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**WITHOUT PREJUDICE**

May 2, 2022

**VIA EMAIL**

Matthew Longo and Uttra Gautam  
Solicitors, Planning & Administrative Tribunal Law  
City of Toronto, Legal Services Division  
Metro Hall, 26th Floor  
55 John Street  
Toronto, ON M5V 3C6

Dear Mr. Longo and Ms. Gautam:

**RE:                2 Valleyanna Drive, City of Toronto**  
**Application for Zoning By-law Amendment**  
**City File No. 20 151274 NNY 15 OZ**  
**Appeal of Proposed Designation under Section 29(11) of Ontario Heritage**  
**Act**  
**Ontario Land Tribunal Case No. PL210215**  
**Without Prejudice Settlement Offer**

We are the solicitors for York-Kirtling Inc. (“**York-Kirtling**”), being the owner of the property municipally known as 2 Valleyanna Drive (the “**Site**”). This letter constitutes our client’s offer to settle the appeal filed in respect of the above-noted application for a Zoning By-law Amendment, as well as our client’s appeal under Section 29(11) of the Ontario Heritage Act of the proposed designation of the Site under Part (IV) of the Ontario Heritage Act.

**The Subject Site**

The Site is located on the east side of Bayview Avenue, south of Lawrence Avenue, and generally at the northeast corner of Bayview Avenue and Valleyanna Drive. The Site is generally triangular in shape and has a frontage of approximately 42.0 metres along Valleyanna Drive and 81.4 metres along Bayview Avenue. The Site has a total lot area of approximately 1,894 square metres.

The Site contains a 2-storey gatehouse that was constructed *circa* 1921, as well as a single-storey octagonal structure that was added *circa* 1963 and which frames an outdoor pool. The gatehouse originally formed part of the 100-acre Annandale estate. The gatehouse was historically designed to front onto Bayview Avenue as the entrance to the estate and it housed the early vehicles, the chauffeur and the estate staff.

By 1963, the gatehouse was converted into a single-family detached dwelling. The composition of development on the Site was reoriented away from Bayview Avenue toward Valleyanna Drive, turning away from the main street, which was consistent with the suburban fashion of the day.

However, the gatehouse itself continued to function as a buffer between the busy Bayview Avenue and the more private residential setting on the interior of the block.

### **Site-Specific Application and Appeal**

On June 1, 2020, York-Kirtling filed an application for a Zoning By-law Amendment identified as City File No. 20 151274 NNY 15 OZ (the “**ZBA Application**”). The ZBA Application was deemed complete by the City on June 4, 2020. As originally submitted, the ZBA Application proposed to maintain the existing 2-storey gatehouse on the Site and to introduce a 3-storey (9.6 metre) addition to the north which contains five (5) spacious, three-bedroom dwelling units that were designed to appear as an extension of the heritage building (the “**Original Proposal**”). The Original Proposal followed a highly iterative pre-application process with Staff from various City Divisions, including Heritage Preservation.

On March 30, 2021, York-Kirtling appealed the ZBA Application to the Ontario Land Tribunal (the “**Tribunal**”) pursuant to Section 34(11) of the *Planning Act*, on the basis of City Council’s refusal or neglect to make a decision within 90 days of the date that the ZBA Application was deemed complete (the “**OLT Appeal**”). On August 9, 2021, the Tribunal held the first Case Management Conference in respect of the OLT Appeal. At that time, the Tribunal was advised that the parties (namely: York-Kirtling, the City, and the Valleyanna Residents’ Association) were interested in pursuing Tribunal-led mediation to resolve any issues with the proposed development.

### **Notice of Intention to Designate**

On August 11, 2021, following the appeal of the ZBA Application to the Ontario Land Tribunal, the City issued a Notice of Intention to Designate the Site under Part IV, Section 29 of the *Ontario Heritage Act* (the “**Notice of Intention**”).

