

AIRD BERLIS

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December 4, 2019

BY EMAIL

WITHOUT PREJUDICE

Our File #126040

Mr. Mark Piel
Planning & Administrative Tribunal Law
City of Toronto
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Mr. Piel:

**Re: Revised Settlement Proposal
6040 Bathurst Street and 5 Fisherville Road, Toronto
LPAT Case No. PL171014
Municipality File No. 16 252547 NNY 10 OZ**

As you are aware, we act on behalf of Fisherville and Bathurst Ltd. ("Pinedale"), the owner of the property municipally known as 6040 Bathurst Street and 5 Fisherville Road, Toronto (the "Pinedale Property"). The Pinedale Property is currently occupied by two 17-storey rental apartment buildings with a total of 404 units and has a site area of 23,436 square metres (5.8 acres).

Zoning By-law Amendment Application

On November 17, 2016, Pinedale submitted a Zoning By-law Amendment application to amend the former North York Zoning By-law No. 7625 and City of Toronto Zoning By-law No. 569-2013 with respect to the Pinedale Property.

The original Zoning By-law Amendment application proposed two additional residential apartment buildings on the Pinedale Property—a 19-storey building containing 179 units and a 29-storey building containing 430 units (the "Original Proposal"). The existing apartment buildings would be retained. The Original Proposal included a total residential gross floor area of approximately 79,490 square metres, 1013 dwelling units and 761 parking spaces (inclusive of the existing buildings).

On September 15, 2017, Pinedale appealed its Zoning By-law Amendment application to the Local Planning Appeal Tribunal due to Council's failure to make a decision within the statutory timeline set out in the *Planning Act*.

Settlement Proposal

Since that time, our client has entered into a process of consultation with City staff and its adjacent neighbours, including through LPAT-led mediation. Based on that process, Pinedale is prepared to proceed to a settlement hearing based on revisions to the Original Proposal, as depicted on the attached drawings, dated November 1, 2019 and as described below (the "Revised Proposal"), and we write to provide the following settlement offer for City Council's consideration.

1. **Built Form:**

- a. Building A: The podium height has been reduced from 6 storeys to 4 storeys and the tower height has been reduced from 19 storeys to 16 storeys. The southern portion of the podium has been extended easterly.
- b. Building B: The podium height has been reduced from 8 storeys to 4 and 6 storeys. The tower height remains the same at 29 storeys.
- c. Building C: A tower component integrated with the podium of Building B with a height of 26 storeys. The south east corner adjacent to the public park will be architecturally articulated to address this prominent area during SPA stage and in consultation with Urban Design staff.
- d. Townhouse Blocks 1, 2 and 3: Three new stacked townhouse blocks have been added to frame the public streets.

2. **Public Street:** Together with the owners of the adjacent lands to the west (25 Fisherville Road, owned by IMH 25 Fisherville Ltd. (the "**Starlight Property**")) and south (6020 and 6030 Bathurst Street, owned by Timbercreek Asset Management Inc. (the "**Timbercreek Property**")), Pinedale is providing lands for a new 16.5 metre wide public street running south from Fisherville Road along the west lot line of the Pinedale Property and east to Bathurst Street, at a new signalized intersection, along the south lot line of the Pinedale Property. The cost of the north-south and east-west roads will be shared by Pinedale, Starlight and Timbercreek, with no cost to be incurred by the City.
3. **Parkland Dedication:** A 691 square metre public park is proposed on the east side of the Pinedale Property in satisfaction of the statutory parkland contribution requirements pursuant to the *Planning Act*.
4. **Park POPS:** A 112.6 square metre privately-owned publicly accessible open space (POPS) is proposed adjacent to the on-site parkland dedication.
5. **Gross Floor Area:** The total residential gross floor area has increased from 79,490 square metres to 97,050 square metres, including the existing apartment buildings, as calculated in accordance with Zoning By-law 569-2013, as amended.
6. **Density:** The resulting density (inclusive of the two existing buildings) has increased from 3.39 FSI to 4.14 FSI, based on the gross site area and calculated in accordance with Zoning By-law 569-2013, as amended.

7. **Dwelling Units:** The total number of dwelling units has increased from 1013 to 1304, consisting of 404 existing dwelling units and 900 new dwelling units:
 - a. Building A – 235 dwelling units
 - b. Building B – 331 dwelling units
 - c. Building C – 300 dwelling units
 - d. Townhouse block 1 – 12 dwelling units
 - e. Townhouse block 2 – 16 dwelling units
 - f. Townhouse block 3 – 6 dwelling units

8. **Tower Floor Plate:** The tower floor plates have a maximum gross construction area of 750 square metres, calculated in accordance with Zoning By-law 569-2013, as amended.

