

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



ISSUE DATE: February 08, 2019

CASE NO(S): PL180042
PL170755

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: City Park (Old Barber) Homes 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 Medium Density" and "Residential Density II"
Purpose: To permit a residential development
Property Address/Description: 5155 Mississauga Road
Municipality: City of Mississauga
Approval Authority File No.: OPA/OZ 16/011
OMB Case No.: PL180042
OMB File No.: PL180042
OMB Case Name: City Park (Old Barber) Homes Inc. v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: City Park (Old Barber) Homes Inc.
Subject: Proposed Plan of Subdivision - Failure of City of Mississauga to make a decision
Purpose: To permit a residential development
Property Address/Description: 5155 Mississauga Road
Municipality: City of Mississauga
Municipality File No.: T-M16 003
OMB Case No.: PL180042
OMB File No.: PL180044

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	City Park (Old Barber) Homes Inc.
Subject:	Application to amend Zoning By-law No. 0225-2007 - Refusal or neglect of City of Mississauga to make a decision
Existing Zoning:	"C3-12"
Proposed Zoning:	"R4-XX" and "RM6-XX"
Purpose:	To permit a residential development
Property Address/Description:	5155 Mississauga Road
Municipality:	City of Mississauga
Municipality File No.:	OPA/OZ 16/011
OMB Case No.:	PL180042
OMB File No.:	PL180043

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	City Park (Old Barber) Homes Inc.
Subject:	Proposed Official Plan Amendment No. 64
Municipality:	City of Mississauga
OMB Case No.:	PL170755
OMB File No.:	PL170755
OMB Case Name:	City Park (Old Barber) Homes Inc. v. Mississauga (City)

Heard: January 14, 2019 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

City Park (Old Barber) Homes Inc.	Leo Longo
City of Mississauga	Michal Minkowski
Region of Peel	Rachel Godley

DECISION DELIVERED BY HUGH S. WILKINS AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This proceeding relates to appeals brought by City Park (Old Barber) Homes Inc. (“Appellant”) regarding a proposed development at 5155 Mississauga Road (“subject property”). The Appellant proposes building detached homes along Barbertown Road, constructing semi-detached homes adjacent to Mississauga Road, building three-storey townhomes on a private condominium road, and renovating an existing heritage building (Barber House) so that it will contain residential units. The Appellant seeks amendments to the Official Plan of the City of Mississauga (“City”), amendments to the City’s Zoning By-law No. 0225-2007 (“Zoning By-law”) and approval of a draft Plan of Subdivision. It also appeals the City’s Official Plan Amendment No. 64 (“OPA 64”). OPA 64 aims to strengthen existing Official Plan policies to protect the scenic character of Mississauga Road between Streetsville and Port Credit by, among other things, maintaining existing trees and vegetation and maintaining the road type, residential character, and heritage components along that part of the road.

[2] A Pre-hearing Conference (“PHC”) in this proceeding was held in August 2018 at which several concerned neighbours were granted Participant status. They are opposed to the proposed development.

[3] In December 2018, the Appellant informed the Tribunal that the Parties had reached a settlement of the appeals. On January 14, 2019, the Tribunal convened a settlement hearing in Mississauga at which it heard opinion evidence on behalf of the Appellant in support of the proposed settlement and heard presentations from the Participants in opposition to it. For the reasons that follow, the Tribunal grants the appeals in part and approves the proposed amendment to the Official Plan (“Official Plan Amendment”), amendment to the Zoning By-law (“Zoning By-law Amendment”) and draft Plan of Subdivision. The Tribunal dismisses the Appellant’s appeal of OPA 64.

PARTIES' EVIDENCE AND SUBMISSIONS

[4] James Levac provided opinion evidence in the area of land use planning on behalf of the Appellant. He stated that the subject property is located in a primarily residential area characterized by large homes. He stated that the subject property is well served by public transit with regular bus service running along Mississauga Road and he said the Streetsville GO Transit Station is just over 500 metres away. The Barber House heritage building sits on the subject property. It is designated under Part IV of the *Ontario Heritage Act*. Mr. Levac said it would be reduced to its 1860s footprint and preserved with more recent non-heritage designated additions removed. Until recently, a restaurant was operated in the building.

[5] Mr. Levac stated that the Appellant's original development proposal was filed with the City in September 2016. He said it has been significantly revised to take into account comments made by the City's planning staff. These changes include a reduction in the number of dwelling units, more open space along Mississauga Road with better visual exposure of the Barber House, garden features, and modifications to the proposed dwellings adjacent to Mississauga Road so that they are more compatible with the streetscape. Many of these aspects are set out in a draft site plan that has been prepared by the Appellant, but is not before the Tribunal in this proceeding.

