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July 11, 2022

Our File No.: 141220

WITHOUT PREJUDICE

Via Email

City of Toronto Legal Services
Metro Hall
55 John Street, 26th Floor
Toronto, ON M5V 3C6

Attention: Nathan Muscat/Amanda Hill/Daniel Elmadany

Dear Sirs/Mesdames:

**Re: Case Nos. OLT-21-001853 and OLT-21-001854
Rezoning Appeals for 2200-2206 Eglinton Avenue East, 75 Thermos Road and 1020-1030 Birchmount Road
Confidential and Without Prejudice Offer to Settle**

We are solicitors for Dundee Canada (GP) Inc. in respect of the properties known municipally in the City of Toronto as 2200-2206 Eglinton Avenue East, 75 Thermos Road and 1020-1030 Birchmount Road (the "**Property**").

As you know, our client engaged in without prejudice discussions with City staff over the last several months regarding the redevelopment proposal for the Property. These discussions have resulted in a revised concept plan presented on a without prejudice basis to the meeting of City Council on December 15, 2021, which resulted in a confidential and conditional settlement of our client's appeal of its official plan amendment application (the "**OPA Appeal**").

On June 10, 2020, our client filed a rezoning application to permit the redevelopment of Block 2 as part of the Phase 1 redevelopment of the Property. On May 28, 2021, our client filed a rezoning application for the balance of the Property. Our client subsequently appealed the two rezoning applications to the Ontario Land Tribunal (the "**Rezoning Appeals**"). We are writing on behalf of our client with a without prejudice settlement offer in respect of the Rezoning Appeals. We also attach the text of the proposed draft Official Plan Amendment (the "**Proposed OPA**"), with the maps to be finalized and inserted. This settlement offer would remain open until the end of the City Council meeting scheduled to commence on July 19, 2022.

Our client is prepared to settle the Rezoning Appeals, and implement the settlement of the OPA Appeal, based on the plans, prepared by BDP Quadrangle and dated [April 28, 2022](#) (the “**Revised Plans**”), and in accordance with the following terms:

1. City Council would provide direction to support approval of zoning by-law amendments (the “**ZBAs**”) implementing the Revised Plans and the Proposed OPA.
2. Without limiting the foregoing, and in accordance with the settlement in respect of the OPA Appeal, the maximum density for the Property is 3.95 FSI, based on the gross site area of the Property and also calculated in accordance with Zoning By-law 569-2013, as amended. This results in a total gross floor area of approximately 251,319 square metres, calculated in accordance with Zoning By-law 569-2013, as amended, based on a total residential gross floor area of approximately 233,400 square metres and a total non-residential gross floor area of approximately 18,000 square metres. The built form standards, including but not limited to height, setbacks, stepbacks, tower floor plate size, and tower separation distance, are shown on the Revised Plans and set out in the related provisions of the ZBAs.
3. On-site parkland dedication of a minimum of 5,800 square metres is proposed on Block 3 (minimum size of 2,600 square metres) and Block 6 (minimum size of 3,200 square metres) in accordance with the phasing plan and pursuant to Section 42 of the Planning Act with the exact size, location and configuration of the on-site parkland dedication to be to the satisfaction of the General Manager, Parks, Forestry and Recreation; the on-site parkland dedication to be transferred to the City shall be in an acceptable environmental condition, free and clear, above and below grade, of all easements, encumbrances, and encroachments. Any remaining required parkland dedication under Chapter 415, Article II of the Toronto Municipal Code will be provided as cash-in-lieu of parkland. The City agrees to provide the Owner with a credit for the parks and recreation component of development charges payable for above base park improvements.
4. Our client agrees to provide the following community benefits pursuant to Section 37 of the *Planning Act*, to be secured in one or more agreements registered on title to the Property:

Community Space

- (a) the Owner shall design, construct and convey to the City for nominal consideration and at no cost to the City the provision of 12,112 square feet (1,125 square metres) of base building condition for an office type use community service facility space (“Community Space”) as part of Block 5 in Phase 4, in a location satisfactory to the Chief Planner and Executive Director, City Planning, the Executive Director,

Corporate and Real Estate Management and the Executive Director, Social Development, Finance and Administration and subject to the following:

- (i) the Community Space will be delivered to the City as a conveyance to the City, with an alternate approach to environmental remediation required if the Community Space is located within the existing building on Block 1, with the terms and specifications to be secured in the Section 37 Agreement, all satisfactory to the Executive Director, Social Development, Finance and Administration, the Executive Director, Corporate Real Estate Management, the Chief Planner and Executive Director, City Planning and the City Solicitor;
- (ii) prior to the issuance of the first above grade building permit for a building on Block 5, the Owner shall provide a letter of credit in the amount sufficient to guarantee 120 percent of the estimated cost of the design, construction and handover of the Community Space complying with the specifications and requirements of the Section 37 Agreement, to the satisfaction of the Executive Director, Corporate Real Estate Management, the Executive Director, Social Development, Finance and Administration, the Chief Planner and Executive Director, City Planning and the City Solicitor; and,
- (iii) there shall be no further financial contribution, start-up, or fit-out funding provided to the City by the Owner in association with the Community Space and, for clarity, the Owner shall not be responsible for the costs of the operation and maintenance of the Community Space.
- (iv) design of the Community Space will be determined as part of the future site plan approval process for Block 5.

Childcare Facility

- (b) the Owner shall design, construct and convey to the City in Block 2 or Block 4, at the Owner's option, in an acceptable environmental condition, for nominal consideration and at no cost to the City the provision of approximately 10,000 square feet (approximately 929 square metres) of indoor space and 3,000 square feet (approximately 279 square metres) of outdoor space as an on-site non-profit childcare facility with 62 spaces, substantially in accordance with the City's Child Care Development Guidelines (2021) and to the satisfaction of the Executive Director, Corporate Real Estate Management, the General Manager, Children's Services and the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor;

The Owner agrees that the child care facility shall be constructed, finished, furnished and equipped by the Owner, including a minimum of four (4) parking spaces reserved for the exclusive use of the child care facility between the hours of 6:30 a.m. and 7:00 p.m. from Monday to Friday and an area available for pick-up/drop-off operations between the hours of 6:30 a.m. and 10:00 a.m. and the hours of 3:00 p.m. to 6:30 p.m. from Monday to Friday; these spaces to be assigned accordingly and be located in close proximity to the elevators providing the shortest route between the underground parking garage and the child care facility, which shall be barrier-free; and a parking pass will be provided for officials conducting inspections of the child care facility;

The Owner agrees that prior to the issuance of the first above-grade building permit, a letter of credit in the amount sufficient to guarantee 120 percent of the estimated cost of the design, construction and handover of the child care centre, complying with the specifications and requirements of the Section 37 Agreement, shall be provided to the City of Toronto to the satisfaction of the General Manager, Children's Services and the Chief Financial Officer and Treasurer;

The Owner agrees that prior to the earlier of residential occupancy of the building in which the child care centre is located and/or registration of any condominium for the building in which the child care centre is located and prior to any above grade building permit for Blocks 5 and 7, the child care centre shall be conveyed to the City of Toronto, at no cost to the City of Toronto, in fee simple, in an acceptable environmental condition to the satisfaction of the Executive Director, Corporate Real Estate Management and the City Solicitor;

The Owner agrees that on, or prior to, the conveyance of the child care centre, the City of Toronto and the Owner shall enter into, and register on title to, the appropriate lands an Easement and Cost Sharing Agreement for nominal consideration and at no cost to the City of Toronto, that is in a form satisfactory to the City Solicitor; the Easement and Cost Sharing Agreement shall address and/or provide for the integrated support, use, operation, maintenance, repair, replacement and reconstruction of certain shared facilities and the sharing of costs, in respect thereof, of portions of the subject lands to be owned by the City of Toronto and the Owner as they pertain to the child care centre and the development to be constructed within the base building of the development;

- (c) prior to the conveyance of the child care centre, the Owner shall pay to the City of Toronto the sum of \$400,000, indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan area, calculated from the date of the approval of the Zoning By-law to the date of payment, to provide one-time cash contributions in support of the child care centre, allocated generally as follows:

i. a one-time cash contribution in the amount of \$200,000 to the City of Toronto's Child Care Capital Reserve Fund to be used towards start-up operating costs, to replace appliances and large equipment due to wear and tear and to support ongoing financial viability, to be paid prior to the child care facility being made available to the City of Toronto;

ii. a one-time cash contribution in the amount of \$200,000 towards toys, furnishings and equipment in accordance with Provincial and Municipal standards based on a mutually agreeable inventory list provided by the Child Care Centre Operator and/or the General Manager, Children's Services which will be finalized and approved by the General Manager, Children's Services;

Affordable Housing

- (d) the provision of 130 affordable rental housing units, based on 100% Average Market Rent and an affordability period of fifteen (15) years, to be delivered on a proportional basis to the market housing with the owner's option to consolidate these affordable rental housing units on one or two blocks as part of an early phase of development, with the specific location and distribution of the affordable housing units determined as part of future site plan approval applications in accordance with the terms of the Section 37 Agreement;
- (e) the unit types and unit sizes of the affordable housing units will be consistent with the average size of the market units in the same building, excluding any grade-related townhouse units;

