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June 17, 2024

**VIA EMAIL**

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City of Toronto, Legal Services Division  
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Mr. Davidson, Mr. Muscat and Ms. LaFortune:

**RE:           2575 and 2625 Danforth Avenue**  
**Ontario Land Tribunal Case No. OLT-23-001063**  
**Zoning By-law Amendment (City File No. 22 197279 STE 19 OZ)**  
**With-Prejudice Settlement Offer**

We are the lawyers for Jacob's Tent Inc. ("**Jacob's Tent**"), the owner of the lands municipally known as 2575 and 2625 Danforth Avenue (the "**Site**") and the applicant in respect of the above-noted application for a Zoning By-law Amendment that is under appeal at the Ontario Land Tribunal (the "**ZBA Application**"). This letter constitutes our client's offer to settle the appeal of the ZBA Application and is being submitted on a with-prejudice basis.

**Site and Surrounding Area**

The Site is approximately 31,752 square metres in size and has dual frontage onto Danforth Avenue (179 metres) and Main Street (160 metres). The Site is currently occupied by four (4) residential apartment buildings that range from 9 to 29 storeys in height, and a community centre that is currently being leased to the City of Toronto. The balance of the Site consists of surface parking areas, an internal driveway, and landscaped areas. The south-east portion of the Site extends east along the rear of the Canadian Tire store which operates within a building on the adjacent property at 2681 Danforth Avenue. This part of the Site is leased and used by Canadian Tire for its ongoing operations and surface parking.

From a transportation context, the Site is well served by higher-order transit and is less than 500 metres from the Metrolinx Rail Corridor and the Danforth GO Station. The Danforth GO Station provides frequent daily service directly to Union Station in Downtown

Toronto in approximately 10 minutes. The Site is also conveniently located steps away from the Main Street TTC Station, which provides connections to the subway (Line 2 – Bloor/Danforth) and local bus and streetcar routes (including #64 Main, #135 Gerrard, and #506 Carlton).

### **Original Proposal**

Based on the original submission that was made to the City on August 25, 2022, Jacob's Tent was proposing to redevelop portions of the Site with 5 new mixed-use buildings that range from 15 to 55 storeys in height (the "**Original Proposal**"). The Original Proposal contained a total residential gross floor area (GFA) of 111,054 m<sup>2</sup> and a total non-residential gross floor area of 6,073 m<sup>2</sup>. The Original Proposal included a total of 1,543 new residential units, not including the 4 residential apartment buildings that would remain on the Site.

The ZBA Application was appealed to the Ontario Land Tribunal on October 23, 2023 on the basis of City Council's refusal or neglect to make a decision within the statutory timelines that are prescribed under the *Planning Act*, as amended. Since that time, Jacob's Tent and the City have been engaged in a multi-party mediation to attempt to resolve the appeal of the ZBA Application and obviate the need to participate in a contested hearing before the Ontario Land Tribunal which is scheduled for 10 days commencing on February 3, 2025 (the "**Hearing**").

These settlement discussions have involved significant coordination with the owners of properties in the immediate vicinity of the Site, including Canadian Tire Real Estate Limited (owner of 2681 Danforth Ave.) and Tri-Metro Investments Inc. (owner of 2721 Danforth Ave.), both of which have development applications that are also currently under appeal at the Ontario Land Tribunal. Through these discussions, considerable effort was made to ensure that the redevelopment of the sites as a whole implements the planning vision for the area subject to Official Plan Amendment 478 ("**OPA 478**"), which was approved by the Ontario Land Tribunal on June 6, 2022. As set out in further detail below, the redevelopment of the Site is instrumental to facilitating the delivery of several key infrastructure that the City has planned for the area.

### **Settlement Proposal**

Our client is offering to settle the appeal of its ZBA Application by revising the Original Proposal in accordance with, and to permit the form of development shown on, the Architectural Plans prepared by WZMH Architects (dated May 10, 2024), a copy of which is attached as Schedule A of this offer to settle (the "**Settlement Proposal**").

