



CC23.7 - Confidential Appendices A and B - made public on December 22, 2016

December 14, 2016

Legal Services, City of Toronto
Metro Hall
55 John Street, 26th Floor
Toronto ON, M5V 3C6

Attention: Ms. Ellen Penner, City Solicitor

Dear Ms. Penner:

Re: REVISED "WITHOUT PREJUDICE" – OFFER TO SETTLE

740 & 750 YORK MILLS ROAD and 17 FARMSTEAD ROAD

As you are aware, we are the solicitors for MLYM Inc., the owner/applicant with respect to the above-noted matter. Our client and its consulting team have engaged in an extremely comprehensive and cooperative consultative process, which has led to an executed settlement with both active residents' associations in the area surrounding our client's site.

In recognition of the cooperative process that has taken place to date, our client has authorized the writer to put forward the following "without prejudice" revisions/reductions to the proposal:

- The townhouse blocks on the southwesterly, southern and southeasterly portions of the site have been eliminated, resulting in a reduction to the overall unit count from 260 units to 192 units;
- Our client will provide at least the minimum amount of amenity space recommended by Planning Staff in the Final Report. The amenity space currently existing on the site today will be maintained. The attached site plan also provides for the potential to rebuild an enclosed pool area generally located in the area of the existing outdoor pool with a revised amenity building footprint with a permitted height of 9.5m if our client chooses to increase the amount of amenity provided on site at some point in the future.
- Our client agrees to provide an on-site parkland dedication of 951.04 square metres as shown on the site plan attached hereto. It is our client's understanding that of the parkland area being conveyed, our client will get credit for on-site parkland dedication in the amount of 704.6 square metres. This on-site park would fulfill part of our client's parkland dedication requirement and would be conveyed to the City by consent prior to

the issuance of the first above-grade building permit. The remainder of the requirement (716.08 square metres) is proposed to be paid in cash-in-lieu payable prior to the issuance of the first above-grade building permit;

- Our client agrees to the requirement that all lands being conveyed to the City meet the environmental conditions required by the City including the peer review process and all base park requirements, at no cost to the City.
- Our client agrees to install a decorative metal fence (which is an upgrade from the standard chain link fence required as a base park improvement) on the north and east edge of the park at its own expense. Any other above-base park improvements, not including the decorative fence, agreed to by our client should be credited against the Parks and Recreation component of the Development Charges required to be paid by our client upon the issuance of the first above-grade building permit;
- In addition to the parkland contribution, the site plan has been revised to add a Privately Owned Publicly Accessible Space (POPS) at the southern end of the site as shown on the attached revised site plan, with easements for public access to be conveyed to the City prior to the issuance of the first above-grade building permit. Our client agrees to complete the construction of the POPS following the completion of the development project. The POPS area may be used for construction staging and/or temporary parking during construction;
- The site plan has been revised to provide a maximum of 44 surface parking spaces between the POPS area and the existing apartment buildings as shown on the attached revised site plan; and
- Finally, our client agrees to a revised Section 37 cash contribution of \$650,000 payable prior to the issuance of the first above-grade building permit. This amount has been reduced from the original amount recommended by City Staff commensurate with the reduction of gross floor area and units from the original proposal that was supported by City Staff and considered by Community Council in May 2016.

Attached hereto is a revised site plan which shows the reduction in townhouse units, the expansion of the central amenity area, the surface parking spaces and both parkland and POPS areas.

Our client's commitment to the \$650,000 contribution as well as the other significant revisions to its proposal is conditional upon City Council's support of the attached site plan and the revisions noted above. Please be advised that this offer is made on a "without prejudice" basis, which offer formally expires on the day following the December City Council meeting if the offer is not accepted by that time.

Should you have any questions or require any additional information, please do not hesitate to contact the writer or Jessica Smuskowitz, a lawyer in our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Adam J. Brown', with a stylized, cursive script.

Adam J. Brown

Cc: Councillor Jaye Robinson
Mr. John Andreevski, Senior Planner, Community Planning, North York District
Mr. Pedro Lopes, MLYM Inc.



