

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



**ISSUE DATE:** March 08, 2018

**CASE NO(S):** PL161204

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

Applicant and Appellant: 1101 Clarkson Developments Inc.  
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment  
Existing Designation: Mixed-use  
Proposed Designated: Mixed-use exception zone  
Purpose: To allow a tacked townhouse development with 136 units and commercial units flanking the north property line  
Property Address/Description: 1101-1125 Clarkson Road North  
Municipality: City of Mississauga  
Approval Authority File No.: OZ-15/003  
OMB Case No.: PL161204  
OMB File No.: PL161204  
OMB Case Name: 1101 Clarkson Developments 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: 1101 Clarkson Developments Inc.  
Subject: Application to amend Zoning By-law No. 0225-2007 Neglect of the City of Mississauga to make a decision  
Existing Zoning: C4-Mainstreet Commercial  
Proposed Zoning: C4-XX  
Purpose: To permit residential development  
Property Address/Description: 1101-1125 Clarkson Road North  
Municipality: City of Mississauga  
Municipality File No.: OZ 15/003  
OMB Case No.: PL161204  
OMB File No.: PL161205

**Heard:** February 2, 2018 in Mississauga, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

1101 Clarkson Developments Inc. Patrick Harrington

City of Mississauga Lia Magi

**MEMORANDUM OF ORAL DECISION DELIVERED BY PAULA BOUTIS ON  
FEBRUARY 2, 2018 AND ORDER OF THE BOARD**

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[1] The Applicant, 1101 Clarkson Developments Inc., appealed under s. 22(7) and s. 34(11) of the *Planning Act* (“Act”) for non-decisions by the City of Mississauga (“City”) related to an official plan amendment application (“OPA”) and a zoning by-law amendment (“ZBLA”) application. The proposal would allow for a stacked townhouse development with 136 units and commercial units flanking the north property line. The Subject Site is located at 1101-1125 Clarkson Road North.

[2] At the outset of the hearing, the applicant advised that it was withdrawing the OPA appeal, as the parties had concluded that an OPA was not necessary.

[3] In addition, the parties confirmed that they had reached a settlement regarding the ZBLA. Counsel for the Applicant advised that the settlement had undergone a public consultation process and that the planner for the Applicant, Ryan Mino-Leahan, would testify to support the ZBLA settlement.

[4] Two residents appeared as participants, status for which had been granted at the pre-hearing conference (“PHC”) held on August 29, 2017. They were generally supportive of the application, but wished to nonetheless speak to some of their concerns with the proposal. The Board heard from Wendy Davies, who was also acting as agent for Sue Shanly, who is President of the Meadow Wood Rattray Ratepayers Association. It also heard from William Chudiak, who is with the Clarkson Fairfields South Ratepayers Association.

[5] Others, who were granted participant status at the PHC, did not appear at the appeal hearing.

[6] After the conclusion of the evidence, the Board issued an oral ruling allowing the appeal in part and approving the ZBLA as presented in Exhibit 2, and which forms Attachment 1 to these reasons.

## **EVIDENCE AND ANALYSIS**

### **Context and Proposal**

[7] Mr. Mino-Leahan testified that he was retained in 2014 to assist the Applicant with the development proposal. At that time, the proposal was for a 160 stacked townhouses with two three-storey commercial buildings.

[8] The Subject Site is on the east side of Clarkson Road North, directly south of an existing rail line. The Subject Site fronts onto Clarkson Road North, with 63 metres (“m”) of frontage. It is one hectare in size. Mr. Mino-Leahan described the Subject Site as a consolidated assembly of lands that are underused and which were developed in an uncoordinated manner for commercial and industrial uses.

[9] The Subject Site is located near the Clarkson Village Community Node (“Community Node”), and centrally within the Clarkson Loren Park community area. The Community Node is intended to be pedestrian friendly and transit supportive, with a mix of uses.

[10] To the south of the Subject Site is a soccer field, which is part of Birchwood Park (“Park”). Baseball diamonds are to the east of the Subject Site within the Park. There is parking to the south of the Subject Site to accommodate Park users. Further south of the Park is a residential development. Immediately across from the Subject Site to the west is a small dental office and residential properties.

