

CC13.19 - CONFIDENTIAL APPENDIX "A" - made public on January 22, 2024



Bennett Jones

Bennett Jones LLP
3400 One First Canadian Place, P.O. Box 130
Toronto, Ontario, M5X 1A4 Canada
T: 416.863.1200
F: 416.863.1716

November 24, 2023

VIA EMAIL

CONFIDENTIAL AND WITHOUT PREJUDICE

City Solicitor's Office
City of Toronto, Legal Services
55 John Street, 26th Floor Metro Hall
Toronto, Ontario M5V 3C6

Attention: Amanda Hill, Daniel Elmadany,
Solicitors City of Toronto

Dear Ms. Hill and Mr. Elmadany:

**Re: Without Prejudice Offer to Settle - Official Plan Amendment and Rezoning Application
1891 Eglinton Avenue East, Toronto
Zoning OLT Case No.: OLT-22-001974
OP OLT Case No: OLT-22-001986**

We are writing to you on behalf of our client, Mattamy (Eglinton) Limited ("**Mattamy**"). As you are aware, it is owner of the lands located at the above-noted site (the "**Property**").

This letter forms part of our client's "without prejudice" submission of a revised and partial development concept plan that we are providing to you as part of a proposed settlement offer of both our client's Official Plan Amendment ("**OPA**") application and their Zoning By-law Amendment ("**ZBA**") application.

BACKGROUND

Mattamy purchased the Property in December 2021 and took carriage of both the OPA and ZBL applications, as well as the associated appeals. Upon taking carriage of the applications, Mattamy proceeded to revise the same into an exciting new concept built around a large central "park" that would not only be an asset to those living within the proposed development, but also to the broader community. This space creates a vital green link between proposed parks located to the south/west of the Property and the second one North/East of the Property.

The revised concept also proposes to introduce two new public streets through the site, Street "A" and Street "B". Street "A" is the future extension of O'Connor and is intended to be aligned with the existing signalized intersection at Pharmacy Avenue (based on the current studied options identified in the ongoing environmental assessment process for the Golden Mile road network). Street "A" is intended to reflect the alignment set out in Golden Mile Secondary Plan ("**OPA 499**"), subject to the

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final alignment being determined through the ongoing environmental assessment process described above.

After the filing of Mattamy's revised concept, both Mattamy and the City have worked extensively on refining the proposal through numerous meetings and days in mediation. Throughout these discussions, the original Mattamy proposal has undergone a number of changes, while maintaining the core open space feature. These changes include:

- Reduction in density;
- Reduction in tower heights, including the reduction of the tallest tower down from 52 storeys in height to 48 storeys;
- Reduction on shadowing to the north side of Eglinton Avenue East and the new planned public park on the SmartCentres lands at 1900 Eglinton Avenue East;
- The introduction of a mid-rise building fronting on Eglinton Avenue East, establishing a mix of building types and built forms;
- Shifting of tower orientation for Building C so as to allow the reshaping of the City owned public park at the south/west corner of the property;
- Increased setbacks of the podiums and step backs of the towers, such that they align with OPA 499; and
- Addition of residential units at grade facing the central "park".

These changes are highlighted in the attached plans prepared by architectureunfolded and urban agency dated November 22, 2023 (the "**Architectural Plans**"). A proposed draft Official Plan Amendment (the "**Draft OPA**") is also enclosed.

SETTLEMENT PROPOSAL

The settlement proposal will allow for the first four buildings of the proposed community (Buildings A-D as identified in the attached plans) to be brought forward for approval. That part of the development applications applicable to the remainder of the lands, identified on the Architectural Plans in the "Future Development Area", would be addressed at a future date. This would allow additional time to resolve concerns of other parties to the OLT appeals, all of whom have raised no concerns with Buildings A-D.

It is in this context that we are pleased to provide the City with our attached settlement proposal (the "**Settlement Proposal**"). The highlights of this proposal include:



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- An Official Plan Amendment for the entire Property generally in the content attached;
- A scoped Zoning By-law Amendment approval that would include site specific zoning permissions for only Buildings A-D. The remainder of the Property north of Street “A” would be brought into City-wide Zoning By-law 569-2013 with only limited development permissions allowing for sales centre and construction staging uses, but all residential and all other non-residential uses and buildings would not be included at this time. The site specific zoning permissions for the “Future Development Area” would be left in abeyance for determination at a future date. In the event that the "Future Development Area" is to be heard by the OLT, our client would agree not to request a hearing date be scheduled earlier than second quarter, 2025 with respect to the Future Development Area;
- A development proposal with a total gross floor area of approximately 106,831 sq. m., with a minimum of 4,380 sq. m., including a child care centre, as non-residential uses. In the event the City and Mattamy agree to the child care centre being provided as a public child care centre as an in kind contribution in accordance with the Community Benefits Charge By-law, the total gross floor area for non-residential uses will be a minimum of 4,380 square metres, excluding the gross floor area for a public child care centre provided to the City as an in-kind benefit;
- A mid-rise building along Eglinton Ave E. (Building D) at 12 storeys;
- Building A at 48 storeys, Building B and Building C both at 44 stories. Together with the introduction of the mid-rise building along Eglinton Ave. E., the changes have resulted in a greater staggering of the building profiles along Eglinton;
- Delivery of a 2,196 sq. m. public park to the City, representing the total parkland dedication for the site, including the Future Development Lands. The park is to be conveyed to the City at the time of the first above grade building permit of the earlier of Building C or Building D. Prior to the first above-grade building permit for Building C, the design of the public park would be completed and securities for the construction of the park provided to the City. The completion of the park would be within 3 years after issuance of the first above grade building permit for Building C, with an understanding that there may be reasonable extensions granted. Mattamy agrees to register a section 118 restriction on the lands, if it cannot at that time be registered against only the park area, and can be further scoped to only the park area at such time as the LRO will accept registration against the same, such section 118 to remain on the park land until such time as the parkland is conveyed to the City and to be removed from other areas of the property when they are separated from the parkland. If Council approves a development charge credit against the Parks and Recreation Component of the Development Charges for the design and construction by Mattamy for above base park improvements prior to the issuance of the payment of the first development charges for the Project, Mattamy would agree to design and construct the Park to an above base park condition. The Parties agree that Mattamy will be able to benefit from tiebacks, construction hoarding and swing cranes over the parkland area through the development process at no cost.