SITE PLAN



- PROPOSED DEVELOPMENT SITE AREA (947.24 m²)
- DEDICATED PARKLAND (704.60 m²)
- PRIVATELY OWNED PUBLICLY ACCESSIBLE SPACES (3149.73 m²)
- EXISTING BUILDING

DECEMBER 09, 2016

LESLIE & YORKMILLS





Memorandum

Parks, Forestry & Recreation
Janie Romoff, General Manager

Planning, Design & Development
North District
3rd floor, North York Civic Centre
Toronto, ON M2N 5V7

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December 9, 2016

To: Ellen Penner, City Legal

CC: John Andreevski, City Planning

From: Rosanne Clement, Project Manager, Development Applications Unit

Subject: 740 York Mills Road
Zoning By-law Application 13 198702 NNY 25 OZ
MILYM INC
Ward - 25 - Don Valley West

Application Description

The revised proposal is for 192 stacked townhouse dwelling units within 4 blocks on a site totalling 321,279 m² (3.1279 ha). In response to your circulation, which includes the site plan prepared by Rafael + Bigauskas Architects (dated by the Architect 12/06/16), the Development Applications Unit of the Parks, Forestry and Recreation Division advises the following.

Applicability of Parkland Dedication

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.80 to 1.56 hectares of local parkland per 1,000 people. The site is in the middle quintile of current provision of parkland. The site is in a parkland acquisition priority area, as per Chapter 415, Article III of the Toronto Municipal Code.

Parkland Dedication Requirements

The application proposes 192 residential units as an infill development on a 9,471.24m² portion of the overall site. At the alternative rate of 0.4 hectares per 300 units specified in Chapter 415, Article III, of the Toronto Municipal Code, the parkland dedication requirement is 2560 m² or 27 % of the site area. However, for sites that are 1 to 5 hectares in size, a cap of 15% of the development site is applied to the residential use while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 1420.68 m².

Proposal for Dedication of Parkland

The applicant is required to satisfy the parkland dedication requirement through a combined on-site dedication and cash-in-lieu of parkland dedication. The parkland dedication is to be located at the southwest portion of the site to expand Mossgrove Park. This area contains mature trees which will be preserved and enhance the adjoining park. The applicant has indicated on the revised site plan that 951.04m² of parkland will be conveyed. However because 246.44m² is encumbered with below grade easements, this area will not be counted towards the fulfillment of Section 42, Planning Act, for the parkland dedication requirement. As such 704.6m² will be counted as part of the parkland dedication owing and the remaining 716.08m² will be provided as a cash-in-lieu payment prior to the issuance of the first building permit.

Conditions of Parkland Conveyance

If this application is approved, the following conditions of approval are recommended to be included:

Recommended Conditions of Approval

Parkland Dedication

1. Prior to the issuance of the first above grade building permit, the Owner shall convey parkland and payment in lieu of parkland dedication for the amount equal to 1,420.68m² to the satisfaction of the General Manager, Parks, Forestry and Recreation (PFR).
2. The Owner will be required to convey 951.04m² portion of the development site for public parkland purposes. Of this, 704.6m² will be conveyed free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, and will be counted as part of the required parkland dedication. The remaining 246.44m² is encumbered and will not be counted towards fulfilling the required parkland dedication. Dimensionally, the park block is 12.73m² wide and is separated 3m from the proposed new parking ramp.
3. The balance of the parkland dedication requirement of 716.08m² will be payable as cash-in-lieu prior to the issuance of the first building permit.
4. The Owner is to pay for the costs of the preparation and registration of all relevant documents. The Owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey for the new parkland.