The Settlement Proposal includes the following modifications to the Original Proposal:

- On-Site Parkland Dedication: The overall site design has been reconfigured to facilitate a new public park at the southeast corner of the Site comprised of a land area of 2,181 m<sup>2</sup> (the “**Public Park**”), subject to the following:
  - The Public Park has been strategically located so that it can serve as a central public community space for existing and future residents on the Site as well as nearby buildings. Timing of conveyance of the Public Park shall be further set out and secured in the implementing Section 37 Agreement that is further discussed below, having regard to existing leasehold interests that apply to those lands and the intention to provide the parkland as early as commercially feasible.
  - In Jacob’s Tent’s view, the size of the Public Park exceeds the parkland dedication requirements that apply to the Site under Section 42 of the Planning Act and Chapter 415 of the City of Toronto Municipal Code.
  - Prior to conveyance, Jacob’s Tent agrees to the registration of a Section 118 Restriction on the lands comprising the Public Park, which will be secured in the Section 37 Agreement, if required, to the satisfaction of the General Manager, Parks, Forestry & Recreation. Registration of the Section 118 Restriction will occur immediately prior to the issuance of the first above-grade building permit for any development within the Settlement Proposal.
  - The Section 37 Agreement shall provide that specified tenants of the Site with leasehold interests that apply to the area of the planned Public Park will be required to postpone their leasehold interests in favour of the Section 37 Agreement, subject to any exceptions that are agreed to by the City Solicitor. The City may seek postponement of the Canadian Tire leasehold interest to each of the Section 37 Agreement and the Section 118 Restriction at no cost to Jacob’s Tent, and Jacob’s Tent shall cooperate in obtaining this postponement. No future encumbrances over the Public Park shall take priority over the Section 37 Agreement and the Section 118 Restriction.
  - The Section 37 Agreement will provide that the City consents to the grant of new residential and commercial leasehold and subleasehold interests within the existing buildings on the Site, and to the transfer or charge of such leasehold interests, provided that, for greater certainty, such leasehold interests do not apply to the lands comprising the Public Park.

- Pedestrian Connections: The Settlement Proposal also introduces a series of pedestrian connections through the Site in order to increase site permeability and improve wayfinding between the Public Park, the Main Street TTC Station, and the Danforth GO Station. The provision of pedestrian mid-block connections on the owner's Site are generally identified in the Architectural Plans prepared by WZMH Architects (dated May 10, 2024), and shall be more specifically delineated and secured through the Site Plan Approval process, with non-exclusive pedestrian access easements over the pedestrian mid-block connections to be granted to the City prior to occupancy of the final phase of development. Prior to granting the non-exclusive pedestrian access easements, the owner shall ensure that barrier-free access will be provided from Main Street through the Site to a perimeter location on the Site that will allow pedestrian access to continue to the Danforth GO Station at all times during the construction of the Settlement Proposal. For greater certainty, the area to be encumbered by the pedestrian access easements will be of a sufficient area, horizontally and vertically, to facilitate pedestrian access through the Site. At the same time that the pedestrian access easements are being granted, the City shall contemporaneously surrender its lease (dated June 30, 1970, and registered as Instrument No. EX83532, as amended) which was originally granted for the purposes of the installation of sidewalks. For greater certainty, the existing lease will be postponed to the Section 37 Agreement and the Section 118 Agreement or the City will not require such postponement at their own election.
- Increased Tower Separation: The building footprints have been redesigned to maximize the separation distance that is being provided between the proposed towers on the Site as well as to towers that are planned or approved on adjacent properties. The Settlement Proposal generally achieves tower separation distances of 25.0 metres subject to certain exceptions that have regard to the City's Tall Building Guidelines. The balcony locations will be refined through the Site Plan Approval process. As modified, the building layouts have allowed the Applicant to incorporate additional landscaped areas throughout the Site and a minimum setback of 6.0 metres from street curb to building face along Main Street, Danforth Avenue and the Dawes Road Extension so that additional trees can be planted along existing and planned public roads, including two rows of trees in front of existing Building D where functionally feasible (to be secured through the Site Plan Approval process).
- Retail Uses and Urban Plaza: The Applicant has modified the Original Proposal to provide for non-residential uses at the northwest corner of the Site (in Building E),

