

June 5, 2023

By E-Mail

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

Dear Mr. Muscat:

**Re: Community Benefits and Class 4 Designation for the Mimico Transit Oriented Community (“TOC”) Project
315-327 Royal York Road (Block 1) & 27-39 Newcastle Street (Block 2)**

We represent VANDYK Properties Inc. (“VANDYK” or the “Owner”) with respect to its Transit Oriented Community (“TOC”) development at Mimico GO Station and municipally known as 315-327 Royal York Road (Block 1) and 27-39 Newcastle Street (Block 2). In terms of ownership, VANDYK, through affiliated entities, is the registered owner of the lands municipally known as 327 Royal York Road (2402871 Ontario Inc.) and 39 Newcastle Street (2495065 Ontario Inc.) and Metrolinx is the owner of the lands municipally known as 315 Royal York Road and 27-33 Newcastle Street (collectively, the “Property”).

A. Background

In April 2022, VANDYK and Metrolinx signed an agreement to deliver a TOC at a new Mimico GO Station (the “TOC Project”). The partnership will deliver a vibrant, mixed use community integrated with the Mimico GO Station, including improvements such as a fully accessible main station building, underground dedicated GO parking spaces, commuter bicycle parking spaces, integrated transit plaza with pick-up and drop off facilities and a greenway path for pedestrian and cyclists to access the new station.

To facilitate the TOC Project, the Minister of Municipal Affairs and Housing issued a Zoning Order (O. Reg. 337/22) (“MZO”). As part of the issuance of the MZO, VANDYK provided an undertaking to Metrolinx in connection with the delivery of certain community benefits as part of the TOC Project.

Since that time, VANDYK has been working extensively with City staff to finalize the terms of the community benefits identified in the undertaking and how each of the benefits will be secured.

On April 26, 2023, VANDYK filed a site plan control application for each of Block 1 and Block 2 of the TOC Project. As per the architectural plans, dated April 25, 2023 and prepared by SvN, the development will be constructed in three phases:

- **Phase 1:** Block 1, Towers 1 and 2;

- **Phase 2:** Block 2, Towers 3 and 4; and
- **Phase 3:** Block 2, Towers 5 and 6.

B. In-Kind Contributions

In connection with the TOC Project, VANDYK agrees to provide the following community benefits in accordance with the terms noted herein, as in-kind contributions pursuant to subsection 37(6) of the *Planning Act*.

1. Pedestrian and Cycling Bridge over Royal York Road

- a) Subject to a feasibility analysis, the Owner will construct and design a pedestrian and cycling bridge over Royal York Road connecting the western end of Block 1 to the City-owned lands south of Judson Street or, alternatively, the Owner will deliver a functionally equivalent safe and accessible crossing for pedestrians and cyclists;
- b) The Owner will pursue the design and approval process of the pedestrian and cycling bridge or a functionally equivalent crossing, concurrently with the site plan control application review for Block 1;
- c) The Owner will construct and convey the pedestrian and cycling bridge or a functionally equivalent crossing to the City within one (1) year following the earlier of the first residential occupancy of Phase 3 (being or the registration of a condominium for Phase 3; and
- d) Should the feasibility analysis support the construction of the pedestrian and cycling bridge referred to in a) above, City Council shall direct staff to promptly bring forth a report, to be considered at the earliest possible City Council meeting, to amend the site-specific Zoning By-law Amendment and Section 37 Agreement between VANDYK – The Buckingham North – Grand Central Limited and the City of Toronto, dated August 3, 2022, for 23 Buckingham Street to substitute the \$1,000,000 cash contribution (as per subsection 3.1(b) of the Agreement) with the in-kind community benefits contribution to deliver the pedestrian and cycling bridge, as noted above. The City acknowledges that, should the feasibility analysis support the construction of the pedestrian and cycling bridge, the amendment of the site-specific Zoning By-law Amendment and Section 37 Agreement will need to occur prior to the issuance of the first above grade building permit for the development of 23 Buckingham Street, which is currently under construction. The Owner and the City agree to work cooperatively and expeditiously to determine the feasibility of a pedestrian and cycling bridge.

2. Public Art

- a) The Owner will provide a public art contribution in the amount of \$800,000 for each of Block 1 and Block 2, for a total contribution of \$1,600,000;

- b) The Owner will provide the public art on-site or in the vicinity of the site, via commissioning of public art equal in value to \$800,000 for each of Block 1 and Block 2.
- c) Prior to the issuance of Notice of Approval Conditions for the site plan control application for Phase 1, the Owner may elect to use the total \$1,600,000 public art contribution amount towards the commissioning of public art in Phase 1, Phase 2 or Phase 3, or in the vicinity of the site, including in connection with the pedestrian and cycling bridge.

