

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: December 09, 2022

CASE NO(S):

OLT-21-001142

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

Applicant and Appellant: 2828778 Ontario Inc.
Subject: Request to amend the Official Plan - Failure of City of Mississauga to adopt the requested amendment
Existing Designation: Mixed use
Proposed Designated: Residential High Density
Purpose: To permit residential development
Property Address/Description: 420 Lakeshore Road East
Municipality: City of Mississauga
Approval Authority File No.: City file PAIOZ 20/009 - Ward 1
OLT Case No.: OLT-21-001142
OLT Lead Case No.: OLT-21-001142
OLT Case Name: 2828778 Ontario 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: 2828778 Ontario Inc.
Subject: Application to amend Zoning By-law 0225-2007
Neglect of City of Mississauga to make a decision
Existing Zoning: C4 (Mainstreet Commercial)
Proposed Zoning: RA5-Exception (Apartments - Exception)
Purpose: To permit residential development
Property Address/Description: 420 Lakeshore Road East
Municipality: City of Mississauga
Municipality File No.: City file PAIOZ 20/009 - Ward 1
OLT Case No.: OLT-21-001143
OLT Lead Case No.: OLT-21-001142

Heard: August 15, 2022 by video hearing

APPEARANCES:**Parties****Counsel**

2828778 Ontario Inc.

Mary. Flynn-Guglietti

City of Mississauga

Lia Magi

Metro Ontario Real Estate Limited
(Metro)

Conner Harris

MEMORANDUM OF ORAL DECISION DELIVERED BY JATINDER BHULLAR AUGUST 15, 2022 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] The Tribunal conducted a settlement hearing regarding the two appeals made by 2828778 Ontario Inc (Applicant) also previously known as Stellarcorp Developments 420 Inc. The Applicant owns property in the City of Mississauga (the “City”) which is municipally known as 420 Lakeshore Road East, Mississauga (Subject Property).

[2] The Applicant requested an amendment to the City of Mississauga (the “City”) Official Plan (“OPA”) to redesignate the Subject Property from “Mixed Use” to “Residential High Density”. Due to the failure of the City to adopt the requested amendment, the OPA appeal was made under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

[3] The Applicant requested a zoning by-law amendment (ZBA) to rezone the Subject Property from existing “C4 (Mainstreet Commercial) to “RA5-Exception (Apartments – Exception)”. This City’s neglect to make a decision was appealed under subsection 34(11) of the Act. All the parties, on consent, advised the Tribunal that a settlement has been reached on all the elements of the appeals and that the scheduled hearing be converted to a settlement hearing. The Tribunal so approved this request prior to August 15, 2022.

WITNESSS

[4] The Applicant was represented by Jim Levac and was duly qualified and sworn by the Tribunal to provide expert opinion evidence in the area of land use planning.

EXHIBITS

[5] The Tribunal received two exhibits, and these were marked for the record as follows:

Exhibit 1: Jim Levac Affidavit of Evidence (includes witness statement sworn on August 8, 2022); and

Exhibit 2: Minutes of settlement.

EVIDENCE

[6] Mr. Levac provided evidence in support of the proposed development. He provided factual evidence and provided site context as follows (Exhibit 1):

The Lands are located at the southwest corner of Lakeshore Road East and Enola Avenue in the Lakeshore Corridor Precinct of the Lakeview Neighbourhood Character Area, as shown on attached Exhibit "D". The lot comprises an area of approximately 3,723 m² (0.92 acres) with frontages of approximately 58.4 m on Lakeshore Road West and 61.5 m on Enola Avenue. As the frontage of the property is on Lakeshore Road East, the depth of the property is 61.5 m.

