



February 13, 2019

Our File No.: 00-1225

City of Toronto
Metro Hall
55 John Street, 26th Floor
Toronto, Ontario M5V3C6

Attention: Ms. Sarah O'Connor, City Solicitor

Re: With Prejudice Offer to Settle - 4800 Yonge Street
City File Numbers: 15 250774 NNY 23 OZ
16 118542 NNY 23 OZ

We are the solicitors for Menkes 4800 Yonge Street Inc. ("Menkes"), the owner of the property municipally known as 4800 Yonge Street (the "Site") in the City of Toronto. The Site is located on the southwest corner of Yonge Street and Sheppard Avenue West in the former City of North York and is currently occupied by a large surface parking lot.

The Site is located at the nexus of two subway lines ("Line 1" - Yonge Line and "Line 4" - Sheppard Line) with excellent accessibility to Highway 401 to the south, in an area containing a variety of residential, office, retail and mixed-use developments, all of which have added to the vibrancy of the Yonge Street corridor. To the immediate west of the Site, within the same block, is an existing 21-storey office building occupied by Nestlé Canada Inc. and various other office tenants. To the north of the Site, on the northwest corner of the intersection of Yonge Street and Sheppard Avenue West, is a 2-storey commercial building containing retail and restaurant uses. The northeast corner of the intersection is occupied by the soon to be renovated Sheppard Centre complex, comprised of a series of office and residential buildings ranging in height from 2 to 39 storeys. The southeast corner of the same intersection has been developed with a mixed use multi-tower development containing residential, office and retail uses in a 5-storey podium and two towers 45 and 35 storeys in height (including the podium). Please note that the height of the City approved towers at the opposite corner, has been approved in accordance with the same policies that affect the subject site, with similar exemptions given to allow for the approved height, which approved height is identical to the height proposed for the within application.

Existing Planning Framework

The Provincial Policy Statement (2014) and the "Places to Grow: Growth Plan for the Greater Golden Horseshoe (2006)", as well as the policies of the City's Official Plan, promote the redevelopment of underutilized lands well served by transit, in an area such as the Yonge and Sheppard intersection, where multi use developments such as is proposed by our client's

application are promoted as being both desirable and necessary in order to optimize locational attributes. The Site is located within one of the few areas in the City of Toronto designated as a “Centre” pursuant to the Urban Structure Map of the City of Toronto Official Plan and is located within a “Mixed Use Area” pursuant to the Land Use Map of that same Official Plan where the greatest intensity of uses is expected to develop.

The Site is also subject to the North York Centre Secondary Plan, which designates the Site “Mixed Use Area A” and provides a framework for continued revitalization in the area by establishing built form policies, which are respected by the proposed development. It is important to note that while Mixed Use Area A is a non-residential designation, it is not an “Employment Area”. The identical amendments sought by our client have been approved for the Site across the street at the south-east corner of the same intersection.

The Proposed Development

In recognizing the prominent location of this remaining undeveloped corner of arguably the most important intersection in the former City of North York, our client retained world renowned architects from New York, Arquitectonica, who are working together with a local firm, Turner Fleischer Architects, to create a high-quality design that will significantly contribute to the vibrancy of the Site and surrounding area. Prior to submitting its applications for official plan and zoning by-law amendment, our client and its consulting team held a number of meetings with City Staff in order to better understand the important aspects of the City’s vision for this Site, which we believe are, for the most part, appropriately reflected in the plans enclosed herewith.

The originating application for an Official Plan Amendment was filed in November of 2015, followed by the Zoning By-law Amendment in February of 2016. Following extensive pre-consultation relating to the design and mix of uses, our client submitted a single tower design at an overall height of 168.4 m (49 storeys and mechanical), inclusive of a 5 storey podium containing over 11,500 m² (124,000 ft²) of retail and office uses, constituting more than 60% of the 18,653.4 m² base gross floor area (4.5 x 4,145.20 m²) attributable to the gross site, a far higher percentage than any other recent development in the Centre. The original application included a total of 536 residential units (388 one-bedroom, 145 two-bedroom and 3 three-bedroom) providing a wide range of unit sizes to accommodate and promote a diverse community.

Following further consultation with City Staff and the local community, on December 21, 2016 our client revised its proposal to address the comments that had been received by making the following changes:

- The overall residential unit count was reduced from 536 originally to 497.
- With the lower unit count, the number of vehicular parking spaces was reduced from 443 originally to 318 and the number of bicycle parking spaces was reduced from 496 originally to 456.

