

## **COMMITTEE OF THE WHOLE (WORKING SESSION) - JUNE 22, 2009**

### **CITY OF VAUGHAN IMPROVEMENT AND POTENTIAL REGULATION OF DRIVE-THROUGH FACILITIES FILE 15.109**

#### **Recommendation**

The Commissioner of Planning recommends:

1. THAT Planning staff be directed to undertake a review of the Zoning By-law and Official Plan and prepare design guidelines with respect to drive-through facilities for consideration at a future Committee of the Whole (Working Session) meeting in the fall of 2009.

#### **Contribution to Sustainability**

Consistent with the City of Vaughan Environmental Masterplan, the regulation of drive-throughs and the development of urban design guidelines to guide their design and site planning will support environmental sustainability and fulfill a number of goals and objectives outlined by the plan, specifically:

Goal 3: To ensure that Vaughan is a city that is easy to get around with low environmental impact; and

3.1.2. Through policies to be described in the new Official Plan, develop a more walkable and transit-friendly community with adequate public spaces and a finer grain network of streets

The needs of pedestrians, compact development and transit use will be supported by the strengthening and improvement of the public realm. A reduction in car dependence will also help reduce non-renewable, greenhouse gas producing fuel usage.

#### **Economic Impact**

There are no requirements for new funding associated with this report.

#### **Communications Plan**

Once draft Official Plan and zoning By-law Amendments, and Design Guidelines have been developed, public and industry (Ontario Restaurant Hotel & Motel Association) consultations will follow.

#### **Purpose**

To describe an approach to regulating drive-through uses and mitigating their impacts in the City of Vaughan to promote a healthier, more attractive, pedestrian-friendly and environmentally sustainable City. This report is a response to a Committee of the Whole motion on November 10, 2008 requesting that: "Planning Staff be directed to bring forward a report to a future Committee of the Whole meeting, to deal with the issue of drive-throughs."

## **Background - Analysis and Options**

Vaughan's urban form is largely shaped by the automobile and the resulting built and spatial form and densities are posing a challenge to the creation of a more transit supportive, pedestrian friendly urban form.

Drive-throughs not only have site specific ramifications, but given their proliferation, these facilities promote car-dependence that is linked to sprawl. Many studies have shown this to be inherently unsustainable. The growing range of commercial land uses with a drive-through accessory use such as fast-food restaurants, banks, pharmacies and dry cleaners further promotes an automobile-oriented culture. For the majority of customers, drive-throughs are not essential to purchase goods or to access services. This ultimately plays a part in undermining the key drivers of Vaughan's transformation, as identified by the current Official Plan Review process – city building, placemaking and environmental sustainability.

The site specific aspects affecting quality of life, health and pedestrian-friendliness, include:

1. Traffic
2. Noise
3. Environmental/Air Quality
4. Odour
5. Stacking Lanes
6. Pedestrian and Automobile Conflicts
7. Illumination and Signage
8. Visual Impact
9. Site Servicing, Paving and Grading
10. Hours of Operation
11. Littering and Waste

Vaughan's present ability to contain these impacts is limited since the City's current Zoning By-law regime for drive-throughs (1-88, as amended by By-Law) was developed before drive-through facilities became commonplace and therefore did not identify them as a distinct class of land use nor did it anticipate their impact on a City-wide scale.

Under Vaughan's current zoning regime as defined by By-law 1-88 (January 1, 2009), drive-throughs have been permitted as an accessory use to certain Commercial zones (C2, C5, C7 and C10). Drive-throughs are permitted with a Convenience Eating Establishment, as of right.

Banks and other commercial land uses that do not explicitly permit drive-throughs, have been required to apply for a site-specific By-law amendment to obtain approval for a drive-through facility; however they have been successful in receiving approval for drive-throughs as an accessory use through minor variance by way of the Committee of Adjustment.

In many cases, there appears to be an inconsistent City-wide zoning approach with respect to policies for promoting centres and corridors of intensification where inappropriate land use designations conflict with efforts to promote pedestrian-friendliness and transit-supportiveness. Commercial land use designations in the historic districts of Maple, Thornhill, Kleinburg-Nashville and Woodbridge do not permit accessory drive-through facilities. Official plan amendments have been adopted for Vellore and Carrville District Centres as well as the Steeles Corridor (Jane to Keele) proposing zoning categories where drive-throughs would also not be permitted. The CMU1 and CMU2 designations that apply to Bathurst Centre Street areas under OPA 671 do not permit drive-throughs. However, the Vaughan Corporate Centre does include commercial land use categories that permit drive-throughs as well as the Centre Street Corridor (OPA 672), the Highway 7 corridor and other intensification areas identified on Attachment 1.