9. **Amenity Space:** Indoor and outdoor amenity space will be provided at a rate of 2 square metres per new dwelling unit, respectively.

10. **Parking:** Parking spaces are proposed to be provided at the following rates, subject to provision of a Traffic Demand Management plan, to the satisfaction of the General Manager, Transportation Services:

Rental Unit Type	Rate Per Unit
Bachelor	0.30
1-Bedroom	0.40
2-Bedroom	0.60
3-Bedroom	0.80
Visitor	0.10

Condominium Unit Type	Rate Per Unit
Bachelor	0.60
1-Bedroom	0.70
2-Bedroom	0.90
3-Bedroom	1.00
Visitor	0.10
Townhouse	1.00

11. **Mid-Block Connections:** An east-west mid-block connection, being a privately-owned publicly accessible open space (“POPS”), is proposed to connect the new north-south street to the new public park. Additionally, a north-south mid-block connection, also a POPS, is proposed to connect Fisherville Road and the east-west POPS.

12. **Tenant Improvements:** The following improvements to the existing rental buildings are proposed, with no pass-through to existing and future tenants, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in residential rent above the applicable guideline, or in the form of any additional costs and charges:

Improvements to be provided prior to the first above grade building permit for Buildings B and C:

- a. Outdoor furniture, other programming and pavement improvements within the existing outdoor amenity area adjacent to the POPS;
- b. Outdoor amenity space improvements adjoining the building at 6040 Bathurst with furniture, other programming, and associated landscape treatments;
- c. Locating a hand delivered refuse drop-off area for kitchen waste and recycling within both existing buildings;
- d. Introducing push button automatic door openers for front door, vestibule door and laundry room door and a clothes folding table that is universally accessible within the laundry rooms;
- e. Introducing universal accessibility routes from outside the buildings to the elevators, as the buildings are currently not accessible;
- f. Short term-bike visitor bike racks located in close proximity to the front entrances of both existing buildings; and
- g. Fitness centre in the basement level of existing development.

Improvements to be provided prior to occupancy of Building A:

- a. Relocate 5 Fisherville Road's existing outdoor waste storage indoors and consolidate 6040 Bathurst Street's waste/loading with new proposed building A.

The identified tenant improvements will be subject to the site plan approval process. Additionally, Pinedale confirms that the existing indoor swimming pool will not be removed and will remain accessible to existing tenants.

13. **Block-Wide Implementation Plan:** The settlement proposal contemplates a Joint Section 37 Agreement being entered into by the City, Pinedale, Starlight and Timbercreek to facilitate the phasing, timing and construction of the new public street and other matters relating to the implementation of the block plan. The proposed phasing, as it relates to the Pinedale Property, is as follows:

- a. The timing of the construction of the north-south street, including both boulevards, and the east-west street, including the south boulevard, to base course asphalt will be as follows:
 - i. if the Master Functional Servicing Report and Stormwater Management Report (as referenced in paragraph 17.b below) or any site-specific Functional Servicing Report and Stormwater Management Report concludes that no municipal infrastructure to be located within the new public street is required to accommodate groundwater discharge from below grade construction, then the construction of the portions of the street (as described in paragraph 13.a.) will be prior to the issuance of an above-grade building permit for any new building on the block; or

- ii. if the Master Functional Servicing Report and Stormwater Management Report (as referenced in paragraph 17.b below) or any site-specific Functional Servicing Report and Stormwater Management Report concludes that municipal infrastructure to be located within the new public street is required to accommodate groundwater discharge from below grade construction, then the construction of the portions of the street (as described in paragraph 13.a) will be prior to the issuance of any building permit for any new building on the block.
- b. The north-south street, including both boulevards, and the east-west street, including the south boulevard, shall be conveyed to the City by Pinedale, Timbercreek and Starlight no later than the earlier of the issuance of the first above grade building permit for the Timbercreek Property or the Starlight Property. In addition, it is our understanding that it is a term of a settlement offer by Timbercreek that the conveyance of such lands will be no later than 30 days after the submission of the application for the first above grade building permit for the Timbercreek Property or the Starlight Property and, in any event, no later than the earlier of the first above grade building permit to be issued for the Timbercreek Property or the Starlight Property. Pinedale consents to this term as well.
- c. Pinedale's south-east parking ramp is to be closed prior to conveyance of the lands described in paragraph 13.b above.
- d. The north boulevard of the east-west street is to be built and conveyed to the City no later than the earlier of:
 - i. The issuance of the first above-grade building permit for Building A on the Pinedale Property; and
 - ii. 20 years following issuance of the LPAT Order.

