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January 23, 2020

Via Email

Our File No.: 132033

Mayor and Members of City Council
City of Toronto
100 Queen Street West
Toronto ON
M5H 2N2

Attn: Ulli Watkiss, City Clerk

Dear Ms. Watkiss:

**Re: King-Spadina Secondary Plan Update – Final Report and Draft King-Spadina Secondary Plan
Item TE12.4
Council Meeting Date: January 29, 2020**

We are writing on behalf of the owners of the following properties in the King-Spadina area:

- 590 King Street West and 471-473 Adelaide Street West;
- 345-349 Adelaide Street West; and;
- 129 Spadina Avenue.

At its meeting on January 8, 2020, Toronto and East York Community Council ("TEYCC") considered a Staff Report entitled "King-Spadina Secondary Plan Update – Final Report", dated December 12, 2019 (the "Staff Report") attaching a draft King-Spadina Secondary Plan. TEYCC recommended that City Council adopt the draft King-Spadina Secondary Plan.

We have now had an opportunity to review the Staff Report and the draft King-Spadina Secondary Plan. Our client has a number of concerns with respect to the prescriptive and rigid nature of certain aspects of the policy framework being proposed. Although not exhaustive, we note our client's concerns with the following policies:

- Policy 3.1.2.1 (Objectives) requires the replacement of all non-existing non-residential gross floor area and Policy 3.1.2.2 requires any development to have a minimum of 25 percent of the total gross floor area as non-residential uses. It appears that City Staff are attempting to reintroduce the policies which had been contained in the Council adopted version of the OPA 406, the Downtown Plan, but which were significantly modified by the Minister when OPA 406 was modified and approved. These policies are unduly prescriptive and rigid and have recently been rejected by the Minister. In our submission, greater flexibility, including the incorporation of language to "encourage" the achievement of these objectives, is appropriate.
- Section 4 (Parks and Public Realm) includes policies dealing with laneways and mid-block connections. Policy 4.4 suggests that land would be taken through development review to create mid-block connections. In our client's view, this would represent a taking

by the municipality in a manner which would otherwise not be permitted and is inappropriate. Greater flexibility, including the incorporation of language such as “where feasible and appropriate”, would improve these policies.

- Policy 6.3 (Base Buildings) prescribes a minimum 3-metre setback from base buildings (undefined) on all new development. In our submission, specific setbacks should be addressed in the Zoning By-law and considered on a site-specific basis at the rezoning stage in order to take account of built form characteristics and respond to the specific context.
- Policy 6.5 (Creating a Comfortable Microclimate) incorporates a *no net-new shadow* test in respect of certain parks within the Secondary Plan area. Again, this *no net-new shadow* test was directly addressed in the Province’s revisions to the Downtown Plan. In our submission, the City ought not to attempt to impose this inappropriate policy requirement once again.
- Policy 6.11 (West Precinct) imposes a 50 metre (including mechanical penthouse and all projections) height limit in *Mixed-Use Areas 2*. Contrary to the statements contained in the Staff Report, there are a number of developments within the West Precinct which have exceeded 50 metres in height. The suggestion that 50 metres is a consistent or appropriate height datum in the West Precinct has been refuted on a number of occasions in recent LPAT decisions. In our submissions, the appropriate height of new development should be addressed in the Zoning By-law and considered on a site-specific basis through the rezoning process.
- Policy 6.14 (West Precinct) prescribes a mandatory 5.5 metre setback from all property lines not adjacent to a public street or a public lane, together with the requirement for a setback of 5.5 metres from the centre line of a public lane. This policy unduly restricts intensification of sites with narrower frontages. Greater flexibility should be given to permit the consideration, at the rezoning stage of, whether and what setback might be required in the context of a particular site.
- Policy 8.3 (Monitoring, Implementation and Development Approvals) introduces a requirement for a Heritage Impact Assessment for all development proposals in the King-Spadina area. This requirement applies regardless of whether there are any heritage resources on or adjacent to the development site, which is both inappropriate and unnecessary.
- Unlike the approved Downtown Plan, the draft Secondary Plan does not incorporate any policies to address the issue of transition. A transition policy should be added to clarify that the Secondary Plan does not apply to sites which are subject to previously approved Zoning By-law Amendments or minor variance applications, or to development applications that are submitted prior to the Secondary Plan coming into force.

Given the outstanding concerns, we request that the draft King-Spadina Secondary Plan be referred back to planning staff for further consultation with affected landowners and consideration of further revisions, prior to being considered by City Council for adoption.

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If you have any questions, please contact the undersigned or Maggie Bassani (mbassani@airdberlis.com/416-865-3401). In addition, please provide us with notice of all upcoming public meetings and any decisions of City Council, including Committees of Council, concerning this proposed Secondary Plan.

Thank you for your consideration of the foregoing.

Yours truly,

AIRD & BERLIS LLP



Kim M. Kovar
KMK/as

cc: Client, via email

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