Provisions for 'drive-through facilities' within Bylaw 1-88 also do not adequately address site specific impacts of drive-throughs such as their design and relationship to adjacent uses and the public realm. More extensive development standards within an amended By-law along with comprehensive Design Guidelines are needed.

In summary, mitigating the effects and impacts of these car-oriented uses is difficult to manage through the site plan control process alone. City-wide policies enshrined within the City's new Official Plan and more comprehensive standards and provisions under Zoning By-law 1-88 are needed along with comprehensive Design Guidelines to address the full spectrum of issues. Such an endeavour is supported by existing municipal, regional and provincial policies.

### **Policy Context:**

#### **Planning Act**

The Planning Act enables municipalities to enact Zoning By-laws to prohibit the use of land for certain purposes as set out in the By-law. Subsection 34(1) of the Planning Act stipulates that such prohibition may be applied within the municipality or within any defined areas or abutting any defined highway or part of a highway. However, there are limitations on the application of such powers and case law demonstrates that such provisions have been interpreted by the courts as enabling municipalities to regulate the use of land but not necessarily to totally prohibit or ban otherwise lawful uses. Appeals on the use of Zoning By-laws prohibiting certain land uses have been successfully launched on the basis of jurisdictional arguments, Charter arguments and discrimination against industry sectors.

#### **Provincial Policy Statement (2005)**

Section 1.1.1 f) of the Provincial Policy Statement sets out the general policy context when considering By-law changes that promote sustainability and environment in so far as land use patterns are concerned. It states as follows:

- 1.1.1 Managing and Directing Land Use to Achieve Efficient Development and Land Use Patterns;
- a) Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over time;
  - b) avoiding development and land use patterns which may cause environmental or public health and safety concerns;

Community health and environmental protection are land use issues identified as matters of Provincial interest under Section 2 of the Planning Act and by the Provincial Policy Statement.

#### **Region of York Official Plan (June 1, 2008)**

The Regional Official Plan proposes an urban framework concentrated around centres and corridors that are envisioned to be places that support compact, mixed-use and transit-supportive development. Infill and intensification is to occur in Regional Centres and Regional Corridors. The most intensive efforts are to be directed at Regional Centres and Key Development Areas within Regional Corridors. Smaller scale infill and intensification is to be directed at Local Centres and Local Corridors.

The policies that guide the development of these areas highlight the importance of supporting healthy communities that are safe and accessible to pedestrians and cyclists as a key principle of its regional development structure. Centres and corridors are to make "...efficient and compact use of our urban areas..." and "...encourage well designed streets and building

locations that create vibrant, pedestrian-friendly and transit-oriented streetscapes.” To fulfill these objectives, a key component is the siting and orientation of buildings, as follows:

“4.1 4 That the design and siting of buildings and their entrances encourage access to pedestrian, bicycle and transit systems.” (Page 38)

Many drive-throughs are configured in such a way as to require pedestrians to cross a lane of traffic to reach the main entrance, which is not inherently pedestrian-friendly. Car dependant uses require drive and stacking lanes that often conflict with pedestrian walkways, which inhibits pedestrian movement.

### **Region of York Transit-Oriented Development Guidelines**

The purpose of these guidelines is to advance the implementation of York Region’s planned urban structure of Regional Centres linked by Regional Corridors, served by public transit. Endorsed by Regional Council in September 2006, the guidelines are intended to assist the Region and the Area Municipalities to implement planning for well designed, pedestrian friendly and transit-supportive development, that reflects and supports existing transit supportive planning initiatives at the Provincial, Regional and local municipal level. Pedestrian safety is one of the five key elements. Key guidelines include:

- “Building placement should reinforce a continuity of built form and definition of the public realm at the street edge.” (Page 10)
- “Discourage low density, auto-oriented land uses on sites that have transit-oriented development potential.” (Page 14)

The typical configuration, site plan and location of drive-throughs in Vaughan today contradict these objectives.

### **City of Vaughan Pedestrian and Bicycle Master Plan Study**

Endorsed by City Council in April 2007, the Master Plan Study provides for an expanded network of on and off-road pedestrian and cycling facilities with improved access to convenient travel modes that are practical alternatives to the private automobile.