[7] Mr. Levac provided a chronology of the application and stated that through discussions between the City and all the parties, the proposal was refined which led to a settlement. He summarized the changes and finalization details as follows:

- a) Height: to reduce the building height to a maximum of 30 m and reduce the number of storeys to no greater than 9 storeys which ensures that the building height complies with OPA 131 – Lakeshore Corridor Study which permits a maximum of 8 storeys or 30 m for lots greater than 60 m in depth. The subject site has a depth of 61.5 m;
- b) Maximum Residential Units: reduce the number of residential units to 166;

- c) Stepbacks: provide a 45 degree angular plane measured 7.5 m away from the southern property line commencing at a height of 10.0 metres;
- d) Setbacks: proposed setback to the southern property line is 12.4 m for the ground and second floor and 10.9 m for the third and fourth floors; minimum setback to the eastern property line is 4.0 m for the ground floor and 2.0 m above the ground floor; minimum setback to the western property line (Metro property) is 0.0 m with specific design features including notching in the corners and additional balconies;
- e) Landscape Buffer: 4.5 m wide landscape buffer will be established along the southern property line, reflecting overall increased building setback and allows for appropriate landscaping to be installed along the neighbouring property line;
- f) Non-residential GFA: 366 square metres to be located on the ground floor fronting Lakeshore Road East. No residential units on the ground level fronting Lakeshore Road East will be permitted. Approximately 2/3rds of the ground floor facing Lakeshore Road East is proposed to be non-residential, which achieves the Official Plan goals of animating the Lakeshore Road East corridor at grade;
- g) Amenity Area: 5.0 m²/unit or 4.5 m²/unit (if additional non-residential GFA is provided on the ground floor facing Lakeshore Road East);
- h) Parking: provide a third level of parking and provide a minimum of 200 parking spaces (166 for residents and 34 shared visitor and non-resident parking spaces) to achieve the City's Off-Street Parking Regulations (including a mix of residential, visitor, non-residential and Electric Vehicle Ready parking spaces).

[8] Mr. Levac provided his planning opinion evidence regarding the OPA and the ZBA based on his witness statement. He opined that the proposal, based on the agreed to OPA and ZBA, meets the statutory requirements as follows (Exhibit 1, pages 8-12):

- In reference to section 2 of the Act, the proposal has appropriate regard for the applicable directions in s.2 (subsections f, i, o and p)
 - Consequently the OPA and ZBA have sufficient regard for matters of provincial interest per s. 2 of the Act
- In consideration of the Provincial Policy Statement 2020 (PPS 2020), the applicable policies are in sections 1.1.1.e, 1.1.3.1, 1.1.3.2, 1.1.3.3 and 1.1.3.4. These policies direct focus on intensification, transit supportive development, and efficient use of existing infrastructure and services.
 - As a result, the OPA and ZBA are consistent with the policies in PPS 2020.

- With regard to the conformity with the Growth Plan for the Greater Golden Horseshoe, 2019 as amended (Growth Plan), the OPA and ZBA conform with applicable policies and specifically policies in sections 1.2.1, 2.2.1 and 2.2.2.3.
 - As a result, the modified Applications/Settlement Documents conform to and do not conflict with the Growth Plan.
- With respect to the Region of Peel Official Plan (ROP), Mr. Levac opined that the lands being designated “Urban System” does not conflict with the proposed uses as per the OPA and ZBA and these conform with the ROP.
- Mr. Levac, in review of the City’s Official Plan, opined that the proposal conforms except for the requested OPA changes and the ZBA conforms with such amended COP. He added that the proposal is concurrently supported by the City’s planning staff as well by the City Council

FINDINGS

[9] The Tribunal having regard for the material that was before the approval authority, the material on file and the uncontroverted expert opinion evidence of Mr. Level finds that the OPA and ZBA has due regard for the Provincial Interest, is consistent with PPS 2020, conforms with the Growth Plan, conforms with the ROP and represents good land use planning.

[10] The Tribunal additionally finds that the ZBA conforms with the City’s Official Plan as amended per the OPA and represents good land use planning.

ORDER

[11] **THE TRIBUNAL ORDERS** that the appeal is allowed, in part, and the Official Plan for the City of Mississauga is amended as set out in Attachment 1 to this Order.

[12] **THE TRIBUNAL ORDERS** that the appeal is allowed, in part, and directs the municipality to amend By-law 0225-2007, as amended, as set out in Attachment 2 to this Order. The Tribunal authorizes the municipal clerk of City of Mississauga to assign a number to this By-law for record keeping purposes.

