



PLANNING, DEVELOPMENT
AND LEGISLATIVE SERVICES
Community Planning

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Melissa Mohr 1-226-752-8622
File: D1920/2/24205

April 25, 2024

Craig Dumart
Senior Planner
City of Kitchener
200 King Street West, 6th Floor
P.O. Box 1118, Kitchener, ON
N2G 4G7

Dear Mr. Dumart,

**Re: Proposed Vacant Land Plan of Condominium
30CDM-24205
459-509 Mill Street
Matthew Warzecha and Gursimran Saini of Polocorp Inc.
(C/O Mike Puopolo)
CITY OF KITCHENER**

The Region has prepared the following comments relating to the above noted Vacant Land Plan of Condominium at 459-509 Mill Street in Kitchener. The purpose of these comments is to identify any items that need to be address prior to draft approval and those that can be imposed as conditions of approval.

The applicant is proposing a Vacant Land Plan of Condominium consisting of 4 units and common elements with each unit corresponding to a building as follows:

- Unit 1: 32 storey mixed-use building with underground parking
- Unit 2: 15 storey mixed-use building with underground parking
- Unit 3: 40 and 44 storey mixed-use building with underground parking
- Unit 4: 21 storey mixed-use building with underground parking

Internal drive aisles, landscaped areas, and walkways make up the common elements.

The subject lands are located in the Urban Area of the Region and are Delineated Built Up Area in the Regional Official Plan. Furthermore, the subject lands are located in the

Mill Station Major Transit Station Area. In addition, the subject lands are designated Mixed Use with Special Policy Area 62 in the Mill Courtland Woodside Park Neighbourhood Secondary Plan in the City of Kitchener Official Plan and zoned Mixed Use Three (MIX-3) Zone with Special Regulation 362R and Holding Provision 43H in the City of Kitchener Zoning By-law. The subject lands were previously the subject of an Official Plan Amendment and Zoning By-law Amendment (File Nos. OPA22/08 and ZBA22/015).

These comments relate to the Draft Plan of Vacant Land Plan of Condominium prepared by City of Kitchener, dated March 4, 2024:

Regional Comments

Community Planning

The subject lands are designated “Urban Area”, and “Delineated Built Up Area” on Map 2 of the Regional Official Plan (ROP). The site is designated Mixed Use with Special Policy Area 62 in the Mill Courtland Woodside Park Neighbourhood Secondary Plan in the City of Kitchener Official Plan. Permitted uses of the Urban Area and Delineated Built-Up Area in the ROP include urban uses such as residential and commercial uses, among others.

Regional staff have no objection to the application, and have the following technical comments and conditions related to the proposal:

Region of Waterloo International Airport:

The development is located within the Airport Zoning Regulated Area with an allowable elevation of 459.5m ASL. Regional staff acknowledge the developer completed an aeronautical assessment showing that airport operations are not impacted until reaching an elevation of 487m ASL (1600ft ASL) through the previously reviewed Official Plan Amendment and Zoning By-law Amendment.

The concept plan provided with the submission shows ‘Tower B’ has an estimated top elevation of 469.7m ASL, leaving 17.3m available above the building for any cranes. Please be advised that all cranes must remain below 487m ASL.

In addition, the developer must submit a Land Use Application to Nav Canada for the buildings and cranes, and obtain a letter of no objection as part of the future site plan approval process. The developer must also submit an Aeronautical Assessment Form to Transport Canada for buildings above the AZR or more than 90m tall through the site plan approval process.

The Land Use Application to Nav Canada can be found here:

<https://www.navcanada.ca/en/aeronautical-information/land-use-program.aspx>

The application form can be found here: <https://tc.canada.ca/en/aviation/general-operating-flight-rules/marking-lighting-obstacles-air-navigation>

Further to the above, as the subject lands are within an approach surface leading into and out of the Region, the following warning clause shall be implemented through a Registered Development Agreement with the Regional Municipality of Waterloo:

“Owners are advised that all units in this plan of condominium are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this path and noise from aircraft using the flight path may cause concern to some individuals.”