[6] Mr. Levac said the revised proposed development would consist of the development of four freehold single detached units along Barbertown Road, two semi-detached units (adjacent to Mississauga Road), 14 townhouse units, and four "back-to-back" townhouse units within the Barber House heritage building. In total, the proposed development would consist of 24 dwelling units. The two semi-detached units and all the townhouses would be on a common element condominium road with access to Mississauga Road. To comply with the intent of Mississauga Road Scenic Route policies as envisioned in OPA No. 64, Mr. Levac said the two semi-detached units adjacent to Mississauga Road are each designed to maintain the appearance of a large detached dwelling so that they are more compatible with existing neighbouring

dwellings on Mississauga Road.

[7] Mr. Levac stated that the subject property is currently designated as “Mixed Use” on Schedule 10 (“Urban Use Designations”) and “Neighbourhood” on Schedule 1 (“Urban System”) of the City’s Official Plan. He noted that the Mixed Use designation does not permit detached and semi-detached dwellings, which has led to the need for the proposed Official Plan amendments. The Appellant proposes that the subject property be re-designated from “Mixed Use” to “Residential Medium Density”. It would be designated “Residential Low Density II” in the Central Erin Mills Neighbourhood Character Area. A site-specific designation would also be added to allow for semi-detached units with an internalized driveway.

[8] Mr. Levac stated that the subject lands are currently zoned as C3-12” in the Zoning By-law. This zoning only permits a restaurant and an outdoor garden accessory to a retail store. He stated that the Appellant proposes that the subject property be rezoned from “C3-12” to “R4-65 (Detached Dwellings)” and “RM6-19 (Townhouse Dwellings on a Common Element Condominium – private road)”. Mr. Levac stated that the proposed R4-65 zoning would have site specific exceptions relating to minimum lot area (interior lot), maximum lot coverage and minimum front yard. He stated that the proposed RM6-19 zoning would permit the townhouses and two semi-detached dwellings on a common element condominium road, with provisions regarding the maximum number of dwelling units, height, balcony areas, parking, and other aspects. He stated that both changes in zoning would be subject to a Holding Symbol, which may only be removed upon the delivery of an executed development agreement, submission of a revised heritage permit to reflect noise attenuation fencing, confirmation of satisfactory arrangements for adequate municipal services to the proposed development, submission of a satisfactory updated noise study, and delivery of an executed agreement under s. 37 of the *Planning Act* for community benefits.

[9] Regarding the proposed draft Plan of Subdivision, Mr. Levac stated that it consists of:

- four detached dwellings (lots 1 to 4) as freehold units with frontage on Barbertown Road;
- a block for two common element condominium semi-detached units;
- two blocks for common element condominium townhouses;
- a block for the heritage building converted into condominium townhouses;
and
- two blocks consisting of the condominium common elements, including visitor parking, driveways, fencing and landscaping; and

[10] Mr. Levac stated that traffic impact and parking studies, a noise feasibility study and a heritage impact assessment have been completed, reviewed and approved by the City. He noted the proposed renovations to the heritage building have been reviewed and recommended by the City's Heritage Advisory Committee.

[11] Mr. Levac opined that the proposed Official Plan Amendment, Zoning By-law Amendment, and draft Plan of Subdivision ("proposed instruments") are consistent with the Provincial Policy Statement, 2014 ("PPS") and conform to the Growth Plan for the Greater Golden Horseshoe, 2017 ("Growth Plan"), the Region of Peel Official Plan ("Region's Official Plan") and the City's Official Plan. He stated that the proposed instruments facilitate a compact and efficient form of development, which can be supported by existing infrastructure. He said the proposed development is pedestrian friendly and supported by public transit, provides for appropriate intensification, and preserves cultural heritage. He said it provides for a variety of housing types and directs development to an intensification area under the Region's Official Plan.

[12] He opined that the proposed instruments otherwise conform with the City's Official Plan. He stated that the proposed development consists of housing types that contribute to affordable housing alternatives and provides for a transition to the

surrounding neighbourhood of single detached dwellings. He said that traffic and parking impacts of the proposed development have been studied and approved by the City.

[13] Regarding the proposed draft Plan of Subdivision, Mr. Levac addressed the criteria set out in s. 51(24) of the *Planning Act*. He stated that the proposed draft Plan of Subdivision is in the public interest in that it reuses a heritage resource and provides a range of different housing types and is not premature. He said there are schools in the area and that traffic impacts have been studied and approved by the City and there are no parking restrictions proposed.