York-Kirtling submitted a Notice of Objection to the proposed designation on September 10, 2021 pursuant to Section 29(5) of the *Ontario Heritage Act* (the “**Notice of Objection**”). The Notice of Objection was considered by City Council at its meetings on November 9-12, 2021, at which time Council passed Designation By-law 936-2021 to designate the Site under Part IV, Section 29 of the *Ontario Heritage Act* (the “**Designation By-law**”). Notice of Passing of the Designation By-law was issued by the City on December 1, 2021. York-Kirtling filed an appeal of Designation By-law on December 24, 2021 pursuant to Section 29(11) of the *Ontario Heritage Act* (the “**Designation Appeal**”). Prior to the issuance of the Notice of Intention, the Site was listed on the Toronto Heritage Registry.

### **Mediation and Settlement Proposal**

The OLT Appeal has been the subject of extensive mediation efforts with the City and the Valleyanna Residents Association (the “**VRA**”), including: four days of mediation which were held on October 19, October 25, November 8, and November 24, 2021; an on-site meeting on November 3, 2021 with our client’s consultants and members of City Staff and consultants retained by the VRA; and a further meeting on November 16, 2021 between our client’s architect and members of City Staff from the Urban Design and Forestry Divisions.

On December 16, 2021, we filed a set of revised architectural plans and drawings prepared by Amantea Architects dated December 16, 2021 with the Tribunal and parties and advised that our

client will be proceeding with this revised proposal at the hearing of the appeal, a copy of which is attached to this Settlement Offer as Appendix A (the “**Settlement Proposal**”). On January 17, 2022 the VRA formally withdrew its request for party status in this proceeding. Our client confirms its commitment to settle the Appeal by modifying the Original Proposal and implementing ZBA Application in accordance with, and to permit the form of development as described in this letter and shown in the Settlement Proposal.

The Settlement Proposal continues to reflect our client’s commitment to conserve the existing 2-storey gatehouse on the Site. In response to issues raised by the City and the VRA, the Original Proposal has been revised to introduce increased setbacks along Bayview Avenue (to the west), Valleyanna Drive (to the south), and 4 Valleyanna Drive (to the east). The Settlement Proposal also features an increased stepback along the east side of the Site to ensure that the massing of the building generally falls within a 45-degree angular plane measured from the mutual property line with 4 Valleyanna Drive. Furthermore, the Settlement Proposal incorporates a significant increase to the percentage of landscaped open space throughout the Site to ensure effective screening from the streetscape and the existing development to the east. As we understand, City Staff is now satisfied with the Settlement Proposal.

As a result of the design modifications generally described above, the number of dwelling units proposed on the Site has been reduced from five (5) units to four (4) units (20% decrease), the number of garages has been reduced from five (5) garages to four (4) garages (20% decrease). The Settlement Proposal continues to engage the highest standards in adaptive reuse and heritage conservation, with certain modifications to address built-form concerns that were raised by the City and the VRA in the context of the OLT Appeal.

Considerable effort has been committed to enhancing tree preservation on the Site and within the adjacent City boulevard on Bayview Avenue. The enclosed architectural plans demonstrate a general approach to tree preservation. If the Settlement is accepted, the owner and the City will work collaboratively through the site plan approval process to further refine the specific trees to be retained, having regard to the approved built-form, the priority to conserve and restore heritage features on the Site and within the municipal boulevard, and the overall health and safety of existing trees. Trees that are located along the western portion of the Subject Site (along Bayview Avenue) will be assessed by Urban Forestry in consultation with our client’s consultants including its arborist, architect, and heritage consultant, and the City’s Heritage and Planning Divisions. Through consultation and a site review, a tree management plan will be developed that allows for the preservation of the existing heritage stone wall while also allowing for the preservation of existing trees. Regarding the large Silver Maple adjacent to the property, the Settlement Proposal will result in permissions that will ensure that both adequate space is provided as well as ensure that the driveway treatment will protect the health of the tree. York-Kirtling agrees to incorporate permeable paving for the driveway access and will develop a construction management plan for the development with City Staff.

