

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: June 12, 2020

CASE NO(S): PL171203

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	Erindale Village Living Inc.
Subject:	Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment
Existing Designation:	Mixed Uses
Proposed Designated:	Mixed Uses – Special Site
Purpose:	To permit an apartment dwelling with 131 residential units with commercial uses on the ground floor.
Property Address/Description:	1646 Dundas Street West
Municipality:	City of Mississauga
Approval Authority File No.:	OPA-OZ 16/009
OMB Case No.:	PL171203
OMB File No.:	PL171203
OMB Case Name:	Erindale Village Living 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:	Erindale Village Living Inc.
Subject:	Application to amend Zoning By-law No. 0225-2007 -Neglect of the City of Mississauga to make a decision
Existing Zoning:	Commercial 4
Proposed Zoning:	Exemption Commercial 4 ***
Purpose:	To permit an apartment building with a maximum of 131 dwellings units and 563.7 sq m of commercial spaces and a maximum height of 7 storeys

Property Address/Description: 1646 Dundas Street West
 Municipality: City of Mississauga
 Municipality File No.: OZ 16/0097 W7
 OMB Case No.: PL171203
 OMB File No.: PL171204

Heard: Sept. 16 – 20 and 24, 2019 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

Erindale Village Living Inc.

A. Platt and S. Lanpert

City of Mississauga

Q. Annibale and M. Joblin

DECISION DELIVERED BY M. A. SILLS AND INTERIM ORDER OF THE TRIBUNAL

[1] This was the hearing of the appeals of Erindale Village Living Inc. (“Erindale Inc.”) from the failure of the City of Mississauga (the “City”) to adopt an amendment to the Official Plan and to approve amendments to Zoning By-law No. 0225-2007 for the lands municipally known as 1646 Dundas Street West (the “subject lands” / “site”).

[2] The subject lands are within the Erindale Neighbourhood Character Area (“ENCA”) and are designated “Mixed-Use – Special Site Policy 1 (Erindale Neighbourhood)” by the Mississauga Official Plan (“MOP”), which permits retail stores, restaurants, secondary offices, personal service establishments, overnight accommodation, financial institutions, entertainment, recreational and sports facilities, post secondary educational facilities and residential uses. The Specific Site 1 polices permit a maximum height of 3 storeys. The subject lands are located within a designated Intensification Area/Intensification Corridor. The subject lands are zoned “C4 (Mainstreet Commercial)” by Zoning By-law No 0225-2007.

[3] Specific Site Policy 1 of the MOP is proposed to be amended to permit a maximum height of 8 storeys (“OPA”). The purpose and effect of the proposed zoning amendments (“ZBA”) is to permit a maximum height of 8 storeys and to establish other

site-specific zoning provisions, including front and rear year setbacks, height, floor space index, landscape buffers, and parking.

[4] The Regional Municipality of Peel (the “Region”) notified the Tribunal via email on August 1, 2019 that it no longer had an interest in this hearing.

[5] The Erindale Village Association is a Participant in this matter and was represented by John Lawton.

[6] Erindale Inc. called three expert witnesses: Martin Quarcoopome, William Maria, and Rick Mateljan.

[7] The City called three expert witnesses: Allan Ramsay, David Argue, and David Cuming.

Site and Area Context

[8] The subject lands are located at the corner of Dundas Street West and Nanicoke Road at the western edge of the Village of Erindale (“Village”). The Village is bound by Highway 403 to the north, the Credit River and Valley to the west and south and Mavis Road, Wolfedale Road and the St. Lawrence & Hudson Railway corridor to the east.

[9] The site is generally rectangular in shape, approximately 0.35 hectares (“ha”) in area, with a depth of approximately 71.46 metres (“m”) and frontage on Dundas Street (55 m) and Nanicoke Road (61 m). The property slopes downward from east to west and from north to south towards the Credit River. Access to and from the site is via a driveway connecting to Nanicoke Road.

[10] The subject site is currently developed with a 3-storey commercial building (restaurant and spa) set back on the west side of the property and bound on the north, east and south sides by a large asphalt parking lot. This building was constructed in 1984 and is not of heritage significance.

[11] The surrounding land uses include: Dundas Street to the immediate north, beyond which there is a two-storey medical office with a parking lot, and Erindale Park;

the Erindale Community Hall (“Community Hall”), Mindemoya Road, detached dwellings, Erindale Academy and Erindale Presbyterian Church to the east; the Credit River Valley to the south; and Nanticoke Road and the Credit River and Valley to the west. Nanticoke Road is a closed road allowance and forms part of a pedestrian walkway to the Credit River valley.

[12] The Community Hall is a 220 square metre (“sq m”) single storey, rectangular stone building with a gable roof and partially elevated basement. The Community Hall is situated on the 0.25 ha land parcel between the site and Mindemoya Road, and is accessed via a wide driveway from Dundas Street leading to a large asphalt parking lot along the west side of the building. The Community Hall was built and maintained for many years by private citizens before being transferred to the City, but continues to be managed by a community committee. The Community Hall was constructed in 1928 and is designated under Part IV of the *Ontario Heritage Act*.

[13] The Village and the Credit River Valley are both recognized as Cultural Heritage Landscapes on the City’s Municipal Heritage Register. The Village consists of a residential core to the south-east of the site and along the south side of Dundas Street, and a mixed commercial-residential area along Dundas Street. The Dundas Street streetscape features a mix of generally one and 2-storey buildings of varying age and character, the oldest appearing to be late nineteenth-century construction. Several of the older residential buildings along Dundas Street have been re-purposed for commercial uses, while some former commercial buildings are now being used as residences. In general, the Dundas Street streetscape is highly varied and incohesive in terms of building styles and forms.

Background to the Proposal

[14] The original applications were filed with the municipality on September 30, 2016, and contemplated a 7-storey mixed use building comprised of 131 residential units, 463.7 sq m of commercial space on the ground floor and three levels of underground parking. The proposal resulted in a gross floor area (“GFA”) of 13,639 sq m and a total floor space index (“FSI”) of 3.7 times the gross site area. A Notice of Complete

Application was issued on September 30, 2016.

