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File No. 23084

March 4, 2024

WITHOUT PREJUDICE

VIA EMAIL: mark.piel@toronto.ca; daniel.elmadany@toronto.ca

Mark Piel/Daniel Elmadany
Planning & Administrative Tribunal Law Section
City of Toronto Legal Services
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Sirs:

Re: 355 Adelaide St. W., 46 Charlotte St. and 16 Oxley St., City of Toronto
Planning Application Nos.: 20 160837 STE 10 OZ
Appeal to OLT of Zoning By-law Amendment Application
OLT Lead Case No. OLT-22-004590

As you know, we are the solicitors for 355 Adelaide Nominee Inc. (the “**Applicant**” or “**Client**”), the owner of the lands known municipally as 355 Adelaide Street West, 46 Charlotte Street and 16 Oxley Street in the City of Toronto (the “**Site**”), and the appellant with respect to the above-noted appeal of the Zoning By-law Amendment application. Our Client has also submitted an application to alter the heritage property at 355 Adelaide Street West (Gelber Building) under Section 33 of the *Ontario Heritage Act* which we understand will be considered by City Council in a separate report at the same meeting of Council with the report on this Without Prejudice Settlement Offer.

Our Client is pleased to provide the following settlement offer on a without prejudice basis in full settlement of the Zoning By-law Amendment appeal. Our client would agree to formally revise its development proposal that is the subject of the above noted appeals before the OLT to the 58-storey mixed use building as shown on the attached architectural plans prepared by Arcadis dated February 29, 2024 (the “**Proposed Development**”) subject to satisfying conditions related to the issuance of a final Order on the Appeal.

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The main revisions from the proposal that is currently before the Tribunal relate to the following:

- (1) The removal of the 12-storey building element along Oxley Street, in favour of a 201.5 square metre POPS. The previously proposed 72.5 square metre POPS along the west façade of the building has been maintained, resulting in a total POPS area of 274 square metres. A mid-block connection, with a minimum width of 3.0 metres, will be provided within the POPS providing pedestrian access from Oxley Street to the planned City park at 105 Spadina Avenue. The northern-most portion of the mid-block connection will encroach into the northeastern corner of the adjacent property at 101 Spadina Avenue and 363 Adelaide Street West, which the Applicant understands will require easement agreements with the adjacent property owner. The design of the POPS and mid-block connection will be determined as part of Site Plan Control. The pedestrian access easement(s), at no cost or expense to the City, for the POPS and mid-block connection on the Site to be conveyed to the City of Toronto prior to any non-residential or residential use or occupancy, as will be set out in the Site Plan Agreement. The Applicant will work with the City to obtain the pedestrian access easement(s) from the adjacent property owner, at no cost or expense to the City, for the portion of the mid-block connection on the adjacent lands to be conveyed to the City of Toronto prior to any non-residential or residential use or occupancy, as will be set out in the Site Plan Agreement.
- (2) The retention of two additional bays of the Gelber Building's south façade, facing the proposed POPS along Oxley Street.
- (3) The minimum 2.0 metre setback at grade along Charlotte Street continues to be provided, resulting in a total 7.0 metre curb to building face setback at grade along Charlotte Street.
- (4) The east building setback along Charlotte Street has been reduced from 0.84 metres to 0 metres above the at-grade setback described above.
- (5) An increase in the east tower stepback along Charlotte Street from approximately 1.2 to 2.0 metres.
- (6) An increase in the west tower stepback from approximately 2.7 metres to 3.0 metres.
- (7) The indoor amenity space located at the northwest corner of the building at grade has been removed in favour of additional retail commercial space. The proposed building will now include a total of approximately 313 square metres of retail commercial space. The retail commercial space will front the corner of Adelaide

Street West and Charlotte Street, the proposed POPS along the west side of the building and the proposed POPS along Oxley Street. Also, the short term bicycle parking spaces on Adelaide Street West have been removed, and ten spaces are located on Charlotte Street.

- (8) The 6-storey streetwall element now fully wraps the northeast corner of the building facing Adelaide Street West and Charlotte Street.
- (9) The total gross floor area of the proposal has decreased slightly from approximately 35,828 square metres to 35,052 square metres. As a result, the overall density of the revised proposal has decreased from 28.10 FSI to 27.49 FSI.
- (10) The overall building height is 58 storeys (approximately 179.10 metres without a mechanical penthouse, and total building height with a mechanical penthouse of approximately 185.10 metres).
- (11) Our Client also agrees to address the following matters as part of Site Plan Control Application:
 - a. explore opportunities to provide street trees within the Charlotte Street Boulevard. If street trees are not possible due to utility conflicts that cannot be moved, planters will be provided;
 - b. the width, location and design of the mid-block connection to the new planned public park at 105 Spadina Avenue will be determined through the site plan application, and our Client will continue to work with City Staff to explore opportunities for mid-block connections through the building, though it is not able to commit to providing such connections with certainty at this time;
 - c. the required privacy screening will be provided along the southern edge to the outdoor amenity space to eliminate privacy/overlook issues with the development at 101 Spadina Avenue, to the satisfaction of the Interim Chief Planner and Executive Director, City Planning;
 - d. that some short term bicycle parking spaces may be accommodated on Adelaide Street West and/or in the POPS area, if they do not conflict with tree planting and/or the use of the POPS area, to the satisfaction of the Interim Chief Planner and Executive Director, City Planning; and
 - e. the provision of two bike repair stations.