“Jatinder Bhullar”

JATINDER BHULLAR
MEMBER

Ontario Land Tribunal

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

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

Amendment No. 151

to

Mississauga Official Plan

Amendment No. 151
to
Mississauga Official Plan

The following text and Maps "A" and "B" attached constitutes Amendment No. 151.

PURPOSE

The purpose of this Amendment is to change the land use designation of the subject lands from Mixed Use to Residential High Density and to amend the Lakeview Local Area Plan Height Limits Map to permit a nine storey apartment dwelling with ground floor commercial space.

LOCATION

The lands affected by this Amendment are located at the southwest corner of Lakeshore Road East and Enola Avenue. The subject lands are located in the Lakeview 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 Land Tribunal.

The subject lands are designated Mixed Use which permits a combination of residential and commercial uses. The site is also subject to Map 3, Lakeview Local Area Plan Height Limits which permits heights between two and four storeys.

An Official Plan Amendment is required to change the designation from Mixed Use to Residential High Density, in order to construct an apartment dwelling with ground floor commercial. In addition, an amendment to the Lakeview Local Area Plan Height Limits Map is required to permit a height of two to nine storeys.

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

1. The proposed development is compatible with the surrounding land uses and is located on a corridor where intensification and higher density uses are to be directed.
 2. The proposed development will contribute to the Lakeshore Road East streetscape by providing a mix of uses at grade that will contribute towards the envisioned active pedestrian oriented mainstreet environment.
-

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 Mixed Use to Residential High Density, as shown on Map "A" of this Amendment.
2. Map 3, Lakeview Local Area Plan Height Limits, of the Lakeview Local Area Plan, within Mississauga Official Plan, is hereby amended by changing the height permission for the subject site from "2 to 4 storeys" to "2 to 9 storeys" as shown on Map "B" of this Amendment.

IMPLEMENTATION

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

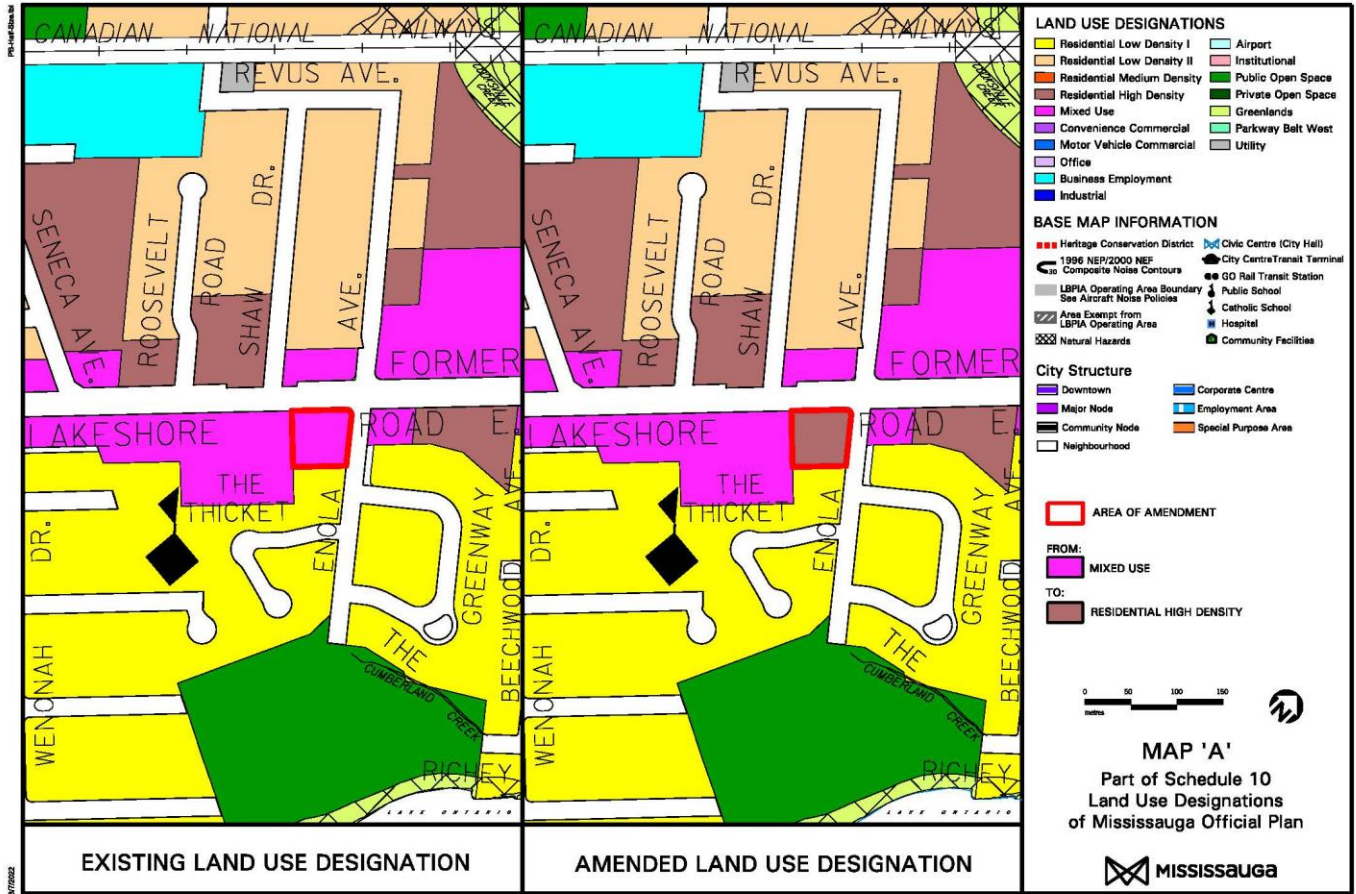
The lands will be rezoned as part of the same Tribunal Order.

