



Eileen P. K. Costello
Direct: 416.865.4740
E-mail: ecostello@airdberlis.com

July 8, 2022

Matter No. 151974

BY EMAIL

CONFIDENTIAL AND WITHOUT PREJUDICE

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

Dear Mr. Piel:

**Re: Confidential and Without Prejudice Settlement Proposal
510-528 Yonge Street and 7 Breadalbane Street, Toronto
OLT Case No. OLT-22-002429 / Legacy Case No. PL210315**

Please be advised that Aird & Berlis LLP acts on behalf of 2316160 Ontario Inc. with respect to the site municipally known as 510-528 Yonge Street and 7 Breadalbane Street, Toronto (collectively, the “**Site**”). The Site is currently occupied by a mix of 1-3 storey mainstreet commercial buildings with residential units on the upper floors.

Background

On October 9, 2020, our office filed an Official Plan Amendment (“**OPA**”) and Zoning By-law Amendment application (“**ZBA**”), together with an application for Rental Housing Demolition (“**RHA**”) (collectively the “**Applications**”) on behalf of our client with respect to the Site.

A community consultation meeting was held in respect of the Applications in May 2021.

On October 1, 2021 City Council adopted Item TE27.8 directing the City Solicitor and staff to attend the OLT in opposition to the Applications as appealed and to continue discussions with our client in an attempt to resolve outstanding issues.

On December 15, 2021 City Council adopted Item PH29.18 to state its intention to designate portions of the Site, specifically the properties at 516 Yonge and 526 Yonge pursuant to Part IV of the Ontario Heritage Act. Our client did not object to the designation of these properties which were formally designated by By-law 84-2022 and 85-2022, respectively.

Settlement Proposal

We are writing to provide a without prejudice full and final settlement offer to resolve the Appeal (the “**Settlement Proposal**”) which offers additional built form modifications arrived at in response

to comments received from City staff including most recently at meetings held on Friday, June 17, 2022.

The purpose of the Applications as modified by this Settlement Proposal is to permit the redevelopment of the Site with a mixed use building comprised of a 3-storey podium topped with a 56-storey residential tower, with an overall building height of 59 storeys (plus mechanical penthouse) and a total gross floor area of 40,896.7 m² comprised of 40,201.1 m² of residential gross floor area and 695.6 m² of commercial retail gross floor area.

Commercial retail uses are proposed along Yonge Street and a portion of Breadalbane Street to animate the public realm. The residential lobby fronts onto Breadalbane Street. Interior amenity space is located on the 2nd, 3rd and 4th floors with adjacent outdoor amenity space on the 4th floor. With a total of 575 dwelling units, the proposed redevelopment will provide a range of unit types. Full replacement of the 19 existing rental units on the Site will be accommodated in the new development.

The revised development proposal is demonstrated in the attached drawings for the Site, prepared by Quadrangle Architects Limited and dated June 24, 2022 which are enclosed herewith.

The Settlement Proposal includes the following modifications from the Application:

- Introduction of a full 10m tower setback for the entire Yonge Street frontage, resulting in a rectilinear location for the tower floor plate as opposed to the angled location previously proposed;
- Introduction of additional 1.5m stepbacks at the 17th floor and 39th floor to reduce the impact of the tower mass on Yonge Street while ensuring structural integrity and required depth of upper tower floor plates (and units);
- Elimination of the extent of the cantilevered portion of the three (3) storey podium over St. Luke's Lane, in order to provide a 6-metre laneway width open to the sky;
- The setback to the centerline of St Luke Lane is 10.5m to ensure the 1.5m tower setbacks could be introduced without compromising structural integrity and required depth of upper tower plates (and units);
- Total building height of 196.9m (inclusive of mechanical penthouse) (unmodified from previous Applications);
- In keeping with the policies of the Downtown Secondary Plan, a revised unit mix including a minimum of 15% two-bedroom units, a minimum of 10% three-bedroom units, and an additional 15% of the total number of units to be a combination of two- and three-bedroom units, or units that can be converted to two- and three-bedroom units through the use of accessible or adaptable design measures, is provided;
- Resulting reduced tower plate at floors 17-38 is 732 m² and floors 39-59 is 676 m²; and
- Resulting podium floor plate at floors 4-16 is 788 m².

In addition to the built form outlined above, the Settlement Proposal also complies with the requirements outlined in the City's Zoning By-law 89-2022 relating to updated parking standards.

Please note that due to the preliminary nature of the architectural plans and the significant changes to the built form in response to the City's requested changes the final unit count and overall unit mix has not been determined at this time and the Settlement Proposal does not contemplate a maximum unit count. Our client commits to working cooperatively with City Staff to finalize the Zoning By-law Amendment.

Please note that as agreed to by City Staff, our client shall fully satisfy the required parkland contribution pursuant to Section 42 of the *Planning Act* via cash-in-lieu payment.