### **City of Vaughan Parking Standards Review Study**

The Parking Standards Review Study identifies areas of intensification (Higher Order Transit Hubs, Historical Centres and Community scale intensification areas) where reduced parking ratios can promote sustainable development and pedestrian-friendliness. These areas essentially mirror those listed in this report as centres and corridors of intensification. Drive-through facilities would be incompatible in these areas, as they generate vehicular traffic that competes with and conflicts with the dynamic pedestrian realm that supports such areas of compact development and intensification.

### **New City of Vaughan Official Plan**

The new City-wide Official Plan will establish a strong baseline through general policies providing clarification and direction for the interpretation and application of policies. The key drivers that underpin all policies are sustainability, city building and placemaking from which specific policies promoting pedestrian pre-eminence will follow, especially in priority areas identified for intensification.

## City of Vaughan Environmental Masterplan

Environmental Masterplan will function as the City's sustainability plan and will influence virtually all aspects of the City's operational and regulatory activities. The plan establishes principles that will be used to extend the sustainability ethic to guide development to achieve a healthy environment, vibrant communities and a strong environment.

### Other Municipalities

Several GTA municipalities are responding to the proliferation of the drive-through with new statutory regulations and/or design guidelines to mitigate the effects of drive-through development, notably Toronto, Mississauga, Brampton and Oakville.

The City of Kitchener is currently considering prohibiting new drive-through facilities, or applying restrictions to prohibit drive-throughs in certain areas. In Mississauga they are dealt with on a site specific basis although regulations and guidelines exist for stacking lanes for restaurants which cannot be within 60 metres of residential areas. While the City of Ottawa has not banned or restricted the development of drive-throughs, a comprehensive set of design guidelines augments their Official Plan, Community Plans and Zoning By-law in ensuring that drive-throughs are compatible in any given location. In Oakville, locational criteria and urban design guidelines have been developed in consultation with the fast food and banking industry. Drive-throughs are discouraged from downtown and two other areas characterized as traditional urban pedestrian areas. However, like Vaughan, Oakville was planned around the automobile and some areas of the city were considered suitable for drive-through facilities. Winnipeg has recently turned down proposals from Tim Horton's for drive-throughs after residents complained about the potential traffic.

The following chart summarizes how a number of comparable cities in Ontario are addressing the drive-through issue.

| Municipality | Ban/Restrictions   | Zoning By-law/Official Plan amendment  | Urban Design Guidelines |
|--------------|--|--|-------------------------|
| Toronto      | City-wide restrictions in residential, mixed-use and central area zones are in place. Drive-throughs permitted in employment and commercial zones with 30 metre separation from residential zones. | Designated drive-throughs as a separate land use   | Yes                     |
| Markham      | Considering prohibitions in some areas. Markham Centre by-law does not permit drive-throughs   | By-law prohibiting drive-throughs, reducing queuing lanes and their location being considered. Currently rely on site-specific amendments to regulate drive-throughs | In development          |

| Municipality | Ban/Restrictions  | Zoning By-law/Official Plan amendment   | Urban Design Guidelines  |
|--------------|---|---|--|
| Oakville     | Permitted in all commercial zones with mandatory buffer strips abutting residential areas. Permitted in employment zones except where abutting residential. Prohibited in exclusively residential zones. Discouraged from downtown and traditional main street areas. | No separate land use designation. Considered an accessory to a land use   | Guidelines prepared based on study, but deemed insufficient in addressing problems. Anti-idling By-law augments efforts but difficult to enforce                 |
| Waterloo     | Drive-throughs permitted in certain commercial zones, discouraged in Uptown and residential areas   | Accessory to a land use. Recent zoning amendments to permit drive-throughs refused by Council   | Yes, draft ready   |
| Caledon      | Restrictions under consideration. Proposed amendments (OPA 204) will establish locational restrictions and a 90 metre separation between drive-through facilities and residential areas.  | Drive-throughs are an accessory to a land use. Proposing restriction of drive-through facilities to certain locations within Rural Service Centre and Industrial/Commercial Centers, and prohibition in Villages and Hamlets with the exception of Caledon Village commercial core. | Finalized design guidelines have been prepared for industrial commercial areas only.   |
| Brampton     | No  | Drive-throughs are an accessory to a land use. Brampton OP discourages proliferation on arterials   | Yes  |
| Mississauga  | Not city-wide, but restricted in Streetsville and Port Credit. Drive-throughs cannot be within 60 metres of a residential zone.   | Drive-throughs are an accessory to a land use.  | Yes. Guidelines applied on a case-by-case basis. Further restrictions are being considered as well as an Anti-idling By-law to ticket drivers in stacking lanes. |

### OMB Ruling

Efforts to regulate the location and proliferation of drive-through facilities through zoning controls have been more widely supported by the OMB. When used in conjunction with design guidelines such controls have enabled municipalities to somewhat manage and reduce the development of drive-throughs.

