

AIRD BERLIS

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January 12, 2018

WITHOUT PREJUDICE AND CONFIDENTIAL

VIA EMAIL

Our File #133881

Jessica Braun
Solicitor, Planning & Administrative Tribunal Law
Legal Services
City of Toronto
26th Floor, Metro Hall
55 John St.
Toronto ON M5V 3C6

Dear Ms. Braun:

**Re: Without Prejudice Settlement Offer
169 The Donway West, City of Toronto
City File No: 15 227717 NNY 25 0Z
OMB File Nos: PL160225 and PL160334**

We act on behalf of 169 The Donway West Inc. in connection with the above referenced matter.

In September, 2015 our client filed an application for amendments to the Official Plan and the former City of North York Zoning By-law 7625 in order to permit the construction of a mixed use development on this site, including grade related retail uses and two residential towers having heights of 34 and 39 storeys. The proposal represented a density of 7.2 times the lot area and a total of 736 dwelling units.

In March, 2016 our client appealed Council's failure to issue a decision with respect to these applications within the statutory timeframes set out in the *Planning Act*. The Ontario Municipal Board conducted a pre-hearing conference at which time the City, our client and the Don Mills Residents Inc. ("DMRI") were identified as parties to these appeals. At that time, the parties jointly requested mediation, rather than a hearing date.

While awaiting a mediation date, our client and its team continued to consult with City staff and members of the DMRI and in response to feedback received, made revisions to its proposal. A revised submission was made to the City in June, 2017 (drawings dated June 26, 2017). The revised proposal includes a new public park and replaced the two tower proposal with a single tower of 34 storeys and a 14 storey mid-rise building with townhouse units and street related retail uses at grade. The number of dwelling units was reduced to 631 and the density was reduced to 5.9 times the lot area.

Since that time, our client and its team have continued to participate in discussions with City staff and members of the DMRI, and more recently, the three parties attended two days of mediation at the Ontario Municipal Board.

At this time, we are writing to set out the terms of an offer by which we hope to resolve these appeals. Our client is prepared, on a without prejudice basis, to proceed to a future hearing based on additional revisions to the June 26, 2017 development proposal, as described below, and we are writing to provide the following offer for City Council's consideration.

If City Council supports the revised proposal at its meeting commencing January 31, 2018, our client will formally revise its Official Plan and Zoning By-law appeals before the Ontario Municipal Board and proceed to a hearing on that basis. This offer is conditional upon acceptance by City Council at its meeting commencing January 31, 2018. The following revisions to the June 26, 2017 proposal are proposed:

1. The proposed tower height will be further reduced from 34 storeys to 25 storeys (224.4 m asl excluding mechanical) and the height of the mid-rise building will be reduced from 14 storeys to 12 storeys (185.5 m asl excluding mechanical) . The mid-rise building will terrace down from 12 storeys at the southwest corner to 6 and 7 storeys. The top storeys of the tower will terrace down toward the northwest. The tower floorplate will have a maximum gross floor area of 845 m² (calculated pursuant to By-law No. 569-2013). These revisions are all as reflected on the attached plan;
2. The massing of the proposal has been revised as generally depicted on the attached rendering;
3. The density has been further reduced from 5.9 times the lot area to 4.75 times the lot area (with gross floor area as defined in By-law 569-2013). The number of dwelling units will be reduced accordingly;
4. The parkland dedication will meet the City's statutory requirement of 10% of the site area for residential uses and 2% for non-residential uses and will be fully on site and be free and clear of any encumbrances;
5. A 5.0 m building setback from the public park will be provided above grade, provided that staggered balconies may encroach up to 1.5 m into that setback;
6. A maximum of 55% of the dwelling units may be one bedroom dwelling units and a minimum of 45% of the dwelling units shall contain two or more bedrooms;
7. Resident and visitor parking shall be provided in accordance with the rates set out in the memorandum dated August 21, 2017 from the Manager, Development Engineering, North York District, or at such lower rates as may be determined to the satisfaction of the Manager, Development Engineering in consultation with the Chief Planner and Executive Director, City Planning Division;
8. The City and the Owner will work together on the design of the new public park and coordinate that design with the design of the proposed privately owned publicly accessible open space on the site, as delineated on the attached site plan. Amendments to the attached site plan may be required as development details are finalized. The Parties agree that the final design and programming of the Parkland

Dedication Lands shall be at the discretion of the General Manager, Parks, Forestry & Recreation, in consultation with City Planning;

9. The owner shall receive equivalent Development Charge credits for undertaking above-base park improvements in the new public park;
10. The owner shall enter into a s. 37 Agreement to secure a payment in the amount of \$2,250,000.00, to be used toward the approved Community Centre at the northwest corner of Don Mills Road and The Donway West. This contribution will be subject to the City's standard requirements including timing of payment, indexing, etc.; and
11. The parties will ask the Ontario Municipal Board to withhold its Order until advised by the City Solicitor that the following conditions are satisfied:
 - (a) The draft Official Plan Amendment and Zoning By-law Amendment reflecting the foregoing are finalized to the satisfaction of the parties;
 - (b) The Functional Servicing Report has been revised to the satisfaction of the Executive Director, Engineering and Construction Services and any work required to be completed by the owner, as outlined in the approved report, is satisfactorily secured, to the satisfaction of the Executive Director and the City Solicitor; and
 - (c) The owner and the City have entered into a Section 37 agreement to secure the s. 37 contribution outlined above.

This offer responds substantively to the issues raised by City Planning staff and the DMRI. As noted above, it is our intention that if Council accepts this offer we will proceed to the Ontario Municipal Board on the basis of these revisions. Accordingly, upon acceptance by City Council, this letter and the contents of this offer may be made public. It is understood that the parties will work together to finalize terms of a draft Official Plan Amendment and Zoning By-law amendment which reflects the foregoing prior to the hearing, and any outstanding issues may be resolved by the Ontario Municipal Board.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Kim M. Kovar
KMK/mn

cc: Client
Don Mills Residents Inc., Attn: Brian Story
encl.