[15] Erindale Inc. filed appeals with the Ontario Municipal Board in November 2017 as a result of the failure of City Council to make a decision on the applications; however, Erindale Inc. continued to work with City staff to resolve the issues and address the concerns of Village residents, and on November 17, 2017, a revised concept plan and accompanying technical studies and plans were submitted.

[16] The revised proposal increased the number of storeys from 7 to 8 (27.78 m in height); decreased the number of living units from 131 to 96; increased the proportion of 2-, 3- and 4-bedroom units (to 40 one-bedroom, 45 two-bedroom, 5 three-bedroom and 1 four bed-room) and revised the floor plans to include a series of step-backs. The revised scheme has a GFA of 12,464 sq m, a FSI of 3.6 meets and meets the 45-degree angular plane from the Community Hall. The revised building is to be sited 3 m from the east lot line, 0.3 m from the west lot line, 3.69 m from the north lot line and 4.1 m from the south lot line. The service functions and accesses to the site and the parking garage are purposely placed on the west side of the building to avoid interference and nuisance conflicts with the Community Hall and residential neighbourhood. Approximately 160 automobile and 79 bicycle parking spaces will be provided in two levels of underground parking.

[17] Community meetings were hosted by the Ward Councillor on November 23, 2016 and June 8, 2017, and a Focus Group meeting was held on March 29, 2017. A statutory public was held on March 19, 2018, at which eight oral submissions were made in response to the November 17, 2017 proposal. The concerns raised at this meeting generally related to the perceived incompatibility of the proposal with the heritage aspects of the Village and Community Hall; the number of units being proposed; the adverse impacts of the height, density and architectural elements of the proposed building, including shadowing impacts on adjacent properties, increased traffic and associated health and safety concerns, overflow parking on local streets, site contamination resulting from previous uses, environmental impacts on the Credit River Valley, and reduced property values.

[18] On March 26, 2018, Erindale Inc. again submitted revised plans reflecting changes to the proposal in response to the concerns that were raised at the statutory public meeting. The revised proposal increased the height of the building by 0.32 m (to 28.1 m); decreased the number of units from 96 to 91; featured augmented landscaping treatments; and revised floor plans to further mitigate the massing of the building, particularly along the Nanicoke Road frontage. The building steps-back on all sides at all levels above the third floor.

[19] The subsequent report to the Planning and Development Committee from the City's Commissioner of Planning and Building (May 18, 2018) addressed the issues and concerns that had been raised at the statutory meeting and confirmed "that the proposed official plan amendment and rezoning are acceptable from a planning standpoint and should be approved subject to the provisions outlined in the report".

[20] Notwithstanding the favourable report and the recommendation of the Commissioner of Planning and Building, the Ward Councillor introduced the following resolution at the May 18, 2018 meeting of the Planning and Development Committee:

- a) That the staff recommendations as outlined in the report dated May 18, 2018 from the Commissioner of Planning and Building, be refused;
- b) That the City Solicitor take all necessary steps, including retaining outside legal counsel and outside land use planning services to represent the decision of the Planning and Development Committee at the Local Planning Appeal Tribunal with respect to applications under File OZ 16/009 W7, Erindale Village Living Inc. at 1646 Dundas Street West.

[21] The recommendation of the Planning and Development Committee was endorsed by City Council at a meeting held on June 20, 2018. The reasons for refusal as cited in the Resolution were:

AND WHEREAS Planning and Development Committee after hearing oral and written submissions from the Erindale Village neighbourhood residents determined that the application should be refused for reasons that include but are not limited to: the development is not in keeping with the historic Erindale Village character; the proposal represents overdevelopment of the site; there will be unacceptable traffic conflicts and safety issues added to the area; it would set an inappropriate precedent for a mid-rise building overlooking the Credit River and the

Dundas Connects study does not propose a higher order transit stop in the village.

[22] The following reports/studies have been submitted to support of the development proposal: Planning Justification Report, Traffic Impact Study (updated), Acoustic Feasibility Study (updated), Functional Servicing and Connection Report (updated), Environmental Assessment Report; Sun and Shadow Impact Study; Heritage Impact and Urban Design Study (“Heritage Study”) (updated); Archeological Assessment; and Architectural, Landscaping, Site Grading and Site Servicing Drawings.

Planning Evidence – Erindale Inc.

[23] Mr. Quarcoopome is a registered professional planner (R.P.P.) and a Member of the of the Canadian Institute of Planners. His involvement with this development proposal dates back to January 2017.

[24] Overall, it is his professional opinion that the development proposal has appropriate regard to the matters of provincial interest set out in s. 2 of the *Planning Act*; conforms with the Places to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (“GP”), the ROP and the MOP; and is consistent with the relevant policies of the Provincial Policy Statement, 2014 (“PPS”).

[25] Principally, the subject lands provide an appropriate location for growth and development and the proposal provides for an orderly development of underutilized lands within the built-up boundary of a designated Settlement Area. The subject lands are designated for intensification and higher order transit is planned for Dundas Street. The development proposal offers new housing opportunities and contemplates a compact built form that supports an active lifestyle and is within a comfortable walking distance of the University of Toronto Mississauga Campus (“UTM”). Mr. Quarcoopome underscored that areas with higher order transit, major post-secondary institutions and significant community amenities are hallmarks of an appropriate location for intensification.

[26] The proposal conforms with the Guiding Principles of the GP and supports the achievement of complete communities. The GP directs growth to within the delineated

built boundary of a Settlement Area and the subject lands are within a strategic growth area. The proposal provides a density that is supportive of existing and future transit and has the potential to reduce automobile usage and dependency. The planned development will contribute to the range and mix of housing types available to meet the needs of current and future residents of the regional market, and to the achievement of the minimum intensification and density targets assigned by the Region.

[27] The proposal is consistent with the Building Strong Healthy Communities policies of the PPS. The PPS requires planning authorities to identify appropriate locations for intensification and redevelopment where it can be accommodated. The site is strategically located for multi-residential development; directly south of the Erindale Park (the City's largest park) and within walking distance of the UTM. The proposal promotes intensification of underutilized lands within a designated growth area adjacent to existing and planned higher order transit.