As condition of this settlement to support the Proposed Development, our Client will lead evidence before the Tribunal that the reduced tower setback to 36 Charlotte Street is appropriate in this particular context and on this particular site as 36 Charlotte Street is not a tall building site in accordance with the policies of the Official Plan and Site and Area Specific Policy 517 (as approved by the Tribunal).

Our Client continues to engage with DevGreat on the radial setback of 10 metres from the shared property line, generally shown on Drawing A100 on the revised plans prepared by Arcadis dated February 29, 2024. Our Client agrees that should there be any further revisions to the elevation from where this setback is measured to, it will maintain an average of 10 metres, with no balconies, as generally shown on Drawing A100 on the revised plans prepared by Arcadis dated February 29, 2024, to the satisfaction of the Interim Chief Planner and Executive Director, City Planning.

Community Benefits Charge, In-Kind Contribution

Our Client will provide 10 affordable housing units to the City as an in kind contribution to the Community Benefits Charges. Our Client understands that City staff will bring forward a separate report on the in-kind contribution offer to Council at a later date once further discussions have concluded on the form and tenure of the affordable housing units. Therefore, this settlement offer letter indicates the Clients intent at this stage for an in-kind contribution towards its required community benefit charge.

Conditions to the Issuance of the Final Order on Zoning By-law Amendment

Should City Council accept the settlement offer, our Client is agreeable to the OLT's final Order on the Zoning By-law Amendment be withheld subject to the City Solicitor advising that the following conditions have been satisfied:

- (1) the final form and content of the draft Zoning By-law Amendment is satisfactory to the Interim Chief Planner and Executive Director, City Planning and the City Solicitor;
- (2) the Owner has, at its sole cost and expense:
 - a. submitted a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report ("**Engineering Reports**") to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
 - b. secured the design and provided financial securities in respect of any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, to support

the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the accepted Engineering Reports, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water;

- c. ensured that implementation of the accepted Engineering Reports does not require changes to the proposed amending By-laws or that any required changes have been made to the proposed amending By-laws to the satisfaction of the Interim Chief Planner and Executive Director, City Planning and the City Solicitor, including the use of a Holding ("H") By-law symbol regarding any new municipal servicing infrastructure or upgrades to existing municipal servicing infrastructure, as may be required;
- (3) the Owner has provided a detailed Conservation Plan prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 355 Adelaide Street West, prepared by ERA Architects Inc., dated February 9, 2024, to the satisfaction of the Senior Manager, Heritage Planning;
 - (4) the Owner has entered into a Heritage Easement Agreement with the City for the property at 355 Adelaide Street West substantially in accordance with plans and drawings prepared by Arcadis Architects (Canada Inc.), dated February 9, 2024, submitted with the Heritage Impact Assessment prepared by ERA Architects Inc., dated February 9, 2024, subject to and in accordance with the approved Conservation Plan required above, to the satisfaction of the Senior Manager, Heritage Planning including execution of such agreement to the satisfaction of the City Solicitor. and
 - (5) The Owner has withdrawn its site-specific appeal of Official Plan Amendment 486.

Site Plan Control Application

Our Client understands that the City Solicitor is not seeking direction from Council with respect to the Site Plan Control application or appeal before the Tribunal as the matter is delegated to the Chief Planner and Executive Director, City Planning.

Our Client is agreeable to an adjournment of its site plan control application appeal to the Tribunal and will work with City staff to resolve any remaining issues pertaining to

a revised Site Plan Control submission to be made by the City that is in accordance with the Proposed Development, while also working with City staff to address the matters identified in Paragraph (11) above.

Accordingly, our Client agrees to work with City staff to resolve the remaining site plan issues in order to finalize the Plans and Drawings for Site Plan Approval and the preparation of associated Notice of Approval Conditions following the approval by the OLT of the necessary zoning by-law amendment for the Proposed Development.

Conclusion

In support of the settlement offer, please find attached the Architectural Plans, dated February 29, 2024 prepared by Arcadis. City Staff have been provided with the Heritage Impact Assessment, dated February 9, 2024, prepared by ERA; the Addendum to Pedestrian Level Wind Study, dated January 30, 2024, prepared by Gradient; and the Draft Zoning By-law and height map.

If you have any questions regarding the above, please do not hesitate to contact me at 416.645.4572 or via email at jpark@ksllp.ca.

Yours truly,

KAGAN SHASTRI DeMELO WINER PARK LLP



Jason Park
JIP/ss

Attachments

cc: 355 Adelaide Nominee Inc.

Please reply to the: [Downtown Office](#)