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May 28, 2018

Our File No.: 133375

BY E-MAIL

Ms. Cigdem Iltan
Legal Services
City of Toronto
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Toronto, ON M5V 3C6
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WITH PREJUDICE

Dear Ms. Iltan:

**Re: Settlement Offer
227 Gerrard Street East, City of Toronto
City Application No. 16 270189 STE 28 OZ
Appeal of Zoning By-law Amendment pursuant to subsection 34(11) of the
Planning Act, R.S.O. 1990, c. P.13, as amended
OMB Case No: PL171292**

Aird and Berlis LLP acts on behalf of RoseWater 227 Gerrard East Holdings Limited (“**RoseWater**”), the owner of 227 Gerrard Street East in the City of Toronto (the “**Site**”). Our client is the applicant of the above-referenced application.

As you are aware, RoseWater is in receipt of comments from various City departments with respect to the development application filed concerning the Site. We believe that significant progress has been made to date which has resolved all outstanding issues. In an effort to reach a mutually agreeable resolution and avoid the time and expense of a protracted Local Planning Appeal Tribunal process, we are writing to set out our client’s terms of settlement for the above-referenced appeal. Consistent with our client’s stated position, this settlement proposal is being filed to settle our client’s appeal related to the Site provided that an acceptance by City Council, in principle, of the herein settlement is obtained prior to the 2018 election break.

This offer remains open until acceptance by City Council prior to the conclusion of its meeting commencing on July 23, 2018.

BACKGROUND

On December 22, 2016, a rezoning application was submitted to the City of Toronto to permit an eight-storey mixed-use building containing ground floor retail and 99 residential dwelling units. The proposed building contained 715 square metres of ground floor retail,

a residential gross floor area of 9,274 square metres, a density of 4.04 FSI, a total height of 26.8 metres, excluding a 0.6 metre elevator overrun and a mechanical penthouse incorporated into the eighth floor on the westerly portion of the building. (the "**Application**"). The retail space spanned most of the frontage along both Gerrard Street East and Ontario Street with the main retail entrance at the northeast corner of the building, and the residential lobby at the northwest corner facing Gerrard Street East and Seaton Street. The ground floor also included three residential units along the Seaton Street frontage.

A 1.5-metre building setback was proposed at grade from Gerrard Street East, which provided a 4.8-metre wide pedestrian zone. There were no proposed building setbacks from the Seaton Street and Ontario Street property lines. The proposed building had two front step-backs from Gerrard Street East, the first in the range of 1.8 to 2.3 metres above the 3rd or 4th floor and the second in the range of 2.5 to 3.5 metres above the 6th floor.

The building included a series of rear step-backs that differed between the east and west portions of the building. Generally they consisted of an 8.2 to 9.9-metre stepback above the 3rd floor and three more step-backs from the 5th to 8th floor that ranged from 1.5 to 3 metres each.

Along the sides of the proposed building, stepbacks of approximately 2 metres above the 3rd floor facing both Seaton Street and Ontario Street and another stepback of approximately 3.5 metres above the 7th floor facing Ontario Street.

Vehicular access was proposed from Ontario Street via a breezeway through the building at the southeast corner of the site and from Seaton Street via Hagen Lane, which is a public lane proposed to be widened to 6 metres. Two loading spaces were proposed: one Type 'B' space and one Type 'G' space. The loading spaces were located outdoors on the south side of the building and accessed from Hagan Lane with an egress through the breezeway to Ontario Street. Underground parking was proposed on two levels and contained 46 residential occupant spaces including 2 car share spaces, 9 residential visitor spaces and 7 retail visitor spaces.

The Application was deemed a complete application on December 22, 2016. A Community Consultation Meeting occurred on March 8, 2017 and a Preliminary Report dated March 9, 2017 was considered by Toronto and East York Community Council on April 4, 2017.

