4.12.2.18.1	The provisions contained in Subsection 2.1.14 and the regulations of Lines 10.0 and 12.1 contained in Table 4.12.1 of this By-law shall not apply		
4.12.2.18.2	Maximum number of dwelling units on all lands zoned RM6-18		20
4.12.2.18.3	Minimum lot area - CEC - corner lot		189 m <sup>2</sup>
4.12.2.18.4	All lot lines abutting Crestview Avenue shall be deemed to be the front lot line		
4.12.2.18.5	Minimum exterior side yard setback to:		
	(1) CEC - private road		4.0 m
	(2) CEC - sidewalk		2.5 m
4.12.2.18.6	Minimum exterior side yard setback of a porch or deck, exclusive of stairs, located at and accessible from the first storey or below the first storey to:		
	(1) CEC - private road		2.9 m
	(2) CEC - sidewalk		1.6 m
4.12.2.18.7	Minimum rear yard		6.5 m
4.12.2.18.8	Maximum height - highest ridge		10.5 m
4.12.2.18.9	Minimum setback to the lot line abutting Area 'A' as identified on Schedule RM6-18 of this Exception		1.8 m

4.12.2.18,	Exception: RM6-18,	Map #.07	By-law:
4.12.2.18.10	Minimum setback from a porch or deck, exclusive of stairs, located at and accessible from the first storey or below the first storey to the lot line abutting Area 'A' as identified on Schedule RM6-18 of this Exception		1.5 m
4.12.2.18.11	Maximum encroachment of a balcony located at and accessible from the second storey into the required rear yard		1.5 m
4.12.2.18.12	Maximum projection of a box or bay window containing floor area, located above the first storey, into a required front yard and/or rear yard, provided such box or bay window does not exceed 50% of the width of the dwelling unit		0.5 m
4.12.2.18.13	Maximum encroachment of a porch or deck, exclusive of stairs, located at and accessible from the first storey or below the first storey, into the required front yard		1.5 m
4.12.2.18.14	A balcony shall not be permitted to encroach into the front or exterior side yards		
4.12.2.18.15	Maximum number of risers between a porch or deck of a townhouse dwelling unit and a lot line that divides a lot from a CEC - private road or a street		3
4.12.2.18.16	Minimum setback to a sight triangle		2.0 m
4.12.2.18.17	Maximum angle of a sloped roof for the front and side elevations only		60°
4.12.2.18.18	Maximum allowable roof area dedicated to architectural features measured for each roof elevation for the front and side elevations only		50%
4.12.2.18.19	Maximum sloped roof angle shall not apply to architectural features contained within the roof area		
4.12.2.18.20	Minimum width of a CEC - private road		6.0 m
4.12.2.18.21	Minimum aisle width		6.0 m
4.12.2.18.22	Minimum width of a sidewalk		1.6 m
4.12.2.18.23	"Front Lot Line" means the line that divides a lot from a CEC - private road or a street		
4.12.2.18.24	All site development plans shall comply with Schedule RM6-18 of this Exception		

4.12.2.18	Exception: RM6-18	Map # 07	By-law:
<b>Holding Provision</b>			
<p>The holding symbol H is to be removed from the whole or any part of the lands zoned H-RM6-18 by further amendment to Map 07 of Schedule B contained in Part 13 of this By-law, as amended, upon satisfaction of the following requirements:</p> <ol style="list-style-type: none"> <li>(1) delivery of an updated Functional Servicing Report satisfactory to the City;</li> <li>(2) delivery of updated Concept Plan, Servicing Plan and Grading Plan drawings satisfactory to the City, including appropriate cross-sections;</li> <li>(3) delivery of an updated Storm Water Management Report satisfactory to the City;</li> <li>(4) submission of a Drainage Proposal, satisfactory to the City, confirming external storm outlet design;</li> <li>(5) delivery of an executed Development Agreement with the City, containing a municipal infrastructure schedule to secure the construction of the required storm sewer outlet works and any municipal works along Crestview Avenue;</li> <li>(6) delivery of an updated Noise Report satisfactory to the City;</li> <li>(7) provision of securities for air conditioning and special building measures pursuant to recommendations in the Acoustical Study;</li> <li>(8) submission of updated Environment Site Assessments, including all supporting documents and a letter of reliance;</li> <li>(9) filing and acknowledgement of a Record of Site Condition (RSC) with MOECC and posting of the RSC on the Environmental Site Registry;</li> <li>(10) payment of the Cycling Route Signage Fee.</li> </ol>			

2. Map Number 07 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 "C1" to "H-RM6-18", the zoning of Part of Lot 14, Concession 2, South of Dundas Street, in the City of Mississauga, PROVIDED HOWEVER THAT the "H-RM6-18" 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 "H-RM6-18" zoning indicated thereon.
3. This By-law shall not come into force until Mississauga Official Plan Amendment Number 69 is in full force and effect.



This is not a Plan of Survey. Dimensions are derived from available office records.