[28] The subject lands are designated Urban System on Schedule "D – Regional Structure" of the ROP. The ROP establishes General Objectives and Policies for the Urban System that speak to the creation of healthy complete urban communities; compatibility of built form with adjacent properties and communities; land usage and servicing efficiencies; pedestrian-friendly and transit-supportive densities; intensification of development of underutilized lands; reduced dependence on the automobile; development of mixed use, transit-supportive, pedestrian friendly environments; and the provision of housing options and opportunities to meet the needs of current and future residents of the Region.

[29] The proposed development better utilizes the subject lands and municipal servicing infrastructure, and will contribute to the achievement of complete communities through the provision of a compact urban form and a mix of land uses and residential units to accommodate current and future residents of all ages and at all stages of life. The proposal provides an articulated and engaging frontage along Dundas Street, which will be comprised of commercial uses. The building features a high-quality built-form that is cognizant of the existing and planned context, and the increased density will

support the viability of higher order transit.

[30] The ROP General Objectives for Growth Management direct area municipalities to optimize the use of existing land supply by directing a significant portion of growth to the built-up areas through intensification, and in particular, to the urban growth centres, intensification corridors and major transit service areas. The subject lands are supported by municipal servicing, currently underutilized, and within the built-up area alongside a (MOP) identified Intensification Corridor. In effect, the development proposal is directing growth, through intensification, to Dundas Street which is identified as an intensification corridor in the MOP. The scale and density of the proposed development is appropriate for this area. Moreover, the proposal will contribute to the achievement of the minimum target (40%) of residential development that is to occur within the built-up area.

[31] The ROP establishes the Objectives and Policies for Cultural Heritage in the Region. Area municipalities are required “to identify, preserve and promote cultural heritage resources...for present and future generations”. Following from that, the ROP directs “the area municipalities to only permit development and site alteration on adjacent sites to protected heritage property where the proposed property has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved”. The MOP Cultural Heritage policies set out that new development is ‘encouraged’ to be compatible with a cultural heritage property and/or cultural heritage landscape.

[32] Mr. Quarcoopome emphasized that the relationship between the proposed development and the Community Hall was extensively studied during the design process and revisions have been made to the building’s setbacks and accents. The proposal provides for appropriate transitions to the adjacent heritage building. The view of the Community Hall along Dundas Street is protected by the setback of the building from the street line. The podium wall is setback 3 m from the east property boundary, providing a wall to wall separation distance between the proposed building and the Community Hall of approximately 23 m.

[33] The (4-storey) podium element terraces down to 3 storeys at the east podium wall and aligns with the roof of the Community Hall; the floors above are stepped back providing a terraced effect. The building maintains a 45-degree angular plane measured from the datum line established by the height of the Community Hall. A series of setbacks from the Dundas Street frontage and the east property boundary further reduce the massing of the proposed development.

[34] The landscaping features and the building elements, colours and materials selected are intended to be complementary and sensitive to the Community Hall, but not the same. The Heritage Impact Assessment (updated) concluded that the proposal does not result in any detrimental impact on the Community Hall or the Village as a whole. The Sun and Shadow Impact Study (revised) demonstrates that there will be no significant shadowing impacts.

[35] The subject lands are designated Mixed Use Area by the MOP. Dundas Street is designated Intensification Corridor on Schedule “2 – “Intensification Areas” and identified as a Higher Order Transit Corridor on Schedule “6 – Long Term Transit Network”.

[36] The site is within the ENCA, and as such, is further designated Special Site Policy 1. Special Site Policy 1 establishes area specific policies for lands in the Mixed Use Area designation abutting Dundas Street from Nanticoke Road to Proudfoot Street. The proposal is in conformity with the Mixed-Use land use permissions, save and except for the building height permission that is the substance of the OPA application, which proposes to amend Special Site Policy 1 to allow a maximum height of to 8 storeys.

[37] The City is required to “ensure that housing is provided in a manner that fully implements the intent of the Provincial and Regional housing policies”. The MOP directs growth to areas that will be supported by planned and higher order transit, higher density, pedestrian oriented development and community infrastructure, services and facilities. The MOP establishes housing-related policy direction, including that housing is to be provided in a manner that maximizes the use of community infrastructure while

meeting the needs and preferences of residents. The proposal results in the creation of 91 new residential units, with 1 to 4 bedrooms. This is of particular significance given that the Village is predominantly comprised of single detached, and mostly owner-occupied dwellings.

[38] The subject lands are located in the built-up area and are currently occupied with a commercial building that underutilizes the site. The proposal advances the 'complete communities' concept by providing a desirable compact urban form and a mix of lands uses; contributing to the range of housing types, sizes and densities to accommodate the needs of residents through all stages of life; enhances the viability of public transportation systems through the provision of transit-supportive densities; and creates a pedestrian friendly and transit-supportive public realm along Dundas Street.

[39] Although designated Neighbourhoods may not necessarily be intended for larger-scale intensification, Mr. Quarcoopome pointed out that intensification through the infilling of an existing commercial site along a Corridor is permissible so long as the built-form being proposed is compatible with surrounding development. In his opinion, the proposed development adheres to this criteria as it effects the redevelopment of an existing under-utilized commercial site adjacent to a rapid transit Corridor.

[40] The MOP establishes urban design policies for Intensification Areas, including that development is to create distinctive places and locales, high quality, compact and urban built form; reduce the impact of extensive parking areas, enhance pedestrian circulation, complement adjacent uses and distinguish the significance of the intensification from surrounding areas. Buildings and streetscapes are to be sited and designed to encourage pedestrian circulation, and as possible, surface parking should be minimized in favour of underground parking.

