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WITHOUT PREJUDICE

September 21, 2021

VIA EMAIL

Laura Bisset and Michael Mahoney
Solicitors, Planning & Administrative Tribunal Law
City of Toronto, Legal Services Division
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Ms. Bisset and Mr. Mahoney:

**RE: 6 Dawes Road (City of Toronto)
Application for Zoning By-law Amendment
Appeal of City of Toronto Official Plan Amendment No. 478
City File No. 19-253476 STE 19 OZ
OLT Case Nos. PL210195 and PL200072
Offer to Settle ZBA Appeal**

We are the lawyers for 6 Dawes Danforth Inc. (“**6DDI**”), being the owner of the property municipally known as 6 Dawes Road in the City of Toronto (the “**Property**”).

The Property is generally rectangular in shape and is oriented in an east-west manner, with a site area of approximately 11,978.5 square metres. The eastern boundary of the Property fronts onto Dawes Road. The Property is currently occupied by a self-storage facility.

The Property has exceptional access to higher-order transit. More specifically, the Property is adjacent to the Metrolinx Rail Corridor and the Danforth GO Station, and it is within walking distance (less than 500 metres) from the Main Street Subway Station. A portion of the Property generally along the east boundary is currently subject to an easement to provide access to the rail corridor in favour of Metrolinx. The Property is designated *Mixed Use Areas* in the City of Toronto Official Plan (Map 20), and is located just south of Danforth Avenue, which is identified as an *Avenue* in the Urban Structure (Map 2).

As a matter of provincial and local Official Plan policy, the Property and the surrounding area is intended to facilitate significant growth and reurbanization in the form of mixed-use development, in order to promote the optimization of land use and infrastructure, most notably the significant transit infrastructure in the immediate area.

Official Plan Amendment No. 478

The Property is within the planning area identified for significant mixed-used development under Official Plan Amendment No. 478, which was adopted by City Council on December 17, 2019 (“**OPA 478**”) and appealed by a number of landowners, including an appeal filed by 6DDI (the “**OPA 478 Appeal**”). As adopted, OPA 478 identifies the Property as being within the “Height Peak” area within “Character Area C” where the tallest heights are contemplated, given the proximity to the Danforth GO Station and Main Street Subway Station.

OPA 478 remains under appeal before the Ontario Land Tribunal (the “**Tribunal**”) (OLT Case No. PL200072). Case Management Conferences for OPA 478 have been held on December 16, 2020 and May 11, 2021. A further Case Management Conference was held on September 20, 2021 in advance of the 30-day hearing scheduled to begin on April 4, 2022.

The Site-Specific Application and Appeal

On November 25, 2019, prior to OPA 478 being adopted by City Council, 6DDI submitted an application for a zoning by-law amendment for the Property (the “**ZBA Application**”). Following a series of comments received from City Staff during the application review process, 6DDI filed a revised proposal with the City on January 13, 2021 (the “**Revised Proposal**”).

The Revised Proposal was appealed to the Tribunal on March 23, 2021 on the basis of City Council’s refusal or neglect to make a decision on the ZBA Application within 90 days of the making of the application (the “**ZBA Appeal**”). A Case Management Conference for the ZBA Appeal was held before the Tribunal on May 14, 2021. A further Case Management Conference is scheduled for October 5, 2021.

Mediation and Settlement Proposals

The OPA 478 Appeal and the ZBA Appeal (collectively, the “**Appeals**”) have been the subject of extensive mediation efforts with the City and the other appellants of OPA 478. As we understand, City Staff is now satisfied with the settlement proposal as set out below, including as it relates to the proposed built form and the organization of development on the Property as illustrated in the architectural plans described below and attached to this settlement offer as Appendix A.

