CC19.15 - CONFIDENTIAL APPENDIX A - made public on July 5, 2024



Sidonia J. Tomasella Direct: 416.865.7763 E-mail: stomasella@airdberlis.com

June 11, 2024

BY EMAIL

Sarah O'Connor and Jyoti Zuidema City of Toronto Legal Services Metro Hall 55 John Street, 26th Floor Toronto ON, M5V 3C6

Dear Mses. O'Connor and Zuidema:

Re: Without Prejudice Offer to Settle 49 Jackes Avenue OLT Lead Case No.: OLT-21-001809 Related OLT Case No.: OLT-21-001569 Municipal File No.: 20 226916 STE OZ

As you are aware, we are counsel to Lifetime Jackes Inc. (the "**Owner**") with respect to the lands municipally known as 49 Jackes Avenue in the City of Toronto (the "**Property**"). The Property is located on the south side of Jackes Avenue just east of Yonge Street.

Further to the discussions that have taken place between the Owner, City Staff and other parties to the proceedings, including MTCC 802 (the condominium corporation for 33 Jackes Avenue), the Summerhill Residents Association, Deer Park Residents Group Inc. and Friends of David Balfour Park, we are writing to provide for City Council's consideration a revised proposal for the purpose of settling the Owner's Official Plan Amendment and Zoning By-law Amendment appeals currently before the Ontario Land Tribunal (the "OLT" or "Tribunal").

Please note that this offer is being submitted on a <u>without prejudice</u> basis for the purpose of City Council's consideration at its upcoming meeting beginning on June 26, 2024, and will expire at the end of that meeting.

Description of the Site

The Property is generally rectangular in shape, with an approximate frontage of 22 metres along Jackes Avenue and a depth of approximately 56 metres. The total lot area of the Property is approximately 1,246 square metres. The Property is currently occupied with a 2.5 to 3-storey office building and a small surface parking lot.

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Immediately north of the Property is a through lot at 33 Rosehill Avenue and 44 Jackes Avenue, with existing 28- and 24-storey apartment buildings ("**Bretton Place**"). An additional infill residential building was approved at 31 storeys on this site in 2019. Immediately east of the Property is David A. Balfour Park, a 20.5-hectare park which includes the 8.23-hectare Rosehill Reservoir and a forested ravine. Immediately south of the Property is a 4-storey building occupied by YWCA Toronto at 80 Woodlawn Avenue East, for which the closest portion of the building is set back approximately 10 metres from the Property. The 80 Woodlawn property is approximately 8 metres below the elevation of the Property. Immediately west of the Property is a private laneway running north-south from Jackes Avenue, and a 2.5-storey building occupied by Frontier College at 35 Jackes Avenue, also known as the Laidlaw House. To the rear of the Laidlaw house is a through lot with frontages on both Jackes Avenue and Woodlawn Avenue East with a 10-storey residential building (33 Jackes Avenue), with a secondary façade facing northeast toward the Property.

The Property is designated Apartment Neighbourhoods on Map 17 – Land Use Plan in the Toronto Official Plan (the "Official Plan"). Yonge Street is identified as an Avenue on Map 2 – Urban Structure in proximity to the Property. The Property is subject to Site and Area Specific Policies 8.4 ("Policy 8.4") and 8.7 ("Policy 8.7") within the Yonge-St. Clair Secondary Plan (the "YSCSP"). The YSCSP includes a number of general policies as well as more detailed policies for specific sub-areas within the Mixed Use Areas designation and Site and Area Specific Policies. The current version of the YSCSP was approved in July 2006, and in 2020 a Yonge-St. Clair Planning Framework was endorsed by City Council. At the same time, Planning Staff were directed to study the Apartment Neighbourhoods lands northwest and southeast of the Yonge and St. Clair intersection, and a Secondary Plan Review was initiated by City Council in response to the significant amount of development activity in the area. There have been no further decisions on these matters. Policy 8.4 outlines certain development standards for the Property and the neighbouring site to the west, including standards related to height, preservation and compatibility with the surrounding area. Policy 8.7 identifies the south side of Jackes Avenue (which includes the Property) as an area of transition from the north side of Jackes Avenue to the Neighbourhoods areas to the south.