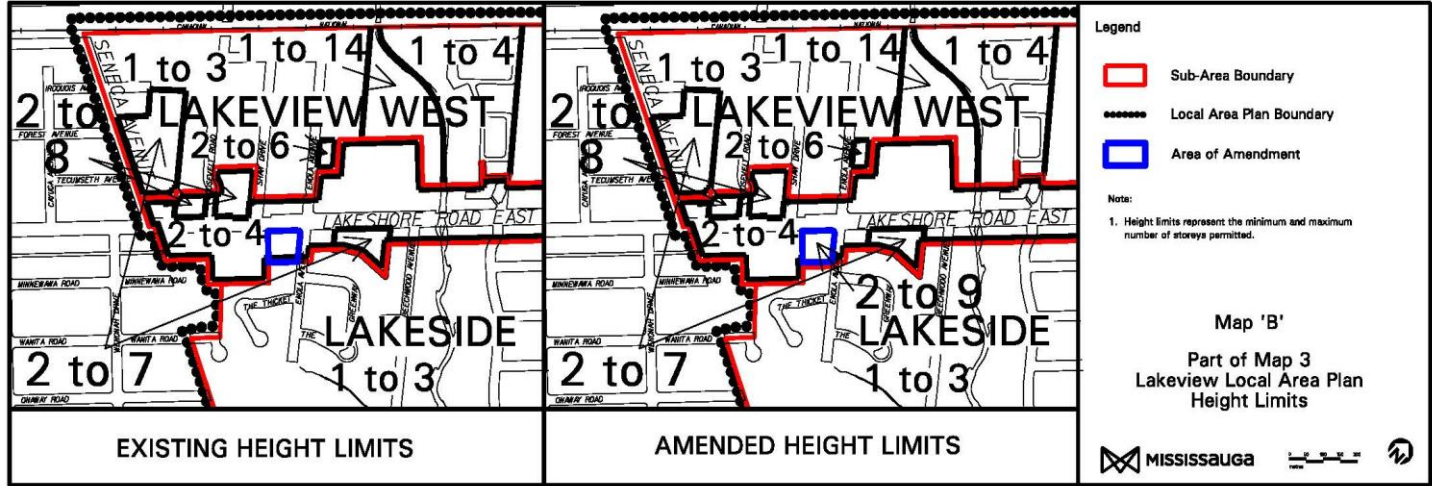
This Amendment has been prepared based on the Office Consolidation of Mississauga Official Plan October 21, 2021.