In 2004, the City of Toronto introduced zoning provisions that defined drive-throughs as a separate land use. The provisions prohibit them from certain areas such as mixed use and residential areas, and establish standards to be applied in other areas where drive-throughs are permitted.

A series of appeals (36 in total) were heard by the Ontario Municipal Board, as the new zoning regime was applied to each municipality comprising the amalgamated City. The Board supported the City, recognizing the City's efforts to define and regulate, but not prohibit, a land use, which is entirely the purview of Council. In the decision issued on January 23, 2004, the Board Member acknowledged that:

“While treating drive-throughs as accessory uses to permitted uses has generally been a satisfactory approach to date, it is clearly within the purview of Council to determine that the increase in the number of applications for drive-through facilities necessitates that the land use be defined...”

The Board has also supported the use of zoning restrictions to achieve municipal planning objectives related to the creation of more pedestrian-friendly, transit-supportive precincts and development forms. Where zone restrictions are applied the OMB has also accepted requirements for minimum separation distances to mitigate concerns related to adverse impacts, such as noise, air quality, hours of operation and pedestrian safety resulting from the drive-through operation.

### **Next Steps**

Policy and Development Planning staff will further develop and present options for addressing the city wide and site-specific impacts caused by drive-throughs in a subsequent report to Committee of the Whole. The specific objectives are as follows:

1. To improve the site planning and design of drive-throughs and their relationship to pedestrians and other land uses such as residential;
2. To restrict drive-through accessory uses from areas undergoing intensification to promote sustainable, compact development, as identified in Attachment 1; and
3. To curb the proliferation of drive-throughs by restricting them on the official plan level to convenience eating and banking establishments.

To achieve this and based on the experience of other comparable municipalities, including Vaughan, a three-pronged approach is needed to mitigate site-specific and City-wide impacts of drive-through facilities that would entail Official Plan changes, Zoning By-law amendments and comprehensive design guidelines.

In order to curb the proliferation of drive-throughs city wide beyond the Convenience Eating Establishment use currently permitted by the Zoning By-Law, the Official Plan may need to be amended with a new clause that explicitly prohibits drive-through accessory uses to other commercial uses.

Some municipalities have opted to regulate drive-through uses by designating them as a distinct and separate land use only permitted within exclusively commercial and employment areas. By defining them as a separate use, the characteristic site specific impacts and City-wide implications of automobile culture can be addressed through Zoning By-law provisions in much the same way as site and building requirements apply to all uses.

Another solution to mitigating the effects of drive-throughs would be to amend development standards and provisions for drive-through facilities that apply to all commercial land use designations within the existing Zoning By-Law. For example, provisions can be added that prevent drive-through stacking lanes from separating buildings from sidewalks, thus eliminating a significant barrier to pedestrian movement. Also, by way of a schedule map (See Attachment 1), policy-directed urban intensification areas where mixed-use, pedestrian-friendly, transit-supportive development are a priority can be prohibited to drive-through accessory uses. Locational parameters can also be provided to ensure adequate separation distances with incompatible land uses such as residential. Existing commercial zoning categories (C2, C5, C7 and C10) in the aforementioned centres that permit drive-throughs could be amended to allow for uses "with or without drive-throughs," depending on their locational criteria and the map cited above. Existing legal non-conforming uses would be allowed to continue until properties are redeveloped. Therefore, no new zoning classification is suggested.

The intention is to relegate conventional drive-through facilities to certain commercial and industrial or employment zones of the City where opportunities for mixed use and transit service are limited.