Because of its close proximity to the Summerhill TTC Subway Station, the Property is also located within the Summerhill Protected Major Transit Station Area ("**PMTSA**") as delineated by Toronto City Council. The Summerhill PMTSA is delineated in Site and Area Specific Policy 720 ("**SASP 720**"). SASP 720 was established by Official Plan Amendment No. 570, which Amendment established policies for 57 PMTSAs, including minimum densities. The mapping in SASP 720 indicates a minimum density of 1.5 times the area of the lot for the Property. While Official Plan Amendment No. 570 has been

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adopted by City Council, it has not yet been approved by the Minister of Municipal Affairs and Housing and therefore is not in force and effect.

Under the Former City of Toronto By-law 438-86, as amended, the Property is zoned R2 Z1.0 (Residential), which permits a wide range of residential uses (including apartment buildings). The zoning permits a maximum density of 1.0 times the area of the lot and a maximum height of 11 metres. The Property is a "hole" in the City-wide Zoning By-law No. 569-2013 (the "**City-wide By-law**"), as amended, and therefore is not subject to the City-wide By-law. Any site-specific zoning approval for the Property will include a Zoning By-law Amendment to bring the Property into the City-wide By-law.

Development Application History

Following a period of pre-consultation with City staff, the Owner submitted a complete Official Plan Amendment ("**OPA**") and Zoning By-law Amendment ("**ZBA**") application for the Property on December 8, 2020 and a complete Site Plan Approval ("**SPA**") application on October 25, 2021. The Applications were filed in order to facilitate the development of the Property with a 29-storey residential tower.

On February 24, 2021, Toronto and East York Community Council ("**TEYCC**") considered a Preliminary Report, dated January 22, 2021. TEYCC directed that City Planning schedule a community consultation meeting.

On April 19, 2021, City staff held a community consultation meeting with the Ward Councillor.

On April 23, 2021, the Owner appealed the Official Plan and Zoning By-law Amendment application to the Ontario Land Tribunal (the "**Tribunal**") due to Council's failure to make a decision with respect to the application within the timeframe prescribed by the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (the "**Appeals**").

On September 22, 2021, the Tribunal held the first Case Management Conference ("**CMC**") for these proceedings and a second CMC was held on June 6, 2023. A 17 days merits hearing is scheduled to commence on September 23, 2024. A number of individuals and groups have obtained party status in this matter, including: Summerhill Residents Association, Deer Park Residents Group Inc., MTCC 802 (the condominium corporation for 33 Jackes Avenue), Linda Campbell/Elizabeth Hallerman, and Friends of David Balfour Park (the "**Other Parties**").

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Throughout the appeal process, the Owner and their consultant team have continued to collaborate with City Staff and the Other Parties in an attempt to resolve the outstanding issues and in an effort to reach a resolution of the Appeals.

Settlement Offer

In light of the foregoing, we are writing to provide a <u>without prejudice</u> settlement offer to resolve the Appeals (the "Settlement Offer"). The revised development proposal for the Property (the "Revised Proposal") which forms the basis of this Settlement Offer is described below and shown on the enclosed Architectural Plans prepared by Turner Fleischer and dated May 27, 2024 (the "Settlement Plans", included as Attachment 1 to this letter). The related Landscape Plan, prepared by Strybos Barron King, May 28, 2024, (the "Landscape Plan") is also enclosed as Attachment 2 to this Settlement Offer.

The Revised Proposal is the result of discussions between City Staff, the Other Parties and the Owner. The Owner is now submitting this Settlement Offer for City Council's consideration as the Revised Proposal appropriately responds to and addresses the comments received from City Staff, as well as the Other Parties.