Our client is proposing a global settlement of the Appeals with the City (the “**September Comprehensive Settlement**”). As requested, the September Comprehensive Settlement is being filed in two parts as follows:

1. a settlement offer is being filed in respect of the ZBA Appeal, being the within settlement offer dated September 21, 2021 (the “**September ZBA Settlement Offer**”); and,
2. a separate settlement offer (under separate cover) is being filed in respect of the OPA 478 Appeal dated September 21, 2021 (the “**September OPA 478 Settlement Offer**”).

The potential revised proposal, as more fully described below, includes a significant contribution of lands towards the westerly extension of Dawes Road from its current terminus (the “**Dawes Road Extension**”).

The September OPA 478 Settlement Offer is conditional upon the City accepting the ZBA Settlement Offer and subject to all of the conditions and qualifications set out herein.

The September ZBA Settlement Offer and September OPA 478 Settlement Offer are additional settlement options to those filed with the City on July 2, 2021.

The ZBA Settlement Offer

The ZBA Settlement Offer contemplates that the proposal will be revised to permit the following (Nos. 1-11 below are collectively referred to as the “**Settlement Development**”):

1. The redevelopment will be mixed-use and the implementing zoning by-law amendment will permit a maximum gross floor area of 103,300.0 square metres, comprised of a maximum residential gross floor area of 103,200.0 square metres and a minimum non-residential gross floor area of 135.0 square metres. The calculation of the gross floor area of the development will not include areas that are dedicated to residential amenity, mechanical, bicycles, storage and areas for parking above or below grade, amongst others.
2. The built-form of the three tower components will consist of the following:
 - a. a maximum height of 29 storeys and 103.83 metres for Tower 1, inclusive of the mechanical penthouse with a height of 7.45 metres which shall be set back a minimum of 5.0 metres from the western face of Tower 1, (measured from an Average Grade of 130.75 ASL);
 - b. a maximum height of 39 storeys and 133.83 metres for Tower 2, inclusive of the mechanical penthouse with a height of 7.45 metres, (measured from an Average Grade of 130.75 ASL);
 - c. a maximum height of 37 storeys and 127.93 metres for Tower 3, inclusive of the mechanical penthouse with a height of 7.45 metres (measured from an Average Grade of 130.75 ASL);
 - d. the number of storeys shall not exceed 39 storeys anywhere on site;
 - e. a maximum podium height of 6-storeys along the north and west elevation and 10-storeys between Towers 1-3;
 - f. a maximum floor plate of 791 square metres for Tower 1 and 850.0 square metres for Towers 2 and 3; and,
 - g. a minimum tower separation of 25.0 square metres between Towers 1, 2 and 3.

(collectively, the “**Western Component**”).

3. The built-form of the mid-rise component sited to the east of the POPS (as defined below) will consist of the following:

- a. a maximum height of 65.65 metres (measured from an Average Grade of 130.65 ASL); and,
- b. a maximum podium height of 4-storeys along the north elevation and 6-storeys along the south elevation,

(the “**Mid-Rise Component**”).

