

BLAKE, CASSELS & GRAYDON LLP

BARRISTERS & SOLICITORS | PATENT & TRADE-MARK AGENTS

October 3, 2006

VIA FACSIMILE

Chair and Members
Planning & Economic Development Committee
c/o The Office of the Regional Clerk
Region of York
17250 Yonge Street, 4th Floor
Newmarket, Ontario
L3Y 6Z1

Re: City of Vaughan
Re: Official Plan Amendment No. 620
Re: Steeles Corridor – Jane to Keele Secondary Plan

I understand that the consideration of a report of the Commissioner of Planning & Development Services is on the Agenda for your meeting tomorrow, October 4, 2006.

I am pleased to advise that we believe we have reached a mutually satisfactory understanding with York Regional staff about a framework for the transportation improvements servicing the Steeles Avenue Corridor.

Nonetheless, our concerns about Official Plan Amendment No. 620 remain.

I have enclosed with this letter a copy of the summary of those concerns, which we placed before Vaughan's Committee of the Whole in the form of a letter dated May 29, 2006, and in oral submissions made at the series of public meetings held to consider OPA 620.

As a result of a settlement reached with the City of Vaughan and York Region, a number of policies were embedded in Official Plan Amendment No. 529 which recognize and protect UPS's operational hub at the corner of Steeles Avenue and Jane Street, and its ability to expand that operation. Among these policies was Section 2.3.3.3(1) of Official Plan Amendment No. 450, as added by OPA 529, which provides:

"None of the policies of OPA 529, nor the studies referred to therein, shall be applied so as to delay, prevent or constrain the development or redevelopment of the lands designated as "Station Site and Commuter Parking Access" and "Remaining Parcels" on

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Schedule "8C" in accordance with the land use policies and zoning existing prior to the adoption of OPA 529...."

As noted in our submissions to the City of Vaughan, this represents an unequivocal recognition of UPS's existing use and expansion entitlement and the clearest possible assurance that the policies and studies which flowed from OPA 529, and which led to OPA 620, are not to diminish UPS's rights.

OPA 529 also deals explicitly with that land which can be expected to be dedicated by way of conditions to development approval and those lands which are not permitted to be requested by dedication.

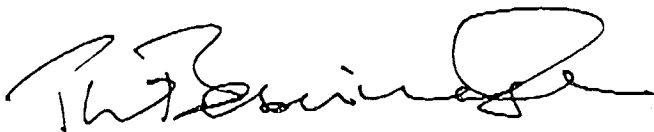
OPA 620 represents a very substantial dilution of the policies referred to above.

We proposed a series of detailed drafting changes which would preserve the important assurances of OPA 529. However, as an alternative to that type of comprehensive drafting solution, we request that staff be directed to report on a simple grandfathering clause, which would ensure that the principles negotiated and approved as part of OPA 529 are preserved. We would be pleased to cooperate in this

Request for Notice

I hereby request notice of any proposed decision by York Region as the approval authority in respect of OPA 620.

Yours very truly,



T. W. Bermingham
TWB/mg

Encl.

c: Jim Lambis, UPS
Clerk, Region of York
Bob Dragicevic
Chris Tzekas

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May 29, 2006

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Mayor and Members of Council
City of Vaughan
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Your Worship and Councillors:

Re: UPS Canada Ltd.
Re: Draft Official Plan Amendment 620

On behalf of our client, United Parcel Service, Canada and Quontlan Realty Inc. ("UPS"), I write to provide our comments on the revised version of Official Plan Amendment 620, which was made available on May 9, 2006.

Prior UPS Involvement

UPS was a party to the hearings before the Ontario Municipal Board regarding the policies from Official Plan Amendment 529. UPS was also an instigator of, and a leading participant in, settlement negotiations with the City and the other parties (including the Region of York) which arrived at a settlement of those policies and an approval of OPA 529 by the Board in July of 2001.

UPS also participated in the public consultations which were held to guide the formulation of the policies for Official Plan Amendment 620. The core of those submissions was that the Plan had to respect and protect UPS's right to expand its plant on this site.

UPS has also participated in and made submissions at the previous public meetings and when an opportunity has been presented to address the Committee of the Whole.

Throughout this process, UPS's submissions have emphasized consistent themes, which themes are reiterated in this letter.

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UPS Position

Official Plan Amendment 620 follows from, and grows out of, the policies established in Official Plan Amendment 529. Specifically, Official Plan Amendment 620 recognized that the road and transit improvements which it contemplated could lead to the potential for an expanded range of uses and higher densities in the Steeles Corridor. Official Plan Amendment 529 therefore called for a study of those uses and densities and the development of policies to guide and support those changes.