### **Other Matters**

As part of our discussions, York-Kirtling and City Staff have agreed that in the event that the Settlement Proposal is accepted by City Council, the parties will work expeditiously to resolve any outstanding matters including the final form of the implementing zoning by-law amendment, which will be updated to reflect the Settlement Proposal. York-Kirtling and the City will jointly seek to

convert the hearing scheduled to commence on July 11, 2022 to a settlement hearing (the **"Settlement Hearing"**).

As a related matter, if the Settlement Offer is accepted, York-Kirtling agrees to resolve the Designation Appeal on the basis of the modified Designation By-law, which City Staff has shared with us and which we understand is included in the Confidential Report from the City Solicitor to Council dated April 29, 2022. Our client's agreement to resolve the Designation Appeal is predicated on the City confirming by acceptance of this Settlement Offer that the designation of the Site under Part IV of the Ontario Heritage Act, and the Modified Reasons for Designation, will not frustrate implementation of the Settlement Proposal, acknowledging that Council cannot fetter its discretion in the exercise of its legislative authority.

York-Kirtling and the City agree that York-Kirtling will prepare and lead evidence and legal submissions in support of the Settlement Proposal with the consent of the City at the Settlement Hearing.

This Settlement Offer is open until May 13, 2022, 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 May 11 and 12, 2022. If the Settlement Offer is accepted, York-Kirtling consents to the Settlement Offer and City Council's consideration thereof being made public.

Yours truly,  
**Overland LLP**



Per: Daniel B. Artenosi  
Partner

Encl.

c. D. Laren and B. Cohen, York-Kirtling Inc.

**Appendix “A”**

**Architectural Plans prepared by Amantea Architects dated December 16, 2021**

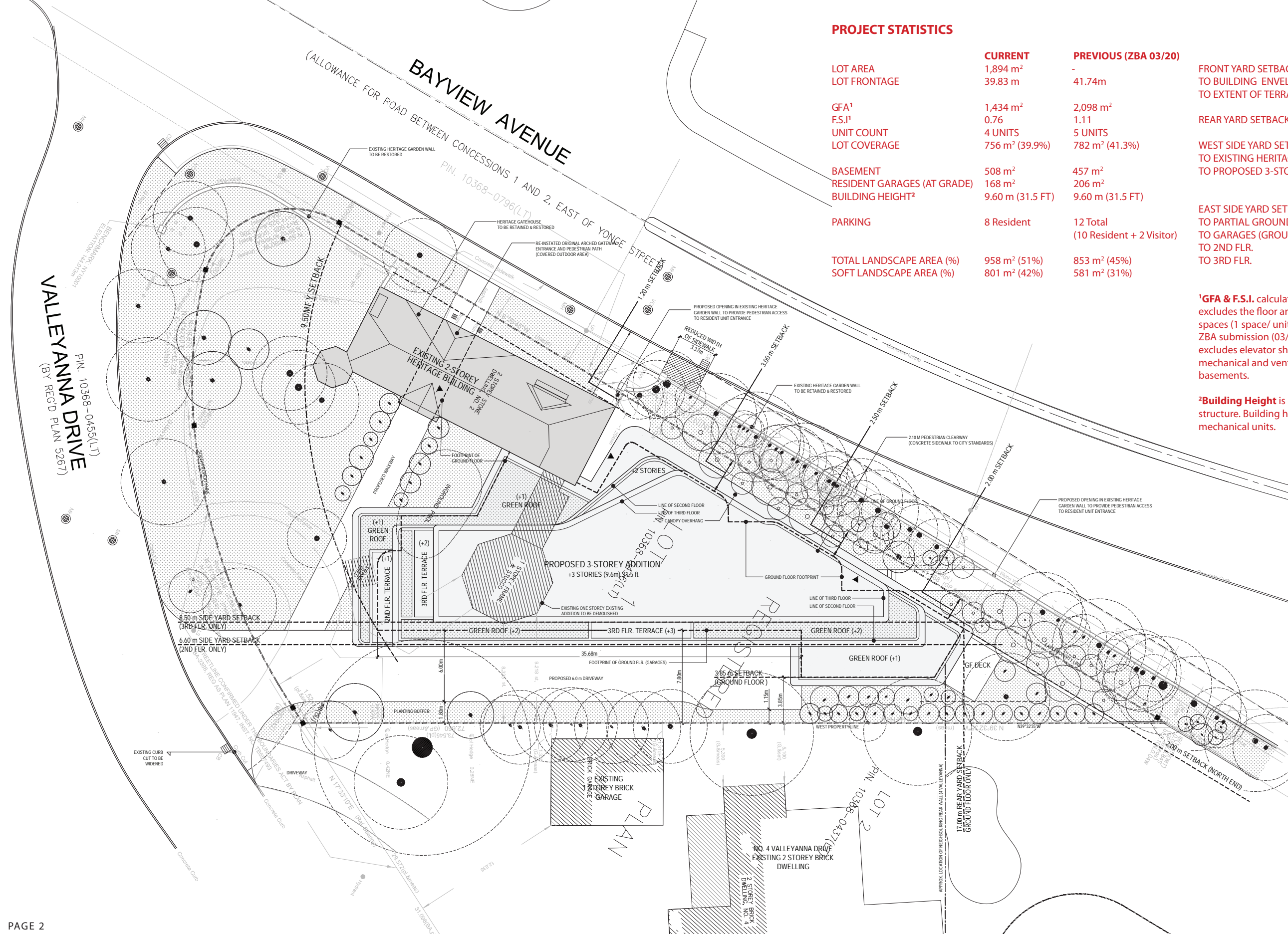
2 VALLEYANNA DRIVE - RE-ISSUED FOR ZONING BY-LAW AMENDMENT - DECEMBER 16, 2021

