

## Committee of the Whole (1) Report

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**DATE:** Tuesday, January 21, 2025

**WARD:** 4

**TITLE: RUTHERFORD LAND DEVELOPMENT CORP.  
DRAFT PLAN OF CONDOMINIUM (STANDARD)  
FILE 19CDM-24V007  
10 ABEJA STREET, 474 AND 498 CALDARI ROAD, AND 9093,  
9095, 9097 AND 9099 JANE STREET  
VICINITY OF RUTHERFORD ROAD AND JANE STREET**

**FROM:**

Haiqing Xu, Deputy City Manager, Planning, Growth Management and Housing Delivery

**ACTION:** DECISION

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**Purpose**

To seek approval from the Committee of the Whole for Draft Plan of Condominium (Standard) File 19CDM-24V007 for the subject lands shown on Attachment 1, to establish a condominium tenure for portions of a high-rise development currently under construction, consisting of three (3) residential towers, ranging in heights from 26 to 30 storeys on a shared mixed-use podium, with a total of 831 residential units, at-grade commercial/retail units, and an indoor community space, as shown on Attachments 2 to 10, and subject to the Conditions of Draft Approval in Attachment 12.

**Report Highlights**

- The Owner has submitted a Draft Plan of Condominium (Standard) Application to establish a standard condominium tenure for the residential portions of the mixed-use apartment buildings currently under construction.
- The Draft Plan of Condominium (Standard) consists of the area dedicated to the residential units, amenity areas, the privately owned publicly accessible space (POPS), and portions of the underground parking garage, which is consistent with the approved Site Development File DA.19.010.
- The Development and Parks Planning Department recommends draft approval of Draft Plan of Condominium (Standard) File 19CDM-24V007, subject to the Conditions of Approval in Attachment 12.

## **Recommendations**

1. THAT Draft Plan of Condominium (Standard) File 19CDM-24V007 (Rutherford Land Development Corp.) BE DRAFT APPROVED, as shown on Attachments 2 to 10, subject to the Conditions of Draft Approval in Attachment 12.
2. THAT Council's approval of Draft Plan of Condominium (Standard) File 19CDM-24V007 (Rutherford Land Development Corp.), subject to the conditions set out in Attachment 12, be for a period of three (3) years from the date on which approval was given, and the approval shall lapse at the expiration of that time period.
3. THAT the Owner of the subject lands shall obtain approval of Minor Variance Application File A187/24 identified in this report, from the Vaughan Committee of Adjustment, and the Committee of Adjustment's decision shall be final and binding, and the Owner shall satisfy any conditions of approval imposed by the Committee.
4. THAT Council accept the at-grade portion of the land proposed as a Privately Owned Publicly Accessible Space ('POPS'), at full (100%) parkland credit, as shown on Attachment 11, and accept the remaining above-ground level POPS at no (0%) parkland credit, and
5. THAT the Owner of the subject lands enter into all necessary agreements in connection with the Privately Owned Publicly Accessible Space ('POPS') Agreement for the entire land identified as POPS (i.e. ground level and above-ground level) as shown on Attachment 11, which agreements shall be on terms to the satisfaction of, and be executed by, the Deputy City Manager, Planning, Growth Management and Housing Delivery, in a form approved by Legal Services.

## **Background**

Location: 10 Abeja Street, 474 and 498 Caldari Road, and 9093, 9095, 9097 and 9099 Jane Street (the 'Subject Lands') and legally described as Block 4 in Registered Plan 65M-4805. The Subject Lands were formerly known as 2901 Rutherford Road. The Subject Lands and the surrounding land uses are shown on Attachment 1.

