

**CC41.9 - Confidential Correspondence attached to motion 1 by Councillor
Palacio - made public on May 31, 2018**



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WITHOUT PREJUDICE

May 23, 2018

VIA EMAIL

Mayor Tory and Members of Council
City of Toronto
12th Floor, West Tower, City Hall
100 Queen Street West
Toronto ON M5H 2N2

Attn: Ms. Abbie Moscovich
Solicitor, Planning & Administrative Tribunal Law

Your Worship and Members of Council

RE: 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue
Applications for Official Plan Amendment, Zoning By-law Amendment and
Site Plan Approval (the "Applications")
City File Nos. 15 238678 WET 17 OZ and 15 238680 WET 17 SA
LPAT Case Nos. PL170525 and PL170526
Revised Settlement Offer

We are the lawyers for The Symington Holdings Ltd., being the owner of the properties municipally known as 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue.

On May 10, 2018, we submitted an offer to settle the above-noted appeals currently before the Local Planning Appeal Tribunal (a copy of which is enclosed herewith, the "**Original Settlement Offer**"). We are writing to provide a revised settlement offer as follows:

1. Delete Term No. 11 on page 3 of the Original Settlement Offer and replace it with the following:
 11. Symington entering into a Section 37 Agreement to secure the following community benefits:
 - a. a cash contribution of \$500,000 to the City to be paid to the Conseil Scolaire Viamonde (the French Language Public School Board) for capital improvements to the school's yard, soft landscaping, and repurposing existing paved areas to green space to be designed by the Conseil with input from the Ward Councillor, with such payment to be made by Symington to the City prior to the earlier of: (a) the first above-grade building permit for the development; and, (b) one year from the date that the zoning by-law is in full force and effect, which funds shall be held by the City and, in turn, paid from the City to the Conseil subject to the

- Conseil entering into a community access agreement satisfactory to the Ward Councillor, in a form acceptable to the City Solicitor;
- b. a cash contribution of \$250,000 to the City for general park improvements in the vicinity, with such payment to be made prior to the first above-grade building permit; and,
 - c. the provision of the easement for vehicular access described in No. 10 above.

In all other respects, the Original Settlement Offer remains the same.

The above proposed Section 37 contribution has been developed in consultation with the proximate City Councillors and the Conseil Scolaire Viamonde, and we have been advised that the parties understand that the proposed \$500,000 cash-contribution would be released to the Conseil upon the City and the Conseil entering into the Community Access Agreement.

Yours truly,
Overland LLP



Per: Daniel B. Artenosi
Partner

Encl.

c. T. Lima, Symington



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WITHOUT PREJUDICE

May 10, 2018

VIA EMAIL

Abbie Moscovich
Solicitor, Planning & Administrative Tribunal Law
City of Toronto, Legal Services Division
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Ms. Moscovich:

**RE: 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue
Applications for Official Plan Amendment, Zoning By-law Amendment and
Site Plan Approval (the "Applications")
City File Nos. 15 238678 WET 17 OZ and 15 238680 WET 17 SA
LPAT Case Nos. PL170525 and PL170526
Offer to Settle**

We are the lawyers for The Symington Holdings Ltd. ("**Symington**"), being the owner of the properties municipally known as 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue (collectively, the "**Site**").

On October 16, 2015, Symington filed the above-noted applications for official plan amendment (the "**OPA Application**"), zoning by-law amendment (the "**ZBA Application**"), and site plan approval (the "**SPA Application**") to permit the redevelopment of the Site with a high-density mixed use development comprised of two 17-storey mixed use buildings and two 3-storey townhouse blocks, with a total residential gross floor area of 29,450 square metres (372 dwelling units) a total non-residential gross floor area of 395m², and 312 parking spaces (the "**Original Proposal**"). Additional materials in support of the application were submitted on November 16, 2016 and the OPA and ZBA Applications were deemed complete as of that date. As further discussed below, the OPA Application proposes to redesignate the Site from *Neighbourhoods to Apartment Neighbourhoods*.

