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Matter No. T906-08

December 6, 2021

CONFIDENTIAL AND WITHOUT PREJUDICE

VIA EMAIL mark.piel@toronto.ca

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

Dear Mr. Piel:

**RE: 4050 Yonge Street, Toronto
Appeals to OLT for Official Plan Amendment, Rezoning and Site Plan Approval
Applications
OLT Case No. PL200441
City Files 20 115845 NNY 08 OZ and 20 115847 NNY 08 SA
Without Prejudice Settlement Offer**

As you know, we are the solicitors for Yonge Park Plaza Inc., the owner of the lands known municipally as 4050 Yonge Street in the City of Toronto (the "Site"), and the applicant/appellant with respect to the above noted applications/appeals.

We are pleased to provide the following settlement offer on a without prejudice basis in full settlement of these appeals:

- (1) Our client would agree to formally revise its development proposal from a 35 storey residential building (West Building) and a 21 storey mixed use building (East Building) which proposed to contain a hotel and residential condominium uses to a 28 storey residential building which includes a mezzanine level between the 1st and 2nd floors (West Building) and 14 storey mixed use building (East Building) containing retail, office and residential uses as set out in the attached architectural plans dated November 23, 2021 prepared by IBI Group (the "Revised Proposal") all to be constructed in a single-phase. There are a number of significant concessions contained in the Revised Proposal which flow from discussions with City staff and our client during OLT mediation including, but not limited to, adherence to a 45 degree angular plane for the East Building measured at the new property line (which includes the City owned lands) at 80 percent of the Yonge Street right-of-way;

- (2) The approved minimum parking rates to be contained in the final zoning by-law amendments is as set out in the attached report dated November 3, 2021 from BA Group entitled Supplemental Transportation Analyses of Settlement Development Programme in Conjunction with September/October 2021 Mediation Process namely as follows:

Land Use	Parking Rate	Parking Occupancy Rate		
		AM	PM	Eve
Office	1.0 parking spaces per 100 square metres of gross floor area	100%	100%	10%
Retail	1.0 parking spaces per 100 square metres of gross floor area	35%	100%	95%
Restaurant	16 parking spaces per 100 square metres of gross floor area	30%	75%	100%
Residential Visitor	0.1 parking spaces per dwelling units	10%	35%	100%
Residential	0.35 parking spaces per dwelling units	100%	100%	100%

The non-residential parking spaces on-site will be shared among the non-residential uses.

- (3) In terms of Section 37 benefits, our client is prepared to provide the following benefits:
- a. The construction and maintenance of a TTC pedestrian connection on our client's lands and the City owned lands to be acquired by our client as per Item 6 below as set out in the attached architectural plans at the sole cost of our client. The new pedestrian connection to be open and operational prior to the earlier of the first residential occupancy of the lands or registration of the first condominium corporation within the lands. Included in this construction work will be the removal of the existing TTC pedestrian entry at grade at the northeast corner of Yonge Street and Wilson Avenue in accordance with the construction management plan referred to in (4).c. below. It should be noted minor revisions may need to be made to the architectural plans for the underground levels in the northeast corner of the site to allow for continued interim access to the underground subway tunnel for the tenants of the Yonge Corporate Centre during construction of the proposed development;
 - b. an upwardly indexed cash payment in the amount of \$1 Million (\$1,000,000) prior to the first above grade building permit for the lands to be allocated towards improvements to path and trails within the West Don River Valley area adjacent to the site, improvements to Stewart A. McGregor Parkette, improvements to York Mills Valley Park and improvements to the Don Valley Golf Course facility;
- (4) The following additional matters to be secured in the Section 37 Agreement as a matter of legal convenience:
- a. The entering into the necessary access and easement agreements for the public's use of the new TTC pedestrian connection and below grade pedestrian tunnels on-site;

- b. The registration of a surface easement along the Yonge Street frontage to secure a pedestrian clearway of no less than 10 metres in width along the entire Yonge Street frontage of the site (as shown on Drawing A.08, dated November 23, 2021, and submitted on a without prejudice to the City on November 26, 2021);
 - c. Securing the provision of a satisfactory construction management plan that includes details regarding the restoration of the TTC pedestrian tunnel connections on-site. This would have to be provided pursuant to the site plan application process and be to the satisfaction of the Chief Planner prior to the issuance of a final order of the Tribunal permitting the development;
 - d. Securing the measures as set out in the Transportation Demand Management Plan outlined in the BA Group report dated November 3, 2021; and
 - e. Securing construction of the development to meet Tier 1 of the Toronto Green Standard.
- (5) In terms of parkland, our client is agreeable to satisfying its parkland obligations through a cash-in-lieu of parkland payment to the City; and
- (6) As you know, our client and the City have been discussing our client's purchase of the City-owned lands abutting the site in which there is an existing TTC pedestrian connection and a portion of a below grade tunnel is located. We understand that based on those discussions City staff is prepared to recommend the sale of these lands to our client, reserving easements to facilitate the continued use of the existing pedestrian connection below grade until such time as the new one is constructed and operational, subject to City Real Estate staff and our client negotiating and finalizing a mutually satisfactory agreement of purchase and sale in accordance with the City's process for the sale of lands at fair market value and obtaining all City approvals. The City and our client will make best efforts to finalize and execute an agreement of purchase and sale for the City owned lands on or before December 31, 2021.

