

November 1, 2021

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File 06808.00001

WITH PREJUDICE

Planning & Administrative Tribunal Law
City of Toronto Legal Services
55 John Street, 26th Floor, Metro Hall
Toronto, ON M5V 3C6

Attention: Alexander Suriano, City Solicitor

Dear Mr. Suriano:

Re: LPAT Case No. PL180431
700-730 Mount Pleasant Road, 214-226 Soudan Avenue and 19-21 Brownlow Avenue, City of Toronto - With Prejudice Settlement Offer

We are the solicitors for Wells Gordon Limited (“WGL”), the owners of the properties known municipally as 700-730 Mount Pleasant Road, 214-226 Soudan Avenue and 19-21 Brownlow Avenue -in the City of Toronto (the “**Property**”). We are writing to make the City this “with prejudice” settlement offer in respect of this matter.

As you know, on November 2, 2017, our client filed a rezoning application (the “**Original Application**”) proposing the expansion of the existing Briton House Retirement Centre. This Application was filed prior to the approval of OPA 405 (Midtown in Focus) by the Minister of Municipal Affairs and Housing on June 5, 2019.

The Original Application consisted of a 25-storey building (88.6 m including mechanical penthouse) having a seven-storey base building podium. The proposal would have added 133 assisted living nursing rooms to the existing retirement centre (in the base podium) and 123 independent retirement dwelling units (in the tower component).

On July 23, 2018, City Council considered a Staff Report dated June 21, 2018 (TE34.39) and resolved and directed, among other matters, that City Staff to continue to review the application (i.e. the Original Application) and resolve any outstanding issues detailed in the report.

With the approval of OPA 405, WGL instructed its consulting team to review the Original Application, in light of the Midtown in Focus approval, and make recommendations that would bring the development into full conformity. In April 2020 a revised application was submitted to

the City (the “**Revised Plans**”) responding to the approved Midtown in Focus, as well as making further revisions in response to various comments received from the City departments and discussions that occurred with SERRA.

On March 22, 2021, the Ontario Land Tribunal (the “**Tribunal**”) held its first Case Management Conference. In accordance with the Tribunal’s direction, on March 12, 2021, the owners directed us to file a further revised proposal which is the basis for the Issues for the hearing scheduled to commence on January 10, 2022 (the “**Further Revised Plans**”). The Tribunal held a second CMC in July 2021 to finalize the Issues List.

For Council’s information, in the almost four years of processing the Application, WGL has made every effort to redesign the building and make significant changes to the proposal responding to all known interests of relevant stakeholders. While the matter was appealed to the Tribunal, it was done with the undertaking to continue to work with the City to reach a resolution.

In a further good faith attempt to reach a resolution, WGL has again made further revisions to the design with the aim of resolving remaining issues in the hopes that the upcoming Tribunal hearing can be converted to a settlement. Please find attached a further revised development proposal (the “**Final Plans**”) that WGL seeks to have approved.

Details of the changes between the various reiterations are set out in the summary chart contained in the Overall Site Plan (Sheet 1 of 12) found in the Final Plans attached. Some of the significant changes are:

1. The Type “G” loading space has been relocated to the northwest sector of the Property just north of and running parallel to the at grade access to the below grade parking structure. With this change, the loading space will be fully enclosed. Vehicles using the loading area would enter from Brownlow and exit onto Soudan. This improvement responds to the City’s urban design interest to improve the grades of the previously proposed Type “G” loading space along Soudan Avenue next to the existing loading area and to eliminate the backing out of vehicles onto the privately-owned publicly accessible space (the “**POPS**”) and onto any of the driveways. Our client will continue to work with the City to refine this driveway design and consolidate curb cuts if possible, to the satisfaction of Transportation Services.
2. With the change in the loading space location, the main entry door was relocated closer to Soudan Avenue. This change modestly changed the elevation of the ground floor and led to improvements to the below grade parking structure. As a result, the number of built storeys is now 21, plus roof top mechanical. The building massing remains entirely within the 60-degree angular plane and the total height is lower than both the Original Application and the Further Revised Plans.

3. The building height to top of penthouse mechanical has been lowered by 4.427 m and is now at 71 m and 65.7 m to the top of the roof. The top of the proposed mechanical penthouse is lower than the top of the mechanical penthouse of the project approved at 18 Brownlow, to the west.
4. The total residential gross floor area has been reduced to 15,832.84 m², as calculated under Zoning By-law 569-2013.
5. The average tower floor plate has been reduced to 761 m², with the larger floors at 790 m².
6. The total provided indoor and outdoor amenity space is 939.44 m², exceeding the by-law requirements (minimum 408 m² indoor, minimum 40 m² outdoor and minimum 816 m² total indoor and outdoor amenity space).
7. In accordance with Midtown in Focus, the Final Plans provide generous POPS areas along Brownlow and Soudan. In the case of the Soudan frontage, the building is setback 9 m to provide a POPS space well above the 5m wide POPS area approved to the west along Soudan. The POPS space will be enhanced with seating areas and ancillary type of complimentary facilities for resident and public use (the latter as refined in the POPS agreement). The Final Plans provide tree planting on City property in front of the building frontages along Soudan Avenue and Brownlow Avenue. The soil depths will be sufficient and in compliance with City requirements (urban design requested the sidewalk be inbound away from the road, both on Soudan and Brownlow allowing space for a natural tree canopy along the roadway to separate the pedestrian sidewalk from traffic) for planting of mature trees, the species, number and location to be determined during the site plan approval process.
8. The total number of residential units has been reduced to 204. Of these, 10.3% are 3-bedroom units (21 in total) of which six are in the base podium levels and the balance distributed on the tower floors. There are also 56 2-bedroom units (27.5%).
9. A total of 105 parking spaces are provided satisfying the required parking as justified in the accepted transportation study and reflective of this transit-supportive location.
10. The setbacks and stepbacks are as follows:

Setbacks (Podium)

North – 8.5 m

East (Mt. Pleasant Road) – 4.5 m

South (Soudan Avenue) – 9 m

West (Brownlow Avenue) – 5 m

Setbacks (Tower)

North – 9.5 m
East (Mt. Pleasant Road) – 6 m
South (Soudan Avenue) – 12.3 m with increases on the Levels 19-21 to remain within the 60-degree angular plane
West (Brownlow Avenue) – 6.5 m

The Final Plans address conformity with Midtown in Focus including policies related to:

- (a) Transition to Neighbourhoods
- (b) Separation
- (c) Size of floorplates
- (d) Built form and massing along with associated building setbacks and stepbacks and street setbacks
- (e) POPS
- (f) Soudan Character Area
- (g) Public Realm
- (h) 4 storey podium; and
- (i) Amenity areas

Accordingly, the terms of this with prejudice settlement offer are as follows:

1. The offer is based on the attached Final Plans prepared by SRM Architects Inc. dated October 18, 2021.
2. The approval will secure all the elements shown on the Final Plans, some of which have been summarized above. The zoning by-law will also have wording to secure the unit mix requirements set out in Midtown in Focus.
3. A dog wash area and access to the grade outdoor amenity space will be provided.
4. A construction management plan to be included as part of a Section 37 agreement or through site plan approval.
5. A POPS will be provided along the southwestern section of the project. The POPS will have a width of 5 m along Brownlow Avenue and 9 m along Soudan Avenue and will be landscaped as shown on the Final Plans and accessible to the public. Underground parking will be permitted under the POPS. This POPS will be secured in a Section 37

agreement as a matter of legal convenience, with the design to be confirmed through the site plan control process to the satisfaction of the Chief Planner. The POPS would be used for pedestrian access and landscaping complemented with tree and shrub plantings and bench seating.

6. In respect of section 37, in addition to the significant area of POPS, a financial contribution of \$1,500,000.00, to be paid before the issuance of the first above grade building permit, and to be indexed upwardly in accordance with the Building Construction Price Index from the date of the Tribunal decision approving the development, will be secured in the implementing zoning by-law amendment(s) and Section 37 Agreement. The funds will be used for local improvements in the vicinity of the Property, including but not limited to streetscape improvements, all to the satisfaction of the Chief Planner in consultation with the local councillor, to be detailed through the Section 37 Agreement.
7. In respect of the tower separation to the east, our client's witness will acknowledge in evidence to the Tribunal the impact the approval of this project will have on a potential future redevelopment of the adjacent Briton House property with the need to provide appropriate tower separation, largely on the Briton House property. In addition, our client is prepared to acknowledge this impact in Minutes of Settlement with the City.
8. As noted above, our client will continue to work with the City to refine this revised driveway design and consolidate curb cuts on Brownlow, if possible, to the satisfaction of Transportation Services; and
9. Our client will provide a letter from its wind consultant confirming that the revisions to increase the tower setback on the west face of the building will not create an unsatisfactory wind impact. Our client will also agree to implement the identified wind mitigation measures from the wind studies through the site plan process.

As part of accepting this offer, City Council will direct the City Solicitor, and other appropriate staff, to attend before the Tribunal in support of the settlement and to prepare the required zoning by-law amendment(s) for approval by the Tribunal, with any final order withheld pending:

- (a) The form of the implementing zoning by-law amendment(s) being finalized to the satisfaction of the parties;
- (b) The owner entering into an agreement under Section 37 of the *Planning Act* to secure the construction management plan and financial contribution, as well as certain matters of legal convenience to make satisfactory arrangements with the Chief Engineer and Executive Director, Engineering and Construction Services for the design and construction of new infrastructure or any improvements to the existing municipal infrastructure, that new infrastructure and/or upgrades/improvements to the existing infrastructure, being required to support this development, and that the owner has entered into a financially secured

agreement to pay for and construct any necessary municipal infrastructure, with any such agreement to be executed prior to issuance of an above-grade building permit.

- (c) Our client providing the letter from its wind consultant relating to the impacts of the increased setback on the west face of the building; and
- (d) Our client addressing any outstanding matters from Engineering & Construction Services' August 18, 2020 comments, including providing an updated Functional Servicing Report and Stormwater Management Report to the satisfaction of Engineering & Construction Services.

Our client and its consultant team greatly appreciate the extensive efforts of City staff to work with us in reviewing these matters and providing feedback throughout to result in the Final Plans. Our client believes the Final Plans represent good planning and an appropriate resolution for the Property.

We also wish to advise that we have reached an agreement with the Toronto District School Board to resolve their concerns.

Please let us know if you have any questions.

Yours truly,

WeirFoulds LLP



Bruce H. Engell
Partner

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