Corridor Planning

Environmental Noise:

Through previously reviewed Official Plan Amendment and Zoning By-law Amendment applications, Regional staff reviewed the noise study entitled “Noise and Vibration Feasibility Study, Proposed Mixed-Use Development, 459-509 Mill Street, Kitchener, Ontario” dated July 13, 2022 prepared by HGC Engineering.

The study has determined that noise levels at various locations within the proposed development will exceed the Region of Waterloo and the Ministry of the Environment Conservation and Parks (MECP) noise limits. Noise mitigation measures i.e. installation of air-conditioning, special building components (walls, windows, doors etc.) and noise warning clauses will be required for all units in the development to achieve the indoor noise level criteria. The study determined that the proposed noise sensitive aspects of the proposed development will be feasible and the following shall be implemented through a registered development agreement with the Regional Municipality of Waterloo as a condition of draft plan approval:

1. All residential units within the proposed development at 459-509 Mills Street, Kitchener must be constructed with air conditioning and special building components and include the following noise warning clauses in any agreements of Offers of Purchase and Sale, Lease/Rental Agreements, and/or Condominium Declarations.

“Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road and rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 meters from the land of subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment or the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

2. Minimum Glazing STC Ratings shall be included in the building in accordance with the following:

Table 6: Required Minimum Glazing STC for Specific Facades

Prediction Locations	Description	*Glazing STC ^{1,2}
[A]	Southwest façade of Towers D, and F	STC-33
[B]	Eastern façade of Towers A, B, C, D, E, and F	STC-33
[C]	Southwest façade of Towers A and C	STC-33
[D]	Western and southern façades of Towers A, C, D, and F	STC-33
[E]	Southwest façade of Towers B and E	STC-33

Note:

¹ Based on assumed window to floor area ratios of 60% (40% fixed and 20% operable).

² STC requirement refers to fixed glazing. Small leaks through operable doors and windows are assumed, however, tight weather seals should be provided to reduce such leakage to the extent feasible.

* Sound entering through windows and walls comprised of precast/masonry panels, and spandrel glass panels

OBC – Ontario Building Code

3. The buildings shall be constructed with a brick veneer or masonry equivalent for residential units adjacent to and within 75m of the CN rail line.
4. The location and installation of any outdoor/indoor air conditioning devices shall be installed to minimize the noise impacts and comply with the criteria of the Municipality and the Ministry of the Environment, Conservation and Parks publication (NPC-300).
5. Prior to the issuance of building permits for this development, a Professional Engineer qualified to provide acoustical engineering services in the Province of Ontario are to certify that the suggested noise control measures have been properly incorporated in the building design and plans, and upon completion of construction, the Municipality's building inspector or a Professional Engineer qualified to provide

acoustical engineering services in the Province of Ontario will certify that the dwelling units have been constructed accordingly.

Transit/ION Parking Easements/Access:

In anticipation of pedestrian access through the site to the ION station and vice versa, please ensure the site is designed to facilitate safe access to and from the subject lands to the Region's Mill ION Station. In addition, please be advised that the Region may require easements for access and/or drainage through the site plan process.

Stationary Noise:

Through the previously reviewed Official Plan Amendment and Zoning By-law Amendment, a Holding Provision was implemented within the site specific Zoning By-law Amendment (File No. ZBA22/015) to obtain a satisfactory detailed stationary noise study. The Region shall require that the recommended implementation measures contained in the detailed stationary noise study to be implemented through a registered development agreement between the Owner/Developer and the City of Kitchener and that any required warning clauses be implemented within the Condominium Declaration and Purchase and Sale/Lease/Rental Agreements as a condition of draft plan approval.

Record of Site Condition/Environmental Threats

There are numerous medium and high environmental threats on and adjacent to the subject lands according to the Region's Threats Inventory Database that require a Record of Site Condition and Ministry Acknowledgement Letter for the entirety of the subject lands in accordance with the Region's Implementation Guidelines.

Regional staff acknowledge that the subject lands were the subject of an Official Plan Amendment and Zoning By-law Amendment (Files No. OPA22/08 and ZBA22/015) and a holding provision was implemented to obtain the Record of Site Condition and Ministry Acknowledgement Letter.