[11] Further south and east on Lakeshore Road West, at the south east corner of Birchwood Park, is a recent residential mixed use development.

[12] The Subject Site is approximately 1.5 kilometres from the Clarkson Go Station and is serviced by a bus stop on Lakeshore Road West, about a 300 m walk away.

[13] The Applicant submitted a conceptual site plan (Exhibit 1B, Page 7) in support of the ZBLA. A formal site plan application is in process.

[14] The key elements of the proposal are the following:

- a. There will be 136 units (reduced from the initial 168) in five blocks (Blocks A to E). These will be four storey back-to-back townhouse units, 14.5 m in height, with each block containing 26 to 28 units. There will be both one and two bedroom units. The gross floor area ("GFA") will be 15,662 square metres ("m<sup>2</sup>").
- b. On the north end of the property abutting the rail corridor will be two three-storey non-residential use buildings (Blocks G and F). These will be 11.3 m in height, with a non-residential GFA of 2,671.3 m<sup>2</sup>.
- c. The overall floor space index will be 1.85, supported by 27 visitor parking spaces, 166 residential parking spaces, and 77 non-residential spaces. Regarding the visitor spots, 15 of those are to be shared with the proposed office uses.
- d. All parking will be underground except for five short-term spaces at grade.
- e. Access to the development for parking will be at the south end for the underground parking spaces. At the north end, just south of the commercial uses, will be the fire route and opportunities for loading, garbage removal, and short-term parking spaces.

[15] Mr. Mino-Leahan noted for the board that a 57 m<sup>2</sup> area is to be developed as a heritage area at the northwest corner. There used to be a heritage dwelling at that location, at 1109 Clarkson Road North. A demolition permit was issued for it, but it was later learned this was an error. To address this, the City reached out to the owner and through discussions with local residents, staff and the councilor, a commemorative heritage area will be established. There is also a public art component to this which will be subject to public consultation. The Applicant is to prepare a budget that is no less than \$100,000 and will contribute an additional \$10,000 to the City's Public Art Reserve Fund for future maintenance of the installation. This has been secured through the Minutes of Settlement (Exhibit 3).

[16] A 0.6 m crash wall is to be installed related to the rail corridor. This will allow for a 20 m set back rather than the 30 m set back otherwise required. The Board understood that the City, Metrolinx and the Applicant reached this agreement.

[17] The ZBLA (Exhibit 2) will rezone the site from C4 to C4-72 (for an exception). This will allow the current C4 uses and add the back-to-back stacked townhouses. There will be landscaping along the southerly and easterly property lines for a buffer and transition to the Park.

[18] The ZBLA includes holding provisions including addressing the need for a Development Agreement addressing various items, including boulevard works and the filing of a Record of Site Condition; the submission of satisfactory grading and servicing drawings; an updated traffic impact study; and ensuring satisfactory arrangements with Metrolinx regarding rail-oriented safety and impact mitigation requirements.

### **Planning Evidence**

[19] The Board is obligated to ensure that the proposal is both consistent with the Provincial Policy Statement, 2014 ("PPS") and that it conforms to the Growth Plan for the Greater Golden Horseshoe, 2017 ("2017 Growth Plan"). The Board must also ensure that the proposal has regard to the various matters of provincial interest listed in s. 2 of the Act.

[20] It was Mr. Mino-Leahan's uncontradicted evidence that the proposal is consistent with the PPS, conforms to the 2017 Growth Plan, and has regard to matters of provincial interest.

[21] Mr. Mino-Leahan indicated that the proposal was located within a settlement area of the City. He opined that this development will facilitate the redevelopment of an underused parcel that meets the intent of the policies directed at efficient use of land and infrastructure. It will support a greater range and mix of land uses within the community and contributes to the projected growth targets.

[22] Mr. Mino-Leahan indicated that while not necessarily within an intensification area, the Mississauga Official Plan ("OP") does contemplate a moderate amount of growth. The current designation of mixed use includes more compact forms of residential development and a mix of other types of land uses, such as office and commercial.