The Settlement Offer includes the following key modifications as compared to the Architectural Plans filed with the initial OPA and ZBA applications on December 8, 2020:

- The height of the tower has been decreased from 29 storeys to 19 storeys, and the Revised Proposal has an overall geodetic height of 201.85 metres (208.85 metres to the top of the mechanical penthouse). The height of the building in both storeys and geodetic height is exclusive of mechanical penthouse and rooftop amenity space.
- The podium has been sculpted to cut back the second and third storey portions of the podium at the rear of the Property.
- The tower has been shifted to the north to provide for a minimum separation distance of 13.77 metres between the closest point of the Settlement Proposal and the building at 33 Jackes Avenue.
- A notch to provide additional tower separation has been incorporated into the southwest corner of the tower in further consideration of the building at 33 Jackes Avenue.
- Along the south lot line, the first storey and mezzanine are set back 2.12 metres. The building steps back 14.16 metres at the second storey and the tower,



commencing at the third level, steps back 4.5 metres, which provides for a tower setback of 20.78 metres from the south lot line.

- The base building has decreased from 6 storeys to 5 storeys along the Jackes Avenue frontage, with the tower now starting on Level 6. The north setbacks have decreased from 4 metres and 6 metres for the base building and tower respectively, to 0 metres and 2.5 metres, with the exception of the ground floor which is set back 3.0 metres.
- The minimum setback for Levels 1 and 2 continues to be 4 metres from the east lot line (David Balfour Park) but for a small bump out at the midpoint of the podium, in order to accommodate internalized loading. Above the second floor, the east wall of the building cantilevers while still providing for a 2.5 metre tower setback from the east lot line, increased from 1.96 metres.
- The previously-proposed east-facing townhouse units located at grade have been removed in order to improve the interface between the ground level and David Balfour Park.
- The at-grade layby area along Jackes Avenue has been removed and replaced with additional landscaped area, and a pick-up/drop-off space has been internalized within the podium;
- As a result of the changes to the height and massing, the total Gross Floor Area has decreased from 15,576.68 square metres to 13,000 square metres and the unit count has decreased from 217 units to 162 units.

Terms of Settlement

The Owners are prepared to settle these Appeals with the City, provided that City Council support the approval by the OLT of a revised OPA and ZBA reflecting the Revised Proposal described above and as shown on the Settlement Plans attached herein as **Attachment 1** and in accordance with the following settlement terms:

- 1. **Balconies**: The Owner agrees to the following with respect to the balconies:
 - a. Balconies located on the east façade will project to a maximum of 1.5 metres and be located no closer than 1 metre from the east lot line;
 - b. Balconies located on the south façade will project to a maximum of 1.8 metres and be located no closer than 19 metres from the south lot line;



- c. No balconies along the south and east façades will be located within 3 metres from the northeast, southeast and southwest corners of the building;
- d. The staggered location of the balconies and the width of the balconies on the east façade will be substantially in accordance with the Settlement Plans;
- e. Balconies will not be located on the first, second and third levels and any mezzanine associated with such levels of the building;
- f. Screening will be provided along the west side of the south-facing balconies;
- g. The materiality of the balconies will be determined throughout the SPA process; and
- h. The details respecting the location and the depth of the balconies will be secured in the ZBA.
- 2. **Landscape**: in response to the City and the Other Parties' requests, the Owner agrees to provide the following landscape features on the Property:
 - a. A 1.5-metre landscape strip along the eastern lot line;
 - b. A fence along the eastern lot line separating the landscape strip described in 2a above from David Balfour Park;
 - c. The programming at grade along the eastern portion setback shall include passive outdoor amenity space, pet amenities, and areas that are richly landscaped; and
 - d. Landscaping programming on the Property frontage along Jackes Avenue

The Landscape Plan depicting these features has been enclosed as **Attachment 2** to this Settlement Offer, the details of which shall be confirmed through the SPA process.

- 3. Transportation: The Owner agrees to include the following in the ZBA:
 - a. Delineating the Property as being within Parking Zone A;
 - b. A provision securing a minimum of four (4) accessible parking spaces;



- c. A provision securing a minimum of five (5) visitor parking spaces; and
- d. A provision securing a minimum one (1) Type G loading space.