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- Delivery of approximately 2,545 sq. m. of the proposed centralized landscaped space. This proposed centralized landscaped space is not considered Parkland or a Parkland conveyance under the Planning Act, and is not considered a POPS. There will, however, be a typically sized pedestrian walkway connection for the public (secured by easements with appropriate restrictions determined through the applicable Site Plan Control process, all at no cost or expense to the City) running through a part of the centralized landscape space creating access between the public park and Eglinton Ave. E.
- Introduction of various built form measures, including the introduction of a 14.6m stepback of Tower A from Pharmacy (with a 10m stepback at the notch in the building at the corner of Pharmacy and Eglinton), an 8m tower stepback for Tower A from Eglinton, the insertion of a potential canopy structure between building A and C, and the introduction of an additional 0.75m stepback on the southern side of Tower C (facing the public park) setting out a total of a 5.75m stepback;
- Increase in the total proposed amenity area to a net total of 4 m² per unit (1.5m² indoor and 2.5m² outdoor), with the final location subject to the approval of the Chief Planner; and
- Street B with a minimum width of 18.5 metres.

In support of the Settlement Proposal, we have enclosed the following items:

- a) Architectural Plans; and
- b) Updated proposed Draft OPA;

SETTLEMENT PROPOSAL TERMS

Mattamy's Settlement Proposal is made on the terms that follow and is conditional upon their acceptance or completion (as applicable):

1. An agreement between the City and Mattamy to an implementing zoning by-law amendment. Mattamy will prepare a draft Zoning By-law Amendment consistent with the terms of this Settlement Proposal, and other draft Amendments approved by the Tribunal in the Golden Mile Area. The parties agree to request that the OLT approve the ZBLA application without prejudice to their positions as it relates to the appropriate height and densities for the buildings within "Future Development Area".
2. This offer is conditional upon Mattamy providing confirmation to the Chief Engineer and Executive Director, Engineering and Construction Services through an acceptable Functional Servicing Report and/or related engineering reports that there is existing capacity for sanitary, storm and water systems (including details with respect to the demolition of the existing industrial building on the site), and upon the Chief Engineer confirming satisfaction with the same and that no holding "H" provision is required for Buildings C and D.



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3. Mattamy agrees that it shall not be entitled to any above-grade building permits until it has been demonstrated to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, that the necessary sanitary, storm and water infrastructure improvements and/or new infrastructure to allow the development of the applicable building(s) are constructed and operational (either by the owner or another landowner/landowners group) to allow for the development of the applicable building(s).
4. Mattamy will submit an updated compatibility and mitigation report which identifies the request for a Class 4 area for the property pursuant to NPC-300 which shall be subject to a third party peer-review retained by the City at Mattamy's sole cost and expense. Provided the peer-reviewer confirms that Class 4 area for the property is appropriate, the Chief Planner and Executive Director, City Council will proceed to recommend to City Council to designate as a Class 4 area pursuant to NPC-300.
5. The parties agree that they shall work together in good faith to process the site plan approvals for Buildings A-D, with priority to be given to Buildings A and B. The parties also agree that the requirement for the potential canopy structure between Buildings A and C noted above will be reviewed and considered as part of the site plan approvals for Building C. For greater certainty, both parties shall retain all of their legal rights and options with respect to the same, including any existing and future appeals to the OLT.
6. The City agrees that in the event the City has not completed the ongoing Municipal Class Assessment under the Environmental Assessment Act relating to future Street "A", by the end of June 2024, then Mattamy will be permitted to proceed with interim driveway solutions for both Buildings C and D, subject to the production of detailed designs that are to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
7. Mattamy agrees that prior to attending the OLT with this settlement, it will, for the purpose of aligning the application with the Settlement Offer, submit to the City an updated submission on the OPA and ZBL applications including updated plans, drawings and materials, as well as, where appropriate, reports.
8. Mattamy and the City will work cooperatively to request that the OLT schedule an earlier hearing date for a settlement hearing on the Official Plan Amendment and Zoning By-law Amendment.

In the event that there are any disputes between the parties in respect to the matters set out above, the OLT Decision will reserve the right of either party to speak to the OLT with respect to the same.

Please feel free to contact the undersigned if there are any questions or concerns. As noted above, this without prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on December 13, 2023, at which point it should be considered as withdrawn



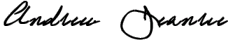
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if not accepted by City Council. If City Council accepts the Settlement Offer, our client consents to the release of this Settlement Offer, including all enclosures.

Yours truly,

BENNETT JONES LLP

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Andrew L. Jeanrie

cc: Client

Attachments