14. Pinedale Property Site-Specific Phasing Plan:

- a. Phase 1A:
 - i. Buildings B and C and townhouse block 3 to proceed in Phase 1.
 - ii. Conveyance of public park as per paragraph 16.b.xxii.
 - iii. Construction and granting of an easement to the City over the north-south POPS, eastern half of the east-west mid-block connection and temporary east-west walkway connecting the public park to the north-south street, as per paragraphs 16.b.xv. and 16.b.xvi.
 - iv. New curb cut and site access from the north-south street to connect to existing surface parking, existing loading area and existing northwest ramp.
- b. Phase 1B:
 - i. New curb cut and site access from the east-west street to connect to existing surface parking and existing fire route.
 - ii. Decommission existing southeast ramp.

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iii. Close existing driveway access from Bathurst Street.

c. Phase 2:

- i. Building A and townhouse blocks 1 and 2 to proceed in Phase 2.
- ii. Closure of Pinedale's north ramp.
- iii. Construction and granting of an easement to the City over the western half of the east-west POPS, as per paragraph 16.b.xvii.
- iv. The temporary east-west walkway will be removed.
- v. The south driveway ramp will be demolished together with the construction of the north boulevard of the east-west street.
- vi. The existing garbage and loading for 6040 Bathurst Street to be consolidated with Building A.

15. **Joint Section 37 Agreement:** Together with IMH 25 Fisherville Ltd. ("Starlight") and Timbercreek Asset Management Inc. ("Timbercreek"), Pinedale will enter into a joint Section 37 Agreement with the City, registered in priority on title to the Pinedale Property, Starlight Property and Timbercreek Property, to the satisfaction of the City Solicitor, to secure the following (the "**Joint Section 37 Agreement**"):

- a. the conveyance and construction of the new public street, as described in paragraph 2 above, and all costs associated therewith, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- b. the construction of any required municipal services within the new public street to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- c. obligations with respect to the remediation of the lands for the new public street to be conveyed to the City, including the payment of all costs incurred by the City for a third-party peer review of environmental reports submitted by the owner, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- d. obligations with respect to the posting of financial securities in connection with the new public street, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services. The required financial securities will be based on cost estimates provided by the landowners, subject to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- e. the block-wide implementation plan, as described in paragraph 13 above;
- f. provisions with respect to assumption obligations of potential future owners, section 118 restrictions under the *Land Titles Act*, the assumption of the new public street by the City, warranty periods, insurance and indemnity, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the City Solicitor;

- g. in respect of any structures on the Pinedale Lands located beneath the new public street, such as Pinedale's parking garage, the provision of pre- and post-construction certification from Pinedale's structural engineer, together with as-built drawings, evidencing compliance with load-bearing standards in accordance with the Canadian Highway Bridge Building Code or the Ontario Building Code (whichever at the time of construction of the new public street is more stringent), and the provision of drainage system(s) and waterproofing with an appropriate membrane and protection against damage from the use and maintenance of the new public street, including but not limited to tree root growth, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- h. payment of engineering and inspection fees, to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services;
- i. the assumption of the road by the City following the registration of the conveyance of the new public street, to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services; and
- j. the maintenance and repair of, and liability for, the new public street by the landowners prior to its assumption by the City, to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services.

If, at the time the parties wish to sign the Joint Section 37 Agreement, the City no longer has statutory authority to sign and register same, for the purpose of enforcement against future owners, then the parties will secure the provision of the public road through a holding symbol "H" with conditions for its removal, including the requirement for a private agreement among Pinedale, Timbercreek and Starlight, which may provide for the matters enumerated in this paragraph 15.