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PROJECT STATISTICS

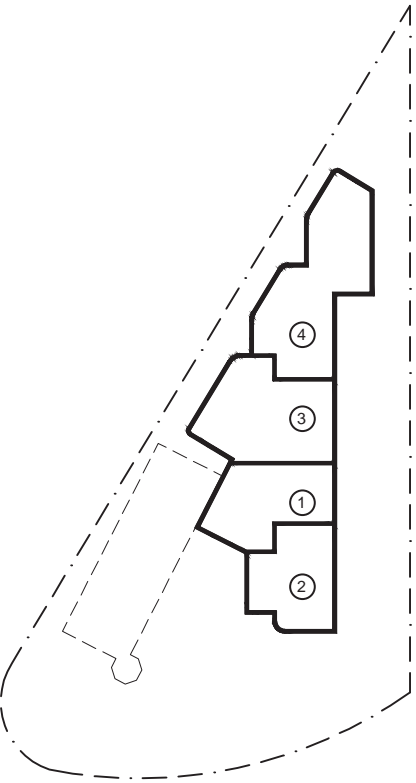
	CURRENT	PREVIOUS (ZBA 03/20)		CURRENT	(ZBA 03/20)
LOT AREA	1,894 m <sup>2</sup>	-	FRONT YARD SETBACK (VALLEYANNA):		
LOT FRONTAGE	39.83 m	41.74m	TO BUILDING ENVELOPE	9.50 m	9.63 m
			TO EXTENT OF TERRACE OVERHANG	6.97 m	5.04 m
GFA <sup>1</sup>	1,434 m <sup>2</sup>	2,098 m <sup>2</sup>	REAR YARD SETBACK (TO GROUND FLR.):	17.0 m	15.0 m
F.S.I <sup>1</sup>	0.76	1.11	WEST SIDE YARD SETBACK (BAYVIEW):		
UNIT COUNT	4 UNITS	5 UNITS	TO EXISTING HERITAGE STRUCTURE	1.20 m	1.20 m
LOT COVERAGE	756 m <sup>2</sup> (39.9%)	782 m <sup>2</sup> (41.3%)	TO PROPOSED 3-STOREY STRUCTURE	2.0 m (North End)	1.83 m
			TO PROPOSED 3-STOREY STRUCTURE	3.0 m (South End)	
BASEMENT	508 m <sup>2</sup>	457 m <sup>2</sup>	EAST SIDE YARD SETBACK:		
RESIDENT GARAGES (AT GRADE)	168 m <sup>2</sup>	206 m <sup>2</sup>	TO PARTIAL GROUND FLR.	3.85 m	3.85 m
BUILDING HEIGHT <sup>2</sup>	9.60 m (31.5 FT)	9.60 m (31.5 FT)	TO GARAGES (GROUND FLR.)	7.80 m	7.80 m
			TO 2ND FLR.	6.60 m	6.60 m
PARKING	8 Resident	12 Total (10 Resident + 2 Visitor)	TO 3RD FLR.	8.50 m	6.60 m
TOTAL LANDSCAPE AREA (%)	958 m <sup>2</sup> (51%)	853 m <sup>2</sup> (45%)			
SOFT LANDSCAPE AREA (%)	801 m <sup>2</sup> (42%)	581 m <sup>2</sup> (31%)			