- the southwest corner of the Site (in Building H), and in the eastern portion of the Site fronting onto the north-south extension of Dawes Road (in Building G), all of which will support the City's objective that this area evolve into a complete mixed-use community. The Applicant shall explore opportunities for a tenancy with a grocery store in the base of the existing Building B which fronts onto Danforth Avenue and the implementing Zoning By-law Amendment will allow for a "grocery store" as part of the range of permitted commercial residential (CR) zone non-residential uses that are permitted on-site. The Settlement Proposal also introduces a new urban plaza at the southeast corner of Main Street and Danforth Avenue which will help to animate the streetscape at this key intersection and will be zoned as "Open Space" in the Zoning By-law Amendment and shown as same on the plans and drawings submitted in accordance with Section 114 of City of Toronto Act.
- Tower Heights and Floorplate Sizes: Based on the site organization changes that are set out above, Building I has been removed from the proposed development in order to accommodate space for the new Public Park. As a result, the number of new buildings has been reduced from 5 towers to 4 towers. The proposed tower heights and floorplates have been revised as follows:
    - *Building E*: Height remains at 15 storeys with floorplate of 790 m<sup>2</sup> GBA.
    - *Building F*: Height remains at 55 storeys with floorplate of 800 m<sup>2</sup> GBA.
    - *Building G*: Height increases from 33 to 35 storeys with floorplate of 845 m<sup>2</sup> GBA.
    - *Building H*: Height increases from 29 to 49 storeys with floorplate of 800 m<sup>2</sup> GBA.
  - Transportation Network, Access and Loading: Through the redevelopment of the Site, lands will be provided to facilitate the extension of Dawes Road in accordance with the transportation network contemplated through OPA 478. Based on feedback that has been received from the City's Transportation Division, the Applicant has also modified the Original Proposal to consolidate access points and loading spaces, which has created opportunities for additional landscaping and greater privacy screening for grade related units. The Applicant is prepared to continue these discussions with the City during the detailed design process that will occur at the Site Plan Approval stage, including exploring the reduction of the curb cut on Main Street and reducing the visibility of loading operations from lands to the south of the Site. Jacob's Tent shall provide the City with correspondence from the owner of the adjacent site to the south confirming

that the access at the south end of the Site from the private lands municipally known as 6 Dawes Road will be permitted by a pedestrian and vehicular access easement in favour of the Site over the 6 Dawes Lands.

- Transportation Study: The Owner shall complete a study focused on the north portion of Main Street to Danforth Avenue to investigate the feasibility of a pedestrian connection from west to east across Main Street, including the provision of drawings and plans for said connection, to the satisfaction of the General Manager, Transportation Services.
- Improvements for Existing Tenants: As part of the settlement discussions, the Applicant has agreed to complete site/building improvements in accordance with OP policy 3.2.1.5 for the benefit of existing tenants, taking into account improvements which have already been completed in consultation with the Chief Planner and Executive Director, City Planning.
- Common Amenity Areas: Through the Site Plan Approval process, the Applicant shall make reasonable commercial efforts to consolidate 25% of the minimum required indoor amenity space (as set out in the buildings statistics that form part of the Settlement Proposal) for a multi-purpose amenity room.

District Energy: The Applicant shall make reasonable commercial efforts to incorporate or future proof for a district energy connection to service the proposed new buildings on the Site and/or allow for potential connections in the plan area.

