

7 October 2020

Without Prejudice

Delivered via E-mail

Kasia Czajkowski / Jason Davidson
City of Toronto, Legal Services
55 John Street, Metro Hall, 26th Floor
Toronto, ON M5V 3C6

Dear Ms. Czajkowski and Mr. Davidson:

Re: Settlement Offer
141 Davisville Avenue, City of Toronto
Zoning By-law Amendment Application No. 17 262355 STE 22 OZ
LPAT Case No. PL180310

We represent CAPREIT Limited Partnership (“**CAPREIT**”), the applicant and appellant in respect of the proposed development of the property municipally known as 141 Davisville Avenue (the “**Subject Site**”), the subject of the above-noted zoning by-law amendment application (the “**Application**”).

We write on a without prejudice basis to present our client’s settlement offer with respect to the Application and its appeal of the Application at the Local Planning Appeal Tribunal (the “**Appeal**”). The settlement offer presented herein is not confidential, and it remains open until the end of the City Council meeting scheduled to commence on 27 October 2020.

Background

The Subject Site is currently occupied by a 20-storey rental building containing 313 residential units and 298 parking spaces located within an underground parking garage (the “**Existing Rental Building**”). The Application was made to permit the development of an additional 16-storey purpose-built rental building on the Subject Site, together with improvements to the indoor and outdoor amenity for both current and future residents.

The Application was deemed complete as of 14 November 2017. CAPREIT subsequently appealed the Application to the Ontario Municipal Board, now continued as the Local Planning Appeal Tribunal (the “**LPAT**”), on the basis of the City’s failure to make a decision on the Application within the statutory timeframe. On the consent of our client and the City, the South Eglinton Ratepayers’ and Residents’ Association (“**SERRA**”) was granted party status in the Appeal proceeding and has actively participated in that capacity.

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The LPAT has held a number of case management conferences in connection with the Appeal. In its decision dated 20 August 2020, the LPAT scheduled a 10-day hearing of the Appeal to commence on 11 May 2021. A fifth case management conference for this matter is scheduled for 7 December 2020.

Modifications to the Original Proposal

CAPREIT has worked extensively with both City planning staff and SERRA since early 2018 to address comments on the original development proposal. As a result of those discussions, the built form of the original proposal has been significantly modified, as well as the public realm aspects of the proposal. Most notably, the building has been reduced by two storeys (resulting in a reduction of 144 new units to 120) and been shifted substantially westward to allow for a much larger urban plaza on the corner of Davisville Avenue and Pailton Crescent, which will be secured as a privately-owned publically accessible open space (POPS). Additional trees and greening have been added to the urban plaza, as well as the driveway area between the two buildings. The minimum separation distance between the taller portion of the new building and the Existing Rental Building has been maintained at 27.0 metres.

The modifications that have been made maintain the key planning and design principles around which the original proposal was developed. Namely, the proposal continues to create the opportunity for an improved relationship between private property and the public realm through the addition of walkways, front doors on the street, and a large pedestrian-focused urban plaza. The proposal also continues to frame the street at the ground level and animate both Davisville Avenue and Pailton Crescent, bringing more eyes on the street, and minimizes the impact of parking and servicing on the public realm through landscaping, site design and consolidation of loading.

The proposal continues to allow for overall improvements to the Existing Rental Building with respect to the underground garage, loading/moving/waste facilities, and pedestrian/vehicular movements across the Subject Site. The Existing Rental Building will be improved with the addition of a new guest suite, a renovation to the existing lobby and mail room, and the formalization of the Balliol Street entrance. The garbage storage area will also be moved below grade, in order to improve odour condition. Recent improvements to the Existing Rental Building, not related to the proposal, include the replacement of the ceiling tiles in the laundry room and improved lighting throughout the common areas in the building. A program has also been commenced to replace windows that are deficient in the Existing Rental Building.

Finally, new indoor and outdoor amenities continue to be proposed for the Subject Site, which will substantially improve the current condition in which no indoor amenity space is provided in the Existing Rental Building and the outdoor amenity spaces are poorly defined. Included in the new amenity is a new two storey amenity pavilion with both indoor and outdoor space, a new child's play area, dog run, landscaped walkways with decorative paving and privacy screens for ground floor units. Much of the amenity programming was developed with input from the residents of the Existing Rental Building.

