

Communication : C 91
Committee of the Whole (2)
May 12, 2021
Agenda Item # 4

From: [REDACTED]
Sent: Monday, May 10, 2021 10:21 PM
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[REDACTED] 'Nick Ciappa' [REDACTED]; [REDACTED]; 'Victor Lacaria' [REDACTED]; 'Angela Grossi' [REDACTED]
Subject: [External] Letter submission to Vaughan Council to Reject 4101 Rutherford Road building application (From Al Grossi)

Mr. Mayor, members of council and City Clerk department,

Without prejudice, I hereby request that the planning department recommendation for 4101 Rutherford Road be turned down and that the application for a development be **REJECTED** and that council hear and align with the position of much of the community impacted by this development.

I would like to see council launch a formal review of the City of Vaughan planning department to determine how we can achieve a fully transparent review process that does not use, for convenience, obscure and partial statements from provincial and municipal documents to improperly justify recommendations or ask Council to approve

legislative changes that contravene existing laws and frameworks. I will outline these issues in detail in the flowing pages.

Furthermore, I continue to ask you the Vaughan Council and the City Planning Department to provide a detailed checklist of what these decisions are measured against. Which legitimate boundaries are set on those checklist items so that the community can clearly understand when contraventions occur and would result in an unbiased rejection of an application that is clearly offside?

To note, the 4101 Rutherford application requires the granting of 18 variances and an Official Plan Amendment, yet the Planning Department is recommending approval and without the requisite due process being executed with the public. Included in these 18 variances are ones that the community believes are critical and NOT minor as stated in the report. Some are:

- Height of allowable building approved 4 stories as per VOP 2010. However, By-law 1-88 provides a more restrictive height of 3 stories, lower than allowed in the VOP. The more restrictive by-law applies to the site as per provincial legislation. As such, six (6) floors is 100% above the approved limit. (Also note that the submission also adds 2 more floors on the building when mechanical rooms on the roof are taken into consideration)
- FSI, allowed in VOP is 1.5. This application is requesting an FSI of 2.15, which is 80% higher than what is allowed.
- Site allowed low rise development. This application is requesting a site designation change to mid-rise. Note, once this change is granted, we are fearful that this will eventually trigger an amendment to the location to go beyond 6 stories and be pushed to the limits of the mid-rise designation.
- Setbacks. Builder is asking for 0 setback along Rutherford. Setback serve a purpose and planning is recommending that they be ignored for this location.
- Respecting the character of established community areas. Weston down is a community of single-family home on large 60-foot lots. This does not respect the local community by any measure.
- Traffic Study – Submitted in the middle of COVID and totally obfuscating and contradicting the numerous traffic study reports conducted by the city under the direction of council that uncategorizably stated that the Weston Downs community has a critical traffic problem.

The community sees the above list of variances, and other in the report, as critical and should automatically constitute a **REJECTION** of this application. I am led to ask the following: What would have to be on an application to cause the Planning Department to deny approval? From a layman's perspective and because of the process to date, it seems that they provide blanket approval to any submitted application regardless of the number or severity of variances. I trust that you can agree that it is long past time that the process be fixed so that the Planning Department cannot use qualitative statements to support these types of applications. What is needed is a clear checklist that can be used to remove ambiguity, consolidates prevailing legislation, and serve as a touchstone in these matters.

The following pages will provide specific input and references to provincial legislation and Policy frameworks to support this position. I request that they be read in their entirety and that council and the City Planning Department provide detailed and itemized responses for me and the community as to why they may not apply, are being ignored or circumvented. I am also providing a PDF attachment of this document to mitigate any formatting issues that may arise when sending this text via email.

Material and input supporting a REJECTION of the application for 4101 Rutherford Road.

Note: Items in **RED lettering** and in **Italics** are excerpts from either the, A Place to Grow Growth Plan for the Greater Golden Horseshoe (GPGGH), The Provincial Policy statements (PPS), the Vaughan Official Plan 2010 (VOP2010) and the City of Vaughan website. **Yellow** highlights are intended to guide the reader to areas of importance as they pertain to the 4101 Rutherford application.

