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July 4, 2023

Our File No.: 230037

**Via Email**

**Confidential and Without Prejudice**

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

**Attention: Daniel Elmadany and Laura Bissett**

Dear Sirs/Mesdames:

**Re: OLT-22-001933 – Official Plan Amendment No. 469 – Sherway Area Secondary Plan  
Without Prejudice Settlement Offer re: Appeal # 3**

We are counsel for 690 Evans Ave. Dev Nominee Inc., the registered owner of the lands known municipally in the City of Toronto (the “**City**”) as 690 Evans Avenue (the “**Site**”). The Site is bounded by Sherway Gardens Road, the Gardiner Expressway, Evans Avenue and Sherway Gate, and is currently the site of a single-storey retail store and associated surface parking. Upon acquiring the Site, our client assumed an appeal of the Sherway Area Secondary Plan (the “**Secondary Plan**”) originally filed by Toys “R” Us Canada Inc. (the “**Appeal**”).

Following discussions with City staff, we are writing on behalf of our client to provide a without prejudice settlement offer regarding the Appeal. Our client is prepared to resolve the Appeal based on:

1. the modifications to the Secondary Plan set out in Schedule A (the “**Policy Modifications**”), which are intended to clarify the application of certain policies relating to location of permitted sensitive uses and density; and
2. the City providing evidence, in support of the settlement and the Secondary Plan as modified before the Ontario Land Tribunal, consistent in substance with Schedule B, which outlines the evolution of policies in the Secondary Plan regarding density and opportunities for site-specific applications to increase densities.

This settlement offer will remain open until the conclusion of the City Council meeting scheduled to commence on July 19, 2023, at which point it should be considered as withdrawn if not accepted.

Our client appreciates the work of City staff that has enabled the presentation of this settlement offer. Please contact the undersigned if you have any questions.

Yours truly,

**Goodmans LLP**



Max Laskin  
MXL/

cc. Roslyn Houser  
Client

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**SCHEDULE A  
POLICY MODIFICATIONS**

The Policy Modifications would modify Policies 5.9A, 6.3 and 6.4 of the Secondary Plan as follows:

- 5.9A *Despite Policy 5.9, residential and other sensitive land uses may be considered permitted on part of the lands designated Mixed Use Areas 'B' that are immediately abutting-adjacent to, including across a street from, lands designated Mixed Use Areas 'A', where a sufficient non-residential land use buffer and/or separation from major transportation facilities is provided for in Mixed Use Areas 'B', and provided it has been demonstrated that:
  - 5.9.1 *the liveability of the proposed residential dwelling units and/or occupancy of other sensitive land uses will not be adversely impacted with respect to noise, odour, vibration and air quality, existing and planned adjacent land uses; and*
  - 5.9.2 *there is sufficient municipal servicing and transportation capacity to serve residential units proposed in Mixed Use Areas 'B'.**
  
- 6.3 *Development that would result in exceeding any of the density limits in this Plan, beyond five per cent, will not be permitted to be approved until a Development Capacity Study has been undertaken of the entire applicable Precinct as illustrated on Map 43-9 that examines the matters identified in Policy 6.4 of this Plan. In addition to the required plans, drawings, studies and reports identified in Official Plan Policy 5.5.2 and Schedule 3 of the Official Plan, the Development Capacity Study must be completed for the applicable Precinct accompanied with an Official Plan Amendment application for the Precinct.*
  
- 6.4 *Through the City's review of a Development Capacity Study on a Precinct basis, submitted with an Official Plan Amendment on a Precinct basis, consideration may be given to an increased density beyond the density limits provided in this Plan provided it has been demonstrated that:*

....

**SCHEDULE B  
SUBSTANCE OF EVIDENCE TO BE PROVIDED IN SUPPORT OF POLICY  
MODIFICATIONS**

- The Sherway Area Secondary Plan (“SP”) was informed by a series of comprehensive studies to review built form, servicing and transportation capacity, and community services and facilities needs. The Council-adopted Plan originally set maximum total gross floor areas for residential, retail and office uses to ensure a balanced and sustainable growth pattern based on those studies.
- Section 5 of the SP outlines densities for each land use designation, expressed as a gross Floor Space Index (FSI) to allow for the flexible placement of buildings, streets, parks and open spaces on a parcel experiencing redevelopment. The FSI figures also provide an equitable distribution among land use designations of the maximum gross floor areas supported by the studies.
- Following mediation with appellants, on [date] the Tribunal approved modifications to Policies 6.3 and 6.4 that would allow for individual development applications to demonstrate to the City’s satisfaction that their proposals could increase the Sherway maximum densities beyond five per cent, without having an impact on local infrastructure capacity and the ability of other landowners in the Sherway area to build to their planned densities.
- Policy 6.3 was modified to introduce the requirement for a Development Capacity Study to be undertaken for the entire applicable Precinct within which a development application is being made. To clarify, it is intended that any proposal that exceeds the density limits of the SP beyond five per cent would be required to submit an Official Plan Amendment for the subject site, and that such OPA application would only be deemed complete upon receipt of a Development Capacity Study that examines the entire Precinct within which the site is located.
- Policy 6.4 was modified to identify the matters to be examined in a Development Capacity Study required by Policy 6.3.
- Section 11 of the SP contains policies related to the preparation of a Precinct Plan to accompany any planning application. An acceptable Precinct Plan will be endorsed by Council as a non-policy document and will guide site plan review and the future development on adjacent lands within the Precinct. The requirements of a Precinct Plan are similar to the requirements of a Block Context Plan as identified in the Official Plan.