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January 29, 2025

Our File No.: 201929

**WITHOUT PREJUDICE**

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

**Attention: Mark Crawford, Solicitor, Legal Services Division and Adam Ward, Solicitor,  
Legal Services Division**

Dear Sirs:

**Re: 411-415 Kennedy Road, 636 and 641-663 Danforth Road, 3569-3595 St. Clair  
Avenue East  
City of Toronto File Nos. 20 211279 ESC 20 OZ, 20 211392 ESC 20 OZ, 20 211430  
ESC 20 OZ, 20 211336 ESC 20 SB  
Conditions to Issuance of Final Order – Bifurcation of Pre-conditions**

We are solicitors for Toronto (Scarborough Junction) Limited Partnership in respect of the properties known municipally as 411-415 Kenney Road, 636 and 641-663 Danforth Road and 3577-3595 St. Clair Avenue East (the “**Property**”) and write further to City Council’s acceptance of our client’s without prejudice settlement offer to resolve our client’s official plan amendment, zoning by-law amendment and draft plan of subdivision applications for the Property (the “**Applications**”). We continue to work to get the approval before the Ontario Land Tribunal (the “**Tribunal**”) for its determination and anticipate submitting materials to the Tribunal shortly. However, our client would like to ensure that the pre-conditions to the issuance of a final order from the Tribunal be set out in a manner that will allow the zoning to be in place for the additional lands, being Blocks A1 and A2 (the “**Additional Lands**”), in advance of meeting all of the pre-conditions related to the lands within the draft plan of subdivision.

As you know, City Council instructed the City Solicitor to request the Ontario Land Tribunal (the “**Tribunal**”) to withhold its Order until the City Solicitor has advised that certain pre-conditions were satisfied (the “**Pre-Conditions**”). While City Council’s decision did not explicitly note that the Pre-Conditions were not all applicable to all portions of the Property, we expect that City staff will agree, upon full reflection, that it is a logical inference given that not all of the Pre-Conditions are relevant to all of the Property (the Additional Lands are not part of the draft plan of subdivision and the rental housing demolition application is not related to the subdivision lands). We have

reviewed all of the Pre-Conditions and separated them into three sets of conditions as follows: i) Pre-Conditions for Subdivision Lands; ii) Pre-Conditions for Block A1; and, iii) Pre-Conditions for Block A2. For your ease of reference, here is a highlighted excerpt from the rendered site plan submitted with our client's without prejudice settlement offer that highlights the Additional Lands as being separate from the subdivision lands:



## i) Pre-Conditions for Subdivision Lands

For the portions of the Property that are covered by the draft plan of subdivision (the “**Subdivision Lands**”), all but one of the Pre-Conditions are relevant. The lone exception is the requirement to have approval of Rental Housing Demolition Application 21 123167 ESC 20 RH (the “**Rental Housing Condition**”). However, to give the City complete assurance that the Rental Housing Condition is satisfied before there is any redevelopment on the Property, we suggest that all of the Pre-Conditions continue to apply to the Subdivision Lands. For your ease of reference, here are the Pre-Conditions that we propose will have to be met prior to a final order being obtained from the Tribunal to implement the zoning for the Subdivision Lands:

City Solicitor has advised that:

- a. the final form and content of the draft Official Plan Amendment(s) for the Subdivision Lands, including phasing as it relates to the construction of a new GO Station on Block "E" and all ancillary spaces and uses within the first phase of development, and Zoning By-law Amendment(s) for the Subdivision Lands are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b. the Owner has provided Site and Area Specific Policies for inclusion in the above Official Plan Amendment to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, including policies on issues such as urban structure, land use, density, transportation network (including public streets and right-of-way widths, pedestrian and cycling network), parkland, public realm, built form, housing, community services and facilities, implementation, together with any associated maps and schedules;
- c. in the event that the City has exercised its option to acquire Block A2 or to fund a community centre use on Block F, the Owner has entered into an In-kind Contribution Agreement pursuant to section 37(7.1) of the Planning Act to secure any in-kind contribution referenced above;
- d. the Owner has provided a Public Street 'C' Interim Block Context Plan in coordination with the Owners of 375 Kennedy Rd. and 399 Kennedy Rd., which includes existing and proposed grading information, to demonstrate acceptable alignment and grading conditions for Public Street 'C' in relation to 399 Kennedy Rd., to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- e. the Owner has submitted a revised Functional Servicing and Stormwater Management Report and a Hydrogeological Report or addendums ("Engineering Reports"), to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services, or it has been determined that a holding provision applicable to particular lands is otherwise required in the Zoning By-law amendment(s);
- f. the Owner has entered into a financially secured Development Agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support the development, according to the Site Servicing Review and Traffic Impact Study

- accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- g. the Owner has addressed all outstanding issues raised by Development Engineering, Solid Waste Management and Transportation Services in the Engineering and Construction Services Memorandum dated July 25, 2023, as they relate to the Zoning By-law Amendment application to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services;
  - h. the Owner has submitted a revised draft plan of subdivision to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Transportation Services, and the General Manager, Parks, Forestry and Recreation;
  - i. the Owner has submitted a Wind Tunnel Study of Pedestrian Level Wind Conditions for the proposed development, and agreed to implementation of mitigation measures identified in such study, satisfactory to the Chief Planner and Executive Director, City Planning;
  - j. the Owner has provided a final form of a Phasing Plan on the Development Site to the City in a form and content acceptable to the Chief Planner and Executive Director, City Planning, in consultation with the General Manager, Transportation Services, the General Manager, Parks, Forestry and Recreation, and the Chief Engineer and Executive Director, Engineering and Construction Services;
  - k. execution of commercial agreement(s) between the owner and Metrolinx related to, without limitation, delivery of any future Scarborough GO Station infrastructure, including phasing requiring the construction of a new GO Station on Block “E” and all ancillary spaces and uses within the first phase of development by the owner and securing the inclusion and registration of the required Metrolinx warning clause(s) applicable at the time, in all future purchase for sale and/or lease agreements, to the satisfaction of Metrolinx;
  - l. the owner has provided a noise and vibration study and secured any related mitigation measures, all to the satisfaction of Metrolinx;
  - m. the owner has provided a rail safety report (in accordance with Metrolinx guidelines and The Federation of Canadian Municipalities and The Railway Association of

- Canada guidelines) and secured any related mitigation measures, all to the satisfaction of Metrolinx;
- n. the owner has provided a stormwater management report confirming no adverse impact to the adjacent rail corridor or future GO Station, to the satisfaction of Metrolinx. Any proposed alterations to the existing drainage pattern affecting the rail corridor must receive prior consent from Metrolinx; and,
  - o. City Council has approved the Rental Housing Demolition Application 21 123167 ESC 20 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006 and, should City Council authorize the demolition, that the Owner has entered into, and registered on title to the lands, an agreement pursuant to Section 111 of the City of Toronto Act securing the replacement of the existing rental dwelling units and rents, tenant assistance to mitigate hardship, and other rental related matters, all to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning.

## **ii) Pre-Conditions for Block A1**

As provided for in the Applications and the settlement offer accepted by City Council, the northern portion of the Additional Lands is Block A1 (“**Block A1**”). Many of the Pre-Conditions are unrelated to whether the zoning for Block A1 can be finalized. Here is a list of the relevant Pre-Conditions that we suggest as the Pre-Conditions for Block A1 that will have to be met prior to a final order being obtained from the Tribunal to implement the zoning for Block A1:

City Solicitor has advised that:

- a. the final form and content of the draft Official Plan Amendment(s) for Block A1 and Zoning By-law Amendment(s) for Block A1 are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b. City Council has approved the Rental Housing Demolition Application 21 123167 ESC 20 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006 and, should City Council authorize the demolition, that the Owner has entered into, and registered on title to the lands, an agreement pursuant to Section 111 of the City of Toronto Act securing the replacement of the existing rental dwelling units and rents, tenant assistance to mitigate hardship, and other rental related matters, all to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;



- c. the Owner has submitted a revised Functional Servicing and Stormwater Management Report and a Hydrogeological Report or addendums ("Engineering Reports"), to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services, or it has been determined that a holding provision applicable to particular lands is otherwise required in the Zoning By-law amendment(s);
- d. the Owner has entered into a financially secured Development Agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support the development, according to the Site Servicing Review and Traffic Impact Study accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services; and,
- e. the Owner has addressed all outstanding issues raised by Development Engineering, Solid Waste Management and Transportation Services in the Engineering and Construction Services Memorandum dated July 25, 2023, as they relate to the Zoning By-law Amendment application to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services; and,
- f. the Owner has submitted a Wind Tunnel Study of Pedestrian Level Wind Conditions for the proposed development, and agreed to implementation of mitigation measures identified in such study, satisfactory to the Chief Planner and Executive Director, City Planning.

### **iii) Pre-Conditions for Block A2**

As provided for in the Applications and the settlement offer accepted by City Council, the southern portion of the Additional Lands is Block A2 ("**Block A2**"). Many of the Pre-Conditions are unrelated to whether the zoning for Block A2 can be finalized. Here is a list of the relevant Pre-Conditions that we suggest as the Pre-Conditions for Block A2 that will have to be met prior to a final order being obtained from the Tribunal to implement the zoning for Block A2:

City Solicitor has advised that:

- a. the final form and content of the draft Official Plan Amendment(s) for Block A2 and Zoning By-law Amendment(s) for Block A2 are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;

- b. City Council has approved the Rental Housing Demolition Application 21 123167 ESC 20 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006 and, should City Council authorize the demolition, that the Owner has entered into, and registered on title to the lands, an agreement pursuant to Section 111 of the City of Toronto Act securing the replacement of the existing rental dwelling units and rents, tenant assistance to mitigate hardship, and other rental related matters, all to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- c. in the event that the City has exercised its option to acquire Block A2 or to fund a community centre use on Block F, the Owner has entered into an In-kind Contribution Agreement pursuant to section 37(7.1) of the Planning Act to secure any in-kind contribution referenced in Part 2 above;
- d. the Owner has submitted a revised Functional Servicing and Stormwater Management Report and a Hydrogeological Report or addendums ("Engineering Reports"), to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services, or it has been determined that a holding provision applicable to particular lands is otherwise required in the Zoning By-law amendment(s);
- e. the Owner has entered into a financially secured Development Agreement for the construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support the development, according to the Site Servicing Review and Traffic Impact Study accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Transportation Services;
- f. the Owner has addressed all outstanding issues raised by Development Engineering, Solid Waste Management and Transportation Services in the Engineering and Construction Services Memorandum dated July 25, 2023, as they relate to the Zoning By-law Amendment application to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Toronto Water, and the General Manager, Transportation Services; and,
- g. the Owner has submitted a Wind Tunnel Study of Pedestrian Level Wind Conditions for the proposed development, and agreed to implementation of mitigation measures identified in such study, satisfactory to the Chief Planner and Executive Director, City Planning.

Please confirm if the City agrees to the above framing of the Pre-conditions before the Tribunal. Assuming the City agrees, we will ask Mr. Volpentesta to make edits to his proposed affidavit to reflect the above framework. Further, we will prepare a draft interim order for your review and consideration with the intention that the parties submit it to the Tribunal for adoption on consent.

If you have any questions, comments or concerns, please contact the undersigned at your convenience. Our client would like to advance this at the Tribunal immediately so your early attention to this matter is greatly appreciated.

Yours truly,

**Goodmans LLP**



Rodney Gill  
RJG/

1382-7035-8290