

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 590
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 590 was adopted by the Council of the Corporation of the City of Vaughan on the 24th day of February, 2003, and written notice was given on the 5th day of March, 2003 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 590 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 April 8, 2003.
5. **THAT** the Ontario Municipal Board advised by Board Order #0991, dated July 22, 2003, that the appeal has been dismissed.
6. **THAT** Official Plan Amendment Number 590 is deemed to have come into effect on the 22nd day of July, 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)
8th day of October, 2003.)


A Commissioner, etc.

Lenore Providence, a Commissioner, etc,
Regional Municipality for York. For
The Corporation of The City of Vaughan
Expires February 10, 2004



JOHN D. LEACH

ISSUE DATE:

July 22, 2003

DECISION/ORDER NO:

0991



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL021068

Dave Burstyn has appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 56-2003 of the City of Vaughan

O.M.B. File No. R030066

Dave Burstyn 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. 590 to the Official Plan for the City of Vaughan

Approval Authority File No. OP.02.013

O.M.B. File No. O030061

Promenade Park Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 1-88 of the City of Vaughan to rezone lands respecting 100 Promenade Park Circle in order to add exceptions to the RA3 designation for the purpose of permitting 1 unit per 35m² of the lot area and an increase in the maximum building height from 44m to 55m in order to facilitate the development of an 18-storey, 340-unit residential building

O.M.B. File No. Z020156

Promenade Park Limited has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Vaughan in order to permit the proposed density of 283 units per hectare on lands designated High Density Residential, which permits a maximum net density of 148 units per hectare on lands located at 100 Promenade Circle

Approval Authority File No. OP.02.013

O.M.B. File No. O020185

APPEARANCES:

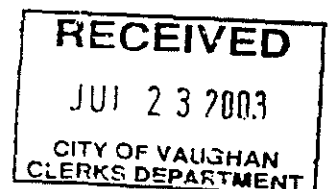
Parties

Promenade Park Limited

D. Burstyn

Counsel

J. Davies



**MEMORANDUM OF ORAL DECISION DELIVERED BY N. C. JACKSON
ON JULY 3, 2003 AND ORDER OF THE BOARD**

Promenade Park Limited owns a 1.2 hectare site, in Part of Lot 5, Concession 2, more particularly, part of Block 7, Registered Plan 65M-2325, located at 100 Promenade Circle at the northwest corner of West Promenade and Promenade Circle, in the City of Vaughan, Region of York. Since 1982 these lands have been designated in the Official Plan and zoned for high-density residential development. Two other high-rise developments have been constructed on adjacent property, each 202 units, 16 stories high. A third high-rise of 10 stories, 120 units and 98 low rise garden apartments was more recently constructed on adjacent property. A fourth high-rise building of 203 units, 16 stories high, on the subject property was planned. The fourth building was zoned and in 1995 received site plan approval but did not proceed due to market considerations. The proposal now before the Board is to permit, at 100 Promenade Circle, a development of similar mass to what had been approved (there is a difference of approximately 5% more) but in a smaller form with more units. The proposal is now for 340 units, in a height form of 16 stories, 2 towers connected. Official Plan Amendment 590 is reflective of the density increase from 203 units to 340 units - from 148 units per hectare to 283 units per hectare. Zoning By-law Amendment 56-2003 also reflects the density increase to 340 units at one unit per 35 square meters rather than the former standard of one unit per 67 square meters. The Zoning Amendment also provides for an increase in height of 2 meters to 46 meters, a decrease in the parking requirement from 1.5 parking spaces to 1.3 parking spaces per unit inclusive of visitor parking and for parking space size to be 2.7 meters by 5.8 meters and 3.9 meters by 5.8 meters for barrier free spaces (3.2 meters by 6 meters if 2 or more barrier free spaces are adjacent).

The developer, Promenade Park, originally appealed the failure of the City of Vaughan to pass Official Plan and Zoning By-law Amendments seeking 18 stories and a different parking standard. Subsequently, following a number of public meetings, the City of Vaughan passed an Official Plan Amendment and Zoning By-law Amendment to permit the 16 stories described in the first paragraph hereof. Promenade Circle formally withdraws, at this Hearing, its Appeals launched under sections 22(7) and 34(11) of the *Planning Act*.