### ***Draft Plan of Subdivision and Site Development Applications have been approved to permit the development of the Subject Lands***

On November 22, 2022, Draft Plan of Subdivision File 19T-18V001 and Site Development File DA.19.010 were approved by Council to:

- permit a subdivision consisting of three (3) blocks for High-Rise Mixed-Use development (including the block containing the Subject Lands), a park block, an open space block, a vegetation protection zone ('environmental buffer') block, and blocks to facilitate the extension of Caldari Road to Rutherford Road, the completion of Abeja Street, and other road widenings, and

- to facilitate the development of three (3) high-rise mixed-use buildings with a Floor Space Index of 10.4 times the area of the lot on the Subject Lands, containing 831 residential units, approximately 970 m<sup>2</sup> of commercial (retail) space on the ground floor, a 497 m<sup>2</sup> Indoor Community Space on the second floor, and a 2,668 m<sup>2</sup> Privately-Owned Publicly Accessible Space ('POPS') that encompasses the area along the north side of the buildings and the second level public courtyard located in the central open area, as shown on Attachment 11, and a total of 907 parking spaces accommodated within the ground floor and four (4) levels of underground parking (the 'Development').

The Subdivision Agreement and amending Subdivision Agreements (three (3) in total) were registered on March 21, 2024, and April 5, 2024. The approved draft plan of subdivision was registered in the land registry office on April 9, 2024, as Plan 65M-4805.

The Site Plan Agreement for the Development was registered on May 3, 2024.

***The City has entered into an agreement pursuant to Section 37 of the Planning Act***

The City of Vaughan entered into agreements with Rutherford Land Development Corp. (the 'Owner') pursuant to Section 37 of the *Planning Act* (the 'Section 37 Agreements'), wherein the Owner agreed that it shall either:

1. provide a Community Benefit Contribution equivalent of \$3,458,985.00, consisting of the payment of money, or
2. transfer to the City the provision of the Indoor Community Space located in the Development, in lieu of the cash contributions, to the satisfaction of the City.

A Section 37 Agreement was executed on February 6, 2024, and registered on March 11, 2024, and an Amending Section 37 Agreement dated March 27, 2024, was registered on April 5, 2024.

***City staff are working towards realizing the Indoor Community Space as the Community Benefit Contribution***

Of the two (2) options presented above, City staff are moving forward with the Indoor Community Space to the City as the Community Benefit Contribution, in lieu of the cash contribution.

The Indoor Community Space is proposed to be freehold tenure with its own separate street level entry door and elevator, as shown on Attachments 2 and 3.

The Indoor Community Space is comprised of:

- an Indoor Community Space approximately 452 m<sup>2</sup> in area located on the second floor of the Development, accessed from a lobby approximately 45 m<sup>2</sup> in area located on the first floor of the Development (approximately 497 m<sup>2</sup> total area), as shown on Attachments 2 and 3, and
- 10 parking spaces (including two (2) accessible spaces) located at the ground floor of the Development, as shown on Attachment 2.

As the majority of the Indoor Community Space is located on the second floor of the Development, the City will be required to enter into a Reciprocal Easement and Operating Agreement to deal with the shared facilities, ongoing access, support, financial, and repair and maintenance obligations.

A By-law will also need to be passed by Council at a future date to authorize the acquisition of approximately 497 m<sup>2</sup> of public Indoor Community Space and 10 parking spaces from the Owner at the appropriate time, to the satisfaction of and in the form approved by the City.

***The Owner shall enter into an agreement with the City for the POPS on the Subject Lands***

The 2,668 m<sup>2</sup> POPS is proposed to have a standard condominium tenure, as shown on Attachment 3. The POPS is located north of the main building, a portion of which is at-grade, with a series of ramps leading to an interior open space at the second level.

Staff have been working with the Owner to negotiate the proposed terms of the POPS Agreement. As part of these negotiations, Staff recommend that full (i.e., 100%) parkland dedication credits for POPS are to be based on section 3(4) of By-law 168-2022 as follows:

“Through the development approval process, City Council may choose to accept land proposed as a POPS at full (100%) credit towards satisfying the parkland dedication requirements for a development or redevelopment. Consideration and provision of parkland credits for a privately owned public space shall require the owner to enter into an agreement with the City providing that the privately owned public space:

- a) is designed, developed, and maintained to City standards;
- b) is open and accessible to the public at all times; and
- c) meets any further applicable criteria in the City’s Official Plan or Secondary Plan.”

