

Reply to the Attention of Mary Flynn-Guglietti
Direct Line 416.865.7256
Email Address mary.flynn@mcmillan.ca
Our File No. 246772
Date September 5, 2017

DELIVERED BY EMAIL - etcc@toronto.ca

Etobicoke Civic Centre
399 The West Mall, Main Floor
Toronto, ON
M9C 2Y2

**Attention: Ms. Rosemary MacKenzie
Etobicoke York Community Council Secretariat**

Dear Chair Councillor Grimes and Members of the Etobicoke York Community Council:

**Re: EYCC Meeting of September 6, 2017; Item No. EY24.5
Intention to Designate under Part IV, Section 29 of the
Ontario Heritage Act, RSO 1990, c O.18 (the “Ontario
Heritage Act”) - 68 Daisy Avenue, City of Toronto**

We are the solicitors retained on behalf of 1241461 Ontario Inc., operating as Dunpar Developments Inc. (“**Dunpar**”), owner of the property municipally known as 68 Daisy Avenue in the City of Toronto (the “**Property**”). The Property is a former Toronto District School Board site located in the City of Toronto’s Ward 6, north of Daisy Avenue, east of Twenty Ninth Street and south of Elder Avenue. The former Vincent Massey Public School building remains present on the Property and is currently operated as the Vincent Massey Day Care & Nursery School.

On June 4, 2015 Dunpar filed an application for Zoning By-law Amendment to allow development of the Property for 73 residential townhouse units (the “**Application**”). The existing Day Care Centre is intended to be maintained and, in the future, will be severed from the Property in order to be operated independently. Accordingly, upon severance of the Property, Parcel 1 of the Property will be the lands for development by Dunpar (the “**Development Lands**”) and Parcel 2 of the Property will comprise the lands with the existing Day Care Centre (the “**Vincent Massey Lands**”).

On September 30, 2016 Dunpar appealed City Council’s failure to make a decision regarding the Application within 120 days to the Ontario Municipal Board (the “**Board**”). A settlement hearing was held before the Board on August 9th, 2017 wherein the Board orally approved in principle the Settlement reached between Dunpar and the City. Details of the approved settlement terms are outlined in the Confidential Appendices 1 and 2 which were adopted by City Council at their meeting held July 4, 5 and 6, 2017 (the “**Settlement Terms**”) and which are attached to this letter as Schedule “A”. The Settlement Terms were made public on July 14, 2017.

Pursuant to the Settlement Terms, only the Vincent Massey Lands will be designated under Part IV of the *Ontario Heritage Act*, as shown on the sketch of the Property attached as Appendix 2 to the Settlement Terms. The Development Lands are not intended to be designated under Part IV of the *Ontario Heritage Act* under the Settlement Terms.

The recommendations before the Etobicoke York Community Council relate to the City's intention to designate the Property as a whole under Part IV, Section 29 of the *Ontario Heritage Act*. Dunpar is not objecting to such recommendations, in particular as the Property has not yet been severed into Parcel 1 and Parcel 2 as contemplated. It is respectfully submitted, however, that the by-law to be prepared for designation of the Property should reflect the Settlement Terms, wherein only the Vincent Massey Lands shown as Parcel 2 are designated under Part IV of the *Ontario Heritage Act*. Therefore, should this intention to designate the Property be adopted by the EYCC, we ask that the Settlement Terms be considered and noted by the EYCC as part of such adoption.

Please do not hesitate to contact us should you have any questions.

Yours truly,

per: 
Mary Flynn-Guglietti

Attach.

CC: 1241461 Ontario Inc.
Councillor Mark Grimes
Robert Robinson, City of Toronto Legal
Neil Cresswell, Director of Community Planning Etobicoke York District
Sherry Pederson, Program Manager Heritage Preservation Services
Georgia Kuich, Heritage Planner, Heritage Preservation Services

SCHEDULE "A"
SETTLEMENT TERMS

CONFIDENTIAL APPENDIX 1 - 68 Daisy Avenue

Settlement Terms

At a without prejudice meeting on June 20, 2017, representatives of Dunpar Developments (“Dunpar”) met with City of Toronto Legal, Planning and Heritage Staff to discuss a potential settlement relating to appeals filed by Dunpar in connection with OMB File No. PL160965. The following items represent the matters agreed to between Dunpar and the City as the Terms of Settlement.

1. Built Form

The City will accept the built form as shown on the Architectural Site Plan submitted by the applicant dated "Revision 18 – issued for SPA, November 30, 2016", subject to the following matters being addressed during the Site Plan Approval process:

- a. Improve the exterior facade elevation at the southwest corner along Daisy Avenue, located on Blocks A & B as per Architectural Site Plan drawings dated November 30, 2016; and
- b. Implement improved pedestrian scale lighting in the landscape areas between Blocks B, C, D & E as per Architectural Site Plan drawings dated November 30, 2016.

