

Jul 18

Appendix 2

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Our File No. 061901

2007-07-18

Without Prejudice and Confidential

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, 1171 Queen Street West (the "Bohemian") and related Baywood Sites

We are writing further to our settlement discussions with the City on July 13 and July 16, 2007, and our subsequent telephone conversations. I am writing to propose the following Settlement Proposal for Council's consideration:

1. Comprehensive Nature of Settlement

- City Planning will recommend this Offer to City Council for approval on or before July 18, 2007
- If approved by Council, the City would immediately withdraw its application for leave to appeal at Divisional Court and agree not to initiate any other litigation or administrative review concerning planning approvals with respect to 1171 Queen Street West, including but not limited to an appeal of OMB Decision No. 0052 issued January 10, 2007 (the "Decision") and OMB Decision No. 1952 issued January July 10, 2007 (the "Review Decision")
- If approved by Council, Baywood and related companies would not pursue costs against the City with respect to the Decision, the Review Decision or leave to appeal application

2. Timing

- Comments from City departments on revised site plan by July 30, 2007, except for comments on revised landscaped plans by August 15 2007
- Draft site-specific Official Plan and Zoning By-law amendments and draft site plan conditions by September 1, 2007
- Staff to expedite the processing of the shoring and excavation permits for 1171 and 1155 Queen Street West (the Car Wash Site) and issue them by September 15, 2007 (prior to final site plan approval)
- Final Report on Rezoning & Site Plan for Car Wash Site to be before Council for November meeting

3. Parkland purchase at 2-90 Lisgar

- The City and Baywood will continue to work together to achieve a 0.4 hectare park at the north end of this property

4. Built Form

As approved by the OMB, subject to the following:

- Rear building as approved by the OMB (heights, articulation, balconies, etc.) but with an additional height of 1.1 metres for no more than 10% of the mechanical penthouse
- Front building as approved by the OMB but with the archway shifted westward to be aligned with the centre-line of Northcote Avenue (+/- 1m)
- Minimum ground floor-to-floor height as shown in Attachment 1

5. Mix of Uses

As approved by the OMB, subject to the following:

- Slight increase in non-residential space above OMB decision on the 1171 Queen St site because of shift in archway location (approx. 111 sq.m. more)
- Baywood will provide a minimum of .625 times non-residential across all of its sites (1093, 1155, 1171 and 1187 Queen Street West and 2-90 Lisgar Street), subject to approval by the City and/or the OMB
- Definition of non-residential as per the proposed zoning by-law for the West Queen West Triangle (above or below grade parking (whether public or private) does not count toward minimum non-residential requirement and artist live/work units only count as non-residential if they are secured at affordable rents (less than or equal to 0.8x CMHC average rents))
- No non-residential uses required on the mews west of the grade change/stairs (approaching 1187 Queen Street West).

6. Uses

- Precise list of permitted non-residential uses (including limits on restaurants and retail stores) as per the proposed Zoning By-law for the West Queen West Triangle

7. Garbage/Loading/Serviceing

- Consolidating garbage and vehicular ramps: include the further consolidation of the at-grade loading area for 1155, 1171 and 1187 Queen (as presented on July 13, 2007), such that the garbage pick-up/loading for 1155/1171/1187 is all located in the base of 1171 Queen
- Discuss screening, aesthetics and function of the area through the site plan approval process

8. Timing of Sudbury Street Extension

- Complete the road and crash wall from Queen Street to 150 Sudbury's west property line prior to occupancy of 1171 Queen Street

9. Projections

- Projecting balcony depths as shown on the drawings approved by the OMB, except that no part of any structure can extend beyond the angular plane also approved by the Board, with the exception of the tower feature element crowning the passage as approved by the OMB, minor architectural elements and glass balustrades as shown in Attachment 2.

10. Publicly Accessible Landscaped Open Space

- The publicly accessible open spaces on the 1171 Queen Street lands shall be accessible to the public as if they were a public park, with access not limited by time of day, subject to necessary restrictions for security and maintenance. Permitted activities would be those activities as generally permitted in public parks (without the need for special permits). The City agrees that the landscaping of the publicly accessible open space will encourage passive activities rather than active recreation.

11. Northcote Landscaped Open Space

- Submit revised landscape plans to limit wind conditions and ensure that the area is comfortable for sitting, standing and strolling
- Improve the relationship between the landscaped open space and the west building at 48 Abell Street
- Secure convenient north-south bicycle and wheelchair connection

12. Stairs to West

- Look at the possibility of widening and reducing the incline of the stairs to the western section of the mews

13. Parking

- Minimum parking for 1171 Queen: as per the WQW Triangle ZBL (0.3, 0.7, 1.0, 1.2 spaces per residential unit based on unit type) for residents minus a 5 space credit for every car share space provided and automatic permission for up to 10% small car spaces and 0.12 spaces per residential unit for visitors).

14. Housing Mix

- Minimum of 25% of units with 2 bedrooms or more
- Minimum of 75% of any residential units at grade must have 2 bedrooms or more, unless they are affordable artist live/work units.