4. The Settlement Development will contain market rental housing without restriction for a period of 20 years in an amount not less than 15,500 square metres (the “**Rental Component**”). The location of the Rental Component will be determined through the site plan approval process to the satisfaction of the Chief Planner. For greater certainty, nothing contained herein is intended to prevent 6DDI from providing additional rental housing beyond the Rental Component, at its sole discretion, it being recognized that the specific tenure of the Settlement Development, in whole or in part, will be determined by 6DDI at a future date.
5. Parking for residential uses shall be provided at a rate of 0.18 parking spaces per unit for resident parking and 0.03 parking spaces per unit for visitor parking, and parking for retail uses shall be provided at a rate of 1.0 parking space per 100 square metres, all of which may be provided in a public parking garage on the Property, which may also be provided in an automated parking system. The proposed reduction in parking rates will be supported by a comprehensive Transportation Demand Management Plan submitted to the satisfaction of the Chief Planner, and secured in the Section 37 Agreement.
6. The minimum unit mix thresholds for the Settlement Development as a whole will include a minimum of 20% 2 bedroom units and 10% 3 bedroom units, and the Rental Component itself will achieve this minimum unit mix threshold.
7. The proposal will incorporate a privately-owned publicly accessible space (“**POPS**”) with a size of 503.0 square metres and be located to the west of the Mid-Rise Component. The POPS area will have a width of 22.0 metres. The POPS will further facilitate a potential mid-block connection. A pedestrian access easement over the POPS will be conveyed to the City with the timing of conveyance to be determined at the time of site plan approval for the first phase of development, and which will recognize that should the easement be conveyed prior to the final phase of development being complete, it shall not operate or in any way restrict 6DDI from continuing ongoing staging on and construction of the POPS or the Settlement Development, and that 6DDI shall be permitted to restrict public access over the POPS until, at the latest, the final phase of development is completed at no cost to 6DDI. The proposal will incorporate a 1,400.0 square metre unencumbered on-site parkland dedication (the “**Park**”) which will be located to the east of the Mid-Rise Component. The Park will provide the greater of a 5.0 metres setback or the setback required for fire separation purposes under the Ontario Building Code to the Mid-Rise Component, and be improved to at least Base Park Condition (as defined in Appendix “B” of this Zoning Appeal Settlement Offer), to the satisfaction of the General Manager, Parks, Forestry and Recreation. The Park will be conveyed to the City prior to the earlier of first occupancy in the case of a rental building, or condominium registration, for the Mid-Rise Component. Prior to conveyance, 6DDI agrees to the registration of a Section 118 restriction on the Park lands, which will be secured in the Section 37 Agreement. The

balance of the parkland dedication requirements that apply to the Settlement Development, if any, shall be satisfied by way of a cash-in-lieu payment, calculated in accordance with Chapter 415, Article III, of the Municipal Code, and paid prior to the issuance of the first Above-Grade Building Permit for the Settlement Development. The Owner will commit to the obligations in the course of designing, constructing and installing the Base Park Improvements as generally set out in Appendix “C”.

8. The Owner agrees to design and construct Above Base Park Improvements to the Park lands, in exchange for a Development Charge credit against the Parks and Recreation component of the Development Charges, to the satisfaction of the General Manager, PFR. The Development Charge credit shall be in an amount that is the lesser of the cost to the Owner of installing the Above Base Park Improvements, as approved by the General Manager, PFR, and the Parks and Recreation component of Development Charges payable for the development in accordance with the City’s Development Charges By-law, as may be amended from time to time.
9. The proposal will include a portion of the Dawes Road Extension. The alignment is further discussed below. 6DDI will develop the portion of the Dawes Road Extension on the Property as a private interim condition to service the Settlement Development, and will provide both a pedestrian and vehicular access easement and a public utilities easement over and under these lands through the site plan approval process. 6DDI agrees to the registration of a Section 118 restriction against these lands until they are conveyed to the City as a public right of way which will occur once the full right of way is constructed through the redevelopment process for the lands to the north. The specific timing and agreement to convey said lands will be set out in the implementing Section 37 Agreement.
10. 6DDI will enter into a Section 37 Agreement to secure the following community benefits:
 - a. a cash contribution of \$7,300,000 to be paid prior to the issuance of the first above-grade building permit for the Settlement Development, which is to be allocated towards a new community recreation centre or such other public benefits that are to be determined by the City in consultation with the local councillor;
 - b. \$66,667.00 toward a streetscape improvements study for Main Street in proximity to the Property, which will include the intersections of Main Street and Danforth Avenue and Main Street and Gerrard Street; and,
 - c. Subject to No. 11(f) below, an in-kind contribution in the form of the conveyance in fee simple to the City of affordable housing units (the “**Affordable Housing**”) in the first phase of development, to the satisfaction of the Chief Planner and the City Solicitor, as follows:

Description of Affordable Housing Provision at 6 Dawes Road					
Total Area	4,600.00 square feet				
	Growing Up Guideline	Unit Sizes (Conceptual)	Number of Units	Totals	
3 bedroom	1076-1140 sf.	1085 sf.	1	1085 sf.	
2 bedroom	936-969 sf.	940 sf.	2	1880 sf.	
1 bedroom	n/a	545 sf.	3	1635 sf.	
Totals			6	4600 sf.	
Design Terms	<p>The affordable housing units (“AH units”) will be contiguous, located on the lowest two residential floors of either the west or the east block of the 6 Dawes development, facing north (outside of the Rail Safety Zone), with the final location to be determined through the site plan approval process.</p> <p>In all instances, residents of the AH units shall have full access and use of common amenities in the building (including visitor parking). The AH units will have access to bicycle parking spaces, but will not be assigned vehicular parking spaces or storage units.</p>				

- d. Notwithstanding (c) above, the Section 37 Agreement shall recognize that 6DDI shall have the right to convey the Affordable Housing at later phase of the Settlement Development, with the specific timing/phasing to be determined through the site plan approval process, provided that 6DDI provides the City with a letter of credit in an amount equal to \$2,700,000 to secure the Affordable Housing prior to the first above-grade building permit for the first phase of development. The letter of credit shall be indexed from the date of execution of the Section 37 Agreement.

The cash contributions shall be subject to upwards indexing from the date of the execution of the Section 37 Agreement to the date of payment.

The Section 37 Agreement shall be subject to terms that provide for unwinding in the event that the development contemplated herein is frustrated by other planning decisions, including pending or future matters before the Tribunal.

The Settlement Development does not provide a direct connection to the GO Station Building or Main Street. However, the POPS has been designed to allow access to the GO Station Platform to the south of the Property in the event that Metrolinx facilitates such connection on its lands in the future.

The Settlement Development is predicated on the development being excluded from a potential future inclusionary zoning by-law and that the approval of the implementing zoning by-law amendment will trigger the transitional provision under s. 37.1(3) of the Planning Act such that the Settlement Development will not be subject to a potential future community benefits by-law passed under s. 37 of the Planning Act (as amended by Bill 197, the *COVID-19 Economic Recovery Act, 2020*), but it is acknowledged that Section 37.1 of the Planning Act is determinative of transitional matters. The Settlement Development is further predicated on the parkland dedication requirements applicable to the Settlement Development under s. 42 of the Planning Act, and the City of Toronto Parkland Dedication By-law contained in Chapter 415 of the Municipal Code as of the date of this Zoning Appeal Settlement Offer. 6DDI fully reserves its rights to reconsider and seek revisions to the terms and components of the Settlement Development in the event that it is required to provide affordable housing pursuant to the City's future inclusionary zoning by-law, or to pay a community benefits charge pursuant to the City's future community benefits charge by-law, or if the parkland dedication requirements applicable to the Settlement Development are subsequently increased beyond those in force as of the date of this ZBA Settlement Offer. It is acknowledged that if 6DDI reconsiders and seeks revisions to the terms and components of the Settlement Development, the City reserves its right to likewise reconsider its position with respect to the Settlement Development. For greater certainty, nothing in this ZBA Settlement Offer is intended, nor will it operate, to fetter City Council's legislative discretion, or to contract out of the transition provisions of the Planning Act and its Regulations with respect to inclusionary zoning and community benefits charges.

6DDI relies on the following materials for the assessment of the Settlement Development:

1. the architectural plans and drawings prepared by BDP Quadrangle dated September 1, 2021 and attached as Appendix A:
 - a. Drawing A100 – Statistics & Context Plan
 - b. Drawing A101 – Site Plan
 - c. Drawing A402 – South Elevation

(the “**Settlement Plans**”).

It is anticipated that the remainder of the architectural set of plans will be available to present to City Council at the October 1, 2021 City Council meeting.

