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Our File No.: 222873

WITHOUT PREJUDICE

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

Attention: Daniel Elmadany and Uttra Gautam

Dear Sirs/Mesdames:

**Re: OLT-23-000700 & OLT-23-000701 – Without Prejudice Settlement Offer, Official Plan Amendment and Zoning By-law Amendment
396-398 Church Street, 50 Gerrard Street East, and 73-77 McGill Street**

We are solicitors for 396 Church LP in respect of the properties known municipally in the City of Toronto as 396-398 Church Street, 50 Gerrard Street East and 73-77 McGill Street (the “**Lands**”). We are writing on behalf of our client to provide 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 July 24, 2024, unless otherwise indicated.

As you know, our client recently engaged in without prejudice meetings with City staff regarding the redevelopment proposal for the Lands. Our client has also had discussions with the adjacent residents. These discussions resulted in a revised set of plans, prepared by Arcadis dated [insert date], which are attached to this letter as Schedule “A” (the “**Revised Plans**”). Our client greatly appreciates the efforts of City staff in achieving this proposed settlement.

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 Official Plan Amendment and Zoning by-law amendment(s). Key aspects of the Revised Plans include related to the Zoning By-law Amendment:
 - a. The height of the tower has been reduced from 43 storeys to 37-storeys as a result of the Minister’s Zoning Order in Ontario Regulation 10/24. The overall building height, inclusive of all projections and mechanical equipment/penthouses is 111.3

metres. The final precise height is subject to a satisfactory Aeronautical Report set out in the conditions below;

- b. The tower setbacks are now 10.2 metres from the south property line, 13.2 metres for levels 6-8 and the typical tower setback above that is 12.4 metres from the west property line and 11.2 metres from the centreline of McGill Street, resulting in a typical tower floor plate of 807.2 square metres gross construction area;
- c. The podium has been redesigned to enhance compatibility with and respond to the heights of adjacent buildings. The Zoning By-law Amendment will provide for a minimum 5.5 metre podium setback for the 3rd and 4th storey along the west property line where windows are proposed. Where clerestory windows or no windows are proposed, a minimum of 3.5 metre podium setback will be provided along the same elevation. Additional landscaping and/or a green roof will be provided in this setback area;
- d. The redesign of the podium and tower improved the relationship of the proposal with the public realm. The podium now has a 2.58 metre setback from the property line, adding to a 6 metre setback from the curb along Church Street. The tower is stepped back one metre from the podium, along Church Street and McGill Street. Along Church Street the tower is setback 3.58 metre from the property line;
- e. The proposed access has been revised to enable the use of the property to the south of the Lands to enable ingress/egress from Gerrard Street and limit the use of access to McGill Street;
- f. No new net shadow is being cast on Allan Gardens in the prescribed times in Site and Area Specific Policy 461;
- g. Non-residential/retail/commercial uses continue to be proposed at-grade along Church Street;
- h. The proposed unit mix include a minimum of 10% of the units as 3-bedroom units, 15% of the units as 2-bedroom units and an additional 15% of the units as a combination of 2-bedroom and 3-bedroom units, or units that can be converted to 2 and 3-bedroom units through the use of accessible or adaptable design measures;
- i. 6 visitor parking spaces, inclusive of 2 accessible parking spaces; and,
- j. the implementing zoning by-law will secure a minimum amount of combined indoor and outdoor amenity space at a ratio of approximately 3.05 square metres per unit.

2. The proposed Official Plan Amendment will re-designate a portion of the lands municipally known as 73-77 McGill Street from *Neighbourhoods* to *Mixed Use Areas* to the extent of the mixed use building, and the low-rise component of the podium would remain *Neighbourhoods*. A policy will also be included to permit the mixed use building on the combined Lands.
3. Our client agrees that, in the event City Council accepts this without prejudice settlement offer, and the Ontario Land Tribunal allows the appeal, to request the Ontario Land Tribunal to withhold its Order until such time as the Ontario Land Tribunal has been advised by the City Solicitor that:
 - a. the final form and content of the draft Official Plan Amendment to permit the proposed development in the Zoning By-law Amendment, including re-designation of a portion of the lands from *Neighbourhoods* to *Mixed Use Areas*, satisfactory to the Interim Chief Planner and Executive Director, City Planning and the City Solicitor;
 - b. 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;
 - c. the Owner has, at its sole cost and expense:
 - i. 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;
 - ii. 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; and
 - iii. ensured that implementation of the accepted Engineering Reports does not require changes to the proposed amending By-law or that any required changes have been made to the proposed amending By-law 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;

- iv. submitted an updated Transportation Impact Study or Addendum to reflect revisions to site circulation, loading, parking and access for the development, to the satisfaction of the General Manager, Transportation Services;
 - v. submitted an updated Soil Volume Plan (including daylighting information), Landscape Plan and associated section drawings identifying appropriate clearance from existing utilities satisfactory to the Interim Chief Planner and Executive Director, City Planning and the General Manager, Parks, Forestry and Recreation;
 - vi. submitted an updated Pedestrian Level Wind Study, and thereafter implemented any necessary mitigation measures in the Zoning By-law Amendment, to the satisfaction to the Interim Chief Planner and Executive Director, City Planning; and
 - vii. submitted an updated Aeronautical Report confirming the constructability of the proposed mixed use development to the requested overall building height (inclusive of all requested projections and mechanical equipment) and ensure the overall building height and projections conform to applicable requirements, including Zoning By-law 1432-2017 and Zoning Order 10/24, as these instruments may be amended and/or replaced, such that sufficient clearance of the flight path is provided on rooftops, including during construction, to the satisfaction to the Interim Chief Planner and Executive Director, City Planning.
4. Our Client understands that the City Solicitor is not seeking direction from Council with respect to the Site Plan Control application as this matter is delegated to the Interim Chief Planner and Executive Director, City Planning. Our client agrees to address the following matters as part of the Site Plan Control application:
- a. the Owner shall submit a Crane and Construction Structures Plan, to the satisfaction of the Interim Chief Planner and Executive Director, City Planning, in consultation with St. Michael's Hospital, demonstrating that any person, equipment or structure use in conjunction with the construction of the development will conform to applicable requirements, including Zoning By-law 1432-2017 and Zoning Order 10/24, as these instruments may be amended and/or replaced;

- b. the Owner shall demonstrate that the Owner has entered into an agreement with St. Michael's Hospital to secure compliance with the Crane and Construction Structures Plan;
- c. the Owner shall submit an Obstacle Marking and Lighting Plan to St. Michael's Hospital for review and approval, and satisfactory to the Interim Chief Planner and Executive Director, City Planning;
- d. despite the architectural plans in Schedule "A" attached to this without prejudice settlement offer letter, the Owner will work with staff from city planning, transportation services, and solid waste management services regarding the configuration and design of the Type-G loading space and the staging area to ensure it can remain functional for municipal waste collection purposes, while minimizing conflicts any with pedestrian access through the loading area from the court yard to McGill Street residential lobby entrance with consideration to the grade change towards McGill Street.

As noted above, this without prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on July 24, 2024, unless otherwise indicated, at which point it should be considered as withdrawn if not accepted by City Council. If City Council accepts the without prejudice settlement offer, our client consents to the release of this without prejudice settlement offer, including all enclosures.

Yours truly,

Goodmans LLP



David Bronskill
DJB/