[41] The proposed development conforms with the urban design policies for context as it provides a high-quality animated pedestrian-friendly environment along the Dundas Street Corridor and features a series of step-backs to mitigate the visual impact of the building. The proposal introduces a high quality distinctive compact built-form with a visually interesting façade that is sensitive to the existing context and creates an

animated pedestrian-friendly environment along the Dundas Street Intensification Corridor and Nanticoke Road. The view of the Community Hall from Dundas Street is protected by the setback of the building from the street line; the zoning standard for front yard setback is 0 to 3 m – the front yard setback being provided is 4 m. Overall, the planned development respects and maintains the urban design policies for Intensification Areas. **At the same time, the proposal has appropriate regard for the heritage character of the Village and the Community Hall.**

[42] The Dundas Connects Master Plan, 2018 (“DCMP”) establishes a comprehensive framework for intensification along the Dundas Street Corridor, and specifically identifies mid-rise buildings of 5 to 12 storeys as the preferred built-form typography. The DCMS, as endorsed by City Council on June 20, 2018, recommends a 6-storey building height on the south side, and a 9-storey height on the north side of Dundas Street along this corridor section. Moreover, the MOP sets out that built form is to relate to the width of the street right-of-way, and further recognizes that where the right-of-way width exceeds 20 m a greater height may be required to achieve appropriate street enclosure in relation to the road width. Dundas Street in the location of the site has a right-of-way of approximately 38 m. At the tallest point, the proposed building is 28.1 m.

[43] The retail component of the proposal features glass storefronts connecting to an open terrace adjacent to a new public walkway. The new walkway replaces the existing municipal asphalt sidewalk that closely abuts the travelled roadway. The proposal contributes to the achievement of a dynamic arterial roadway, is more conducive to mobility transportation devices and contributes to the achievement of a dynamic arterial roadway and improves pedestrian safety.

[44] Based on his planning analysis and assessment, it is Mr. Quarcoopome’s opinion that the proposal supports the housing initiatives of the Province and the City. The proposal offers a building form that is unique to the Village and targets ‘empty-nesters’ who do not want the continued upkeep of a single detached residence property, which conceivably includes existing residents of the Village. In his opinion, the proposal

represents good land use planning.

Planning Evidence - City

[45] Mr. Ramsay is an RPP and a Member of the Canadian Institute of Planners and the Ontario Provincial Planners Institute. He was retained by the City in August 2018.

[46] Mr. Ramsay pointed out that the Village was originally settled in the early 1800's as a Euro-Canadian settlement. In the early years the Village contained churches, a hydroelectric dam and businesses including a grist mill, saw mill, stores, taverns and inns, a turning mill and a chair factory. The pattern of development in the Village typifies nineteenth century rural village settlement, that being, individual buildings and structures on single lots organized around a grid pattern of streets typically with a main street characterized by commercial buildings. These unique characteristics of rural settlement centres, especially as these settlements grew and evolved, resulted in unique places in the current-day environment.

[47] It is Mr. Ramsay's professional opinion that the proposed development will contribute to planning conflicts. Although he acknowledged the subject lands are currently underutilized and would be an appropriate location for some growth and development, in his opinion the current proposal will result in overdevelopment of the site.

[48] The GP provides a framework for implementing the Province's vision for building stronger, prosperous communities by better managing growth. In his opinion the proposal generally conforms to the broad framework and guiding principles of the GP in that it represents infill development within the delineated built-up area. However, the height, density and overall intensity of the proposed building is not appropriate for the site; the proposal does not integrate well with the neighbourhood or create a sense of place. **The building will create privacy and overlook impacts for adjacent residents and adversely impact the local heritage resources.**

[49] The PPS directs planning authorities to identify appropriate locations and promote opportunities for intensification. Development standards which facilitate

intensification, redevelopment and compact form are encouraged. However, the compact urban form proposed in this case is not appropriate for an area that is defined by low intensity development. The existing character of Dundas Street is defined by one to two-and-a-half storey commercial, community and residential buildings with low lot coverages and modest building masses. The proposal results in an intensification and redevelopment that cannot be accommodated on the site without significant and inappropriate increases in height and density.

[50] The site is within a City recognized Cultural Heritage Landscape and adjacent to a designated heritage building. The PPS stipulates that planning authorities shall not permit development and site alteration on adjacent lands to a protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved. In that regard, having reviewed the Cultural Heritage Review Report and witness statement of Mr. Cumming, upon which he relies, it is his opinion that the proposal is not consistent with the PPS.

[51] The ROP establishes specific policy on some matters while also provides direction to local municipalities on other matters. The subject lands are designated as part of the Urban System on Schedule D – Regional Structure and are identified as within the Built-up Area on Schedule D4 – The Growth Plan Policy Area of Peel. One of the objectives of the Urban System is to establish healthy complete communities that provide living, working and recreational opportunities that are respectful of the natural environment, the resources and the characteristics of existing communities.

[52] The ROP requires area municipalities to establish minimum density targets for intensification areas and to identify the appropriate type and scale of development in their official plans. The site is underutilized and therefore is appropriate for some form of intensification, but the extent and appropriate type and scale of development is left to the determination of the local municipalities. The proposal generally conforms to the broad growth management and intensification policies of the ROP by proposing an infill development but, does not conform with the policies requiring the conservation of

cultural heritage resources.

[53] Mr. Ramsay took the Tribunal to numerous policy provisions of the MOP, and in particular, policies related to density/massing, setbacks and compatibility. In his opinion, the proposed building will not fit with the current or planned urban context of the Village. The built-form aspects of the proposal are not sensitive to the existing and planned character of the Village, and does nothing to protect and conserve the cultural resources of the neighbourhood. The building is too tall and has an overpowering mass. At an 8-storey height and a FSI of 3.6 the proposal represents significant intensification and results in overdevelopment of the site.

[54] By contrast, the Village is generally defined by detached dwellings on large lots with generous setbacks and low-rise commercial and community buildings. The proposal is not consistent with either the existing or planned character of the area, will not enhance the Corridor, does not provide appropriate transition to neighbouring uses, and thereby, is not context sensitive. The proposed building does not fit with the existing urban context and will not successfully co-exist with the existing development. Overall, the development plan is out of scale with the surrounding area and will not be well integrated with the low-rise, low density built form found along Dundas Street, which he views to be one of the key attributes of the existing neighbourhood character.

[55] The Dundas Connects identifies the Dundas Street Corridor as appropriate for intensification, but it also recognizes that due to local circumstances not all segments of Intensification Corridors are appropriate locations for intensification. In this case, the extent of intensification being proposed is too great and does not sufficiently address the low intensity of the Village. The Village has not been identified as one of the focus areas for intensification; it is not in close proximity to any of the proposed station locations of the future Bus Rapid Transit service and a transit stop is not proposed for the Village.

