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October 31, 2024

Our File No.: 221892

WITHOUT PREJUDICE

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

Attention: Matthew Longo/Jason Davidson

Dear Sirs/Mesdames:

**Re: 38 Walmer Road & 188 Lowther Avenue – Without Prejudice Settlement Offer
Ontario Land Tribunal Lead Case No. OLT-23-000532**

We are solicitors for 38 WR LP, who are the agents for the Trustees of the Walmer Road Baptist Church regarding the proposed redevelopment of the properties known municipally as 38 Walmer Road and 188 Lowther Avenue (the “**Lands**”).

After pre-consultation with City staff, on July 18, 2022, our client filed a rezoning application for the Property (the “**Application**”). On May 31, 2023, our client appealed the Application to the Ontario Land Tribunal (the “**Tribunal**”) pursuant to subsection 34(11) of the *Planning Act* for the failure of City Council to make a decision regarding the Application within the applicable statutory period. On August 27, 2024, our client also appealed City Council’s refusal of our client’s applications filed with the City pursuant to the *Ontario Heritage Act*.

We are writing on behalf of our client to provide a without prejudice settlement offer in respect of the above-noted appeals, which should be considered as open until the conclusion of the City Council meeting scheduled to commence on November 13, 2024, unless otherwise indicated.

As you know, our client recently engaged in extensive without prejudice mediation with City staff, adjacent landowners and various resident groups regarding the redevelopment proposal for the Lands. These discussions resulted in a revised set of plans, prepared by Hariri Pontarini Architects, which are attached to this letter as Schedule “A” (the “**Revised Plans**”). Our client greatly appreciates the efforts of all parties through the without prejudice mediation sessions resulting in this settlement offer.

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 approval of the resulting zoning by-law amendment, to be finalized to the satisfaction of the City in accordance with the Revised Plans.
2. Key aspects of the Revised Plans include:
 - a. The height of the proposed building is now 25-storeys with a resulting gross floor area of approximately 19,588.5 square metres;
 - b. The tower setbacks have been adjusted in accordance with the Revised Plans to achieve appropriate tower separation, as well as separation distance from the residential dwellings to the north of the Lands;
 - c. The implementing zoning by-law for the proposed building will not permit projecting balconies on any building face, with the except of Juliette and/or inset balconies;
 - d. The implementing zoning by-law for the proposed building will not permit windows or glazing on the eastern face of the tower portion of the building (Floors 9-25) adjacent to the property line for the property known municipally as Walmer Road, except for those areas where there is no direct facing condition with the building on the property at 40 Walmer Road, all in accordance with the attach sketch, provided that any such windows are no wider than 1.5 metres and are pushed as far south as possible;
 - e. Public space has been increased through provision of a publicly-accessible open space along Lowther Avenue and an expanded forecourt space along Walmer Road;
 - f. As detailed in the heritage materials submitted to the City, the existing sanctuary is being preserved with opportunities for community, commercial and institutional space as noted on the Revised Plans;
 - g. the proposed unit mix will include a minimum of 10% of the units as 3-bedroom units and a minimum of 15% of the units as 2-bedroom units in accordance with the Downtown Secondary Plan;
 - h. the Revised Plan include a minimum of 2.0 square metres per unit for indoor amenity space and 2.0 square metres per unit for outdoor amenity space, in accordance with Zoning By-law 569-2013; and,
 - i. the parking spaces will be EV wiring-capable to facilitate installation of such wiring by residents at a later date.

3. Our client proposes to provide improvements to the public realm and streetscape beyond what would normally be secured through the Site Plan Approval process (“**Public Realm Improvements**”), along the west side of Walmer Road, from the south lot line of the Property to the north lot line of the Property (with allowances for a driveway). The Owner further agrees to make reasonable commercial efforts to coordinate the Public Realm Improvements with any public realm improvements proposed, designed, and/or constructed by the City and/or the owner of the property known municipally as 40 Walmer Road, along the west side of Walmer Road from Lowther Avenue to the south lot line of 40 Walmer Road, all of which is subject to the following:
 - a. the details of the Public Realm Improvements (including the location, dimensions, configuration, and design) shall be secured as part of and through the Site Plan Approval process for the Development to the satisfaction of the Chief Planner and Executive Director, City Planning; and
 - b. City Council will authorize Development Charge credits in order that the Owner may elect to construct Public Realm Improvements for Development Charge credits, with the cost of such improvements are not to exceed the amount of the available Development Charge credits.
4. Our client commits to working with City staff as part of the site plan control approval process to develop a construction management plan that would maintain pedestrian and cycling flow on both frontages of the Lands for the duration of construction.
5. Our client agrees that, in the event City Council accepts this without prejudice settlement offer, the final order of the Ontario Land Tribunal would be withheld, pending completion of the following pre-conditions, with the Ontario Land Tribunal available to be spoken to in the event that an issue arises as a result of completion of those pre-conditions:
 - a. the owner shall provide a detailed Conservation Plan, prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment prepared by ERA Architects dated October 29, 2024, for the Lands, to the satisfaction of the Senior Manager, Heritage Planning;
 - b. the owner shall enter into a Heritage Easement Agreement with the City for the Lands, substantially in accordance with the plans and drawings dated October 7, 2024 prepared by Hariri Pontarini Architects on file with the Senior Manager, Heritage Planning and the Heritage Impact Assessment prepared by ERA Architects dated October 29, 2024, and on file with the Senior Manager, Heritage Planning, subject to and in accordance with the approved Conservation Plan required above, to the satisfaction of the Senior Manager, Heritage Planning,

including execution and registration of such agreement to the satisfaction of the City Solicitor;

- c. the owner has provided a revised Functional Servicing Report and a revised Stormwater Management Report, such reports to be reviewed to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and,
- d. the form and content of the Zoning By-law Amendment are satisfactory to the Executive Director of Development Review and the City Solicitor.