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The Settlement Offer

Further to our client's discussions with City planning staff and SERRA, as well as inputs from residents, our client is pleased to present the following offer to settle the Appeal on a without prejudice but not confidential basis (the "**Settlement Offer**"):

Process, Built Form and Land Use

1. CAPREIT, the City and SERRA will appear before the LPAT on 7 December 2020, or as soon as possible thereafter, for the purposes of a Settlement Hearing and will collectively request the approval in principle of the new 14 storey rental residential building on the Subject Site (the "**New Rental Building**") substantially in accordance with the plans and drawings prepared by Quadrangle Architects dated 7 October 2020 (collectively the "**Settlement Plans**"), attached as Attachment "A". The proposed development will include the New Rental Building (the "**Development**") and will include the following features:
 - a. The New Rental Building will have:
 - i. a maximum of 14 storeys, exclusive of the mechanical penthouse;
 - ii. a maximum height of 45.8 metres, exclusive of the mechanical penthouse, from established grade of 153.58 Canadian Geodetic Datum; and
 - iii. a maximum gross floor area of 9,700 square metres.
 - b. The New Rental Building will be set back a minimum of:
 - i. 7.3 metres from the existing northern lot line (Davisville Avenue), or 5.0 metres from the northern lot line as modified once the road widening is conveyed, as the case may be; and
 - ii. 5.5 metres from the western lot line.
 - c. An urban plaza will be created at the corner of Davisville Avenue and Pailton Crescent in the location as generally shown in the Settlement Plans (the "**Urban Plaza**"), the details of which are as follows:
 - i. an approximate size of 307 square metres;
 - ii. the first two storeys of the New Rental Building will be setback a minimum of 15.6 metres from the eastern lot line (Pailton Crescent);

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- iii. the remainder of the storeys of the New Rental Building will be setback a minimum of 9.1 metres from the eastern lot line (Pailton Crescent); and
 - iv. street trees and plantings will be provided in and around the Urban Plaza as generally depicted in the Settlement Plans, subject to technical matters such as the placement of utilities.
- d. The minimum separation distance between the predominant north face of the Existing Rental Building and the taller portion (fourth to fourteenth floors) of the New Rental Building (the “Tall Portion”) will vary as shown on the Settlement Plans, and will be:
 - i. a minimum of 29.0 metres at the western corner of the Tall Portion;
 - ii. a minimum of 29.8 metres at the eastern corner of the Tall Portion; and
 - iii. may be less than 29.0 metres at any other point along the southern edge of the Tall Portion, however at no point will be less than 27.0 metres.
- e. The minimum separation distance between the Existing Rental Building and the amenity pavilion portion of the New Rental Building will be 15.5 metres.
- f. At least 10% of the units in the New Rental Building will be three-bedroom units, and at least 15% of the units in the New Rental Building will be two-bedroom units.
- g. Amenity will be provided as follows:
 - i. a minimum of 590 square metres of indoor amenity space will be provided, whereas the required minimum for the New Rental Building is approximately 244 square metres; and
 - ii. a minimum of 590 square metres of outdoor amenity space will be provided, whereas the required minimum for the New Rental Building is approximately 244 square metres.
- h. There is currently sufficient vehicular parking on the Subject Site to accommodate both existing and future tenants, including visitors. The provision of bicycle parking and garbage storage space in the underground will reduce the number of on-site vehicular parking, and require a reconfiguration of the underground, however even with the reduced number of parking spaces and reconfiguration, there will be sufficient vehicular parking on the Subject Site to accommodate the residents of both the Existing Rental Building and the New Rental Building.

