

# AIRD & BERLIS LLP

Barristers and Solicitors

Kim M. Kovar  
Direct: 416.865-7769  
E-mail:kkovar@airdberlis.com

January 26, 2010

**WITHOUT PREJUDICE**

**BY EMAIL**

Our File #92776

City Solicitor  
City of Toronto, Legal Division  
Metro Hall, 26th Floor, Stn. 1260  
55 John Street  
Toronto, ON M5V 3C6

**Attn: Jessica Braun**

Dear Ms. Braun:

**Re: Duflaw Realty Ltd. and Dufferin Lawrence Investments Limited  
770 Lawrence Avenue West, 3083-3095 & 3101 Dufferin Street  
City of Toronto  
Applications for Zoning By-law Amendment and Draft Plan Approval  
OMB File Nos.: PL090556 and PL090725**

As you are aware, we represent Duflaw Realty Ltd. and Dufferin Lawrence Investments Limited ("Duflaw") in respect of these matters. Commencing February 23, 2010 the Ontario Municipal Board (the "Board") will conduct a hearing of our clients' appeals (the "Appeals") respecting its applications for a zoning by-law amendment and draft plan approval in order to allow the subject mixed-use development on the above-referenced lands, (the "Site").

The development proposal under appeal before the Board is as described in the revised submission delivered to the City on August 12, 2009 and August 28, 2009 (the "Proposed Development"). In addition, Duflaw and the City have already agreed that the driveway connection between the townhouse block and the new public street, has been eliminated from the Proposed Development, as shown in Figure 3 of the BA Report dated January 11, 2010 submitted to the City on January 12, 2010.

In a Procedural Order issued January 7, 2010 the Board established an Issues List for the hearing, which List has subsequently been amended on consent of the parties.

We are writing to set out the terms upon which Duflaw is prepared to settle the outstanding issues between our respective clients. This offer is made on a without prejudice basis and is conditional upon acceptance by the City during the City Council meeting commencing January 26, 2010.

Our client proposes that the City and Duflaw agree to jointly support a settlement at the Board hearing of the Appeals upon the following terms:

1. At the hearing commencing February 23, 2010, the City and Duflaw shall jointly request that the Board allow the Appeals and approve a zoning by-law amendment, draft plan of subdivision and draft plan conditions to permit Duflaw's Proposed Development, revised in accordance with the following:

- (a) A total gross floor area of 122,667 m<sup>2</sup> shall be permitted (reduced from 139,700 m<sup>2</sup>);
- (b) A total of 1500 dwelling units shall be permitted (reduced from 1,700 units);
- (c) Tower heights of 15 storeys on Dufferin Street, 24 storeys at the corner of Dufferin and Lawrence and 20 storeys on Lawrence Avenue West shall be permitted (reduced from 26, 31 and 25 respectively);
- (d) The tower floor-plates shall not exceed 750 m<sup>2</sup> gross floor area (reduced from 800 m<sup>2</sup>);
- (e) The two-storey building on Block 1 shall be replaced with a 12-storey podium building;
- (f) The east/west portion of the future public street, and the driveways extending therefrom, shall be shifted approximately 11-12 m northward;
- (g) A minimum of 6% of the dwelling units constructed on the Site shall have three or more bedrooms;
- (h) The area of the new public park dedication shall be a minimum of 6,985.6 m<sup>2</sup>;

all as generally reflected on the Revised Site Plan dated January 11, 2010, attached to this letter.

2. The parties shall enter into a Section 37 Agreement, securing the following community benefits:

- (a) The Owner shall make a contribution to the City having a total value of \$2,000.00 per unit to be allocated at the discretion of the Chief Planner in consultation with the local Councillor among park improvements for the new public park, public art and the construction of a day-care centre/seniors centre on the western side of Dane Parkette, or such other community facility as may be determined by the City, with the said contribution to be indexed from the date the Board issues its decision (ie not the final Order) approving the By-law, and to be paid on a per unit basis as above-grade building permits are issued;
- (b) At the City's discretion, the City can require the Owner to construct the above-referenced community facility on Dane Parkette and turn it over to

the City upon completion, provided the total cost to the Owner shall not exceed the value of the contribution described in (a) above. In this circumstance, the Owner will not be required to make the \$2,000.00 (indexed) payments per unit as building permits are issued, but shall instead be required to complete construction of the community facility prior to occupancy of dwelling units beyond the first 1,000. A building permit for the community facility shall be issued and construction shall have commenced prior to the issuance of any above-grade building permit for dwelling units beyond the first 880;

