

April 13, 2020

Mr. Joel Sachs

Keane & Beane

Subj: Statement of Lowell Kachalsky, P.E. dated April 13, 2020 Re: Proposed UPS Facility at 555 Tuckahoe Road, Yonkers

I am writing to you to express my comments on the UPS facility at 555 Tuckahoe Road with respect to refueling and traffic.

## **TECHNICAL COMMENTS**

### **Fueling Station**

UPS proposed above grade gas and diesel fuel storage tanks and refueling stations.

First, refueling is not a permitted use in CM zones, with above grade or below grade tanks. Refueling is not a necessary facility at distribution centers. UPS has refueling, but FedEx refrains from having refueling stations. Therefore, there is no reason to assume refueling stations “are integral to distribution centers” and therefore refueling stations should not be considered a permitted use just because a distribution center is a permitted use. This means that refueling is a convenience for UPS (UPS is large enough to buy fuel in bulk) and should be considered an accessory use and this accessory use (refueling) is not a permitted use in CM zones.

Secondly, the city codes do not permit above grade fuel storage for any motor vehicle or at motor truck freight terminals and distribution centers.

See below code/regulation excerpts regarding fuel and other applicable items:

**43-37 Supplemental regulations for all motor vehicle uses.**

*In addition to the requirements for certain specific motor vehicle uses specified in § **43-38** below, all motor vehicle uses shall comply with the following requirements*

**A.** *All outdoor fuel pumps and lubricating and other devices, if provided, shall be located at least 25 feet from any property line.*

**B.** *All fuel, oil, gasoline or similar substances shall be stored underground and at least 12 feet from any and all property lines. Such facilities shall be installed and maintained in accordance with the standards of the National Board of Fire Underwriters.*

**C.** *All dismantled automobiles, trucks, tractors, trailers and similar equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six feet high.*

*D. Adequate receptacles shall be provided for the deposit of all waste material. There shall be adequate provision for disposal of trash and refuse left on the premises.*

*E. Adequate space shall be provided on the site for all the elements of the motor vehicle use to be incorporated on the site, including provision for off-street parking for the maximum number of motor vehicles, and off-street loading and unloading. No loading shall occur across curbs and sidewalks. Adequate access and egress with appropriate turning radii to the site shall be provided as well as adequate queuing and turnaround space on the site so that at no time is street traffic disrupted or blocked by vehicles entering or leaving the site. Queuing of vehicles on the street or shoulder waiting to enter the site shall not be permitted. All service and repair work shall be performed within enclosed buildings.*

*F. All loading and parking areas for vehicles shall be paved, curbed and drained in accordance with City specifications.*

*G. Other than in industrial districts, every motor vehicle use shall provide a separate entrance and exit for vehicles. Entrance or exit driveways shall be located at least 20 feet from any side or rear property line. Such driveways shall be so laid out as to avoid the necessity of any vehicle backing across any right-of way.*

*H. Curbs shall be constructed so as to channelize all traffic to permitted curb cuts. There shall be no more than two curb cuts on any street frontage.*

*I. A fence of at least six feet shall be provided along all property boundary lines except along public street frontages.*

*J. When located adjacent to a residential district or use, a dense planting of evergreen bushes or trees to a width of at least 10 feet, in addition to a fence, shall be provided, to block headlight glare and muffle noise from motor vehicles.*

*K. All service, storage and trash areas, and such facilities as packer units, RPZ valves, LP tanks, transformers and condensers shall be completely screened from view from any public street or adjacent property.*

*L. Display lighting shall be shielded and shall be so located and maintained as not to constitute a hazard or nuisance to the traveling public or neighbors.*

*C. Motor truck freight terminals and distribution centers*

*(1) All parking areas for operating vehicles shall be paved, curbed and drained in accordance with municipal specifications. Such areas shall be at least 60 feet from any residence district boundary and at least 25 feet from any property line.*

*(2) Adequate space shall be provided on the site for all the elements to be incorporated into the terminal, including provision for off-street parking for the maximum number of idle trucks, tractors, semitrailers, buses and automobiles, and off-street loading and unloading. No loading shall occur across curbs and sidewalks. Adequate access and egress with appropriate turning radiuses to the site shall be provided as well as adequate queuing and turnaround space on the*

*site so that at no time is street traffic disrupted or blocked by vehicles entering or leaving the site. Queuing of trucks or buses on the street or shoulder waiting to enter the terminal shall not be permitted.*

