

Calvin Lantz
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January 8, 2020
File No. 138852.1001

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
217 Adelaide Street West**

We are counsel to 217 Adelaide Holdings Limited, the owner of the property municipally known in the City of Toronto as 217 Adelaide Street West, generally located mid-block on the south side of Adelaide Street West between Duncan Street and Simcoe 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 fails to address some of the serious concerns raised in the Commenting Letter—in particular, the lack of transition policies to recognize existing development applications and approvals 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,



fox Calvin Lantz
Partner

CL/na
Attachments

cc. Robert Singer, *217 Adelaide Holdings Limited*
Suzie Kotzer-Fischer, *217 Adelaide Holdings Limited*
Peter Smith, *Bcusfields Inc.*

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

January 31, 2019
File No. 138852.1001

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 217 Adelaide Holdings Limited (the "**client**"), owner of the property municipally known as 217 Adelaide Street West, generally located mid-block on the south side of Adelaide Street West between Duncan Street and Simcoe Street (the "**Property**"), and located within the area of the Draft King-Spadina Secondary Plan Update (the "**Secondary Plan**").

An application for zoning by-law amendment for the Property was filed with the City on June 19, 2015 (File # 15 177189 STE 20 OZ). The development proposal for the Property has been amended to facilitate the development of a mixed-use 25 storey commercial building with retail, office and hotel uses (the "**Development**"). The application was appealed to the Local Planning Appeal Tribunal ("**LPAT**") and awaits adjudication. The lack of transition provisions in the Secondary Plan potentially compromises our client's ability to achieve a Zoning By-law Amendment that will permit the Development on the Property and to obtain the additional development approvals that are necessary to permit the Development to be constructed, should the LPAT approve the proposed Zoning By-law Amendment for the Property.

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: Robert Singer, *217 Adelaide Holdings Limited*
Suzie Kotzer-Fischer, *217 Adelaide Holdings Limited*
Peter Smith, *Bousfields Inc.*



BOUSFIELDS INC.

January 31, 2019

Project No. 13104

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
217 Adelaide Street West

We are the planning consultants for 217 Adelaide Holdings Limited with respect to its property at 217 Adelaide Street West, located on the south side of Adelaide, between Simcoe Street and Duncan Street (“the subject site”).

On behalf of our client, we filed a Zoning By-law Amendment application for the site on June 19, 2015 (File: 15 177189 STE 20 OZ) in order to permit a 56-storey residential building. The application was subsequently refused by City Council on December 9, 2015 and appealed to the Ontario Municipal Board, now the Local Planning Appeal Tribunal (“LPAT”), and was assigned File No. PL151030. Since the time of the appeal, the Tribunal has held a number of pre-hearing conferences and a hearing has been scheduled for April 23, 2019.

In the context of the appeal, our client has continued to meet with City staff and adjacent landowners. Following upon such meetings, our client has filed revised plans which it hopes will satisfactorily address the concerns of the City and other parties. Recently, in January 2018, arising from further meetings with staff, revised plans were filed for a 25-storey office and hotel building. Given this background and the timing of the proposed King-Spadina Secondary Plan Update, it is our opinion that the update should not be applied to the subject site and, if ultimately adopted and approved, would not be determinative regarding the consideration of the site-specific appeal.

Within this context, we have reviewed the draft King-Spadina Secondary Plan dated December 4, 2018 as it relates to the proposed 25-storey non-residential building, and wish to note a number of specific concerns as set out below.

1. The draft Secondary Plan does not currently include any transition policies or protocols to recognize proposed redevelopments that are in process, and/or were the subject of applications filed prior to adoption of the Secondary Plan. In this regard, the above-noted application for the subject site was submitted more than 3 years prior to the release of the draft of the Secondary Plan in December 2018 and, as such, we would request that the subject site be exempted from the application of the Secondary Plan.

In the event that the subject site is not specifically exempted from the Secondary Plan, it is our opinion that transition provisions should be incorporated into the Secondary Plan so as to ensure that applications that are in process are reviewed on the basis of the planning framework that was in force at the time they were filed. In this regard, the client, consulting team, adjacent property owners and City Staff have worked collaboratively over an extended time period in an attempt to arrive at a satisfactory built form. The Secondary Plan should not negate this process, which was well underway prior to its release.

Should you disagree with exempting the site from the Secondary Plan, we offer the following additional comments:

2. 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.

Given the foregoing, and given that no transition provisions are proposed in the draft Secondary Plan, we are concerned that the inclusion of these policies could impact the proposed development on 217 Adelaide Street West. Accordingly, we would request clarification regarding how a Complete Community Assessment will be evaluated in determining whether a Site and Area Specific Policy or other study is necessary.

3. Map 16-4B identifies "Existing, Planned and Potential Mid-Block Connections" using one notation, including one on the subject site connecting Adelaide Street West and Pearl Street. Policy 6.5 provides that "development will contribute to enhancing, improving and expanding the public realm in accordance with but not limited to improvements shown on Maps 16-4A, 16-4B and 16-4C", while Policy 7.9 provides that "the existing network of laneways and mid-block connections as shown on Maps 16-4A and 16-4B, whether public or private, will be conserved, extended and improved.