[23] The 2017 Growth Plan similarly directs growth to lands within the built boundary, with a range and mix of housing types, and requires the optimization and use of lands within the existing settlement area to avoid unnecessary expansion of the urban boundary.

[24] The proposal is transit supportive, as described earlier.

[25] The proposal must also conform to the Regional Municipality of Peel's Official Plan ("Regional OP") and the City's OP.

[26] The Subject Site is within the Region's urban system. The proposal conforms to the Regional OP by responding to policies requiring sustainable development (5.3.1.2); intensified and compact form development (5.3.1.4); achievement of an urban structure, form and density which is pedestrian-friendly and transit-supportive (5.3.1.5); directing growth to built-up areas through intensification (5.5.1.1); and which goals are further identified in Policy 5.5.1.6, through the direction to support complete communities that

are compact, well-designed, transit-oriented and offer transportation choices with a diverse mix of land uses, among other things.

[27] Regarding the City's OP, the Subject Site is within the neighbourhood designation. It is just north of a corridor (Lakeshore Road West) and near the Community Node described earlier. Clarkson Road North is a major collector road.

[28] The general policies that apply to the Subject Site indicate that the City encourages compact, mixed use development that is transit supportive, in appropriate locations, to provide a range of local live/work opportunities. The policies also direct that the City will protect the character of stable neighbourhoods (Policies 5.1.6 and 5.1.7).

[29] Several policies apply to neighbourhoods. These policies indicate that neighbourhoods are not the focus of development, but that residential intensification will generally occur through infilling and the development of existing commercial sites as mixed use areas. Higher density proposals are to be located in corridors. Intensification is to be considered where the proposed development is compatible in built form and scale to surrounding development and enhances the existing or planned development, consistent with policies in the OP. Appropriate transitions in use, built form, density and scale are required (Policies 5.3.5.1, 5.3.5.2, 5.3.5.3, 5.3.5.5, 5.3.5.6).

[30] Several policies also apply to mixed use areas (Policies under 11.2.6). Permitted uses include personal service establishments, residential, restaurants and retail. It does not permit semi-detached or detached dwellings. Lands are encouraged to contain a mix of uses and development through infilling will be encouraged to consolidate the potential of the areas. Residential uses are permitted and to be combined on the same lot or within the same building with another permitted use. Ground floor residential is to be discouraged, but it is not prohibited.

[31] The Subject Site is within the Clarkson Loren Park Character Area, to which specific policies apply under Policy 16.5.1. These policies require that developments should be compatible with the character of the area and integrate with the surrounding

area. They should also be designed to reflect and enhance the Clarkson Village Mixed Use area streetscape.

[32] Mr. Mino-Lehan was of the opinion that the overall development conforms to the applicable policies. Further, it consists of buildings that are no more than four storeys in height with a stepped terrace so the massing resembles a three storey building. There are doors to the street onto Clarkson Road North and the design ensures an appropriate relationship between the Park and the buildings.

[33] To allow this development, the ZBLA allows for back-to-back townhouses. It was Mr. Mino-Leahan's opinion that the proposal appropriately implements the uses and design parameters and built form policies within the OP and therefore the ZBLA is in the public interest and is good planning. He recommended approval to the ZBLA to the Board.

[34] Mr. Mino-Leahan was asked by the City's counsel to discuss the parking in so far as it related to the office uses. He explained that the traffic study was prepared on the assumption that office uses would be used at the Subject Site. However, it is possible that the uses may be different uses, and then the parking rates may differ.

[35] In that instance, if it becomes necessary to change the parking needs, the Applicant will need to apply for a minor variance and this will likely occur within two years. The Applicant would normally be prohibited from applying for a minor variance within two years of the amendment to the ZBL, but it is authorized to do so further to a resolution by the City's Council (Exhibit 4) under s. 45(1.4) of the Act.

[36] Regarding the concerns of the participants, Ms. Davies indicated that while generally in support of the proposal, she was concerned about the southern entrance for cars to the underground parking space. Ms. Davies indicated that at times, the queue along Clarkson Road North is very long as a result of the train blocking passage.