[56] Based on his planning analysis, it is his opinion that the proposal represents an overdevelopment of the site that is not in keeping with the character of the area. The proposed OPA and ZBA would permit an overall intensity of development on the site

that does not conform to the policies of the MOP, is not consistent with the PPS and does not conform with the GP and the ROP, does not represent good planning and should not be approved.

Transportation Evidence – Erindale Inc.

[57] Mr. Maria is a Member of the Professional Engineers of Ontario, Institute of Transportation (“ITE”) and a senior transportation engineer and technologist. He was retained by Erindale Inc. in 2016 to complete a Traffic Impact Study in relation to the proposed development of the subject lands.

[58] The TIS was completed for the original development proposal which identified 131 dwelling units comprised of 1-, 2- and 3-bedroom units, a 252.4 sq m restaurant, and 211 sq m of commercial area. The purpose of the TIS was to determine the site related traffic assignment to the local Dundas Street West corridor and subsequent traffic-related impacts on the adjacent intersections during the weekday morning and afternoon peak hours under 2021 future background traffic and transportation network conditions of the Village.

[59] On an explanatory note, the City requires future background and total traffic analyses for a five-year planning horizon. The TIS was completed in 2016 and consequently, the TIS adopted the expected future background conditions along Dundas Street corridor in 2021. The study area included the intersections at Mississauga Road at Dundas Street and Dundas Street at Nanticoke Road, and the T-intersection of Robinson Street at Dundas Street.

[60] The TIS determined that the signalized Dundas Street at Mississauga Road intersection was operating at capacity during the morning peak hours and the overall operations are expected to trend similar to the existing conditions, but with reductions in the overall intersection capacity as a result of growth on both sides of Dundas Street and Mississauga Road; it is however, expected to have a negligible impact on overall intersection operations. The signalized Dundas Street at Robinson Road intersection is expected to have satisfactory operating characteristics under the 2021 traffic conditions

during both morning and afternoon peak hours, with only marginal impacts from the traffic from the site.

[61] The unsignalized Dundas Street at Nanticoke Road and the Erindale Park driveway are also expected to have satisfactory operating characteristics during both morning and afternoon peak hours under the 2021 traffic, with only marginal impacts from the traffic from the site. Based on the TIS findings, there were no improvements recommended at these intersections.

[62] Overall, the Original Application was not expected to result in any significant or unacceptable impacts on traffic during both the morning and afternoon peak hours. The Revised Development, with the reduction in units to 91, will have even fewer impacts on traffic conditions and/or safety under the future conditions. The TIS was reviewed and accepted by the City's transportation staff.

[63] It is Mr. Maria's professional opinion that from a traffic operations perspective the current roadway network can appropriately accommodate the Revised Development.

Transportation Evidence – City

[64] Mr. Argue is a licensed professional Engineer and Member of the Institute of Transportation Engineers.

[65] Mr. Argue was retained by the City in August 2018 to provide transportation services in respect to the Erindale Inc. proposal. Following his review of the TIS submitted in conjunction with the development proposal he had concerns about the accuracy and correctness of the gap analysis, the sufficiency of the parking spaces being proposed, and the pending back-up movement of trucks onto the municipal street.

[66] Having been provided with supplementary information he is now satisfied that his concerns have been or will be addressed. The provision of a rotating ramp (turn-table) in the loading bay will allow a truck to exit the property in a forward motion, and the parking requirements are to be identified in the ZBA. In regard to his concerns about the inaccuracy of the gap analysis, an updated study will be required prior to the

enactment of the ZBA.

Heritage Conservation Evidence – Erindale Inc.

[67] Mr. Mateljan is a Licensed Technologist and member of the Ontario Association of Architects and has served as a member and Vice-Chair of the Mississauga Heritage Advisory Committee since 2007. He was retained in April 2014 and prepared the Heritage Study on behalf of Erindale Inc.

[68] For context, the Cultural Landscape Inventory's description of the Village is generally more appropriate for the residential development to the south and east of the site than for the lands within the area fronting onto Dundas Street, in particular, certain built form criteria and arboreal patterns that exist within the embedded neighbourhood:

This small residential enclave has a wonderful visual appearance and special landscape character defined by mature trees and a commons scale of structures. Most prominent are the rows of Norway Spruce, remnants of the former agricultural fields, which predate the housing development. The preservation of these trees through the sensitive siting of housing and roads has created unique and wonderful residential environment similar to other neighbourhoods straddling the Credit River Valley. The street pattern and scattered heritage properties are the remnants of this nineteenth century villages.

[69] The Credit River Corridor site description largely references the geological and natural geographic importance of the river but gives no direction to issues of development or built form. The site is located on the periphery, and is at a lower geodetic elevation than the rest of the Village. The analysis of the existing and proposed grade levels reveals that the proposed building is set significantly below the level of the adjacent residential neighbourhood. The differential between the grade elevation of the most northern dwelling on the east side of Mindemoya Road and the entry level of the proposed building is 8.3 m.

[70] The existing building has no heritage significance and does little to support the heritage context of the Community Hall or the Village Heritage Landscape. The site has been degraded by successive industrial/commercial uses, stripped of its native vegetation and artificially graded by former owners and the City to the point that the topography can only be surmised. There is no spatial organization, special definition or

visual integrity. The only plantings consist of newer specimen trees that were planted around the perimeter of the existing parking lot and are not associated with the Cultural Heritage Landscape.

[71] The existing buildings along this part of Dundas Street are smaller, one or two storey structures. The streetscape is very inconsistent because of the way the road has been re-graded over time and by varying land uses and random unsympathetic infill. Generally, the streetscape is unattractive and the buildings uncomplimentary. Given the re-grading, re-planting, construction and demolition of successive buildings on the site it is highly unlikely that any archaeological remains are present.

[72] The PPS requires that significant built heritage and cultural heritage landscapes be conserved. Development and site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

[73] The proposal has been designed to mitigate impacts on the Community Hall, the Village and the Credit Valley River Landscapes. The building adheres to the established angular plane principles and the stepping of the building mitigates the massing effect of the proposal. The proposed building is a high quality architectural expression that creates a strong sense of place with opportunities for commercial and public uses at street level, and provides opportunities for residents to enjoy the natural beauty of the Erindale Park and the views of the Credit River Valley, while providing convenient access to public transit and nearby municipal and business services. The choice and colours, accent materials and landscaping is complementary to the heritage building and landscapes.

