

THE CORPORATION OF THE CITY OF VAUGHAN

IN THE MATTER OF Section 17(28) of
the Planning Act, RSO 1990, c.P.13

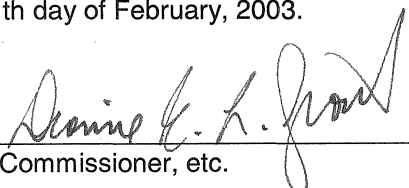
and

IN THE MATTER OF Amendment Number 581
to the Official Plan of the Vaughan Planning Area

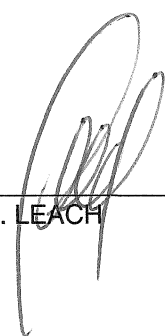
I, **JOHN D. LEACH**, of the Town of Caledon, in the Regional Municipality of Peel, **MAKE OATH AND SAY:**

1. **THAT** I am the City Clerk of the Corporation of the City of Vaughan and as such, have knowledge of the matters hereinafter deposed to.
2. **THAT** Official Plan Amendment Number 581 was adopted by the Council of the Corporation of the City of Vaughan on the 26th day of August, 2002, and written notice was given on the 6th day of September, 2002 in the manner and form and to the persons and public bodies that requested notification of the adoption, pursuant to Subsection 17(23) of the Planning Act, RSO 1990, as amended.
3. **THAT** a notice of appeal setting out objections to Official Plan Amendment Number 581 and the reasons in support of the said objections were filed with me within twenty (20) days from the date of circulation of the Official Plan Amendment.
4. **THAT** the said Official Plan Amendment and supporting documentation were forwarded to the Ontario Municipal Board on October 4, 2002.
5. **THAT** the Ontario Municipal Board advised by Board Order #0155, dated January 30, 2003, that the appeal has been dismissed without holding a hearing.
6. **THAT** Official Plan Amendment Number 581 is deemed to have come into effect on the 31st day of January, 2003 in accordance with Subsections 17(45) & (47)(b) of the Planning Act, RSO 1990, as amended.

SWORN BEFORE ME in the City)
of Vaughan, in the Regional)
Municipality of York, this)
11th day of February, 2003.)


A Commissioner, etc.

DIANNE ELIZABETH LILY GROUT
a Commissioner, etc.
Regional Municipality of York, for
The Corporation of The City of Vaughan.
Expires April 24, 2004



JOHN D. LEACH

ISSUE DATE:
Jan. 30, 2003
DECISION/ORDER NO:
0155



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL020885

F.I.I. - H. Wilson, Legal
- J. Arbous, Plg p
- P. Hysakowich, Plg
- M. Ramanna, Plg

Catherine Bonventre has appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Vaughan to approve proposed Amendment No. 581 to the Official Plan for the City of Vaughan
Approval Authority File No: OP.02.002
OMB File No: O020149

Algem Properties Limited has brought a motion before the Ontario Municipal Board under subsection 17(45) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to dismiss the appeal without holding a full hearing

APPEARANCES:

Parties

Algem Properties Limited

C. Bonventre

RECEIVED

JAN 30 2003

CITY OF VAUGHAN
CLERKS DEPARTMENT

Counsel*/Agent

J. M. Alati*

M. Racco

DECISION ON A MOTION TO DISMISS AN APPEAL DELIVERED BY J. L. O'BRIEN AND ORDER OF THE BOARD

Algem Properties Limited ("Algem") filed an application with the City of Vaughan ("City") to amend the Official Plan to redesignate land the company owns on Dufferin Street within the municipality. The application was approved. The Council of the City adopted Official Plan Amendment No. 581 ("OPA"). Mrs. C. Bonventre, an area resident, appealed the OPA to the Board.

Algem has brought a motion to dismiss the appeal without holding a full hearing, under the provisions of the *Planning Act*. At the commencement of the motion Mrs. Bonventre indicated she was present to 'watch' the proceedings and would not take part in them. No response to the motion and related materials had been filed by Mrs. Bonventre, although she had been properly served in sufficient time to prepare a response.