Through the SPA process, the Owner agrees to continue the 2.1 metre wide sidewalk running to the north of the Property eastward to the David Balfour Park. The Owner further agrees that the vehicle entrance will be built in accordance with City Standard T-310.050-1.

- Amenity: Amenity space shall be provided at a rate of 1.00 m2 of indoor amenity space per unit (totalling 162 m2) and 2.00 m2 of outdoor amenity space per unit (totalling 324 m2). The location of the amenity space is intended to include indoor and outdoor rooftop amenity space;
- 5. **Unit Mix:** A minimum of 10% three-bedroom units and 15% two-bedroom units will be provided;
- Maintenance of Eastern Facade: The Owner agrees to ensure that any maintenance work required along the eastern façade of the building shall take place entirely on the Property;
- 7. Construction Management: The Owner agrees that in addition to the implementation of the standard City of Toronto Construction Management Plan, to the satisfaction of the Chief Building Official and Executive Director, Toronto Building, the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Engineer and Executive Director, Engineering and Construction Services, they will establish a Construction Liaison Committee made up of local residents and businesses including a representative of the local Residents Associations, to the satisfaction of the local Councillor to address issues pertaining to construction
- 8. **Draft Instruments:** The Owner has submitted drafts of the revised OPA and ZBA that reflect the Revised Proposal to City staff for review. We understand that at the time of this Settlement Offer, City staff have not had a chance to review the drafts provided. The City and the Owner shall work together to prepare an agreed-upon draft of the OPA and ZBA, to permit the Revised Proposal. The City will not object to the Owner filing the draft instruments as exhibits at the Tribunal settlement hearing, provided they are to the satisfaction of Community Planning.
- 9. **Pre-Condition to Final Order**: The Owner and the City shall agree to request that the Tribunal approve the OPA and ZBA applications in principle and withhold its



Final Order until such time as the parties jointly confirm that the following conditions have been fulfilled:

- The Official Plan Amendment and Zoning By-law Amendment are in a final form satisfactory to the Chief Planner and Executive Director, City Planning and the Owner;
- b. The Owner has submitted a revised Functional Servicing and Stormwater Management Report, providing confirmation of water, sanitary and stormwater capacity to the satisfaction to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- c. The Owner has entered into a Municipal Infrastructure Agreement to financially secure the construction of any improvements to the municipal infrastructure in connection with the accepted Functional Servicing Report by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements to such infrastructure are required; and
- d. The Owner has submitted an updated Pedestrian Level Wind Study (Computational Fluid Dynamics Study and signed Template A) demonstrating there are no uncomfortable or unsafe wind conditions, to the satisfaction of the Chief Planner and Executive Director, City Planning, with any required wind mitigation measures to be secured through the SPA process.
- 10.**OLT Hearing**: If City Council accepts this Settlement Offer, the City and the Owners agree to jointly request a one-day settlement hearing for the Appeals during the reserved hearing dates from September 23 to October 17, 2024, or sooner, and that such settlement hearing may be converted to a written hearing with the consent of all parties.
- 11. Site Plan: As a result of the discussions that have led to the Settlement Offer and the Revised Proposal, the Owner has incorporated comments from City Staff and the Other Parties pertaining to specific design elements of the development, all which are reflected on the Settlement Plans and the Landscape Plan. It is expected that these features will be reflected as agreed to herein and further refined through the SPA process. Furthermore, the Owner will continue to explore through the SPA process the design and treatment of the west building façade, including the incorporation of high quality materials, to ensure an aesthetically pleasing design when viewed from the public realm. The Owner additionally agrees to provide 1:50



details of the north and west elevations for floors 1 to 5 and to participate in the Design Review Panel through the SPA process, as necessary.

- 12. **Site Plan Consultation**: The Owner agrees that the Summerhill Residents Association, the Deer Park Residents Group Inc., and the Friends of David Balfour Park shall be consulted throughout the SPA process with respect to:
 - a. The Public Landscaping Plan along Jackes Avenue; and
 - b. The design of privacy fencing and a landscape buffer on the Property adjacent to David Balfour Park,

which are to be substantially in accordance with the Architectural Plans and Landscaping Plan included as Attachments 1 and 2 to this Settlement Offer.