[14] Mr. Levac also opined that the proposed instruments conform to OPA No. 64. He said the proposed semi-detached dwellings resembling large detached dwellings adjacent to Mississauga Road, the internalized driveway access to Mississauga Road with a minimum number of access points, the proposed landscaping, and the visual exposure of the Barber House all conform with it. He opined that the proposed development is compatible in terms of height, massing and scale with neighbouring land uses and helps complete the neighbourhood. He also stated that the City's planning staff had reviewed the proposed development and found that it conforms to OPA No. 64. The Appellant requests that should the revised proposal be approved, that the Appellant's appeal of OPA No. 64 be dismissed.

[15] Mr. Levac also addressed matters of provincial interest as set out in s. 2 of the *Planning Act* as they relate to the proposed instruments, noting that the proposed development makes use of available community infrastructure and systems, provides for a range of housing, and conserves cultural and historical features.

[16] The City and the Region stated that they both support the Appellant's development proposal as reflected in the proposed settlement.

PARTICIPANTS' SUBMISSIONS

[17] The Tribunal heard presentations from Sajid Aziz, June Samaras, and Brian Ashford, each of whom was granted Participant status at the PHC in August 2018. At the settlement hearing, the Tribunal received, and granted, a request for Participant status from Mary Kosta-Cadas. She also made a presentation.

[18] Ms. Kosta-Cadas raised traffic concerns associated with the proposed development, stating that a person was killed on Mississauga Road and that there will be many young families living in the area with pedestrians attempting to cross this road. She noted that impacts on traffic at the intersection of Eglinton Avenue and Mississauga Road should be considered and that a more comprehensive traffic study should be undertaken. She raised parking concerns and issues that the proposed development is not in character with the neighbourhood.

[19] Mr. Ashford raised concerns regarding conformity with the Mississauga Road Scenic Route policies and consistency with the established neighbourhood. He said community members would prefer the development of two-storey single family homes in the area rather than townhouses. He expressed concern that the proposed development may create a precedent for other developments along Mississauga Road. He submitted that the Tribunal must carefully consider the conformity of the proposed development with the Mississauga Road Scenic Route policies.

[20] Ms. Samaras raised concerns that the proposed development may adversely impact the area's natural and cultural heritage. She expressed concerns that public inputs in decision making often have no impact and that positive policies are often not adhered to. She expressed concerns that changes to heritage resources can negatively impact social well-being, economic vitality and quality of life. She said these heritage resources must be preserved, protected and managed. She said negative impacts to cultural heritage resources include the removal of trees, isolation of a heritage attribute from its surrounding environment or context, and obstruction of views of built and

natural features, among other impacts. She stated that these impacts must be properly evaluated and assessed and she expressed concerns that this has not been done in the present case. She submitted that the City's Mississauga Road Scenic Route policies are not intended to encourage the development of blocks of townhouses. She submitted these policies have not been properly applied in this case. She also raised traffic and parking concerns, noting that Mississauga Road has a limited capacity for increased traffic.

[21] Mr. Aziz stated that the proposed instruments would unreasonably exploit and impact the nature and character of the neighbourhood. He said that many neighbours are concerned about the proposed development and are frustrated. He stated that the proposed development should be for fewer units and submitted that the scenic route issues relating to the Appellant's appeal of OPA No. 64 should be adjudicated before the other appeals are addressed. He submitted that the proposed development does not conform with the Mississauga Road Scenic Route policies, particularly with respect to their restrictions on building height. He said the proposed density of the development is not compatible with the community. He also voiced the traffic concerns raised by the other Participants.

ANALYSIS AND FINDINGS

[22] Based on the uncontradicted opinion evidence of Mr. Levac, the Tribunal finds that the proposed instruments are consistent with the PPS and conform with the Growth Plan, the Region's Official Plan, the City's Official Plan, and OPA No. 64. The Tribunal finds that they facilitate a compact and efficient form of development, provide for a variety of housing types and are supported by existing infrastructure and public transit. The Tribunal finds that they provide for appropriate intensification and preserve cultural heritage. The Tribunal has had regard to matters of provincial interest set out in s. 2 of the *Planning Act* as they relate to the proposed instruments. The Tribunal has also had regard to the criteria set out in s. 51(24) of the *Planning Act* and finds that the proposed draft Plan of Subdivision appropriately addresses them and that the proposed

conditions of approval are reasonable.