Environmental Assessment

5. Prior to conveying the parkland to the City, the Owner must:

5.1. Submit a Qualified Person Preliminary Statement Letter, that is dated and signed by the applicant's Qualified Person, as defined in O. Reg. 153/04, as amended, describing the lands to be conveyed to the City, and identifying what environmental documentation will be provided to the City's peer reviewer to support this conveyance; all environmental documentation consistent with O. Reg. 153/04 requirements shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Executive Director of Engineering & Construction Services and copy to the General Manager, PFR;

5.2. Pay all costs associated with the City retaining a third-party peer reviewer including all administrative costs to the City, and submit an initial deposit towards the cost of the peer review in the form of a certified cheque, to the Executive Director, Engineering & Construction Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer (unused funds will be refunded to the applicant by the City);

5.3. Submit, to the satisfaction of the City's peer reviewer, all Environmental Site Assessment reports prepared in accordance with the Record of Site Condition Regulation (Ontario Regulation 153/04, as amended) describing the current conditions of the land to be conveyed to the City and the proposed Remedial Action Plan based on the site condition standards approach, to the Executive Director, Engineering and Construction Services;

5.4. At the completion of the site assessment/remediation process, submit a Statement from the Qualified Person based on the submitted environmental documents, to the Executive Director, Engineering & Construction Services for peer review and concurrence, which states: Policy for Accepting Potentially Contaminated Lands 16

5.4.1. In the opinion of the Qualified Person:

5.4.1.1. It is either likely or unlikely that there is off-site contamination resulting from past land uses on the development site that has migrated onto adjacent City lands that would exceed the applicable Site Condition Standards; and

5.4.1.2. To the extent that the opinion in 5.4.1.1 is that past migration is likely, it is either possible or unlikely that such off-site contamination on adjacent City lands poses an adverse effect to the environment or human health.

5.4.2. Land to be conveyed to the City meets either:

5.4.2.1. the applicable Ministry Generic Site Condition Standards (Tables 1, 2, 3, 6, 7, 8 and 9) for the most environmentally sensitive adjacent land use; or

5.4.2.2. the Property Specific Standards as approved by the Ministry for a Risk Assessment/Risk Management Plan which was conducted in accordance with the conditions set out herein.

5.5. The Qualified Person's statement, referenced in 5.4 above, will include a Reliance Letter that is dated and signed by the applicant's Qualified Person, as defined in O. Reg. 153/04, as amended, confirming that both the City and the City's peer reviewer can rely on the environmental documentation submitted, consistent with O. Reg. 153/04 requirements, and the Qualified Person's opinion as to the conditions of the site; all environmental documentation consistent with O. Reg. 153/04 requirements and opinions shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Executive Director of Engineering & Construction Services.

5.6. For conveyance of lands requiring a Record of Site Condition:

5.6.1. File the Record of Site Condition on the Ontario Environmental Site Registry; and

5.6.2. Submit the Ministry's Letter of Acknowledgement of Filing of the RSC confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, as amended, to the Executive Director, Engineering & Construction Services and to the General Manager, PFR.

Park Construction

Base Park Improvements

6. The Owner, at their expense, will be responsible for the base construction and installation of the parkland. The Base Park Improvements include the following:
- a. grading inclusive of topsoil supply and placement, minimum of 150 mm depth;
 - b. sodding #1 nursery grade or equivalent value of other approved park development;
 - c. fencing, where deemed necessary to the satisfaction of PFR;
 - d. drainage systems, including connections to the municipal services as required;
 - e. electrical and water connections (minimum 50 mm) to street line including backflow preventers, shut off valves, water and hydro chambers, including meters;
 - f. street trees along all public road allowances which abut future City-owned parkland;
 - g. standard park sign (separate certified cheque required); and
 - h. demolition, removal and disposal of all existing materials, buildings and foundations.