13. **Timing:** The terms of this Settlement Offer shall remain open until the conclusion of the City Council meeting commencing on June 26, 2024.

In support of the Settlement Offer, we enclose materials which support the Revised Proposal as described above, including the following:

- Attachment 1: Architectural Plans prepared by Turner Fleischer dated May 27, 2024; and
- Attachment 2: Landscape Plan prepared by Strybos Barron King, dated May 28, 2024.

Thank you in advance for your consideration of this Settlement Offer. Should you have any questions, do not hesitate to contact the undersigned or my partner Alexander J. Suriano at <u>asuriano@airdberlis.com</u> or 437-880-6108.

Yours truly, AIRD & BERLIS LLP

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Sidonia J. Tomasella

SJT/NM/cb cc: Client

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PROJECT INFORMATION

٨	BUILDING HEIGHT	63.35M
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	TOTAL NET SITE AREA	1,246.4 m²
BUILD	TOTAL PROPOSED GFA	12,503.2 m ²
	F.S.I OF PROPOSED DEVELOPMENT	10.03

UNIT MIX SUMMARY

	FLOOR			SA	LEABLE			
A		1B	1B+D	2B	2B+D	3B	3B+D	TOTAL
DING	UNIT MIX	45.1%	22.2%	11.1%	10.5%	1.9%	9.3%	100.0%
	UNIT MIX TOTAL	67.	67.3%		.6%	11.1%		100.0%
BU	SUBTOTAL	73	36	18	17	3	15	162
	TOTAL UNITS	10	109		35 18		.8	162

VEHICULAR PARKING - REQUIRED

5N DN		RESIDENTIAL		TOTAL
A	USE	RATIO	SPACES	TOTAL
BUI	VISITOR	2+0.01 /UNIT	4	4

VEHICULAR PARKING - PROVIDED

	FLOOR	US	TOTAL	
		RESIDENTIAL	VISITORS	
A	U/G LEVEL 1	1	*4	5
DNI	U/G LEVEL 2	23	0	23
וורסו	U/G LEVEL 3	23	0	23
BUII	U/G LEVEL 4	23	0	23
	TOTAL PROVIDED	70	4	74
	**EV PARKING PROVIDED	14	1	15

* INCLUDING 1 POTENTIAL PUDO SPACE AS VISITOR PARKING SPACE

**20% OF ALL PARKING SPACES TO BE PROVIDED WITH AN ENERGIZED OUTLET INCLUDING 4 ACCESSIBLE PARKING STALLS

BICYCLE PARKING - REQUIRED

_		RESIDENTIAL		TOTAL
IG A	USE	RATIO	SPACES	TOTAL
DING	SHORT TERM	0.10 / UNIT	17	17
BUIL	LONG TERM	0.90 / UNIT	146	146
3	TOTAL REQUIRED		163	163

BICYCLE PARKING - PROVIDED

1			RESIDENTIAL		TOTAL
ING A	FLOOR	SHORT TERM	LONG TERM	SUBTOTAL	
	MEZZANINE	0	88	88	88
BUIL	U/G 1	17	58	75	75
3	TOTAL PROVIDED	17	146	163	163

Attachment "1"

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	m²	
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INDOOR AMENITY	162.30	0.13
SUBTOTAL RESIDENTIAL	12,503.20	10.03
TOTAL	12,503.20	10.03

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USE	REQU	REQUIRED		DED
	RATIO	m²	RATIO	m²
INDOOR AMENITY	1.00	162.00	1.00	162.30
OUTDOOR AMENITY	2.00	324.00	2.42	392.70
TOTAL	3.00	486.00	3.42	555.00

