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Sent: Monday, May 03, 2021 6:55 PM
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Subject: [External] Opposition to 4101 Rutherford Road

My name is Giovanni Losiggio and I am writing this email with a great degree of frustration. As a member of the Weston Downs Community, I have been trying to participate in an open two-way dialogue with city planning staff and members of elected council. To date it has been a one-way process. After numerous emails my enquiries have been ignored by both members of Council and senior city planning staff. It should be clear by my deposition at council and previous communications that I vehemently oppose the proposed building at 4101 Rutherford Road for a number of reasons.

In reference to the numerous variance requests by the developer of 4101 Rutherford Road:

The variance setback lines being proposed do not allow for below-grade improvements/repairs, such as to utilities or to the foundation and do not allow sufficient access to above-grade improvements to balconies, windows or to the building facade without encroaching on public held properties even when utilizing a swing stage. This is a safety concern for residents, especially children using the park who may not foresee danger or peril, wishing to use the adjacent green space which abuts the property.

The subject site is located within a low-rise residential neighbourhood consisting of detached single family dwellings. The lot fabric of the community is generally rectangular and varied in size with minimum lot frontages from 18.2 meters or greater and lot areas from approximately 700m² and greater.

Properties are developed with main buildings that occupy lots either at the front of the lot or the central portion with large front/rear yard setbacks and at minimum double driveways that can accommodate parking for up to at least 4 vehicles. Ancillary features form part of the main building (such as an attached garage) and are not detached and varied in position. In all instances they are attached to the main building as well as being situated a modest distance away from the street and

with consistent side and/or rear yards. The ancillary structures are generally subordinate to the main dwelling. The neighbourhood is stable and is not experiencing reinvestment and regeneration in the form of new lots or replacement dwellings.

Structure setbacks are intended to accommodate a lot line separation from neighbouring properties whether they be private or publicly owned. Structures such as sheds or ancillary buildings cannot act in a similar manner as a privacy fence. Therefore, an adequate distance for access is required.

Air conditioning units and pool equipment on private properties must meet minimum By-Law setback requirements from property lines. This is to ensure and in order to allow for side/rear yard access and equipment servicing all without encumbering and encroaching on property setbacks and on neighbouring properties. This condition must also be met on the subject property for ventilation shafts and hydro transformers.

The intent of the setback provision is to ensure that there is adequate space between the building and any other property for access and maintenance as well as to ensure that the structure maintains a proper function.

The developer's numerous requested variances applies to the entire portion of the property which does not allow for sufficient distance separation as well as ensuring the accessory function of the ancillary lower units. This is not a *minor* variance request.

The developer is asking for the building facade to line up with what was originally overhanging balconies and therefore increasing the square footage of each unit in a forward overhang tiering instead of backward tiering composition which is common in building designs to accommodate for shadow casting and privacy from neighbouring properties.

Planning staff provided no review or analysis of the requested variances or the subject site's context. Furthermore, the variance proposal is inconsistent with the 2014 Provincial Policy Statement and does not conform to the Growth Plan. Furthermore, the proposed variance request may generate site specific implications for any policy matter of Provincial and/or Regional and/or Municipal government interests such as road widening or neighbourhood capital improvements in the future.

The Neighbourhood's policies require replication of existing physical character, and provide that new developments should fit the general physical patterns of the Weston Downs community. The proposed structure position, height, scale and massing does not reflect a low-rise nature that fits in well with the surroundings. The Vaughan Official Plan and Provincial Policy Statement places an emphasis on new development respecting and reinforcing the physical characteristics of buildings, streetscapes and open space patterns in the neighbourhood. The proposed structure variances adversely impacts the uniform nature and character of neighbouring homes and the site development of the neighbourhood. The proposal does not adequately address the built form policies of the community and generates numerous unacceptable impacts such as privacy, traffic infiltration, overlook and shadowing on both public and private properties.

The proposed variances, individually and cumulatively, do not meet the general intent and purpose

of the Zoning By-laws. The 4 main pillars of the Zoning By-laws test are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

The proposed variances do not fit in with the uniform and exclusive nature of structure placement and design of the other residential properties within the Weston Downs neighbourhood. It is impossible to find buildings and structures built so close to property lines and extending deep into all sides of the property including accessory and main buildings that extend up to the front, sides and/or rear lot lines. The proposal does not reflect a reasonable or appropriate site development condition.

In terms of “*minor*” variance, the proposal creates unacceptable adverse impacts including those with respect to shadowing, traffic, privacy or overlook. The structure does not maintain a subordinate, low-rise function. The order of magnitude of the variance request is unreasonable in this context, maintains an incompatible look from the detached residential home land use that can be suitably accommodated on a site within a physical context that exhibits similar and complementary characteristics. The proposed variances are not in keeping with the uniform nature of recent minor variance approvals in the neighbourhood.

