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January 26, 2024

Our File No.: 201929

WITHOUT PREJUDICE

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

Attention: Mark Crawford, Solicitor, Legal Service Division

Dear Sir:

**Re: 411-415 Kennedy Road, 636 and 641-663 Danforth Road, 3569-3595 St. Clair Avenue East
City of Toronto File Nos. 20 211279 ESC 20 OZ, 20 211392 ESC 20 OZ, 20 211430 ESC 20 OZ, 20 211336 ESC 20 SB
Appeal of Official Plan Amendment, Rezoning and Plan of Subdivision Applications pursuant to subsections 22(7), 34(11) and 51(34) of the *Planning Act***

We are solicitors for Toronto (Scarborough Junction) Limited Partnership in respect of the properties known municipally as 411-415 Kenney Road, 636 and 641-663 Danforth Road and 3569-3595 St. Clair Avenue East (the "**Property**"). The Property is approximately 10.62 ha (26.23 ac) in size and represents an important opportunity to deliver a master-planned community immediately adjacent to higher order transit.

On October 22, 2020, after pre-consultation with City staff, our client filed official plan amendment, zoning by-law amendment and draft plan of subdivision applications for a portion of the Property (the "**Applications**"), which the City of Toronto (the "**City**") declared complete as of November 10, 2020. On June 15, 2022, as part of a resubmission regarding the Applications, our client included the property at the southeast corner of St. Clair Avenue East and Danforth Road, known municipally as 3568 and 3577 St. Clair Avenue East.¹

Our client appealed the Applications, as revised, to the Ontario Land Tribunal (the "**Tribunal**") pursuant to subsections 22(7), 34(11) and 51(34) of the *Planning Act* as City Council had not made a decision regarding the Applications within the applicable statutory timeline.

¹ Please note there are four (4) City of Toronto file numbers for the Applications.

We are writing on behalf of our client with a without prejudice settlement offer in respect of the above-noted matter, which should be considered as open until the conclusion of the City Council meeting scheduled to commence on February 6, 2024.

Our client engaged in without prejudice discussions with City staff and Metrolinx over the last several months regarding the redevelopment proposal for the Property. These discussions have resulted in revised plans and sections, prepared by Giannone Petricone Associates Inc. and dated January 19, 2024, (the “**Revised Plans**”) which are accessible at this link:

Under separate cover, we will provide you with the password to access the link.

We have also provided the following materials accessible by that link: <https://spaces.hightail.com/receive/MYSIqEAn8U>.

- Landscape Drawings
- Sketch-Up Massing Model

This without prejudice settlement offer will allow redevelopment of this Property with a new master-planned community (Scarborough Junction), including a new public park (15% of the site area), a network of new public and private streets, pedestrian connections and ten (10) new development blocks. The new buildings would have heights ranging from 19 to 58-storeys with a total of approximately 525,930 square metres of gross floor area, and a new GO station entrance.

The terms of this without prejudice settlement offer are as follows:

1. The settlement offer is based on the Revised Plans, which would be implemented through the resulting zoning by-law amendment(s) and official plan amendment(s), followed by a draft plan of subdivision. A revised subdivision application will be submitted prior to the submission of any individual site plan applications for the site proceeding.
2. City receives the option to acquire Block A2, a block of approximately 1,649 square metres in size, as an in-kind contribution towards the fulfilment of the 4% community benefits charge with the following conditions:
 - a. City must confirm whether it will exercise its option within 90 days of the City’s receipt of this settlement offer;
 - b. The conveyance of Block A2 must occur prior to the occupancy of any of the buildings within any of the development blocks;
 - c. Block A2 is to be conveyed free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments;
 - d. Block A2 shall be conveyed in a condition that is ready and available for development, which for clarity means that Block A2 meets the City’s policies for accepting conveyances of land.

- e. To the extent that the value of Block A2 is greater than the 4% community benefits charge assessment as determined at the date of conveyance, the City shall pay our client the difference in value upon conveyance of Block A2;
 - f. To the extent that the value of Block A2 is less than the 4% community benefits charge assessment as determined at the date of conveyance, the City will receive a cash payment for the difference in value as building permits are obtained for units for which the conveyance of Block A2 has not already provided credit for;
 - g. The City shall also have the right to assign the land conveyance or otherwise direct the conveyance of the land to a third party non-profit housing provider of the City's selection;
3. In the event that the City does not exercise its option to acquire Block A2, a block of approximately 1,649 square metres in size, as an in-kind contribution towards the fulfilment of the 4% community benefits charge, the community benefits charge will be paid in cash in accordance with the Planning Act, and may be directed to the provision of a community centre as shown on Block F in the Revised Plans, for public art, up to \$2,000,000, any combination of a community centre or public art, or as the City may otherwise determine.
4. Delivering the proposed GO Station within the first phase of development;
5. The Revised Plans implement the following matters:
 - a. Fourteen (14) buildings ranging in height from 19 – 58- storeys in height, generally with ground floor retail uses, and residential uses above, with a range of base building heights and tower setbacks as shown on the Revised Plans.
 - b. The Revised Plans provide for 7,655 residential units in total, 19,156 square metres of retail space, 4,844 square metres of community space, and 365 square metres of GO Station space.
 - c. Total outdoor amenity space of 15,310 square metres is provided with 15,310 square metres of indoor amenity space.
 - d. A Central Park (Block J) of approximately 13,420 square metres, satisfying the entire parkland dedication requirement, to be conveyed prior to the issuance of above grade building permits for Block B in base park condition. The parkland conveyance is to be free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements.
 - e. A proposed community centre use is provided for within Block F that is proposed to be funded by the City. In the event that the City is not able to secure funding for the community centre use or otherwise does not elect to have a publicly funded community centre use within Block F, the space is proposed as non-exclusive

amenity space area for one or more of the development blocks and may be used in combination with a commercial health and fitness, co-working, or other similar use.

