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September 23, 2024

Our File No.: 231548

**WITH PREJUDICE**

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

**Attention: Jessica Braun/Jamie Dexter**

Dear Sirs/Mesdames:

**Re: 26-34 Nipigon Avenue – With Prejudice Settlement Offer  
City File No 23 216060 STE 10 OZ**

We are solicitors for Nipigon Investments Inc. and Nipigon Property Limited in respect of the properties known municipally as 26-34 Nipigon (the “**Lands**”). As you know, at its meeting commencing on March 21, 2024, City of Toronto Council refused the official plan amendment and rezoning applications filed by our client in respect of the Lands (the “**Council Decision**”). Our client appealed the Council Decision to the Ontario Land Tribunal, although the City provided notice pursuant to subsections 22(8.1) and 34(11.0.0.1) of the *Planning Act* to use mediation, conciliation or other dispute resolution techniques.

As a result of such without prejudice discussions, we are pleased to write on behalf of our client to provide a with 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 October 9, 2024, unless otherwise indicated. The with prejudice settlement offer is based on the revised set of architectural plans, prepared by Kirkor Architects, which are attached to this letter as Schedule “A” (the “**Revised Plans**”). Our client greatly appreciates the efforts of City staff in achieving this settlement.

The terms of this with prejudice settlement offer are as follows:

1. The settlement offer is based on the Revised Plans, which would be implemented through approval of the resulting zoning by-law amendment. Key aspects of the Revised Plans include:

- a. the site plan has been revised to facilitate a north/south mid-block connection with a width of 7.5 metres and an increase in on-site tree-planting from 6 trees to 15 trees;
  - b. the height of the tower has been reduced to 48-storeys (consistent with the revised Yonge Street North Secondary Plan, as endorsed by City Council at its meeting commencing on July 24, 2024), with the metric height reduced from 159.3 metres to 156.6 metres (including the mechanical penthouse);
  - c. the proposed tower floorplate has been reduced from 812 square metres to 750 square metres, including through the provision of a 8.5-metre east tower setback even though the properties to the east are too small in area to accommodate a tower, with no wrap-around balconies;
  - d. the proposed tower setbacks have been adjusted in accordance with the Revised Plans to achieve appropriate tower separation and podium setbacks;
  - e. the podium height is 16.0 metres and revised to achieve additional setbacks, including 7.5 metres to the north property line for any residential gross floor area (as shown on the Revised Plans), 5.5 metres to the east property line, and 7.5 metres to the west property line to facilitate the above-noted mid-block connection and achieve additional landscaping and tree-planting opportunities, including but not limited to a 2.5 metre wide at-grade landscaping strip on the east side of the Lands;
  - f. the Revised Plans also include two (2) vehicle spaces for pick-up/drop-off and two (2) vehicle spaces for car-share;
  - g. the implementing zoning by-law will secure a minimum of 92.90 square metres (1,000 square feet) of commercial space on the ground floor, with the potential for a patio space along Nipigon Avenue and potential access to the mid-block connection;
  - h. the proposed unit mix includes a minimum of 10% of the units as 3-bedroom units and 30% of the units as 2-bedroom units; and,
  - i. the implementing zoning by-law amendment will secure a minimum amount of combined indoor and outdoor amenity space at a ratio of 4.0 square metres per unit, including a minimum of 2.0 square metres per unit of indoor amenity space, with opportunities for pet amenities at-grade.
2. Our client agrees that, in the event City Council accepts this with prejudice settlement offer, the final order of the Ontario Land Tribunal would be withheld, pending completion of the following, with the Ontario Land Tribunal available to be spoken to in the event that an issue arises as a result of completion of these pre-conditions:

- a. the final form and content of the draft Official Plan Amendment and Zoning By-law Amendment are to the satisfaction of the City Solicitor and the Executive Director, Development Review;
- b. the owner has withdrawn any appeal and/or party status for the Yonge Street North Secondary Plan (OPA 615) (By-law 1016-2022) in Case No. OLT-22-004346;
- c. the owner has submitted revised sun/shadow and wind studies reflecting the proposal, as approved in whole or in part, to the satisfaction of the Executive Director, Development Review in consultation with the Chief Planner and Executive Director, City Planning;
- d. the owner has demonstrated that the revised proposal associated with the Settlement Offer meets Tier 1 of Version 4 of the Toronto Green Standard;
- e. the owner has addressed all outstanding issues raised by Urban Forestry and Tree Protection and Plan Review as they relate to the Official Plan and Zoning By-law Amendment applications, to the satisfaction of the General Manager, Parks, Forestry and Recreation;
- f. the owner has submitted a Functional Servicing Report, Stormwater Management Report, Hydrogeological Report and associated plans to the City for review and acceptance, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- g. the owner has submitted a revised Transportation Impact Study to the City for review and acceptance, to the satisfaction of the General Manager, Transportation Services;
- h. Should it be determined that upgrades are required to the infrastructure to support the development according to the accepted Functional Servicing and Stormwater Management Report and/or the accepted Transportation Impact Study, then either:
  - i. a Holding Provision should be included in the final form of the site-specific Zoning By-law Amendment, as the case may be, not to be lifted until such time as the owner has made satisfactory arrangements, including entering into appropriate agreement(s) with the City for the design and construction of any improvements to the municipal infrastructure and the provision of financial securities to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services; or,
  - ii. Prior to the issuance of a final order, the owner has entered into an agreement or agreements or has otherwise secured for the design,

construction, and the provision of financial securities for any required upgrades or improvements to the existing municipal infrastructure, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;

- i. the Chief Planner has approved the Rental Housing Demolition application (24 103481 NNY 18 RH) under Chapter 667 Residential Rental Property Demolition and Conversion Control of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006, which allows for the demolition of the existing rental units on the sites, 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 necessary.

As noted above, this with prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on October 9, 2024, unless otherwise indicated, at which point it should be considered as withdrawn if not accepted by City Council.

Yours truly,

**Goodmans LLP**



David Bronskill  
DJB/

1416-4708-2765