[74] The proposed building will have a beneficial effect on the Community Hall by visually framing and creating a precinct for it. The present situation is that the Community Hall site is strongly defined to the east by Mindemoya Road, but the hall parking lot on the west side and the site seem to merge, diluting the prominence of the heritage building. Although the visibility of the Community Hall will be somewhat

reduced when travelling westbound along Dundas Street, the impact is insignificant given the context.

[75] The remaining building stock of the Village commercial core is highly-varied, purpose-built and generally unsuitable to inform the future architectural development of the community. From his perspective, the emphasis must be on a revitalized community with building forms that are intense, urban and of their own time and place. Their designs must be compatible and incorporate gestures of respect to the heritage community but must also show leadership and be sufficiently strong to stand on their own merits.

[76] The appropriate transitioning to the Village is maintained by the proposal and particularly as any perceived impacts from the development are buffered by the adjacent wooded area to the west and south and the Community Hall to the east. The separation distances between the proposed building and its' neighbours are very generous. The separation distance between the building and the Community Centre is approximately 23 m; the separation distance to the closest single family home (2560 Mindemoya Road) is approximately 43 m.

[77] Overall, the proposed development will be a strong element in creating density, vitality and appropriate urban form. The proposed building is a strong architectural statement that will engage the street and become a marker for the community. It will be highly visible when approached from the west and will announce the arrival into the community, especially so, as it will create a relationship with the Erindale Park entrance on the north side of the road. These elements will respond to each other and create a gateway to the Village.

[78] The podium along the Dundas Street frontage consists of retail uses at grade and residential uses above, and will create a focus at the street level and encourage pedestrian traffic, which is a benefit to the appreciation of the community. The storefronts at grade will imply human scale to the building elevation and recalls elements of the historical main street commercial use of Dundas Street. The podium has been designed with a vertical rhythm intersected by floor lines to create a

secondary grid to keep the rhythmic aspects subtle and not overwhelming. The podia of the building are proposed to be clad in dark brown/gray brick (or similar pre-cast material) similar in colour to the Credit Valley stone construction of the Community Hall. Unlike the stone of the Community Hall this will be smoothly finished and crafted.

[79] Above the podia are terraced penthouse structures. The first penthouse is set back from the podium below and each subsequent penthouse is stepped back from the one below to give a terraced effect and reduce the impact of the upper floors. The setback dimensions vary but average approximately 3 m at each floor level. The penthouses are enclosed and defined by glazed guard systems to give them a light and open appearance and to limit the mass of the building. The penthouses are articulated in aluminum and glass to allow these upper floors to blend with the clouds and sky.

[80] In conclusion, for reasons including adherence to established angular plane principles, sympathetic choice of materials, stepping of building massing and use of landscaping, it is his professional opinion that the cultural landscape of the Village and the heritage attributes of the Community Hall are conserved by this proposal. Consequently, the proposal is consistent with the PPS and conforms to the heritage-related policies of the GP, the ROP and the MOP.

Heritage Conservation Evidence - City

[81] Mr. Cuming is a professional planner and a member of the Canadian Institute of Planners, the Ontario Provincial Planners Institute and the Canadian Association of Heritage Professionals. He was retained by the City on April 24, 2019.

[82] In his opinion, the proposal development, as it pertains to cultural heritage planning and conservation, is not supportable or defensible.

[83] Essentially, Mr. Cuming disagrees with the facts and findings of the Heritage Study prepared on behalf of Erindale Inc; he rejects and refutes the material evidence and opinions of Mr. Mateljan; and he takes issue with the position held by City planning staff. In his opinion, the development proposal is out of keeping with the heritage character of the Village and will result in overdevelopment of the site.

[84] The subject lands are located at the western entrance to the Village immediately east of the crossing of the Credit River. Rather than being on the 'margin' of the Village, he sees the site location as the gateway to the Village, which in his opinion is the least appropriate location for intensification and redevelopment given the associated cultural heritage resources.

[85] The growth and development of the Village from the 1830s to present day has typically been characterised by simple, vernacular structural forms that are low in height, modest in scale, and of relatively minor bulk. The character of the historical settlement and landscape has been retained for nearly half a century. Mr. Cuming asserts the need to provide a "good fit" of new with old is a key planning objective in creating "special places".

[86] The development of an 8-storey building within two significant cultural heritage landscapes and adjacent to a designated heritage property is not in keeping with the historic and unique characteristics of the area. The large scale massing and form of the proposed building is out of keeping with the modest, small mass one to two-storey structures that characterize the Village.

[87] The proposal does not encourage a positive sense of place with its poor design response to this sensitive locale as a major western entranceway to the Village, but instead encourages a form of development that is not in keeping with the unique heritage characteristics of the area and the contribution they make to the heritage streetscape and landscape. The proposed building will be visually intrusive and will not contribute to the conservation and protection of any of the long and well established heritage attributes or the heritage character of the Village.

[88] The proposed building will have damaging effects on the City's identified and designated heritage attributes, including that there will be a significant loss of views from the westerly approach along Dundas Street and Mindemoya Road, significant adverse silhouetting from the east as the one-storey Community Hall will be viewed against a backdrop of an 8-storey building, and adverse shadowing impacts on the west stone wall will potentially compromise the integrity of the wall and foundation of the

Community Hall.

[89] In his opinion the proposed development would conflict with the matters of provincial interest by creating a built form of excessive mass and height with adverse visual and physical effects to significant cultural heritage landscapes and a significant built heritage building. The proposal does not conform with the cultural heritage policies of the GP; is not consistent with the Settlement Areas, Long Term Economic Prosperity and Cultural Heritage and Archaeology policies of the PPS, and does not comply with the policies of the ROP and the MOP.