Background

Further to my official letter submitted on April 29, it seems that our community suspicions, that the Builder pulled out of negotiations at the last minute, may have been a result of someone at the city providing him indication that the submitted application would be approved by the planning department. On May 7, 2021, the planning report for 4101 Rutherford Road did in fact provide a recommendation to approve the application. It would be unfortunate to find out that the applicant was tipped off to this outcome.

We have also been advised by City staff that the builder has, in parallel, applied directly to the OMB/LPAT with the original design of a SEVEN (7) story building citing an issue that the City failed to reply to his application within a 120-day period from the date of submission. Aside from timelines potentially being impacted by COVID I am utterly shocked that the builder would pull such a manoeuvre. This clearly points to bad faith negotiations with the City and the community. This bully technique only serves to anger the public while neutering the entire oversight that the Vaughan City council should be providing. Notice that he has gone to the OMB/LPAT with a proposal of higher height and FSI all **WHILE THIS PROPOSAL TO COUNCIL IS STILL ACTIVE AND HAS NOT BEEN PULLED**. That alone should negate the proposal before council so that you can then turn your attention to fighting the OMB/LPAT submission on our behalf.

Provincial Decision framework

Provincial legislation clearly states that, A Place to Grow Growth Plan for the Greater Golden Horseshoe (GPGGH), The Provincial Policy statements (PPS), and the VOP 2010 must be read as a whole and applied accordingly since they form the currently active legislation and framework. The following is extracted from the plan and provided as reference:

From (GPGGH/PPS)

1.2.3 How to Read this Plan Read the Entire Plan

This Plan is to be read in its entirety and the relevant policies are to be applied to each situation. The language of each policy, including the policies in Section 5, will assist decision-makers in understanding how the policies are to be implemented.

*While some policies refer to other policies for ease of use, these cross references do not take away from the need to read the Plan as a whole. **There is no implied priority in the order in which the policies appear.***

The legislation also states that GPGGH is to be used as the authority is any policies are in conflict between the documents. There are NO CONFLICTS with the GPGGH, the PPS and the VOP2010. Therefore, the designations in the VOP2010 for 4101 Rutherford are in force and prevail.

The City planning department has also incorrectly suggested that the site can be approved because of intensification targets being pushed by the province. That is an entirely incorrect position. The GPGGH and the PPS do NOT confer any new land use designations or change existing ones. From the relevant documents:

6. *The identification of strategic growth areas, delineated built-up areas, and designated greenfield areas are not land use designations and their delineation does not confer any new land use designations, nor alter existing land use designations. Any development on lands within the boundary of these identified areas is still subject to the relevant provincial and municipal land use planning policies and approval processes.*

Also,

4.0 Implementation and Interpretation

4.6 *The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated, and long-term planning is best achieved through official plans.*

The VOP 2010 is an active robust, and balanced plan that is in effect until 2031, It also meets or exceeds ALL provincial requirements for land use and planning.

VOP 2010

On many occasions I have heard from the Vaughan Planning Department that the VOP is old and outdated, in need of an update and cannot bind their decisions. I would rebut that with the following from the plan itself:

An Extensive Engagement Exercise (From the VOP2010)

A visionary plan that could be supported across the City required extensive input from the public and key stakeholders. In order to gather such input, a new and visionary approach to public consultation was implemented. The innovative approach to consultation, taken under Council direction and described below, garnered Vaughan a 2009 Award for Excellence in Communications and Public Education from the Ontario Professional Planners Institute.

In addition to consultation with the general public, the Plan was prepared through regular consultation with related agencies such as York Region, the School Boards, and the Toronto and Region Conservation Authority to facilitate a comprehensive and integrated approach.