As a result of comments received from City Staff through the application review process and comments received from members of the public during the community consultation meeting, Symington submitted a revised development concept comprised of a mixed-use building that included a 6-storey mid-rise element stepping to 9-storeys along Symington Avenue that would connect to a 24-storey tower located at the west end of the building. This revised concept included a new public park at the north end of the Site. The total proposed gross floor area was approximately 26,675 square metres (the "**Revised Proposal**").

The OPA Application and ZBA Application were appealed to the Ontario Municipal Board (now the Local Planning and Appeal Tribunal) on May 2, 2017 on the basis of the City of Toronto's failure to make a decision on the applications, pursuant to Sections 22(7) and 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended. A prehearing conference was held on September 19, 2017. A prehearing teleconference was held on April 4, 2018, and a ten (10) day hearing for these matters is currently scheduled to commence on October 22, 2018.

On March 29, 2018 the SPA Application was referred to the Local Planning and Appeal Tribunal ("LPAT"), along with a request that the SPA Application be administratively consolidated with the appeal of the OPA and ZBA Applications.

Background (OPA 231)

The City redesignated the Site from *Employments Areas* to *Neighbourhoods* through OPA 231. This determination was made at the time without the benefit of a site specific development application to demonstrate that the *Apartment Neighbourhoods* designation proposed under the OPA Application would be more appropriate given the characteristics of the Site and the surrounding Area. OPA 231 was approved, with minor modifications, by the Minister of Municipal Affairs and Housing on July 29, 2014. Symington appealed OPA 231 as it applied to the Site on July 23, 2015. As noted above, the Applications were subsequently submitted to the City in October 2015. As part of a settlement with the City, Symington withdrew its appeal of OPA 231 on April 1, 2016, thereby establishing the principle of residential use by allowing the *Neighbourhoods* designation to come into force for the Site, but without prejudicing the outcome of the Applications.

Mediation and Settlement Proposal

The parties to the appeals of the OPA and ZBA Applications have engaged in Tribunal led Mediation, which took place on January 18 and 19, 2018. In order to ensure that residents were appropriately represented at the Mediation, Symington agreed to subsidize the cost of retaining a professional land use planner to advise and represent the Perth/Symington/Kingsley Residents Association at the Mediation.

A provisional result was achieved at the Mediation, which was comprised of terms that would result in revisions to the proposed built-form, and which were agreed to in principle by Symington, the City, the Perth/Symington/Kingsley Residents Association, Derrick Rasbach and certain residents (made parties to the mediation only) residing along Symington Avenue immediately north of the Site. The terms were subject to a number of conditions, including review of the final plans by the parties, resolution of outstanding issues between the applicant and the Conseil Scolaire Viamonde, and resolution of any other outstanding issues to be addressed as between the applicant and the City.

The terms for provisional result were circulated to the parties to the mediation on January 22, 2018, and a set of proposed revised plans that implement the built-form revisions contemplated therein were submitted to the parties on March 15, 2018. Since that time, Symington has continued discussions with City Staff, which has resulted in some additional revisions (largely in

the nature of technical revisions). As we understand, City Staff is now satisfied with the final proposed plans. At this time, therefore, the Applicant offers to settle its appeals of its OPA Application, ZBA Application and SPA Application, on the following basis:

