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C28

COMMUNICATION

COUNCIL – April 25, 2023

CW (1) - Report No. 16, Item 6

April 25, 2023

Delivered Via Email
(c/o clerks@vaughan.ca)

Vaughan Council
City of Vaughan
Vaughan City Hall, Council Chamber
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File: 0232132.0003

Mayor and Members of Council:

Re: Zancor Homes (Steeles) LP (the “Applicant”)
City of Vaughan Files OP.21.028 & Z.21.057
2600 and 2700 Steeles Avenue West

We are counsel for United Parcel Service Canada Ltd. (“**UPS**”), registered owner of the lands municipally known as 2900 Steeles Avenue West in the City of Vaughan (the “**UPS Lands**”) on which it operates the Canadian hub of its global parcel distribution network.

We are writing with respect to an application for a proposed development of the lands located at 2600 & 2700 Steeles Avenue West (the “**Application**”). UPS made previous submissions on the Application to the City of Vaughan on May 17, 2022, July 29, 2022, October 25, 2022, November 18, 2022 and November 25, 2022. A separate letter was sent to Development Planning staff on February 16, 2023 specific to the shortcomings with the Applicant’s Noise & Vibration Feasibility Study and Acoustical Modelling report.

Noise & Vibration Feasibility Study and Acoustical Modelling Remains Incomplete

As set out in our previous correspondence, UPS is concerned that the Application does not adequately address land use compatibility issues with respect to the neighbouring UPS Lands. For instance, and in particular, the Applicant has not conducted an appropriate noise impact study addressing the potential impacts of the Application on the UPS Lands and UPS’ operations.

The noise impact study conducted by the Applicant is based on incomplete data and does not provide an informed analysis of the noise impact of the UPS facility as it exists today nor of the expansion of the industrial facility that is permitted on the UPS Lands. Consequently, the Aeroustics Engineering Ltd. peer review (the “**Aeroustics Peer Review**”) of the Applicant’s noise impact study commissioned by the City is similarly premised on incorrect assumptions. For instance, the assumed operation noted in the Aeroustics Peer Review significantly underestimates the existing truck traffic movements and idling numbers on the UPS Lands.

However, the Aercoustics Peer Review did identify that the Applicant's noise report does not provide a detailed assessment to determine the noise limits, exceedances, and the mitigation required for a Class 4 sensitive land use.

UPS retained Valcoustics Canada Ltd. to peer review the Applicant's acoustical modelling (the "**Valcoustics Peer Review**"). A copy of the Valcoustics Peer Review, dated February 13, 2023, was provided to City staff for its consideration in our correspondence dated February 16, 2023. This correspondence was not to Council but was copied to Councillor Ainsworth and the Senior Manager of Development Planning for the City of Vaughan. A copy of the February 16, 2023 correspondence and the Valcoustics Peer Review is attached hereto as Schedule "A". As with the Aercoustics Peer Review, the Valcoustics Peer Review identified deficiencies in the Applicant's submitted assessment.

Based on the results of those peer reviews, and further to meetings with and correspondence from the City, UPS understood that the Applicant had been directed to provide an updated Noise & Vibration Feasibility Study and Acoustical Modelling. This request from the City was to address the peer review comments and to include an assessment based on operational data from the UPS Lands, as applicable. In an email to the Applicant dated March 22, 2023, City of Vaughan Development Planning staff advised the Applicant that "an updated detailed assessment is required to address the peer review comments and include an assessment based on actual operational data obtained from the UPS and, as applicable, other surrounding stationary facilities." Staff went on to advise that "staff request that these matters be addressed by HGC in an updated Noise & Vibration Feasibility Study and Acoustical Modelling, and note that these studies would have also had to be updated and submitted nonetheless to assist in lifting of the H conditions on the ZBA pertaining to noise."

On behalf of UPS, we can advise that UPS has not been contacted by the Applicant further to Development Planning staff's specific request to obtain actual operational data, nor is UPS aware of, nor has it been provided a copy of, an updated Noise & Vibration Feasibility Study and Acoustical Modelling report. Further to the above, we can advise that, with respect to UPS' current operation (and future expansion) on the UPS Lands, the Transportation Impact Study of the Applicant, like its Noise & Vibration Feasibility Study and Acoustical Modelling report, is not based on actual operational data.