**By-law Amendment**

A preliminary approach to a By-law amendment including supplementary regulations is provided in this report for information purposes and for the consideration of Council. This approach will be further developed and presented to Council in a future report along with comprehensive Design Guidelines and proposed Official Plan changes.

| <p align="center"><b><u>Current By-Law Standards for Drive-Through Facilities:</u></b></p>   | <p align="center"><b><u>Optional By-Law Standards for Drive-Through Facilities:</u></b></p>  |
|--|--|
| <p>A drive-through facility shall only be permitted with a Convenience Eating Establishment and in accordance with the following provisions:</p> <ul style="list-style-type: none"> <li>a) The stacking lane shall be separated from the parking area by a curbed island or other such barrier;</li> <li>b) The stacking lane leading to the pick-up window shall accommodate a minimum of eight (8) cars, and shall have a minimum width of 3.5 metres;</li> <li>c) The stacking lane shall be clearly identified; and</li> <li>d) The access points to a stacking lane shall be properly located so as to</li> </ul> | <p>A drive-through facility shall only be permitted with a Convenience Eating Establishment and in accordance with the following provisions:</p> <ul style="list-style-type: none"> <li>a) The stacking lane should be separated from the parking area by a curbed island or other such barrier;</li> <li>b) The stacking lane leading to the pick-up window shall accommodate a maximum of eight (8) cars, and shall have a minimum width of 3.5 metres;</li> <li>c) The stacking lane shall be clearly defined;</li> <li>d) The access points to a stacking lane shall be properly located so as to</li> </ul> |



|  |   |
|--|---|
| <p>minimize the impact of the stacking lane on the internal traffic circulation.</p> | <p>minimize the impact of the stacking lane on the internal traffic circulation.</p> <ul style="list-style-type: none"> <li>e) A stacking lane shall not be located between the building and the street;</li> <li>f) A stacking lane shall not be permitted in any yard between the building containing the main eating establishment and any Residential Zone;</li> <li>g) All points of a drive-through facility including stacking lanes shall be set back a minimum of 60 metres from any residential zone;</li> <li>h) Drive-throughs shall be prohibited on lands in the areas identified under Schedule (See Attachment #1)</li> </ul> |
|--|---|

### Urban Design Guidelines

To complement the zoning and Official Plan changes, a comprehensive set of Urban Design Guidelines would be used to address site specific issues of design intended to minimize conflicts between pedestrians and cars, limit curb cuts, and promote a street orientation to the building, consistent with the City's existing urban design planning documents and broader policy objectives. Guidelines will be developed in consultation with industry representatives. There is a need for drive-through developments to meet the same urban design criteria as other commercial types of development so as not to compromise the City-wide framework for development and its broad objectives of sustainability, transit and pedestrian supportiveness.

In addition, the guidelines will recognize differences between the operation of a fast food drive-through and a drive-through bank facility, with different site design and stacking laneway requirements; integrate operational elements of the site, e.g. pedestrian, cyclist and motor vehicle movements; enhance views from public streets and contribute to a high quality public space; create a safe and comfortable pedestrian and cyclist environment; and minimize impacts on adjacent or nearby land uses.

The following broad urban design guideline categories are proposed, in conjunction with an amendment to Zoning By-law 1-88, for the development of drive-through sites:

1. Strategic Locations/Criteria
2. Building and Site Organization
3. Vehicle and Pedestrian Traffic
4. Signage and Order Boards
5. Street Improvement and Pedestrian Amenity
6. Relationship to Neighbouring Uses
7. Mitigation of Noise, light pollution, litter and air pollution
8. Parking

Illustrations of typical site layouts are included in the presentation included with this report. They demonstrate how the guidelines are to be applied. Each example has been built and tested in the City of Vaughan or in other municipalities. The following site conditions are illustrated:

1. On a corner site.
2. On a mid block site.

While the By-law amendment and design guidelines are being prepared, it is recommended that all applications for drive-through facilities should be reviewed relative to the objectives outlined in this report and designed in accordance with the positive examples found in Vaughan and other examples in Ontario municipalities and as illustrated in this report.

### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities set forth in Vaughan Vision 2020, particularly "Plan & Manage Growth & Economic Vitality".

### **Regional Implications**

Consistent with Region of York Official Plan (June 1, 2008) with respect to compact, efficient development within Centres and Corridors and Region of York Transit-Oriented Development Guidelines (Adopted September 2006).

### **Conclusion**

The regulation of drive-throughs is an essential step towards creating the pedestrian-friendly and transit-supportive urban environment that underpins successful intensification, consistent with provincial, regional and municipal policies. As evidenced by the proliferation of drive-throughs in Vaughan, site plan control alone has not been effective. Changes to the Official Plan, existing zoning regime and enhanced Design Guidelines are needed to address the site specific and City-wide impacts of drive-through uses and facilities. This three-pronged strategy will be further developed and formally presented in a future report.

