

AIRD BERLIS

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Without Prejudice & Confidential

March 19, 2019

Our File No.: 110355

BY EMAIL

Laura Bisset & Cigdem Iltan
Planning and Administrative Tribunal Law
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Laura and Cigdem:

**Re: Without Prejudice Settlement Offer
3450 Dufferin Street & OPA 294**

As you are aware, we act for 3450 Dufferin Yorkdale Holdings Inc. ("3450 Dufferin"), the owner of the property municipally known as 3450 Dufferin Street (the "Site").

Zoning By-law Amendment, Official Plan Amendment and Draft Plan of Subdivision Appeals

On September 1, 2016, 3450 Dufferin submitted applications for amendments to the City of Toronto Official Plan and North York Zoning By-law 7625 as well as for approval of a Draft Plan of Subdivision in respect of the Site (the "Original Development Proposal"). The Zoning By-law Amendment and Official Plan Amendment applications were deemed complete as of September 8, 2016. The Draft Plan of Subdivision application was deemed complete as of December 1, 2016.

The Original Development Proposal contemplated three buildings of 37 storeys, 33 storeys and 29 storeys including 1,044 dwelling units, a 244 room hotel, a restaurant and a new 1,802 m² public park. The buildings were proposed to be connected by a 3 storey podium. As contemplated by OPA 294, a network of new streets was also proposed with the possibility of connecting to 3400 Dufferin Street (the Honda dealership property to the south) if/when those lands redevelop. The development proposed a new public street connecting to Bridgeland Avenue and a new publicly accessible private street. One-way inbound access across an existing private easement from Dufferin Street would be maintained in the proposal. A total density of 4.1 times the lot area was proposed.

A community consultation meeting for the Original Development Proposal was hosted by the City on February 8, 2017.

On January 6, 2017, March 7, 2017 and June 6, 2017 3450 Dufferin appealed its Zoning By-law Amendment, Official Plan Amendment, and Draft Plan of Subdivision applications respectively, to the OMB (now the "LPAT") due to Council's failure to render decisions within the prescribed timeframes in the *Planning Act* (the "ZBA, OPA and Draft Plan Appeals").

OPA 294

At its meeting on December 9 and 10, 2015, City Council adopted OPA 294 respecting the Dufferin Street Secondary Plan area, located generally between Bridgeland Avenue and just south of Lawrence Avenue West.

On December 23, 2015, 3450 Dufferin appealed City Council's decision to adopt OPA 294 (the "OPA 294 Appeal").

At the second prehearing conference with respect to OPA 294, held on May 23, 2017, the Board consolidated 3450's appeal of its Zoning By-law and Official Plan Amendment applications with its appeal of OPA 294.

City Council considered the Request for Directions report in respect of the Original Development Proposal at its meeting on April 26, 27 and 28, 2017. At that time, City Council authorized the City Solicitor and appropriate staff to continue discussions with our client and directed that if our client were to revise the application to address the issues identified in the Request for Directions report, that staff seek authorization from City Council for any settlement offer.

Our client has continued discussions with the City including through Tribunal-led mediation, and has prepared a revised proposal which addresses all issues previously identified by the City and which is consistent with the provisional agreement reached with City staff in the Tribunal-led mediation last June.

With all issues now addressed, we are writing to set out the terms of an offer which would resolve the ZBA, OPA and Draft Plan Appeals and the OPA 294 Appeal and enable the parties to jointly ask the LPAT to proceed to a settlement hearing on June 27-28, 2019.

Without Prejudice Settlement Proposal

Our client is prepared, on a without prejudice basis, to proceed to a settlement hearing on June 27-28, 2019, based on revisions to the Original Development Proposal, as described below, and we are writing to provide the following settlement offer for City Council's consideration. Draft architectural plans reflecting the following revised proposal are attached to this letter (the "Revised Proposal"). The following revisions to the Original Development Proposal are proposed:

1. **Park Dedication:** The proposed parkland dedication has increased from 1,802 m² to 2,331 m². This exceeds the statutory parkland dedication obligation for the project of 2,298 m².
2. **Building Height:** Tower heights have been reduced from 37, 33 and 29 storeys to 27, 29 and 23 storeys, excluding mechanical penthouses. The metric height has also been reduced to 87.5 m, 93.4 m and 75.1 m, respectively, measured from the ground floor level, excluding an additional 10 m for design elements of architectural expression and excluding mechanical penthouses having a maximum height of 7 m, plus permission for those building elements which must necessarily be located above the mechanical penthouse such as window washing equipment, chimneys, boiler, flues and stacks.