In summary, the key issues identified by City staff to be resolved were as follows:

- i. the height of the proposed building with regard for impact on the adjacent Neighbourhood to the south, shadow impact on the north sidewalk on Gerrard Street East and the overall character of the area;
- ii. the rear yard setback and rear angular plane with regard for transition to the existing Neighbourhood to the south;
- iii. the front angular plane with regard to shadow impact on the north side of Gerrard Street East;

- iv. the sidewalk width along Gerrard Street East;
- v. the noise and light impact from loading spaces on the existing houses to the south;
- vi. the number of parking spaces and potential impact on on-street parking; and
- vii. the traffic infiltration on Seaton Street and Ontario Street.

On November 7, 2017, a resubmission (the "**Revised Proposal**") was submitted to the City following a series of meetings with the Cabbagetown Heritage Conservation District (HCD) Advisory Committee and Cabbagetown South Residents Association and circulation comments received from planning and urban design staff. The Revised Proposal proposed a total gross floor area of 9,107 square metres, consisting of 8,222 square metres of residential gross floor area and 885 square metres of non-residential gross floor area. The Revised Proposal reduced the overall height of the development to 7 storeys, reduced the number of dwelling units to 93 and reduced the overall density from 4.04 FSI to 3.96 FSI. The Revised Proposal also increased the number of parking spaces, bicycle parking spaces and residential amenity space.

The retail frontage was expanded along Gerrard Street and the residential lobby was relocated to the Seaton Street frontage, and the residential units at grade were removed. As well, a rear access vestibule was incorporated at the rear of the building to provide direct pedestrian access to the laneway for drop-off/pick-up.

The overall massing was revised to minimize the shadow impact on the north side sidewalk on Gerrard Street and to better transition in scale to the neighborhood to the south. The mechanical penthouse continued to be partially sunken into the top floor to further reduce massing and shadow impacts. The breezeway and residential units above it were redesigned and open colonnades incorporated adjacent to the 386 Ontario Street building to expose the original entrance and façade, and provide pedestrian engagement along Hagen Lane. Loading was consolidated into one shared space and a barrier was incorporated to mitigate any potential noise/light concerns. As well, the lane widening encumbrance below grade was removed further to the request of City Staff.

It should also be noted that as part of the Revised Proposal, a Transportation Impact Assessment ("TIA") analysis was completed by LEA Consulting which investigated the traffic reconfiguration of Ontario Street by considering two-way operations between Gerrard Street East and the Site access. The two-way travel during this short segment versus the existing one-way southbound only travel currently permitted. The TIA concluded that, under future total traffic conditions, all intersections and movements are expected to operate within the roadway capacity with acceptable levels of service and that the proposed two-way operations of Ontario Street between Gerrard Street East and the proposed Site access will have minimal impacts on the existing road network.

Furthermore, the exterior elevations, materiality and articulation of the proposed building were revised to respect the surrounding context and heritage elements at the request of the Cabbagetown Heritage Conservation District (HCD) Advisory Committee and Cabbagetown South Residents Association.

APPEAL OF REVISED PROPOSAL TO LOCAL PLANNING APPEAL TRIBUNAL

On November 13, 2017, our client filed an appeal of the Revised Proposal with the then named, Ontario Municipal Board, pursuant to subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13 (*OMB Case No. PL171292*).

The Local Planning Appeal Tribunal (the "**Tribunal**") will hold a pre-hearing conference with respect to our client's appeal of the Revised Proposal on August 2, 2018.

PROPOSED SETTLEMENT OFFER

Despite our client's appeal of the Revised Proposal, our client continued discussion with City staff, the Cabbagetown Heritage Conservation District (HCD) Advisory Committee and Cabbagetown South Residents Association.

On May 9, 2018 a further resubmission (the "**Final Settlement Proposal**") was formally filed with the City.