<sup>1</sup>GFA & F.S.I. calculation for the new 4-unit (**Fourplex**) proposal (12/21) excludes the floor area of the basements and the area of required parking spaces (1 space/ unit). **GFA & F.S.I.** calculation for the previous (**Apartment**) ZBA submission (03/20) includes basements and garages at grade. GFA excludes elevator shafts on all floors and storage rooms, washrooms, utility/ mechanical and ventilation rooms in the basements.

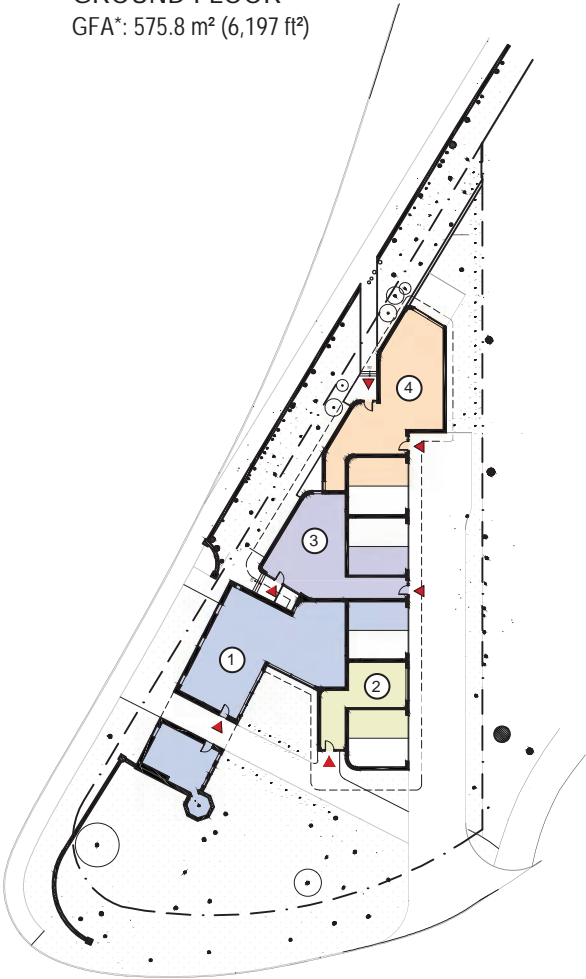
<sup>2</sup>Building Height is measured from established grade to the top of the roof structure. Building height does not include roof parapet and rooftop mechanical units.



