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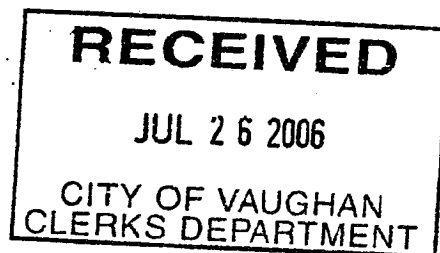
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July 26, 2006
Our File No. 240070

**HAND DELIVERED AND
VIA FACSIMILE: 905-832-8535**

The Corporation of the City of Vaughan
2141 Major Mackenzie Drive
Maple, Ontario
L6A 1T1

**Attention: J.D. Leach,
City Clerk**



Dear Sir:

**RE: APPEAL TO THE ONTARIO MUNICIPAL BOARD
PROPOSED AMENDMENT NO. 620 TO THE OFFICIAL PLAN OF
THE VAUGHAN PLANNING AREA
STEELES-KEELE INVESTMENTS LIMITED ("Steeles-Keele
Investments") - Part of Lot 1, Concession 4 designated as Part 4,
Plan 65R-7758 and Parts 2 and 3, Plan 65R-8008, save and except,
Parts 1 and 3, Plan 65R-11473, P.I.N.: 03230-0058, being
approximately 40 acres (the "Property")**

We are counsel for the registered owner, Steeles-Keele Investments, of the above-noted Property. The Property is located within the proposed secondary plan area and is located at the north-west corner of Steeles Avenue and Keele Street.

Steeles -Keele Investments has been actively involved during the course of the various studies associated with the development of the proposed amendment. Steeles-Keele Investments was most disappointed with the final draft as ultimately adopted by the City of Vaughan council. Further, City staff has advised our client that if it takes objection with the present draft of the proposed official plan amendment no. 620 (the "Amendment"), as adopted by council, it must appeal same by today's date. It is our opinion, that City staff's position is

not factual; given that, the Regional Municipality of York (the "Region") is the Approval Authority for the Amendment. In summary, it is our opinion that in these circumstances, that the mechanism for an appeal only arises with respect to the action taken or not taken by the Approval Authority. Notwithstanding same, and only under an abundance of caution and given City staff's recommendation to our client, kindly accept this letter as our client's notice of appeal to the adoption of the Amendment, which is made pursuant to the *Planning Act*.

Steeles-Keele Investments takes specific issue with the document in its entirety; and as such, appeals the adoption of the Amendment.

Our client and its consultants have identified a number of proposed policies that shall prejudice the development of the Property; more specifically, we presently reference the following policies of concern and to which objection is noted:

- 3.1 m) *'The area used for the calculation of permitted density shall include the land for the buildings, the land dedicated for the east-west road connecting Jane Street to Keele Street, private open spaces, landscaping, parking, servicing and driveway areas. The calculation of density shall not include the gross floor area of public transit uses, such as bus terminals and subway entrances, provided such uses are located within commercial or mixed use buildings.'*

1. Road Network - The policy provides that the land dedicated for the east-west road can be included in the FSI calculations, no mention is made of the north-south roads or the mid-block roads. These should also be included.

- 3.2.3.2. a) *'The following uses shall generally be permitted:*

- ii. *'Prestige Office Employment'*

- iii. *'Mixed-use development, combining Residential, Prestige Office Employment, Commercial and/or Public and Institutional uses in the same building'*

- 3.2.3.2. b) *'The maximum density for residential, mixed-use and hotel developments in the Corridor area shall be 1.5 FSI. The minimum density for these uses on a lot that is not a park shall be 0.8 FSI...'*

- 3.2.3.2. c) *'The maximum density of Prestige Office Employment uses, except a hotel, shall be 0.5 FSI for a given development block.'*

- 3.2.3.2. d) *'Retail uses shall be ancillary to the main use and provided at grade and only as part of a multi-storey, mixed-use High Density Residential, Prestige Office Employment, or Public and Institutional building.'*

2. **Land Use** - The definition of "mixed use" should be expanded and the density should not be restricted.