 GREENLANDS OVERLAY

**CITY OF MISSISSAUGA**

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

**ORDER DATED** \_\_\_\_\_

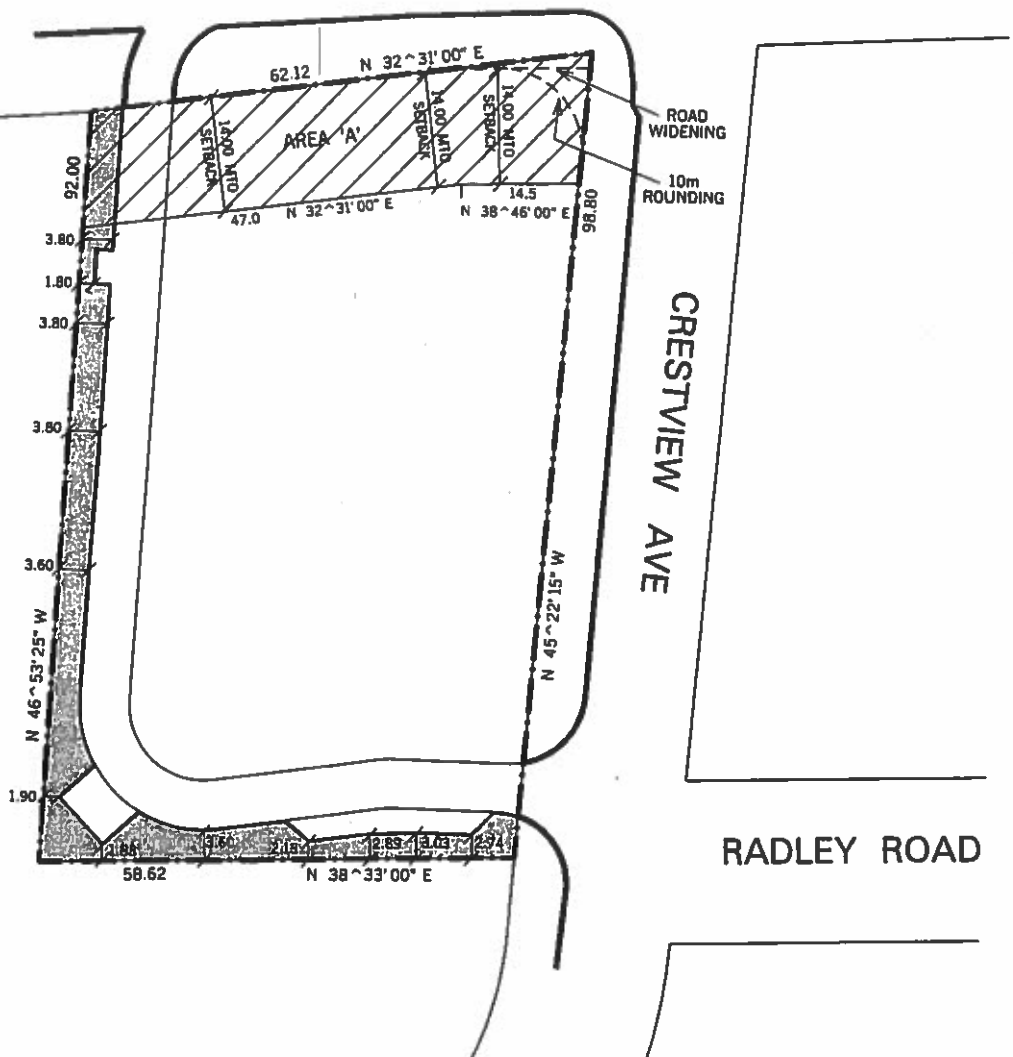
**O.M.B. CASE NO.** PL151083

**O.M.B. FILE NO.** PL151084





# QUEEN ELIZABETH WAY

## SOUTH SERVICE ROAD



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

This is not a Plan of Survey.

-  LANDSCAPED AREA
-  AREA 'A' 14.0m MTO SETBACK

**THIS IS SCHEDULE "RM6-18"  
 AS ATTACHED TO  
 SCHEDULE "A" OF O.M.B.**

**ORDER DATED** \_\_\_\_\_  
**O.M.B. CASE NO.** PL151083  
**O.M.B. FILE NO.** PL151084

**APPENDIX "A" TO SCHEDULE "A" OF****OMB ORDER DATED \_\_\_\_\_**

OMB Case No. PL151083

OMB File No. PL151084

**Explanation of the Purpose and Effect of the By-law**

The purpose of this By-law is to permit 20 common element condominium townhouses.

This By-law amends the zoning of the property outlined on the attached Schedule "A" from "C1" (Convenience Commercial) to "H-RM6-18" (Townhouse Dwellings on a CEC - Private Road - Exception with a Holding Provision).

"C1" permits a range of commercial uses including retail store, personal service establishment, repair establishment, restaurant, take-out restaurant, financial institution, private club and office uses.

Upon removal of the "H" provision, the "RM6-18" zone will permit 20 common element condominium townhouses with a maximum height of 10.5 m.

**Location of Lands Affected**

Southwest corner of South Service Road and Crestview Avenue, in the City of Mississauga, as shown on the attached Map designated as Schedule "A".

[http://teamsites.mississauga.ca/sites/18/Bylaws/OZ 14.004.bylaw OMB.bp.jmcc.docx](http://teamsites.mississauga.ca/sites/18/Bylaws/OZ%2014.004.bylaw%20OMB.bp.jmcc.docx)