Other Financial Contribution

- (f) Prior to the issuance of any above grade building permit, the Owner shall provide a financial contribution of \$200,000 towards the Meadoway Entry Garden, to be secured in the Section 37 Agreement and indexed upwardly in accordance from the date of the Section 37 Agreement to the date of payment;
5. Our client agrees to secure the following matters in the Section 37 agreement and ZBAs, or where appropriate conditions of subdivision approval for the subdivision agreement, as a legal convenience or as matters required to support development:

Public Art

- (i) Our client will prepare, at its expense, a Public Art plan (the "**Public Art Plan**") for the provision of Public Art, at a value of \$1,000,000 in respect of all Public Art on the Property, to be located upon the Property or adjacent

City-owned land (including any of the above-noted public parks), and shall submit the Public Art Plan to the City as part of the site plan approval application associated with the first development Block, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Toronto Public Art Commission, and to City Council for approval, in accordance with the terms and conditions satisfactory to the Chief Planner and the Executive Director, City Planning and the City Solicitor. Prior to the issuance of the first above grade building permit for any residential development on each Block where public art is planned, our client will provide financial security in the form of a Letter of Credit for public art, identified in the approved Public Art Plan to secure the commission and installation of public art in accordance with the approved Public Art Plan.

Transportation Demand Management

- (ii) the following transportation improvements and transportation demand management (TDM) measures shall be secured to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning, in the ZBAs:
- (A) prior to the issuance of an above-grade building permit for the first building on each Block, the Owner shall pay to the City, by certified cheque, the following amounts, indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan area, calculated from the date of the execution of this Agreement to the date of payment, for the future implementation of ten (10) bike-share stations, at locations that may be determined by the Chief Planner and Executive Director, City Planning and General Manager, Transportation Services in consultation with the Owner with priority consideration for locations on or in the vicinity of the Property,
- Block 2: \$150,000.00,
 - Block 4A: \$150,000,
 - Block 4B: \$50,000,
 - Block 5: \$50,000, and,
 - Block 7: \$100,000,
- for a total value of Five Hundred Thousand Dollars (\$500,000);

- (B) prior to the issuance of any above grade building permit on each Block where a bike repair station(s) is planned for and identified in the site plan approval application, satisfactory to the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services, the Owner shall provide a letter of credit for \$1,500 for each of the eight (8) bike repair stations on the development site, and thereafter provide evidence of installation, in a form satisfactory to the General Manager, Transportation Services, for such financial security to be returned;
- (C) prior to the issuance of any above grade building permit on each block, the Owner shall provide a letter of credit for \$5,000.00 for each of the five (5) real-time transportation information screens on the development site, where planned, and thereafter provide evidence of installation, in a form satisfactory to the General Manager, Transportation Services for such financial security to be returned;
- (D) the Owner shall provide a minimum of five hundred (500) bike share annual memberships on a one-time basis, to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Management, Transportation Services, of which there shall be bike share memberships provided to each of the one hundred and thirty (130) affordable housing units,
- (E) the Owner shall provide one PRESTO pass to each of the one hundred and thirty (130) affordable housing units on a one-time basis, each pre-loaded with the value of one yearly PRESTO fare;
- (F) in the event that the transit corridor study for Victoria Park Avenue has not commenced prior to the first above-grade building permit for the redevelopment of the Property, the Owner shall provide a financial contribution of Two Hundred Thousand Dollars (\$200,000) to support a transit corridor study for Victoria Park Avenue and Warden Avenue, or other transit and active transportation initiatives;
- (G) the Owner shall provide a financial contribution of Forty Thousand Dollars (\$40,000) for TDM monitoring initiatives;
- (H) the Owner shall provide for the cost of one information marketing session regarding the TDM Marketing Initiatives for each phase (approximately \$1000 for each information session); and

- (I) the Owner shall provide for 13 car share spaces.

Privately Owned Publicly Accessible Open Spaces (POPS) and Public Pedestrian Access Easements