[23] The Tribunal recognizes the traffic, parking, cultural heritage and neighbourhood compatibility concerns raised by the Participants, but finds that these concerns have been appropriately addressed by the Appellant and the City through the traffic impact study, heritage impact assessment study and revisions made to the development proposal in order to ensure that it conforms to the City's Mississauga Road Scenic Route policies and OPA 64. The Tribunal emphasizes the importance of preserving cultural heritage features such as the Barber House and the implementation of the City's Mississauga Road Scenic Route policies. Based on the opinion evidence before it, the recommendations of the City's Heritage Advisory Committee, and the recommendations of the City's planning staff, the Tribunal finds that the proposed development will ensure that the key cultural heritage features of the Barber House are preserved and the Mississauga Road Scenic Route policies are implemented.

ORDER

[24] The Tribunal grants the Official Plan Amendment, Zoning By-law Amendment, and draft Plan of Subdivision appeals in part and approves the Official Plan Amendment as attached as Appendix 1 to this Decision, Zoning By-law Amendment as attached as Appendix 2 to this Decision, draft Plan of Subdivision as attached as Appendix 3 to this Decision, and conditions of draft Plan of Subdivision as attached as Appendix 4 to this Decision.

[25] The Tribunal dismisses the appeal of OPA 64.

“Hugh S. Wilkins”

HUGH S. WILKINS
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

APPENDIX 1

Amendment No. 81

to

Mississauga Official Plan

Amendment No. 81
to
Mississauga Official Plan

The following text and Map "A" attached constitute Amendment No. 81.

PURPOSE

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

LOCATION

The lands affected by this Amendment are located at the northeast corner of Mississauga Road and Barbertown Road. The subject lands are located in the Central Erin Mills 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 Local Planning Appeal Tribunal.

The subject lands are designated Mixed Use which permits residential, retail stores, commercial parking facilities, conference centres, recreation facilities, financial institutions, funeral establishment, motor vehicle rental, motor vehicle sales, restaurants, personal service establishment, among other uses.

An Official Plan amendment is required to allow 24 residential dwelling units on the subject site, consisting of two semi-detached dwellings and 14 townhouses on a common element condominium road, four detached dwellings on Barbertown Road and four back to back dwelling units within the existing heritage building (Old Barber House).

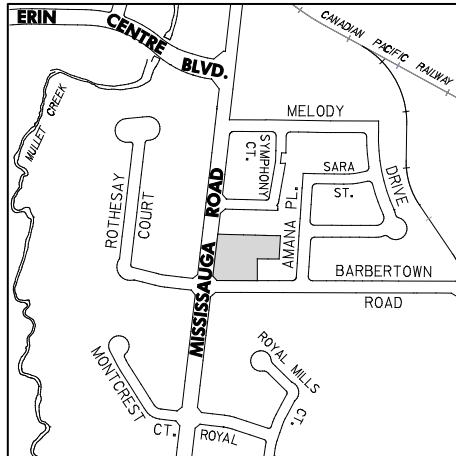
The proposed Amendment is acceptable from a planning standpoint and should be approved for the following reasons:

1. The proposal is a redevelopment of an underutilized mixed used site for residential uses that is compatible with the surrounding neighbourhood.
2. The proposal includes the adaptive reuse of the existing heritage building for residential uses, which is supported by the City's Heritage Advisory Committee.
3. The proposal provides a range of housing choices and opportunities for a diverse housing preference.

DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Section 16.3, Central Erin Mills Neighbourhood, of Mississauga Official Plan, is hereby amended by adding Special Site 2 on Map 16-3: Central Erin Mills Neighbourhood Character Area, in accordance with the Special Site Policies.
2. Section 16.3.1, Special Site Policies, Central Erin Mills Neighbourhood Character Area, of Mississauga Official Plan, is hereby amended by adding the following:

16.3.1.2 Site 2



16.3.1.2.1 The lands identified as Special Site 2 are located at the northeast corner of Mississauga Road and Barbertown Road.

16.3.1.2.2 Notwithstanding the policies of this Plan, detached and semi-detached dwellings will be permitted.

3. 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 Medium Density, as shown on Map "A" of this Amendment.

IMPLEMENTATION

Upon receipt of the Local Planning Appeal 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.