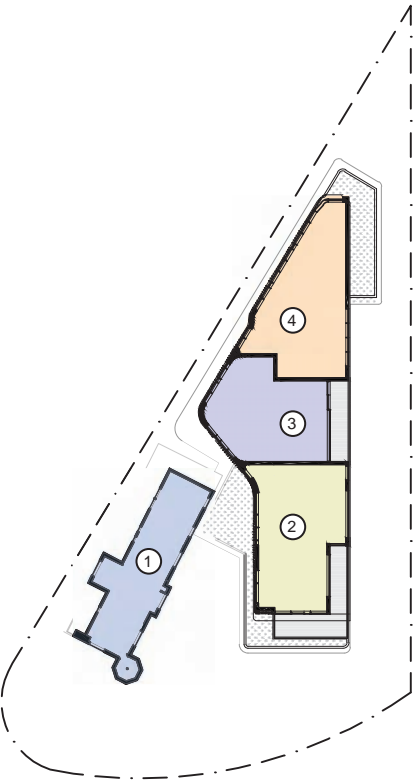
BASEMENT  
GFA\*: N/A



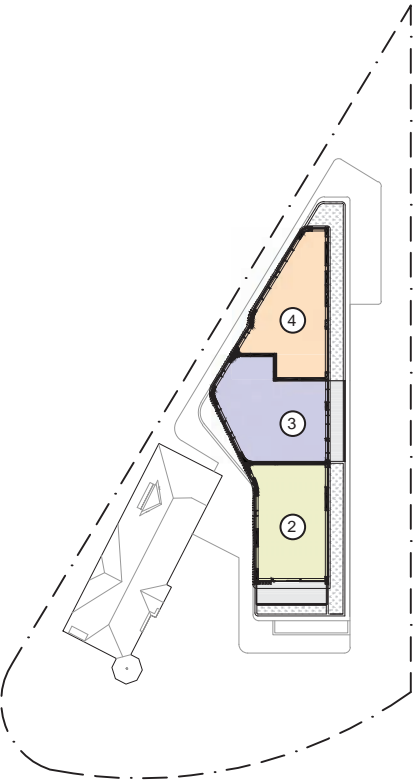
GROUND FLOOR  
GFA\*: 575.8 m² (6,197 ft²)



SECOND FLOOR  
GFA\*: 544.1 m² (5,857 ft²)



THIRD FLOOR  
GFA\*: 314.2 m² (3,382 ft²)



HERITAGE UNIT 1

Ground floor: 254.7 m² (2,742 ft²)  
Second floor: 126.9 m² (1,366 ft²)  
Third floor: -----  
Basement: 102.7 m² (1,105 ft²)

Subtotal GFA: 484.3 m² (5,213 ft²)  
Less Exclusions\*: 123.7 m² (1,331 ft²)

Total GFA\*: 360.6 m² (3,882 ft²)

UNIT 2

Ground floor: 96.2 m² (1,035 ft²)  
Second floor: 144.9 m² (1,560 ft²)  
Third floor: 100.1 m² (1,078 ft²)  
Basement: 96.2 m² (1,035 ft²)

Subtotal GFA: 437.4 m² (4,708 ft²)  
Less Exclusions\*: 117.2 m² (1,262 ft²)

Total GFA\*: 320.2 m² (3,446 ft²)

UNIT 3

Ground floor: 137.8 m² (1,483 ft²)  
Second floor: 123.3 m² (1,327 ft²)  
Third floor: 112.3 m² (1,209 ft²)  
Basement: 137.8 m² (1,483 ft²)

Subtotal GFA: 511.2 m² (5,503 ft²)  
Less Exclusions\*: 158.8 m² (1,709 ft²)

Total GFA\*: 352.4 m² (3,794 ft²)

UNIT 4

Ground floor: 171.0 m² (1,841 ft²)  
Second floor: 149.0 m² (1,604 ft²)  
Third floor: 101.8 m² (1,096 ft²)  
Basement: 171.0 m² (1,841 ft²)

Subtotal GFA: 592.8 m² (6,381 ft²)  
Less Exclusions\*: 192.0 m² (2,067 ft²)

Total GFA\*: 400.8 m² (4,314 ft²)

TOTAL GFA\*: 1,434 m² (15,435 ft²)      FSI: 0.76

\*Total GFA excludes basements, one parking space per unit (21m²/unit as noted), and voids in plan such as floor areas open to below as required.  
\*Total GFA excludes basements and one parking space per unit (21m²/unit as noted).