Given the above, on behalf of UPS, we submit that the Application should be considered premature pending the necessary assessment and further review. Development Planning staff do not yet have the information necessary to determine if the Application, as currently configured, is appropriate from a land use planning perspective. The City of Vaughan should not move forward with consideration of the Application until the Applicant's studies are updated and duly reviewed by City staff.

Request for Notice


The concerns raised by UPS are ongoing, and the City's request that the Applicant update its analyses remains unaddressed. If, despite these ongoing concerns, Council determines that it is appropriate to continue advancing the Application based on incomplete and inaccurate information, UPS continues to request notice of Council's decision. We also



request that we be provided notice of when the City forwards the proposed Official Plan Amendment to the Region for approval.

Yours truly,

MILLER THOMSON LLP


Tara L. Piurko
Partner
TLP/

Encl.

cc: Mayor and Members of Council, as follows:
Mayor Steven Del Duca (mayor@vaughan.ca)
Deputy Mayor Linda Jackson (linda.jackson@vaughan.ca)
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Haiqing Xu, Deputy City Manager, Planning and Growth Management (Haiqing.xu@vaughan.ca)
Mary Caputo, Senior Manager of Development Planning (mary.caputo@vaughan.ca)
United Parcel Services Canada Ltd.
RDLandPlan Consultants Inc.



SCHEDULE "A"

February 16, 2023 Letter to Development Planning regarding Valcoustics Peer Review





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February 16, 2023

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File: 0232132.0001

Mr. Xu:

Re: Zancor Homes (Steeles) LP (the "Applicant")
City of Vaughan Files OP.21.028 & Z.21.057 (the "Application")
York Region File No. LOPA.22.V.0007 (the "Application")
2600 and 2700 Steeles Avenue West
Valcoustics Canada Ltd. Peer Review of Acoustical Modelling of UPS Facility

We are counsel for United Parcel Service Canada Ltd. ("UPS"), registered owner of the lands municipally known as 2900 Steeles Avenue West in the City of Vaughan (the "**UPS Lands**").

We are writing further to UPS' Fifth Submission on the Application, dated November 25, 2022 ("**UPS' Fifth Submission**"). We are also writing further to meetings between UPS and the City since November 25, 2022, as well as receipt of the Aercoustics Engineering Ltd. Noise & Vibration Peer Review, dated January 19, 2023, commissioned by the City further to the Application (the "**Aercoustics Peer Review**"). On behalf of UPS we would like to thank the City for providing the Aercoustics Peer Review on February 1, 2023, excerpts of which were quoted in the November 21, 2022 City Communication C7 cited in UPS' Fifth Submission.

Valcoustics Canada Ltd. was retained February 1, 2023 to peer review the Applicant's acoustical modelling submitted in support of the Application and further to UPS' concerns as highlighted in the UPS' Fifth Submission with respect to the UPS Lands. Valcoustics was also able to comment on the Aercoustics Peer Review received the same date. UPS is also in the process of retaining other experts to review other aspects of the Application that are of concern to UPS.

UPS has now received Valcoustics Canada Ltd.'s peer review, dated February 13, 2023, a copy of which is attached as Schedule "A" for the City's consideration in its review of the Application (the "**Valcoustics Peer Review**").

Request for Notice

We continue to request advance notice of when the Application and associated official plan amendment will be tabled at City of Vaughan Council. Lastly, and further to two prior requests through RDLandPlan Consultants Inc., as well as in UPS' Fifth Submission, we request a copy of the draft official plan amendment, in advance of the meeting of Council at which it will be tabled.


UPS will continue its efforts to ensure that the Official Plan policies put in place to protect its use and expansion on the UPS Lands are followed whether through the municipal or appeal process.

Should have you any questions or require further information further to this submission, please do not hesitate to contact the undersigned or, in her absence, Robert Dragicevic at RDLandPlan at 416-575-2512 or rdlandplan@gmail.com.

Please note that Ward 4 Councillor Chris Ainsworth, as well as Augustine Ko, Senior Planner, York Region, have been copied on this correspondence. At this time, we have not copied the whole of the City of Vaughan Council and York Region Council.