- (iii) POPS shall be provided, with surface easement(s) conveyed to the City, for nominal consideration, as a pre-approval condition for site plan approval for the respective block in which the POPS is located, to the satisfaction of the City Solicitor, in accordance with the Revised Plans and as set out in the settlement offer related to the OPA Appeal, with minimum sizes as follows:
 - i. Block 2 – Southeast Corner privately owned publicly accessible open space with a minimum size of 444 square metres;
 - ii. Block 4 – Southwest Corner along Eglinton Avenue and Thermos Road privately owned publicly accessible open space with a minimum size of 303 square metres with a minimum depth of 7.5 metres;
 - iii. Block 5 – Street C privately owned publicly accessible open space with a minimum size of 208 square metres; and
 - iv. Block 7 – northeast corner along Birchmount and Ashtonbee Road privately owned publicly accessible open space with a minimum size of 234 square metres;

the Owner will provide public pedestrian access easements to provide access to and through various development block mid-block connections to the satisfaction of the Chief Planner and Executive Director, City Planning, with the exact location, design and timing of delivery of the pedestrian easement to be determined in the context of a Site Plan Approval;

the Owner shall own, operate, maintain and repair the public pedestrian easement area and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the public pedestrian easement at certain times of the day and night, and the Owner may restrict other uses of this space, so long as they do not unreasonably obstruct pedestrian movement of persons of all ages and abilities with such matters determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City;

Wind Tunnel Testing

- (iv) the Owner shall provide, at its sole cost and expense, a wind tunnel testing for the development as part of each site plan control application, and

thereafter secure and implement mitigation measures identified in any accepted wind tunnel study/report (if any), satisfactory to the Chief Planner and Executive Director, City Planning;

Other Matters

- (v) prior to the issuance of site plan approval for any part of the Property, the Owner shall provide a Design Brief, which is based on the performance standards in the Proposed OPA, the ZBAs and this Settlement Offer to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (vi) the Owner will construct and maintain the Development 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 each building on the Property;
 - (vii) the requirements for a construction management plan to be provided at the time of site plan approval, with the general matters included in the Section 37 Agreement, including but not limited to noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, coordination with adjacent on-going development construction, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, any required coordination with Metrolinx regarding the Eglinton Crosstown LRT, and a communication strategy with the surrounding community, and any other matters requested by the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services; and,
 - (viii) the Owner shall provide a commemoration plan and heritage plaque for the former Lucas-Rotax Aircraft Equipment Co. factory at the property known municipally as 75 Thermos Road, to be secured as part of a site plan approval application.
6. The phasing of development infrastructure, Community Space, affordable housing units, parkland and the development of the Property is set out in the Phasing Triggers, which are attached and form part of this settlement offer. Notwithstanding the requirement for construction and conveyance of municipal infrastructure and rights-of-way prior to the issuance of any above-grade building permit, at the discretion of the Chief Building Official and the Chief Engineer and

Executive Director, Engineering and Construction Services, the City agrees that demolition permits may be issued for any block.

7. Our client and the City shall prepare an updated draft plan of subdivision and prepare draft plan of subdivision conditions in accordance with the Phasing Triggers and otherwise to implement the terms of this settlement offer as soon as possible. Our client acknowledges and agrees that the satisfactory completion of the Engineering Reports, will be required in order to finalize the draft plan of subdivision conditions. The parties agree to have the draft plan of subdivision conditions ready no later than the first case management conference for the appeal filed in respect of the plan of subdivision application provided that our client has provided complete engineering reports to the City with sufficient time to review in advance of that case management conference.
8. Our client acknowledges and agrees that any Final Order from the Tribunal regarding the zoning appeals shall be withheld until such time as the Tribunal has been advised by the City Solicitor that:
 - (i) the ZBAs are in a content and form satisfactory to the owner and the City Solicitor and the Chief Planner and Executive Director, City Planning, including any required revisions, changes or amendments thereto;
 - (ii) submitted a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report (“Engineering Reports”) and Off-Site Design Brief to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water and has secured the design and the provision of financial securities for any upgrades or required improvements to the existing municipal infrastructure identified in those reports;
 - (iv) entered into a Section 37 Agreement with the City and registered in title to the Property, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, securing the community benefits set out above, as well as the matters of legal convenience also set out above;
 - (v) our client has agreed to resolve its appeal of Official Plan Amendment No. 499, including the Golden Mile Secondary Plan, and agree that it would maintain party status to ensure that the Proposed OPA is appropriately implemented as part of Official Plan Amendment No. 499 or unless the City does not object to such status, and that Official Plan Amendment No. 499 is brought into force as it applies to the Property.

9. The Owner agrees that the Order may issue if appropriate legal mechanisms are in place to ensure that no building permit will issue until such time as the Section 37 agreement is executed and registered to secure matters, including the remaining matters in paragraph 8.
10. The City and our client agree to request that the Tribunal proceed with a settlement hearing as soon as possible, to dispose of the OPA Appeal and the Rezoning Appeals.

As noted above, this without prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on July 19, 2022, after which it should be considered as withdrawn.

Our client greatly appreciates the hard work of City staff that had enabled the presentation of this settlement offer to City council.

Yours truly,

Goodmans LLP



David Bronskill
DJB/ bp

cc: Client

Error! Unknown document property name.