Importantly, Official Plan Amendment 529 expressly recognized and protected the right of UPS to continue its operations on its site and to expand its facilities and operations on that land. Among the City's approved policies which ensure UPS of its entitlement to exist and expand is policy 2.3.3.3(1) of OPA 450, as added by OPA 529, which provides:

"None of the policies of OPA No. 529, nor the studies referred to therein, shall be applied so as to **delay, prevent or constrain** the development or redevelopment of the lands designated as "Station Site and Commuter Parking Access" and "Remaining Parcels" on Schedule "8C" in accordance with the land use policies and zoning existing prior to the adoption of OPA 529. The reference herein to zoning by-laws refers to the zoning in place on the lands prior to the enactment of Interim Control By-laws 413-99 and 420-2000, as if such interim control by-laws had not been enacted."

This represents an unequivocal recognition of UPS's existing use and is the clearest possible assurance that the policies and studies which have led to OPA 620 will not diminish that right in any respect.

UPS's core concerns regarding Official Plan Amendment 620 can be summarized as follows:

- (a) UPS's use of its land as its national parcel sorting hub must continue to be recognized as a permitted use in the Official Plan and in the zoning by-law. The assurance embedded in OPA 529 of UPS's ability to expand the hub without delay or constraint must continue to be protected. Section 7.2, which deals with existing uses, requires clarification and expansion to achieve this with certainty;
- (b) The land protection and land acquisition policies of Official Plan Amendment 529, and the limitations of the *Planning Act*, must be respected. Official Plan Amendment 529 expressly provides that the land required for the east/west road will be limited as identified in Official Plan Amendment 529 and that land will be purchased, or failing agreement expropriated, not dedicated.¹ Similarly, land required for bus terminal

¹ The *Planning Act* does not permit site plan conditions requiring the dedication of lands for new roads, only widenings of existing roads.

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purposes will be limited to that identified in Official Plan Amendment 529 and will be purchased or expropriated, not dedicated²;

- (c) UPS is heavily invested in and committed to the use of these lands as its national hub. The value of its investment in the state-of-the-art sorting equipment at this plant is worth many times the value of the land. UPS has filed an application for site plan approval for expansion of the hub as contemplated and committed to at the time of initial development of the property and as confirmed again by agreed and approved Official Plan policy. Simply put, UPS will remain at this location;
- (d) UPS's concern about the proposal to add residential and commercial density to the west end of the corridor (Blocks A, B and C on Schedule A to OPA 620) takes two forms. Firstly, in respect to residential development, we must remind the City, as we have in all previous submissions, that residential development cannot be expected on the UPS lands in any foreseeable time frame. The only intensification of the use of the UPS lands will be for expansions to the UPS hub as permitted by existing policies and zoning. Secondly, we remain concerned about the introduction of sensitive land uses (such as residential uses) that are in proximity to the UPS hub. The UPS hub is a 24-hour shift operation that generates large amounts of truck movement with consequent noise and associated impacts, largely at night, which residents typically find obtrusive. UPS has been provided with no analysis of the potential impact to its existing and proposed operations (site plan application and additional as-of-right zoning) by the introduction of the sensitive land uses now proposed by OPA 620. The policies contained in draft OPA 620 suggest that it would be the responsibility of UPS to protect and buffer new sensitive land uses. This is not consistent with good planning practice nor is it consistent with provincial policy. Ministry of the Environment Guideline D-6 deals with compatibility between industrial facilities and sensitive land uses and stipulates that it is the new uses that must recognize and provide appropriate protections to existing and approved industrial uses. UPS must resist the addition of residential uses on the abutting lands to its west, and to its east. UPS has no objection to intensified non-residential uses on these lands, subject to appropriate traffic impact and management plans being provided;
- (e) OPA 620 must contain policies to ensure that increases to both road and intersection capacity infrastructure precede, and do not lag behind, the construction of new development or the proposed commuter parking facility; and
- (f) The consideration of this Official Plan Amendment is premature until coordination with the Secondary Plan for York University is assured.

² Neither the *Planning Act* nor OPA 529 permit site plan conditions relating to dedication of lands for transit stations or bus terminals.

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The concerns we have raised in previous submissions have only been partially reflected in Official Plan Amendment 620.

We believe that revisions are required to address UPS's concerns and to eliminate contradictions between the approved policies of OPA 529 and the proposed policies of OPA 620. We would be pleased to meet with your staff in an attempt to resolve the necessary modifications before adoption of the Official Plan Amendment.

We would again request that we be notified of any meetings where this matter will be considered and to be provided with copies of any resolutions that Committees and Council may pass with respect to this matter. By copy of this letter to the Clerk, we are also requesting that we be included on the mailing list for Notice of Decision with respect to OPA 620.

Yours very truly,

ORIGINAL SIGNED BY
TIM BERMINGHAM

T. W. Bermingham
TWB/mg

c: UPS
Bob Dragicevic