Other Matters

As part of our discussions, 6DDI and City Staff have agreed that in the event that the Settlement Development is accepted by City Council, the parties will work expeditiously to resolve any outstanding matters including the submission and review of supporting studies and the form of the implementing zoning by-law amendment, which will be updated to reflect the Settlement Development in advance of the hearing before the Tribunal, and shall be comprised of updates to the following documents and plans, to the satisfaction of the City Solicitor, the Chief Planner and/or Chief Engineer, as identified below:

1. Draft Zoning By-law Amendment (Chief Planner and City Solicitor);
2. Site-Specific Functional Servicing Report and Phase 1 Stormwater Management Report (Chief Engineer);
3. Grading and Servicing Plans (Chief Planner and Chief Engineer);
4. Rail Safety Report (Chief Planner);
5. Noise and Vibration Report (Chief Planner and Chief Engineer);
6. Architectural Plans (Chief Planner);
7. Landscape Plans (Chief Planner); and,
8. Traffic Impact Study (Chief Engineer).

The undertaking described herein will include the parties working in good faith to execute the implementing Section 37 Agreement, so that all matters can be resolved in order for the Tribunal Order to issue prior the hearing on the merits of the ZBA Application and Settlement Development with a final outside date of March 1, 2022 for completion of such matters. If any matters remain outstanding at that time, the parties will work in good faith to develop preconditions that are to be satisfied prior to the Tribunal Order issuing, and to thereafter work expeditiously to resolve such preconditions.

Through the mediation process for the OPA 478 Appeals, 6DDI and the owners of (a) 10 and 30 Dawes Road and (b) 9 and 25 Dawes Road commissioned the Master Functional Servicing Report prepared by R.V Andersen dated June 25, 2021 (the “**MFSR**”), which outlines the water, sanitary, and stormwater upgrades necessary for the functional servicing of lands within the OPA 478 Study Area, including the Property. The update to the site-specific functional servicing report noted above is required in support of the Settlement Development, specifically, which will identify the specific upgrades set out in the MFSR that are required to support the Settlement Development (the “**FSR**”).

The settlement of the Appeals is predicated on the City approving the MFSR and FSR in advance of the Settlement Hearing and thereafter authorizing 6DDI, alone or in concert with other property

owners, to undertake the work outlined in the MFSR necessary for the functional servicing of the Settlement Development. In the event that the MFSR and FSR have not been approved by the City in advance of the Settlement Hearing, then the parties will jointly request that the Tribunal impose a condition that such studies be completed to the satisfaction of the Chief Engineer & Executive Director, prior to the Tribunal Order issuing in respect of the ZBA Appeal.

In the event 6DDI undertakes servicing works which benefit other properties, 6DDI requests that City Council confirm its authorization at its meeting on October 1 and 4, 2021, of a development charge credit to the Owner in an amount equal to the cost of the improvements that are in excess of the improvements necessitated by and attributable to the Development, but not to exceed: i) the actual cost of the work identified in the Master Functional Servicing Report for Character Area C of OPA 478 that is undertaken by the Owner that is in excess of the improvements necessitated by and attributable to the Development, and ii) the water, sanitary sewer, and storm water management components of the development charges applicable to the Development. 6DDI and the City shall enter into a Municipal Infrastructure Agreement(s) to authorize 6DDI to construct the works identified in the MFSR and/or FSR.

This ZBA Settlement Offer is conditional upon the following:

1. 6DDI and Metrolinx agreeing upon legal arrangements to provide for a temporary closure of the existing easement over the Property;
2. 6DDI achieving a global settlement with Metrolinx in respect of the Settlement Development, including, without limitation, the Settlement Plans; and,
3. The parties proceeding to seek approval of the ZBA Application before the OLT at the case management conference scheduled on October 5, 2021,

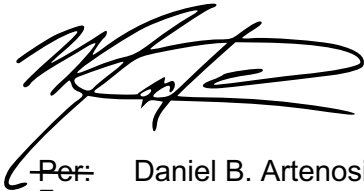
(collectively, the “**Conditions**”).

The Conditions are inserted for the benefit of 6DDI and our client reserves its right to waive the Conditions, in whole or in part, at its sole and absolute discretion.