When the City of Vaughan passed Official Plan Amendment 590 and Zoning By-law Amendment 56-2003, Appeals to both were launched by Dave Burstyn, resident at 735 New Westminister Drive. Mr. Burstyn resides in a 98-unit low-rise garden condominium apartment nearby and submits a petition of some 35 residents of his development opposing the density increase, the building height and asserting negative impact particularly on traffic, but also quality of life.

At this Hearing the City of Vaughan appears through it's solicitor and supports the By-laws and revised development form before the Board. The City does not call evidence and declines Party status in the Hearing.

Dave Burstyn and Joseph Clemens testified as residents of Condominium Corporation 876 at 735 Westminister Drive. They fear a change in character and traffic congestion. They testify as to shadowing impact and oppose the increases in height and density. Their concerns include noise, dust, lighting and design and site layout. The written submissions and petition were made exhibits one and two respectively. Mr. Burstyn admitted in cross examination there was no impact on his unit but that he was acting, he stated, as a spokesperson for the community as a whole. His main traffic concern was that there had been no update on the 2002 traffic impact analysis. Mr. Burstyn was not aware of any errors in the traffic analysis carried out. Mr. Clemens had favoured 2 buildings in a public meeting and stated his preference was for a park and no development on the subject property.

Morley Daiter is a resident of 110 Promenade Circle, an existing 16 storey high-rise. His Condominium Corporation number 834 and a neighbouring Condominium Corporation number 769, each in 16 storey buildings, are supportive of the Official Plan and Zoning Amendments before the Board. His view is that the changes from previous approvals and the resultant traffic increase are not significant.

Geri Kozorys-Smith, a traffic planner testified, that the projected traffic volumes associated with the proposal can be accommodated on the boundary road network including the signalized intersections of Center Street at New Westminister Drive, New Westminister Drive at West Promenade, and West Promenade at Promenade Circle. She testified that the intersections and streets would continue to function at acceptable

levels of service during peak hour use. Her Traffic Impact Study, an Addendum and Traffic Assessment were entered as exhibits. She was subject to detailed questioning from the Appellant and maintained throughout that her analysis was based upon traffic engineering trip generation statistics that took into account future growth to the year 2007. As such she maintained no 2003 update was necessary. She did indicate that a large high-rise development north east of the site, referred to by Mr. Burstyn known as the Liberty, had been taken into account in her analysis.

Sal Vitiello testified as an architectural technician. The 2 meter change in the height of the building was necessitated by addition to the structure of an swimming pool, elevations to the penthouse and Building code updates. The 2 meters would not result in any appreciable increase in shadowing over and above what had been approved of previously in his opinion. He testified that the City had suggested the design of 2 joined buildings and that that had been supported by the majority of residents at a neighbourhood meeting.

J. H. Stevens testified as a consulting planner and the former Director of Planning for Vaughan. His evidence was that the subject lands had been designated in the Thornhill Town Center for high density residential in the local Official Plan since 1977 and had continued to be designated as a Central Node for the City of Vaughan. He testified that a Master Concept Plan approved in 1989 had shown 4 high-rises, one of which did not develop to its maximum shown on the Concept Plan. The Concept Plan showed 864 units as compared with 960 now inclusive of the revised proposal. The subject property is part of an urban center designation in the Regional Official Plan. The Local and Regional Plan designations are reflective, he stated, of centers where the higher densities proposed meet the intent of those Plans and the Provincial Policy Statement in terms of the efficient use of land and services. He pointed out the transit facility, regional shopping center, main library, and park with proposed amphitheatre as parts of a true town center where it was appropriate to consider more density as infilling and proper intensification. The municipal housing statement in the Official Plan provides for intensification of some 11,500 medium and high-density residential units to meet the range of housing units referred to in the Provincial Policy Statement. This

witness opined that there would not be additional undue impact from increases proposed on residents and recommended the proposal to the Board.

The City planner did not testify but his report was filed wherein after a similar consideration of existing designations in the two Official Plans and a review of the Provincial Policy Statement, the proposal was recommended to the Council. The local engineering department did not object and the Planning Department concluded that the existing road network can accommodate the proposed increase in density. Planning Staff recommended the changes in parking space numbers and dimensions of parking spaces as reflective of engineering study and following a change in position by the developer. Planning Staff recommended that the Official Plan text require site planning at the site plan stage to ensure that the development is compatible with and sensitive to existing residential development adjacent.