[37] She also raised concerns about the money allotted for the public art, i.e. that it was insufficient.



[38] She was concerned about the ultimate commercial uses that may find their way to the Subject Site, and how this may affect parking.

[39] Finally, she raised concerns about safety issues from the nearby baseball fields, i.e. that people or cars may get hit by baseballs.

[40] Mr. Chudiak, while in general support, was concerned that there would be insufficient parking for the commercial uses. He indicated that the Park's parking lot is often full when people are playing during baseball season, and overflow goes down Lakeshore Road North and to the dentist's office.

[41] In response to these concerns, Counsel for the Applicant submitted in closing submissions that there may need to be adjustments depending on the ultimate commercial uses. This must be done by a minor variance application and through that the parking would have to be justified. As a result, the public will have an opportunity to speak to this issue again at that time. Through the holding provisions, an updated Traffic Impact Study, including the design of the northerly and southerly access from Clarkson Road North, is also required under the ZBLA and updates may be necessary to the site plan.

[42] The Board is therefore satisfied that the concerns around parking or otherwise can be adequately addressed and be adequately addressed through any minor variance application and site plan approval.

## **ORDER**

[43] The Board allows the appeal. The municipality is directed to amend By-law No. 0225-2007, in accordance with Exhibit 2, appended as Attachment 1 to this Order.

*Paula Boutis”*

PAULA BOUTIS  
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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Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

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

OMB Case No. PL161204  
 OMB File No. PL161205  
 1101 Clarkson Developments 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:

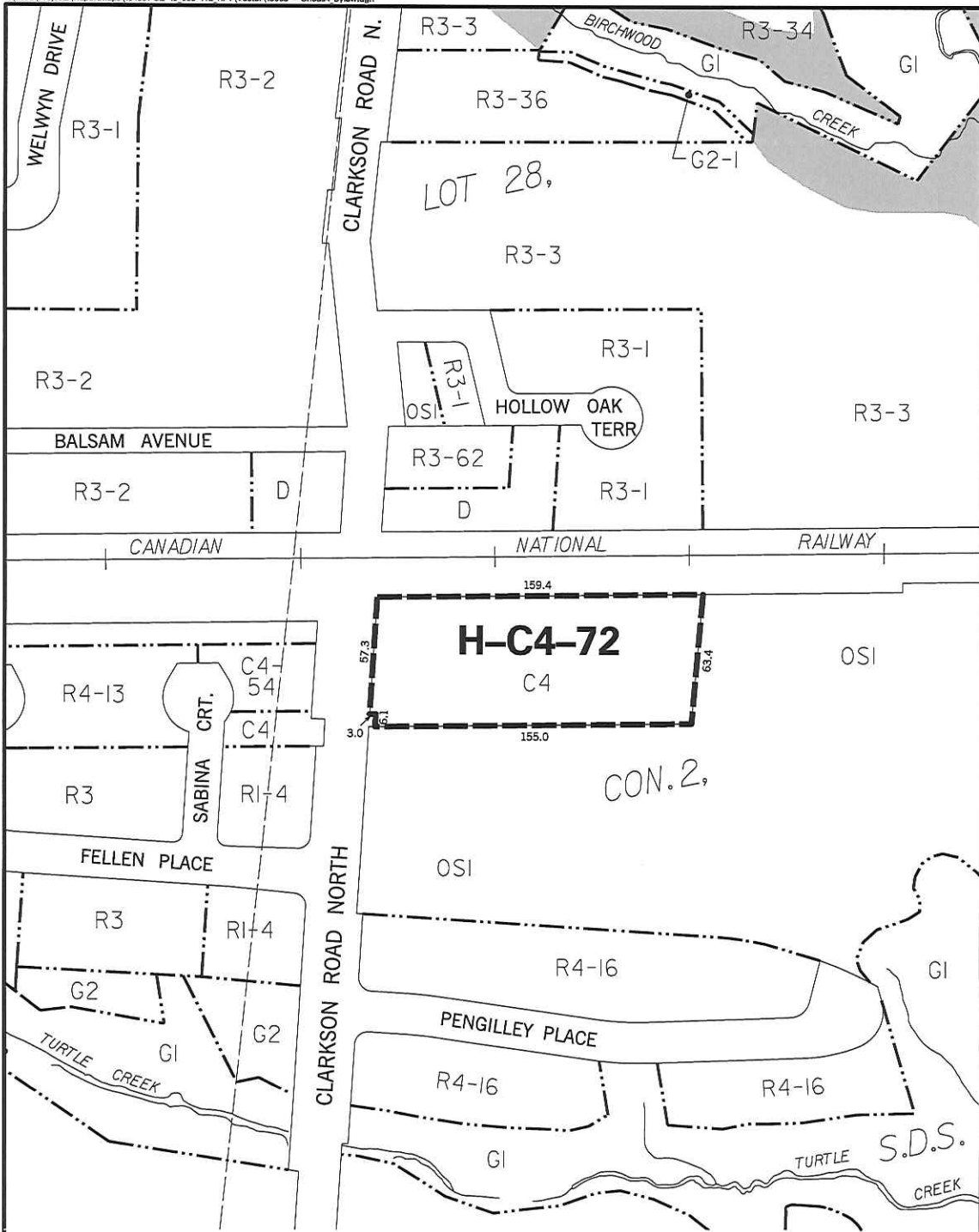
6.2.5.72	Exception: C4-72	Map # 10	By-law:
In a C4-72 zone the permitted uses and applicable regulations shall be as specified for a C4 zone except that the following uses/regulations shall apply:			
<b>Additional Permitted Use</b>			
6.2.5.72.1	(1)	Back to Back Stacked Townhouse	
<b>Regulations</b>			
6.2.5.72.2	The regulation of Line 14.0 contained in Table 6.2.1 of this By-law shall not apply		
6.2.5.72.3	Minimum setback of a dwelling to a railway right-of-way		20.0 m
6.2.5.72.4	Maximum number of dwelling units		136
6.2.5.72.5	Maximum gross floor area - residential		15 665 m <sup>2</sup>
6.2.5.72.6	Maximum gross floor area - non-residential		2 675 m <sup>2</sup>
6.2.5.72.7	Maximum height		14.5 m and 4 storeys
6.2.5.72.8	Minimum front yard to a residential building		4.0 m
6.2.5.72.9	Minimum front yard to a non-residential building		5.8 m
6.2.5.72.10	Minimum interior side yard abutting lands zoned OS1		3.0 m
6.2.5.72.11	Minimum interior side yard abutting a railway right-of-way		0.0 m
6.2.5.72.12	Minimum rear yard		6.4 m

