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November 3, 2020

Our File No.: 112044

With Prejudice

BY EMAIL

Ms. Kelly Matsumoto
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City of Toronto Legal Services
Planning & Administrative Tribunal Law
Metro Hall
26th Floor, 55 John Street
Toronto, ON M5V 3C6
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Dear Ms. Matsumoto:

**Re: PL140806 – City of Toronto Official Plan Amendment (“OPA”) 231 and
Policy 3.5.2.6
With Prejudice Settlement Offer in Respect of 85 Hanna Avenue**

As you are aware, Aird Berlis LLP represents First Capital REIT (“FCR”) in respect of its lands located within the Liberty Village area of the City of Toronto including the lands at 85 Hanna Avenue which are the subject of an extant appeal of OPA 231 as it relates to the land use designation for the lands. Additionally, FCR also continues to have an appeal, on a general or plan wide basis, of Policy 3.5.2.6 (the “growth of cultural industries” policy).

FCR is in the process of preparing a rezoning application for other lands it owns in Liberty Village including the rear portion of the lands at 85 Hanna Avenue (described below). City staff from Community Planning identified a concern with processing such an application in the context of the extant appeal of OPA 231, described above.

The purpose of this correspondence is to provide a formal with prejudice settlement with FCR’s proposal for resolution of its OPA 231 appeal as it relates to 85 Hanna Avenue and in respect of Policy 3.5.2.6 so as to ensure that the development application for the larger Liberty Village proposal, including the rear portion of 85 Hanna Avenue, is received and processed by City staff without further delay.

FCR Proposed Development in Liberty Village – 75 and 85 Hanna Avenue

FCR is currently preparing a zoning by-law amendment application to enable the comprehensive redevelopment of its lands in Liberty Village including those located at 75 Hanna Avenue, 65 Hanna Avenue and 120 Lynn Williams, collectively referred to as the “Development Site”. The lands at 65 and 75 Hanna Avenue and 120 Lynn Williams are all designated *Mixed Use Areas*.

The proposed redevelopment of the Development Site, as currently contemplated, would also incorporate a portion of the lands municipally known as 85 Hanna Avenue that is located to the rear of 75 Hanna.

OPA 231 proposes to designate the entirety of 85 Hanna, including the portion that is located to the rear of 75 Hanna, as *General Employment*.

The *General Employment* designation does not permit residential uses, and it limits the extent of retail and service commercial uses permitted on the site.

Proposed Settlement

In order to allow for the integration and orderly development of the rear portion of 85 Hanna into the redevelopment of 75 Hanna, while continuing to permit for a range of employment uses on the remainder of the 85 Hanna property, FCR proposes to resolve its appeal of OPA 231 as it relates to 85 Hanna in the following manner:

- The portion of 85 Hanna located behind 75 Hanna will revert to a *Mixed Use Areas* designation (see attached Draft Map indicating this area);
- The Larger Development Site, all of which would be designated *Mixed Use Areas* would then be the subject of a development application to Community Planning which could be accepted and processed by City staff; and
- The remainder of 85 Hanna would remain *General Employment*;

Additionally, FCR would agree to withdraw its general appeal of Policy 3.5.2.6 that relates to the growth of cultural industries subject to modification of the policy language in order to clarify its intent. Currently, the policy provides as follows:

Cultural enterprises and employment are significantly clustered within *King Spadina Secondary Plan* area, *King Parliament Secondary Plan* area and the Liberty Village Area of the *Garrison Common North Secondary Plan*. The stock of non-residential floor space in these areas will be preserved and expanded to encourage the continued growth of cultural industries.

We note that the policy requires that “the stock of non-residential floor space in these areas will be preserved and expanded” but does so in the context of the policy which speaks to “cultural industries”. We further note that “cultural industries”, as defined in OPA 231, include design, broadcasting, film, video and photography, music and the visual and performing arts, publishing, software, computer games and electronic publishing.

We interpret this policy, when read in its totality, to seek the preservation and expansion of “non-residential floor space” which is associated with “cultural industries” and not, for example, the preservation and expansion of all non-residential gross floor area.

Based on this interpretation, we propose the following modifications to the policy which modifications arise from discussions with City of Toronto staff:

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Cultural enterprises industries and employment are significantly clustered within the King Spadina Secondary Plan area, King Parliament Secondary Plan area and the Liberty Village Area of the Garrison Common North Secondary Plan. The stock of non-residential floor space associated with cultural industries in these areas will be preserved or expanded to encourage the continued growth for cultural industry uses.

