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June 17, 2021

Without prejudice

Delivered by email

Derin Abimbola
City of Toronto
c/o Legal Department
Metro Hall – 26th Floor
55 John Street
Toronto, Ontario
M5V 3C6

Dear Ms. Abimbola:

**Re: Settlement Offer – 40 to 48 Hendon Avenue
Official Plan and Zoning By-law Amendment Appeals
LPAT Case No. PL200269**

We are counsel to 40-44-48 Hendon Inc. and 42-46 Hendon Inc. (“the Owner”), the owner of lands municipally described as 40 to 48 Hendon Avenue (“the Site”), regarding the above-noted matter.

By way of background, the Owners filed applications to amend the Official Plan and Zoning By-law No. 7625 to facilitate the redevelopment of the Site. The Zoning By-law Amendment Application was deemed complete on February 26, 2019, and the Official Plan Amendment application was deemed complete on January 29, 2020. The Owners filed appeals to the Local Planning Appeal Tribunal (“the Tribunal”) on June 19, 2020, pursuant to ss. 22(7) and 34(11) of the *Planning Act*. The appeal proceeding has been assigned Case No. PL200269. The hearing is set to begin on August 31, 2021.

North York Community Council considered a Request for Directions Report at its meeting of January 13, 2021, and authorized staff to continue discussions with the Owner in consultation with City staff and the local Councillor, and to report back to Council on the outcome.

My client has held productive discussions with City staff, and those discussions have culminated in a proposed revision to the plans that reduces the building from a 6-storey building to a 4-storey stacked townhouse building. These are substantial revisions that have addressed all concerns raised in the Staff Report.

As such, we write to make a without prejudice offer to settle the Official Plan and Zoning By-law Amendment appeals of our client, in entirety (“the Settlement Offer”). The Settlement Offer is subject to the terms as set out below.

1. Building Details

The Official Plan Amendment and Zoning By-law Amendment will permit the proposed development (“the Development”) in accordance with the set of plans and drawings attached hereto as Schedule “1” (“the Settlement Plans”), and which includes the following elements:

- a) One residential stacked townhouse building separated into two blocks, four storeys in height plus rooftop amenity access stairwell;
- b) Rear yard (north) setback to Hendon Park of 7.175 m to the above-grade building wall;
- c) Front yard (south) setback to Hendon Avenue of 4.285 m to the above-grade building wall;
- d) Density of 1.51 x F.S.I., pursuant to a definition of Gross Floor Area that has been discussed with staff and is set out below;
- e) 30 total units, including 28 two-storey townhouse units and 2 one-storey units, with the following mix: 18 three-bedroom units and 12 two-bedroom units;
- f) 52 m² of indoor amenity space provided in a pavilion between the two building blocks;
- g) 40 m² of outdoor amenity space provided in a pergola and upper seating area;
- h) Patios or rooftop terraces will be provided for each unit as shown on the Settlement Plans;
- i) Vehicular access will be provided from Hendon Avenue with removal of the Hendon “cul-de-sac” as shown on Map 8-11 of the North York Centre Secondary Plan;
- j) Bicycle storage for 30 bicycles will be provided in the underground garage, with a bike wheeling ramp for convenient access; and
- k) A total of 35 parking spaces will be provided in an underground garage, including three visitor parking spaces.

The proposed bicycle storage area of 72.5 m² and 45 m² of the pavilion area will be density incentives, therefore, no section 37 contribution will be required for the GFA in excess of 1.5 x the lot area. The City of Toronto (“the City”) and the Applicant will jointly request approval of the Revised Plans in principle, subject to the other terms of this Settlement Offer.

2. Parkland Dedication

The Owner agrees to provide the following parkland dedication subject to the following requirements:

- a) The Owner shall provide full, onsite parkland dedication of 232 square metres, in the location shown on the Settlement Plans.
- b) As per Toronto Municipal Code Chapter 415-28, prior to the issuance of the first above grade building permit, the Owner shall convey the parkland to the satisfaction of the General Manager, Parks, Forestry & Recreation (PF&R).
- c) The Owner is to pay for the costs of the preparation and registration of all relevant documents. The Owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey for the new parkland.
- d) The construction of the Base Park Improvements to the park block shall be completed within one year after the issuance of the first above grade building permit to the satisfaction of the General Manager, PF&R. Unforeseen delays (e.g. weather) resulting in the late delivery of the park block shall be taken into consideration and at the discretion of the General Manager, PF&R when determining a revised delivery date for the park block.

3. Definition of Gross Floor Area

The following definition of Gross Floor Area shall be used in the implementing Official Plan Amendment and Zoning By-law Amendment.

Definition

For the purpose of this exception, "gross floor area" shall mean the aggregate of the areas of each floor, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, including any areas used as balconies, but excluding:

- (i) any part of the building used for mechanical floor area*
- (ii) any space in a parking garage at or below grade used exclusively for motor vehicle or bicycle parking or access thereto; and*
- (iii) the floor area of unenclosed residential balconies*

a. The calculation of gross floor area may exclude:

Architectural features affixed to or extending beyond the exterior faces of exterior walls; floor slab openings and other voids, including pipe space enclosures throughout, including within residential units; mechanical areas

within residential units, including HVAC spaces; stormwater storage tanks; parking ramps and aisles to or within a parking garage; bicycle rooms contained within a parking garage; accessory uses to parking areas within a parking garage including: airlock rooms adjacent to elevators or exits; exit stairs that lead directly from a parking garage to the exterior of the building without serving any other areas; curbs adjacent to parking areas; supporting columns, walls or other like structures in a parking garage; pedestrian walkways within a parking garage; motor vehicle loading spaces, access thereto and adjacent bin staging areas; dead areas adjacent to parking spaces between columns, in corners and around curves or provided to facilitate vehicular turnaround; other spaces in a parking garage not accessible and/or usable due to structural design;

b. *The calculation of gross floor area shall include:*

General storage spaces of any kind, including lockers and rooms; bicycle rooms not contained within a parking garage; vestibules other than airlock rooms; garbage and recycling rooms; stairs, landings and hallways other than those that lead directly from a parking garage to the exterior of the building without serving any other areas; amenity spaces; elevator lobbies; the floor areas of elevator cabs.

4. **This Settlement Offer is conditional on City Council accepting this offer at its meeting of July 15, 2021.**
5. **The Owner acknowledges that the Parties may ask the Tribunal to withhold its Order(s) until such time as:**
 - a) the City Solicitor confirms that the final form of Official Plan Amendment and Zoning By-law Amendment are satisfactory;
 - b) the City Solicitor confirms the satisfactory execution and registration of a Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning to secure the density incentives, parkland conveyance, and other matters as appropriate;
 - c) the City Solicitor confirms that the owner has provided a Functional Servicing and Stormwater Management Report and a Hydrogeological Report, acceptable to the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - d) the City Solicitor confirms that the owner has designed and provided financial securities for any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Functional Servicing and Stormwater Management Report, and Hydrogeological Report to support the development, all to the satisfaction of the Chief Engineer and Executive

Director, Engineering and Construction Services, should it be determined that improvements or upgrades are required to support the development, according to the Functional Servicing and Stormwater Management Report, and Hydrogeological Report, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services.

We look forward to hearing from you. Should you require further information please do not hesitate to call or email me.

Best regards,



Amber Stewart

c. Mr. Ryan Guetter, MCIP, RPP
Client