- i. Bicycle parking will be provided as follows:
 - i. a minimum of 110 long-term parking spaces below grade; and
 - ii. a minimum of 13 short-term parking spaces at grade.
 - j. One type 'B' loading space will be provided within the New Rental Building. The equivalent of a type 'G' loading space is proposed on the driveway area for garbage pick-up from the garbage bin staging areas. The existing type 'C' loading space within the Existing Rental Building will be maintained.
2. CAPREIT will not oppose a City request to the LPAT to withhold its final order approving the zoning by-law amendment(s) implementing the Development pending written confirmation from the City Solicitor that the zoning by-law amendment(s) are in a final form satisfactory to the City.

Section 37 Agreement

3. Prior to the issuance of the LPAT's final order, CAPREIT will enter into an Agreement pursuant to Section 37 of the *Planning Act* securing the following on mutually satisfactory terms:
- a. As a matter of legal convenience, the Section 37 Agreement will provide for the following:
 - i. CAPREIT will provide the Urban Plaza as a privately-owned publically-accessible open space (POPS), to be secured by means of a surface pedestrian public easement, of the size and in the location as generally shown on the Settlement Plans. The final design of the Urban Plaza will be determined through the site plan approval process.
 - ii. CAPREIT will continue to provide and maintain the 313 existing rental dwelling units in the Existing Rental Building as rental housing, and will provide 1 new rental dwelling unit in the Existing Rental Building which will also be maintained as rental housing, together with the new and retained associated facilities and amenities, for a minimum of 20 years commencing from the date that the zoning by-law amendment(s) implementing the Development come into full force and effect and with no applications for demolition or conversion from residential rental use during such 20-year period, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

- iii. CAPREIT will continue to provide and maintain the units in the New Rental Building as rental housing, together with the new and retained associated facilities and amenities, for a minimum of 15 years commencing from the date that the zoning by-law amendment(s) implementing the Development come into full force and effect and with no applications for demolition or conversion from residential rental use during such 15-year period, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- iv. CAPREIT will make improvements to the Existing Rental Building and the New Rental Building substantially in accordance with the Settlement Plans (the “**Improvements**”) as follows, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division:
 - 1. Prior to issuance of the first Above-Grade Building Permit for the New Rental Building, for the benefit of the residents of the Existing Rental Building:
 - a. one new guest suite within the Existing Rental Building;
 - b. improvements to the existing lobby area and mail room;
 - c. improvements to the entrance canopy;
 - d. relocating the garbage storage area below grade, in order to improve odour condition; and
 - e. new formalized entrance off Balliol Street.
 - 2. Prior to issuance of the first Above-Grade Building Permit for the New Rental Building, CAPREIT will improve the following if/as required:
 - a. laundry room safety, ventilation, and cleanliness; and
 - b. the quality of the storage locks.
 - 3. Prior to first residential occupancy of the New Rental Building, for the benefit of the residents of the New Rental Building:
 - a. one guest suite within the New Rental Building.

4. Prior to first residential occupancy of the New Rental Building, for the benefit of the residents of the Existing Rental Building, the New Rental Building and 111 Davisville Avenue:
 - a. an integrated amenity pavilion within the New Rental Building, which includes both an indoor and an outdoor component;
 - b. a child's play area on the Balliol Street side of the Subject Site;
and
 - c. a dog run on the Balliol Street side of the Subject Site.
- v. CAPREIT will provide the residents of the Existing Rental Building and 111 Davisville Avenue with access to all indoor and outdoor amenities on the Subject Site in accordance with Section 3(a)(iv)(4) above at no extra charge to those residents and with no pass-through cost to the residents of the Existing Rental Building or 111 Davisville Avenue, including by way of an application to the Ontario Landlord Tenant Board or to any successor tribunal with jurisdiction to hear applications made under the legislation governing residential tenancies in Ontario for the purpose of obtaining an increase in residential rent above the applicable guideline. Access and use of those amenities will be on the same terms and conditions as any other resident of the New Rental Building, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- vi. Prior to issuance of Notice of Approval Conditions for site plan approval for the Development by the Chief Planner and Executive Director, City Planning Division, CAPREIT will develop a Construction Mitigation and Tenant Communication Plan to mitigate the impacts of construction on tenants of the Existing Rental Building, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

Parkland

4. A cash-in-lieu of parkland dedication for the Development will be made by CAPREIT to the City prior to the issuance of the first above-grade building permit for the New Rental Building in accordance with section 42 of the *Planning Act*, and the City's parkland dedication by-law, as amended, as they exist as of the date of this Settlement Offer.