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.





bnafo

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ATTACHMENT 2

ONTARIO LAND TRIBUNAL
ORDER DATED _____

OLT Lead Case No.: OLT-21-001142
OLT Case No.: OLT-21-001143
Stellarcorp Developments 420 Inc.
(2828778 Ontario 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:

4.15.3.61	Exception: RA2-61	Map # 07	By-law:
In a RA2-61 zone the permitted uses and applicable regulations shall be as specified for a RA2 zone except that the following uses/regulations shall apply:			
Additional Permitted Uses			
4.15.3.61.1	(1) Retail Store (2) Restaurant (3) Take-out Restaurant (4) Service Establishment (5) Financial Institution (6) Office (7) Medical Office (8) Artist Studio (9) Art Gallery (10) Museum		
Regulations			
4.15.3.61.2	The provisions of Lines 1.0 and 3.0 contained in Table 2.1.2.1.1, Subsections 2.1.14, 2.1.30 and the regulations of Lines 15.2 and 15.3 contained in Table 4.15.1 of this By-law shall not apply		
4.15.3.61.3	Maximum number of dwelling units		166
4.15.3.61.4	Apartment dwelling units shall not be permitted on the first storey of the building abutting Lakeshore Road East		
4.15.3.61.5	Maximum floor space index - apartment zone		3.6
4.15.3.61.6	Minimum total gross floor area - non-residential for uses contained in Sentence 4.15.3.61.1 of this Exception and located on the first storey abutting Lakeshore Road East		365 m ²

4.15.3.61	Exception: RA2-61	Map # 07	By-law:
4.15.3.61.7	The lot line abutting Lakeshore Road East shall be deemed to be the front lot line		
4.15.3.61.8	Notwithstanding Sentence 4.15.3.61.15 of this Exception, minimum exterior side yard for apartment dwelling units on the first storey abutting Enola Avenue	4.0 m	
4.15.3.61.9	Notwithstanding Sentence 4.15.3.61.15 of this Exception, minimum rear yard for the first storey and second storey of the building	12.4 m	
4.15.3.61.10	Minimum number of loading spaces	1	
4.15.3.61.11	Minimum landscaped area	24% of the lot area	
4.15.3.61.12	Notwithstanding Sentence 4.15.3.61.2 of this Exception, minimum depth of a landscaped buffer abutting a Residential Zone	4.5 m	
4.15.3.61.13	Where 365 m ² to less than 425 m ² of gross floor area - non-residential is provided, minimum amenity area	5.0 m ² per dwelling unit	
4.15.3.61.14	Where equal to or greater than 425 m ² of gross floor area - non-residential is provided, minimum amenity area	4.5 m ² per dwelling unit	