This offer to provide the in-kind contributions noted above in paragraphs 1 and 2 above in connection with the TOC project is conditional upon:

- a) City Council allowing the Owner to provide the pedestrian and cycling bridge or a functionally equivalent crossing, and the public art contribution, as outlined in paragraphs 1 and 2 above, as in-kind contributions pursuant to subsection 37(6) of the *Planning Act* (collectively, the “**In-Kind Contributions**”);
- b) City Council attributing a value to the In-Kind Contributions equal to 100 percent of 4 percent of the value of both Block 1 and Block 2 (net of any exclusions or exemptions authorized under the City’s Community Benefits Charge By-law), as determined the day before the day the first building permit is issued in respect of each phase of the development, pursuant to subsection 37(7) of the *Planning Act*. For greater certainty, the Owner will not be required to make any further cash payments for any phase of the development in satisfaction of any community benefit charge obligations, regardless of whether a pedestrian and cycling bridge or a functionally equivalent crossing is provided by the Owner;
- c) City Council authorizing the Chief Planner and Executive Director, City Planning to enter into an agreement pursuant to subsection 37(7.1) of the *Planning Act* (the “**In-kind Contribution Agreement**”) to address the provision of the In-Kind Contributions to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, with such agreement to be executed and registered on title to the Site prior to the issuance of the first building permit, which agreement shall be evidence of arrangements for the provision of the In-kind Contributions that are satisfactory to City Council.

C. Additional Community Benefits

In addition to the In-Kind Contributions, VANDYK agrees to provide the following community benefits in accordance with the terms noted herein. Items 1, 2 and 3 below will be secured in a site plan agreement for each block.

1. Multi-Use “Greenway”

- a) The Owner will construct a 4.0 metre wide multi-use “greenway” immediately adjacent to and along the rail corridor, generally in the location shown on the architectural plans, dated April 25, 2023 and prepared by SvN;

- b) The detailed design of the greenway will be determined through the site plan control process for each block;
- c) Prior to the earlier of the first residential occupancy and the registration of a condominium for each Phase, the Owner will:
 - i. construct the portion of the Greenway on such Phase; and
 - ii. convey a stratified fee simple interest of the Greenway to the City, with the Owner maintaining ownership of the lands below grade to facilitate the construction of an underground parking garage beneath the Greenway; and
- d) The City will be responsible for the maintenance of the Greenway following conveyance from the Owner.

2. Privately-Owned and Publicly-Accessible Spaces (“POPS”)

- a) The Owner will construct and maintain a POPS generally located within the easternly portion of the Block 2 lands with an approximate area of 450 square metres, subject to the following terms:
 - i. The POPS will be fully accessible to the public, not gated from street, available 24/7 throughout the year (save and except for repairs or emergencies) and appropriately lit for safety after dark;
 - ii. The detailed design of the POPS, including amenities such as seating and landscaping, will be determined through the site plan control process for Block 2; and
- b) Prior to the earlier of the first residential occupancy of Phase 3 or registration of a condominium on Phase 3, the Owner will construct the POPS and grant a surface easement in perpetuity over the POPS area in favour of the City for nominal consideration.

3. Public Realm and Streetscape Improvements

- a) The Owner shall provide public realm and streetscape improvements for both Block 1 and Block 2, with such details to be determined through the site plan control process for each Block and the construction of such improvements shall be completed on a phase by phase basis.

4. Affordable Housing Units

- a) The Owner will provide and maintain five percent (5%) of the total number of new dwelling units on Block 1 and Block 2 as affordable rental housing in Phase 1 of the TOC Project, and subject to the following terms:
 - i. The affordable units shall be provided and maintained at affordable rents, defined as being no greater than thirty percent (30%) of the median renter income, as established by CMHC; and
 - ii. The affordable units shall be secured as rental housing for a minimum period of ten (10) years beginning from the date that each unit is first occupied.

D. Class 4 Designation

VANDYK has submitted an Environmental Noise & Vibration Study, dated October 2022 and prepared by SLR Consulting (Canada) Ltd. in support of a Class 4 Area designation on the Property. To facilitate the development of the TOC Project, we ask that City Council classify the Property as a Class 4 Area designation pursuant to Ministry of Environment, Conservation and Parks Environmental Noise Guidelines - Stationary and Transportation Sources - Approval and Planning Publication NPC-300, August 2013.

Through our discussions, we understand that City staff are committed to bringing forth a staff report to City Council for consideration at the meeting scheduled for July 19-21, 2023 with the following recommendations:

1. Acceptance of the In-Kind Contributions, as further detailed in Section B above;
2. Endorsement of the additional community benefits, as further detailed in Section C above;
3. Should the feasibility analysis support the construction of the pedestrian and cycling bridge, City Council direct staff to promptly bring forth a report, to be considered at the earliest possible City Council meeting, to amend the site-specific Zoning By-law Amendment and Section 37 Agreement between VANDYK – The Buckingham North – Grand Central Limited and the City of Toronto, dated August 3, 2022, for 23 Buckingham Street to substitute the \$1,000,000 cash contribution (as per subsection 3.1(b) of the Agreement) with the in-kind community benefits contribution to deliver the pedestrian and cycling bridge, as further detailed in Section B.1(d); and
4. Classification of the Property as a Class 4 Area designation under NPC-300, as further detailed in Section D above.

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We thank City staff for their work on this file and we look forward to delivering the TOC Project. Please contact the undersigned if you have any questions.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in black ink, appearing to read 'MB' with a flourish.

Maggie Bassani

MB
cc: client

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AIRD BERLIS