- Additional Community Benefits: The original site-specific Zoning By-law Amendment that was approved for the Site in 2006 (By-law No. 161-2006) will be amended to replace the development standards therein with development standards to permit the Settlement Proposal, and to replace the Section 37 provisions therein with new provisions to secure the following:
  1. The owner's requirement to pay a cash contribution in the amount of \$4,000,000 which is to be paid on a pro-rated basis as further specified below; and,
  2. The over-dedication of parkland identified as "Excess Land" in the Architectural Plans prepared by WZMH Architects (dated May 10, 2024).

- New Section 37 Agreement: The Existing Section 37 Agreement will be replaced by a new Section 37 Agreement to secure the community benefits and other matters of legal convenience set out in this settlement offer.

We respectfully submit that the Settlement Proposal is responsive to the remaining issues that were identified by the City through the application review process and represents an appropriate form of development and resolution of the Appeal that is before the Tribunal. As advised, we understand that City Staff are satisfied with the Settlement Proposal and the matters set out herein in support thereof.

### **Implementation of Proposed Settlement**

Should this offer be accepted by City Council, the Applicant and the City will jointly advise the Tribunal that the City's issues have been resolved and will request the other parties to confirm whether their issues have also been resolved. At the hearing of the Settlement Proposal and implementing Zoning By-law Amendment, the Applicant will lead evidence in support thereof. The Applicant and the City will jointly request that the Tribunal allow the appeal, in part, and approve the Zoning By-law Amendment in principle, and to withhold its Final Order approving the Zoning By-law Amendment until the following preconditions have been satisfied:

1. The final form and content of the draft Zoning By-law is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.
2. The owner has at the owner's expense:
  - a. provided confirmation of water, sanitary and stormwater capacity (and conformity with the accepted MFSR respecting Character Area C in OPA 478) to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or the determination of whether holding provisions are required in the zoning by-law amendment;
  - b. secured the design and the provision of financial securities for any upgrades or required improvements to the existing municipal infrastructure and/or new 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, should it be determined that improvements or upgrades and/or new infrastructure are required to support the development;

- c. submitted a pedestrian level wind tunnel study acceptable to, and to the satisfaction of, the Chief Planner and Executive Director, City Planning and that such matters arising from such study, be secured if required;
  - d. submitted a revised Transportation Impact Study, and a Parking and Loading Study acceptable to, and to the satisfaction of, the General Manager, Transportation Services and that such matters arising from such studies, be secured if required;
  - e. submitted a revised Landscape Plan which includes a notation that a volume of 30 cubic metres of soil will be provided for each tree with future financial securities to be provided through the Site Plan Approval process, to the satisfaction of the Chief Planner and the General Manager, Parks, Forestry and Recreation
  - f. The new Section 37 Agreement shall further secure, as a legal convenience, that the Owner provides to the City information and materials delineating the location of utilities to Quality Level A (QLA) through the Site Plan Approval process; and,
  - g. provided the City with correspondence from the owner of the adjacent site to the south confirming that the access at the south end of the Site from the private lands municipally known as 6 Dawes Road will be permitted by a pedestrian and vehicular access easement in favour of the Site over the 6 Dawes Lands.
3. The owner has entered into a new Section 37 Agreement with the City to secure the following:
- a. The owner shall pay a cash contribution in the amount of \$4,000,000 (the “**Cash Contribution**”), which is to be allocated toward the construction, finishes, furnishings, and/or equipment for a public community recreation centre serving the geographic area covered by Official Plan Amendment 478 within the vicinity of the Site, at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor. The Cash Contribution is to be paid on a pro-rata basis as follows:
    - i. \$2,000,000 to be paid prior to the issuance of the first above-grade building permit for the first tower within the Settlement Proposal; and,
    - ii. \$2,000,000 to be paid prior to the issuance of the first above-grade building permit for the third tower within the Settlement Proposal;