RESIDENTIAL WASTE MANAGEMENT CALCULATIONS

		RATIO	REQUIRED	PROVIDED
			m²	m²
	WASTE STORAGE AREA	25 + 0.26 / (UNIT-50)	54.12	87.30
	OVERSIZED ITEMS	10	10	10
	HAZARDOUS WASTE STORAGE	1 / 100 UNITS	2	2
	TOTAL		66.12	99.30
BUILDING A		RATIO	REQUIRED	PROVIDED
DIN			BINS	BINS
nI	WASTE STORAGE AREA	1 / 50 UNITS	4	4
В	OVERSIZED ITEMS	1 / 50 UNITS	4	4
	HAZARDOUS WASTE STORAGE	1 / 100 UNITS	2	2
	TOTAL		10	10
		RATIO	REQUIRED	PROVIDED
			m²	m²
	STAGING AREA	5 + 0.1 / (UNIT-50)	16.2	37.8

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T 416 425 2222 turnerfleischer.com

SUMMARY



1	2023-12-06	ISSUED FOR REVIEW	
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		Toronto, Ontario	
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DAVID A. BALFOUR PARK

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DAVID A. BALFOUR PARK

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 2023-12-11
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 ISSUED FOR REVIEW

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49 Jackes Avenue

Toronto, Ontario

FLOOR 03-05

PROJECT NO. 21.339CS PROJECT DATE 2024-05-27 DRAWN BY RYT CHECKED BY AYU SCALE 1 : 150

DRAWING

DRAWING NO. REV. 3



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DAVID A. BALFOUR PARK

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 3
 2023-12-11
 ISSUED FOR REVIEW

 2
 2023-12-08
 ISSUED FOR REVIEW

 1
 2023-12-06
 ISSUED FOR REVIEW

 #
 DATE
 DESCRIPTION

49 Jackes Avenue

Toronto, Ontario

FLOOR 06-19

PROJECT NO. 21.339CS PROJECT DATE 2024-05-27 DRAWN BY RYT CHECKED BY AYU SCALE 1 : 150 N

DRAWING

SPA157 3



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3	2023-12-11	ISSUED FOR REVIEW		
2	2023-12-08 ISSUED FOR REVIEW			
1 #	2023-12-06 DATE	ISSUED FOR REVIEW DESCRIPTION	BY	
PR	ROJECT	49 Jackes Avenue		
		Toronto, Ontario		
		МРН		
PR	ROJECT NO.			
21	1.339CS			
PR	ROJECT DATE			
20)24-05-27			
	RAWN BY			
R	ΥT			
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	YU			
	CALE			
	: 150			
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		200.00	7.00 m	НЧ	
			7.	<	r
		 201.85		<	
		FLOOR 19 198.05			
		FLOOR 18			
		195 FLOOR 17			
		192.05			
		FLOOR 16 189.1			
		FLOOR 15 185.7			
		FLOOR 14		F	
		182.75 FLOOR 13	42.70 m	HEIG	
		179.8	42.7	TOWER HEIGHT	
		FLOOR 12 176.85		0	
		FLOOR 11 173.9			
		FLOOR 10 170.95			20
		FLOOR 9 168			C C
		FLOOR 8 165.05			
		FLOOR 7 162.1			
		FLOOR 6 159.15		x ——	
		FLOOR 5			
		155.75 FLOOR 4	_	IGHT	
		152.8	20.65 m	Ш Н Ц	
 S	EXISTING 2.5 TOREY BUILDING	FLOOR 3 149.4	7 		
		FLOOR 2			
		145.5 MEZZANINE			
		142.6			
		FLOOR 1			
		138.5			
		U/G 1 134.5	<u>- </u> - 	 	
		U/G 2			
		130.9			
		U/G 3 128.1			
		U/G 4 125.3			



TURNER FLEISCHER

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PROJECT
49 Jackes Avenue
Toronto, Ontario
DRAWING
BUILDING SECTIONS
PROJECT NO.
21.339CS
PROJECT DATE
2024-05-27
DRAWN BY
MZH
CHECKED BY
AYU
SCALE
1 : 200
DRAWING NO.
REV.
1