Furthermore, for areas to be considered POPS, Section 6.2.8.j of the Urban Design Guidelines includes the following requirements for a POPS to meet at a minimum:

- a) Located in a prominent, public facing location.
- b) Provides a critical site connection that benefits the surrounding community.
- c) Fulfills a required open space need that has been identified for the development of the surrounding community.
- d) An integral part of the surrounding public realm design and/or landscape treatments.
- e) The main entrance of future development is located off of the POPS as a midblock connection.

***Only the at-grade portion of the POPS meets the above requirements***

Based on the above requirements, Development and Parks Planning staff recommends that only the at-grade portion of the POPS within the Development as shown on Attachment 11, be eligible for 100% parkland credits.

A Recommendation to this effect has been included in this report.

If approved by Council and required by the City, the Owner agrees that prior to the registration of any plan of condominium on the Subject Lands, it shall enter into any agreement(s) the City deems necessary, in connection with the POPS, including but not limited to:

- i. An agreement granting an easement, in perpetuity, in favour of the City for the purpose of permitting uninterrupted and unobstructed public pedestrian ingress, egress, access, use and enjoyment in on, across, over and upon the POPS (the "POPS Easement"). The POPS Easement(s) shall be registered on title to the Subject Lands and shall form part of any relevant condominium declaration; and
- ii. An agreement addressing, without limitation, the following:
  - a) the design and maintenance of the POPS;
  - b) access to the POPS;
  - c) the Owner's duties regarding the maintenance, repair, and operation of the POPS;
  - d) reserve fund requirements; and
  - e) insurance and indemnity requirements

A condition to this effect has been included in the Recommendation section of this report and Conditions of Approval in Attachment 12.

***A Draft Plan of Condominium (Standard) Application has been submitted to establish the proposed condominium tenure for the Development***

Rutherford Land Development Corp. (the 'Owner') submitted Draft Plan of Condominium File 19CDM-24V007 (the 'Application') for the Subject Lands to establish a standard condominium tenure for the Development, which is currently under construction.

***A Notice of Complete Application was issued for the Application***

A Notice of Complete Application was issued for the Application to the Owner on August 12, 2024.

**Previous Reports/Authority**

The following are links to reports for the related Draft Plan of Subdivision and Site Development applications:

Committee of the Whole (Public Meeting) report for File 19T-18V001  
[April 4, 2018 Committee of the Whole \(Public Hearing\) \(Item 1, Report No. 15\)](#)

Committee of the Whole (1) Report for Files 19T-18V001 and DA.19.010  
[November 22, 2022 Committee of the Whole \(Item 6, Report No. 38\)](#)

Committee of the Whole (2) Report for File 19T-18V001  
[February 13, 2024 Committee of the Whole \(Item 19, Report No. 5\)](#)

**Analysis and Options**

***The Application is consistent with the Provincial Planning Statement, 2024 and conforms to the Vaughan Official Plan 2010***

The Application establishes a standard condominium tenure for the Development approved through Site Development File DA.19.010, which had already considered the policies of the Provincial Policy Statement, 2020 ('PPS 2020'), A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended (the 'Growth Plan'), and the York Region Official Plan 2010, which were in-force at the time.

The Development, which is currently under construction, provides a diverse range and mix of housing options and uses in a compact built form, with access to existing and planned infrastructure within the Delineated Built-Up Boundary of a Settlement Area.

**Provincial Planning Statement, 2024 ('PPS 2024')**

The PPS 2024 is a policy statement issued pursuant to section 3 of the *Planning Act* and came into effect on October 20, 2024. It replaced the PPS 2020 and the Growth Plan. All decisions made on or after October 20, 2024, in respect of the exercise of any authority that affects a planning matter shall be consistent with this policy statement.