• 3.3.1. f) *'The City is undertaking a City-wide Master Plan for the provision of Recreation, Culture, Parks, Buildings, Facilities and Libraries. Through this process, , recommendations will be made which will evaluate and if necessary include any consideration for parks, recreation facilities and services in the Amendment Area.'*

• 3.3.2. b) *'A system of Parks shall be established in the Amendment Area and integrated into the surrounding community's pedestrian and open space system. Schedule C conceptually illustrates the general locations of Parks. The actual location, types and sizes of Parks will be determined by the City's Parks and Recreation Master Plan and may vary from Schedule C without amendment to this plan. Development Concept Reports shall identify the precise location and phasing of parks and neighbourhood squares.'*

3. **Parkland**- The recommendations of the proposed master plan will influence how the Property is designed in terms of the master plan and site servicing strategy. Further information is required in order to properly assess the proposed policies.

4. **Parkland**- Steeles-Keele Investments should not be obliged to locate parks as illustrated in Schedule C. Since it is described as 'conceptual', Schedule C should only be considered as one of many possible park location scenarios. It should be clarified that Schedule C is conceptual or that this can be dealt with through a cash-in-lieu settlement.

• 3.3.2. d) *'Suitably sized and located park and neighborhood square sites shall be conveyed to the municipality as a condition of approval of draft plans of subdivision, to ensure that the long term passive and active recreational needs of the Corridor residents and employees are accommodated.'*

• 3.3.2. e) *'Parks and neighborhood squares should be designed based on the following design guidelines:
viii. Neighbourhood parks should be 0.8-2.5 hectares in size.; neighbourhood squares will range in size from 0.4 to 0.8 hectares.'*

• 3.3.2. g) *'The parks and neighbourhood squares provided in this Secondary Plan area shall be shown on draft plans of subdivision, and shall be conveyed to the City at the time of plan registration.'*

• 3.3.2. h) *'Parkland shall be dedicated on the basis of a ratio 5% of the gross land area for residential areas, and 2% for the commercial areas, or 1.0*

hectare for each 300 dwelling units, or a combination of 5%, 2% and 1 hectare per 300 units at the City's discretion, as provided in Section 42 or Section 51 of the Planning Act. Parkland dedication may also be provided via payment of cash-in-lieu at the discretion of Council. The City shall generally give preference to the provision of park via land dedication, rather than payment of cash-in-lieu.'

5. Parkland - Even though the requirements for parks may change, due to the forthcoming study, the prescription for them is already quite specific in this document. While these lands are to be 'conveyed' to the City, there is a provision for payment of cash-in-lieu. With several hectares of open green space in the Hydro corridor, directly north of the Steeles Corridor lands, Steeles-Keele Investments queries what need is there to further reduce the amount of available developable land? This policy must ensure that cash-in-lieu is an option to the developer.

• 3.3.2. i) *'Lands utilized for stormwater management facilities shall not be considered as any part of the parkland dedication requirement provided under the Planning Act.'*

6. Parkland - Our client's planning consultants, can offer at least two examples of well-designed stormwater management sediment settling ponds that are wonderful parkland amenities. They are part of a sustainable design strategy that was implemented at the University of Ontario Institute of Technology in Oshawa. Accordingly, it is our client's position that such facilities should be considered as part of the parkland dedication requirement.

• 3.4.2. a) *'All residential development and other sensitive land uses within the Amendment Area are required to undertake a noise and vibration study...'*

7. Land Use - Mixed-use Prestige Office Employment/Retail Developments should be excluded from this requirement, because this use-type should not be considered 'sensitive land use'.