In our opinion, using one notation to identify existing, planned and potential mid-block connections is vague and potentially confusing. The subject site is private property, and is currently occupied by a busy surface parking lot. While it is possible for pedestrians to informally cross the site, there is no existing formal mid-block connection where pedestrians can safely cross between Adelaide Street West and Pearl Street. There are also no in-force policies identifying a planned mid-block connection on the subject site.

We recommend that Map 16-4B clarify that this is a "Potential Mid-Block Connection".

4. 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”.

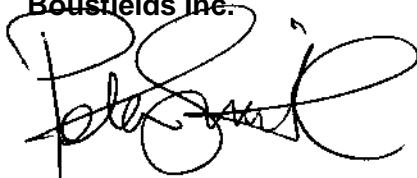
While we agree that development should support the livability of the development and the neighbourhood, and that the listed site-specific characteristics are important measures for the evaluation of the suitability of a site for a tall building, we are concerned that the proposed policies do not recognize 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, and consideration for office or hotel uses which are by nature less sensitive to built form impacts than residential uses.

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. Policy 9.14 requires that development include stepbacks 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.

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 Mike Dror, Associate, of our office.

Yours very truly,

Bousfields Inc.


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

cc: *client*
Calvin Lantz, Stikeman Elliott

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Attention: Ms. Ellen Devlin, Committee Administrator

Dear Sirs/Mesdames:

**Re: TE12.4 – King-Spadina Secondary Plan Update - Final Report
Letter of Concern
401-415 King Street West**

We are counsel to 1107051 Ontario Ltd. and Cabo Three Investments Inc., the owner of the property municipally known in the City of Toronto as 401-415 King Street West (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 fails to address some of the serious concerns raised in the Commenting Letter—in particular, the lack of transition policies to recognize existing development applications and approvals 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;

Stikeman Elliott

- (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,



FOR Calvin Lantz
Partner

CL/na
Attachments

cc. Larry Krauss, *Terracap Management Inc.*
Jason McCauley, *Terracap Management Inc.*
Peter Smith, *Bousfields Inc.*

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

January 31, 2019
File No. 136696.1001

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 1107051 Ontario Ltd. and Cabo Three Investments Inc. (the "**client**"), owner of the property municipally known as 401-415 King Street West (the "**Property**"), and located within the area of the draft King-Spadina Secondary Plan Update (the "**Secondary Plan**").

With respect to the Property, our client has a Zoning By-law Amendment application that has been approved in principle by the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board) by the Tribunal's decision issued March 1, 2017 (LPAT Case No. PL151158). The Tribunal's approval was premised upon a Council-endorsed settlement of our client's proposal to develop a mixed-use building on the Property. The lack of transition provisions in the Draft Secondary Plan compromises our client's ability to finalize a Zoning By-law Amendment for the Property and to obtain the additional development approvals that are necessary, to allow the Council-endorsed development proposal for the Property, to proceed to construction.

On behalf of our client, consulting land use planner Peter Smith, Bousfields Inc., reviewed the draft Secondary Plan and raises a number of concerns with and comments on the draft 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

Stikeman Elliott

cc: Larry Krauss, *Terracap Management Inc.*
Jason McCauley, *Terracap Management Inc.*
Peter Smith, *Bousfields Inc.*



BOUSFIELDS INC.

January 30, 2019

Project No. 09116

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
401-415 King Street West***

We are the planning consultants for Terracap Management Inc. with respect to its property at 401-415 King Street West, located at the southeast corner of Spadina Avenue and King Street West (“the subject site”).

On behalf of our client, we filed a Zoning By-law Amendment application for the site on June 16, 2010 (File: 10 217270 POZ 00 ZR) with subsequent submissions made on March 2, 2012 and September 27, 2013. The application was subsequently appealed to the Ontario Municipal Board, now the Local Planning Appeal Tribunal (“LPAT”), and was assigned File No. PL151158. Following the appeal, the City and our client ultimately reached a settlement based on a 145-metre tall mixed-use building, which in turn was approved by the OMB by its decision issued March 1, 2017.

Given this background and the timing of the proposed King-Spadina Secondary Plan Update (herein referred to as the “Secondary Plan”), it is our opinion that the update should not be applied to the subject site. Despite the foregoing, we have reviewed the draft King-Spadina Secondary Plan dated December 4, 2018 as it relates to the approval in principle and wish to note a number of specific concerns as set out below.

1. The draft Secondary Plan does not currently include any transition policies or protocols to recognize proposed redevelopments that were the subject of applications filed prior to adoption of the Secondary Plan and/or have received approval in principle from the Local Planning Appeal Tribunal. In this regard, the above-noted application for the subject site was submitted many years prior to the release of the draft of the Downtown Plan and was approved by the OMB almost two years ago. As such, we would request

that the subject site be exempted from the application of the Secondary Plan.