Participant – Erindale Village Association

[90] The Erindale Village Association (“EVA”) is a volunteer non-profit organization that has been in operation for 40 years, and is the oldest community association in the City. The EVA acts as the voice of its’ membership in local and government affairs, and when necessary, supports or opposes changes in land uses, advocates for the welfare, comfort and safety of Village residents, fosters community projects, and engages in other events and activities to benefit the interests of the membership. The EVA recently hosted an event at the Community Hall to celebrate its’ 40th Anniversary which was attended by more than 100 residents.

[91] Mr. Layton distinguished the Village as a special place with a deep history and special character. The Village has several heritage designated and listed properties and is a very stable neighbourhood with many long-term residents. The EVA and the residents it represents are committed to preserving and improving the distinctive characteristics of the Village and are opposed to the development that is being proposed. The existing building on the site is an attractive heritage inspired structure that fits with its’ environment. The proposed building does not appear or feel historically inspired. The Village residents are of the view that the proposal is an inappropriate and insensitive over-development that will change the character of the Village.

[92] The proposal will create many problems, including excessive population, increased traffic congestion and related safety concerns, increased parking demand,

noise and air pollution. The proposed excessive over-development will increase the Village population by about 70%, which by far is too many people for the site and is completely incompatible with the neighbourhood characteristic. The traffic around the site will increase significantly and the village has a limited supply of parking.

[93] The current building does not significantly block views, but the proposed building will interfere with the views that residents currently have from their yards, decks, porches, and balconies, while walking along Dundas Street or from Erindale Park. The properties closest to the site will be subjected to less privacy and more overlook. The shadowing from the proposed building will be much more than what is cast by the existing building and the loss of natural light will negatively impact the quality of life of all residents. The Community Hall events and activities will be affected (indoors and outdoors) as some of the events could be in darkness, and the Community Hall could get damaged from slow snow and ice melt in the winter/spring months as a result of the shadowing. Sunlight is especially important in a mature-treed green neighbourhood, so negative impact to the flora is expected. There is also concern that the proposed over-development of the site will reduce the presence of fauna in the area.

Analysis and Disposition

[94] In consideration of the whole of the evidence, the Tribunal finds that the development of the lands in the manner proposed warrants approval. The proposal provides for the efficient use and orderly development of lands and implements the higher order planning policies established by the Province. In making these findings the Tribunal accepts and adopts the evidence and opinions of Messrs. Quarcoopome, Maria and Mateljan.

[95] The Tribunal is mindful of the planning initiatives and policy directives of the Provincial planning regime and has had regard to the matters of Provincial interest enumerated in s. 2 of the *Planning Act*. The Tribunal finds that the proposal has appropriate regard for matters of Provincial interest, conforms to the policy directives of the GP is consistent with the policies of the PPS, and conforms to the spirit and intent of the ROP and the MOP. The proposal aligns with the principles of good land use

planning and is in the public interest.

The Provincial Policy Statement, 2020 (“PPS 2020”) came into effect on May 1, 2020. The Tribunal has reviewed the evidence of Mr. Quarcoopome in support of his professional opinions that the proposal is consistent with the PPS 2014, and is satisfied that the same reasons apply to the PPS 2020. The Tribunal finds that the proposal is also consistent with the PPS 2020.

[96] The Tribunal finds that the proposal furthers the Provincial planning initiatives respecting the creation of complete communities, the creation of housing and the promotion of transit. The proposal provides for the orderly development of underutilized serviced lands in a location that has been identified for intensification and higher order transit. The proposal contributes to the housing supply and offers a mix and range of housing to meet the needs of people at all stages of life. The proposal offers new retail/commercial opportunities and creates an animated pedestrian-friendly public realm along a transit corridor.

[97] The Village has a rich history and is listed as a Culturally Significant Landscape on the City’s inventory registry; the Community Hall is a designated heritage building largely as a result of its long-time use as a community managed hall and even though . the building is currently owned and operated by the City, it continues to be managed by a committee of the EVA. The residents of the Village are commendably engaged in the activities and operations of the Community Hall and are committed to preserving both the heritage of this building and the Village as a whole. It comes as no surprise given their demonstrated commitment to the heritage of the community that Village residents are united in their opposition to the proposal.

[98] Clearly, the development proposal introduces a new built form concept to the Village. At an 8-storey height and with an urban built-form, the proposed structure will be by far the tallest building within the geographic boundary of the historic Village, and from what the Tribunal was told, the first multi-residential rental building. That being said, it is not to be expected that the Village will remain frozen in time.

[99] In view of the trending rapid population growth in combination with the limited supply of land in City centres and the critical shortage of housing, particularly in the Greater Toronto Area, it is inevitable that this site will be developed in some form and fashion in the not-so-distant future. The Village is already experiencing growth in the form of new development or replacement dwellings, many of which feature an urban design format, are 3 storeys in height and have much larger footprints than most of the vintage homes.

[100] Moreover, it is to be anticipated that any development of the subject lands is going to engage a degree of intensification, typically involving increased height, regardless of whether it is for residential, commercial, or mixed use development. Taking into account the size of the site, and considering that this area is a designated Intensification Corridor and Dundas Connects recommends a 6-storey building height along the south side of Dundas Street, it is reasonable to expect that any future building on the site is going to far exceed the 1-storey height of the Community Hall and the 1 to 3 storey height of the homes in the Village.

[101] The issue that the Tribunal had to grapple with is what degree of intensification, and more specially what building height, is appropriate and necessary to ensure that the heritage attributes the Community Hall and the Village are conserved; otherwise defined as “... *the use of built heritage resources, cultural landscapes...in a manner that ensures their heritage value or interest is retained under the Ontario Heritage Act*”. (PPS definitions).

[102] For context: the report of the City’s Heritage Committee (February 25, 2011) recommending that the Community Hall be designated provides as follows:

Erindale Community Hall is important in defining, maintaining, and supporting the character of the area. It is physically, functionally, visually and historically linked to its surroundings. The property is a local landmark.

Erindale Community Hall is a rare surviving village community hall in Mississauga. It yields information about the time period in which it was built and is associated with the community that built and utilized it, and continue to utilize it. The local landmark defines, maintains and supports the character of the area. It is physically, functionally, visually and

historically linked to its surroundings.