The Board following a careful review of all of the evidence finds the Official Plan Amendment and Zoning By-law to represent good planning. Studies and expert testimony at this hearing demonstrate a long planning history of high density residential on this site and that the intensification planned fits with policies in the local and regional Plans and the Provincial Policy Statement. The Board accepts the expert testimony that there is traffic capacity in the streets and intersections for the increase in density and that that there will not be undue impact over and above what existing planning controls would permit as of right. The Official Plan Amendment refers to the importance of site planning as the final planning process. A site plan has been filed and is being reviewed. Objecting residents have been consulted and that will continue according to Mr. Stevens. Resident concerns with lighting, noise, dust, and hours of construction are more appropriately dealt with under section 41 of the *Planning Act* at the site plan control stage. The site plan has not been appealed and will be dealt with by the City of Vaughan.

➡ The Board in reviewing Zoning By-law 56-2003 notes that an additional control is in place – A Holding Symbol H - until such time as the site plan is approved. The Board approves of this additional control but will amend section 1 i) qi) to delete the words "shall only be used for the production of field crops" and to add the words "urban design

and" before the words site plan so that the paragraph will conform with the enabling section of the *Planning Act* providing for Holding provisions. In this limited respect the Appeal to Zoning of Mr. Burstyn is allowed. Otherwise, on the merits, the Appeals, consolidated as to Zoning By-law 56-2003 and Official Plan Amendment 590, are dismissed.

So Orders the Board.

"N. C. Jackson"

N. C. JACKSON
MEMBER

THE CITY OF VAUGHAN

BY-LAW

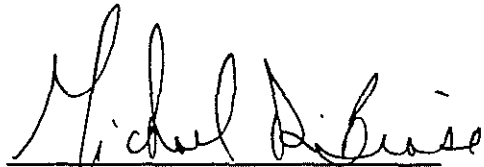
BY-LAW NUMBER 55-2003

A By-law to adopt Amendment Number 590 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 590 to the Official Plan of the Vaughan Planning Area, consisting of the attached text and Schedule "1" 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 24th day of February, 2003.



Michael Di Biase, Mayor



J. D. Leach, City Clerk

**AMENDMENT NUMBER 590
TO THE OFFICIAL PLAN
OF THE VAUGHAN PLANNING AREA**

The following text and Schedule "1" to Amendment Number 590 to the Official Plan of the Vaughan Planning Area constitute Amendment Number 590.

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

I PURPOSE

The purpose of this Amendment to the Official Plan of the Vaughan Planning Area is to amend the "High Density Residential" policies in Amendment Number 210 (Thornhill-Vaughan Community Plan). The Amendment will specifically permit a maximum net residential density of 283 units per hectare, and include site-specific design criteria to be applied to the subject lands.

II LOCATION

The lands subject to this Amendment, hereinafter referred to as "Subject Lands", are shown on Schedule "1" and Appendix II as "Area Subject to Amendment No. 590". The lands are located on the northwest corner of West Promenade and Promenade Circle (100 Promenade Circle), being Part of Block 7, Registered Plan 65M-2325, in Part of Lot 5, 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 located within the Town Centre area of the Thornhill-Vaughan Community, which provides the highest density and mix of residential unit sizes, and is well served by public transit.
2. The subject lands have access to full municipal services, public amenity space, recreational and institutional services, public transit, and commercial/retail destinations.
3. The proposal is considered to meet the intent of both the Provincial Policy Statement and the Regional Official Plan.
4. The supporting consultant studies (planning, traffic, parking, market and sun/shadow) conclude that the development will not adversely impact the adjacent community, and that the existing road network can accommodate the increased density.
5. Having received a statutory Public Hearing on June 17, 2002, on January 27, 2003, Council approved Official Plan Amendment Application OP.02.013 (Promenade Park Limited), to increase the maximum net residential density from 148 units per hectare to 283 units per hectare (from 203 total units to 340 total units), on the subject lands.