The general purpose and intent of the Official Plan and Zoning By-laws are not maintained. The structure’s setbacks are not designed to respect and reinforce the existing and planned context of the area in terms of location, aesthetics, massing size and height. The coverage and setback variances requested by this developer are significant and the structure is well above the % maximums in numerous categories. The variances for the front yard, side yards and rear yard setbacks and building length/height are largely the result of the structure and existing balconies being considered part of the main dwelling that drastically increases the large number of and small distance between units.

The setback variance request to the property and building is for the **entire** structure and the majority of the main development is affected not just one side or a small portion. This setback request is considered inadequate in this local contextual circumstance. The size and setbacks of the structure have been designed to have no regard for the adjacent roads, dwellings, parklands and increases the adverse impacts to surrounding residents and public park. The variance request provides inadequate separation to the adjacent homes, park and local/regional roads. If you allow structures with such heavy massing to be built so large and so close to the lot lines, the appearance of having open space between properties is broken.

The Planning staff report should include an analysis of the site or the area. Based on the evidence included, a detailed analysis of the variance requested needs to meet the 4 tests of the aforementioned Planning Act and it does not. The proposal results in an inappropriate, incompatible and undesirable development for the subject property and the variances are seen as considerable

(not minor) in this context and should not be approved.

Why is the City of Vaughan Planning Department capitulating and giving numerous concessions to this developer? No other development in Vaughan has been given such overreaching concessions in regards to variances. In a recent meeting held on Friday April 30, 2021 with Mauro Peverini he acknowledged that the City is already meeting and surpassing its provincial targets for increased density without this development. Then why the need for such heavy density on this property when the negotiated and adopted 2010 VOP already defines what should be built there. Furthermore, Mr. Peverini has openly acknowledged that this proposed development does not fulfill the Provincial Policy Statement requirement that higher density and intensification be within an intensification corridor. Mr. Peverini further acknowledged that this proposed development is not located in a multi-modal transportation corridor which services cross jurisdictional boundaries and is not in a high employment area. **Since these Provincial Policy Statement requirements are not met then the proposed development submission at 4101 Rutherford Road must be turned down and an unfavourable planning report must be brought forward to Council.**

In light of these acknowledgments by your own head of planning, I would like to know what matrix or rubric the planning Department is using to scrutinize the application and determine if the development meets the VOP requirements and Provincial Policy Statement guidelines for this project. If the negotiated and adopted 2010 VOP was considered good planning then it remains enforceable today and should not be changed. Our community is not saying no to any development on this property but we are asking for what we negotiated and agreed to in the 2010 VOP.

The VOP already designated this site as having a maximum height of 4 stories with mixed commercial and residential use, and with a maximum FSI of 1.5. Why now is the developer asking for an 80% greater FSI and 50% increase in height when they had the opportunity before the adoption of the VOP to negotiate changes.

We have heard that the developer knows of a positive staff report and has now walked away from negotiating with the community in regards to building aesthetics, set backs, mass, height and FSI. This is disconcerting and a flagrant disregard for the planning process which must be transparent and impartial.

What must bind this decision process is:

- VOP 2010 (4101 Rutherford section approved and entered into law, after a hard fought seven years negotiation with area residents. Your staff has mentioned that VOP 2010 trumps all other legislation).
- By-law 1-88.
- Comprehensive zoning by-law (Not yet approved and enacted into law so therefore does not presently apply to this site).

Below is just a few of the infractions which contradict the VOP for this site:

From my perspective, if a proposal like this fails to align to any one of the items that binds a decision (Official plans and currently enacted laws) then I would expect that the proposal should be denied by the planning department and I would expect a report to council to align accordingly. If it falls into the approved category, then there better be a very strong and compelling reason to go against the approved official plans and by-laws. There is a process for that; commence a process to change the law or legislation and replace the existing laws. Public consultation is built into that process.

The community has also heard some disturbing comments from staff and council members that I would like to document, put on the official record and attach my criticism.

1. ***“The VOP plan is over 10 years old and in need of an update so we can’t use it for our decisions”***
2. Parts of the VOP have only been in effect since 2019. Therefore, it is not OLD.
3. I would suggest that staff and council adhere to current laws and regulations and not arbitrarily make these kinds of statements. The VOP plan is active and in force after a extensive of negotiations with local residents, land owners and developers. It is ACTUALLY the compromised position that the local residents achieved and are able to live with. Primarily, a 4-storey building with an FSI of 1.5.
4. If the city thinks this needs to be changed, then we have a planning process that addresses that. It’s not simply using the age of the document as a crutch to change a currently binding piece of legislation in an arbitrary and without due process manner.
5. It would be a larger problem for council and a dereliction of their duties if due process was ignored.