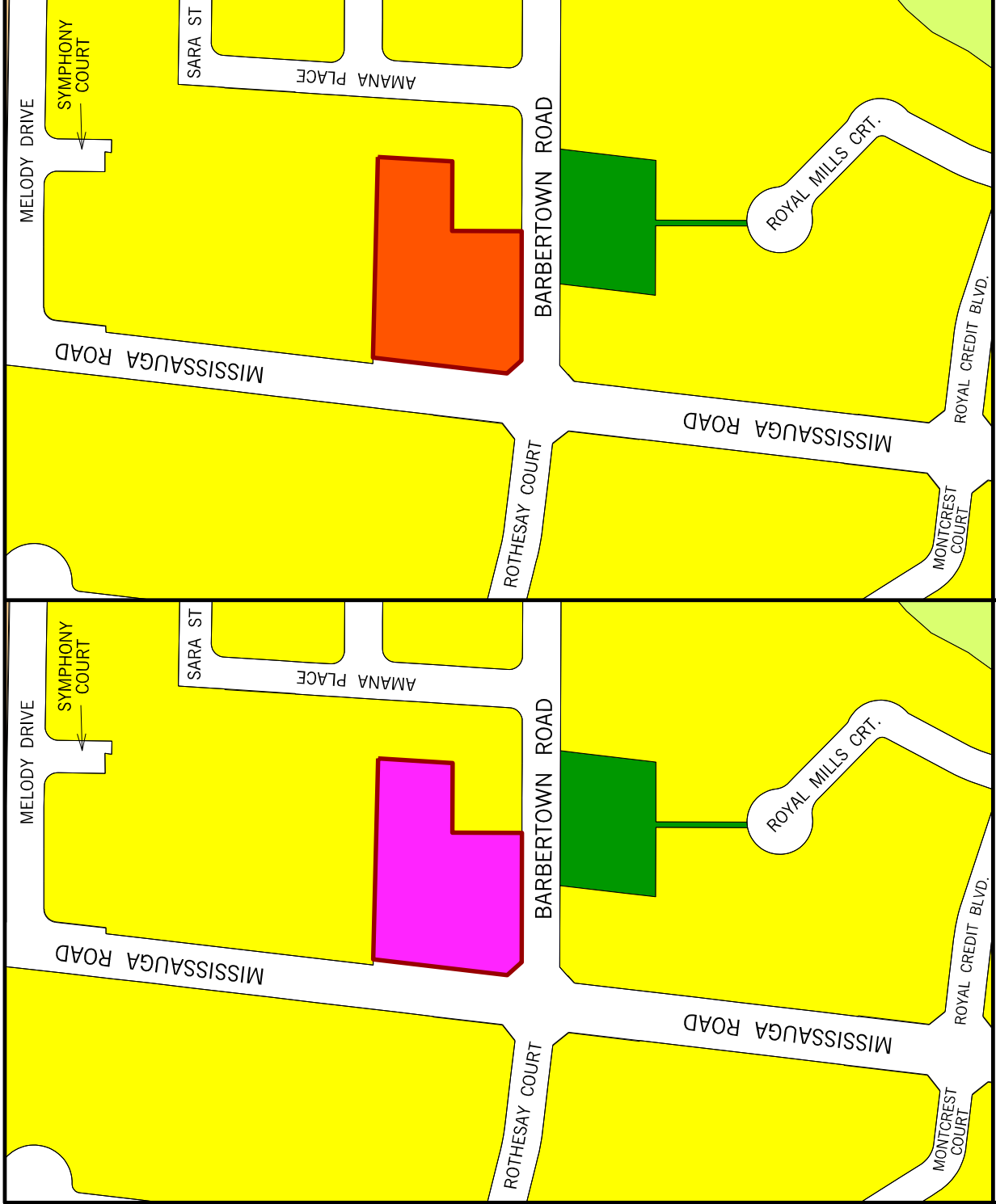
This Amendment has been prepared based on the Office Consolidation of Mississauga Official Plan March 21, 2018.

INTERPRETATION

The provisions of Mississauga Official Plan, as amended from time to time regarding the interpretation of that Plan, will apply in regard to this Amendment.

This Amendment supplements the intent and policies of Mississauga Official Plan.

[http://teamsites.mississauga.ca/sites/18/mopa/oz 16 011.mopa 81.lpat.my.jmcc.docx](http://teamsites.mississauga.ca/sites/18/mopa/oz%2016%20011.mopa%2081.lpat.my.jmcc.docx)



LAND USE DESIGNATIONS

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

AREA OF AMENDMENT

FROM: MIXED USE

TO: RESIDENTIAL MEDIUM DENSITY



MAP 'A'

Part of Schedule 10
Land Use Designations
of Mississauga Official Plan



AMENDED LAND USE DESIGNATION

EXISTING LAND USE DESIGNATION