The Board is also satisfied the motion was clear and unambiguous as to the relief being sought. Any layperson receiving such material would be alerted to the nature of

the motion and the request to dismiss the appeal without a full hearing. The Board can only conclude Mrs. Bonventre willfully chose to ignore the consequences of the motion and did not adequately respond when served. The Board explained the process and the effect of the motion if it was successful. Mrs. Bonventre requested an adjournment to retain counsel. The request was denied, premised on the length of time which had transpired between service of the motion and the return date. Mrs. Bonventre then indicated she would withdraw from the hearing room prior to the completion of the motion, if it proceeded.

The City was represented by counsel at the motion but took no position on the merits of the relief sought and did not file a response, although properly served.

After counsel for Algem commenced his presentation of the motion, Mrs. Bonventre was joined by the local municipal councillor who proceeded to act as her agent.

The notice of appeal, dated September 23, 2002 (Exhibit 1, Tab 4) is signed by Mrs. C. Bonventre, but attached is a list of persons who purport to support the appeal. Apart from Mrs. Bonventre, no other person appeared on the motion to take a position. The Board ruled that it had only one appeal filed in accordance with the *Planning Act*, accompanied by the requisite fee. If other persons opposed the OPA, they were at liberty to file separate appeals within the time limits determined under the *Act*. They chose not to do so.

The notice of appeal attempts to address in very general terms: property values, traffic and safety concerns, access to the site from the Regional Road system, and changes to the character of the community.

As stated, no affidavit or *viva voce* evidence was presented by Mrs. Bonventre in response to the motion. Addressing the issues on the face of the notice of appeal:

- The Board does not deal with property values within the planning context;

- The Region of York has granted permission to access the site from the Regional Road system;

- Mrs. Bonventre retained a planner to present her concerns to the Committee of Council that considered the application. However, when pressed by the Board, the agent at the motion could not confirm if the planner was under retainer if the matter proceeded to a full hearing. Nor could the agent confirm a planning report had been prepared by the planning consultant for presentation at any future hearing;

- The agent could not confirm a traffic analysis had been undertaken on behalf of Mrs. Bonventre or that a traffic consultant had been retained.

It is incumbent on persons who invoke the appeal process to be prepared with cogent evidence for the hearing. It is obvious Mrs. Bonventre has merely recited some planning 'jargon' to buttress her appeal. There is no real or genuine issue to be tried which requires the full adjudicative process.

The Board is loathe to dismiss the concerns of ratepayers where there is a concerted effort to marshal a credible case in opposition to an Official Plan amendment. However, in the present instance, Mrs. Bonventre has not made a sincere effort to support her opposition to the OPA with even a modicum of expertise or advice from professionals engaged in the appropriate disciplines touched on in the notice of appeal.

The Board must conclude from the silence of Mrs. Bonventre at the motion, and based on the notice of appeal filed by her, that there are no land use planning grounds upon which the OPA or any part of the OPA could be refused by the Board. In the circumstances, the appeal is frivolous and vexatious given: 1) the reticence of Mrs. Bonventre to participate in the motion, 2) the lack of understanding by her agent of the provisions of the Act, 3) the lack of understanding by the agent of the applicable

case law related to dismissals of appeals, and 4) the lack of understanding by the agent in the planning process.

Based on the facts presented, and the demeanour of the appellant, the Board must further conclude the appeal is made only for the purpose of delay.

➔ Accordingly, the motion is granted. The appeal filed to the OPA by Mrs. Bonventre is dismissed without holding a hearing pursuant to the provision of the *Planning Act*.

The Board so Orders.



J. L. O'BRIEN
VICE-CHAIR

THE CITY OF VAUGHAN

BY-LAW

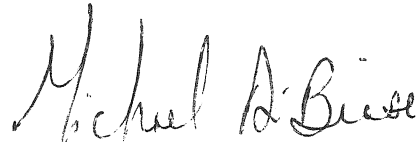
BY-LAW NUMBER 257-2002

A By-law adopt Amendment Number 581 to the Official Plan of the Vaughan Planning Area.

NOW THEREFORE the Council of the Corporation of the City of Vaughan ENACTS AS FOLLOWS:

1. THAT the attached Amendment Number 581 to the Official Plan of the Vaughan Planning Area, consisting of the attached text and Schedule(s) " 1 " and " 2 " is hereby adopted.
2. AND THAT this By-law shall come into force and take effect the day after the last day for filing a notice of appeal.

READ a FIRST, SECOND and THIRD time and finally passed this 26th day of August, 2002.



