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January 28, 2020

VIA E-MAIL

Mayor Tory and Members of Council
 City of Toronto
 12th Floor, West Tower, City Hall
 100 Queen Street West
 Toronto ON M5H 2N2

Attention: Ms. Marilyn Toft
 City Council Secretariat

Your Worship and Members of Council:

**RE: Item No. TE 12.4 – Proposed King-Spadina Secondary Plan Update –
 Final Report – City of Toronto Council Meeting on January 29, 2020**

We are counsel to the following entities that own/or have an interest in lands within the King-Spadina Secondary Plan Area:

- 280 Richmond West Limited
- Alterra-Finer (Richmond Street) Ltd.
- Larendale Holdings Inc.
- 548 King Investments Ltd.; and
- Fortress Carlyle Peter Street Inc.

In some cases, we have included in Appendix "A" those specific lands that our clients have a direct interest in at this time. However, we note that our clients have general interests in the King Spadina Secondary Plan Area, and their concerns are not necessarily limited to the lands identified in Appendix "A".

On January 8, 2020, Toronto and East York Community Council ("**Community Council**") considered the Staff Report entitled "King-Spadina Secondary Plan Update – Final Report" dated December 12, 2019 (the "**Staff Report**") which enclosed a copy of the proposed King-Spadina Secondary Plan (the "**Proposed Plan**") as Attachment 2 to the Staff Report. Community Council has recommended that City Council adopt the Proposed Plan.

We have now had an opportunity to review the Proposed Plan. On behalf of our clients, we are writing to provide our preliminary comments and concerns with respect to the Proposed Plan (the "**Proposed Plan**"). At a general level, our clients are concerned that the Proposed Plan will unduly restrict the scale of redevelopment contemplated for the Secondary Plan Area, in a manner that is not consistent with the Provincial Policy Statement, does not conform to the Growth Plan, and does not conform with the policy direction set out in the City of Toronto Official Plan and the recently approved Downtown Secondary Plan (OPA 406). To the extent that the

Proposed Plan would create more restrictive policies than those set out in these local and provincial policies, our clients object thereto.

Without limiting the foregoing, our clients are writing to provide the following comments and concerns:

- Policies 1.4, 1.5 and 8.4 – Proposed policies 1.4, 1.5 and 8.4 contemplate that new development will be evaluated against a *Public Realm Strategy* and *Urban Design Guidelines*, which have not been developed and adopted in accordance with the planning process set out in the *Planning Act*. As a general proposition, the proposed framework attempts to elevate these documents to the status and weight of Official Plan policy. If the intention is that these documents should form part of the Proposed Plan, then we submit it is premature to proceed with the draft Proposed Plan has been revised to incorporate such matters, and the public has had an opportunity to review and comment on the proposed policy framework.
- Policy 1.2 – Policy 1.2 proposes that the King Spadina Heritage Conservation District Plan (the “**King-Spadina HCD Plan**”) will prevail over the Proposed Plan in the event of a conflict. The King-Spadina HCD Plan is currently under appeal by a number of landowners, including our clients, and it is therefore not in force at this time. As a general proposition, the reference to the proposed King-Spadina HCD Plan is premature until the appeals thereof have been decided. In addition, Section 41.2 of the Ontario Heritage Act sets out the statutory framework to manage potential conflicts with a heritage conservation district, which provides that Council shall not (a) carry out any public work in the district that is contrary to the objectives set out in the plan; or (b) pass a by-law for any purpose that is contrary to the objectives set out in the plan. To the extent that a by-law conflicts with the objectives set out in the heritage conservation district plan, the plan prevails. In light of this statutory framework, it is unclear why the proposed “conflict provision” is proposed at all. To the extent that it may be appropriate as a general policy in the Proposed Plan, we submit that it should accord with the more limited scope set out in Section 41.2 of the Ontario Heritage Act.
- Policy 3.1.2 – Policy 3.1.2 proposes that development provide the greater of: (a) the replacement of all existing non-residential gross floor area; or, a minimum of twenty-five percent (25%) of total gross-floor area as non-residential uses. As drafted, these policies are overly prescriptive and rigid, and fail to incorporate the level of flexibility that is necessary in order to promote redevelopment and intensification, having regard to site and context-specific circumstances that exist in the King-Spadina Secondary Plan Area. In addition, these policies attempt to reintroduce policies that were originally proposed in the City-adopted version of Official Plan Amendment 406 (“**OPA 406**” or the “**Downtown Plan**”) that were revised by the Minister to provide greater flexibility. The policy direction proposed in policy 3.1.2 directly conflicts with the current Provincial direction and approved Official Plan policy for the Downtown Area. While the Downtown Plan contemplates that other Secondary Plans within the area may provide more specific