The PPS 2024 provides direction on matters of Provincial interest related to land use planning and development province-wide, helping achieve the provincial goal of meeting the needs of a fast-growing province while enhancing the quality of life for all Ontarians.

Related Draft Plan of Subdivision File 19T-18V001 and Site Development File DA.19.010 were reviewed under the PPS 2020 and Growth Plan; however, this Application was also reviewed in consideration of the policies of the PPS 2024 and Development Planning staff are satisfied that it is consistent and does not conflict with the PPS 2024 policies.

#### York Region Official Plan 2022 ('YROP 2022')

York Region Council adopted the YROP 2022 in June 2022. YROP 2022 was approved, as modified, by the Minister of Municipal Affairs and Housing in November 2022, bringing it into full force and effect. Bill 150 (*Planning Statue Law Amendment Act, 2023*) and Bill 162 (*Get It Done Act, 2024*) later rescinded some of those modifications.

On June 6, 2024, Bill 185 (*Cutting Red Tape to Build More Homes Act, 2024*) ("Bill 185") received Royal Assent which includes amendments to the *Planning Act*. In accordance with the amendments to the *Planning Act* implemented through Bill 185, York region became a Region without planning responsibilities effective July 1, 2024.

Pursuant to subsection 70.13(2) of the *Planning Act*, YROP 2022 is deemed to constitute an official plan of the City in respect of any area in the City to which it applies and will remain in effect until the City revokes or amends it.

The Application establishes a standard condominium tenure for the Development which contributes to the diversity of housing types, lot and unit sizes, and tenure options within the community. The Application conforms to the policies of the YROP 2022.

#### Vaughan Official Plan 2010 ('VOP 2010')

VOP 2010 sets out the municipality's general planning goals and policies that guide future land use. The Subject Lands are identified in VOP 2010 as follows:

- "Primary Centre" on Schedule 1 – "Urban Structure" of VOP 2010
- "Land Subject to the Vaughan Mills Centre Secondary Plan" on Schedule 13 – "Land Use" of VOP 2010
- "High-Rise Mixed-Use" in Volume 2, Section 11.7 - Vaughan Mills Centre Secondary Plan ('VMCSP').

The Application would create the standard condominium tenure for portions of the Development on the Subject Lands, including all the residential units, as shown on Attachments 2 to 10. On this basis, the Application conforms to VOP 2010.

**Council enacted Zoning By-law 001-2021 on October 20, 2021, as the new Vaughan Comprehensive Zoning By-law**

The Application is transitioned under Section 1.6 of Zoning By-law 001-2021 and therefore, has only been reviewed under Zoning By-law 1-88, as amended.

Zoning:

- “RA3 (H) Apartment Residential Zone”, subject to site-specific exception 9(1488)

**Minor Variances to Zoning By-law 1-88 are required to permit the Development**

The following zoning deficiency has been identified in the review of this Application and therefore relief is required from the zoning by-law to permit the Development:

- Reducing the minimum parking space size dimensions for three (3) parking spaces to accommodate compact cars

The Owner has submitted Minor Variance Application File A187/24 to seek relief for the above-noted zoning deficiency. This deficiency, in addition to any other deficiencies that may be identified through the review of the Minor Variance Application, shall be approved by the Committee of Adjustment. A Recommendation to this effect has been included in this report.

**The Draft Plan of Condominium is consistent with the approved Site Development Application**

Vaughan Council on November 22, 2022, approved Site Development File DA.19.010 (Rutherford Land Development Corp.) to permit the Development as shown on Attachment 11. The Draft Plan of Condominium (Standard) as shown on Attachments 2 to 10 is required to create the standard condominium tenure for the following elements:

- 831 residential units
- 755 of the 907 vehicular parking spaces on the ground floor and in the 4-level underground parking garage (the remaining parking spaces are proposed to be freehold tenure)
- The POPS, including the at-grade and above-grade (2<sup>nd</sup> level) portions
- Private amenity areas (both indoor and outdoor)

The proposed Draft Plan of Condominium (Standard) is consistent with the approved site plan.