Finally, our client acknowledges the request of Heritage Planning staff to continue work on the design and architectural expression associated with the infill building in the podium to ensure it is compatible with the designated heritage properties and the principal elevations on those properties that will be conserved as part of the development. Our client will work with Heritage Planning staff through the site plan approval process to arrive at an acceptable Conservation Plan that is aligned with the conservation strategy set out in an approved Heritage Impact Assessment, site plan drawings, and a Heritage Easement Agreement.

Rental Housing Replacement and Tenant Assistance

Our client will replace all of the existing rental dwelling units by their respective bedroom types, at the same or larger unit sizes, and at the same rents to those in effect at the time of application and to provide an acceptable tenant relocation and assistance plan to all eligible tenants of the existing rental dwelling units proposed to be demolished, addressing the right of tenants to return to occupy one of the replacement rental dwelling units at the same rents, the provision of alternative accommodation at similar rents in the form of rent gap payments, and other assistance to mitigate hardship, all in accordance with Toronto Official Plan Policy 3.2.1.6.

The location of the replacement rental units within the proposed development shall be determined prior to site plan approval, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Our client will work with City Planning staff to develop an acceptable replacement rental housing strategy and tenant relocation and assistance plan as part of the RHA, which will require consideration and approval by Toronto City Council prior to the Tribunal issuing its final Order on the Zoning By-law Amendment appeal.

Community Benefits and Legal Conveniences

In addition to the foregoing changes and commitments, our client is also prepared to secure the following community benefits and legal conveniences to be secured in the ZBLA and the Section 37 Agreement:

1. The provision of 25 affordable rental dwelling units in the development for a minimum period of 99 years beginning from the date that each such unit is first occupied, in accordance with the following:

- a. At least 4 of the new affordable rental dwelling units will be three-bedroom rental units with an average unit size that is no smaller than the average size of 90 square metres;

- b. At least 7 of the new affordable rental dwelling units will be two-bedroom rental units with an average unit size that is no smaller than the average size of 70 square metres;
 - c. At least 14 of the new affordable rental dwelling units have at least one bedroom per unit and will be no smaller than 50 square metres;
 - d. The 25 new affordable rental dwelling units will be provided in vertically and/or horizontally contiguous groups of 6 or more dwelling units within the development;
 - e. The location and layouts of the new affordable rental dwelling units within the development will be developed prior to site plan approval, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - f. All 25 new affordable rental dwelling units will be provided as secured rental housing at affordable rents, as currently defined in the Toronto Official Plan, for a minimum period of ninety-nine years beginning from the date that each such unit is first occupied. During such ninety-nine year period, the rent (inclusive of utilities) charged to any tenant of a new affordable rental dwelling unit shall not exceed one (1) times the average rent for the same bedroom type in the City of Toronto, as reported by the Canada Mortgage and Housing Corporation in its most recent Rental Market Survey, and no application shall be made to demolish any affordable rental dwelling unit or to convert any affordable rental dwelling unit to a non-residential rental purpose;
 - g. Notwithstanding 1.f. above, after the first year of occupancy of an affordable rental dwelling unit, the rent (inclusive of utilities) charged to any first tenant or new tenant of a new affordable rental dwelling unit will be escalated annually by not more than the annual provincial rent guideline, irrespective of whether such guideline is applicable under the *Residential Tenancies Act, 2006* or any successor legislation governing residential tenancies in Ontario, until the tenancy ends;
 - h. At least 6 months in advance of any new affordable rental dwelling unit being made available for rent, the owner will develop and implement a Tenant Access Plan in consultation with, and to the satisfaction of, the Executive Director, Housing Secretariat to ensure the affordable rental units are rented to eligible households;
 - i. The 25 new affordable rental dwelling units shall be made ready and available for occupancy no later than the date by which seventy percent (70%) of the new dwelling units in the development are available and ready for occupancy;
 - j. The owner will provide all tenants of the affordable rental dwelling units with access to, and use of, all indoor and outdoor amenities in the development at no extra charge and on the same terms and conditions as any other resident of the building without the need to pre-book or pay a fee, unless specifically required as a customary practice for private bookings; and
 - k. The owner will provide all tenants of the affordable rental dwelling units with laundry facilities on the same basis as other residents of the development at no extra charge.
2. Prior to the first permit to be issued under section 8 of the *Building Code Act, 1992* for the Site the owner will register in priority on title to the Site a Limiting Distance Agreement to which the City will be a party, in form and content satisfactory to the City Solicitor, over the properties

municipally known as 502-504, 506 and 508 Yonge Street, in order to achieve a 12.5 metre separation distance to the south, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor;

3. Prior to January 31, 2023, the owner will file a complete Application to Alter, pursuant to Section 33 of the *Ontario Heritage Act* ("**Section 33 OHA Application**"), in respect of the designated properties on the Site;

4. Prior to the first permit to be issued under section 8 of the *Building Code Act, 1992*, for the Site the owner will provide a Conservation Plan to the satisfaction of the Senior Manager, Heritage Planning and register in priority on title to the Site a Heritage Easement Agreement;

5. Prior to the earlier of the first permit to be issued under section 8 of the *Building Code Act, 1992* and the first permit to be issued under section 111 of the *City of Toronto Act, 2006* for the Site, the owner will enter into and register in priority on title to the Site an agreement authorised under section 111 of the *City of Toronto Act, 2006* in respect of the RHA;