*(3) All fuel, oil, gasoline or similar substances shall be stored underground and at least 25 feet from any and all property lines. Such facilities shall be installed and maintained in accordance with the standards of the National Board of Fire Underwriters.*

*(4) All dismantled automobiles, trucks, tractors, trailers and similar equipment and parts and accessories thereof shall be stored within a building.*

*(5) Screening shall include planting of evergreen bushes or trees in addition to a fence, so that truck motor noise and the sound of overnight operation of refrigeration units shall be muffled when adjacent to any residence district*

## **Traffic**

I have heard there is traffic study that was done, but I have not seen it. I will obtain a copy and provide comments in a subsequent letter.

UPS claims up to 225 trucks per day. That value is not substantiated nor as far as we know has any vehicle usage plan been submitted for review. There is no reason not to believe that the 225 value could be even greater. The UPS facility is planned to be a 24/7 operation. This indicates that there will be peak truck traffic exceeding the daily averages. There is no information on peaking factors, which would indicate the peak hour truck traffic, which could far exceed average daily values.

The synergistic impacts on UPS on top of current traffic plus the new FedEx facility, to my knowledge have not been studied.

Tuckahoe Road has become a snarl in the afternoon from Grassy Sprain Road to Mile Square Road, in both directions. Traffic at Mile Square Road has backed up traffic on to the Southbound NYS Thruway. Traffic at the Shoprite traffic light intersection has clogged up traffic exiting the NYS Thruway for Tuckahoe Road exits.

Traffic on Tuckahoe Road at the Sprain Brook Parkway get snarled up due to vehicles trying to exit on to Central Avenue as they use the Central Avenue/Sprain Brook Parkway connections to avoid the toll on the NYS Thruway.

Tuckahoe Road is a county road. To my knowledge, the county has not reviewed any traffic studies or assessed the structural impact of the increased truck traffic on the traffic flow, pavements and bridge over the Sprain Brook Parkway.

To my knowledge, the city has not completed a review of the traffic report, nor has there been an assessment of the structural impact of the increased truck traffic on the pavements of East Grassy Sprain Road.

At present, parking is permitted on East Grassy Sprain Road, Northbound, across from the Staples/Stirling Bank shopping areas. Is UPS relying on this road for "staging of trucks"? If not, what will the city do if that happens? The road is not wide enough to pass park trucks without encroaching upon

the double yellow line. Regarding staging of trucks, are there plans for making the grassy field North of the facility into a paved truck parking/staging area in the near or long term?

Note that fining UPS for violations of traffic rules will not work to stop such violations if the violations are needed to run the business of the day. Fines will become a normal business cost just like double parking fines UPS and FedEx pay in Manhattan.

The potential quality of life and safety impacts of a significant increase of truck traffic warrants a Positive Declaration.

Also, the fueling station as well as the truck washing station appear to be accessory uses, both of which are not specifically permitted in CM zones (the FedEx site is in an Industrial Zone). Also, note that FedEx in Elmsford washes trucks inside their facility.

### **Noise**

To our knowledge no air pollution study has been provided that assesses the impact of the UPS facility upon the residential community. The UPS facility is planned to be a 24/7 operation. Trucks that back-up are required by OSHA to have loud “beepers” to warn workers. This means “beeping” 24/7. Trees will not abate the piercing sound the truck “beepers’ generate.

Paragraph (5) of the codes regrading Motor Truck Freight Terminals and Distribution Centers discuss one source of noise:

*Screening shall include planting of evergreen bushes or trees in addition to a fence, so that truck motor noise and the sound of overnight operation of refrigeration units shall be muffled when adjacent to any residence district.*

This code is flawed. It presumes that the “muffling” of evergreen bushes or trees with a fence, together, are sufficient to prevent such noise from negatively impacting the residents. Only an adequate and thorough noise study can determine this.