- b. The owner shall convey the over-dedication of parkland identified as “Excess Land” on the Architectural Plans prepared by WZMH Architects dated May 10, 2024.
- c. The owner shall implement any required recommendations and/or mitigation measures from the accepted Wind Tunnel analysis, Traffic Impact Study, Traffic Demand Management Plan, Landscape Plan, Parking and Loading Study, and Landscape Plan, through the Site Plan Approval process for the Site, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- d. The owner shall provide open space of not less than 400 square metres, which shall be shown on the plans and drawings submitted pursuant to Section 114 of the *City of Toronto Act*.
- e. The owner shall convey to the City required road widenings on Danforth Avenue and Main Street, as well as a portion of the new public street, with timing of said conveyances to be determined through the draft plan of subdivision approval process. The Owner will agree to address cost sharing, subject to commercially reasonable terms, respecting the new public road in accordance with Section 12 of OPA 478.
- f. The owner shall construct and maintain the development of the Site in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of Toronto Green Standards applicable at the time of the site plan application for the development.
- g. Prior to the commencement of any excavation and shoring work on the Site, the owner shall submit a 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 and thereafter shall implement the Plan during the course of construction. The Construction Management Plan will include, but not be limited to, the following construction-related details: noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community, including matters related to the construction of streets or infrastructure, and

any other matters requested by the Chief Planner and Executive Director, City Planning, and the City Solicitor.

- h. Through the Site Plan Approval process, the owner shall incorporate into the detailed design of the Settlement Proposal the following:
    - i. landscape buffering to reduce impacts of servicing on units in Buildings B, C, and G;
    - ii. strategies to reduce the visibility of loading operations from lands to the south of the Site; and,
    - iii. design that enhances the streetscape on Danforth.
  - i. The owner shall undertake improvements to the existing rental buildings at its sole expense and at no cost to tenants, and the owner shall also secure the provision of a Construction Mitigation and Tenant Communication Plan through the Site Plan Approval process. The total value of these improvements shall be set out and secured through the new Section 37 Agreement to the satisfaction of the parties.
- 4. The owner has secured the replacement of the 2 existing rental housing units in Building B to be demolished as part of the Settlement Proposal, with generally the same number of bedrooms and size and with similar rents. The 2 replacement units may be located within existing rental buildings on the Site, which are subject to rent control under the *Residential Tenancies Act*. The owner shall also secure an acceptable Tenant Relocation and Assistance Plan addressing the right for existing tenants of these 2 units to return to a replacement rental unit on the lands at similar rents, the provision of alternative accommodation at similar rents, and other assistance to mitigate hardship, all to the satisfaction of the Chief Planner and Executive Director, City Planning.
- 5. The revised Rental Housing Demolition application 22 196262 19 RH that was submitted in accordance with Chapter 667 of the Toronto Municipal Code and pursuant to Section 111 of the City of Toronto Act, 2006 has been approved to permit the demolition of the existing 2 rental dwelling units at 2615 Danforth Avenue (in Building B) and the owner has entered into, and registered on title to the lands, one or more agreements with the City, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, securing all rental housing-related matters, including tenant relocation and assistance, necessary to implement City Council's decision.

6. The owner has conducted a tenant survey, and secured appropriate improvements to the existing rental buildings at its sole expense and at no cost to tenants (including the provision of a Construction Mitigation and Tenant Communication Plan.
7. The owner has retained a qualified consultant to commission the preparation of a Quality Level A (QLA) Study for the right-of-ways adjacent to the Site along Main Street and Danforth Avenue.

The Applicant and the City will ask that the Tribunal remain seized of the Appeal in case any issues arise during in connection with the above-noted preconditions.

The Settlement Proposal is being submitted as a formal revision to the Original Proposal. We understand that this settlement offer will be considered at the City Council meeting commencing on June 26, 2024.

Yours truly,  
**Overland LLP**

A handwritten signature in black ink, appearing to read 'Daniel B. Arsenosi', written in a cursive style.

Per: Daniel B. Arsenosi  
Partner

**Schedule “A”**

**Architectural Plans prepared by WZMH Architects (dated May 10, 2024)**