7. All work is to be completed to the satisfaction of the General Manager, PFR.
8. The Owner will upgrade at their expense, the fence requirement identified in the Base Park Improvements to a decorative metal fence.
9. Prior to the issuance of the first above grade building permit, the Owner shall submit a cost estimate and any necessary plans for the Base Park Improvements and fence upgrade, to the satisfaction of the General Manager, PFR.
10. Prior to issuance of the first above grade building permit, the Owner shall post an irrevocable Letter of Credit in the amount of 120% of the value of the Base Park Improvements and fence upgrade for the parkland to the satisfaction of the General Manager, PFR. No credit shall be given towards the Parks and Recreation component of the Development Charges for costs associated with Base Park Improvements or the fence upgrade.
11. The construction of the Base Park Improvements and fence upgrade to the park block shall be completed within one year after the issuance of the first above grade building permit to the satisfaction of the General Manager, PFR. Unforeseen delays (e.g. weather) resulting in the late delivery of the park block shall be taken into consideration and at the discretion of the General Manager, PFR when determining a revised delivery date for the park block.
12. Should the Owner undertake park improvements on the park block following conveyance of the park block to the City, the Owner must obtain a Park Occupation Permit (POP) from PFR's Planning, Design and Development section. The POP will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, and duration to the satisfaction of the General Manager, PFR. The Owner will indemnify the City against any claim during any interim use of or work carried out by the applicant on the park.

Temporary Fencing

13. Prior to conveyance of the parkland, the Owner shall be responsible for the installation and maintenance of temporary fencing around the parkland and its maintenance until such time as the development of the park block is completed.

Parkland Grading and Drainage

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14. The Owner shall ensure that the grading and drainage of the adjacent development blocks are compatible with the grades of the parkland to the satisfaction of the General Manager, PFR.
 15. The Owner must provide documentation from a qualified environmental engineer that any fill or topsoil brought onto the site meets all applicable laws, regulations and guidelines for use in a public park.

Warranty

16. The Owner, upon satisfactory completion of the construction and installation of the Base Park Improvements and fence upgrade shall be required to guarantee such work and associated materials. The Owner shall provide certification from their Landscape Architect certifying that all work has been completed in accordance with the approved drawings. Upon the City's acceptance of the certificate, the Letter of Credit will be released less 20% which will be retained for the 2 year guarantee known as the Parkland Warranty Period.
17. Upon the expiry of the Parkland Warranty Period, the outstanding park security shall be released to the Owner provided that all deficiencies have been rectified to the satisfaction of the General Manager, Parks, Forestry, and Recreation (PFR).
18. As-built drawings in print/hardcopy and electronic format, as well as a georeferenced AutoCAD file, shall be submitted to PFR. A complete set of "as built" plans shall be provided electronically on CD in PDF format and in a georeferenced AutoCAD file, in addition to two (2) sets full size bond hard copy the General Manager, PFR. The plans shall include, but not limited to specifications, locations of all hidden services, and all deviations from the design drawings, shop drawings, inspection reports, minutes of meeting, site instructions, change orders, invoices, certificates, progress images, warranties, close out documentation, compliance letters (for any play structures and safety surfaces), manuals etc. The files are to be organized in folders, including a file index and submitted with written warranties and related documents such as lists of contractor, sub-contractors together with contact persons, telephone numbers, warranty expiry dates and operating manuals.
19. Spare or replacement parts, special tools, etc as provided by manufacturers, if any, are to be provided to PFR.

Advisory Comments

Parkland Occupation - Construction Staging

The stockpiling of any soils or materials or use as an interim construction staging area on the conveyed parkland is prohibited. Given the establishment of mature trees in this area, a Park Occupation Permit (POP) will not be granted.

Limiting Distance

Parks, Forestry & Recreation (PF&R) advises that the applicant must design the building to achieve Ontario Building Code (OBC) setbacks related to fire separation on

their own site on the portions where new buildings abut the new park or Mossgrove Park. Prior to the issuance of any above grade building permit the applicant will be required to demonstrate adequately that the OBC requirements have been achieved to the satisfaction of the General Manager, PF&R.

Section 37

If the Owner of the property enters into a Section 37 Agreement with the City as part of this development application, this department requests to be involved in the negotiations. Funds directed towards the area parks and facilities within the Ward should form part of the benefits package.

Urban Forestry

Comments regarding any necessary street tree plantings and requirements under the private tree protection by-law or the Ravine By-law will be forwarded directly to your attention by Urban Forestry.

For information regarding parkland dedication requirements, the applicant should contact Rosanne Clement at 416-395-7900 rclement@toronto.ca.



Rosanne Clement
Project Manager, Development Applications Unit

cc: Councillor Robinson - Ward 25
Jim McKay Parks General Supervisor