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December 4, 2024

CONFIDENTIAL & WITHOUT PREJUDICE

VIA EMAIL

Jessica Amey and Michelle LaFortune
City of Toronto, Legal Services Division
Metro Hall, 26th Floor
55 John Street
Toronto, ON M5V 3C6

Dear Ms. Amey and Ms. LaFortune:

RE: 33 Walsh Avenue
Application for Zoning By-law Amendment
OLT Case No. OLT-23-001176
***** OFFER TO SETTLE *****

We are the lawyers for Westchester Limited (the "**Owner**"), the Owner of the property municipally known 33 Walsh Avenue (the "**Site**") and the applicant and appellant in the above-noted matter.

This Offer to Settle is being made in respect of the above-noted applications filed by the Owner for a Zoning By-law Amendment (the "**Application**") and a companion Site Plan Approval application, which were appealed to the Ontario Land Tribunal (the "**Tribunal**") on November 14, 2023 on the basis of City of Toronto (the "**City**") Council's neglect to make a decision in respect of the Application (the "**Appeal**") and the Site Plan matter. A 13-day hearing before the Tribunal is scheduled to begin on February 18, 2025.

The Site is located at the northeast corner of Weston Road and Walsh Avenue, in North York. The Site has a frontage of 210 metres on Weston Road and 315 metres on Walsh Avenue, with a total combined area of approximately 2.5 hectares. The Site is currently vacant.

On November 11, 2024, the Owner provided to the Tribunal and Parties a revised proposal (the "**OLT Plans**"), consisting of the following site organization elements: a 2,142 square metre parkland dedication on the southeast corner abutting Walsh Avenue and Wilson Avenue; a new 16.5 metre public road commencing at the terminus of Wilson Avenue and proceeding north and east to connect to Walsh Avenue; and a private driveway/internal road system connecting to the proposed public road, servicing the interior of the site and surrounding a central outdoor space.

The built form of the OLT Plans is as follows: Building A consisting of an 8-storey element and a 28-storey tower adjacent to the park; Building B consisting of a 34-storey Building B-1 and a 34-storey Building B-2, linked by a 12-storey element at the south end of the Site Building D, consisting of a 30-storey Building D-1 and a 32-storey Building D-2, linked by a 12-storey element along Weston Road and Walsh Avenue; and Building C, consisting of a 22-storey Building C-1 and a 22-storey Building C-2, linked by an 8-storey element along Walsh Avenue.

The OLT Plans are comprised of approximately 2,757 dwelling units and approximately 184,771 m² of total Gross Floor Area (incl. approx. 791 m² of non-residential Gross Floor Area). The OLT Plans also respect the maximum height restriction of 258.66 m ASL per GTAA and NAV CANADA.

Since the submission of the OLT Plans, the Owner is pleased to have had the opportunity to engage with City staff in further discussion that has led to revisions to the OLT Plans. These further revisions aim to address concerns raised by the City staff.

Further, as noted below, the Owner is open to a further discussion with the City about the provision of in-kind Community Benefits, public pedestrian easements, and public art through the proposed development of the Site.

Revised Proposal and Settlement Offer

Our client has revised its OLT Plans to address issues that have been expressed by City staff, with the aim of resolving the Appeal before the OLT. We would ask that you please now obtain City Council's instruction on this revised proposal (the "**Settlement Proposal**"). We have summarized the changes below:

1. The architectural plans have been revised as follows:

OLT Plans	Settlement Proposal
2,142 square metre parkland dedication at the SE corner abutting Walsh Avenue and Wilson Avenue	Consistent in size and location, parkland dedication is 2,142 square metres.
Building A – 28 storeys with an 8 storey element	Building A – 14 storeys with an 8 storey element (reduction of 14 storeys in the tower element)
Building B – consisting of two towers linked by a 12-storey element Building B1 – 34 storeys Building B2 – 34 storeys	Building B – consisting of two towers linked by an 8-storey element (reduction of 4 storeys) Building B1 – 34 storeys Building B2 – 29 storeys (reduction of 5 storeys in the tower element)
Building C – consisting of two towers	Building C – consisting of two towers linked by

linked by an 8-storey element Building C1 – 22 storeys Building C2 – 22 storeys	an 8-storey element Building C1 – 24 storeys (increase of 2 storeys in the tower element) Building C2 – 16 storeys (reduction of 6 storeys in the tower element)
Building D – consisting of two towers linked by a 12-storey element Building D1 – 30 storeys Building D2 – 32 storeys	Building D – consisting of two towers linked by a 9-storey element (reduction in 3 storeys) Building D1 – 32 storeys (increase of 2 storeys in the tower element) Building D2 – 29 storeys (reduction of 3 storeys in the tower element)
184,771 square metres of Gross Floor Area	168,418 square metres of Gross Floor Area
791 square metres of non-residential Gross Floor Area	1,000 square metres of non-residential Gross Floor Area
	Unit Mix: minimum 15% 2-bedroom and 10% 3-bedroom units