This proposal delivers much needed housing near higher order transit, improves the public realm and public infrastructure in very important ways, and delivers public parkland for the community. We hope that City staff and City Council receive this proposal well.

To facilitate the ultimate redevelopment of the Property in accordance with the Revised Plans, our client will be updating its application for a plan of subdivision. It is anticipated and understood that development in accordance with the Revised Plans will require Draft Plan Approval for a Plan of Subdivision, securing conditions, providing for amongst other things as appropriate; a new street network within the site, on-site parkland dedication, and off-site improvements as deemed appropriate, all of which will be addressed in the plan of subdivision.

Our client agrees that, in the event City Council accepts this without prejudice settlement offer, the final order of the Ontario Land Tribunal would be withheld, subject to the following conditions being met:

- a. the final form and content of the draft Official Plan Amendment(s), including phasing as it relates to the construction of a new GO Station on Block “E” and all ancillary spaces and uses within the first phase of development, and Zoning By-law Amendment(s) are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b. the owner has provided Site and Area Specific Policies for inclusion in the above Official Plan Amendment to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, including policies on issues such as urban structure, land use, density, transportation network (including public streets and right-of-way widths, pedestrian and cycling network), parkland, public realm, built form, housing, community services and facilities, implementation, together with any associated maps and schedules;
- c. in the event that the City has exercised its option to acquire Block A2 or to fund a community centre use on Block F, the owner has entered into an In-kind Contribution Agreement pursuant to section 37(7.1) of the Planning Act to secure the in-kind contribution;
- d. the owner has provided a Public Street ‘C’ Interim Block Context Plan in coordination with the owners of 375 Kennedy Rd. and 399 Kennedy Rd., which includes existing and proposed grading information), to demonstrate acceptable alignment and grading conditions for Public Street C in relation to 399 Kennedy Rd., to the satisfaction of the City Solicitor and Chief Planner and Executive Director, City Planning;

e. the owner has submitted a revised Functional Servicing and Stormwater Management Report and a Hydrogeological Report or addendums ("Engineering Reports"), to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services, or it has been determined that a holding provision applicable to particular lands is otherwise required in the Zoning By-law amendment(s);

f. the owner has entered into a financially secured Development Agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support the development, according to the Site Servicing Review and Traffic Impact Study accepted by the Chief Engineer & Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;

g. the owner has addressed all outstanding issues raised by Development Engineering, Solid Waste Management and Transportation Services in the Engineering and Construction Services Memorandum dated July 25, 2023 , as they relate to the Zoning By-law Amendment application to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services , the General Manager, Toronto Water, and the General Manager, Transportation Services;

h. the owner has submitted a revised draft plan of subdivision to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services, General Manager, Transportation Services, and the General Manager Parks, Forestry & Recreation;

i. the owner has submitted a Wind Tunnel Study of Pedestrian Level Wind Conditions for the proposed development, and agree to implementation of mitigation measures identified in such study, satisfactory to the Chief Planner and Executive Director, City Planning;

j. the owner has provided a final form of a Phasing Plan on the Development Site to the City in a form and content acceptable to the Chief Planner and Executive Director, City Planning, in consultation with the General Manager, Transportation Services, the General Manager, Parks, Forestry and Recreation, and the Chief Engineer and Executive Director, Engineering and Construction Services;

k. execution of commercial agreement(s) between the owner and Metrolinx related to, without limitation, delivery of any future Scarborough GO Station infrastructure, including phasing requiring the construction of a new GO Station on Block "E" and all ancillary spaces and uses within the first phase of development by the owner and securing the inclusion and registration of the required Metrolinx warning clause(s)

applicable at the time, in all future purchase for sale and/or lease agreements, to the satisfaction of Metrolinx;

l. the owner has provided a noise and vibration study and secured any related mitigation measures, all to the satisfaction of Metrolinx;

m. the owner has provided a rail safety report (in accordance with Metrolinx guidelines and The Federation of Canadian Municipalities and The Railway Association of Canada guidelines) and secured any related mitigation measures, all to the satisfaction of Metrolinx;

n. the owner has provided a stormwater management report confirming no adverse impact to the adjacent rail corridor or future GO Station, to the satisfaction of Metrolinx. Any proposed alterations to the existing drainage pattern affecting the rail corridor must receive prior consent from Metrolinx; and,

o. City Council has approved the Rental Housing Demolition Application 21 123167 ESC 20 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006 and, should City Council authorize the demolition, that the owner has entered into, and registered on title to the lands, an agreement pursuant to Section 111 of the City of Toronto Act securing the replacement of the existing rental dwelling units and rents, tenant assistance to mitigate hardship, and other rental related matters, all to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;

Scarborough Junction is designed and planned to be a complete community that can function as its own node, with a diverse mix of housing, retail and commercial space, childcare facilities, new transit infrastructure, a new public park, and a community centre. Through our community engagement process and the community services and facilities (CS&F) study, the inclusion of a community centre was identified as a desirable element for the project as well as from an overall city-building perspective. Should the City support and secure funding for a community centre within Scarborough Junction, one has been provided for in Block F.

As noted above, this without prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on February 6, 2024, at which point it should be considered as withdrawn if not accepted by City Council. If the settlement is accepted by City Council, the Owner consents to the public release of this letter and the Revised Plans.

Our client greatly appreciates the hard work of City staff that has enabled the presentation of this without prejudice settlement offer to City Council.

Yours truly,

Goodmans LLP



Rodney Gill
RJG/

1394-8030-1065