1. a mixed-use development comprised of a mid-rise component along Symington Avenue, a tower component to the east of the mid-rise component at the south end of the Site, and townhouses along Kingsley Avenue and Perth Avenue;
2. the total gross floor area of the proposal is equal to 25600 square metres, comprised of a total residential gross floor area of 25450 square metres and a total non-residential gross floor area of 150 square metres;
3. the tower will have a maximum height of 16-storeys and a maximum floor plate of 795 square metres;
4. the podium of the tower will have a maximum height of 5-storeys;
5. the mid-rise component of the development will have a height that steps from 3-5-7 storeys along Symington Avenue;
6. townhouses will be incorporated to the south of the tower and will front along Kingsley Avenue and Perth Avenue. The maximum height of the townhouses will be 4-storeys (with a stepback at the 3rd storey);
7. the closest residential uses will be setback a minimum of 20 metres from the rail corridor and separated from the rail corridor by a 2-storey above-grade parking structure;
8. the total onsite parking is equal to 395 spaces, comprised of a 341 resident spaces, 51 visitor spaces, and 3 car share spaces;
9. the proposal will contain a mixture of one-, two-bedroom, three-bedroom units to provide a variety of residential units types on the Site, with a minimum of 30 three bedroom units and 92 two-bedroom units;
10. a new private laneway will be introduced along the rear portion of the neighbouring properties that front on Symington Avenue to the north of the mid-rise component and to the south of Kingsley Avenue. The laneway will be subject to an easement for vehicular access in favour of these neighbouring Symington Properties, which would be secured as part of a Section 37 contribution; and,
11. Symington entering into a Section 37 Agreement to secure the following community benefits:
 - a. a cash contribution of \$500,000 to the Conseil Scolaire Viamonde prior to the first above-grade building permit for the development, for the purpose of undertaking capital improvements on the school site, which may include re-orientation of pick-up and drop-off and parking areas and bus ingress and egress, as well as other improvements to the exterior grounds on the school's site; and,
 - b. the provision of the easement for vehicular access described in No. 10 above.

(collectively, the **"Settlement Proposal"**).

We rely on the following materials for the assessment of the Settlement Proposal:

1. the architectural plans and drawings prepared by Alan J. Tregobov, dated April 23, 2018 (unless otherwise noted):
 - a. Drawing A-1.1 - Site Plan/Roof Plan;
 - b. Drawing A-2.2 - P2 - Parking Level;
 - c. Drawing A-2.3 - P1 - Parking Level;

- d. Drawing A-2.4 - Ground floor plan, May 9, 2018;
 - e. Drawing A-2.5 - F2 Plan;
 - f. Drawing A-6.2 - Cross section at walkway; and,
2. the Surveyor's Real Property Report prepared by Tom A. Senkus, O.L.S., dated August 27, 2012.

As part of our discussions, we have agreed that in the event the Settlement Proposal is acceptable to the City, the form of the Official Plan and Zoning By-law Amendments will be updated to reflect the Settlement Proposal in advance of the hearing before LPAT to consider the Settlement Proposal, or such updated Amendments will otherwise be provided to LPAT before the final Tribunal Order approving the Settlement Proposal is issued.

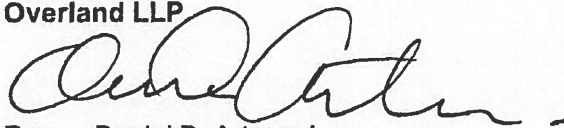
In the event that LPAT approves the Settlement Proposal, Symington and City Staff have agreed to jointly request that the Tribunal withhold its final order on the proposed Official Plan Amendment and Zoning By-law Amendment pending submission of the following materials (which may include updates to previously submitted studies) to the satisfaction of the City:

1. Transportation Impact Study.
2. Functional Servicing Report.
3. Rail Safety Study (to be peer reviewed).
4. Wind Study.
5. Noise and Vibration Study (to be peer reviewed).
6. Toronto Green Standards Checklist and Template.
7. Location and details of the proposed bicycle parking.

The Settlement Proposal contemplates that the development would be subject to cash-in-lieu of parkland dedication, rather than on-site dedication. Symington is in agreement with providing cash-in-lieu of parkland dedication.

The Settlement Offer is open until May 25, 2018, following which it will become null and void if not accepted. In this regard, the Settlement Offer is being submitted for consideration by City Council at its meeting on May 22, 23 and 24, 2018. If the Settlement Offer is accepted, Symington consents to the Settlement Offer and City Council's consideration thereof being made public.

Yours truly,
Overland LLP



Per: Daniel B. Artenosi
Partner

Encl.

c. T. Lima, Symington