Risk Management/Part 4 of the Clean Water Act

The applicant/owner has negotiated a provisional risk management plan for salt application. Regional staff require the require provisions for salt management to be implemented within the Condominium Declaration as a condition of draft plan approval.

Housing Services

The following Regional policies and initiatives support the development and maintenance of affordable housing:

- Regional Strategic Plan
- 10-Year Housing and Homelessness Plan
- Building Better Futures Framework
- Region of Waterloo Official Plan

The Region supports the provision of a full range of housing options, including affordable housing. Staff recommend that the applicant consider providing a number of affordable housing units on the site, as defined in the Regional Official Plan. Rent levels and house prices that are considered affordable according to the Regional Official Plan are provided below in the section on affordability.

In order for affordable housing to fulfill its purpose of being affordable to those who require rents or purchase prices lower than the regular market provides, a mechanism should be in place to ensure the units remain affordable and establish income levels of the households who can rent or own the homes.

Staff further recommend meeting with Housing Services to discuss the proposal in more detail and to explore opportunities for partnerships or programs and mechanisms to support a defined level of affordability.

For the purposes of evaluating the affordability of an ownership unit, based on the definition in the Regional Official Plan, the purchase price is compared to the least expensive of:

Housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for low and moderate income households	\$418,100
Housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area	\$679,300

*Based on the most recent information available from the PPS Housing Tables (2022).

In order for an owned unit to be deemed affordable, the maximum affordable house price is \$418,100.

For the purposes of evaluating the affordability of a rental unit, based on the definition of affordable housing in the Regional Official Plan, the average rent is compared to *the least expensive of*:

A unit for which the rent does not exceed 30 per cent of the gross annual household income for low and moderate income renter households	\$1,960
A unit for which the rent is at or below the average market rent (AMR) in the regional market area	Bachelor: \$1,075 1-Bedroom: \$1,245 2-Bedroom: \$1,469 3-Bedroom: \$1,631 4+ Bedroom: n/a

*Based on the most recent information available from the PPS Housing Tables (2022)

In order for a rental unit to be deemed affordable, the average rent for the proposed units must be at or below the average market rent in the regional market area as shown above.

Draft Plan of Condominium Conditions:

The Region has **no objections** to draft approval of Vacant Land Plan of Condominium 30CDM-24205, subject to the inclusion of the following conditions of Draft Approval set out below:

- 1) THAT the Owner/Developer agrees to phase/stage development of this condominium in a manner satisfactory to the Commissioner of Planning, Development and Legislative Services and the City of Kitchener, including any easements or other requirements as a result of staging;
- 2) THAT prior to final approval, the Owner/Developer shall enter into a registered development agreement with the Regional Municipality of Waterloo and implement the following warning clause within the Condominium Declaration and all purchase and sale/lease/rental agreements to the satisfaction of the Regional Municipality of Waterloo:

“Owners are advised that all units in this plan of condominium are located within or in close proximity to one of the flight paths leading into and out of the Region of Waterloo International Airport and that directional lighting along this path and noise from aircraft using the flight path may cause concern to some individuals.”

- 3) THAT prior to final approval, the Owner/Developer shall enter into a registered development agreement (if required) with the City of Kitchener and/or Regional Municipality of Waterloo to implement the recommendations contained within the detailed stationary noise study, including the implementation of any noise warning clauses within the Condominium Declaration and purchase and sale/lease/rental agreements; all to the satisfaction of the Regional Municipality of Waterloo.
- 4) THAT prior to final approval, the Owner/Developer shall enter into a registered development agreement with the Regional Municipality of Waterloo to implement the recommendations contained in the noise study entitled Noise and Vibration Feasibility Study, Proposed Mixed-Use Development, 459-509 Mill Street, Kitchener, Ontario” dated July 13, 2022 prepared by HGC Engineering including air conditioning and special building components; all to the satisfaction of the Regional Municipality of Waterloo. Furthermore, the following noise warning clauses shall be implemented within the Registered Development Agreement with the Regional Municipality of Waterloo and the Owner/Developer agrees to implement the following noise warning clauses within the Condominium Declaration and all offers of purchase and sale/lease/rental agreements:

“Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road and rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

“Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 meters from the land of subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment or the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

Further to the above, should any additional implementation measures be recommended, they shall be implemented through the Registered Development agreement with the Regional Municipality of Waterloo and/or City of Kitchener.