VAUGHAN OFFICIAL PLAN 2010 - VOLUME 1

The City of Vaughan undertook an ambitious three-year project to create a new Official Plan as part of the City's integrated Growth Management Strategy. On September 7, 2010, Council adopted a new Official Plan, it addresses all elements of effective, sustainable and successful city-building, while managing projected growth to 2031.

The plan is active, in force and sufficient until 2031 and with community alignment. I also understand that the City won an award for the process used to develop the plan...

The innovative approach to consultation, taken under Council direction and described below, garnered Vaughan a 2009 Award for Excellence in Communications and Public Education from the Ontario Professional Planners Institute.

The Vaughan planning department should align to it contents as use it as reference when making decisions.

Furthermore, portions of the plan have been evolving and approvals granted to portions as late as 2016 at OMB and

we expect more to be announced as disagreements are resolved through the municipal process. In fact, the designation for 4101 Rutherford Road was achieved in 2016. Furthermore:

Official Plan Review

10.1.1.30. To undertake a review of the policies of this Plan at a minimum of every 5 years. The review shall determine if the policies of the Plan are adequately achieving the goals, objectives, and intent of this Plan.

10.1.2.2. That the full range of uses, densities or heights permitted by this Plan may not be permitted by the Zoning By-law in all locations or all instances. **Zoning By-law provisions may be more restrictive than the policies of this Plan.**

Land use designation from VOP 2010 for 4101 Rutherford Road

9.2.1.4. **No building or structure shall** exceed the height in storeys indicated on Schedule 13 by the number following the letter H.

9.2.1.5. **No development shall** exceed the floor space index indicated on Schedule 13 by the number following the letter D.

(As per the plan the term shall is equated to must)

Schedule 13 of VOP 2010 as it pertains to 4101 Rutherford Road. (Cut and paste of relevant portion only)



MAXIMUM HEIGHT = 4 Stories

MAXIMUM FLOOR SPACE INDEX = 1.5

Zoning by-law 1-88 is more restrictive at C3 = 3 Stories

These MAXIUM targets were set with the community after 6 years of input, negotiation, and constructive dialogue and with the participation of the current landowner.

It is critical to note that setting the maximum height and the FSIs required extensive negotiations with the City and the owner of the property who was and was the VERY BUILDER who submitted the current application. After all this this community effort It is now unconscionable to have the City Planning Department arbitrarily ask council to overrule and amend the VOP and suggest that all 18 variances being requested by the builder are all minor and should not be used to turn down or modify the submission.

That position, at the end of the day, supplants the entire public input process, minimizes it, and relegates it behind baseless opinions of the Planning Department. Community based input demands that the process be followed and respected. Should changes be needed then the process to amend the plans and frameworks needs to be properly initiated, follow the mandated public input process and not merely done at the request of the Planning Department.

Furthermore, legislation further emphasises the point in the previous paragraph by stating that any changes to targets must be done via a municipal comprehensive review. The targets cannot be reset but council and city planning departments without due process. I would ask that if targets are in need of adjustment, then a Comprehensive Municipal Review be launched at which point the public can wholesomely participate, including the land owner. Otherwise as stated in the legislation:

9. Any alternative target permitted by the Minister will be revisited through each municipal comprehensive review. If a municipality does not request a new alternative target, or the Minister does not permit the requested alternative target, the applicable minimum intensification or density target in this Plan will apply.

Intensification Targets

Council and the planning department also stated and expressly know that the provincial intensification targets are measured across all lands in the city. Vaughan has far exceeded the intensification targets set by the province in the identified intensification corridors. 4101 Rutherford is not part of an official intensification corridor and the site-specific intensification being requested is far beyond what is currently allowed in the VOP2010, is unjustified and should not be promoted by the City planning department.

5.2.5 Targets

1. The minimum intensification and density targets in this Plan, including any alternative targets that have been permitted by the Minister, are minimum standards and municipalities are encouraged to go beyond these minimum targets, where appropriate, except where doing so would conflict with any policy of this Plan, the PPS or any other provincial plan.
2. Except as provided in policy 2.2.7.3, the minimum intensification and density targets in this Plan will be measured across all lands within the relevant area, including any lands that are subject to more than one target.