16. Pinedale Section 37 Agreement:

- a. In addition to the Joint Section 37 Agreement, Pinedale will enter into a site-specific Section 37 Agreement with the City, registered in priority on title to the Pinedale Property, to secure the following community benefits, to the satisfaction of the Chief Planner and Executive Director, City Planning Division:
 - i. The provision of a licensable 62 space child-care facility for children from infants to 4 years in age on the ground floor of the podium of Building C, with "podium" being defined as the first 6 storeys of Building C, and generally in accordance with the plans, dated November 1, 2019 and prepared by IBI (the "Child-Care Facility Plan"). The area dimensions indicated on the Child-Care Facility Plan are calculated from the interior walls of each room. The final design of the child-care facility will be secured through the site plan approval process for Building B and C in accordance with the City of Toronto Child Care & Design Guideline (2016), the City of Toronto Child Care Design and Technical Guideline R1 (2016) and all applicable legislation, codes, regulations and by-laws, to the satisfaction of the Chief Planner, as per the Child-Care Facility Plan. The child-care facility will:

- Be completed prior to the occupancy of Building B and C. Prior to the issuance of the first above grade building permit for the construction of the podium, Pinedale will provide working drawings and specifications for the child-care facility in accordance with this paragraph 16.a.i.;
- Be conveyed in stratified fee simple to the City for no consideration upon the registration of a condominium for Building C;
- Have sufficient indoor and outdoor space to meet Provincial and City standards for a 62 space child-care facility;
- Have separate mechanical systems for the child care facility including heating, ventilation and air conditioning system;
- Have separate connections to municipal services (water and sanitary) and be separately metered; and
- Be designed, constructed, and finished, including millwork, by Pinedale. Additionally, Pinedale will provide kitchen appliances and laundry facilities. Pinedale will not be responsible for the furnishing, equipping, operation and/or maintenance of the child-care facility.

If applicable, Pinedale will pay all applicable Provincial Land Transfer Tax, which may be charged, but not any City of Toronto Land Transfer Tax, in connection with the conveyance of the fee simple interest of the day-care facility. This is conditional on the City consenting to Pinedale filing for a refund of the Provincial Land Transfer Tax which may be charged, subject to applicable legislation and by-laws.

- ii. The provision of public art on site or in the vicinity of the site, or payment in lieu in the amount of \$167,000 toward public art, to be payable prior to the issuance of the first above grade building permit on the Pinedale Property. The indexing of value of the contribution in this paragraph will be from the date of execution of the Section 37 Agreement to the date of payment.
- iii. The cash payment of \$500,000.00 to be allocated towards improvements to parks, community facilities and/or public realm located within Ward 6 and/or the vicinity of the site, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor, with such payment to be made prior to the issuance of the first above grade building permit on the Pinedale Property. The indexing of value of the contribution in this paragraph will be from the date of execution of the Section 37 Agreement to the date of payment.

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- iv. The provision of 10 one-bedroom affordable rental dwelling units in Building A, as affordable rental dwelling units. The average unit size of the affordable rental dwelling units shall be at least the same as the average unit size of the proposed one-bedroom market units. The affordable rental dwelling units shall be provided in contiguous groups of at least 6 dwelling units. The general configuration and layout of the 10 affordable rental dwelling units shall be to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

Pinedale will provide and maintain the 10 affordable rental dwelling units as rental dwelling units for at least 20 years, beginning with the date each such unit is first occupied. No affordable rental dwelling unit shall be registered as a condominium or any other form of ownership such as life lease or co-ownerships which provide a right to exclusive possession of a dwelling unit, and no application for conversion for non-rental housing purposes, or application to demolish any affordable rental dwelling unit shall be made for at least 20 years from the date of first occupancy. When the 20 years period has expired, the owner shall continue to provide and maintain the affordable rental dwelling units as rental dwelling units, unless and until such time as the owner has applied for and obtained all approvals necessary to do otherwise; and

Pinedale will provide and maintain the affordable rental dwelling units at affordable rents, as defined in the Official Plan, for at least 15 years, beginning with the date that each such unit is first occupied. During the first 15 years of occupancy, increases to initial rents charged to tenants occupying any of the affordable rental dwelling units shall be in accordance with the Residential Tenancies Act and shall not exceed the Provincial rent guideline until the tenancy ends.

- b. As a matter of legal convenience, the Section 37 Agreement will also secure the following:
 - i. Provide a Transportation Demand Management Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and construction of the development in accordance with the Transportation Demand Management Plan;
 - ii. Prior to Site Plan Approval for the proposed development, provide a Tenant Construction Mitigation & Communication Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or his designate;
 - iii. Provide a Construction Phasing Plan for the proposed development, substantially in accordance with paragraphs 13 and 14, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and construct the development in accordance with that plan;
 - iv. Prior to the Tribunal issuing its final order approving the proposed Zoning By-law Amendment, provide a Master Functional Servicing