6. Pursuant to the site plan control application process but in any event prior to the first permit issuance under section 8 of the *Building Code Act, 1992* for the Site, the owner will submit documentation and financial contributions in the form of certified cheques for the implementation of a Transportation Demand Management (TDM) plan. These provisions include:

a. A \$50,000 cash payment for a bike-share station in the area of the development; and

b. Submit comprehensive Construction Management Plans for each stage of the construction process, to the satisfaction of the General Manager, Transportation Services. These plans must illustrate the location of employee/trades parking, heavy truck access points, material storage, construction site fencing and overhead cranes. The applicant cannot use the municipal right-of-way for construction-related purposes without first receiving written authorisation from the Permits and Enforcement Section, including payment of the necessary fees.

7. Pursuant to the site plan control application process for the Site, the owner will,

a. In accordance with the City's Curb Extension and Lane Width Guidelines, provide a curb bump-out along the Breadalbane Street frontage of the Site, extending from Yonge Street to St. Luke Lane, to the satisfaction of the General Manager, Transportation Services;

b. Revise the boulevard cross-section of Breadalbane Street to include the above-noted curb bump-out and typical dimensions/spacing for the required buffer/planting zone and 2.1 metre wide pedestrian clearway, free and clear of obstructions to the satisfaction of the General Manager, Transportation Services;

c. Submit a functional plan for the curb extension along Breadalbane Street, including pavement marking and signage modifications required to complete the work, to the satisfaction of the General Manager, Transportation Services; and

d. Provide a minimum of two (2) bike repair stations provided on-site, to the satisfaction of the General Manager, Transportation Services.

8. Prior to site plan approval for the Site, the owner will at its sole expense convey to the City, for nominal consideration, a stratified 0.26 metre wide strip of land along the western limit of 510 Yonge Street abutting St. Luke Lane, to a minimum depth of 1.2 metres below the finished grade and a minimum height of 7.1 metres above the finished grade, such lands to be free and clear of all encumbrances and obstructions and in compliance with all City policies for the conveyance of land, subject to a right-of-way for access purposes, including construction access, until such time as the widening lands are laid out and dedicated by the City for lane widening purposes, to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services and the City Solicitor;

9. In addition the following will also be secured in the Section 37 Agreement:

- a. The owner will provide 1 car-share membership per residential unit offered in the first year of occupancy;
- b. The owner will provide 1 bike-share membership per residential unit offered in the first year of occupancy; and
- c. The owner will provide 1 pre-loaded Presto pass (\$50.00 value each) per residential unit offered in the first year of occupancy.
- d. The owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for the development.

With respect to the RHA and the Section 33 OHA application, our client expects City staff will be in a position to report out no later than Q2 and Q3 of 2023 respectively.

Implementation

Finally, in the event the Settlement Offer is accepted by City Council, our client will withdraw its appeal of Official Plan Amendment 352 and the associated implementing zoning by-laws in respect of the Site and its appeal of the North Downtown Yonge Site and Area Specific Policy 382 (Official Plan 183) in respect of the Site on or before the OLT settlement hearing scheduled for July 27, 2022. For greater clarity, these withdrawals will be limited only as they relate to the properties municipally known as 510-528 Yonge Street and 7 Breadalbane Street. For greater clarity, our client will maintain its ongoing general appeal rights of Official Plan Amendment 352 and the North Downtown Yonge Site and Area Specific Policy 382 (Official Plan 183).

Based on our client's discussions with City staff, we understand that the Settlement Proposal is acceptable to the City and will form the basis of a report to Council at the meeting commencing on **July 19th, 2022** recommending that Council support the settlement. This settlement offer is conditional upon that timing being achieved and the following implementation matters:

- 1. that City staff will seek direction to finalize the OPA and ZBLA to reflect the Settlement Proposal in advance of the OLT settlement hearing scheduled for July 27, 2022;
- 2. the City will consent to a request for a Final Order to issue no later than August 11, 2022, provided the OPA and ZBLA are in a form satisfactory to the Chief Planner and City Solicitor,

following the settlement hearing so as to ensure the community benefits and legal conveniences referenced above can be secured by way of Section 37 of the *Planning Act*;

3. the City will attend in support of the Settlement Proposal at the OLT hearing; and

4. that City Council will direct the appropriate staff to report out on the RHA application to both TEYCC and then Council in Q2 of 2023 assuming approval by the OLT of the Settlement Proposal and, specifically the revised instruments implementing same.

We respectfully request that the City confirm each of the above matters.

As noted at the outset, this offer is provided on a without prejudice and confidential basis.

In the event that City Council does not accept this Settlement Proposal and the Implementation Matters noted above, the Settlement Proposal shall remain confidential and without prejudice and shall be considered to have been withdrawn.

We appreciate the opportunity to continue this dialogue with the City. Should you have any questions about the foregoing, please contact the undersigned.

Thank you very much.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello
EPKC/gg
Encl.

49342102.5