



Barristers & Solicitors

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.597.5160
iandres@goodmans.ca

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WITHOUT PREJUDICE

Our File No.: 202216

VIA EMAIL

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

Attention: Amanda Hill and Jason Davidson

Dear Ms. Hill and Mr. Davidson:

**Re: Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan Appeals
1053 Don Mills Road and 2-6 The Donway East (the "Subject Properties")
OLT Lead Case No. OLT-23-001066**

As you know, we are the solicitors for The Donway East Limited (the "**Owner**") in respect of its zoning by-law amendment ("**ZBA**"), draft plan of subdivision and site plan applications to facilitate the redevelopment of the Subject Properties, which were appealed to the Ontario Land Tribunal (the "**Tribunal**") on October 20, 2023 based on the failure of the City of Toronto (the "**City**") to make a decision on the applications within the statutory timeframes (the "**Appeals**").

We are writing on behalf of the Owner to make a formal settlement offer to City Council to resolve the outstanding ZBA appeal based on certain changes to the development proposal which are the culmination of extensive settlement discussions amongst the parties to the Appeals.

Application and Appeal Process

The Subject Properties are located at the northeast corner of The Donway East and Don Mills Road, approximately 400 metres south of Lawrence Avenue East, comprising an overall site area of approximately 18,787 m², excluding a strip of land owned by the City measuring approximately 10.7 m wide which splits the Subject Properties into two separate parcels.

Currently, the Subject Properties are occupied by four rectangular 3½ storey residential rental apartment buildings, each of which is generally located around the perimeter of the site and accessed by way of two curb cuts from The Donway East. The site effectively functions as a single rental apartment complex with shared driveways, landscaped open space, pedestrian walkways

and paved surface parking areas, including within the City-owned lands. There are no discernable lot lines or markings depicting the boundaries between the privately-owned and City-owned parcels, nor are there any public uses, parks or public open spaces on the Subject Properties.

The Original Proposal

The original ZBA and subdivision applications were filed with the City in October 2021 (the “**Original Proposal**”) and sought to facilitate the redevelopment of the Subject Properties through the demolition and replacement of the existing apartment buildings with a comprehensive high-density multi-phase development that includes a variety of housing types. Specifically, the Original Proposal consisted of four new residential buildings with base podiums and towers of 16, 24, 28 and 32 storeys, supported by a new north-south public street, a new on-site public park dedication with an area of 1,791 m² and a new privately-owned publicly accessible open space (“**POPS**”) with an area of 895 m². Significantly, the Original Proposal committed to replacing 100% of the existing rental units on the Properties within the new 16-storey building.

The Original Proposal was permitted by the applicable land use designations and policies and achieved conformity with the Official Plan. Consequently, no official plan amendment was required or sought through the applications.

Amendments were required to the City-wide Zoning By-law 569-2013, as amended, as well as to the former City of North York Zoning By-law No. 7625, as amended, in order to permit the proposed uses and to increase the permitted height and density, as well as to facilitate the revision of other development standards as necessary to accommodate the new buildings.

The Original Proposal also contemplated the creation and conveyance of new blocks to the City for the proposed public park and the widenings necessary to create a new north-south public street to current standards, along with development blocks to facilitate the proposed construction.

The Appealed Proposal

In response to comments received from City staff and agencies, several revisions were made to the Original Proposal. The Owner made a resubmission of its ZBA and subdivision applications in April 2023, together with a site plan application, which comprised the revised plans that were subsequently appealed to the Tribunal (the “**Appealed Proposal**”).

The Appealed Proposal continued to propose four residential buildings, in addition to the public park, POPS and road network. The overall heights of three of the four proposed buildings were reduced to 29 (from 32), 25 (from 28) and 12 (from 16) storeys, with the proposed height of the fourth building remaining at 24 storeys. While the total number of residential dwelling units decreased slightly, the 160 rental replacement units were retained. The total GFA increased slightly, resulting in a revised overall gross density of 4.21 FSI.

The OLT Appeal Proceedings

Following its receipt of the Appeals, the Tribunal convened a case management conference (“CMC”) on January 19, 2024. In accordance with the Tribunal’s Rules, notice of the CMC was sent out in advance, and one participant status request was received from Kimberly Sanderson and granted by the Tribunal on the consent of the parties. Since City Council had not yet had an opportunity to consider the Appealed Proposal, a second CMC was scheduled for May 17, 2024.

During its meeting on March 20 and 21, 2024 (Item NY11.6), City Council considered an appeal report from Community Planning staff and directed staff to attend at the Tribunal in opposition to the Appealed Proposal and to continue discussions with the applicant in an attempt to resolve outstanding issues.

In light of the direction from City Council, the parties agreed to participate in formal mediation, as well as settlement discussions outside of the mediation process. Accordingly, the second CMC was adjourned to August 13, 2024 to provide an opportunity for those discussions to occur.

Current Settlement Proposal

Over the past three months the Owner and its consultants have engaged with City staff in productive and confidential discussions. We are grateful for the time and resources invested by the City and are pleased that it has resulted in a revised development proposal that we understand to be satisfactory to staff (the “**Settlement Proposal**”), subject of course to City Council consideration and acceptance.

Enclosed with this letter are a series of materials which depict the Settlement Proposal, including: (i) a revised set of architectural plans, elevations and statistics; (ii) a revised shadow study; (iii) a revised rental unit area summary; and (iv) a set of preliminary phasing plans; all prepared by BDP Quadrangle and dated June 28, 2024.