- 5) THAT prior to final approval, the Owner/ Developer shall include provisions within the Condominium Declaration for the Condominium Corporation and Unit Owners to comply with the negotiated Risk Management Plan for salt application (prepared by Polocorp Inc., dated July 11, 2022).
- 6) THAT prior to final approval, the Regional Municipality of Waterloo be provided with a copy of the registered development agreement between the Owner/Developer and the City of Kitchener; and,
- 7) THAT prior to final approval, the final draft of the Condominium Declaration be forwarded to the Commissioner of Planning, Development and Legislative Services at the Regional Municipality of Waterloo.

Fees

The Region acknowledges receipt of the Region’s condominium application review fee of \$3,550.00 (deposited March 21, 2024).

General Comments

Any future development on the lands subject to the above-noted application will be subject to the provisions of Regional Development Charge By-law 19-037 or any successor thereof.

Please accept this letter as our request for a copy of the decision pertaining to this application. Should you have any questions, please do not hesitate to contact me.

Yours truly,

Melissa Mohr, MCIP, RPP
Senior Planner

C. Polocorp Inc. C/O Mike Puopolo (Owner)
Polocorp Inc. C/O Matthew Warzecha and Gursimran Saini (Applicants)

Encl.

Condominium Circulation Response Form

Notice for Application for Draft Approval - Plan of Condominium (Vacant Land)

File Number: 30CDM-24205

Location: 455-509 Mill Street

Owner: POLOCORP INC

OPA22/008/M/CD and ZBA22/015/K/CD

Parkland Dedication

Parkland Dedication as a combination of land and cash in lieu of land will be required as a condition of Draft Approval.

For the physical land to be dedicated the following items are required:

1. Due diligence in environmental analyses including Phase I ESA as per current version of CSA-Z768), and, *if required* Phase II ESA as per current version of CSA Z769: If results of ESA are deemed acceptable by City of Kitchener, the property will be accepted as parkland dedication, given that all other requirements are met. If contamination is revealed through ESA, the developer shall incur all costs to remediate prior to dedication of property to the city.
2. Legal survey of the dedication portion of the property;
3. Demolition and removal of all existing structures within the dedicated property including but not limited to all foundations, servicing, above ground structures, and hard surfacing;
4. Removal of all existing rubbish or debris within the property boundaries
5. Park Block development minimum requirements are met, as specified in section L.5. of the Kitchener Development Manual, including grading, servicing, topsoil, seeding and sodding;
6. Topographic survey of the dedication portion of the property following park block development

Parkland Dedication calculations

Lot area 2.1738 ha, 5 towers, up to 44 storeys, ~1500 units, FSR 8.5

Land valuation rate \$19,768,000/ha

Proposed land dedication of 0.03418ha (341.8m²)

New commercial GFA is also proposed in the development but is not subject to parkland dedication as per Bylaw 2022-101 and the Parkland Dedication Policy.

Straight cash in lieu:

2.1738ha x \$19,768,000/ha x 0.05 = \$2,148,584 (5% area rate)

1500 units x 1ha/1000units x \$19,768,000/ha = \$29,652,000 (Bylaw 2022-101 alternative rate)

1500 units x \$11,862 = \$17,793,000 (City of Kitchener capped rate)

2.1738ha x \$19,768,000/ha x 0.1 = \$4,297,168 (MHBFA 10% cap has been reached)

Combination of land dedication and cash in lieu of land

Assuming a land dedication of 0.03418ha (341.8m²)

0.03418ha x \$19,768,000/ha = \$675,670

2.1738ha x \$19,768,000/ha x 0.1 = \$4,297,168 - \$675,670 (land value) = \$3,621,498 additional as cash in lieu

Through the OPA/ZBA applications the developer has proposed privately owned publicly accessible spaces (POPS) and while Bylaw 2022-101 and the Bill 23 changes to the Planning Act allow for POPS spaces the development proposal is still at a preliminary stage and there are no detailed design drawings that will allow the suitability of these spaces to be assessed for credit or value and they cannot be considered for credit at this time.