Our client proposes that the City and our client agree to jointly support a settlement of our client's appeal related to the Site based upon the following terms:

1. The Final Settlement Proposal is based on the following terms:
 - a. a 7 storey plus wrapped mechanical penthouse mixed-use building with a maximum height of 23.9 metres (to the top of the main roof and excluding mechanical penthouse, elevator overrun, elevator lobby, washroom, storage, and mezzanine levels of units below);
 - b. a maximum total combined gross floor area of approximately 8,578m², comprised of approximately 7,802 square metres of residential gross floor area and approximately 776 square metres of retail gross floor area;
 - c. a minimum of 2 square metres per residential unit of indoor amenity space and a minimum of 2 square metres of outdoor amenity space shall be provided;
 - d. a minimum of 86 parking spaces shall be provided, of which a minimum of 69 shall be residential parking spaces, a minimum of 17 shall be visitor/retail spaces. The number of required resident parking spaces may be reduced with the provision of car share spaces in accordance with the site-specific zoning by-law;
 - e. a total of one shared Type 'B'/'G' loading spaces shall be provided;
 - f. a 1.73-metres unencumbered laneway widening will be provided along the north side of Hagan Lane;
 - g. a minimum of a 6-metre rear building setback shall be provided at the easterly end of the Site; and

- h. a minimum of a 1.5-metre building setback along Gerrard Street shall be provided.
2. The building articulation of the Final Settlement Proposal results in a building that largely complies with a front 45-degree angular plane measured from the front property line at a height of 16 metres.
3. RoseWater agrees to provide the building setbacks to be generally consistent with the enclosed architectural drawings, dated May 9, 2018. Specifically, a minimum of a 6.0-metre building setback shall be provided from the south property line adjacent to the building at 386 Ontario Street for the easterly portion of the proposed building, and a minimum of a 6.0-metre building setback shall be provided from the south side of Hagan Lane for the westerly portion of the building.
4. The Final Settlement Proposal refined the unit mix and sizes in order to better reflect the intent of the City's Growing Up Guidelines. The proposed unit mix provides a minimum of 15% 2-bedroom units and a minimum of 10% 3-bedroom units, and a minimum of an additional 15% of the total number of units as a combination of 2- and 3-bedroom units.
5. RoseWater agrees to provide a minimum of 3 street trees within the public boulevard along both Seaton Street and Ontario Street. The City acknowledges that it is not possible to provide street trees along Gerrard Street due to existing below grade utilities.
6. In support of our client's settlement proposal, we enclose our client's revised architectural plans dated May 9, 2018.
7. The herein settlement offer will to be forwarded to City Council for consideration and decision no later than the City Council meeting commencing on July 23, 2018.
8. Should this offer be accepted by City Council at its meeting commencing on July 23, 2018, and Council resolves to support the within settlement proposal, the City will consent to the Tribunal prehearing conference scheduled for August 2, 2018 being converted to a settlement hearing and the provision of evidence from RoseWater's witness(es) in support of the Final Settlement Proposal.
9. The City will agree to work with our client to finalize an acceptable form of the site specific zoning by-law amendment (the "ZBA") to facilitate the enclosed settlement offer. In the event of any dispute regarding the final form of the ZBA, any party may ask the Tribunal to settle such matters through a Tribunal-led mediation process or as part of a hearing.
10. The owner will withdraw its appeals of Official Plan Amendment 352, By-law 1106-2016, as amended by By-law 239-2017 and By-law 1107-2016, as amended by By-law 238-2017, as it relates to the Site, conditional upon the ZBA coming into force and effect through a final Order by the Tribunal and/or a Decision/Order issued by the Tribunal approving amendments to By-law 1106-2016, as amended by By-law 239-2017, By-law 1107-2016, as amended by By-law 238-2017, and By-

law 1105-2016 (OPA 352), if necessary to permit the development pursuant to the terms of this settlement.

11. The City agrees that the components of this settlement proposal represent the basis of a final settlement for our client's appeal related to the Site.

Finally, we want to thank all staff involved for their efforts in working towards achieving this settlement.

We trust the enclosed is satisfactory. Should you require further information, please do not hesitate to contact the undersigned or Laura Dean at 416.865.7706.

Yours truly,

AIRD & BERLIS LLP



Sidonia J. Tomasella
SJT

cc. Client
S. Lauzon
T. Rees

Encl.
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