Report and Storm Water Management Report for the Pinedale Property, Starlight Property and Timbercreek Property, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services. The City acknowledges that the landowners would jointly satisfy this requirement through the provision of a single Master Functional Servicing Report and Storm Water Management Report for the three sites, prepared by one engineering consultant firm jointly retained by the owners of the three sites;

- v. Prior to the Tribunal issuing its final order approving the proposed Zoning By-law Amendment, provide an updated Pinedale site-specific Functional Servicing Report and Storm Water Management Report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- vi. Prior to issuance of the first building permit for the first phase of the proposed development on the Pinedale Property, enter into appropriate agreements and provide financial security for servicing upgrades and construct and operational to municipal infrastructure, if determined necessary for the proposed development on the Pinedale Property by the Master Functional Servicing and Stormwater Management Report or the Pinedale site-specific Functional Servicing and Stormwater Management Report consistent with the parameters and criteria of the Master Functional Servicing Report for the site-specific Functional Servicing Report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- vii. If the Master Functional Servicing Report and Stormwater Management Report, the Pinedale site-specific Functional Servicing Report and Stormwater Management Report or the updated and consolidated Traffic Impact Study concludes that external municipal infrastructure upgrades are required to facilitate the proposed development on the Pinedale Property, Pinedale agrees that the external municipal infrastructure upgrades will be designed, constructed and operational prior to the issuance of any above grade building permit for the Pinedale Property. For greater clarity, provided Pinedale satisfies the requirement described in this subparagraph 16.b.vii., any requirement for external municipal infrastructure upgrades that are specific to the Timbercreek property and/or Starlight property, which do not affect Pinedale, will not delay Pinedale's ability to proceed with development on its own property;
- viii. Agree to continue to provide and maintain the 202 existing rental dwelling units in existing apartment building at 6040 Bathurst Street and the 202 existing rental dwelling units in the existing apartment building at 5 Fisherville Road as residential rental dwelling units, together with the associated spaces located within the two existing apartment buildings, for a minimum period of 20 years commencing from the date the Tribunal issues a final order approving the proposed development, with no application to demolish or convert the existing rental units to another use during that period of time;

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- ix. Agree that the costs of the improvements, as described in paragraph 12, to the existing apartment buildings and associated spaces within and outside the existing apartment buildings, and improvements for the purpose of the proposed buildings, shall not be passed on to the tenants of the existing apartment buildings in any form, including by way of an application to the Landlord Tenant Board, or to any successor tribunal with jurisdiction to hear applications made under the *Residential Tenancies Act*, for the purpose of obtaining an increase in residential rent above the applicable guideline, or in the form of any additional costs and charges;
- x. Design the improvements to the existing apartment buildings, as described in paragraph 12, in accordance with the phasing of such improvements as set out in paragraph 12, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or his designate;
- xi. Construct and maintain the Development in accordance with Tier 1 performance measures of the Toronto Green Standard;
- xii. Prior to Site Plan Approval of the proposed tall building at the north east corner of the site, design a privately-owned publicly accessible open space (POPS) adjacent to the on-site parkland dedication, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or his designate and construct the POPS in the first phase of development of the site in accordance with the approved site plans (the POPS referred to in this paragraph being the "Park POPS");
- xiii. Prior to the earlier of condominium registration of Building C, first occupancy of Building C, and 3 years from the date the first above grade building permit is issued for Building C, grant an easement to the City along with all necessary rights of support, for nominal consideration and free and clear of title encumbrances, to the satisfaction of the City Solicitor, over and upon the Park POPS for the purpose of privately-owned publicly accessible open space in favour of the general public, on terms satisfactory to the Chief Planner and Executive Director, City Planning Division or his designate, in consultation with the City Solicitor;
- xiv. Prior to Site Plan Approval of Building B, design a privately-owned publicly accessible open space (POPS) which functions as a midblock connection through the site in an east/west orientation and in a north/south orientation, to the satisfaction of the Chief Planner and Executive Director, City Planning Division or his designate (the POPS referred to in this paragraph being the "Midblock POPS"). The Midblock POPS will be constructed in accordance with the approved site plans and the phasing described in paragraph 14.
- xv. Prior to the earlier of condominium registration of any part of Building B and Building C, inclusive of the shared podium, first occupancy of Building B and Building C, inclusive of the shared podium, and 3 years from the date the first above grade building permit is issued for the

shared podium of Building B and Building C, grant an easement to the City along with all necessary rights of support, for nominal consideration and free and clear of title encumbrances, to the satisfaction of the City Solicitor, over and upon the north south portion of the Midblock POPS for the purpose of pedestrian use by the general public, in accordance with the phasing plan described in paragraph 14 and on terms satisfactory to the Chief Planner and Executive Director, City Planning Division, or his designate, in consultation with the City Solicitor;