- As a result of the reduction in the number of vehicular parking spaces, the underground parking garage was reconfigured from 6 to 5 levels and the underground parking extension into the Bogert Avenue right of way was removed on all levels.
- The setback from the south podium wall to the property line along the Bogert Avenue right of way was reduced from 3.4 to 1.5m (Levels 3-5) and from 4.0 to 2.1m (Levels 1-2) to bring the building closer to the street and create more consistent street edge with the existing building to the west.
- The ground floor was reconfigured to remove the retail lobby escalators/stairs and consolidate the office lobbies, which allowed for a new atrium that could be assessable by the public and straightened pedestrian connection from Yonge to the TTC access.
- The width of the office entrance lobby on Yonge Street was reduced so as to comply with the applicable North York Secondary Plan policy.
- As noted above, an atrium wrapping the corner of Sheppard Avenue and Yonge Street was added in order to further animate the streetscape.
- Exterior elevations of the residential tower were revised to reinforce the curvilinear design of the original proposal, maintaining the shape while refining slenderness. The addition of metal bands framing the vertical edges emphasizes the distinct form appropriate for the prominent location at Yonge and Sheppard. Inset balconies remain to give the façade a clean appearance, while horizontal accents spiral across the face and add subtle movement to the calm exterior. A curved glass entrance at grade at the northeast corner mimics the massing above and relates the podium to the tower as one building.

As well, our client's consultant prepared an extensive office market report, which report was submitted to the City back in November of 2015. The City engaged an independent expert who provided a final report late in 2016 which confirmed that our client's market expert was, not only accurate in its assessment of the potential demand, but in fact, the amount of office space agreed to be provided by our client would exceed anticipated demand based upon any market analysis conducted by either of the market consultants retained by our client and the City.

Proposed Settlement Offer

While our client's plans included approximately 8,000 square metres of office space, in the continued spirit of cooperation, our client has agreed to the revisions as depicted on the enclosed plans, dated February 13, 2019. The revised plan includes an 8-storey podium (formerly 5 storeys). The total amount of office space increases from approximately 8,000 square metres and the total non-residential space increases from approximately 11,000 to a minimum of 15,000 square metres of office GFA and additional non-residential GFA, with the overall GFA decreasing as shown on the enclosed plans and the overall measured height remaining the same.

In addition, our client is also agreeable to a Section 37 contribution in the amount of \$11.5 million dollars payable upon the issuance of the first above-grade building permit and/or as

contributions (such as a subway connection) as per the North York Secondary Plan, of which up to \$5 million is to be dedicated to the removal of the stairs in the right of way, connecting the building to the subway through the adjacent property with a portion of the amount being spent on both our client's Site and the connection on the adjacent Site at 25 Sheppard Avenue West and with any amount of the \$5 million left over being included in the cash contribution. This Section 37 contribution is offered on the condition that City Council approves the application, as amended by way of this with prejudice settlement offer, with two further conditions:

- (i) that City Council supports the use of the parking under Bogert Avenue as per the previously set out in the agreement between OMERS/ Marathon and the City of Toronto; and
- (ii) The City's acceptance of a total required parkland dedication value of \$5,000,000.00, comprised of off-site parkland dedication of one or more properties acceptable to the General Manager, City of Toronto. If the value of the land acquired for off-site dedication is less than \$ 5,000,000.00, the remainder will be paid to the City in cash and will fully satisfy our client's parkland dedication requirement pursuant to Section 42 of the *Planning Act*. The off-site dedication shall be conveyed to the City in base park condition prior to the issuance of the first above-grade building permit for the Site or earlier, to the extent possible. For example, if Menkes acquires an acceptable property or properties prior to the issuance of the first above-grade building permit, the property may be conveyed to the City at any time after final approval of the zoning by-law amendment. Any residual cash payment shall be paid to the City prior to the issuance of the first above-grade building permit for the development. The \$5,000,000.00 contribution amount shall be adjusted downward to deduct reasonable costs incurred in connection with the acquisition of any property related to: legal fees, real estate commissions of 5%, land transfer tax, typical closing adjustments, water, electrical and sanitary connections, and any outstanding balance shall be indexed upwardly in accordance with the Non-Residential Construction Price Index for Toronto calculated from the date of the zoning by-law amendment being final and binding to the date of payment of any outstanding balance. Menkes shall be responsible for all costs associated with any environmental work to be completed prior to the conveyance of the land. This parkland contribution is calculated based upon the policies in effect as of the date of this letter and shall be the only parkland conveyance required for this development. Should Menkes not acquire at least one acceptable property identified by the City to Menkes within one year of the zoning by-law amendment being final and binding, the parkland dedication requirement shall be determined at the time it is being fulfilled in accordance with applicable policies in effect at the time.

This offer is being forwarded to City Council for its consideration, which offer is made on the condition that such offer is accepted by City Staff prior to February 28, 2019, failing which, this offer is to be considered formally withdrawn.

Yours very truly,

A handwritten signature in black ink, appearing to be 'AJB', with a stylized flourish extending to the right.

Adam J. Brown
AJB/jn

cc: Mr. Jude Tersigni and Mr. Mark Karam, Menkes 4800 Yonge Street Inc.