



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

January 25, 2023

Matter No. 161250

BY EMAIL: nathan.muscat@toronto.ca

Without Prejudice

Nathan Muscat
Planning and Administrative Tribunal Law
City of Toronto Legal Services
Metro Hall, 26th floor
55 John Street
Toronto ON M5V 3C6

Dear Mr. Muscat:

**Re: Without Prejudice Settlement Proposal
2-6 Howard Park Avenue, Toronto
Case No. OLT-21-001649/OLT-21-001650**

Please be advised that Aird & Berlis LLP acts on behalf of BJJ HP Corp. (our “**Client**”) with respect to the properties municipally known as 2-6 Howard Park Avenue, Toronto (the “**Site**”). The Site is located at the at the northwest corner of Howard Park Avenue and Dundas Street West, and currently contains a single storey automobile service and repair shop, and an associated surface parking lot.

Background

On April 21, 2021, our office filed an application on behalf of our Client to amend the Official Plan and Zoning By-laws 438-86 and 569-2013, (collectively the “**Original Application**”) to permit a mid-rise (10-storey) mixed-use building with approximately 375 square metres of grade-related retail and approximately 128 residential units on the floors above grade, with a total building gross floor area of approximately 8,130 square metres on the Site.

A Pre-Application Consultation meeting in respect of the development proposal for the Site was held with City of Toronto staff on January 22, 2021. A Preliminary Report, prepared by City staff and dated June 4, 2021, was presented and considered by Toronto and East York Community Council on June 24, 2021. A Community Consultation meeting occurred (virtually) on July 12, 2021.

On November 4, 2021, and again on behalf of our Client, we appealed Council’s failure to adopt the requested amendment of the Official Plan and Council’s failure to make a decision on the requested Zoning By-law Amendment within the statutory time frames, to the Ontario Land Tribunal (“**OLT**”), pursuant to Sections 22(7) and 34(11) of the *Planning Act*, R.S.O. c P. 13, as amended (the “**Appeal**”).

On January 25, 2022, City staff presented a Request for Directions report related to the Appeal. This report was considered by TEYCC on February 16, 2022 and the recommendations were adopted by City Council on March 9, 2022.

The OLT has scheduled a hearing of the Appeal, commencing on March 27, 2023.

Without Prejudice Settlement Proposal

We are writing to provide a full and final settlement offer to resolve the Appeal (the “**Settlement Proposal**”) which proposed further built form and public realm modifications, arrived at in response to comments received from and discussions had with City staff.

The Settlement Proposal, which is generally reflected in the architectural drawings prepared by architectsAlliance and dated January 23, 2023, are enclosed herewith and includes the following modifications to the Original Application:

- Increased setback of the ground floor of the building to achieve an expanded public realm, including a 6.0 metre sidewalk zone on Dundas Street West and a 4.8 metre sidewalk zone on Howard Park Avenue;
- Reduction of the overall building height to 36 metres;
- Reduction in the height of the ground floor to 4.5 metres measured to the ceiling of the ground floor (exclusive of the transfer slab and accommodation required for the loading dock);
- Wrapping the mechanical penthouse with residential units on the 11th storey; and
- Minimum of 10 per cent of the total number of units as purpose built 3-bedroom units and a minimum of 10 per cent of the total number of units as purpose built 2-bedroom units and an additional 5% of the total number of units capable of being converted to 2-bedroom units.

Please note that due to the preliminary nature of the architectural plans and the changes to the built form in response to the City’s requested changes, the final unit count has not been determined at this time. The Settlement Proposal does not contemplate a total number of units.

Conditions to Final Order

Our Client agrees that the following matters will be addressed to the satisfaction of the City prior to the issuance of the OLT’s Final Order:

1. the Zoning By-law Amendment(s) be finalized, in a form and content acceptable to the City Solicitor and Chief Planner and Executive Director, City Planning;
2. the owner has addressed any outstanding issues in relation to site servicing and has submitted reports and drawings related to the following, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services:
 - a. Functional Servicing and Stormwater Management Report;

- b. Hydrogeological and Geotechnical Report; and
 - c. any other related engineering reports and drawings.
3. the owner has agreed that the design and implementation of municipal infrastructure will be at the owner's sole cost and expense for any upgrades or improvements to City infrastructure identified in the approved Functional Servicing and Stormwater Management, Hydrogeological and/or Geotechnical Reports, with such improvements being secured to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
4. the owner has agreed to prepare a Construction Management Plan to the satisfaction of the Chief Planner and Executive Director, City Planning to be secured as a condition of Site Plan Approval.
5. The owner has agreed to submit documentation and financial contributions in the form of certified cheques (overall amount to be determined) for the implementation of a Transportation Demand Management (TDM) plan prior to Site Plan Approval. These provisions include the following items:
 - a. One (1) bike-share membership per unit, offered for the first year of occupancy; and
 - b. A minimum of one (1) bike repair stations provided on-site.

Implementation

We understand that the Settlement Proposal as outlined above and illustrated in the enclosed architectural design is acceptable to City staff and will form the basis of an in-camera report to Council at the meeting commencing on February 7, 2023, recommending that Council accept the settlement.

This settlement offer is conditional upon that timing being achieved and the following additional implementation matters:

1. The City will attend in support of the Settlement Proposal at the OLT hearing commencing on March 27, 2023;
2. The City consents to the Settlement Proposed being filed as evidence with the OLT when such evidence is required, on or before February 22, 2023; and
3. The City will support any motion which may be required at the OLT hearing to introduce this settlement.

Our client commits to working cooperatively with City Staff to finalize the Zoning By-law, including reviewing the indoor and outdoor amenity provisions to explore whether an increase in the total amenity space provided can be achieved. Additionally, our client will continue to work with staff through the Site Plan Approval process including securing and implementing a construction management plan to minimize disruption to the immediate neighbours and community.

Page 4

We appreciate the opportunity to continue this dialogue with the City and to reach a resolution with the City on the rezoning matters.

Should you have any questions about the foregoing, please contact the undersigned.

Thank you very much.

Yours truly,

AIRD & BERLIS LLP

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

Eileen P. K. Costello
EPKC/nh
Encl.

cc. Nate Tracey, Lamb Development Corp.
Peter Smith, Bousfields Inc.

51829731.4

AIRD BERLIS