2. Heritage

The City and Dunpar agree that they will jointly request the OMB not to issue its Final Order approving the Zoning By-law Amendment until such time as:

- a. Dunpar has submitted a Conservation Plan to the satisfaction of the Senior Manager, Heritage Preservation Services ("HPS"). The Conservation Plan will include details regarding the extent of conservation work to be undertaken by Dunpar on the Vincent Massey building, namely masonry conservation as well as repair, restoration and replacement of some windows of the two storey building, and repair and restoration of some windows on the one storey easterly addition. No permits including a heritage permit will be issued prior to finalization of the Conservation Plan to the satisfaction of HPS, except that the City agrees to issue a demolition permit for the gymnasium portion of the building on condition that the demolition permit application for the gymnasium will include a detailed strategy to ensure the safety and security of the west wall of the original school building during and after the demolition, to the satisfaction of the Senior Manager, Heritage Preservation Services;
- b. The City has designated under Part IV of the Ontario Heritage Act the property on Parcel 2 (the "Vincent Massey lands"), as illustrated on the attached sketch (Appendix 2) which includes the two-storey building and the one storey east addition, but not including Parcel 1 being the Development site. Dunpar agrees to support such designation by-law. Upon the passing of the by-laws designating Parcel 2 under the

Ontario Heritage Act, Parcel 1 will not be subject to requirements under the Ontario Heritage Act; and

c. Dunpar has entered into and registered on title a Heritage Easement Agreement with the City, to the satisfaction of HPS, to secure the long-term conservation of the Vincent Massey building.

As a condition of settlement, Dunpar agrees that it will not object to the recommendations in the staff report (as adopted by the Toronto Preservation Board on March 23, 2017, to designate the property at 68 Daisy Avenue under Part IV of the Ontario Heritage Act) to be considered at the meeting of the Etobicoke York Community Council on September 6, 2017 and by City Council on October 2, 2017, with amendments to remove reference to the vestibule/cloakroom on the eastern addition of the Vincent Massey building and to authorize the entering into of a Heritage Easement Agreement.

3. Section 37

Pursuant to section 37 of the Planning Act, R.S.O. 1990, c. P. 13, as amended, Dunpar agrees to make a contribution of \$125,000 upon issuance of first above grade permit, to be used towards parkland improvements in Ward 6, and to be secured by a section 37 agreement. This cash amount shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for Toronto, calculated from the date of execution of the Section 37 Agreement to the date of payment.

The Section 37 Agreement will also secure the continuation of the existing for-profit daycare uses in the Vincent Massey Childcare Center ("VMCC"), through the following:

Dunpar agrees to enter into a Section 37 Agreement with the City and the Daycare Operator of the VMCC, to be registered on title to Parcels 1 and 2 that provides for and secures the following:

- a. the Site Specific Zoning By-law will rezone the lands shown as Parcel 2 on Appendix 2 solely for daycare and community uses;
- b. the Section 37 Agreement will require that a daycare centre will continue to operate on Parcel 2 for a defined period of time (up to 20 years) ; and
- c. Dunpar agrees to obtain a letter of undertaking from the current Daycare Operator to commit to operating the daycare for up to 20 years from the date of execution of the Section 37 agreement.

4. Part 5 – Application for Absolute Title

Dunpar agrees to withdraw its Notice of Claim to Ownership of Land by Pre-existing Length of Possession to the lands shown as Part 5 on the attached sketch (PIN 07590-0367 being part of Lot 116, Plan 1572, designated as Part 2 of Plan 66R27595) registered by the Land Registrar on January 31, 2017 as Instrument No. 4474161

together with its Notice of Application for Absolute Title (Subsection 46 (2) of the Act) registered by the Land Registrar on February 28, 2017 as Instrument No. 4497072, only as it pertains to the said PIN 07590-0367 being part of Lot 116, Plan 1572, designated as Part 2 on Plan 66R27595 and shall proceed with the aforesaid Notice of Application for Absolute Title in respect of the balance of the Lands , and provide written acknowledgment to the City that the City is the legal owner of Part 5, upon finalization of a site specific zoning by-law as approved by a final and binding and non-appealable Ontario Municipal Board Order, subject to the following condition:

a. The City agrees to enter into sale or alternatively lease negotiations with the Daycare Operator at fair market value to continue its use of Part 5 for uses ancillary to the purposes of a daycare, including parking.

5. Parkland

The City and Dunpar agree that dedication of lands for an on-site park will not be required, and Dunpar will make the required cash-in-lieu of parkland contribution, not including the Daycare parcel, to be paid at the issuance of the first above-grade building permit.

