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Our File No.: 56010.108

January 24, 2020

Via E-Mail: councilmeeting@toronto.ca

Your Worship, Mayor John Tory and Members of
City of Toronto Council

Attention
City Clerk Secretariat
c/o Marilyn Toft
12th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Mayor and Members of Council:

**Re: Proposed King-Spadina Secondary Plan
30 Mercer Street**

We act on behalf of IRIS International, an owner of the land and building known municipally as 30 Mercer Street, Toronto (the "**Property**"). The Property is located within the boundaries of the proposed King-Spadina Secondary Plan (the "**Proposed Plan**") and as identified on Map 16-1 within the East Precinct.

The Proposed Plan

By letter dated January 31, 2019, our client wrote to City Planning (copy attached) providing its position with respect to the iteration of the Proposed Plan that was available at that time.

Our client is generally supportive of the Proposed Plan. In particular, our client supports the overall direction of the Proposed Plan to encourage growth and the identification of the Property, and its abutting properties, as falling within the "Mixed Use Area 1" designation as shown on Map 16-2.

While our client is generally supportive of the Proposed Plan, there are a number of policies they have concerns with as they fear that if those policies are adopted they will "not be consistent with, and do not conform with" the policies of the Provincial Policy Statement, a Place to Grow: Growth Plan for the Greater Golden Horseshoe Area, or with the overall objectives of the Proposed Plan to encourage growth.

We have outlined below the areas of the Proposed Plan we believe could be improved so that it would better enable diverse and sustainable growth that would better implement provincial policy and the City's overall goals as stated in the Official Plan.

Concerns

Our client's concerns with the Proposed Plan are as follows (note these are in addition to any concerns from the January 31, 2019 letter that have not yet been addressed):

1. Policy 1.2 speaks to the policy that Heritage Conservation District Plans will prevail over the Proposed Plan. This is concerning given that the Property is within an appealed proposed Heritage Conservation District. Policy 1.2 specifically says that "in the case of conflict...the Heritage Conservation District Plans will prevail". It is our client's concern that it is premature to include such a policy when the applicable Heritage Conservation District has been appealed and therefore, is not in force.

2. Policies 1.4 and 1.5 Interpretation references two documents that the City will be relying upon to "guide development review" and "to evaluate proposed development" (Public Realm Strategy and Urban Design Guidelines) that are not being adopted pursuant to *Planning Act* provisions and therefore, are not subject to formal public scrutiny before implementation. We note that Policy 8.4 also notes these documents are not *Planning Act* approved. This is not supportable.

3. As discussed in great detail in our client's January 31, 2019 letter, our client has a number of ideas about addressing the goal of protecting certain non-residential uses. Our client understands the City's intent with Policies 3.1.1.1 and 3.1.2, but we suggest that as written the policies do not provide sufficient flexibility to effectively achieve the broader employment objectives of the Proposed Plan and provincial policy. Specifically, we suggest that Policy 3.1.2 be expanded such that the replacement of existing non-residential GFA takes into consideration both the existing non-residential gross floor area and the jobs that are being replaced. For example, if a site currently operates with a low employment density, then the policy should take that into consideration when looking at new development proposals. This way proposals that could result in less non-residential GFA but more people employed are not outright prohibited.

Policy 3.1.2 also attempts to set a universally applicable policy around allocating a significant percentage of gross floor area as non-residential uses. While our client understands the City's objective to ensure that the King-Spadina Area maintains a diverse mix of residential and non-residential uses, the implementation of a uniform standard on every lot is not the best means to achieve this goal. As can be seen by the success of the King-Spadina Area, a more flexible approach should be taken – ultimately, some sites will be best suited to provide only non-residential uses, some sites primarily residential uses, and others a mix of uses. Our client believes a more flexible approach is consistent with the in-force Downtown Plan which is a Plan that specifically rejected setting a minimum non-residential gross floor area for all developments within King-Spadina.

Our client recognizes that as suggested in its letter of January 31, 2019, the Proposed Plan has removed the policies that imposed cultural sector employment over other types of employment as the



City should not be using land use planning to determine what industry an office worker's product is supplied to.

4. Policy 4.7 states "Laneways will be expanded...". As our client's Property abuts a laneway on two sides, this very open ended policy cannot be supported as written. In fact, the policy appears to run counter to Policy 4.9 that states "Additional land may be required..."

5. Policies 4.10 through 4.14 and Map 163B speak to "mid-block connections". Our client is concerned about the lack of clarity this provides with respect to its Property. If the policies only apply to the City's existing public lane that is different than if the City is considering requiring an expansion to the north/south lane across our client's Property. That is another issue and more details are required at this time.

6. It is our client's position that Policy 6. Built Form is overly prescriptive with its "one size fits all" formulas. We provide two examples of what might appear to be insignificant policies, but in fact could have a major impact on the design of redevelopment projects. For example, Policy 6.2.3 requires increased setbacks for "retail displays" where retail is planned at grade. What is the justification for that to occur on every occasion? Policy 6.3.2 prohibits projections into the "required" stepback area. Again, there is no justification for this to occur on every site.

7. Our client is very concerned about the individual and cumulative impact of Policies 6.3.1, 6.3.3., and 6.6.2. on the Property. This "one size fits all" approach with Policies 6.3.1, 6.3.3. and 6.6.2. are in conflict with the Provincial Policy Statement and Growth Plan. They will unnecessarily and systematically stifle responsible growth by not taking into consideration site by site characteristics.

8. Our client is also concerned about the potential conflict between Map 16-2 where it designates the Property as "Mixed Use Area 1" while Policy 6.6.2 speaks to the requirement that "there will be a noticeable and discernable step down in height..." going eastward. Given that the Property is surrounded by tall buildings and is located in an area well served with community services, jobs, cultural activities and public transit there is no justification for the stepping down.

9. Our client's concern with respect to the direction of Policy 8 relates to the matters noted above. The East Precinct policies recognize a diverse range of building types which is logical. The concern is that specific policies (6.8.1, 6.8.2. and 6.8.3. of the Proposed Plan) may in fact be conflicted by "one size fit all" requirements of Sections 6.2., 6.3. and 6.6.2.

10. Proposed Policy 8.3 notes that a Heritage Impact Assessment ("**HIA**") will be required for all developments. While it is anticipated an HIA would be submitted with any redevelopment of the Property, Policy 8.3 does not provide sufficient guidance regarding properties that are not listed or designated,

Lastly, please add us to any distribution list with respect to the King-Spadina Area.

We would be happy to discuss any of the above with City staff if it is so desired.



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Yours truly,

BENNETT JONES LLP



Andrew L. Jeanrie

enclosure

ALJ:rbw

cc: Client