Additionally, the VOP 2010 identifies Weston Downs as a Community Area and binds any decision by the following statements that planning ought to know:

2.2.3 Community Areas

Fundamental to Vaughan's Urban Structure is its communities. Woodbridge, Kleinburg, Maple, Thornhill, Concord, and the new communities of Vellore and Carrville contribute to a unique sense of place for the City and establish the Vaughan identity. New communities will do the same.

*Vaughan's existing **Community Areas** are characterized by predominantly **Low-Rise Residential** housing stock, with local amenities including local retail, community facilities, schools and **parks**, and they provide access to the City's natural heritage and open spaces. The policies of this Plan will protect and strengthen the character of these areas. As the City grows and matures, these*

Community Areas will remain mostly stable. However, incremental change is expected as a natural part of maturing neighbourhoods. This change will be sensitive to, and respectful of, the existing character of the area.

Small retail and community uses, such as schools, **parks** and community centres, intended to serve the local area, are encouraged throughout **Community Areas** to reduce the need of residents to drive to mixed-use centres to meet their regular daily needs for such amenities and services.

2.2.3.2. That **Community Areas** are considered **Stable Areas** and therefore **Community Areas** with existing development are not intended to experience significant physical change that would alter the general character of established neighbourhoods. New development that respects and reinforces **the existing scale, height, massing, lot pattern, building type, orientation, character, form and planned function of the immediate local area is permitted, as set out in the policies in Chapter 9 of this Plan. (OPA #15)**

2.2.3.3. **That limited intensification may be permitted in Community Areas as per the land use designations on Schedule 13 (4 stories with an FSI of 1.5) and in accordance with the policies of Chapter 9 of this Plan. The proposed development must be sensitive to and compatible with the character, form and planned function of the surrounding context.**

The proposed application for 4101 Rutherford contravenes these sections of the VOP 2010 and negates the position of the Planning Department and should invalidate their entire report submission to council.

Notification and Public Meetings

This section is copied directly from the Planning Department report of May 7 for the 4101 Site.

10.1.4 Notification Procedures for Statutory Public Meetings

Public Notice was provided in accordance with the Planning Act and Council's Notification Protocol. The City, on August 23, 2019, mailed a Notice of Public Meeting (the 'Notice') to an extended notification area of all property owners within 650 m of the Subject Lands, as shown on Attachment 2. The Notice was also sent to the Carrying Place, Greater Woodbridge, National Estates, Pinewood Estates and Vellore Woods Ratepayers' Associations, and those individuals that had requested notice or provided a written submission regarding the Applications to the City. A copy of the Notice was also posted on the City's website at www.vaughan.ca and notice signs were installed on the Subject Lands along Rutherford Road and Velmar Drive, in accordance with the City's Notice Signs Procedures and Protocols.

Vaughan Council, on October 2, 2019, ratified the recommendation of the Committee of the Whole to receive the Public Meeting report of September 17, 2019, and to forward a comprehensive technical report to a future Committee of the Whole meeting. Vaughan Council also resolved to hold Community Meetings with City Staff, and with the Local and Regional Councillors.

The following Community Meetings were held after the Public Meeting:

1. October 8, 2019, at Vaughan City Hall with Planning Staff and the Local Councillor with approximately 20 residents and members from the Weston Downs Ratepayers Association ('WDRA').
2. November 21, 2019, at the Vellore Village Community Centre to present the proposal for the Subject Lands and receive additional comments from the community. Attendees included City Staff, the Local Councillor, Regional Councillors, a moderator, the Owner's consultants, and approximately 250 residents.