3. **Gross Floor Area:** The proposed gross floor area has been reduced from 84,465 m² to 63,687 m² with a total residential GFA of approximately 63,167 m² and a total retail GFA of approximately 520 m², calculated in accordance with the applicable gross floor area definition in By-law 569-2013, as amended (and excluding the floor area attributable to the proposed Child Care Facility, described below).
4. **Density:** The total density has been reduced from 4.11 FSI to 3.1 FSI, calculated over the gross Site and in accordance with the applicable gross floor area definition in By-law 569-2013, as in paragraph 3 above.
5. **Tower Floor Plate:** The tower floor plates are now proposed have a maximum GFA of 750 m², 800 m² and 750 m², respectively, with GFA calculated in accordance with the applicable gross floor area definition in By-law 569-2013, as in paragraph 3 above.
6. **Amenity Space:** Indoor and Outdoor amenity space shall each be provided at a rate of 1.5 m² per unit respectively.
7. **Parking:** Parking is proposed on 4 underground levels with a total of approximately 875 spaces. Whereas the Original Development Proposal contemplated part of the underground parking facility being located beneath the park, the park is now proposed to be fully unencumbered below grade.
8. **Retail Component:** Retail areas are now proposed in the podium level of Tower C generally as depicted on the attached drawings.
9. **Hotel Use Eliminated:** The Revised Proposal no longer contemplates a hotel component.
10. **Streets:** The 18.5 m wide crescent street fronting the proposed development, which was previously contemplated to be a publicly accessible private road, is now proposed to be a 18.5 m wide future public street. In addition, a 23 m wide future public street is also proposed along the west boundary of the Site.
11. **Mid-Block connection:** A mid-block pedestrian connection has been provided through the east courtyard of the Revised Proposal to provide access between the park and the MTO setback area at the northeast boundary of the Site.
12. **Street Wall:** The Revised Proposal incorporates a podium which creates a continuous street wall, comprised of townhomes, along the crescent street, fronting onto the park.
13. **Functional Servicing, Stormwater Management, Fire Services and Waste Management:** All outstanding issues identified in Engineering and Construction Services' letters dated October 25, 2016 and December 13, 2016 shall be addressed by our client to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
14. **Section 37 Contribution:** Our client offers the following Section 37 contribution:
 - 3450 Dufferin at its sole expense agrees to construct, complete and finish a Child Care Centre Facility on the Site within the proposed building including associated

exterior play space in accordance with applicable provincial and municipal legislation, by-laws, regulations and standards in a location to be agreed upon and confirmed through Site Plan Approval for the development, to the satisfaction of the Chief Planner, Deputy City Manager and General Manager of City Services acting reasonably;

- The Child Care Facility shall comprise of not less than 884 m² of interior gross floor area, and not less than 280 m² of contiguous exterior play area (not currently shown on the attached plans). The Child Care Facility is to be located on the ground floor of the building, and if floor space is limited, may be located over two floors but in this case the Facility must have a dedicated elevator;
- No floor area associated with the Child Care Facility shall be considered gross floor area for the purposes of the applicable zoning by-law and Official Plan policy, and no additional parking or loading spaces will be required beyond applicable zoning by-law requirements. Access to loading, parking, garbage room, pick-up and drop off will be provided and finalized through the approval of drawings through Site Plan Approval;
- The completed Child Care Facility shall be leased to the City for 99 years at a nominal rent, including associated utility costs such as gas, water and hydro, to be secured through an appropriate Section 37 agreement;
- Prior to the issuance of the first above grade building permit for the Revised Proposal, 3450 Dufferin shall pay a \$400,00.00 cash contribution to the City for start-up costs and/or a contribution to a capital reserve fund for the Child Care Facility;
- Prior to the issuance of the first above grade building permit for the Revised Proposal, 3450 Dufferin shall pay an additional \$700,000.00 cash contribution to the City for other public benefits in the vicinity of the Site;
- Land transfer taxes, if applicable, will be the responsibility of 3450 Dufferin provided that any associated credits available to the City or the sub-tenant/operator are assigned to 3450 Dufferin;
- Priority placement at the Child Care Facility will be provided for the children of the owners/occupiers and employees of the future condominium corporation operating on the Site;
- 3450 Dufferin shall have no obligation to replace, repair or maintain the supplies, equipment and furnishings required for the operation of the Child Care Facility;
- 3450 Dufferin shall not be responsible for any operational costs incurred in the operation of the Child Care Facility, including but not limited to staffing, teaching/office supplies, supplies, liability insurance, content insurance and caretaking;

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- 3450 Dufferin shall be responsible for all up-front development and construction cost related to the Child Care Facility including but not limited to Building Permit fees and applicable Development Charges.

In support of the Revised Proposal and this without prejudice settlement offer, please find enclosed herewith the following documents:

1. A revised draft Official Plan Policy to be incorporated into OPA 294 for the Site, which permits the built form and site configuration contemplated in the Revised Proposal;
2. Architectural Plans prepared by IBI dated December 2018:

Site Plan
Ground Level Plan
Level 02 Plan
Typical Floor Plan
Preliminary Massing Study
Angular Plane
Statistics;

3. Draft Plans of Subdivision 14-151DM01 and 14-151MP01 prepared by KRCMAR Surveyors Ltd.; and
4. A Grading Plan and Sections.

It is understood that the parties will work together to finalize the terms of the draft Official Plan Amendment, Zoning By-law Amendment and conditions of Draft Plan of Subdivision Approval which reflect the Revised Proposal prior to the hearing commencing June 27, 2019 and any outstanding issues may be resolved by the LPAT at that hearing.

This offer is conditional upon acceptance by City Council at its meeting commencing March 27, 2019, with instructions to seek approval on these terms at the LPAT hearing commencing on June 27, 2019. Should you have any questions about the foregoing, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP



Kim M. Kovar
KMK/MTB/mn

Encl.

cc. Client

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