direction on policy matters, we submit that the approved policy framework does not invite the direct conflict contemplated by Policy 3.1.2 in the Proposed Plan.

- Policy 4.4 – Policy 4.4 states that the City “will secure land” for new parks throughout the King-Spadina Area to create a comprehensive network for parks and open spaces including those shown on Map 16-3C. The Proposed Plan does not provide policy direction on how this policy of parkland acquisition is intended to be implemented under the impending changes to the parkland and community benefits regime under Bill 108. We submit that this is a matter that requires greater consideration with a clear understanding of how this policy direction is intended to be implemented and achieved moving forward.
- Policy 4.10 – Policy 4.10 contemplates that new mid-block connections will be secured through the review of development applications. Similar to the concerns set out above, it is not clear how this policy direction is intended to be implemented under the impending changes to the parkland and community benefits regime under Bill 108 and further consideration is required in this respect before such policy is advanced as part of the Proposed Plan. In addition, Policy 4.10 refers to “existing and potential mid-block connections” that are show on Map 16-3B. The mid-block connections identified on Map 16-3B do not accord with recent planning approvals by the City in the block bounded by Spadina Avenue, Peter Street, Adelaide Street West and Richmond Street West. This mapping should be reviewed to ensure that it is consistent with the planned function of lands within the Secondary Plan Area.
- Policy 6 – Policy 6 contains built-form policies that lack the necessary flexibility to recognize unique circumstances related to specific sites within the King-Spadina area, including but not limited to the minimum setbacks from property lines adjacent to streets (6.2), minimum stepbacks from base buildings (6.3), permitted “net-new shadow” (6.4), and permitted height transition (6.6). The general wording of these policies fails to account for site-specific circumstances that may cause such direction to be unachievable, or otherwise inappropriate to the extent that it may arbitrarily limit the potential scale of redevelopment despite site and contextual circumstances that warrant a greater level of intensification on a case-by-case basis.
- Policy 7 – SPAR Block – This policies set out in 7.20 to 7.22 contemplate the creation of a new public open space in the middle of this block. Map 16-3C further identifies a “Potential Public Realm Enhancement” on the SPAR Block. While our clients understand the genesis for this proposed policy direction, we submit that the policy direction moving forward should be reconsidered in light of recent approvals in the area and further information that has been advanced by significant landowners within the Block.

In light of the foregoing, we request that the Proposed Plan be referred back to City Staff for further consultation with affected landowners and consideration of further revisions prior to being considered by City Council for adoption.

We hereby request notice of all future public meetings and any decisions of City Council, including Committees of Council, concerning the Proposed Plan. If you have any questions, please contact the undersigned or Michael Cara (mcara@overlandllp.ca / (416) 730-8844).

Yours truly,
Overland LLP



For:
Per:

Daniel B. Artenosi

Appendix "A"

<u>Client</u>	<u>Specific Lands of Concern</u>
280 Richmond West Limited	150 John Street
548 King Investments Ltd.	548 King Street West
Alterra-Finer (Richmond Street) Ltd.	520 Richmond Street West
Fortress Carlyle Peter Street Inc.	120-128 Peter Street, 357-359 Richmond Street West
Larendale Holdings Inc.	