

Calvin Lantz  
Direct: 416.869.5669  
clantz@stikeman.com

January 28, 2020  
File No. 130514.1008

By E-mail  
councilmeeting@toronto.ca

City Council  
City Hall  
100 Queen Street West  
12<sup>th</sup> Floor, West Tower  
Toronto, ON M5H 2N2

Attention: Ms. Marilyn Toft, Secretariat

Dear Sirs/Mesdames:

**Re: Item No. TE12.4 – King-Spadina Secondary Plan Update – Final Report  
Letter of Concern  
126-142 John Street & 259-267 Richmond Street West**

We are counsel to RioCan Management Inc., the owner of the property municipally known in the City of Toronto as 126-142 John Street & 259-267 Richmond Street West, located on the south side of Richmond Street West, between Widmer Street and John Street (the "**Property**"), and located within the area of the proposed King-Spadina Secondary Plan (the "**Secondary Plan**").

**By this letter, we request that City Council defer consideration of the Secondary Plan until staff have conducted meaningful consultation with affected landowners, including our client.**

We have been engaged in the consultation process for the Secondary Plan and have expressed serious concerns to City staff by way of formal comments, submitted back in January 2019, as well as by letter to the Toronto & East York Community Council. A copy of these submissions is attached for your reference.

Staff have recently made substantive changes to the draft Secondary Plan, which became available to the public only in late December 2019. These recent changes have not been accompanied by further public and stakeholder consultation. Through the Commenting Letter, we requested a meeting with staff to discuss our client's concerns regarding the draft Secondary Plan, and to date, we have received no response from staff.

Upon our preliminary review, the most recent draft of the Secondary Plan fails to address some of the serious concerns raised in our submissions to the City and also raise additional areas of concern, including:

1. Policy 3.1.2, which requires that development provide the greater of the replacement of all existing non-residential gross floor area or a minimum of 25 percent of the total gross floor area as non-residential uses—without consideration of site location and context, the size and configuration of a site, or the built form implications of providing such a significant amount of non-residential space;

2. Policy 6.3, which requires setbacks of at least 3 metres above the height of a streetwall or base building, free and clear of projections—imposes an inflexible and prescriptive standard that fails to account for the unique attributes of the site and development scheme;
3. Policies 6.4, 6.6, and associated maps and policies, which impose height limits and other built form requirements—without regard for the emerging context and overarching direction for growth and development at transit-supportive densities;
4. the lack of any policies addressing matters of transition or exemption; and
5. the incorrect labelling of Widmer Street on Map 16-1.

Given that the revised draft Secondary Plan was made available to the public only in late December, it is essential that a deferral be granted in order to allow the public an opportunity to review and comment on this new document advanced by staff, and to provide staff the time needed to respond to the comments received.

In addition, as the appeals of the King-Spadina Heritage Conservation District Plan (the "HCD Plan") are still ongoing before the Local Planning Appeal Tribunal (Case No. MM170097), it is premature for the City to move forward with the Secondary Plan absent a determination on the appeals of the HCD Plan—particularly where the draft Secondary Plan references or incorporates elements of the HCD Plan still under appeal.

For these reasons, we strongly urge City Council to

1. Defer consideration of the Secondary Plan;
2. Direct City Planning staff to conduct further consultation as it relates to the draft Secondary Plan policies; and
3. Direct City Planning staff to report to Community Council with any further recommendations, such report to be made available to the public as required under the *Planning Act* and related regulations.

Please provide us with notice of all upcoming meetings of Council and Committees of Council at which the Secondary Plan will be considered, and we ask to be provided with notice of Council's decision with respect to this item.

Yours truly,



FL

Calvin Lantz

CL/jsc

Enclosures

cc. Melissa Bruzzese, *RioCan Management Inc.*  
Matthew Ortved, *RioCan Management Inc.*  
Peter Smith, *Bousfields Inc.*

Calvin Lantz  
Direct: 416.869.5669  
clantz@stikeman.com

January 8, 2020  
File No. 130514.1008

**By E-mail**  
teycc@toronto.ca

Toronto and East York Community Council  
City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Attention: Ms. Ellen Devlin, Committee Administrator

Dear Sirs/Mesdames:

**Re: TE12.4 – King-Spadina Secondary Plan Update - Final Report  
Letter of Concern  
126-142 John Street & 259-267 Richmond Street West**

We are counsel to RioCan Management Inc., the owner of the property municipally known in the City of Toronto as 126-142 John Street & 259-267 Richmond Street West, located on the south side of Richmond Street West, between Widmer Street and John Street (the "**Property**"), and located within the area of the proposed King-Spadina Secondary Plan (the "**Secondary Plan**").