- (c) If the total costs to complete the community facility are less than the total of \$2,000.00 (indexed) per unit constructed or to be constructed on the Site, the Owner shall receive credit for the total costs incurred to complete the community facility, and after allocating the credit at a rate of \$2,000.00 (indexed) to each unit constructed or next to be constructed on the site, the Owner shall pay the City \$2,000.00 (indexed) for each remaining unit as above grade building permits are issued;
  - (d) The Owner shall provide one TTC Metropass per month during the first year of occupancy for each new condominium unit at no cost to the purchaser(s) of said units;
  - (e) As a condition of site plan approval for the first phase of construction of the Site, the Owner shall prepare and submit a master concept plan for the entire Site, to the satisfaction of the Chief Planner;
  - (f) A Transportation Monitoring Program to investigate possible traffic infiltration into the neighbourhood to the north will be established to monitor, evaluate and report on traffic volumes on the new public street, Dane Avenue and Mulholland Avenue, and at key intersections along Dane Avenue and Mulholland Avenue, based on periodic traffic counts in the area. The monitoring should be started prior to development to determine existing baseline conditions and shall be carried out by a qualified transportation engineering consultant at no cost to the City and to the satisfaction of the Director of Transportation Services. Within one year following completion and occupancy of the development, the monitoring should be conducted and submitted to the City for review. Prior to the Transportation Monitoring Program's commencement (pre and post development) the transportation consultant shall contact the Director of Transportation Services to determine the terms of reference/scope of work.
3. The Owner shall be responsible to complete the upgrades in the sections of the existing sanitary sewer system which are identified in Section 4 of the Functional Servicing Report Revised January 19, 2010 by Riaboy Engineering Ltd. to the levels of predevelopment flows to the satisfaction of the Executive Director of Technical Services, prior to issuance of a building permit for the phase which triggers the need for said upgrades. This obligation shall be secured in the draft plan conditions and Subdivision Agreement and/or the Section 37 Agreement. Letters of Credit to secure the installation of any necessary upgrades for a particular building phase shall be provided by the Owner prior to the construction

of the upgrades for the phase which triggers the need for said upgrades, to the satisfaction of the Executive Director of Technical Services. Letters of Credit will not need to be provided prior to the Zoning By-law coming into force or draft plan approval being issued by the Board.

4. As requested, Duflaw agrees that matters pertaining to the number, location and configuration of parking space requirements as they pertain to individual buildings may, by mutual consent, be adjusted to accommodate innovative concepts.
5. The City and Duflaw shall ask the Ontario Municipal Board to withhold its final Order until advised by the City Solicitor that a) a satisfactory Section 37 Agreement has been entered into, and b) that the Technical Services Director is satisfied that a flow test and water distribution analysis has verified that water pressures and flows are adequate to service this development.
6. The parties will work together to finalize an acceptable form of the zoning by-law amendment, plan of subdivision and draft plan conditions and Section 37 Agreement prior to the hearing and in the event of any dispute regarding the final form of same, any party may ask the Board to settle such matters as part of the hearing commencing February 23<sup>rd</sup>.
7. The City will not seek to adjourn the hearing scheduled for February 23, 2010.
8. As further requested, Duflaw agrees that it accepts an additional term of settlement providing as follows: that City Council direct the Chief Planner and Executive Director, City Planning Division to report to North York Community Council on undertaking a focused transportation, land use and built form review of the lands within a 300 metre radius of the intersection of Lawrence Avenue and Dufferin Street and that City Planning request all land owners in this area to proportionately contribute to the cost of this study on the basis of the size of their lands.