2. In addition to the built form matters captured in the table above, the Owner is also prepared to provide the following as part of the Settlement Proposal:

- a. With respect to residential amenity, the Settlement Proposal will provide indoor and outdoor amenity space in the amount of 4 square metres per unit, with a minimum of 2 square metres per unit of indoor amenity;
- b. With respect to vehicular parking and loading spaces, the Owner will provide resident, visitor, and non-residential parking and loading spaces in accordance with the minimums and maximums set out in City of Toronto Zoning By-law 569-2013, as amended. The site-specific Zoning By-law Amendment will include these minimum and maximum ratios, notwithstanding what may otherwise be shown on the architectural drawings;
- c. Tower floorplates are as shown on the plans submitted with this Offer to Settle and are measured in Gross Construction Area (not including balconies). Tower separation distances have been designed to generally respect a distance of greater than 25 metres between facing buildings, however there are two “pinch-point” locations on the Settlement Proposal. As such, the Owner is prepared to preclude balconies on the north face of Building D-2, and balconies and windows to principal living areas (which does not include bedrooms) have been eliminated on the north elevation of the Building B-2 tower. Please see the architectural floor plans “Proposed Tower Floor Plates” that demonstrate the treatment of this setback condition;
- d. The Owner agrees to provide for the conveyance of the park of 2,142 square metres to the City prior to the first above-grade building permit, in satisfaction of its parkland dedication obligations for the site;

- e. The proposed park will be conveyed in Base Park condition, at the Owner's expense, to satisfy the parkland dedication requirements for this proposed development; Furthermore, the Owner is prepared to complete the Above Base Park Improvements to the public park in exchange for a Development Charge credit;
- f. The Owner agrees to provide the conveyance and construction of the proposed 16.5 metre public right-of-way to the City through the Site Plan Control application for the site at no cost to the City (i.e. not through a separate application for approval of a Draft Plan of Subdivision). The timing of the conveyance and construction of the 16.5 metre public right-of-way in conjunction with the first Site Plan Control application filed in respect of any part of the lands. The Owner will indemnify the City for any and all loss incurred by the City in the event any land transfer tax is payable upon conveyance of the public right-of-way;
- g. The Owner will revise the plans to identify opportunities to increase the provision of non-residential space in Building D-1 at the corner of Walsh Avenue and Weston Road;
- h. The Owner recognizes that Site and Area Specific Policy 67 requires public art, and the Owner is willing to provide for the public art, up to a value of \$500,000.00 and otherwise in accordance with the City's applicable Public Art Program. Such public art will not be considered an in-kind CBC contribution;
- i. The Owner is aware of Staff's comments with respect to the sidewalk locations, which may need to be refined and consider the planting treatments and potential canopies subject to an updated wind study for the Revised Proposal; and
- j. The Settlement Proposal provides for midblock pedestrian connections, to be secured as a public access easement as part of the Site Plan Approval process.

3. If accepted by the City, the Settlement Proposal generally described above will be the basis for settlement of the appeal of the Zoning By-law Amendment. The City will appear at the OLT and advise of its support of the Settlement Proposal at a hearing event;

4. At the hearing of this matter, the Owner and the City will jointly ask the Tribunal to approve the Settlement Proposal in principle and to withhold its final Order on the Zoning By-law Amendment pending the satisfaction of the preconditions set out in Appendix A to this letter.

5. City staff have expressed an interest in a potential community space within Building A adjacent to the proposed park. The Owner will undertake to work with the Chief Planner and Executive Director, City Planning, in consultation with the local Ward Councillor and the City Solicitor, to explore the feasibility of providing an in-kind community benefit, pursuant to Section 37(6) of the Planning Act in the development, for which the total value of the community benefits for the development shall not exceed 4% of the value of the net area of the Site calculated in accordance with Section 37 of the Planning Act and the Community Benefits Charges By-law 1139-2022.

In support of the Offer to Settle, we enclose the Architectural plans and drawings prepared by Graziani + Corazza Architects, dated December 3, 2024, reflecting the Settlement Proposal as described above.

Status of this Offer to Settle

This Offer to Settle is being submitted for consideration by City Council at its meeting on December 17-19, 2024. We ask City Legal to provide us with confirmation that this Offer will be considered at that meeting. Following that confirmation, the Owner will write to the Tribunal and request to postpone the exchange of expert witness statements from December 20, 2024 to some time in January 2025. If not accepted by City Council, this Offer to Settle will expire at the conclusion of the December 17-19, 2024 Council Meeting.

Should you require any further information, documentation, or any other thing, please advise the undersigned as soon as possible, or in his absence Natalie Ast (nast@overlandllp.ca) at (416) 730-0387.

Yours truly,
Overland LLP

A handwritten signature in black ink, appearing to read 'C. J. Tanzola', is written over a faint, light blue rectangular stamp.

Per: Christopher J. Tanzola
Partner

Encl.