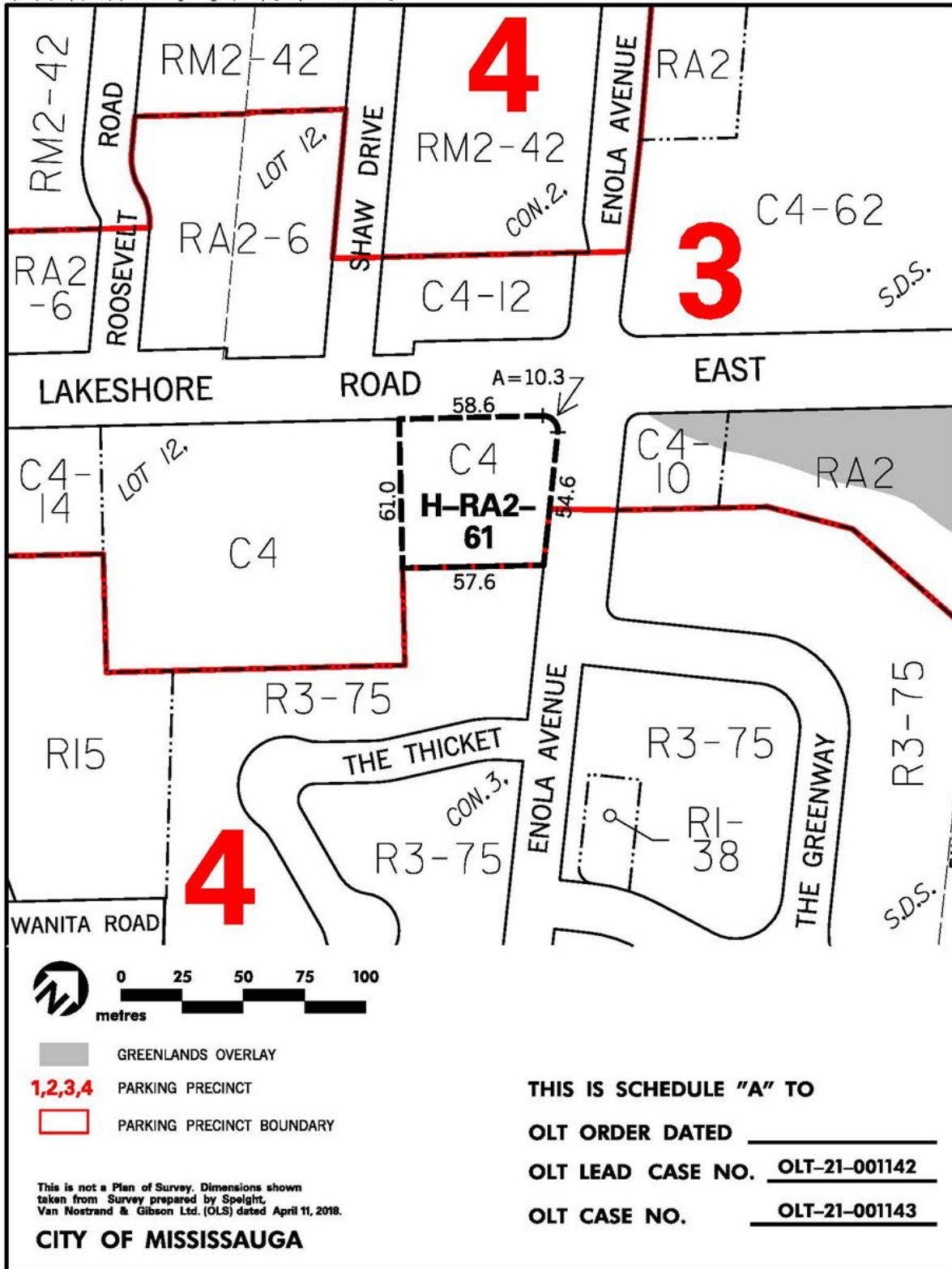
4.15.3.61	Exception: RA2-61	Map # 07	By-law:
4.15.3.61.15 All site development plans shall comply with Schedule RA2-61 of this Exception			
Holding Provision			
<p>The holding symbol H is to be removed from the whole or any part of the lands zoned H-RA2-61 by further amendment to Map 07 of Schedule B contained in Part 13 of this By-law, as amended, upon satisfaction of the following requirements:</p> <ol style="list-style-type: none"> (1) delivery of updated grading plans, architectural plans, and engineering drawings to the satisfaction of the City of Mississauga ("City") Transportation and Works Department; (2) delivery of a Letter of Reliance for the Environmental Site Assessment reports to the satisfaction of the City; (3) delivery of a Temporary Discharge to Storm Sewer letter to the satisfaction of the City; (4) delivery of an updated Traffic Impact Study that consolidates all previous reports and findings; (5) delivery of an executed Development Agreement, including any necessary provisions for Municipal Infrastructure works and related requirements, in a form and on terms satisfactory to the City, addressing but not limited to: <ol style="list-style-type: none"> (5.1) provide/construct/install any external works and/or mitigation measures related to traffic; (5.2) gratuitous dedication of lands to the City for a required sight triangle at the corner of Lakeshore Road East and Enola Avenue, including any required supporting documentation; (5.3) upgrade streetscape along Lakeshore Road East and Enola Avenue; (5.4) provide/construct/install a 300.0 mm diameter storm sewer on Enola Avenue and implement on-site stormwater management techniques. 			