IV DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

Amendment No.210 to the Official Plan of the Vaughan Planning Area is hereby amended by:

1. Adding the following Subsection (e) to the "High Density Residential" policies in Section 2.2.2.3:
 - "e) (OPA #590) Notwithstanding Section 2.2.2.3 (b), the lands located on the northwest corner of West Promenade and Promenade Circle (100 Promenade Circle), being Part of Block 7 on Registered Plan 65M-2325, in Part of Lot 5, Concession 2, City of Vaughan, and identified as "Area Subject to Amendment No.590" on Schedule "1" attached hereto, shall be subject to the following provisions:
 - i) The subject lands shall be developed in accordance with the "High Density Residential" policies of Official Plan Amendment Number 210, subject to a maximum net residential density of 283 units per hectare, and application of the following design criteria:
 1. The development form shall be sensitive to the existing residential development in the surrounding neighbourhood, with respect to the overall massing and design of the building, articulation, pedestrian connections, landscaping and buffering, driveway aisles and parking, service areas, lighting and the overall streetscape.
 2. The development shall be designed to provide an attractive face adjacent to streets to provide interest and comfort at ground level for pedestrians.
 3. A limited number of surface parking spaces shall be permitted, and shall be used for visitor and barrier-free parking, with the details to be reviewed at the site plan stage.
 4. The location of all surface parking adjacent to existing residential development shall be reviewed at the site plan stage, to ensure appropriate location of parking areas that provide least disruption to neighbouring properties.
 5. The visual impact of vehicles within the surface parking and service areas, driveway aisles and fire routes shall be minimized from public streets by means of building placement and strategic provision of landscaping and design elements; and garbage storage shall also be internalized within the building.
 6. Exterior lighting shall be designed to promote safety in the parking areas, while minimizing light reflection on adjacent residential properties.

7. Landscape treatment on the subject lands shall be of high standard, specifically with respect to the density and size of plantings to be used.
 8. The development shall address the adjacent road allowance, including sidewalks and street trees within the boulevard and traffic-calming on the traveled portion.”
2. Deleting Schedule “A” in Amendment No.210 and replacing therefor with the Schedule “A” attached hereto as Schedule. “1”.

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 Zoning By-law and site plan approval, pursuant to the “Planning Act”.

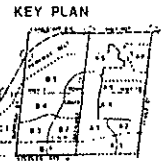
VI INTERPRETATION

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

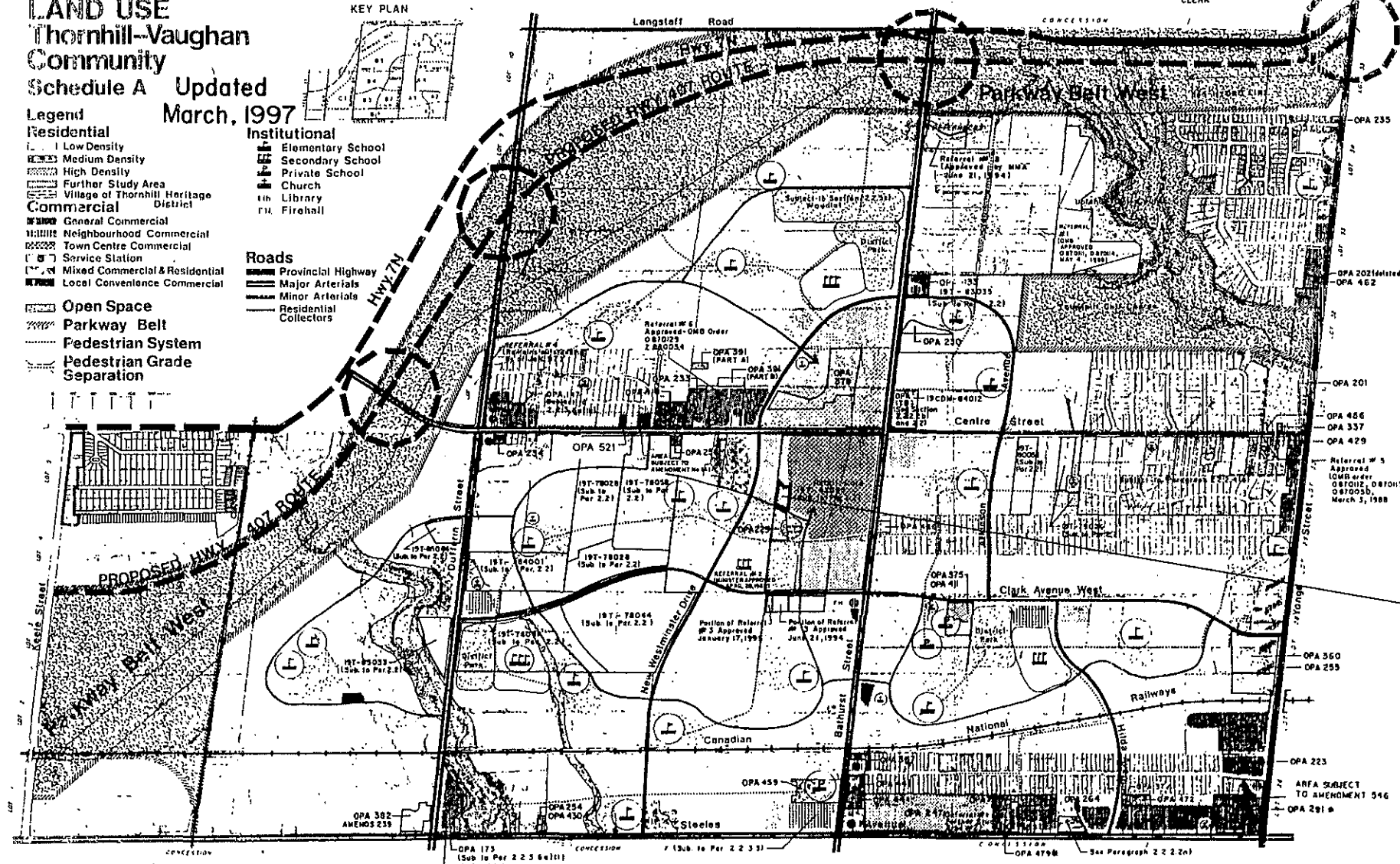
MODIFICATION #14
LAND USE
Thornhill-Vaughan
Community
Schedule A Updated
March, 1997

