

Jul 17

Appendix 1

July 17, 2007

Our File No.: 05-3920

Without Prejudice & Confidential

By E-mail

Lynda Macdonald, Manager, Community Planning
West Section, Toronto and East York District
City of Toronto
100 Queen Street West
Toronto, ON
M5H 2N2

Dear Ms. Macdonald:

Re: Proposed Settlement Regarding 48 Abell Street (Phase 1 and Phase 2)

Thank you for meeting with Hanita Braun and me on July 16th. I am writing to confirm our discussion of July 16, 2007 with you and the resulting settlement, which will be presented to City Council for approval.

The settlement will be comprehensive and would include all of the following:

- comments from site plan circulation by July 31, 2007;
- final official plan and zoning by-law amendments, a draft section 37 agreement and draft conditions of site plan approval for Phase 1 and Phase 2 by September 1, 2007;
- issuance of demolition and excavation permits by September 15, 2007;
- direction from City Council that staff expedite site plan review for Phase 1 and Phase 2;
- the City's acknowledgement that it will seek no further challenges of the Ontario Municipal Board decision regarding 48 Abell Street (which approved Phase 1 and Phase 2 on the 48 Abell lands) and the Section 43 decision, including the withdrawal of the City's motion to seek leave to appeal to Divisional Court; and
- request that City Council direct City staff to settle as soon as possible all matters relating to 48 Abell Street generally in accordance with the details below, with discretion to make changes that are consistent with the terms of this proposal.

In the event that Council approves this settlement, our client confirms that it will not seek costs against the City on the original Ontario Municipal Board hearing, the City's motion for leave to appeal to Divisional Court or the City's Section 43 motion.

Built Form

The general built form for Phase 1 and Phase 2 would be as follows:

- south side of mews building – no stepback on the south side, with balconies permitted to project no more than 0.45 metres on the first four floors (the podium) and no more than 0.75 metres on the upper floors;
- north side of mews building – 2.5 metres stepback above the 4th floor and 2.5 metres stepback above the 6th floor, with balconies permitted to project no more than 0.75 metres beyond the face of the wall to which it is attached;
- building heights for Phase 1 and Phase 2 – as per the Ontario Municipal Board decision, with the exception that all the buildings (Phase 1 and Phase 2) are permitted elevator overruns of 1.5 metres (and stairwell access to the roof of 2.5 metres).

Non-Residential Uses

My client confirms that it will work with City staff to achieve a non-residential density close to 0.5 times the area of the lot (for Phase 1 and Phase 2 combined), including the 9 workshops on the mews, the gallery, the café, the boutique and the additional workshop on Abell Street and one workshop at-grade in the west tower, as well as the affordable artists live/work units at less than or equal to 1.0 times the CMHC average market rents on the 2nd, 3rd or 4th floors of the west tower (unless further subsidy can be made available for those units from as yet unidentified sources). My client also confirms that if the location of the non-residential spaces change, it is subject to agreement by City Planning staff.

Artist Live/Work Units

My client confirms that all artist live/work units in Phase 1 will include operable windows and fans in the living area. My client would also ensure that any artistic activities that may be prohibited in the live/work units (including, but not limited to, aerosol use or shellacking of large canvasses) could be undertaken in the shared tenant workshop in Phase 1. Ceiling heights in the artist live/work units in Phase 1 will be a minimum of 9'0" from floor to ceiling.

The specific details of how artist tenants in Phase 1 would be selected and how the units would be managed will be developed by St. Clares MultifaitH Housing Society in consultation with appropriate City departments (such as Planning, Culture and Affordable Housing) and will be consistent with the terms of the City's recent affordable housing RFP, under which this building was selected.

Housing for Families

My client confirms that the minimum number of units designed to be suitable for larger households in both Phase 1 and Phase 2 will be generally consistent with the site plans dated February 28, 2007, which we understand satisfies the City's requirements for such units.

Parking

My client confirms that it will provide 221 spaces in total for the 300 market condominium units in Phase 2 (including 3 for car-share and 0.12 per unit for visitors) and 22 spaces in total for the 190 affordable units in Phase 1 (3 more than required pursuant to the 10% standard for affordable rental housing projects in the City's zoning by-law, which includes visitor parking), although there is an opportunity to provide additional spaces as necessary and determined during the implementation of the affordable rental housing building.

Section 37 Contribution

My client confirms the following two components of the Section 37 contribution for Phase 2 (given that no Section 37 contribution is required for Phase 1):

1. agreement to sell approximately 6 workshops fronting on the mews for affordable arts-related space to the City, or an art-space management organization acceptable to the City, at \$250.00 per square foot, which is significantly below market rate (indexed from the date of this settlement); and
2. potential costs of relocating the tenants in the 20 units required to be demolished to enable the construction of Phase 1 (including costs associated with moving and early termination of leases), with a currently estimated upset limit of \$110,000. Should the costs of relocating the tenants be less than \$110,000, the City would be entitled to use the difference towards the purchase of additional workshops fronting on the mews.

The total of the two above-noted components constitutes the entirety of the Section 37 contribution for 48 Abell Street. However, my client agrees that the City has an option to purchase additional workshops fronting on the mews for affordable arts-related space at market rates of \$350.00 per square foot (indexed from the date of this settlement).

Private Patios in the Courtyard

My client confirms that the area within 3 metres of the building façade within the south courtyard shall not be publicly accessible. Fences of 1.2 metres will be permitted within these areas, as well as planter boxes of an additional 0.2 metres to provide enhanced privacy to these areas.

Public Access to Landscaped Open Space

The publicly accessible landscaped open spaces on the 48 Abell lands shall be accessible to the public as if they were public parks, with access not limited by time of day, subject to necessary restrictions for security and maintenance. Permitted activities would be those generally permitted in public parks (without the need for special permits). The City agrees that the landscaped area within the courtyard will be designed to encourage passive activities rather than active recreation.

Additional Matters

My client confirms that it will continue to co-operate and assist the City in its efforts to move the ramp out of the south courtyard, as well as in mitigating wind impacts along the Northcote open space and the pedestrian mews.

I trust that this letter accurately summarizes our discussions and the resulting settlement. Please confirm the City's acceptance of this offer by Wednesday at noon so that we may advise the Divisional Court that the City has withdrawn its motion for leave to appeal to Divisional Court, at least with respect to the Ontario Municipal Board decision regarding 48 Abell Street.

Yours very truly,

GOODMANS LLP

Per:

DAVID BRONSKILL
(original signed)

David Bronskill
DJB/