



December 24, 2021

Rita Szilock
Planner
Planning Approvals
Integrated Planning & Public Works
City of Waterloo
100 Regina Street South
Waterloo, Ontario
N2J 4A8

Dear Ms. Szilock:

Re: Minor Zoning By-law Amendment Z-21-08 – Response to City Staff and Agency Comments – 310-316 Erb Street West, Waterloo, VanLegend Erb LP.

The purpose of this Response Letter is to provide additional supporting details and responses to comments received from City Staff and circulated agencies in a letter dated November 4, 2021. The Response Letter has been separated into subsections to respond to specific issues raised by staff or circulated agencies.

1. Elevation of the Underground Parking Garage

Staff Comment: In reviewing the submission materials it is not clear what the underground parking garage elevation is. The Geotechnical Investigation states that the underground parking/basement level is proposed to be at 337.00 m but then it recommends that the basement level is to be at 337.50 m. Does this mean that the building will need to be raised another 0.5 m? Through your resubmission confirm the exact elevation of the underground parking garage. Also, confirm whether the building has been sunk into the ground as far as it can go. The majority of the comments and concerns raised by staff in this letter are directly related to how far the building has been raised out of the ground.

Response: The final Geotechnical Investigation undertaken by Chung & Vander Doelen (CVD) dated March 31, 2020 recommended that, based on the groundwater elevations

measured on March 17, 2020, the basement floor elevation should be established at 337.50 m or higher. During the detailed design of the building, this has been confirmed with CVD as well as confirming that this is as far as the building should be located underground to be located above the groundwater table.

This elevation is noted on both the Site Plan and north elevation.

2. Reduced Rear Yard Setback/Reduced Low Rise Residential Lot Line setback to Exposed Parking Garage

Staff Comment: A reduced 1.56 m rear yard setback has been requested to accommodate the exposed wall of the parking structure. The zoning by-law requires a rear yard setback of 7.5 m and a 10m low rise residential lot line setback along the northerly lot. Effectively, resulting in a minimum 10 m northerly lot line setback, whereas 1.56m is being requested.

Staff have some concerns with this request, the result of the requested 1.56 m rear yard setback would be that a 55 m long structure ranging in height between 3.15 m and 3.6 m would be located 1.56m from the low-rise residential properties to the rear. It is not clear what type of landscaping, that can grow to a significant size and would help to soften and visually screen the proposed development, would be able to be accommodated within a 1.56 m rear yard while being flanked by a substantial parking structure on one side and likely a privacy fence on the other side. Through the resubmission demonstrate that appropriate landscaping to help soften and visually screen the proposed development from the low-rise residential lots is viable within the 1.56 m setback.

Staff are concerned that the parking structure adjacent to the rear property line will create CPTED issues. There will be no eyes on this narrow area to help with crime prevention should the owners of the low rise residential lots decide to put up a privacy fence along their rear property line.

In your resubmission, work to address the concerns raised by staff and to demonstrate how these concerns can be resolved. Staff is available to participate in working sessions to help come up with solutions to the concerns raised.

Response: Please find attached the most recent Landscaping Plan prepared by Aboud & Associates. The low-rise residential landscape buffer includes the following plants:

34 Eastern White Cedar	
20 Alpine Currant	
5 Arrowwood	
Boston Ivy	

These plants were selected to provide an aesthetic variation in the screening of the parking garage wall with a massing of Boston Ivy to eventually cover and conceal the concrete forming a vegetative wall. The Eastern White Cedars can reach 10 metres in height and will eventually screen lower sections of the development from residences to the north.

The concrete wall as part of the exterior garage wall extends up to 1.12 metres and was designed to function as both a guard for vehicles parked in this location and a barrier to screen vehicle headlights from the adjacent properties. It also increases privacy in the rear yards of the adjacent properties and acts as a boundary fence.

The Vegetation Management Plan identifies shared and off-site trees that may be impacted due to the development. Off-site trees and shared trees, where possible will be protected during construction. Where shared trees are to be removed due to the condition of the tree or construction impacts, the removal and replacement of trees was generally discussed with adjacent landowners and supported in principle. Additional discussion is required to determine the preferences of each affected landowner.