**By this letter, we request that the Community Council defer consideration of the Secondary Plan until staff have conducted meaningful consultation with affected landowners, including our client.**

We have been engaged in the consultation process for the Secondary Plan and have expressed serious concerns to City staff by way of formal comments, submitted back in January 2019 (the "**Commenting Letter**"). A copy of the Commenting Letter is attached for your reference.

Staff have recently made substantive changes to the draft Secondary Plan, which became available to the public only in late December 2019. These recent changes have not been accompanied by further public and stakeholder consultation. Through the Commenting Letter, we requested a meeting with staff to discuss our client's concerns, and to date, we have received no response from staff.

Upon our preliminary review, the most recent draft of the Secondary Plan raises certain serious concerns—in particular, the lack of transition policies to recognize existing development applications that pre-date the potential adoption of the Secondary Plan.

Given that the revised draft Secondary Plan was made available to the public only in late December, it is essential that a deferral be granted in order to allow the public an opportunity to review and comment on this new document advanced by staff, and to provide staff the time needed to respond to the comments received.

For these reasons, we strongly urge the Toronto and East York Community Council to

- (i) Defer consideration of the Secondary Plan;

- (ii) Direct City Planning staff to conduct further consultation as it relates to the draft Secondary Plan policies, and in particular, site-specific issues and matters relating to exemption and transition policies; and
- (iii) Direct City Planning staff to report to Community Council with any further recommendations, such report to be made available to the public as required under the *Planning Act* and related regulations.

Please provide us with notice of all upcoming meetings of Council and Committees of Council at which the Secondary Plan will be considered, and we ask to be provided with notice of Council's decision with respect to this item.

Yours truly,



Calvin Lantz  
Partner

CL/na  
Attachments

cc. Melissa Bruzzese, *RioCan Management Inc.*  
Matthew Ortved, *RioCan Management Inc.*  
Peter Smith, *Bousfields Inc.*

# Stikeman Elliott

Stikeman Elliott LLP  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON Canada M5L 1B9

Main: 416 869 5500  
Fax: 416 947 0866  
www.stikeman.com

Calvin Lantz  
Direct: 416 869 5669  
clantz@stikeman.com

January 31, 2019  
File No. 130514.1008

**By E-mail**

City Planning Division  
Strategic Initiatives, Policy & Analysis  
Metro Hall  
55 John Street, 22nd Floor  
Toronto, ON M5V 3C6

Attention: Ms. Sarah Phipps, Project Manager

Dear Ms. Phipps:

**Re: Draft King-Spadina Secondary Plan Update - Comments**

We are counsel to RioCan Management Inc. (the "**client**"), owner of the property municipally known as 126-142 John Street & 259-267 Richmond Street West, located on the south side of Richmond Street West, between Widmer Street and John Street (the "**Property**") and that is located within the area of the Draft King-Spadina Secondary Plan Update (the "**Secondary Plan**"). RioCan also acquires additional interests in land in the City from time to time.

On behalf of our client, consulting land use planner Peter Smith, Bousfields Inc., reviewed the Secondary Plan and raises a number of concerns with and comments on the Secondary Plan that are documented in the attached Planning Opinion Letter, dated January 30, 2019. As part of this submission, we request a meeting with staff to discuss our client's concerns.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Yours truly,



FOR Calvin Lantz

CWL/cb  
Enclosures

cc: Melissa Bruzzese, *RioCan Management Inc.*  
Matthew Ortved, *RioCan Management Inc.*  
Peter Smith, *Bousfields Inc.*



# BOUSFIELDS INC.

January 30, 2019 "

Project No. 17310

Sarah Phipps, Project Manager  
City Planning Division  
Strategic Initiatives, Policy & Analysis  
Metro Hall  
55 John Street, 22nd Floor  
Toronto, ON M5V 3C6