Yours truly,

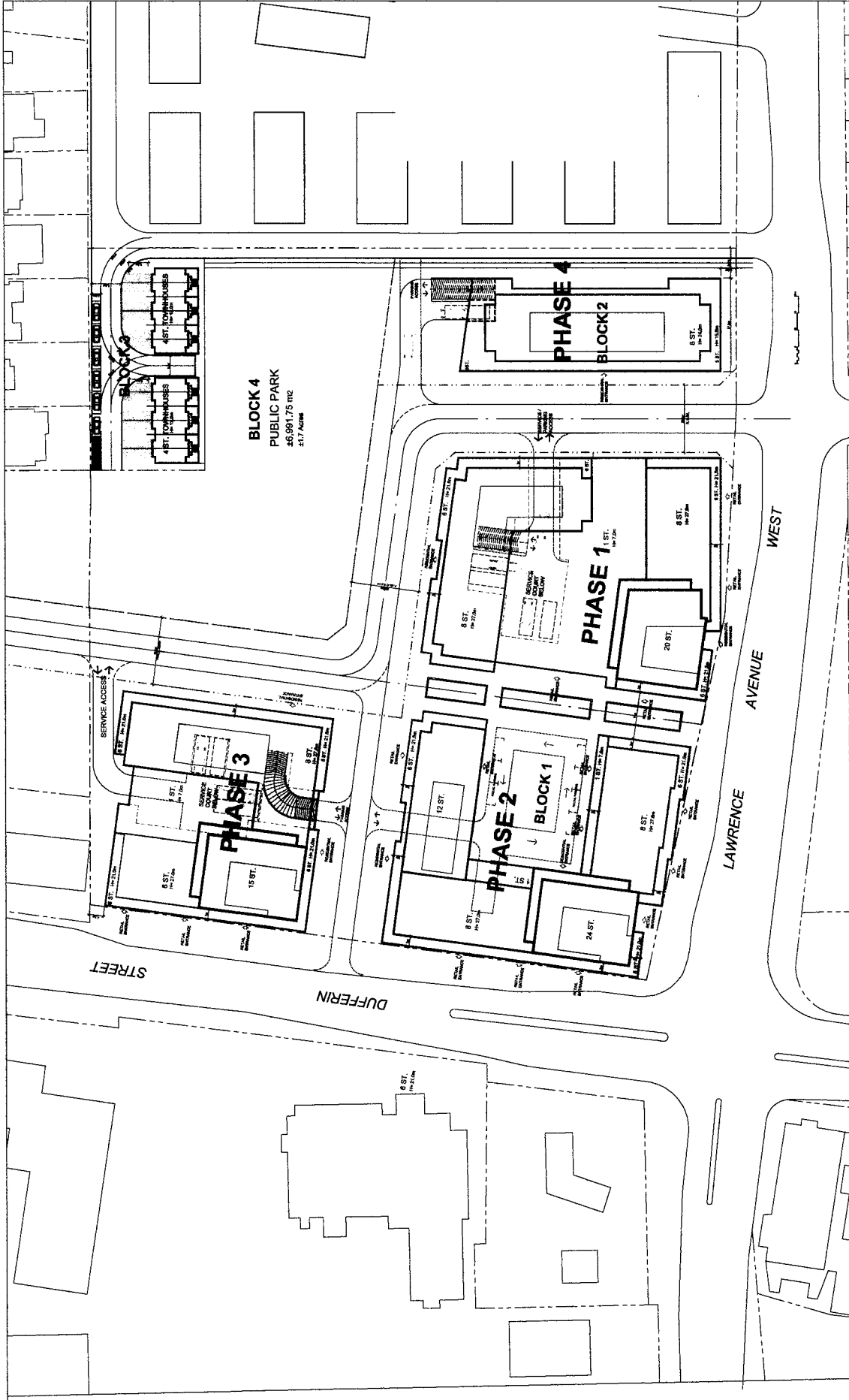
AIRD & BERLIS LLP



Kim M. Kovar  
KMK/jb/mn

cc: Linda Warth

attach.



**SITE PLAN**  
 SETTLEMENT PROPOSAL / WITHOUT PREJUDICE  
 PROJECT NO. 25213  
 JAN. 11, 2010  
 SCALE 1:500