On behalf of our client we can confirm that the above-described re-designation of the rear of 85 Hanna Avenue (as shown in the attached Draft Map) together with the modifications to Policy 3.5.2.6 above will resolve in their entirety both the FCR appeal of OPA 231 as it relates to 85 Hanna Avenue and the FCR general appeal in respect of Policy 3.5.2.6.

We appreciate the willingness of City staff to engage in these discussions and to bring this settlement forward to Council as soon as possible so as to ensure that the FCR application for the Development Site and the rear portion of 85 Hanna will be received by the City and processed accordingly.

Yours truly,

AIRD & BERLIS LLP

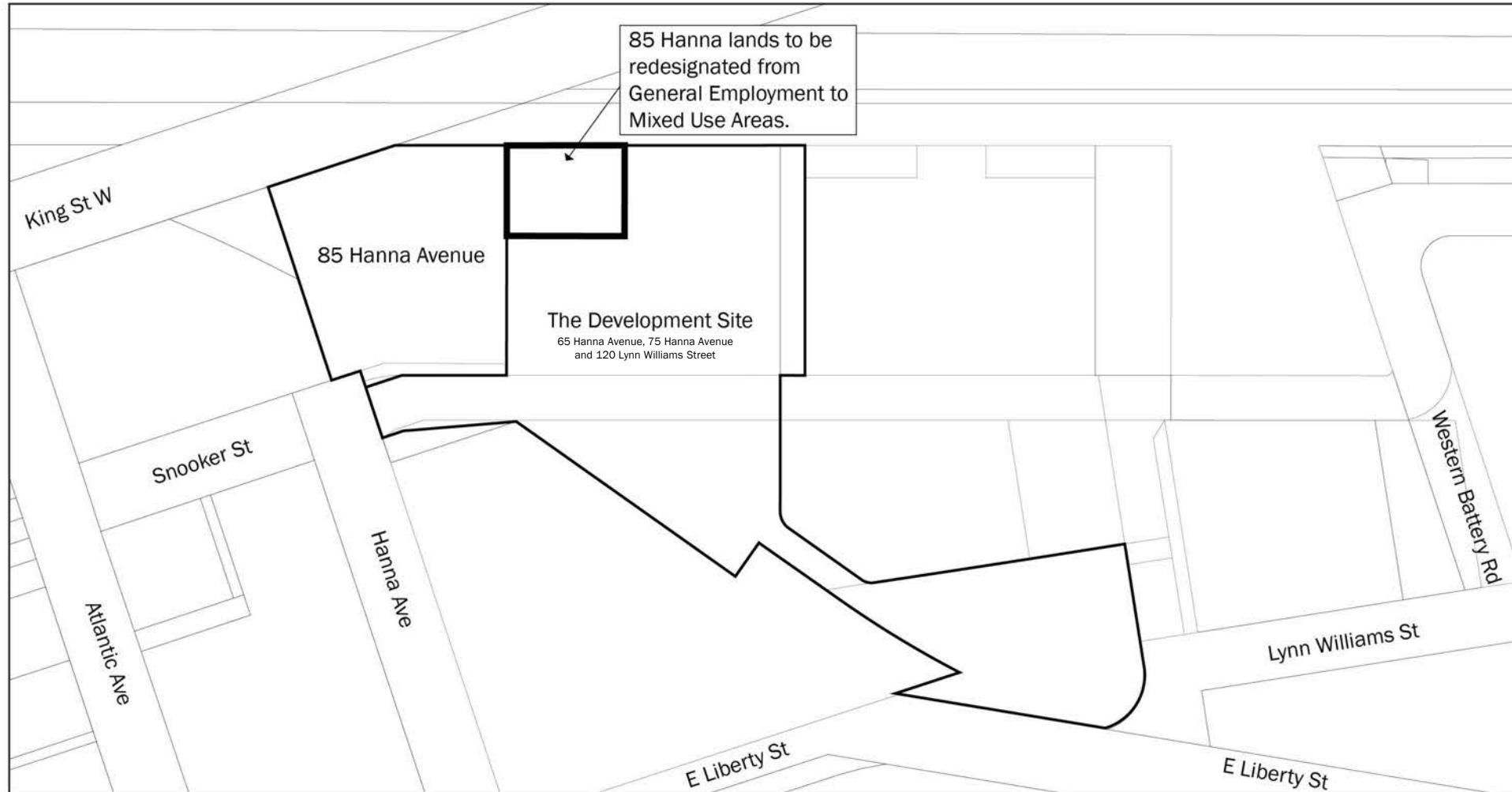


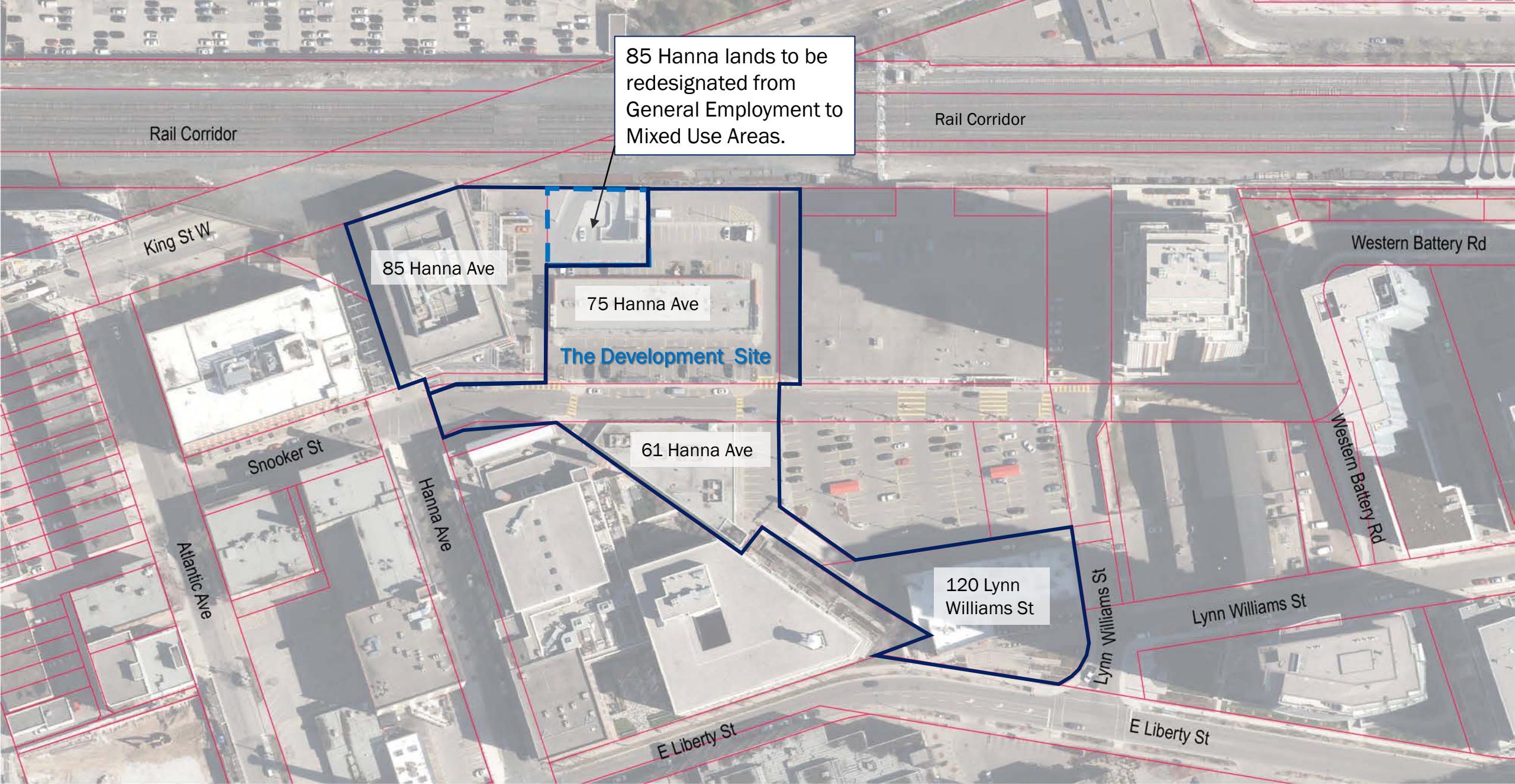
Eileen P. K. Costello
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Encl.

c: Jennifer Arezes, FCR
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85 Hanna lands to be redesignated from General Employment to Mixed Use Areas.

85 Hanna Ave

75 Hanna Ave

The Development Site

61 Hanna Ave

120 Lynn Williams St

Rail Corridor

Rail Corridor

King St W

Western Battery Rd

Snooker St

Western Battery Rd

Atlantic Ave

Hanna Ave

Lynn Williams St

Lynn Williams St

E Liberty St

E Liberty St

NOTE: the projection of the aerial photograph does not align with the R-plan projection.