1. ***By-law I-88 is in need of updating and will change the designation of the site***The comprehensive zoning by-law is in the due process phase and not yet enacted so it has no material impact on this site.
2. By-law I-88 is currently law and applies to this site.
3. New bylaw and I-88 cannot override the VOP 2010 plan and all indications are that it does not.
4. There is nothing in I-88 or the new proposed comprehensive by-law that would change the check in the Fail category in the above table.

1. ***A six story building is a minor variance to approved plans (Comment from City Staff made on conference calls to gain clarity on the site plan)***
2. I trust that all of council would agree that a plan that offers a 50% increase in number of floors over and above approved limits is not minor.
3. It is MAJOR. Especially considering that this was a hard fought point of contention when the VOP 2010 approvals were navigating through the public consultation and approval process.
4. Zoned low rise mixed as per schedule 13 in the VOP. It is officially designated as low-rise and officially four stories.

There may have been communications between City staff, the Developer and his representatives as it pertains to 4101 Rutherford Road. In a freedom of information request submitted by an executive with the Weston Downs Ratepayers Association the documents were received heavily redacted. Why would these documents be redacted if communications between parties are done only to seek clarification on a project?

We have been told in meetings with City planning staff that they NEVER get into a position of negotiating with the public or the builders that have submitted applications. I quote, “we can only reach out to gain clarity on an application or an objection but not negotiate any amendments and adjustments to the application, in order to remain impartial and preserve the integrity of the process”. I trust that City staff did not participate in meetings with the builder and his representatives in an effort to exact some changes to the site plan. If this is not the case, then I would suggest that this was out of normal practice and this behaviour resets the entire timeline of the submission and should result in formal reprimands for the city parties involved. I am making a formal requests for all communications and meeting minutes between staff, this applicant and their representatives that may have occurred to date and that are not redacted in the hopes of receiving full transparency. It would be extremely troubling to find out that staff contradicted their own position. If in fact true, then I would expect that entire team to be removed from this file and replaced with a more impartial team that does not conduct public business in this manner.

Lastly I would like to bring to light a conflict of interest between municipal representative(s) and this developer.

Working in the public sector, Council is made abundantly aware that should any semblance of a conflict of interests (COI) arise during any official city business then that person perceived to be in conflict must recuse him or her self from any votes and not play a part in any decisions that could be tainted by that conflict. I will draw your attention to the public article located at the following link: [Catering costs key in Jackson charges | The Star](#). This article points to some conflicts between the builder who submitted the plan amendments for 4101 Rutherford Road and current member(s) of council.

It is extremely disconcerting to understand that the only reason the charges in that case did not move forward (As referenced in this link [Former Vaughan mayor Jackson cleared of election charges | CP24.com](#)) was that Vaughan council hadn't acted within the prescribed 30 days. As the article states:

“In a Newmarket, Ont., court on Friday, a judge quashed the remaining charges and stayed proceedings against Jackson because Vaughan council hadn't acted on a compliance audit application within the 30 days required by the act.”

The optics in this case are extremely troubling. Either this miss by council was a total breakdown and disregard of their fiduciary responsibilities or one of convenience to protect one of their own. If the latter is the case then the COI would taint any and all council members in office at the time and who are voting on the present proposed development. We would expect that they will recuse

themselves from any votes in council that pertain to this builder and/or supported in a state while in conflict by the primary council member.

As stated in the current COI legislation:

“3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.”

Furthermore, the said member, within earshot, has publicly stated support for the application at 4101 Rutherford Road and has been actively lobbying other council members to vote in the affirmative. The entire process already seems to be cast in a negative light and the integrity commissioner, copied on this email, should take immediate note.

Clearly, interactions with this builder and some members of council will not pass the “closest scrutiny test”. The legislation is also attached for reference.

A formal complaint will be filed should the parties in conflict not recuse themselves as expected.

As a concerned citizen and one who believes in an open, and transparent process, I ask that you address the concerns I have raised in this official submission in a timely manner that would not limit or constrain the community’s ability to comment. More often than not, I find that the council process puts us in a position to react negatively after a decision has already been made. I would also ask that you all insert yourself in this process, and any 4101 Rutherford Road decisions only until the and after the issues raised are addressed to the communities’ satisfaction.

Thanks for you time and I look forward to your formal response and continued dialogue.

Please consider this email a formally submitted document and digitally sent and attach it to my other submissions in opposition to this development. (signed)

Giovanni Losiggio

John Losiggio