In the event that the subject site is not specifically exempted from the Secondary Plan, it is our opinion that transition provisions should be incorporated into the Secondary Plan so as to ensure that applications that are in process are reviewed on the basis of the planning framework that was in force at the time they were filed. In this regard, the client, consulting team, adjacent property owners and City Staff have worked collaboratively over an extended time period in an attempt to arrive at a satisfactory built form which was presented to the LPAT at the Settlement Hearing. The Secondary Plan should not negate this process.

Should you disagree with exempting the site from the Secondary Plan, we offer the following additional comments on the draft policies that do not recognize the approval on the subject site:

2. The majority of the subject site is identified as *Mixed Use Areas 3* on Map 16-2, with the easterly portion of the site identified as *Mixed Use Areas 1*. Policy 5.14 provides that development in *Mixed Use Areas 3* will be in the form of low-rise and mid-rise buildings, while Policy 5.9 provides that development within *Mixed Use Areas 1* will include a diverse range of building typologies, including tall buildings. In our opinion, a single designation should apply to the entirety of the subject site which recognizes the approved tall building height. In this regard, the entirety of the site should be designated *Mixed Use Areas 1*.
3. Furthermore, Map 16-3 identifies the majority of the subject site within the Spadina Precinct and the easterly portion of the site within the East Precinct. We have concerns with Policy 9.45 which provides that development in the Spadina Precinct will generally not exceed a height of 40 metres, and Policy 9.47 which would require development to fit within a 45-degree angular plane taken from Spadina Avenue, both of which would restrict building height in a manner that does not respect the OMB-approved settlement.
4. We have significant concerns with proposed Policy 5.1 applying to lands designated *Mixed Use Areas*, 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. In particular, 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 addition, we have concerns with Policy 5.10 which requires that development within *Mixed Use Areas 1* will provide a “high proportion” of non-residential uses within new mixed-use developments. While the approved settlement for the subject would allow for a substantial non-residential component, there is no definition of the term “high proportion”.

5. 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, 2 or 3*.

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.

Given the foregoing, and given that no transition provisions are proposed in the draft Secondary Plan, we are concerned that the inclusion of these policies could impact the proposed development on the subject site. Accordingly, we would request clarification regarding how a Complete Community Assessment will be evaluated in determining whether a Site and Area Specific Policy or other study is necessary.

6. 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.
7. Policy 9.14 requires that development include stepbacks 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.



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.

A handwritten signature in black ink, appearing to read "Peter F. Smith", written over a faint, larger version of the same signature.

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

cc: *client*
Calvin Lantz, Stikeman Elliott

Calvin Lantz
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January 8, 2020
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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
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Calvin Lantz
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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

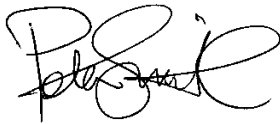
size to 750 square metres. Although the policy would allow for consideration of increases in the floorplate size, we are concerned that the policy may be interpreted in an overly restrictive manner with respect to demonstrating “to the City’s satisfaction” that shadow, wind, sky view and transition impacts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

Calvin Lantz
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January 8, 2020
File No. 139867.1001

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
263-267 Adelaide Street West**

We are counsel to Adelaide Street Lofts Inc., the owner of the property municipally known in the City of Toronto as 263-267 Adelaide Street West (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 fails to address some of the serious concerns raised in the Commenting Letter—in particular, the lack of transition policies to recognize existing development applications and approvals 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,



Joe Calvin Lantz
Partner

CL/na
Attachments

cc. Jim Neilas, *Neilas Inc.*

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

January 31, 2019
File No. 139867.1001

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 Adelaide Street Lofts Inc. (the "**client**"), owner of the property municipally known as 263-267 Adelaide Street West (the "**Property**") which is located within the area of the Draft King-Spadina Secondary Plan Update (the "**Secondary Plan**").

An application for zoning by-law amendment for the Property was filed with the City on April 12, 2012 (File # 12 152660 STE 20 OZ) to facilitate the development of a tall building that is 156.9 metres in height containing dwelling units and at grade retail. The application was appealed to the Local Planning Appeal Tribunal and LPAT has approved a zoning by-law amendment for the Property in principle. Our client has been working cooperatively with the City to satisfy the conditions that would allow LPAT to issue an Order bringing the zoning by-law amendment for the Property into full force and effect.

On behalf of our client, we have reviewed the draft Secondary Plan and identified some concerns with the Secondary Plan. Specifically, the draft Secondary Plan does not include any transition policies or protocols to recognize applications/redevelopment proposals that are in process or that should be exempted from the application of the Secondary Plan.

In the event that the Property is not specifically exempted from the Secondary Plan, transition provisions should be incorporated into the Secondary Plan so as to ensure that properties that are the subject of complete applications should be reviewed on the basis of the planning framework which was in force at the time they were filed, and that future applications for the Property, such as Site Plan Approval and minor variance, should be exempt from conformity with the Secondary Plan.

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: Jim Neilas, *Neilas Inc.*