Also, there is no work that has been done that shows the UPS facility will be in compliance with the city Noise Code. The Noise codes states

*66-1 “A. The making, creation or maintenance of loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Yonkers.*

*B. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, prosperity and the peace and quiet of the City of Yonkers and its inhabitants.*

### *66-2 NOISE DISTURBANCE*

*Any sound that:*

- A. Endangers the safety or health of any person;*
- B. Disturbs a reasonable person of normal sensitivities; or*
- C. Endangers personal or real property*

*66-3 Noise disturbance prohibited.*

*It shall be unlawful for any person to make, continue, cause, permit or allow, verbally or mechanically, any noise disturbance.*

*66-4*

*Enumeration of prohibited noises.*

*The following acts are declared to be a violation of § 66-3. Said enumeration shall not be deemed to be exclusive 66-4.*

*E. Motor vehicles: operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period of longer than five minutes in any sixty-minute period while the vehicle is stationary for reasons other than traffic congestion or emergency work on a public right-of-way or public space within 150 feet of a residential area or operating or permitting the operation of any motor vehicle so out of repair or in such a condition as to create a noise disturbance. No motor vehicle may be operated without a properly functioning muffler on a public right-of-way. The operation of a vehicle which is unmuffled or is equipped with straight pipes is a violation of this code. It shall be unlawful to operate a car radio or car stereo so that the sound produced is plainly audible at a distance of 25 or more feet from the vehicle. Drag racing, acceleration tests, any excessive burst of speed in a motor vehicle, or motorcycle or the operating of any vehicle in such a manner as to cause the tires thereof to squeal, on any street or highway within the City of Yonkers, shall be considered an annoyance and a hazard to the safety of the public. The registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation. The horn or signaling device on any motor vehicle may not be operated, except when used as a danger or traffic warning signal, and such operation must terminate when the danger has passed. It shall be unlawful for a motor vehicle to audibly sound a false alarm. It shall be unlawful for a vehicle to be equipped with a shaker switch or any other vibration or movement detecting device which contributes to or causes the vehicle to sound false alarms. An exterior alarm of a motor vehicle must not audibly sound for more than five minutes continuously or 10 minutes intermittently.*

We believe that this code requirement “An exterior alarm of a motor vehicle must not audibly sound for more than five minutes continuously or 10 minutes intermittently” is flawed. The requirement states “a motor vehicle”. Therefore, the noise can be “more than five minutes continuously or 10 minutes intermittently” as long as the noise is from more than one motor vehicle sounding in series or parallel. If not modified to address multiple motor vehicles, the intent of this code can be “legally” violated.

The potential quality of life and health impacts of the significant increase in noise over the site's previous tenants warrants a Positive Declaration.

Paragraph (J) of the codes regrading Supplemental Regulations for all motor vehicle uses discuss one source of noise:

*When located adjacent to a residential district or use, a dense planting of evergreen bushes or trees to a width of at least 10 feet, in addition to a fence, shall be provided, to block headlight glare and muffle noise from motor vehicles.*

This code is flawed. It presumes that the "muffling" of evergreen bushes or trees with a fence, together are sufficient to muffle motor vehicle noise and headlight glare to prevent such noise and glare from negatively impacting the residents. Only adequate and thorough noise and lighting studies can determine this.

### **Light Pollution**

To our knowledge, no lighting study assessing the impacts of building and truck lights upon the neighboring homes and upon local drivers on Tuckahoe Road and East Grassy Sprain Road has been provided. Poor lighting design can impact the quality of life and the health of the residents of the neighboring homes. Increased truck traffic at night will increase the frequency of truck lights blinding private vehicle drivers, thereby increasing the risk for accidents.

The potential quality of life, health and safety impacts of the significant increase in light pollution over the site's previous tenants warrants a Positive Declaration.

### **Visual Impacts**

To our knowledge, a final site plan or a viewshed analysis had not been provided. The community wishes to prevent "uglifying" their community, resulting in lower home values. All previous tenants had all their operations housed. Western Electric, Saks, POPS Displays, and others housed all their operations housed inside the building. UPS is proposing outdoor fueling and truck washing as necessary operations. They should place them indoors.

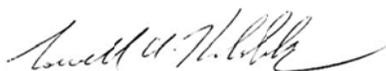
### **Environmental Health and Safety (EHS) Impacts**

We have not seen any studies examining the individual and synergistic impacts of the UPS facility on EHS of the community. The potential quality of life, health and safety impacts of the significant increase in the activities over the sites' previous tenants warrants a Positive Declaration.

The city should not fear UPS walking away should that happen. Why? I would be certain that there are many light manufacturers wanting to relocate back to the U.S. from China, I bet there are many. The city should help the property owner seek another tenant should UPS no longer find the location suitable.

I look forward to working towards a positive solution for the residents.

Respectfully,



Lowell Kachalsky, P.E.

18 Hazelton Road

Yonkers, NY 10710