Michael Di Biase, Mayor



J. D. Leach, City Clerk

AMENDMENT NUMBER 581
TO THE OFFICIAL PLAN
OF THE VAUGHAN PLANNING AREA

The following text to Amendment Number 581 to the Official Plan of the Vaughan Planning Area and Schedules "1" and "2" constitutes Amendment Number 581.

Also attached hereto but not constituting part of the Amendment are Appendices "I" and "II".

I PURPOSE

The purpose of this Amendment to Amendment No. 210 (Thornhill-Vaughan Community Plan) is to redesignate the subject lands from "Low Density Residential" to "General Commercial" to permit the use of the lands for Business or Professional Office uses.

II LOCATION

The lands subject to this Amendment, hereinafter referred to as "subject lands", are shown on Schedules "1" and "2" attached hereto as "Area Subject to Amendment No. 581". The lands are located at the southeast corner of Dufferin Street and King High Drive, being Part of Lots 57 and 58 on Registered Plan 3541, and known municipally as 7851 Dufferin Street, in Part of Lot 6, Concession 2, City of Vaughan.

III BASIS

The decision to amend the Official Plan is based on the following considerations:

1. The subject lands are currently designated "Low Density Residential" by Official Plan Amendment No. 210 (Thornhill-Vaughan Community Plan). An amendment to the Official Plan is required to redesignate the subject lands to "General Commercial", to permit the use of the lands for a Business or Professional Office.
2. The redesignation of the subject lands is considered appropriate for the following reasons:
 - a) the potential for redevelopment for a residential lot permitted under the current "Low Density Residential" designation is limited given that the subject lands are located adjacent to "General Commercial" designated lands to the south and Dufferin Street, which is a major arterial road. In addition, lands on the west side of Dufferin Street are designated "Prestige Areas" which permits uses such as warehousing, light manufacturing and processing, and business and professional office buildings;
 - b) the redesignation of the lands, together with policies to guide use and form of development, will allow the land use to act as a land use buffer between the residential area to the east, and Dufferin Street and the future prestige employment lands to the west;

- c) the subject lands are easily accessed by pedestrians, public transit and vehicular traffic, given the location on Dufferin Street;
 - d) the properties to the south along Dufferin Street to Centre Street are designated for commercial uses; redesignation of the subject lands would form a logical northerly extension of the commercial boundary to King High Drive, while restriction of the intensity of commercial uses would reflect its location at the edge of a residential neighbourhood;
 - e) the restriction to business or professional office uses only, will provide for a development compatible with the residential uses to the east, while a broader range of commercial uses may generate more negative impacts as noise, traffic and odours; and,
 - f) through the site plan review process, the site function and building form can be designed to ensure a suitable coordination of commercial and residential land uses through the incorporation of a residential scale and appearance, for the office development.
3. Having received a statutory Public Hearing on February 18, 2002, on June 24, 2002, Council approved Official Plan Amendment Application OP.02.002 (Algem Properties Ltd.) to redesignate the subject lands to "General Commercial" to permit the use of the lands for a Business or Professional Office only.

IV DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

Amendment No.210 (Thornhill-Vaughan Community Plan) to the Official Plan of the Vaughan Planning Area is hereby amended by:

- 1. Redesignating the lands known municipally as 7851 Dufferin Street, being Part of Lots 57 and 58 on Registered Plan 3541, in Lot 6, Concession 2, City of Vaughan, and shown as "Area Subject to Amendment No.581" on Schedules "1" and "2" attached hereto from "Low Density Residential" to "General Commercial".
- 2. Adding the following site-specific development policies to Section 2.2.3.6 "General Commercial Areas":
 - "s) (OPA #581) The lands located on the southeast corner of Dufferin Street and King High Drive, being Part of Lots 57 and 58 on Registered Plan 3541, in Lot 6, Concession 2, City

of Vaughan, shall be restricted to a Business or Professional Office use only, subject to the office uses being defined more specifically in the implementing zoning by-law, and in accordance with the following development policies:

- i) the business or professional office development shall be compatible with and sensitive to the existing and proposed residential development to the east, with respect to massing and design of the buildings, landscaping and buffering, parking, lighting and the streetscape;
- ii) at an overall height of 2-storeys, the building shall incorporate a residential scale which is complimentary to, and compatible with adjacent land uses;
- iii) parking and service areas shall be shielded by means of landscaping and design elements, and the garbage storage internalized;
- iv) the visual impact of the automobile within the parking area shall be reduced, in consideration of the following design criteria:
 - parking areas may be provided in combination of surface or underground structures;
 - surface parking shall be required to be screened from public streets by buildings or other means such as landscaping;
- v) exterior lighting shall be designed to promote safety in the parking areas, while minimizing light reflection on the adjacent residential properties;
- vi) building signage shall be minimized and oriented to the Dufferin Street elevation, subject to site plan approval; and,
- vii) vehicular access to the property shall be designed to minimize intrusion into the neighbourhood and driveway access to Dufferin Street shall be to the satisfaction of the Regional Municipality of York."

3. Deleting Schedule "A" in Official Plan Amendment No.210 and substituting therefore with the Schedule "A" attached hereto as Schedule"2".

V IMPLEMENTATION

It is intended that the policies of the Official Plan of the Vaughan Planning Area pertaining to the subject lands shall be implemented by way of an amendment to the Vaughan Zoning By-law and Site Plan approval, pursuant to the Planning Act.

VI INTERPRETATION

The provisions of the Official Plan of the Vaughan Planning Area as amended from time to time regarding the interpretation of the Plan shall apply with respect to this Amendment.



NOT TO SCALE

**THIS IS SCHEDULE '1'
TO AMENDMENT No. 581
ADOPTED THE 26 DAY OF AUG, 2002**

FILE: OPA No. 581
LOCATION: Part of Lot 6, Con. 2
CITY OF VAUGHAN

SIGNING OFFICERS
Michael DiBressi
 _____ MAYOR
 _____ CLERK

MODIFICATION #14

LAND USE Thornhill-Vaughan Community Schedule A Updated March, 1997

Legend

- Residential**
 - Low Density
 - Medium Density
 - High Density
 - Further Study Area
 - Village of Thornhill Heritage District
- Commercial**
 - General Commercial
 - Neighbourhood Commercial
 - Town Centre Commercial
 - Service Station
 - Mixed Commercial & Residential
 - Local Convenience Commercial
- Open Space**
- Parkway Belt**
- Pedestrian System**
- Pedestrian Grade Separation**

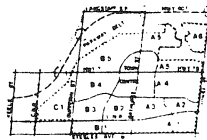
Institutional

- Elementary School
- Secondary School
- Private School
- Church
- Lib. Library
- F.H. Firehall