Yours truly,

MILLER THOMSON LLP


Tara L. Piurko
Partner
TLP/

Encl.

cc: Ward 4 Councillor Chris Ainsworth (chris.ainsworth@vaughan.ca)
Mary Caputo, Senior Manager of Development Planning (mary.caputo@vaughan.ca)
Augustine Ko, Senior Planner, York Region (augustine.ko@york.ca)
United Parcel Services Canada Ltd.
RDLandPlan Consultants Inc.

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Schedule “A”

Valcoustics Canada Ltd. Peer Review, February 13, 2023



MEMORANDUM

TO: Tara Piurko
tpiurko@millერთhompson.com **VIA E-MAIL**

FROM: Al Lightstone

DATE: February 13, 2023

RE: Proposed Development at 2600-2700 Steeles Ave. West
& Potential Noise Impact from UPS, 2900 Steeles Ave. West

FILE: 123-0036

1.0 INTRODUCTION & PURPOSE

A mixed-use residential development is proposed at 2600-2700 Steeles Ave. W. in the form of four blocks each with a four-storey podium, and two 53 storey residential towers; for a total of four (4) podia and eight (8) towers of 53 storeys each. The podia will contain residential suites and indoor and outdoor amenity areas. At least some podia will also contain retail and office spaces.

Valcoustics was retained by Miller Thomson LLP to examine whether the developer's noise reports, prepared by HGC Engineering, adequately address the potential noise impacts from the UPS facility on the proposed development, in order to protect the long-term viability of the UPS facility.

HGC prepared the report "Noise and Vibration Feasibility Study, Proposed Residential Development, 2600 & 2700 Steeles Avenue West, City of Vaughan, November 19, 2021".

Subsequently, HGC prepared a memo, "2600 & 2700 Steeles Avenue West, Official Plan and Zoning By-law Amendment, Acoustic Modelling of UPS Facility", June 27, 2022, specifically dealing with noise from the UPS facility at 2900 Steeles Ave. W. Also reviewed was the peer review of the HGC documents by Aercoustics Engineering in the letter of January 19, 2023 and City Communication C7, November 21, 2022.

2.0 ENVIRONMENTAL NOISE CRITERIA/REQUIREMENTS

2.1 PROVINCIAL POLICY STATEMENT (PPS 2020)

The PPS 2020, in dealing with new development, requires that sensitive uses such as residential and major facilities (industries, infrastructure, etc.) must be designed, buffered, etc. so as not to adversely impact each other, with respect to noise and other factors such as air quality (Section 1.2.6). The long-term viability of major facilities, such as UPS, must be protected.

Land use planning decisions must be made consistent with the PPS policies.

2.2 VAUGHAN OP

In the Vaughan OP, Steeles West Secondary Plan Policy 11.3.18.1.d. (incorporating Policy 5.2.1.2 of Volume 1) reflects the policy in the PPS requiring studies and land use compatibility when introducing new sensitive land uses near manufacturing, industrial and warehousing uses, to protect the employment uses.

2.3 MECP NOISE GUIDELINES

- .1 The MECP provides environmental noise guidelines in publication NPC-300, "Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning", Ontario Ministry of the Environment, Publication NPC-300, October 2013.
- .2 There are basically two main types of sound (noise) sources: transportation, such as road and railway traffic and what are termed stationary sources.
- .3 Industrial facilities, such as UPS at 2900 Steeles Ave. W. are stationary sources. It is the site as a whole, with all of its sources that comprises the stationary source, notwithstanding that individual sound sources, such as trucks, can move on the site.
- .4 For transportation sources, there are indoor sound (noise) criteria/limits, requiring upgrading the sensitive (residential) building facades for compliance, where necessary.
- .5 Stationary sources are treated very differently than transportation sources. For stationary sources there are no indoor noise criteria. The sound limits apply at the outdoor planes of windows.
- .6 NPC-300 defines four (4) classes of receptor, with differing numerical sound limits. The 2600-2700 Steeles Ave. W. development sites would be Class 1 (urban). Class 3 is rural. Class 2 is a hybrid or urban (daytime) and rural (nighttime).
- .7 Class 4 is intended where new sensitive development is proposed within the influence of a stationary source and Class 1 criteria cannot be met. Class 4 has higher (less stringent) sound limits and permits on-receptor noise mitigation not permitted in Class 1.
- .8 NPC-300 Stationary Source Sound Limits:

Sound Limits (dBA)				
Time	Class 1		Class 4	
	Facade	OLA	Facade	OLA
0700-2300	50	50	60	55
2300-0700	45	-	55	-

3.0 ENVIRONMENTAL COMPLIANCE APPROVAL (ECA)

This was previously known as a Certificate of Approval (C of A). Facilities that emit a contaminant defined in the EPA require an ECA. Noise and vibration are defined contaminants. UPS 2900 Steeles Ave. W. operates under C of A No. 4315-7EWQZS, issued June 9, 2008. UPS operates in compliance with its C of A.

4.0 HGC NOISE REPORT OF NOVEMBER 19, 2021

4.1 TRANSPORTATION NOISE

This report, for the proposed residential development, identifies road traffic and a nearby railway corridor as being major noise sources.

The road and rail sources appear to be properly assessed, indicating sufficiently high road and rail sound levels that upgrades to the proposed building envelopes to comply with indoor transportation noise criteria are required.

4.2 STATIONARY SOURCES

A number of stationary sources are identified. UPS is included in the list of stationary sources but is not analyzed because the distance is indicated as 400 m, judged by HGC to be far enough away to not be a concern, without any assessment.

- .1 The industries (stationary sources) with potential for noise impact on the proposed residential development have been identified and listed in HGC Table 9. UPS is included but not analyzed/assessed.
- .2 Sound emission levels (in terms of sound power levels) for various types of sources such as trucks, HVAC units and other equipment, taken from other projects were used for analysis (HGC Table 10). No on-site measurements were done. Specific sound source scenarios were not detailed for each of the industries assessed. Thus, it is not possible to verify the suitability of the stationary source analysis that was done.
- .3 It appears no communications were had with any of the industries to obtain information on, or confirm, source scenarios. For example, it was assumed that Masonite operates only during daytime, possibly in the evening but not at night. The York University Central Utilities Building contains two gas turbine engines for co-generation. This facility was observed to be inaudible even at close distance. However, there is no indication it was confirmed that one or both engines were operating (Section 4.3). UPS was not approached to provide any operational information. On page 21 (Section 4.4), HGC states *"Where possible, the assumptions of the modelling should be verified with representatives of the surrounding facilities to ensure that the assessment reflects realistic equipment and/or operating parameters"*. On page 22 relative to Forest Asphalt Plant, HGC states *"It is not confirmed what the exact equipment and operation procedures are at this plant; this analysis can be further refined if necessary"*. Thus, in my opinion, the current results presented should not be considered definitive. HGC/the developer should have the responsibility to provide a more definitive assessment and conclusions.

- .4 The HGC study concludes that Class 1, NPC-300 noise criteria will be met with some exceptions re impulse noise.
- .5 The HGC report recommends classifying the development site as Class 4, to take advantage of less stringent noise criteria (by 10 dBA on building facades and 5 dBA for OLA's), notwithstanding, that in the main, Class 1 noise criteria are indicated to be met.
- .6 There are some typographical errors in Table 4, giving road/rail noise results in the form (road/rail/total). Several totals are incorrect, being less than the largest of road and rail; e.g., Block 1 podium, north, (60/48/55) should be (60/48/60); south (71/43/41) should be (71/43/71); Tower A, south, (69/43/67) should be (69/43/69).