• 3.4.2. e) *'The City may require, development applicants to undertake, noise and vibration studies, prepared by qualified consultants that address the potential impacts on development of the subway and associated bus terminal.'*

8. Studies - Without these facilities constructed, how is this valuable or even realistically possible?

- 4.2.1 a) i. *'Maximum building heights shall be established in the zoning by-law and shall not exceed the height limits identified on Schedule D.'*

9. Building Design - Schedule D prescribes a scenario that is contrary to what our client has described in its master plan. Specifically, our client is considering placing three 20 storey towers at regular, but shifted, intervals from the Hydro pylons to the north, with tree lined boulevards to the south, thereby providing these towers with a visual connection to Steeles Avenue and vice versa would not be possible given the height restrictions prescribed in the plan. According to Schedule D, the maximum height allowed is 15 storeys at the western 5th of the site, with a gradual stepping down to 8 storeys at the east end. It is our client's position, that this proposed building massing is inappropriate. While Item 3.1. g) is a description of how height and density restrictions can be circumvented, 'under Section 37 of the Planning Act', the basic concept prescribed in Schedule D is unnecessary.

- 4.2.1. a) v. *Buildings greater than 6 storeys shall have a 3-6 storey podium.*
- 4.2.1. d) iii. *At least half (50%) of the property frontage along Steeles Avenue and the north-south streets shall have a building set within the build-to zone.*
- 4.2.2. d) *Corner Buildings...*
- 4.2.2. e) *Rooftops...*

10. Building Design - The list of highly prescriptive "rules" above is anything but simple. Proposed policy 2.11 a) iv. states that high quality development can be achieved by, 'Establishing simple development "rules" in order to encourage, rather than discourage, development that meets the objectives of this Plan. It is our client's position that highly prescriptive nature of this section of the Amendment contradicts the stated goal of 'Establishing simple development "rules"'.

- 4.3.3 b) *'Development on each block identified on Schedule A shall include continuous mid-block local streets, lanes, and/or pedestrian connections running east-west and north-south;'*

11. Road Network - Our client objects to the concept that continuous mid-block local streets are necessary, because developable land and potential building density would be severely restricted. The combination of a 26 meter setback along the north, a 20 meter (+/-) mid-block road and a 22 meter City of Toronto easement along the south will diminish the development potential of these properties along the Steeles Avenue corridor. In addition, there is no

provision in OPA620 for retaining densities lost where mid-block roads are conveyed to the city. Even though OPA620 is somewhat ambiguous about the requirement for mid-block streets by offering this 'and/or' choice, the requirement for it should be clarified.

- 4.3.4 a) iii. *'Large surface parking areas are generally discouraged'.*

12. Parking - Large surface parking is an economic reality of the current office market. Until these properties reach optimum development density, surface parking is the only means by which parking requirements will be met within a viable economic framework.

- 4.3.4 a) xi. *'Prestige Office Employment uses shall include a minimum of one level of underground parking.'*

13. Land Use - Our client's concern is once again linked to what shall be ultimately considered to be 'mixed-use', a clarification is required to ensure that the requirement for underground parking shall not apply.

- 5.3.1 h) *'Local and primary road rights-of way shall be identified in all approved plans within the Corridor, and shall be conveyed to the municipality as a condition of approval of draft plan of subdivision, prior to the registration of the plans. Alternatively, the City may in the subdivision agreement permit private roads designed and built to City standards with a public easement that conveys the road to the City at no cost, any time in the future the City deems necessary.'*

14. Road Network - There is a significant difference in construction cost between a private access road and a built-to-City-standards road. Understanding which roads must be conveyed to the City is necessary and compensation must be addressed.

15. Road Network - If the east-west road is primarily for public transit commuters and will be partially located in the Hydro corridor, then the City should be responsible for the cost of constructing this road. We strongly disagree that these roads should be conveyed to the City at no cost. The developer should be compensated for the cost of construction and for the value of the lands conveyed to the City.