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 "C4" to "H-RA2-61", the zoning of Part of Lot 12, Concession 3, South of Dundas Street, in the City of Mississauga, PROVIDED HOWEVER THAT the "H-RA2-61" 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-RA2-61" zoning indicated thereon.

3. This By-law shall not come into force until Mississauga Official Plan Amendment Number 151 is in full force and effect.

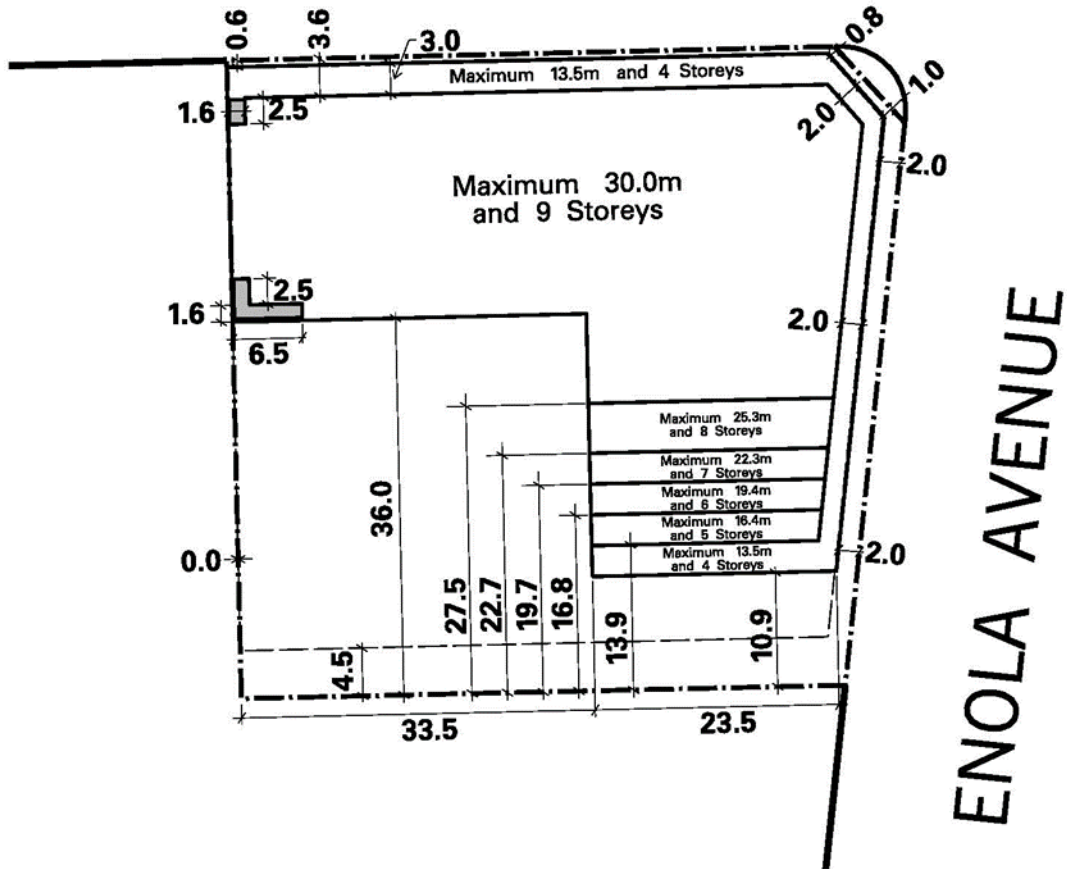
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LAKESHORE ROAD EAST



-  BUILDABLE AREA
-  ZONE BOUNDARY
-  LIMIT OF UNDERGROUND PARKING
-  BALCONY REQUIRED - STOREYS 5 to 9



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

This is not a Plan of Survey.

THIS IS SCHEDULE "RA2-61" TO

OLT ORDER DATED _____

OLT LEAD CASE NO. OLT-21-001142

OLT CASE NO. OLT-21-001143