

AIRD BERLIS

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BY EMAIL: Alexander.Suriano@toronto.ca

WITHOUT PREJUDICE

Our File No.: 138130

Alexander J. Suriano
Solicitor, Planning & Administrative Tribunal Law
City of Toronto
26th Floor, Metro Hall
55 John Street
Toronto, ON
M5V 3C6

Dear Mr. Suriano:

Re: 1045-1049 The Queensway, Toronto
Tribunal File No. PL210053 – City File No. 17 278454 WET 05 OZ
Without Prejudice Settlement Offer

Aird & Berlis LLP are solicitors for Queenlaw Development Limited (“**Queenlaw**”) the owner of the property municipally known as 1045 - 1049 The Queensway (the “**Site**”), located on the south side of The Queensway, between Dorchester Avenue and St. Lawrence Avenue, in the City of Toronto.

Zoning By-law Amendment Appeal

On December 21, 2017, our client submitted an application to amend the former City of Etobicoke Zoning Code and Site Specific By-law No. 514-2003 to permit a 12-storey mixed-use building on the Site (the “**Application**”). The Application was deemed complete on January 18, 2018.

The Application, as originally submitted, proposed a building with a total gross floor area of 25,946 m² and approximately 500 m² of retail space at grade with an overall density of 6.62 times the lot area. A total of 212 vehicular parking spaces and 233 bicycle parking spaces was proposed.

A Preliminary Report on the Original Development Proposal, dated March 13, 2018, was presented to Etobicoke York Community Council on April 4, 2018. A community consultation meeting was held on May 3, 2018. In response to comments received from City Staff, agencies, and the community consultation, a revised built form concept for the Property was developed to address urban design and planning issues (“**Revised Development Proposal**”). A formal resubmission of materials to support the Revised Development Proposal was filed with the City on July 20, 2020.

The Revised Development Proposal proposed a total building height of 14-storeys (46 m in height, excluding mechanical equipment), with a total gross floor area of 23,328 m² (including

approximately 613 m² of retail space at grade) amounting to an overall density of 5.95 times the lot area.

On January 7, 2020, Queenlaw appealed its Application to the Local Planning Appeal Tribunal (now Ontario Land Tribunal, referenced herein as the “**Tribunal**”) on account of City Council's failure to make a decision on the Zoning By-law Amendment Application within the time period legislated by the *Planning Act* (the “**Appeal**”).

At its meeting on June 8 and 9, 2021, City Council considered a Request for Directions Report, dated April 29, 2021 pertaining to the Appeal. Council adopted the staff recommendations contained therein, and directed the City Solicitor, together with appropriate City staff and/or external consultants, to attend the Tribunal hearing to oppose the Appeal. Council also authorized the City Solicitor and appropriate staff to continue to seek revisions to the proposal and to continue discussions with Queenlaw in an attempt to resolve the issues outlined in the Request for Directions Report.

A first Case Management Conference was held on June 23, 2021. On June 25, 2021, the Tribunal issued its Procedural Order respecting the Appeal. A 10-day video hearing has been scheduled to commence on July 25, 2022.

We are writing to set out the terms of a **without prejudice settlement offer** which would resolve the Appeal and enable the parties to jointly ask the Tribunal to schedule a one day settlement hearing and allow the Appeal in part, in accordance with the Settlement Proposal.

Settlement Proposal

Queenlaw is prepared, on a **without prejudice** basis, to proceed to a settlement hearing based on the Settlement Proposal, as reflected in the attached Plans, dated March 31, 2022, subject to minor changes to implement any noise mitigation measures deemed necessary in accordance with paragraph 9.g below, to the satisfaction of the Chief Planner and Executive Director, City Planning. The Settlement Proposal is described below:

1. **Height:** The building height has been reduced from 14-storeys (46 metres excluding mechanical penthouse) to 12-storeys (37.6 metres to the top of the 12th storey, and 42.6 metres measured to the top of the rooftop amenity space). The height of the mechanical penthouse has been lowered from 6 metres to 5 meters in height. The proposed height will accommodate a double height commercial space, 9-foot ceilings in all units, and will allow for transfer slabs and beams necessary to accommodate the proposed building step backs (described in paragraph 5 below).
2. **Density:** The total building gross floor area will be 23,305 m² for both commercial and residential. A minimum of 707 m² of commercial GFA will be provided. This is based on the GFA calculations in By-law 569-2013, with permitted additional exclusions related to above-grade bike parking, above-grade storage space and locker rooms, and other areas. The full list of excluded areas are described in the definition of GFA included in Schedule A and our client is prepared to review these exclusions with staff when finalizing the by-law. As a result, the FSI has been reduced from 6.67 to 5.90.
3. **Unit Mix:** The Settlement Proposal will include 10% 3 bedroom units and 20% 2 bedroom units. Queenlaw currently proposes a total of 284 units, but reserves the right to change

the number of units through the detailed design process, and is not prepared to include a unit count in the Zoning By-law.

4. **Amenity Space:** Amenity space in the Settlement Proposal will be provided at a rate of 2 m² of indoor space and 2 m² of outdoor space, per unit.
5. **Built Form and Stepbacks:** In accordance with feedback from Planning staff, the built form of the proposed building has changed from a 'U' to an 'H' – shape profile in order to provide adequate light, and to limit shadows on the internal courtyard units and private outdoor amenity space. A consistent 6-storey street wall will be provided along the frontage on The Queensway to provide a uniform street edge along The Queensway. The improved setbacks now provide for a 7-meter sidewalk along The Queensway and 4.8-meter sidewalks along Dorchester Avenue and St. Lawrence Avenue.

The Settlement Proposal also includes the following stepbacks, in response to Staff concerns regarding building mass and articulation:

- Stepback of 3 meters above the 6th floor along The Queensway, increasing to 6 metres above the 9th floor;
 - Stepback of 4.5 meters above the 6th floor along the Dorchester Avenue and St. Lawrence Avenue lot lines, which increase to 5 metres above the 7th floor;
 - Stepback of 10 metres above the 4th floor along the southern elevation of the building.
6. **Parking:** The Settlement Proposal currently show 209 vehicular parking spaces in 2 levels of below grade parking. The by-law will secure parking at a ratio of 0.5 spaces per unit for residential and 0.15 spaces per unit for visitors; the figure of 209 vehicular parking spaces will be subject to change in accordance with the ultimate number of units in the building.
 7. **Park Dedication:** In March 2018, City Council accepted a settlement offer from Marlin Spring Investments Ltd. an entity related to Queenlaw, to resolve the appeal of a Zoning By-law Amendment Application for 30 and 44 Zorra Street (City File No. 15 244093 WET 05 OZ & Tribunal File No. PL170604). The settlement included the provision of an on-site parkland dedication of approximately 1118m². This parkland dedication, which was significantly in excess of the amount arising pursuant to Section 42 of the *Planning Act*, was intended to be used, in part, as a parkland dedication credit for future development applications related to specified lands, including the Site.

The proposed off-Site parkland dedication of 383.6 m² for this development, in full satisfaction of the statutory requirements for the project, has been realized through a redemption of a parkland dedication credit provided for 30 and 44 Zorra Street. Should the project be substantially modified in a way that results in an increase to the parkland dedication requirement, the difference in the parkland dedication shall be met with a cash-in-lieu of parkland.
 8. **Road Widening:** Queenlaw shall convey to the City a 0.4 metre road widening along the St. Lawrence Avenue frontage of the Site.

9. Section 37: Queenlaw is prepared to offer a cash contribution of One Million, Two Hundred Thousand Dollars (\$1,200,000.00) to be put towards community benefits in the area, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor. The proposed cash contribution is comparable to recent approvals in the area and reflects a fair and reasonable contribution. Queenlaw shall enter into a Section 37 Agreement with the City to secure the cash contribution, in addition to the following matters as a legal convenience:

- a. Queenlaw shall make satisfactory arrangements with the City and entered into the appropriate financially secured Development Agreement with the City for the design and construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to accommodate this development, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- b. Queenlaw shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard (Version 3), and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where applicable, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for the building on the Site;
- c. Queenlaw shall satisfy the requirements of the Toronto District School Board regarding warning clauses and signage with respect to school accommodation issues;
- d. A minimum of 10 percent of the dwelling units on the lands must be three-bedroom units and a minimum of 20 percent of the dwelling units on the lands must be two-bedroom units.
- e. Queenlaw shall provide space within the development for installation of maintenance access holes and sampling ports on the private side, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with City of Toronto Municipal Code Chapter 681, Sewers;
- f. Queenlaw shall, during the Site Plan Site Plan application review process, satisfy all engineering matters, including submitting a revised Functional Servicing Report and Stormwater Management Report, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- g. Queenlaw shall secure any required noise mitigation measures identified in the submitted Environmental Noise Assessment, peer reviewed at the owner's expense, to the satisfaction of the Chief Planner and Executive Director, City Planning; Queenlaw shall construct and maintain any required noise mitigation measures, with such design to be secured through the Site Plan application review process, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- h. Queenlaw shall submit an updated Odour Review and secure any required mitigation measures if identified in the submitted Odour Review - Letter of Opinion,

peer reviewed at the owner's expense, to the satisfaction of the Chief Planner and Executive Director, City Planning; Queenlaw shall construct and maintain any required mitigation measures, with such design to be secured through the Site Plan application review process, to the satisfaction of the Chief Planner and Executive Director, City Planning;

- i. Queenlaw shall submit a detailed wind tunnel test complete with a statistical wind analysis to determine the impacts and efficacy of the recommended wind mitigation measures, evaluated to the satisfaction of the Chief Planner and Executive Director, City Planning; the owner shall construct and maintain any required mitigation measures, to be secured through the Site Plan application review process, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- j. Queenlaw shall submit a revised Landscape Plan and/or Tree Inventory and Preservation Plan Report and that tree preservation matters are resolved to the satisfaction of the General Manager, Parks, Forestry and Recreation; and

10. Finalizing Instrument: The City and Queenlaw shall work together to finalize the form of the Zoning By-law Amendment(s) to permit the Settlement Proposal. It is anticipated that the final zoning instrument will include a Holding (H) provision, which will be lifted upon satisfaction of matters listed in paragraphs 9.f – 9.j of this letter, inclusive.

11. Tribunal Hearing: The City and Queenlaw shall jointly ask the Tribunal to convene a written or virtual settlement hearing at the earliest opportunity, and shall jointly ask the Tribunal to allow the appeal in part and approve the Zoning By-law Amendment(s) to permit the Settlement Proposal.

12. Final Order Withheld: The City and Queenlaw shall ask the Tribunal to withhold its final order until a Section 37 Agreement satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor has been executed and registered on title to the subject lands to the satisfaction of the City Solicitor, securing community benefits to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, and securing the matters required to support the development.

To ensure that the Zoning By-law Amendment(s) are in force prior to the applicable date described in subsection 34.1(5) of the *Planning Act*, the City and Queenlaw the Tribunal's Final Order shall be withheld only pending execution and registration of the Section 37 Agreement, which agreement shall secure all Staff-recommended conditions of approval, set out in the Request for Directions Report, dated April 29, 2021 pertaining to the Appeal. It is expected that the City and Queenlaw will work expeditiously to finalize, execute, and register the Section 37 Agreement forthwith upon Tribunal approval of the Zoning By-law Amendment(s) to permit the Settlement Proposal.

In support of this **without prejudice settlement offer**, please find enclosed a revised set of Architectural Plans, prepared by Graziani + Corazza Architects Inc. dated March 31, 2022 which reflect the Settlement Proposal.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in cursive script, appearing to read "Eileen P. K. Costello".

Eileen P. K. Costello
EPKC/MH/tp

SCHEDULE A – GFA DEFINITION

‘gross floor area’ shall mean the sum of the total area of each floor level of a building, above and below the ground, measured from the exterior of the main wall of each floor level, except for:

- i) any space above-grade used exclusively for bicycle parking and storage room;
- ii) Lockers room at or above-ground
- iii) parking, loading and bicycle parking below-ground;
- iv) required loading spaces at the ground level and required bicycle parking spaces at or above-ground;
- v) storage rooms, washrooms, electrical, utility, garbage/waste rooms, mechanical and ventilation rooms in the basement;
- vi) shower and change facilities required by this By-law for required bicycle parking spaces;
- vii) amenity space required by this By-law;
- viii) elevator shafts;
- ix) garbage shafts;
- x) mechanical penthouse;
- xi) exit stairwells in the building; and
- xii) elevator lobby and vestibules in the basement.