The enclosed materials demonstrate how the Settlement Proposal addresses the issues raised during our discussions and how the built form will be compatible with its surrounding context.

The most significant aspects of the Settlement Proposal can be summarized as follows:

- the overall site plan continues to include four new residential buildings with consistent and well-balanced towers and podiums; increased stepbacks above the 6th storey along the public-facing frontages; a new 18.5 metre public street dividing the site (aligned with Moccasin Trail); an on-site parkland dedication with an area of 1,747 m² and a separate POPS area of 873 m² (both with frontage on The Donway East); and various private driveways and pedestrian connections throughout;

- the tower heights have been revised to 29, 29, 16 and 25 storeys for Buildings A, B, C and D, respectively, while the corresponding podium heights have been revised to 12, 10, 10 and 12 storeys, respectively;
- the total gross floor area proposed for the four residential buildings is 88,878 m², reflecting a gross density of 4.45 FSI;
- all 160 existing rental dwelling units will be replaced with new affordable and mid-range rental units of similar size, type and rent level within proposed new Building C, together with 62 new market rental units;
- the other three buildings will be comprised of 1,179 condominium units, of which 10% will be three-bedroom units and an additional 30% will be two-bedroom units;
- the phasing plans have been designed to ensure that all existing tenants can remain on site until the replacement units are available for occupancy, as only one of the existing buildings (comprising 40 units) is proposed to be demolished in Phase 1, and there is sufficient vacancy in the other three buildings (comprising 120 units) to accommodate all existing tenants who wish to remain on site until Building C is ready for occupancy;
- a portion of the below-grade garage (underneath Building C) will be constructed during Phase 1 to accommodate approximately 100 vehicular parking spaces, along with a dedicated pick-up and drop-off area and temporary visitor parking spaces at grade;
- each existing eligible rental household that currently has access to a vehicular parking space and elects to return to a new replacement unit will be provided with an opportunity to rent one vehicular parking space within the new development at a rate determined in consultation with the Chief Planner through the rental housing demolition process; and
- the other three existing rental buildings will be demolished in subsequent phase(s) of development once Building C is complete, at which time the new public park and public street will be constructed and dedicated to the City, all of which can be secured through appropriate conditions of draft plan approval and agreement(s).

The Settlement Proposal is the culmination of a tremendous amount of effort to negotiate an appropriate form of development which will deliver much-needed housing to the Don Mills community within walking distance of a wide range of retail offerings and public amenities, along with new on-site public open space. Most importantly, the Settlement Proposal will ensure that each of the existing tenants will be able to remain on site until the replacement units are available, in most cases within their existing units and in some cases by moving to a comparable vacant unit in one of the other existing buildings. This is a tremendous accomplishment which should be seen as a win-win for all parties. Moreover, the new buildings represent high-quality architectural

design and will deliver a strong public realm and attractive landscaping, while avoiding negative impacts and fitting in comfortably with the neighbourhood.

Our clients and their consultants believe that the Settlement Proposal represents good planning and urban design, and an appropriate resolution to the Appeals.

We are hopeful that this Settlement Proposal will be accepted by City Council so that we may advise the Tribunal that the outstanding issues have been resolved in respect of the ZBA appeal and to request that the CMC scheduled for August 13, 2024 be converted to a settlement hearing.

It is our expectation that the parties would then jointly request that the Tribunal approve the ZBA in principle but withhold its final order pending satisfaction of the items set out in paragraph 2 of the City Council direction of March 20 and 21, 2024 (Item NY11.6), with the exception of items 2.c and 2.i which require modification, and the addition of one further requirement, as follows:

- with respect to item 2.c, it is not necessary or appropriate to require site plan notice of approval conditions as a prerequisite to the issuance of a final order bringing the ZBA into full force and effect;
- with respect to item 2.i, the agreement to be entered into with the City in respect of the agreed-upon on-site parkland dedication shall instead allow for such conveyance to occur prior to issuance of the first above-grade building permit for the first building in the second phase of development (subject to alternative conveyance timing and/or arrangements acceptable to City staff), as that is the only way to ensure that all existing tenants can remain on site until the replacement rental units are available for occupancy (since the new park cannot be created until the easterly building is demolished and since the area is required for construction staging); to secure the conveyance, the Owner shall provide a letter of credit for the value of the parkland prior to issuance of the first above-grade building permit in the first phase of development and register a restriction under Section 118 of the *Land Titles Act, R.S.O. 1990* on the parkland in accordance with the City's standard terms; and
- the Owner shall be required to provide a final wind tunnel study, to the satisfaction of the Chief Planner and Executive Director, City Planning, prior to the issuance of a final order.

The parties would also request that the Tribunal adjourn the outstanding subdivision and site plan appeals *sine die*, to be brought forward for resolution at a later date once appropriate resubmission materials have been submitted by the Owner and reviewed and accepted by the City.

We understand that staff will be recommending that Council endorse the Settlement Proposal during its meeting commencing on July 24, 2024. If the Settlement Proposal is not accepted by Council during that meeting, it should be considered as withdrawn.

Should the Settlement Proposal be accepted by Council, the Owner consents to the public release of this letter and the revised plans dated June 28, 2024.

Please let us know if any additional information is required.

Yours truly,

Goodmans LLP



Ian Andres
INA/rr

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