- 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
 - Library
 - Firehall
- Roads**
- Provincial Highway
 - Major Arterials
 - Minor Arterials
 - Residential Collectors



OPA 398 - ALTERNATIVE PARKLAND APPLIES TO ENTIRE CITY



NOT TO SCALE

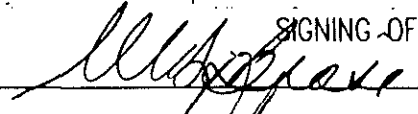

AREA SUBJECT TO AMENDMENT No. 590

* 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. 590 (OP.02.013)
 LOCATION: Part of Lot 5, Concession 2
 APPLICANT: PROMENADE PARK LIMITED
 CITY OF VAUGHAN

THIS IS SCHEDULE '1'
TO AMENDMENT No. 590
 ADOPTED THE 24th DAY OF Feb., 2003

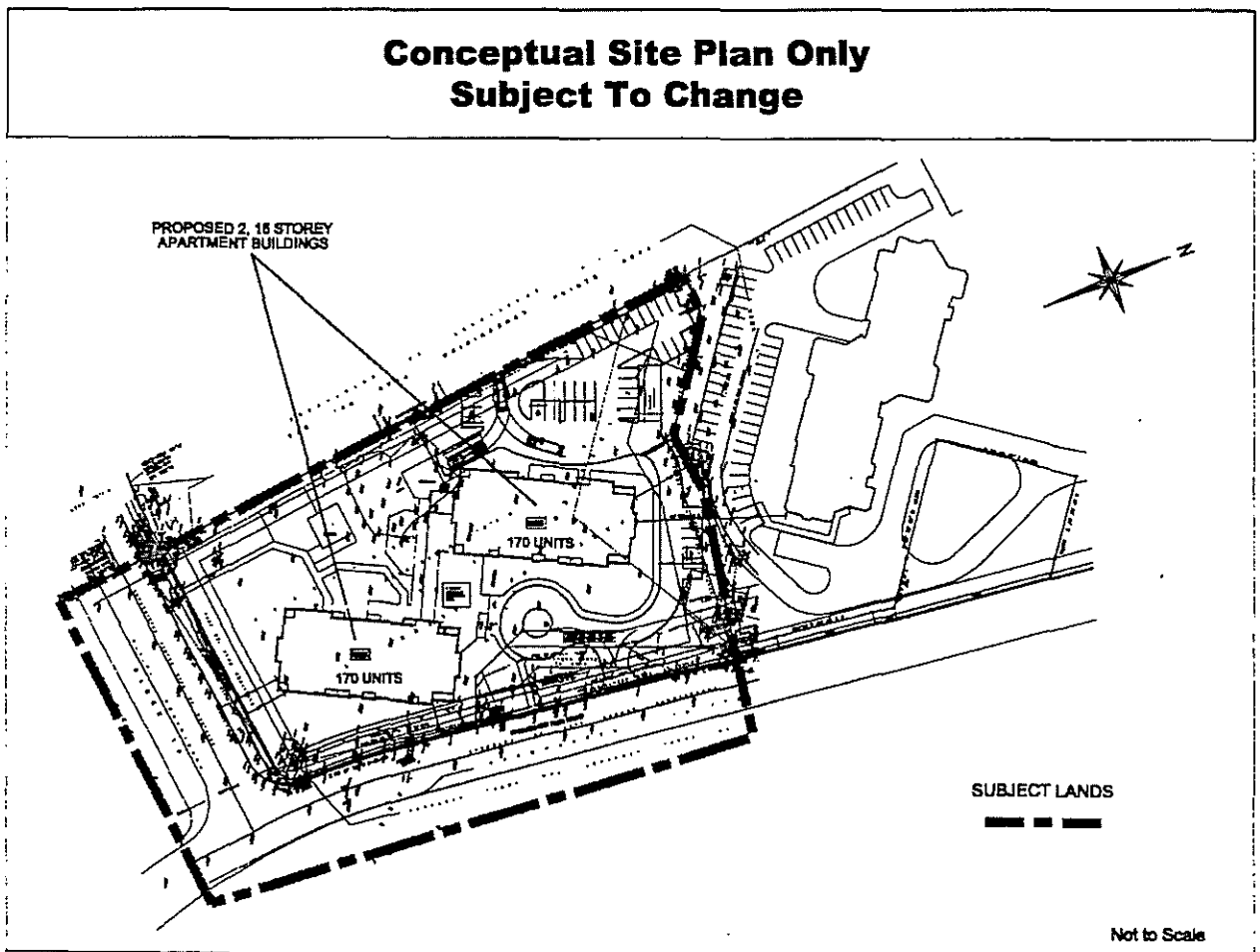
SIGNING OFFICERS

 MAYOR

 CLERK

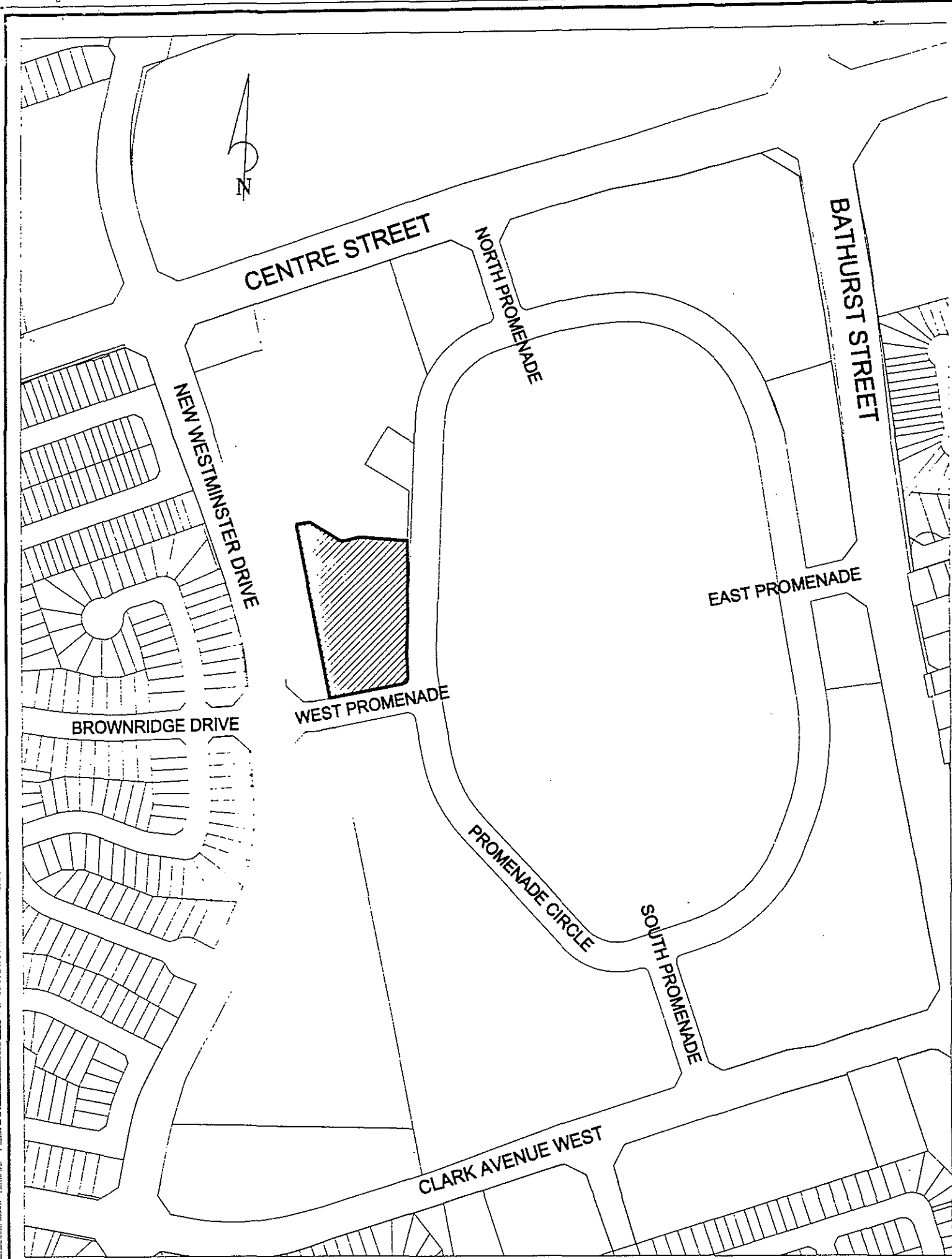
APPENDIX I

The subject lands are located on the northwest corner of West Promenade and Promenade Circle (100 Promenade Circle), being Part of Block 7, Registered Plan 65M-2325, in Part of Lot 5, Concession 2, City of Vaughan.