Dear Ms. Phipps,

***Re: \$ King-Spadina Secondary Plan Update  
December 4, 2018 Draft  
126-142 John Street & 259-267 Richmond Street West, City of Toronto***

---

We are the planning consultants for RioCan REIT with respect to its property at 126-142 John Street and 259-267 Richmond Street West, located on the south side of Richmond Street West, between Widmer Street and John Street ("the subject site"). Our client is currently exploring the redevelopment of the subject site and has engaged staff through a number of meetings to review and provide comments on preliminary development concepts. Based upon those discussions, refinements to the development proposal are being prepared in anticipation of a forthcoming application to permit the comprehensive redevelopment of the subject site.

On behalf of our client, we have reviewed the draft King-Spadina Secondary Plan (herein referred to as the "Secondary Plan") and wish to note a number of potential concerns with the proposed policies as they relate to the subject site, which are described below.

1. "We have concerns with proposed Policy 5.1 applying to lands designated *Mixed Use Areas* including the subject site, which would require the greater of: the replacement of all existing non-residential gross floor area, including full replacement of cultural spaces; or a minimum of 25% of the total gross floor area as non-residential uses, including full replacement of cultural spaces. The policy, as currently drafted, provides no flexibility to take into account site size, site-specific conditions, or the impacts that non-residential uses may have on built form.

In particular, the requirement for replacement of the gross floor area of existing non-residential gross floor area has the potential to restrict intensification (or "optimization") of sites such as this, which currently have

a significant amount of non-residential floor area. In the event that it were not possible to lease sufficient commercial space to replace the existing floor space, the development of such a site would effectively be “frozen” in its current form.

Similarly, the requirement for at least 25% of the floor space to be used for non-residential purposes would effectively diminish the potential for residential intensification depending on the strength of the commercial leasing market e.g. while 60,000 square metres of residential intensification would be achievable if it were possible to lease 20,000 square metres of commercial space, the amount of residential intensification would be limited to 30,000 square metres if only 10,000 square metre of commercial space were able to be leased. In our opinion, such a result would be contrary to the direction to optimize the use of land and infrastructure as provided within overarching Provincial Policy documents.

That being said, our client will use its best efforts to achieve the non-residential targets set out in the draft Secondary Plan.

2. " Furthermore, the “full replacement of cultural spaces” in the case of the subject site may be interpreted to require the replacement of the existing movie theatres as part of any redevelopment. The movie theatres are not owned or operated by RioCan and there is accordingly no ability to guarantee that they would return to the site following redevelopment. In the absence of an ability to secure the return of a movie theatre, any redevelopment potential for the site could effectively be frozen.
3. " Policies 4.2 and 4.3 provide that “development will be evaluated based on the availability and provision of community service facilities, parkland, green infrastructure and physical infrastructure relative to the number of people it will generate, to provide for the achievement of complete communities”, and that a Complete Community Assessment will be required for some development applications, including applications on lands proposed to be designated *Mixed Use Areas 1*.

Policy 4.6 goes on to say that “when a Complete Community Assessment demonstrates that a development, or the cumulative impact of more than one development, will occur at a scale, intensity or character unanticipated by the Official Plan, or that the availability and provision of community service facilities, parkland, green infrastructure and physical infrastructure is insufficient to ensure the creation of complete communities, the City may determine that a Site and Area Specific Policy or other study is necessary.

Where it has been determined that further study is necessary, the Site and Area Specific Policy or other study will be prepared by the City prior to any site-specific recommendations to Council.”

The Complete Community Assessment is a new study requirement proposed to be introduced by the as-adopted Downtown Secondary Plan, which is not yet in force. Consequently, the City has yet to provide formal Terms of Reference for the preparation of this study. Although our office has prepared several Complete Community Assessments, they have been based on the limited explanation of the Complete Community Assessment provided in the Downtown Secondary Plan, and on the definition provided in the City’s development glossary of terms.

We are concerned that these policies, in combination with Policy 14.6 which provides that a Holding (H) Symbol will be considered during the review of rezoning applications, would allow the City to “freeze” development in King-Spadina based on the results of a study with no terms of reference that has yet to be rigorously tested.