5.0 HGC MEMO (JUNE 27, 2022) RE UPS

- .1 This memo reports on acoustical modelling of sound levels predicted at the proposed residential development due to UPS, in response to a letter from RD Landplan consultants on behalf of UPS.
- .2 Loading/unloading impulse sounds are also included. The basis for this is not given. Impulse sounds from tractor trailer coupling/uncoupling is not addressed but should have been.
- .3 The HGC modelling used 20 truck movements and 20 idling trucks (hourly), with no details of this scenario being provided, such as travel paths, type of trucks, locations. The assessment was based on night noise criteria. These truck volumes underestimate the current actual number of trucks and activity.
- .4 It is understood that there was no effort by HGC to obtain operational information from UPS. UPS has indicated willingness to provide operational information.
- .5 The HGC modelling does not reflect actual truck volumes at UPS because it includes about 848 tractor trailer movements plus 400 smaller trucks per day, and peak hour volume of some 81 tractor trailer movements (not necessarily at night) plus local delivery trucks. Future expansion plans at UPS are not considered in the HGC work. The Aeroustics peer review of January 19, 2023, as quoted in City Communication C7, dated November 21, 2022, states that *"The operational assumptions outlined in the letter account for both current operations as well as the potential future expansion of the UPS facility"*. This is totally incorrect. In fact, the Aeroustics letter states that the operational assumptions should be confirmed with UPS (Item 2.2 4. A.). City Communication C7 also states that both HGC noise reports, that is, including the original HGC noise report, assessed UPS. This is also not correct. The original HGC noise report was clear that UPS was not assessed but assumed to create no noise impact simply by virtue of setback distance.
- .6 Thus, the HGC assessment is not properly appropriate for the actual current or future UPS operations. NPC-300 requires that a predictable worst-case hour be used.
- .7 Further, the Aeroustics peer review of January 19, 2023 indicates that significant changes have been made to the proposed development at the NW corner that may alter the conclusions of the noise study at stationary sources, potentially including UPS.

6.0 CITY OF VAUGHAN NOISE BYLAW (121-2021)

- .1 UPS is currently in compliance with the Vaughan noise bylaw.
- .2 Section 4.0 gives prohibitions. Section 4.1 (a) requires compliance with the NPC-300 stationary sound limits. Section 4.1 (c) prohibits acts listed in Schedule 2 from being audible in a Residential Area at a prohibited time *unless generated in an Exempted Employment Area and heard in a Class 4 area, and the act is subject to a valid MECP ECA that states the specific acts are permitted*. This has the potential to put UPS in jeopardy re the noise bylaw if the proposed development is implemented.
- .3 The reasons for this are set out below.
 - Prohibited audibility of Item #3 (loading, unloading, handling, etc.) & Item #12 (garbage compactor) relate to UPS operations.
 - Sounds can be audible even if the sound level complies with (is less than) the sound limit. Thus, this inaudibility requirement is much more stringent than the numerical sound (noise) limits of NPC-300, used by MECP to issue ECA's and EASR registration.
 - A stationary source (UPS in this case) can be in full compliance with NPC-300 and its ECA and not comply with the audibility provisions of the noise by-law.
4. Planning decisions that implement new sensitive land uses proximate to an existing facility such that the facility would be made non-compliant with the noise bylaw would not comply with Policy 1.2.6 of the PPS.

7.0 SUMMARY & CONCLUSIONS

- .1 The HGC noise study concludes that the predicted UPS sound levels at the proposed development will comply with the NPC-300 noise criteria for Class 1 receptors. However, the UPS sound source scenario used has significantly less truck activity than is actually the case for both an average and peak hour. Although results for impulse sounds for loading/unloading are shown, no details for these activities are provided. Impulse sounds from tractors and trailers coupling/uncoupling are not assessed. The requirement in NPC-300 to assess a predictable worst case is not met.
- .2 The long term, phase 3, expansion plans of UPS are not addressed.
- .3 With some exceptions, the HGC noise study indicates that Class 1 noise criteria would be met at the proposed development for the stationary sources other than UPS (which was not assessed in the November 19, 2021 noise feasibility study). HGC recommends that the residential development site be classed as Class 4, to benefit from the less stringent noise criteria on the building facades (by +10 dBA). The intent is to allow leeway for the industries to increase noise emissions. This would increase the potential for incompatibility and noise complaints unless a corresponding increase in receptor-based noise mitigation (such as upgraded exterior walls and windows) is included for the residential development. No such upgrades have been proposed.