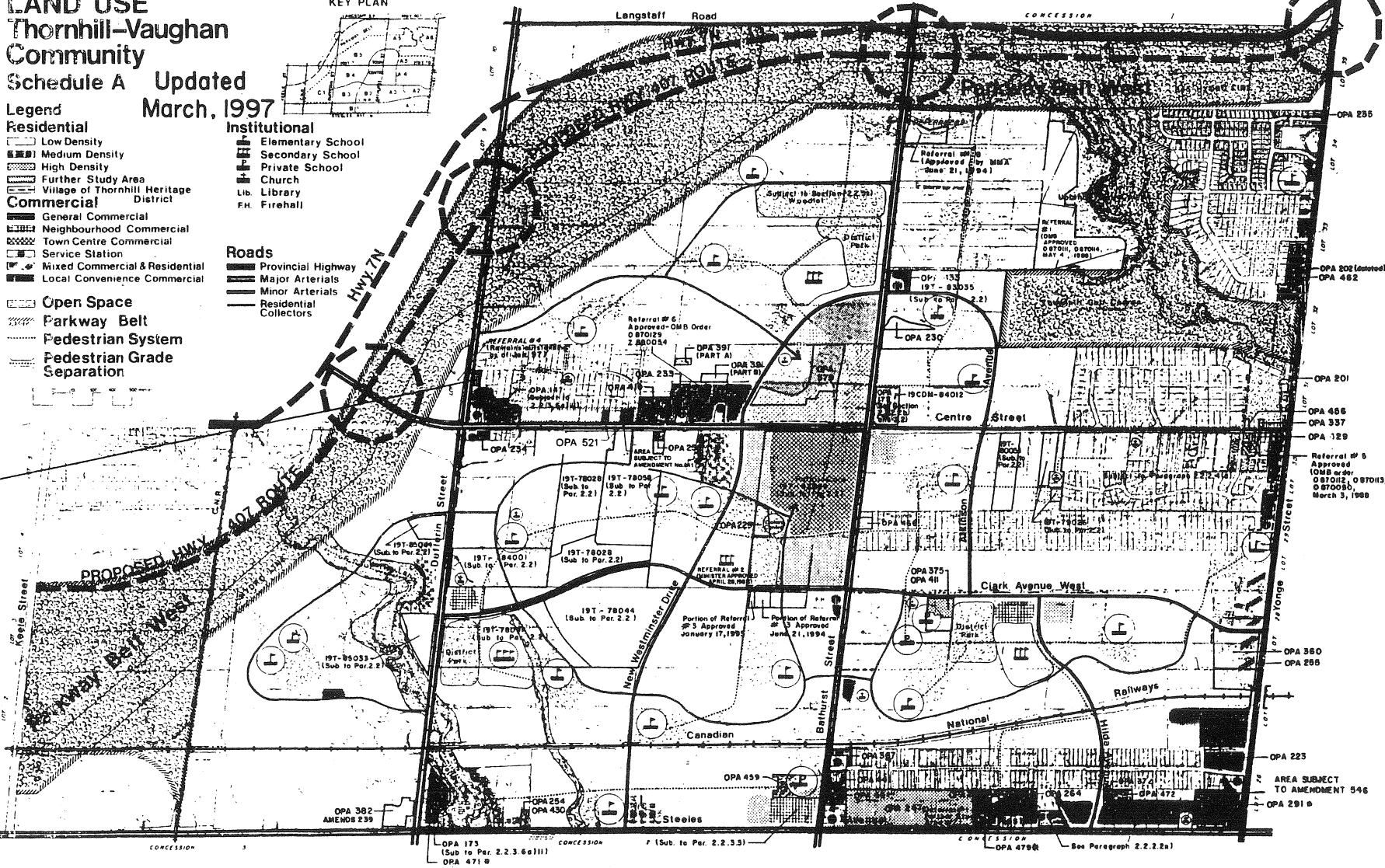
Roads

- Provincial Highway
- Major Arterials
- Minor Arterials
- Residential Collectors

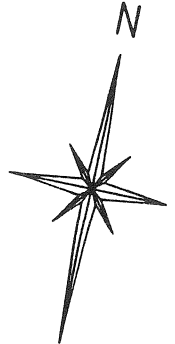
KEY PLAN



OPA 398 - ALTERNATIVE PARKLAND
APPLIES TO ENTIRE CITY



AREA SUBJECT TO
AMENDMENT NO. 581



NOT TO SCALE

* OPAS ADOPTED BY COUNCIL
BUT NOT YET APPROVED AS
OF MARCH 1, 1997

Amendment 210 to the Official Plan of the City of Vaughan
NOTE: THIS MAP IS PREPARED FOR CONVENIENCE PURPOSES ONLY.
IN ALL CASES, REFERENCE SHOULD BE MADE TO THE ORIGINAL DOCUMENTS.