6.2.5.72	Exception: C4-72	Map # 10	By-law:
6.2.5.72.13	Maximum encroachment into a <b>front and rear yard</b> of a <b>porch</b> , inclusive of stairs, located at or below the <b>first storey of a dwelling unit</b>		4.0 m
6.2.5.72.14	Maximum encroachment of an awning, window, <b>chimney</b> , pilaster or corbel into a required <b>yard</b>		0.6 m
6.2.5.72.15	Minimum depth of a <b>landscaped buffer</b> abutting lands zoned OS1		3.0 m
6.2.5.72.16	Minimum <b>landscaped buffer</b> abutting the <b>rear lot line</b>		3.0 m
6.2.5.72.17	Planters and walkways shall be permitted to encroach into a <b>landscaped buffer</b> abutting the <b>rear lot line</b>		
6.2.5.72.18	Minimum internal setback from a <b>front wall</b> of a <b>building</b> containing a <b>dwelling unit</b> to a <b>front wall</b> of another <b>building</b> containing a <b>dwelling unit</b> on the same lot		13.0 m
6.2.5.72.19	Minimum setback of a residential <b>building</b> to an <b>internal road</b>		1.5 m
6.2.5.72.20	Minimum setback of a non-residential <b>building</b> to an <b>internal road</b>		3.0 m
6.2.5.72.21	Minimum width of an <b>internal road</b>		6.0 m
6.2.5.72.22	Minimum number of resident <b>parking spaces</b> per one-bedroom <b>dwelling unit</b>		1.0
6.2.5.72.23	Minimum number of resident <b>parking spaces</b> per two-bedroom <b>dwelling unit</b>		1.3
6.2.5.72.24	Minimum number of visitor <b>parking spaces</b> per <b>dwelling unit</b>		0.2
6.2.5.72.25	Maximum number of residential visitor <b>parking spaces</b> that may be used as shared parking for <b>office uses</b>		15