On January 27, 2003, Council approved Official Plan Amendment Application OP.02.013 and Zoning By-law Amendment Application Z.02.044 (Promenade Park Limited), based on the conceptual site plan shown below, and resolved:

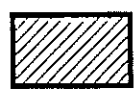
- "1. THAT Official Plan Amendment File OP.02.013 (Promenade Park Limited) BE APPROVED to increase the maximum net residential density from 148 to 283 units per hectare (from 203 units to 340 units), subject to the inclusion of specific design criteria identified in this report.
2. THAT Zoning By-law Amendment File Z.02.044 (Promenade Park Limited) BE APPROVED, and that the implementing by-law be enacted at a future Council meeting to:
 - a) permit 1 unit per 35m² of lot area (rather than 67m²);
 - b) increase the maximum building height from 44m (16 storeys) to 46m (16 storeys);
 - c) reduce the parking standard to 1.1 parking spaces per unit plus 0.20 visitor parking spaces per unit (rather than 1.25 parking spaces per unit plus 0.25 visitor parking spaces per unit);
 - d) require a minimum parking space size of 2.7m x 5.8m for standard spaces and 3.9m x 5.8m for barrier-free spaces (3.2m x 5.8m if two or more barrier-free spaces are adjacent to one another).
3. That Clause 1 and 2 of the recommendation contained in the following report of the Commissioner of Planning, dated January 20, 2003, be approved, subject to the following:
 - i) That the by-law include a holding provision to be lifted upon approval of the site plan application; and
 - ii) That the applicant agree in writing to withdraw their appeal from the OMB upon the OP Amendment and Zoning By-law successfully proceeding through the appeal period.
4. That the proposed revision to the parking standard be deemed to be minor, and that no further public hearing be required."





NOT TO SCALE

APPENDIX II LOCATION MAP



AREA SUBJECT TO
AMENDMENT No. 590

FILE No. OPA 590 (OP.02.013)
 RELATED FILE No. Z.02.044
 LOCATION: Part of Lot 5, Concession 2
 APPLICANT: PROMENADE PARK LIMITED
 CITY OF VAUGHAN