Similarly, through the OPA/ZBA the developer has indicated that affordable housing would be provided through the development, but no secure commitments have been registered and therefore no credits or reductions can be considered relative to parkland dedication fees.

Parks & Cemeteries

Department/Agency

March 07 2024

Date

Lenore Ross

Signature of Representative

Craig Dumart

From: WRDSB Planning <planning@wrdsb.ca>
Sent: Friday, April 5, 2024 1:26 PM
To: Craig Dumart
Cc: Planning
Subject: Re: [Planning] Circulation for Comment - Draft Plan of Vacant Land Condominium 30CDM-24205 (459-509 Mill Street)

via email

Craig Dumart
Senior Planner
craig.dumart@kitchener.ca

April 4, 2024

Re: Notice of Application for Draft Plan of Vacant Land Condominium

File No.: 30CDM-24205
Municipality: Kitchener
Location: 455-509 Mill Street
Owner/Applicant: Polycorp

Craig,

The Waterloo Region District School Board (WRDSB) has reviewed the above-noted application that proposes a mixed use development including 5 residential towers between 15-44 storeys. The WRDSB offers the following comments.
Student Accommodation

At this time, the subject lands are within the boundaries of the following WRDSB schools:

- Queen Elizabeth Public School (Junior Kindergarten to Grade 6)
- Courtland Avenue Public School (Grade 7 to Grade 8)
- Cameron Heights CI (Grade 9 to Grade 12)

The WRDSB's [2020-2030 Long-Term Accommodation Plan](#) provides information on facility utilization at these facilities. Interim student accommodation measures, including portable classrooms, are presently on-site and may be required until an alternative accommodation solution is in place. Alternatively, the WRDSB may conduct a boundary study or designate this property as a "Development Area" and assign it to Holding Schools before occupancy or sales. In order to adequately assess and model student enrolment from this development, WRDSB Planning requires more detail regarding the residential unit count and breakdown. Please provide this information as soon as it is available.
Student Transportation

The WRDSB supports active transportation, and we ask that pedestrians be considered in the review of all development applications to ensure the enhancement of safety and connectivity. WRDSB staff are interested in engaging in a conversation with the City and applicant to review the optimization of pedestrian access to public transit, and municipal sidewalks so students may access school bus pick-up points.

Student Transportation Services of Waterloo Region (STSWR)'s school buses will not travel privately owned or maintained rights-of-way to pick-up/drop-off students. Transported students will be required to meet the bus at a congregated bus pick-up point. STSWR may have additional comments about student pick-up point(s) placement on municipal rights-of-way.

WRDSB Draft Conditions

Concerning any future declaration or agreement, the WRDSB requests the following inclusions in the conditions of Draft Approval:

1. That the Owner/Developer shall include the following wording in the condominium declaration to advise all purchasers of residential units and/or renters of same:

Internal memo

Development Services Department



www.kitchener.ca

Date of Meeting: April 01, 2024
Planner/Staff on File: Craig Dumart
From: Jason Brûlé, C.E.T., Engineering Technologist 519-741-2200 x 7419
Subject: Site Address: 455-509 Mill Street
Owner: Polocorp
Applicant: Polocorp
Type of Application:
 Site Plan Zone Change Official Plan Amendment
 Draft Plan of Condominium

Engineering Comments:

1. A servicing plan must be approved as part of the Site Plan process to the satisfaction of the Engineering Division prior to condo registration.
2. The proposed services throughout the property, including storm and sanitary sewers, watermain, and stormwater infrastructure, must be within the "common element" in the declaration and reference plan or located in easements in the reference plan, and be registered on title to the properties, in favour of the condo board regardless of depth or location allowing the condo board maintenance access. The declaration and or reference plan must be reviewed and approved to the satisfaction of the Engineering Division prior to condo registration.