It should be noted that any settlement on the Section 37 matters would be conditional on a Final Order issuing for the zoning by-law amendment prior to the City's adoption of a new Community Benefits Charge By-law pursuant to Section 37 of the *Planning Act* and thereby the proposed development being exempt from the new CBC By-law.

I understand you will be reporting to the December 15 and 16, 2021 City Council meeting with respect to this without prejudice settlement offer. Please be advised that if this offer is not accepted by City Council at this meeting, we will be revising our proposal to exclude the City owned lands and such revised plans will be provided to the City and the other parties by January 10, 2022.

In terms of the site plan control application that is under appeal, and assuming City Council accepts this without prejudice settlement offer regarding our client's appeals of its Official Plan amendment and zoning by-law amendment applications, our client will provide a full site plan resubmission by January 31, 2022. Although the materials provided as a part of this settlement offer may begin to address site plan matters, such as wind mitigation measures for the development and their location, our client acknowledges and agrees that those matters are still subject to the resolution of the site plan application, whether by contested hearing of that

application before the Tribunal or a settlement of City's issues with respect to that application and this settlement offer is not intended to resolve those issues.

In return for this acknowledgement, our client would expect the City to agree that it would work in collaboration with our client and consultants to finalize an acceptable site plan application Notice of Approval Conditions (NOAC) for the Revised Proposal prior to the OLT hearing scheduled to start on May 9, 2022. In the event our client and the City cannot come to terms on the NOAC prior to the start of the hearing, then our client reserves its right to proceed with a contested hearing of the remaining outstanding issues with the City on the site plan control application that is under appeal.

Finally, in the event City Council accepts this settlement offer, our client will not object to the OLT withholding its final order(s) amending the Official Plan and the applicable zoning by-laws until such time as:

- (1) the proposed Official Plan and Zoning By-law Amendments are in a final form and content satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;
- (2) a Section 37 Agreement has been executed and registered in priority to secure the Section 37 contribution and related matters;
- (3) City engineering staff are satisfied with our client's Functional Servicing Report, Stormwater Management Report, Hydrogeological Report and Groundwater Report, all as may be revised at the direction of City engineering staff, to ensure the development is appropriately serviced, inclusive of any upgrades or required improvements to existing municipal infrastructure should it be determined by City engineering staff that upgrades or improvements are required to support the development; and
- (4) appropriate arrangements with the City have been made for our client to financially secure, construct and make operational, any upgrades or required improvements to the existing municipal infrastructure, that may be required to support the development;

In support of this without prejudice settlement offer for our client's appeals of the Official Plan amendment and zoning by-law amendment applications, please find attached the following:

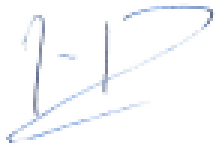
- (1) Architectural Plans dated November 23, 2021 prepared by IBI Group;
- (2) Elevations prepared by IBI Group;
- (3) Additional 3D views prepared by IBI Group
- (4) Shadow Study prepared by Bousfields Inc. dated November 2021;
- (5) Pedestrian Level Wind Study dated November 25, 2021 prepared by The Boundary Layer Wind Tunnel Laboratory;
- (6) Memo from BA Group dated November 3, 2021 entitled Supplemental Transportation Analyses of Settlement Development Programme in Conjunction with September/October 2021 Mediation Process;

- (7) Draft Official Plan Amendment;
- (8) Draft Zoning By-law Amendment to former City of North York Zoning By-law 7625; and
- (9) Draft Zoning By-law Amendment to City of Toronto Zoning By-law 569-2013.

We can confirm that if City Council accepts the above noted settlement terms, this offer will become with prejudice and this settlement offer can be released to the public.

If you have any questions regarding the above, please do not hesitate to contact me at 416.645.4572 or via email at jason.park@devinepark.com.

Yours very truly,
Devine Park LLP

A handwritten signature in blue ink, appearing to read 'J. Park', is written over a light blue horizontal line.

Jason Park
JIP/ss

Enclosures

cc: Yonge Park Plaza Inc.