

November 4, 2021

VIA EMAIL: [clerks@vaughan.ca](mailto:clerks@vaughan.ca)

**Chair of the Committee of the Whole**  
**Vaughan City Hall**  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1P7

**COMMUNICATION C2**

**ITEM NO. 3**

**COMMITTEE OF THE WHOLE (2)**

**November 9, 2021**

Chair and Members of the Committee:

**Re: City of Vaughan Applications OP.20.017 and Z.20.044**  
**Re: Appeal No. 3 Solmar Inc. VOP2010 - LPAT PL111184**  
**Re: Meeting of November 9, 2021 Agenda Item 3 - page 25**

I act for Canadian National Railway the owner of the MacMillan Rail Yard one of the most important transportation terminals in North America.

The MacMillan Rail Yard is located to the north and south of Highway 7, north and south of Rutherford Road, east of Jane Street and west of Keele Street in the City of Vaughan. a portion of the Yard is located immediately to the north of and abutting the property that is the subject matter of these applications and the above referenced VOP2010 appeal.

The Yard is 1,000 acres in size and employs over 1,000 employees. It is one of the largest employers in the City of Vaughan and York Region.

CN supports the recommendation in the Staff Report to refuse these development applications and request the Committee adopt this recommendation in the Report.

CN would request that the Committee not adopt Recommendation 3 (b) recommending that in the event the Ontario Land Tribunal approves the applications that the implementing bylaw contain a Holding Symbol (H) on the terms set out in the Report.

CN is concerned with the H provisions proposed as a city position for the following reasons:

- a. No involvement in the lifting of the H by CN despite CN being the experts in rail operations through the holding provisions with the City having no internal expertise
- b. No requirement for a crash wall
- c. No requirement that the conditions concerning noise, vibration and air quality be addressed to the satisfaction of CN prior to the lifting of the H.

- d. No direction is provided as to the lifting of the H related to the conditions concerning CN impacts. The assessment of these conditions is left to the City and/or a peer reviewer with no formal direction provided to them as to any objective standards by which to measure whether the air quality, odour, noise and vibration impacts are acceptable

It's CN's opinion, based on the expert reports and material CN has already submitted to the City, that the applicant could not clear the holding provisions proposed related to CN.

Why would the City set up a framework for approval under an H Holding symbol when the evidence it has received is clear that residential development on the property is not feasible or desirable and constitutes bad planning.

### **History of Unsuccessful Residential Development Proposals for the Property**

CN has actively opposed various proposals for residential development for this property for over 20 years.

In a 2003 application for development of the lands at northeast corner of Jane Rutherford, which included 9291 Jane Street, the developer proposed low rise residential townhouses within 112 metres of the most southerly track of the MacMillan Yard's pullback track. The developer Jane-Ruth amended their development application to remove the residential townhouse development and proposed a commercial use in the 112 metres between the residential towers and the most southerly track in the pullback track.

### **History of 150 Metre Setback from MacMillan Yard's Pullback Track**

There is a long-standing land use planning standard in Ontario of a minimum distance separation of 300 metres of sensitive uses from a railway yard under the D6 Guideline of the Ministry of the Environment as also outlined in the FCM RAC Proximity Guidelines. That being said, CN has previously agreed in rare exceptional circumstances to accommodate such uses at reduced setbacks.

A minimum 150-metre setback for residential uses from the MacMillan Yard's pull back track property boundary was originally established by a recommendation from a CN Noise Consultant in his 1985 noise report before the adoption of the 300-metre standard in the D6 Guideline.

The 150-metre setback for residential development was respected by every new residential development in this location for over 35 years starting with OPA 190 and 350 and the Villa Giardino development at 2500 Rutherford Rd with the notable exception of the Jane Ruth condominium development to the south of this property.

Notwithstanding this setback there is a history of complaints concerning noise from the MacMillan Yard from residential development in Maple to the north of the Yard beyond the 150-metre setback.

It is submitted that the 150-metre setback would be equally applicable to sensitive commercial/non-residential uses.

### **2003 Jane-Ruth Development Application**

At page 6 of the Jane Ruth 2004 OMB decision the Board stated “there was general agreement” that there should be commercial uses between 150 metres from the southerly track of the pullback track and the residential uses to the south.

The OMB after an extensive 6-week hearing in 2004 determined there should be no residential uses within 112 metres of the MacMillan Yard.

### **VOP 2010 – Designation**

As of April 2018, Schedule 13 of the VOP2010 designated the Subject Site “Community Commercial Mixed-Use” with an H 16 and D 4. This designation is consistent with policies established by OPA 626 for the Subject Site in that “they shall be predominantly commercial areas appropriate for non-residential intensification and making efficient use of existing or planned rapid transit and transit investments.” The Community Commercial Mixed-Use designation does not allow any residential uses, as set out in section 9.2.2.8 of the VOP2010.

### **Current Operations in MacMillan Yard**

When CN presented its case before the OMB in 2004 it wanted to protect for the possibility of additional trackage within the MacMillan Yard pullback track. There was however at that time no specific proposal or design for additional tracks within the pullback track area.

As a result of increasing demands from its customers, CN has now developed a design for additional tracks in the Yard’s pullback track from the existing two to four. A design for this 4-track scenario is attached.

CN is now protecting for up to 3 additional tracks within the MacMillan Yard’s pull back track property meaning there may be ultimately up to 5 tracks located within the MacMillan Yard in the area of the pullback track. The 5<sup>th</sup> track would be closer to the proposed development than the existing southerly track and could involve locomotives idling for hours at a time.

This additional trackage together with changes in technology and configuration could lead to an ultimate increase in rail cars processed in the pullback track from 1 million rail cars a year currently to 2 million rail cars a year with a significant increase in the number and size of locomotives operating in the pullback track.

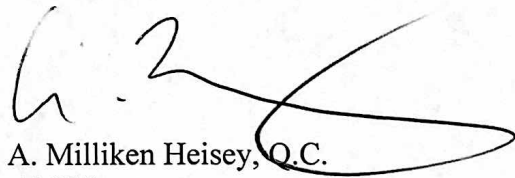
**Conclusion**

Council should support the recommendation for an outright refusal of the development applications and should not endorse a Holding Zone approach for a future implementing bylaw as the proponent cannot meet the standards for lifting the Holding symbol proposed by staff.

Kindly acknowledge receipt of this letter in writing.

Please provide the author with notice of any future Council or Council Committee meetings where these matters will be considered.

Yours very truly,

A handwritten signature in black ink, appearing to be 'A. Milliken Heisey, Q.C.', with a large, sweeping flourish at the end.

A. Milliken Heisey, Q.C.

AMH/lg

Encl.

cc: Canadian National Railway