Appendix A

List of Preconditions

If the Ontario Land Tribunal allows the subject appeals, in whole or part, City Council instructs the City Solicitor to request that the issuance of any final Order(s) be withheld 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 Zoning By-law Amendment is to the satisfaction of the City Solicitor and the Executive Director, Development Review.
- b. The owner has addressed all outstanding issues identified within the Engineering and Construction Services Part I – Re-zoning Application correspondence, dated November 22, 2023, or as revised, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- c. The owner has submitted a revised Functional Servicing and Stormwater Management Report to determine the stormwater runoff, sanitary flow, and water supply demand resulting from the proposed development, and whether there is adequate capacity in the existing municipal infrastructure to accommodate the proposed development to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- d. The owner has submitted a revised Traffic Impact Study including Transportation Demand Management (TDM), vehicular access, parking, loading, and driveway locations appropriate to pedestrian safety and the public park, demonstrating conformance with City's Complete Streets Guidelines and Development Infrastructure Policy and Standards (DIPS), to the satisfaction of the General Manager, Transportation Services, Chief Engineer and Executive Director of Engineering and Construction Services, Chief Planner, City Planning, and the Executive Director, Development Review.
- e. 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 Transportation Impact Study, that a Holding Provision be included in the final form of the Zoning By-law Amendment and the Holding Provision not to be lifted until such a 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 of Engineering and Construction Services, and the General Manager, Transportation Services.

- f. The owner has submitted a revised Hydrological Assessment Report, and Hydrological Review Summary Form, Servicing Report Groundwater Summary Form and Foundation Drainage Summary Form to determine the quality and quantity of groundwater that may be required to be discharged to the City sewage works as a result to of a proposed development and comply with Foundation drainage policy and guidelines to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services, and the General Manager, Toronto Water.
- g. The owner has addressed all outstanding issues identified in the Toronto Transit Commission memorandum, dated October 11, 2022, or as revised, to the satisfaction of the Chief Executive Officer, Toronto Transit Commission, General Manager, Transportation Services, and the Executive Director, Development Review.
- h. The owner has submitted revised Landscape and Planting Plans, including a soil volume plan to meet TGS requirements, to the satisfaction of the General Manager, Parks, Forestry and Recreation, Chief Planner, City Planning, and the Executive Director, Development Review.
- i. The owner has submitted an Energy Strategy Report to the satisfaction of the Executive Director, Environment and Climate Division.
- j. The submitted Air Quality and Land Use Compatibility Assessment, and Transportation Noise and Vibration Assessment, both dated August 31, 2022 and authored by Gradient Wind Engineers and Scientists, have been peer reviewed by a third-party consultant retained by the City at the owner's expense to confirm there are no negative impacts on the proposed development or surrounding uses, and the owner agrees to implement any necessary air quality, noise, vibration or land use compatibility control measures and recommendations identified through the peer review, with the control measures to be secured through the Site Plan Control process, to the satisfaction of the Executive Director, Development Review.
- k. The owner has submitted a revised Shadow/Study which includes testing on March 21, June 21 and September 21, to the satisfaction of the Chief

Planner, City Planning, Executive Director, Development Review, and General Manager, Parks, Forestry and Recreation.

- l. The owner has submitted a revised Pedestrian Level Wind Study including a Wind Tunnel Study (WTS), and changes in design and massing necessary to address unacceptable wind impacts on the public park, public realm, entrances, and amenity areas have been made to the satisfaction of the Chief Planner, City Planning, and Executive Director, Development Review.
- m. The owner has provided revised plans and statistics to demonstrate a minimum of 15% 2-bedroom units and a minimum of 10% 3-bedroom units are included in the proposed development per the City's Growing Up Urban Design Guidelines, to the satisfaction of the Chief Planner, City Planning, and Executive Director, Development Review.
- n. The owner has mapped the existing 30 NEF/NEP contour line in relation to the proposed development, and has worked with the Greater Toronto Airports Authority (GTAA) to ensure that any residential dwellings units that may be located within the 30 NEF/NEP contour line are subject to conditions and/or warning clauses registered on title, as appropriate, to be secured to through the Site Plan Control process, to the satisfaction of the GTAA, and the Executive Director, Development Review.
- o. The owner has provided revised plans to demonstrate that public art will be provided per Site and Area Specific Policy 67, up to a value of \$500,000.00, to be secured to through the Site Plan Control process for the Phase that the public art is located within, to the satisfaction of the Chief Planner, City Planning and Executive Director, Development Review.
- p. The owner has provided revised plans and statistics to demonstrate adequate size, location, configuration, and phasing of the public road, including any required road widening identified in the accepted TIS, with road conveyance to be secured through the Site Plan Control to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- q. The owner has provided revised plans and statistics to demonstrate adequate size, location, and configuration of the on-site parkland dedication, with conveyance to be secured prior to the issuance of the first above grade building permit for the first Phase of site development, to the satisfaction of the General Manager, Parks, Forestry and Recreation.