[103] The Site Description of the Village as detailed in the City's Cultural Heritage Landscape Inventory is as follows:

This small residential enclave has a wonderful visual appearance and special landscape character defined by mature trees and a common scale of structures. Most prominent are the rows of Norway Spruce, remnants of the former agricultural fields, which predate the housing development. The preservation of these trees through the sensitive siting of housing and roads has created a unique and wonderful residential environment similar to other neighbourhoods straddling the Credit River Valley. The Street Pattern and scattered heritage properties are the remnants of this nineteenth century village.

[104] The City By-law designating the property as being of cultural heritage value of interest under Part IV of the *Ontario Heritage Act* Statement of Cultural Heritage Value and Interest sets out that:

Erindale Community Hall is a rare example of a surviving purpose-built hall in Mississauga; has direct associations with the Erindale Village community and beyond and yields information that contributes to an understanding of Erindale; is important in defining, maintaining and supporting the character of the area; is physically, visually and historically linked to its surroundings; and the hall is a local landmark.

[105] In consideration of the evidence proffered at the hearing and following an extensive further review of the materials provided, the Tribunal is satisfied that the proposed development can co-exist in harmony with both the Community Hall and the Village and *vice-versa*. For greater understanding:

- In respect of a heritage designated property: development and site alteration may be permitted on adjacent lands to a protected heritage property “where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved (s. 2.6.3 PPS).
- In the context of land use planning policy: ‘compatible’ essentially means development, which may not necessarily be the same as, or similar to, the existing and desired development, but nonetheless enhances an established community and co-exists with existing development without unacceptable

adverse impact on the surrounding area.

[106] In regard to the view of the Community Hall from the west, the Tribunal takes note that the proposal provides a better scenario, firstly in that a 4.1 m front yard is being provided, whereas the current zoning regulations do not even require that a front yard be provided (0 – 3 m).

[107] In terms of the concern about ‘blocked views’, the evidence before the Tribunal was that due to the lower elevation of the subject lands to the core area of the Village, which was indicated to be equivalent to about 2 storeys, the building is not likely to be visible from the core residential area of the Village. There are 9 homes along Mindemoya Road (dead-end road) 5 of which are front-facing to the site, and 7 of the total 9 dwellings on this street are sited beyond the back wall of the proposed building. Two of these homes, which appear to be relatively new builds, plus one other would be considered to be very large homes. There are no structures of any kind along the Nanticoke closed road allowance, beyond which are valley lands.

[108] The proposed structure is at a similar elevation and directly abuts the Community Hall, but unlike a residential property, there is no tenancy at this building. A 3 m deep landscaped area is being provided in the east yard between the properties and there is a generous wall-to-wall separation distance between the two buildings (23 m), particularly, considering that this is an urban area. The height and massing influence is further diminished by the podium drop-down to 3 storeys and the floors above feature a series of stepbacks on all sides of the building.

[109] The Shadow Study demonstrates that there will be some shadowing of the Community Hall in June; minimal shadow on the southerly portion of the west wall in May/September; and some shadowing of the west wall in December for short periods of time in the last hours of daylight. There will be some shadowing to the backyard area of a neighbouring property to the rear (Mindemoya Road), but not to an unacceptable degree.

[110] The Tribunal rejects the notion that the December shadowing of the roof and

west wall of the Community Hall could compromise the integrity of the building's foundation. The photos provided confirm that there are already cracks and chipping of stone, particularly at the area of the back door to the building. The existence of these cracks was identified in the Heritage Impact Assessments provided by both Mr. Mateljan and Mr. Cuming. If there is concern about the integrity of the building's foundation it is expected that the City will be duly informed by their consultant.

[111] The Tribunal cannot agree that the site is "the least appropriate location for intensification and development". The subject property is situated at the north-west bounds of the Village and fronts onto Dundas Street, a major transportation corridor. The abutting lands to the west and south of the site are valley lands and therefore are undevelopable. The site is located at the edge of the Village, but is at a lower elevation than the rest of the Village lands. The site is currently under-utilized and provides an ideal location for intensification, and at the same time, presents an opportunity for the introduction of a prominent, urban format gateway building and a pedestrian-friendly and transit-supported realm.

[112] The Tribunal is satisfied that the proposal does not adversely impact the Community Hall, the Village or the Credit River Valley Cultural Landscape or otherwise diminish or detract from the well-being of the community. The tree canopy, scale of development and street patterns of the Village will not change and the heritage attributes of the Community Hall, for which it was designated under the *Ontario Heritage Act*, are not impacted and will not change. In fact, it is conceivable that the proposal will be beneficial to the community in that it provides a housing option (rental) for Village residents who no longer want the upkeep associated with home ownership and/or are looking to downsize but want to continue to live in the Village. The Community Hall could also benefit by gaining a good neighbour.

[113] In sum, the Tribunal finds that the proposed development is an appropriate use of the subject lands and is in the greater public interest.

ORDER

[114] The Tribunal Orders that the appeals are allowed and the Official Plan of the City of Mississauga is amended, substantially in accordance with the draft official plan amendment contained in Exhibit 2, Tab 1 D.

[115] The City Zoning By-law No. 0225-2007 is amended, substantially in accordance with the draft zoning by-law amendment contained in Exhibit 2, Tab 1 D.

[116] The Final Order is being withheld until such time that the Tribunal is notified by the parties that the following conditions have been satisfied:

1. The draft Official Plan Amendment and the draft Zoning By-law Amendment have been finalized to the satisfaction of City Staff;
2. Confirmation that the proposal can be satisfactorily accommodated through the existing municipal storm sewer system, or alternatively, entering into any required agreement to upgrade the system;
3. Provision of a Functional Servicing Report satisfactory to City Staff;
4. Provision of a Traffic Impact Study and turning movements plans satisfactory to City Staff;
5. Provision of a Remedial Action Plan to address site contamination issues satisfactory to City Staff;
6. Completion and filing of a Record of Site Condition;
7. Entering into a Servicing and/or Development Agreement to the satisfaction of City Staff;
8. Entering into a s. 37 Agreement for the provision of community benefits; and;
9. Provision of an updated Heritage Impact Assessment to the satisfaction of City Staff.

[117] The Tribunal may be spoken to.

"M. A. Sills"

M. A. SILLS
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.

Local Planning Appeal Tribunal

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