- xvi. Prior to the earlier of condominium registration of any part of Building C, occupancy of Building C and 3 years from the date of issuance of the first above grade building permit for Building C, the owner shall grant (1) a temporary easement to the City, for nominal consideration, over the temporary east-west walkway described in paragraph 14.a.iii. and (2) an easement to the City along with all necessary rights of support, for nominal consideration and free and clear of title encumbrances, to the satisfaction of the City Solicitor, over and upon the east half of the Midblock POPS for the purpose of pedestrian use by the general public, in accordance with the phasing plan described in paragraph 14, and on terms satisfactory to the Chief Planner and Executive Director, City Planning Division, or his designate, in consultation with the City Solicitor.
- xvii. Prior to the earlier of condominium registration of any part of Building A, occupancy of Building A and 3 years from the date of issuance of the first above grade building permit for Building A, the owner shall grant an easement to the City along with all necessary rights of support, for nominal consideration and free and clear of title encumbrances, to the satisfaction of the City Solicitor, over and upon the west half of the Midblock POPS for the purpose of pedestrian use by the general public, in accordance with the phasing plan described in paragraph 14 and on terms satisfactory to the Chief Planner and Executive Director, City Planning Division, or his designate, in consultation with the City Solicitor.
- xviii. Construct and maintain the proposed development in accordance with the Transportation Demand Management Plan;
- xix. Construct the proposed development in accordance with the phasing plans referred to in paragraphs 13 and 14;
- xx. Implement the wind control measures study for the Pinedale Property as part of site plan control, in accordance with the consolidated Wind Study, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- xxi. A minimum of 10% of the new dwelling units on the Pinedale Property will be 3-bedroom units; and
- xxii. Convey the 691 square metre parkland dedication to the City in base park condition prior to the issuance of the first above grade building permit on the Pinedale Property. Pinedale will satisfy, as its sole cost

and expense, the requirements of the City's Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act prior to the conveyance.

17. **Pre-conditions to LPAT Order:** The final order on the Zoning By-law Amendments for the Pinedale Property would be withheld until the satisfaction of the following pre-conditions:
- a. Pinedale submits a Traffic Demand Management plan with respect to the Revised Proposal, to the satisfaction of the General Manager, Transportation Services;
 - b. Pinedale, Starlight and Timbercreek submit a Master Functional Servicing Report and Stormwater Management Report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
 - c. Pinedale submits a site-specific Functional Servicing Report and Stormwater Management Report, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
 - d. Pinedale, Starlight and Timbercreek submit a consolidated Traffic Impact Study, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
 - e. Pinedale, Starlight and Timbercreek submit a consolidated Wind Study for the Block, to the satisfaction of the Chief Planner and Executive Director, City Planning or his designate;
 - f. Pinedale, Starlight, Timbercreek and the City enter into and register the Joint Section 37 Agreement, to secure the obligations set out in paragraph 15 above, to the satisfaction of the Chief Engineer and Executive Director and City Solicitor;
 - g. Pinedale, Starlight and Timbercreek provide cross-section drawings of the proposed public road with a minimum width of 16.5 metres, inclusive of (1) all municipal services such as watermains, storm sewers, sanitary sewers, if required as concluded in the Master Functional Servicing Report and Stormwater Management Report and/or the site-specific Functional Servicing Report and Stormwater Management Report, (2) all utilities, including street lights, (3) proposed connections with, and any improvements to, Bathurst Street and Fisherville Road, and (4) proposed pavement markings and signage for the proposed public road, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
 - h. Pinedale executes and registers on title a site-specific Section 37 Agreement, as described in paragraph 16 above, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - i. Pinedale registers a restriction on the Pinedale Property pursuant to section 118 of the *Land Titles Act*, to the satisfaction of the City Solicitor; and

- j. Pinedale and the City provide the final form of the Zoning By-law Amendments for the Pinedale Property, to the satisfaction of the City Solicitor, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

In support of the Revised Proposal and this settlement offer, please find enclosed the following materials:

1. Architectural plans, including phasing plan, dated November 1, 2019;
2. Child-care facility plans, dated November 1, 2019; and
3. Block plan, dated December 4, 2019.

Should you have any questions about the foregoing, please contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Kim M. Kovar
KMK/MB/mn

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