FILE: OPA No. 581
LOCATION: Part of Lot 6, Con. 2
CITY OF VAUGHAN

THIS IS SCHEDULE '2' TO AMENDMENT No. 581 ADOPTED THE 26 DAY OF AUG, 2002

SIGNING OFFICERS

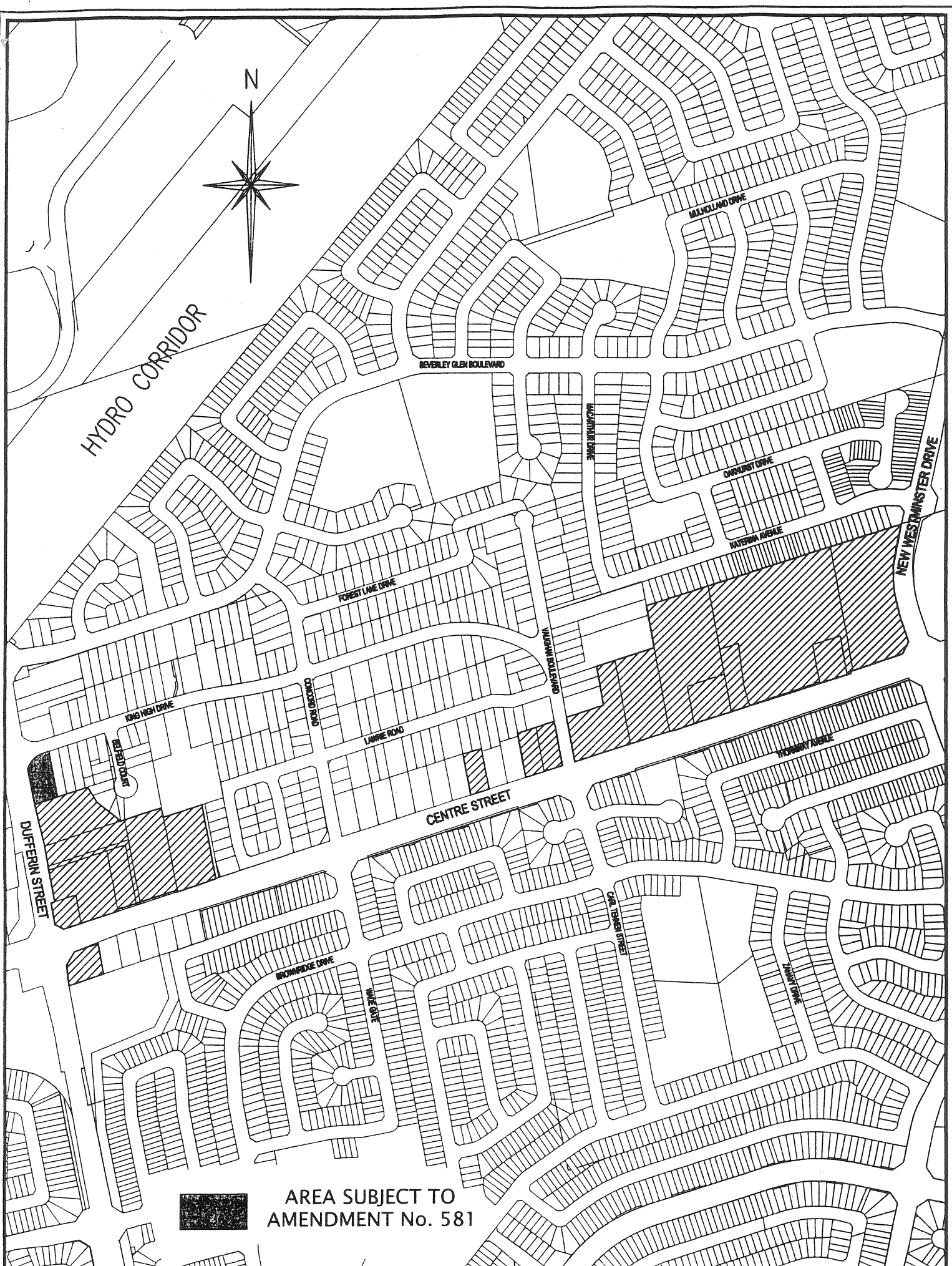
Michael P. Bucci
MAYOR

[Signature]
CLERK

APPENDIX I

On June 24, 2002, Council approved Official Plan Amendment Application OP.02.002 and Zoning By-law Amendment Application Z.01.084 (Algem Properties Ltd.), as follows:

- “1. THAT Official Plan Amendment Application OP.02.002 (Algem Properties Ltd.) BE APPROVED to redesignate the subject lands to “General Commercial” to permit a business or professional office use only, subject to specific design criteria.
2. THAT Zoning By-law Amendment Application Z.01.084 (Algem Properties Ltd.) BE APPROVED, subject to the following:
 - a) that the subject lands be rezoned to C1 Restricted Commercial Zone, to permit a business or professional office use only;
 - b) that exceptions be provided to the minimum front and exterior side yard, landscaping widths, and any other necessary exceptions to implement the approved site plan; and,
 - c) that prior to enactment the implementing by-law, the required site plan application shall be approved by Council.”
3. THAT Staff work with the Region to secure an access onto this development from Dufferin Street.”




 AREA SUBJECT TO
 AMENDMENT No. 581

NOT TO SCALE

APPENDIX II

EXISTING LAND USE

OFFICIAL PLAN AMENDMENT No. 581

FILE: OPA No. 581
 LOCATION: Part of Lot 6, Con. 2
 CITY OF VAUGHAN

- 
 COMMERCIAL
- 
 RESIDENTIAL