**The ground floor commercial space and 2<sup>nd</sup> floor Indoor Community Space is not part of the proposed standard condominium tenure**

The ground floor commercial (retail) space is not part of the proposed standard condominium tenure for the Development and will be freehold.



The Indoor Community Space to be acquired by the City through the Section 37 Agreement is also not part of the proposed standard condominium tenure for the Development, as it will be owned and operated by the City as a freehold space.

***The Development and Parks Planning ('DPP') Department recommends approval of the Draft Plan of Condominium, subject to Conditions of Approval***

The Draft Plan of Condominium (Standard) shown on Attachments 2 to 10, is consistent with the Development shown on Attachment 11, which is currently under construction on the Subject Lands.

DPP staff have reviewed the application and has no objection to its approval, subject to the Conditions of Approval in Attachment 12.

**Financial Impact**

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

**Operational Impact**

***The Development Engineering ('DE') Department supports the Development, subject to the Conditions of Approval***

The DE Department has reviewed the Application and has no objection to its approval, subject to the Conditions of Approval in Attachment 12.

***Other City departments and external agencies have no objections to the Application subject to the Conditions of Approval***

**City of Vaughan**

The Financial Planning and Development Finance Department, Real Estate Department have no objections to the Application subject to the Conditions of Approval in Attachment 12.

**External Agencies**

Alectra Utilities, Bell Canada, Enbridge Gas, Canada Post, and Canadian National (CN) Railway have no objections to the Application subject to the Conditions of Approval in Attachment 12.

***Other City Departments and agencies have no objection to the Application***

The Emergency Planning Department, Fire and Rescue Service, Policy Planning and Environmental Sustainability Department, and Zoning Section of the Building Standards Department of the City of Vaughan have no objection to the Application.

Rogers Communications, Hydro One, and the York Catholic District School Board, also have no objection to the Application.

## **Broader Regional Impacts/Considerations**

### ***York Region has no objections to the Application subject to the Conditions of Approval***

The Application has been circulated to York Region for the purpose of receiving comments regarding matters of regional interest i.e., roads and servicing infrastructure. York Region has no objection to the approval of this Application, subject to the Owner satisfying all York Region requirements and the Conditions of Approval in Attachment 12.

## **Conclusion**

The Development Planning Department is satisfied the Application to establish a standard condominium tenure is consistent with the PPS 2024, conforms with VOP 2010, complies with Zoning By-law 1-88 as amended, is consistent with the Development approved through Site Development File DA.19.010, and is appropriate for the development of the Subject Lands. Accordingly, the Development and Parks Planning Department can recommend approval of the Application, subject to the recommendations in this report and Conditions of Approval in Attachment 12.

**For more information**, please contact Letizia D'Addario, Senior Planner, at extension 8213.

## **Attachments**

1. Context and Location Map
2. Proposed Draft Plan of Condominium (Standard) File 19CDM-24V007
3. Proposed Draft Plan of Condominium (Standard) – Level 2
4. Proposed Draft Plan of Condominium (Standard) – Levels 3, 4 and 5
5. Proposed Draft Plan of Condominium (Standard) – Levels 6 and 7
6. Proposed Draft Plan of Condominium (Standard) – Levels 8, 10, 12, 14, 16, 18, 20, 22 and 24
7. Proposed Draft Plan of Condominium (Standard) – Levels 9, 11, 13, 15, 17, 19, 21, 23 and 25
8. Proposed Draft Plan of Condominium (Standard) – Levels 26 and 27
9. Proposed Draft Plan of Condominium (Standard) – Levels 28, 29 and 30
10. Proposed Draft Plan of Condominium (Standard) – Underground Parking Levels
11. Approved Site Plan File DA.19.010
12. Conditions of Draft Plan of Condominium Approval File 19CDM-24V007

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