- 5.3.1 o) *'Development shall allow for the establishment of a continuous secondary east-west connection for pedestrians, cyclists and, through most blocks, vehicles, as conceptually shown on Schedule B.'*

16. Road Network - This statement is clearer regarding the requirement for

a mid-block road, but the plan (Schedule B) is still described as conceptual. Conceptually, we are providing a mid-block road with pedestrian landscaped connections. Our mid-block road, however, is a private road that provides public access to the development.

• 5.3.3. c) *'The east-west primary road is to be located to the greatest extent practicable, in the lands owned by the Ontario Realty Corporation (ORC) and being leased to Hydro One. Figure 2 illustrates the preferred option of using at least 10 metres of the Hydro Corridor for the east-west primary road right-of-way... The connections of this east-west road to Jane Street and Keel Street are to ultimately be fully signalized intersections.'*

• 5.3.3. d) *'Until the scale and precise location of the east-west road is approved by ORC, the City will secure a right-of-way, easement, or reserve of up to 26 metres wide as part of all development applications... Until the east-west road is established, the easement or reserve may be used for driving aisles and/or parking but not for the location of buildings.'*

17. Road Network -Our client agrees that the proposed east-west road should be located along the south property boundary of the Hydro corridor and that the majority of it should be placed within the corridor. The language of this document suggests that this is the preferred option. If it is truly, 'an objective of this Secondary Plan to establish the road rights-of-way as early in the development as possible' and that, 'the early establishment of the east-west primary road is critical to the implementation of this secondary plan', then the only clear path available, to connect Jane Street with Keele Street, is through the Hydro corridor. The fact is that there are several properties located in the middle of the study area that are currently developed and occupied with owners and tenants that have no intention of moving in the near future. Therefore, it is unreasonable to require that a 26-meter setback be established along the north portion of adjacent developable properties for this road if the road cannot be constructed in its entirety within a reasonable time frame.

• 5.3.4. b) *'... If it is not practical or desirable to extend all of the north-south roads south of Steeles Avenue, the roads on the north side still will be required. Signalized pedestrian connections to the south side of Steeles Avenue are to be implemented in accordance with this plan.'*

18. Road Network - Steeles Avenue is under the jurisdiction of the City of Toronto. We understand that the City of Toronto and York University are currently reviewing the secondary plan for the campus and, in particular, the placement of future north-south roads. The problem is that, if any one of

these proposed roads south of Steeles Avenue is not approved for construction by the City of Toronto, then it would be unlikely that a median cut and signalized intersection would be approved either. If one of these proposed north-south roads terminates at Steeles Avenue without a signalized intersection, it would be rendered ineffective in reducing traffic congestion on Steeles Avenue. In addition, if the area of a discontinuous road is required to be subtracted from lot area coverage calculations, development potential will be further restricted.

- 5.5 a) *'Transit-supportive parking standards shall be established for the Corridor through a City-initiated zoning by-law amendment based upon a City-initiated parking study, or on an application-specific basis with a supporting parking study. Reduced parking standards may be phased in over time as the target densities in the Plan are achieved. To encourage transit use and discourage an oversupply of parking, maximum parking standards will be established for the Corridor.'*

19. Parking - The timing when maximum parking standards are established for the Corridor will affect the master plan design development of this Property. Further information is required in order to properly assess the impact this proposed policy.

- 5.6 d) *'Traffic Impact Studies submitted in support of development applications are required to review background traffic growth generated by the York University campus.'*

20. Traffic - With the arrival of the subway system to the York University campus, vehicle traffic should be on the decline. However, the requirements that the City has laid out in this document for the 'Traffic Impact Study' has become far more onerous. The parameters of such studies must be reviewed and agreed upon.

- Item 6.1 g) *'The City may require that development applications include a Sustainability plan.'*

21. Sustainability - As there may be a certain amount of additional capital cost required to implement some sustainable design features, these costs should be incurred only if it can be demonstrated that they provide a benefit to the development.

