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April 24, 2006

The Regional Chair and Members of Regional Council
York Region Administrative Centre
The Regional Municipality of York
17250 Yonge Street
Newmarket ON L3Y 6Z1

Attention: Regional Clerk

Dear Sirs/Mesdames:

Re: Official Plan Amendment No. 140 (Town of Markham)
Our Matter No. 022222-200000

We are the solicitors for Mary Margaret Shank, owner of lands legally described as Part of Lot 22, Concession 8, in the Town of Markham, in the Regional Municipality of York. The Shank property fronts onto Highway No. 48, two lots north of Major Mackenzie Drive East, in the northeast quadrant.

Part of my client's lands have been designated as Protected Countryside and Natural Heritage System by the Greenbelt Plan. Although it is difficult to discern, it appears that the remainder of my client's property is proposed to be designated Little Rouge Creek Policy Area under OPA 140.

Mrs. Shank, and her family, wish to alert Council to the following concerns and objections regarding OPA 140 in its current form:

1. The Shanks question whether OPA 140 is premature. It is clear that the Town will undertake a comprehensive official plan amendment conformity process to implement the Greenbelt Plan. Presumably, the Town will complete this process within the timelines established by the *Greenbelt Act, 2005*. The background section of the amendment states that OPA 140 "incorporates the Greenbelt area as information to ensure that the Greenbelt area lands are identified within the context of the Rouge Watershed until such time as a Town-wide conformity amendment is undertaken". If the Town is concerned about appropriate designation of lands within the Greenbelt Plan area, this is unnecessary given that the Greenbelt Plan stands on its own and must be adhered to. In fact, OPA 140 goes much beyond the Greenbelt Plan area. Given a number of the other concerns



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- identified below, it would appear that OPA 140 is premature until a comprehensive planning and scientific review is undertaken regarding implementation of the Greenbelt Plan through the conformity exercise.
2. Generally, OPA 140 incorporates by reference the Rouge North Management Plan (2001) and the Rouge North Implementation Manual. The Greenbelt Plan identifies these documents as guiding land planning and resource management documents for areas outside the Protected Countryside designation of the Greenbelt Plan. As there is no procedural protection associated with the development and future amendment of those documents and their future application, they must be addressed through the public process surrounding OPA 140. Unfortunately, OPA 140 adds very little clarity about the application of those documents; for example, on questions of boundary delineation.
 3. OPA 140 fails to achieve two principle objectives in an official plan, certainty and accountability. For example, it is intended that Community Interface and Infrastructure Guidelines will be prepared to the satisfaction of the Town at some point in the future. Policy 2.16.6(m) provides that the Community Interface and Infrastructure Guidelines "shall guide" the development of lands adjacent to the Rouge Park North. These guidelines will be considered in the preparation of all future secondary plans, community design plans, servicing plans, and in the review of all development applications adjacent to the Rouge River tributaries. The landowners will have no protection in respect of the preparation of these guidelines, nor does OPA 140 provide any certainty as to what will be contained within these guidelines. In my client's view, it is inappropriate to impose mandatory "guidelines" in this fashion, essentially elevating guidelines to the status of official plan policy without the appropriate public process and protection. If such guidelines represent good planning, they should be incorporated as policy in the comprehensive conformity exercise, fully open to public scrutiny and challenge. A similar concern arises from policy 2.16.6(c) in reference to a future "series of manuals, guidelines and maps".
 4. Just as there appears to be little scientific rationale for the 600 metre wide corridor identified in the Greenbelt Plan, there is no apparent rationale for addition of more area under OPA 140, including the Little Rouge Creek Policy Area affecting my client's lands. Similarly, there is no apparent scientific rationale for the 600 metre corridor width as being needed to support "interior forest objectives".
 5. It is not immediately apparent how the boundary of the Little Rouge Creek Policy Area in the vicinity of my client's lands corresponds to the location of the new Markham By-pass north and south of Major Mackenzie Drive. Nor is it clear whether the Town employed a consistent approach to producing the boundary along the Little Rouge Creek corridor.
 6. My client is concerned that the long term vision for the Little Rouge Creek corridor will be articulated through the preparation of a Little Rouge Creek Management Plan, presumably another land use control document prepared outside the protections afforded by the *Planning Act*.



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7. My client is also concerned about policies pertaining to the future use of lands which the Town would like to acquire as part of the Rouge Park North, and are generally concerned that the policies amount to expropriation without compensation. This concern is magnified where the Greenbelt Plan has already incorporated much of my client's land, and the need and rationale for the Town to include the rest of the lands through OPA 140 is not apparent. The policies clearly indicate that approvals may be withheld until the Town secures as much land as it wants. This surely does not reflect the law of Ontario today.

In summary, given the concerns outlined above, my client requests that the Region not approve OPA 140. There is no demonstrated need to put OPA 140 in place now when a more comprehensive Greenbelt Plan conformity exercise is required shortly. We request that the work on OPA 140 be folded into the conformity process, and that more effective consultation, and a more convincing planning and scientific rationale for policy, be generated through that process.

We thank you for your consideration of this matter.

We request that the Regional Clerk provide notice to the undersigned of Council's decision on OPA 140.

Yours very truly

J. Pitman Patterson
JPP:lg

Cc: Bryan Tuckey, Commissioner, Planning and Development Services
Mary Margaret Shank

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