15. Section 37 Contributions:

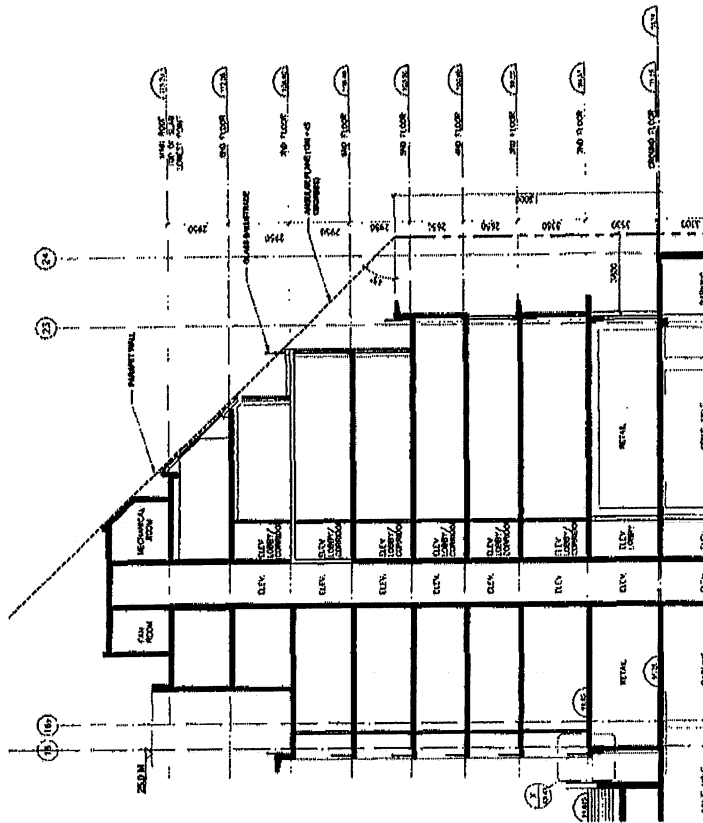
- \$500,000 (indexed to September 5, 2006) in cash, for the purchase of affordable artist work space or affordable artist live/work space in the West Queen West Triangle prior to first above grade building permit. Should the City choose to seek a public art component, it would be included within the \$500,000 contribution.
- Final amount to be negotiated following receipt and review of information on S. 37 contributions for comparable sites

I trust that this letter accurately summarizes our discussions and the resulting settlement. Please contact me if you have any questions. Also, please confirm the City's acceptance of this offer no later than Wednesday July 18 by noon, so that we may advise the Divisional Court that the City has withdrawn its motion for leave to appeal, at least with respect to the OMB Decision 0052 regarding 1171 Abell Street.

Yours very truly,

Macdonald Sager Manis LLP

original signed by
Ronald M. Kanter



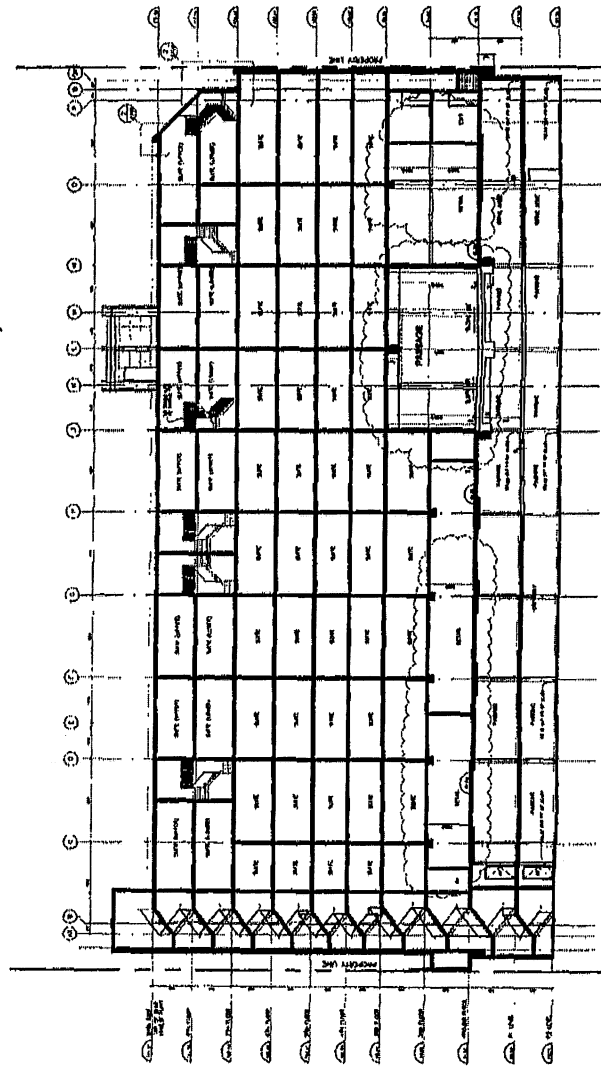
1171 Queen Street west

Building Section Thru Queen Building

Applicant's Submitted Drawing

Not to Scale
DT1007

File # 05 199764



Ground Floor Retail Heights

Applicant's Submitted Drawing

Not to Scale
07/18/07

1171 Queen Street West

File # 05-199764