3. March 23, 2021, via a remote meeting, with City staff and representatives from the WDRA to receive comments regarding the revised submission.
4. March 30, 2021, via a remote meeting, with City staff, the Owner, the Owner's planning consultant and architect, and representatives from the WDRA to receive comments regarding the revised submission.
5. April 23, 2021, via a remote meeting, with City staff, the Local Councillor, and representatives from the WDRA to discuss the design of the revised submission.

Please note the following from official provincial legislation:

10.1.4 Notification Procedures for Statutory Public Meetings

The Planning Act requires that a statutory public meeting be held prior to Council adoption of an Official Plan, enactment of a Zoning By-law or any amendments to those documents. These meetings ensure that adequate information is made available to the public and to allow the public to make representations on the matter being considered.

It is the policy of Council:

10.1.4.1. *That at least one public meeting shall be held prior to the adoption of an Official Plan or Zoning Bylaw amendment at which the public may make representations in respect of the matter being considered. A new public meeting for a planning application(s) shall automatically be required when any of the following circumstances occur:*

a. *any application(s) that has not been considered by Council within two years after the date it was considered at a previous statutory public meeting; and/or*

b. *an application(s) has been significantly amended, such as an increase to the proposed density and/or building height, beyond what was proposed and considered by Council at a previous public meeting.*

(OPA #4)

10.1.4.2. *When a further public meeting is held, the procedures identified in Policies 10.1.4.2 through 10.1.4.5 shall apply. (OPA #4)*

10.1.4.3. *That in order to provide ample opportunity for the public to review and discuss the proposed plan amendments, by-laws or by-law amendments and to prepare their comments, the notice of any public meeting required under Policy 10.1.4.1 shall be given at least twenty (20) days prior to the date of the meeting.*

Furthermore, from the Vaughan Website:

Public Hearing

OFFICIAL PLAN AMENDMENT APPROVAL PROCESS

Vaughan Official Plan 2010

Provincial and Regional Context

Pre-application Consultation

Submitting an Application

Public Hearing

[Committee of the Whole](#)
[Official Plan Adoption/Approval](#)
[20-day Appeal](#)

Vaughan Official Plan 2010

An Official Plan describes Vaughan Council's policies on how land in the City of Vaughan should be used. It is prepared with input from you and others in the community and helps to ensure that future planning and development will meet the specific needs of the community.

An Official Plan deals mainly with issues such as:

- *where new housing, industry, offices and shops will be located*
- *what services like roads, parks, schools, watermains and sewers will be needed*
- *when and how and in what order, parts of the city will grow*
- *community improvement initiatives*

The City's Official Plan is [Vaughan's Official Plan 2010](#) (VOP 2010) that was adopted by City of Vaughan Council on September 7, 2010, as partially approved by the Ontario Municipal Board (OMB) on July 23, 2013, Dec. 2, 2015, Feb. 3, 2014, Sept 30, 2014, Feb. 24, 2015 and June 15, 2015. VOP 2010 represents the City of Vaughan Council's comprehensive planning policy with respect to the future development of the City.

*When a complete **OPA Application** is received, a public hearing will be scheduled to consider the application. The purpose of the public hearing is to receive comments and input from the public and Vaughan Council to inform the planning process. A notice of the public hearing will be circulated by the City to all land owners within a minimum of 150 metres of the subject property, and a minimum of 20 days before the Hearing. The owner, or his/her agent, must attend this meeting to make a brief presentation of the proposal before Vaughan Council, and to answer any questions from Vaughan Council or the public.*

The 4101 application requires several by-law amendments and an actual OPA amendment to be approved. To date, we have not had any public meetings to discuss the proposed amendments and provide written input. I believe that the City has been negligent in their legislated duty in this regard. It seems that the Planning Department is merely detailing them in the planning report and recommends that council approve all amendments while directly circumventing the public process. From all available material an Official Plan Amendment (OPA) application has not been received or discussed via public hearings as required.

I believe that the items detailed in this submission provide a strong basis to REJECT the application for 4101 Rutherford Road.

Sincerely,

Al Grossi
Resident of Kimber Crescent, Weston Downs