This Zoning By-law Appeal Settlement Offer is open until October 1, 2021, following which it will become null and void if not accepted. In this regard, this Settlement Offer is being submitted for consideration by City Council at its meeting on October 1 and 4, 2021.

If the September Comprehensive Settlement is accepted by City Council, 6DDI only consents to the September Comprehensive Settlement and City Council’s consideration thereof being made public if 6DDI advises that the Conditions have been satisfied or otherwise waived by 6DDI.

Yours truly,
Overland LLP



~~Per:~~ Daniel B. Artensosi
For: Partner

Encl.

c. H. Spriggs and S. Dejonckheere, 6 Dawes Danforth Inc.

Appendix “B”

Base Park Conditions

Base Park Condition is as follows:

Prior to conveyance of the Park lands to the City, the Owner shall (1) ensure that the Park lands are free and clear of any and all physical and title encumbrances, below and above grade; (2) complete the environmental requirements of the City's 'Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City as a Condition of a Development Application Approval'; and (3) complete the design, construction and installation of the City's standard Base Park Improvements at its expense, to the satisfaction of the General Manager, Parks, Forestry and Recreation (PFR), which consist of the following:

- Demolition, removal and disposal of all existing materials, buildings, foundations and associated servicing;
- Grading inclusive of 300mm depth topsoil supply and placement. Where lands have been environmentally risk assessed in accordance with the Ministry of Environment, Conservation and Parks, including its successors and predecessor's regulations, 1.5 metres depth of contaminated soil will be removed and the required depth profile of the environmental soil / soft cap will be 1.5 m of engineered fill compacted to 95% SPD and certified by the consulting engineer;
- in the case of a risk-assessed Parkland site, all materials brought on the Parkland site shall comply with the site-specific standards outlined in the Certificate of Property Use and in accordance with the Environmental Protection Act and O. Reg. 153/04;
- in the case where no risk assessment of the Parkland site was required, all materials brought on the Parkland site shall comply with Table 3 RPI standards, incorporated by reference into O. Reg. 153/04;
- Sodding #1 nursery grade;
- Fencing, where deemed necessary; to the satisfaction of the General Manager, PFR;
- Sanitary and storm service connections with manholes at streetline;
- Water and electrical service connections; (minimum water: 50mm to the street line including backflow preventers, shut off valves, water meter and chamber; electrical connection to the street line and electrical panel in a lockable cabinet (100 Amp service) where deemed necessary by the General Manager, Parks Forestry and Recreation;
- Street trees along all public road allowances abutting City-owned parkland; and
- Standard park sign (separate certified cheque required).

Appendix “C”

Additional Terms for Base Park Conveyance

1.		The Owner will provide a landscape package that demonstrates the incorporation of the Base Park Improvements into the parkland dedication. The landscape package shall be approved as a component pre-approval condition of the site plan application for the Mid-Rise-Component.
2.		Prior to the issuance of the first above grade building permit for the Mid Rise Component:
	a.	the Owner will submit a cost estimate and any necessary plans for the Base Park Improvements, to the satisfaction of the General Manager, PFR.
	b.	the Owner will post an irrevocable Letter of Credit in the amount of 120% of the value of the Base Park Improvements for the parkland to the satisfaction of the General Manager, PFR. No credit shall be given towards the Parks and Recreation component of the Development Charges for costs associated with Base Park Improvements.
3.		The construction of the Base Park Improvements shall be completed prior to the conveyance of the Park to the City, to the satisfaction of the General Manager, PFR. Unforeseen delays (e.g. weather) resulting in the late delivery of the Park lands shall be taken into consideration and at the discretion of the General Manager, PFR when determining a revised delivery date for the Park.
4.		Should the Owner undertake Base Park Improvements on the Park lands, following conveyance of the Park lands to the City, the applicant will obtain a Park Access Agreement (PAA) from PFR. The PAA will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, and duration to the satisfaction of the General Manager, PFR. The applicant will indemnify the City against any claim during any interim use of or work carried out by the applicant on the park.