

Daniel Elmadany

From: Laskin, Max <mlaskin@goodmans.ca>
Sent: July 23, 2020 10:11 AM
To: Laura Bisset; Daniel Elmadany
Cc: Noskiewicz, Mark
Subject: 2500 Don Mills - Confidential and Without Prejudice - Settlement Offer

Confidential and Without Prejudice

Hi Laura and Daniel –

We are hereby offering to settle our client’s concerns with proposed OPA 476 on the basis set forth below.

Our instructions remain to pursue party status in the LPAT proceeding regarding OPA 476 and the site-specific development applications in the quadrant and seek an increase in the maximum permitted density on our client’s lands to 7.99 FSI.

However, building on the suggestion that City staff made on our most recent call, our client is prepared not to object to OPA 476 coming into force, provided it obtains comfort from the City regarding a future site-specific development application for 2500 Don Mills. In particular, our client is prepared not to object to OPA 476 if comfort is provided in the following three forms:

- 1. The addition of a policy with respect to site-specific applications within the quadrant.** The proposed Context Plan includes a recognition that site and area specific policies will be added to the Sheppard East Secondary Plan on a site-specific basis as part of the planning approvals process for individual properties within the quadrant (see section 5.0). The first form of comfort would involve reflecting this principle in OPA 476, through the addition of the following new policy as section 4.2.10.h of the Secondary Plan:
 - “Amendments to this Secondary Plan and the policies in this section 4.2.10 may be pursued for individual properties on a site-specific basis through an official plan amendment application.”
- 2. Council resolution permitting an OPA application within two years of approval of OPA 476.** As you know, section 22(2.1.1) of the *Planning Act* provides that no person shall request an amendment to a secondary plan within two years of any part of it coming into effect, unless Council declares by resolution that such a request is permitted pursuant to section 22(2.2). The second form of comfort our client requires is that such a resolution be passed, permitting an OPA application for 2500 Don Mills within two years of OPA 476 coming into force.
- 3. Minutes of Settlement.** Lastly, our client would enter into simple Minutes of Settlement with the City that provide for the following:
 - Recitals setting out certain facts, including the following:
 - i. Despite notices of the process, our client did not participate in the community consultation and planning process that led to the preparation of OPA 476.
 - ii. After reviewing the draft of OPA 476, our client expressed concerns to the City with respect to the maximum density that OPA 476 would apply to its site and proposed a higher maximum density.
 - iii. The City has suggested that an appropriate means of addressing the concerns our client has raised is to file a site-specific official plan amendment application with appropriate supporting material.
 - The basic obligations underpinning the settlement, including that:

- i. The City has agreed to include the new policy referenced in #1 above in OPA 476 and support the approval of such policy at the LPAT.
- ii. Our client agrees not to oppose the approval of OPA 476, provided that:
 - a. The policy referenced in #1 is included in the version of OPA 476 put forward for the Tribunal's approval;
 - b. The City and the other LPAT parties support the approval of such policy at the LPAT;
 - c. The City and the other LPAT parties consent to our client becoming a party to the LPAT proceedings for the purpose of ensuring that the policy referenced in #1 above is approved; and
 - d. City Council has passed a resolution in accordance with #2 above.

As noted above, this settlement offer builds on a suggestion the City made in our last discussion. We believe it represents an efficient means of resolving our client's immediate concerns. We hope that you see it the same way. However, in the event that this offer is not accepted by the close of Council's July 2020 meeting, our instructions are to seek party status to pursue the 7.99 FSI proposal we have discussed.

We look forward to hearing from you. We are available to discuss if helpful.

Thanks,

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