- .4 We agree with the Aercoustics peer review that the intent of NPC-300 is that Class 4 is to be used when it is not practicable to meet the Class 1 noise criteria and not simply to allow a 10 dBA increase in receptor sound levels. We do not agree with the implied Aercoustics conclusion that the HGC noise study adequately and correctly evaluates the potential noise impact from UPS, both for current and future operations.
- .5 The recent changes to the proposed development concept (which we have not reviewed) may result in increased stationary source noise impact, including from UPS, according to the Aercoustics peer review, but have not been fully addressed in the developer's noise report(s).
- .6 If the residential development site is classed as Class 4, it should be designed assuming that the receptor sound levels are 10 dBA higher than are shown by modelling, (based on proper analysis). Where Class 4 noise criteria limits are exceeded, at-receptor, on-building noise mitigation in accord with NPC-300 should be required. It should be a requirement that the buildings must be designed so that resulting indoor sound (noise) levels with the elevated sound levels do not exceed those which would have resulted from applying Class 1 sound level limits at the outside planes of windows. For the case of UPS, sound (noise) source scenarios should be based on actual operations and planned future expansion.
- .7 Currently UPS operates in conformity with its ECA and the Vaughan noise bylaw. Inappropriate land use planning decisions/approvals/implementation on nearby sites can place UPS off-side of its ECA and/or the Vaughan noise bylaw through no fault of its own. This would be inappropriate and contrary to the PPS and OP policies identified in Section 2.2 above.
- .8 In summary, in our opinion, the current noise analysis of UPS by the developer is not appropriate nor acceptable in that actual and planned operational intensity is not addressed and neither is the potential jeopardy of UPS, related to the noise bylaw addressed. Such a situation does not conform to the PPS nor the OP policies identified above.

If there are any questions, please let us know.

ADL\mv
J:\2023\1230036\000\Memos\W#1 2600-2700 Steeles Ave W-Potential Noise Impact from UPS 2900 Steeles Ave W (Final).docx

From: Clerks@vaughan.ca
To: [Adelina Bellisario](#)
Subject: FW: [External] City of Vaughan File No. OP.21.028 and Z.21.057 - 2600 and 2700 Steeles Ave W - Letter & Submissions from UPS [MTDMS-Legal.FID7501934]
Date: April-25-23 10:40:30 AM
Attachments: [image0f69d0.PNG](#)
[69428338_1_Letter to City of Vaughan Council, UPS Submission re 2600 - 2700 Steeles Ave W, April 25, 2023.PDF](#)

From: White, Jesse <tjwhite@millerthomson.com>

Sent: Tuesday, April 25, 2023 10:37 AM

To: Clerks@vaughan.ca

Cc: mayor@vaughan.ca; Linda Jackson <Linda.Jackson@vaughan.ca>; Mario Ferri <Mario.Ferri@vaughan.ca>; Gino Rosati <Gino.Rosati@vaughan.ca>; Mario G. Racco <MarioG.Racco@vaughan.ca>; Marilyn Iafrate <Marilyn.Iafrate@vaughan.ca>; Adriano Volpentesta <Adriano.Volpentesta@vaughan.ca>; Rosanna DeFrancesca <Rosanna.DeFrancesca@vaughan.ca>; Chris Ainsworth <Chris.Ainsworth@vaughan.ca>; Gila Martow <Gila.Martow@vaughan.ca>; Haiqing Xu <Haiqing.Xu@vaughan.ca>; Mary Caputo <Mary.Caputo@vaughan.ca>; augsutine.ko@york.ca; cpodrebarac@ups.com; jlambis@ups.com; alusi@ups.com; tredmond@ups.com; annavictoriabarrera@ups.com; rdlandplan@gmail.com; Piurko, Tara <tpiurko@millerthomson.com>

Subject: [External] City of Vaughan File No. OP.21.028 and Z.21.057 - 2600 and 2700 Steeles Ave W - Letter & Submissions from UPS [MTDMS-Legal.FID7501934]

Good morning,

Please see the attached correspondence submitted on behalf of United Parcel Service of Canada Ltd., owner of lands located at 2900 Steeles Ave W, in respect of the above-noted matter, namely City of Vaughan Files OP.21.028 and Z.21.057. Those Files are in respect of an application by Zancor Homes (Steeles) LP for a development at 2600 and 2700 Steeles Ave W, Vaughan.

We trust that the letter and attachments will be forwarded to the appropriate staff members for review, consideration and reporting. We understand that Council is scheduled to consider Files OP.21.028 and Z.21.057 at the Council meeting scheduled for today, April 25, 2023 at 1:00pm, appearing as Agenda Item 7.1.6.

If there are any questions or if the City would like to schedule a meeting to discuss any of the foregoing, please let us know.

Many Thanks,
Jesse

JESSE WHITE

Associate

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