4. " We also have concerns with proposed Policy 10.1, which would require, for developments containing more than 80 residential units, 15% of the units to be two-bedroom units and 10% to be three-bedroom units, with minimum unit sizes of 87 square metres for the two-bedroom units and 100 square metres for the three-bedroom units, as well as an additional 15% of the units to be a combination of 2- and 3-bedroom units. In our opinion, such detailed numerical standards are inappropriate in a policy document. We believe that advancing these prescriptive measures without an in-depth review of market demand/supply and income/affordability results in significant risks with respect to housing affordability and could potentially stifle the development of new housing in King-Spadina.
5. " Policy 8.9 provides that development will include a non-profit child care facility where it can be accommodated on the site. Although the intent of the policy appears to be to provide flexibility as to where a non-profit child care facility will be required, it is unclear whether this policy would apply to all types of development, including non-residential developments. It is also unclear which criteria would be used in evaluating whether a site can or cannot accommodate a non-profit child care facility.
6. " The draft Secondary Plan includes several policies that could have the effect of curtailing development on sites such as the subject site without



allowing for the possibility of creative solutions to site planning or block planning beyond simple tower separation.

Policy 5.8 provides that “not all sites can accommodate the maximum scale of development anticipated in each of the Mixed Use Areas while also supporting the livability of the development and the neighbourhood”, and that “development will be required to address specific site characteristics including lot width and depth, location on a block, on-site or adjacent heritage buildings, parks or open spaces, shadow impacts and other sensitive adjacencies, potentially resulting in a lower-scale building”.

Similarly, Policy 9.40 provides that development in the East Precinct will “include a diverse range of buildings typologies, including tall buildings”, with the appropriate height, scale and massing determined by, among other things, “the ability of the development to provide the necessary setbacks, step backs and separation distance from other buildings”.

While we agree that development should support the livability of the development and the neighbourhood, and that the listed site-specific characteristics are important measures for the evaluation of the suitability of a site for a tall building, we are concerned that the proposed policies do not recognize other potential creative approaches to site planning and block planning. Such approaches could result in a built form that meets the tests of fit and compatibility with the surrounding context, resulting in no unacceptable adverse impacts. For example, these could include diagonally offsetting or angling buildings from one another, strategic unit placement, strategic window treatments, blank walls or end walls on one or more buildings, etc.

7. " Policy 9.14 requires that development include setbacks on all elevations facing public streets, specifically a minimum of 3 metres above the height of the streetwall or base building (Policy 9.14.1), that is free of all projections (Policy 9.14.2). It is our opinion that the proposed imposition of numerical setback standards is generally inappropriate and undesirable in a policy document and is more appropriately included in a regulatory document (the zoning by-law) or a guideline document. Fundamentally, the imposition of numerical standards in an Official Plan has the potential to prejudice appropriate methods and key principles of development and architectural design, and to unnecessarily trigger the requirement for site-specific Official Plan Amendments.

8. " We have concerns with Policy 9.19, which restricts the maximum floorplate

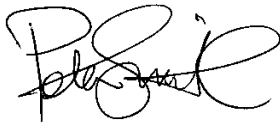
size to 750 square metres. Although the policy would allow for consideration of increases in the floorplate size, we are concerned that the policy may be interpreted in an overly restrictive manner with respect to demonstrating "to the City's satisfaction" that shadow, wind, sky view and transition impacts can be mitigated.

9. " Policy 9.28 provides that development will not add any net-new shadow on the north sidewalk of Queen Street West in accordance with the Queen Street West Heritage Conservation District (HCD) Plan. In this regard, the HCD Plan seeks to require developments to fall within a 45-degree angular plane taken from a height of 16 metres along the south side of Queen Street. The draft King-Spadina Secondary Plan proposes a different angular plane measurement than noted in the HCD Plan, requiring developments within Zone E to fit within a 45-degree angular plane from the property line on the north side of Queen Street West as noted in Policy 9.41.4.

Thank-you for your consideration of these comments. If you require any clarification or wish to discuss these matters further, please do not hesitate to contact me or Tyler Grinyer of our office.

Yours very truly,

**Bousfields Inc.**



Peter F. Smith, B.E.S., MCIP, RPP

cc: *client*  
*Calvin Lantz, Stikeman Elliott*