6.2.5.72	Exception: C4-72	Map # 10	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-C4-72 by further amendment to Map 10 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 executed Development Agreement in a form and on terms satisfactory to the City of Mississauga addressing and agreeing to: <ol style="list-style-type: none"> <li>(1.1) the installation of all required municipal boulevard works, including the provision of required securities and to the implementation or requirements/conditions prior to Site Plan approval;</li> <li>(1.2) filing of a Record of Site Condition, including written acknowledgement by the Ministry of the Environment and Climate Change, and posting on the Environmental Site Registry; supporting documentation, including all environmental reports and Letters of Reliance, and securities for remediation (including UST Removal) based on estimates provided in the Remedial Action Plan, and;</li> <li>(1.3) warning clauses, phasing and development provisions and such other provisions the City, School Boards or Region of Peel may require in relation to the proposed development;</li> </ol> </li> <li>(2) submission of satisfactory Grading and Servicing drawings, including appropriate cross-sections to clearly demonstrate the feasibility of grading to City of Mississauga standards and specifications, including drainage onto Birchwood Park;</li> </ol>			

6.2.5.72	Exception: C4-72	Map # 10	By-law:
Holding Provision (continued)	(3)	submission of Phase 2 Environmental Site Assessments, Remedial Action Plan and Letters of Reliance;	
	(4)	confirmation by the Region of Peel that satisfactory arrangements have been made for water and waste water services to the site;	
	(5)	satisfactory arrangements for Waste Collection subject to the most current Waste Design Standard requirements with the Region of Peel;	
	(6)	submission of a satisfactory updated Functional Servicing Report to the Region of Peel;	
	(7)	submission of a satisfactory updated Traffic Impact Study, including the design of the northerly and southerly access from Clarkson Road North;	
	(8)	provision of securities for the of the northerly access (restricted to right-in, right-out movements) and southerly access from Clarkson Road North;	
	(9)	provision of securities to guarantee the installation of air conditioning units and special acoustical building measures in accordance with the approved Noise Report;	
	(10)	satisfactory arrangements be made with Metrolinx regarding rail-oriented safety and impact mitigation requirements.	

2. Map Number 10 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 "C4" to "H-C4-72", the zoning of Part of Lot 28, Concession 2, South of Dundas Street, in the City of Mississauga, PROVIDED HOWEVER THAT the "H-C4-72" 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-C4-72" zoning indicated thereon.



This is not a Plan of Survey. Dimensions shown taken from Survey prepared by Kremar Surveyors, O.L.S., dated August 29, 2013.

 GREENLANDS OVERLAY  
**CITY OF MISSISSAUGA**

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

**ORDER DATED** \_\_\_\_\_  
**O.M.B. CASE NO.** PL161204  
**O.M.B. FILE NO.** PL161205

**APPENDIX "A" TO SCHEDULE "A" OF**

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

OMB Case No. PL161204

OMB File No. PL161205

Explanation of the Purpose and Effect of the By-law

The purpose of this By-law is to permit back to back stacked townhouses on the subject property.

This By-law amends the zoning of the property outlined on the attached Schedule "A" from "C4" (Mainstreet Commercial) to "H-C4-72" (Mainstreet Commercial - Exception with a Holding Provision).

"C4" permits commercial uses with residential units above the first storey and apartment dwellings.

"H-C4-72" permits 136 back to back stacked townhouses with a maximum height of four storeys and a gross floor area - non-residential of 2 675 m<sup>2</sup>.

Location of Lands Affected

East side of Clarkson Road North, north of Lakeshore Road West, in the City of Mississauga, as shown on the attached Map designated as Schedule "A".

<http://teamsites.mississauga.ca/sites/18/Bylaws/OZ 15 003.By-law to OMB.dfjmcc.docx>