- 8.1 b) *'A Steeles Corridor Coordinating Committee, including staff from the City of Vaughan, the City of Toronto and York Region, York University*

Development Corporation, Black Creek Pioneer Village, Hydro One, CN Railway Properties, UPS, TRCA and the various transit providers will be established to oversee and facilitate the coordinated implementation of the plans north and south of Steeles Avenue and address, on an ongoing basis, specific issues related to road and pedestrian connections, land use and built form compatibility, transit facilities, community services, noise and streetscaping.'

22. Steeles Co-coordinator Committee - Steeles-Keele Investments, as a primary stake holder, should be represented on this committee.

• 8.2 c) 'Prior to the approval of any development application, the City may require the preparation of any or all of the following studies:

- i. traffic and transit impact study, including traffic demand management initiatives;*
- ii. storm water management plan;*
- iii. master servicing study;*
- iv. development concept report and phasing plan;*
- v. open space and streetscape master plan;*
- vi. community services needs assessment and delivery strategy;*
- vii. Noise Impact Analysis Report and/or Vibration Impact Analysis Report;*
- viii. archaeological survey of the lands.*

The City shall establish specific requirements for studies addressing the foregoing concerns with development proponents. The costs associated with the conduct of these studies shall be the responsibility of the landowners and be shared equitably among benefiting landowners on a pro-rata basis.'

23. Studies - There are an overwhelming number of studies listed as possible requirements before development can occur; it is imperative that there be discretion with respect to such studies and that a mechanism be implemented with respect to same.

In summary, Steeles-Keele Investments, principal objections to the OPA 620, are as follows:

1. The land use designation for the Property is far too restrictive. Consistent with the intentions of the Municipality to render this area a vibrant urban district a much more inclusive land use designation would be appropriate. This will allow a sensitive response to market conditions, spur development and achieve a richer result.

The designation should at least include residential, office commercial, retail and other non-noxious uses. Further, these, on a property as extensive as this (40 acres) and on a main arterial route, should have

the flexibility to accommodate a mix of uses, contained either within buildings or distributed individually about the site.

2. The location and magnitude of parkland as shown on the plan diagram is inappropriate in this location and on this configuration of land ownership, squeezed as it is between Steeles Avenue and the Hydro Corridor.

Given the vast open space of the corridor, the additional parkland provisions required in the official plan is clearly excessive.

Given the narrowness of the site to locate parkland centrally as shown renders development very difficult.

3. The provisions of an east-west road, in addition to Steeles Avenue and the future east-west arterial road on the Hydro Corridor boundary, is entirely redundant. We fully understand the need to both alleviate the traffic congestion at the Steeles and Keele intersection and to provide access to the future development node at the contemplated subway stations to the west of these lands. Therefore, we feel that a number of north-south links from and to Steeles Avenue and then new Hydro Corridor east-west road, will satisfy this requirement. Placing another east-west road that would bisect the narrow strip of lands that lie between Steeles and the Hydro Corridor will only serve to sterilize these lands for appropriate development, exacerbated by the park locations referred to in 2 above. Further, Steeles-Keele Investments must be compensated with respect to any land conveyed to the City for the purpose of such roads and for the cost of any construction associated thereto.
4. The height restrictions prescribed in OPA 620 hardly does justice to the urban design potentials of these lands. Given the vast open space afforded by the Hydro Corridor to the north, high buildings built behind a consistent 6-8 storey streetscape on Steeles Avenue, would distinguish this area, cast no shadows on surrounding development and make possible a truly exceptional physical configuration, consistent with the general urban aims of the municipality.

Enclosed with a copy of this letter is our firm's cheque in the amount of \$125.00 payable to the Minister of Finance representing the prescribed filing fee for this appeal.

Kindly provide us with written confirmation once the record has been forwarded to the Ontario Municipal Board.

We trust that this is satisfactory; however, please do not hesitate to contact us if further information is required.

Yours very truly,
PARENTE, BOREAN LLP
Per:


Gerard C. Borean
GCB/md
Enc.

cc: client
cc: The Ontario Municipal Board
cc: The Regional Municipality of York
Attention: Sean Hertel – via e-mail