### **Attachment**

1. Schedule Map identifying intensification areas where drive-throughs should be restricted.

### **Report prepared by:**

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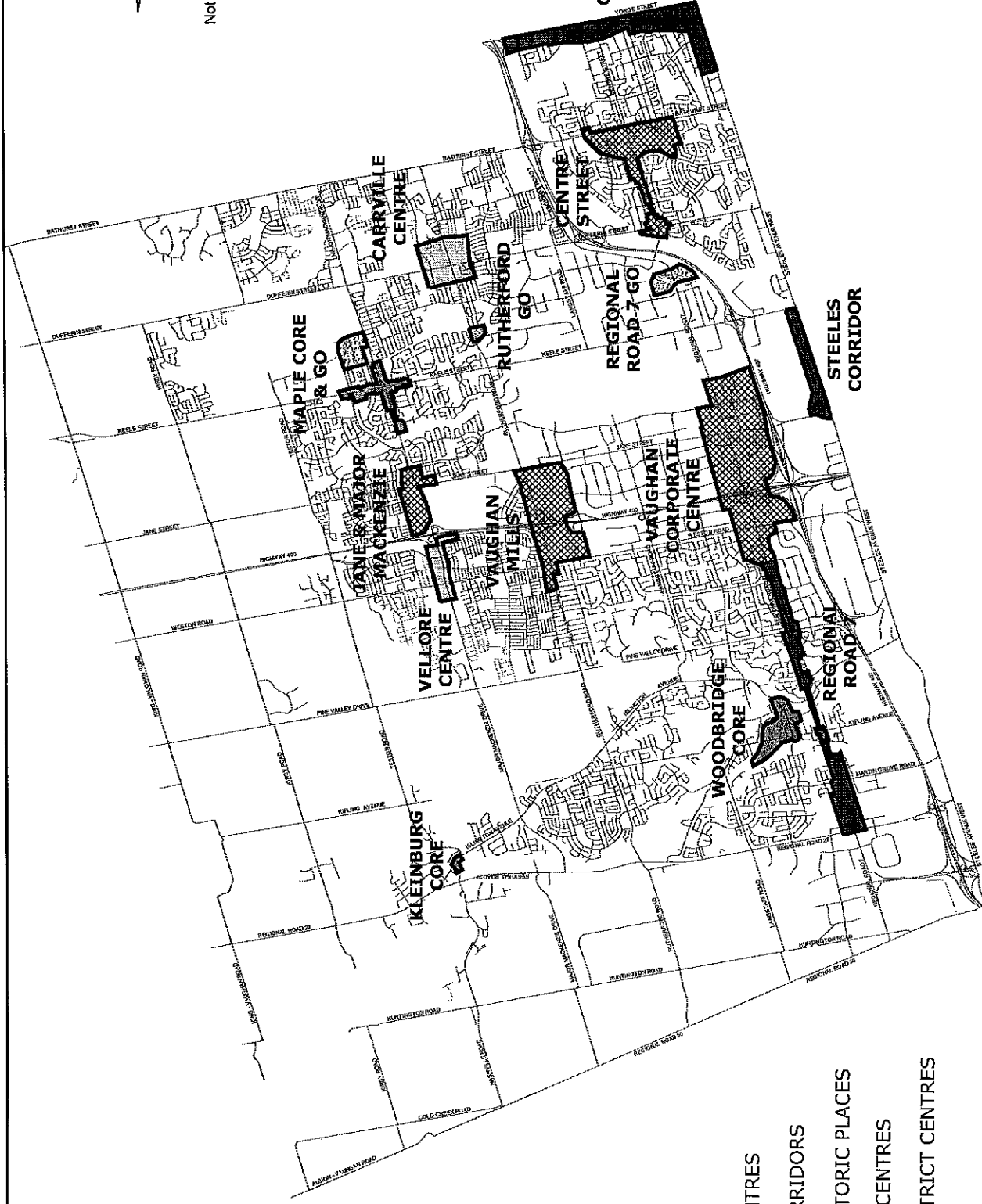
Respectfully submitted,






JOHN ZIPAY  
Commissioner of Planning

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Not to Scale



-  CENTRES
-  CORRIDORS
-  HISTORIC PLACES
-  GO CENTRES
-  DISTRICT CENTRES

# Intensification and Village Areas

Applicant: City of Vaughan  
 Location: City Wide

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# Attachment

# 1

File: 15.109

Date: June 5, 2009



Policy Planning Department