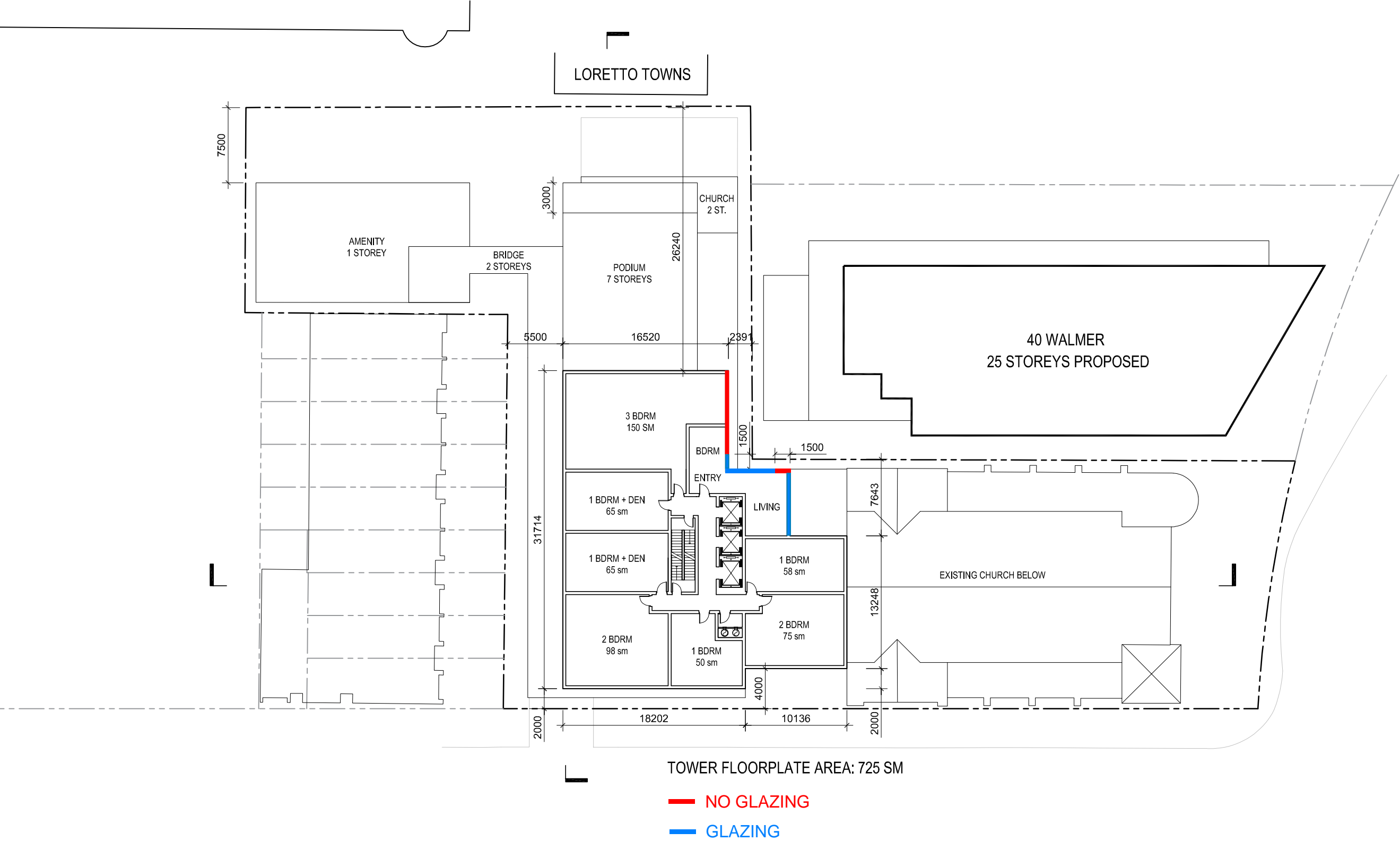
As noted above, this without prejudice settlement offer will remain open until the end of the City Council meeting scheduled to commence on November 13, 2024, unless otherwise indicated, at which point it should be considered as withdrawn if not accepted by City Council.

Yours truly,

Goodmans LLP



David Bronskill
DJB/



CONFIDENTIAL AND WITHOUT PREJUDICE

1:400 @ TABLOID

Typical Tower Floorplate

2405 38 Walmer Road
Project Phase / Issue
October 30, 2024

**HARIRI PONTARINI
ARCHITECTS**