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Road Widening

5. Further to the Official Plan Amendment No. 405 direction increasing the right-of-way width of Davisville Avenue from 20 metres to 23 metres, and whereas the current right-of way width of Davisville Avenue is 18.4 metres and the City will take one half of the widening from each side of Davisville Avenue, CAPREIT agrees to convey a strip of land along the entire length of the frontage of the Subject Site (Davisville Avenue) to the City, which strip of land will have a maximum width of 2.3 metres. The timing of such conveyance will be determined as part of Site Plan Approval.

Site Plan

6. CAPREIT agrees that it will examine the following matters at Site Plan Approval stage:
 - a. The minimization of the paved area located on the Balliol Street side of the Subject Site;
 - b. Increasing the number of street trees along the Balliol Street frontage;
 - c. The placement of canopy trees along the internal driveway located between the Existing Rental Building and the New Rental Building with adequate soil volumes through raised planters;
 - d. Designing a front-yard expression / articulation that is capable of accommodating live/work uses along Davisville Avenue;
 - e. Maintaining the mid-century modern architectural character of the canopy on the Existing Rental Building;
 - f. Daylighting the existing utility locations; and
 - g. The ability to provide 25% of the amenity space as multi-purpose space.

Other Matters

7. Prior to the issuance of the LPAT's final order, CAPREIT will submit a revised Functional Servicing and Stormwater Management Report to the satisfaction of the Chief Engineer and Executive Director, Engineer and Construction Services Division. The revised report will include details about how the Development will control the stormwater discharge and includes information as to how the Development's compliance with City requirements will ameliorate the current infrastructure situation in the area surrounding the Development.

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8. The City Solicitor will prepare a settlement report in accordance with standard City protocols for consideration at the City Council meeting commencing on 27 October 2020 for Council's consideration and action (the "**Solicitor's Report**").
9. CAPREIT confirms that SERRA has expressed support for, and acceptance of, the Settlement Offer, and SERRA also confirms such support at the Settlement Hearing referred to in paragraph 1 above.

Conclusion

This Settlement Offer is conditional on City Council accepting same before the end of the City Council meeting commencing on 27 October 2020, as well as the City supporting the settlement in any hearing before the LPAT, including without limitation, in the face of any objections from third parties.

CAPREIT is very appreciative of the City staff and SERRA efforts in this matter and hope that City Council will accept this offer. We look forward to receiving a response. Please do not hesitate to contact the undersigned if you have any questions.

Yours very truly,

Wood Bull LLP



Johanna R. Shapira

JRS/af

c. Client

Encl.





The architectural floor plan depicts a multi-story building with a complex layout. The plan is overlaid with a grid system labeled A through G horizontally and 1 through 6 vertically. Key features include:

- Top Section (Levels 1-3):** Contains several bedrooms (1 Br) with sizes ranging from 40.9 sm to 60.8 sm and square footages from 441 sf to 654 sf. It also includes a large 'Amenty' (125.3 sm, 1349 sf), a 'Type B Loading' area (11.0 x 3.5 x 4.0m min.), and a 'Move-In' area. A 'woonerf' is indicated on the left side.
- Middle Section (Level 4):** Features a 'Relocated Vestibule', 'Renovated Lobby', and various suites including 'Existing 2 Br Suite', 'Existing Bach Suite', 'Existing 3 Br Suite', 'Existing 1 Br Suite', and 'New Guest Suite'. A 'New Enclosure and Extension of Existing Garbage Chute to Parking Levels' is shown.
- Bottom Section (Level 5):** Includes a 'children's play area (private amenity space)', a 'dog run (private amenity space)', and a 'south plaza'. A 'move-in loading' area is also present.
- Other Details:** The plan shows a 'garbage bin staging' area, a 'line of anticipated street widening', and various outdoor spaces with landscaping. Dimensions and room numbers are provided throughout the plan.