The Karen Walk properties municipally addressed as 30 A/B, 32 A/B and 34 A/B that back onto the subject lands are owned by one property owner. 30 A/B and 32A/B has merged on title and forms one property while 34A/B has merged with the Karen Walk properties to the north forming one property owned by this same owner. Where shared trees are proposed to be removed, discussions regarding the replacement of the shared trees at the rear of the Karen Walk properties is ongoing. The project landscape architect has been directed to prepare a tree planting replace plan with the appropriate number and species to plant along the rear property line of these properties and once available will be discussed with the land owner.

With the extent of plant material proposed as part of the landscape buffer on the subject lands and additional trees proposed to be planted along the rear lot line of the Karen Walk properties, it is unlikely that the existing or future property owner will construct a 1.8 metre privacy fence, especially because the wall itself will function as a privacy fence and trees will be planted in the location of where a boundary fence would be constructed.

Further, as part of the landscape design process, a fence was not contemplated to be constructed along the residential property line. In the unlikely event that the future property owner wishes to construct a fence, the fence would be required to be offset from the property line.

The area of concern with respect to crime will contain a significant amount of landscaping and would be difficult to access from the subject lands. The height from the top of the wall to the bottom of the landscape buffer ranges from approximately 2.9 metres to 3.7 metres above grade. To access from the subject lands, one would either have to climb on top of the 1.12 metre wall from the parking garage deck that has been designed as a guard for the surface parking or access from the side yards which contain landscaping that extends to the side property lines. To access from Karen Walk, access would be from rear yards of private properties. Due to the height of the

wall from the subject lands and the grade difference, it would be difficult and unlikely that people would access this area for nefarious reasons.

3. Low Rise Residential Landscape Buffer

Staff Comment: Staff are concerned about the requested reduced average 1.713 m Low Rise Residential Landscape Buffer along the north property line. Along most of the rear property line adjacent to the raised parking structure, the Landscape Buffer will be 1.56 m wide. The purpose of the required average 3m Low Rise Residential Landscape Buffer is to ensure that a landscape strip of sufficient size is available to accommodate sizable landscaping to help screen and soften the multi-residential buildings from the views of Low-Rise Residential lots. When taking into consideration the fact that the reduced Landscape Buffer will be flanked by a 55 m long raised parking structure ranging in height between 3.15 m to 3.6 m and likely a 1.8 m tall privacy fence on the other side it is unclear how any vegetation of sufficient size would be able to grow in the proposed landscape buffer.

In your resubmission, work to address the concerns raised by staff and to demonstrate how these concerns can be resolved. Staff is available to participate in working sessions to help come up with solutions to the concerns raised.

Response: Please see attached correspondence from the project's Landscape Architect providing an opinion that the landscape buffer is of sufficient size to accommodate appropriately sized landscaping that will grow to form a visual buffer with a minimum height of 1.5 metres. Once established, the proposed plantings will form a dense screening buffer up to approximately 10 metres. Discussion is ongoing with respect to a tree replanting plan along the affected rear lot lines of the two Karen Walk properties. Any future privacy fence along the rear lot line of the Karen Walk properties would be redundant due to the extent of landscaping and the parking garage wall both of which will provide increased privacy and screening. The aesthetic value of the landscaping cannot be overlooked as it will also serve to improve the existing view from the rear yards of the Karen Walk properties. The following illustrates the existing rear yards of the subject lands:



312-314 Erb Street West	
316 Erb Street West	

The attached perspective views illustrate the initial screening and mature screening from the Karen Walk rear yards. It is our opinion that the proposed development will be a considerable improvement to what is existing and will significantly improve the views from all adjacent properties.

4. Building Height

Staff Comment: Building height has been incorrectly calculated. The raised patio and retaining walls form part of the building façade, therefore the 5 points (equally spaced apart) used to determine the average grade line should be taken from in front of the retaining walls where the finished ground level abuts the retaining wall not from the top of the raised patio or the top of the retaining wall.

Once the average grade line is determined the height of the building should be measured from the average grade line. Based on staff's review it appears that once building height is measured as per the requirements of the by-laws, the building will likely exceed the maximum 20m height limit set by the Zoning By-law and Official Plan.

It appears that the building may be 7 storeys tall along the eastern end, exceeding the 6 storey height limit set by the RMU-20 zone. For reference, please see below for a definition of storey:

STOREY: means that portion of a BUILDING between any floor and the roof or ceiling next above such floor, provided that any portion of a BUILDING partly below GRADE

shall be deemed a STOREY if its ceiling height is one-point-eight metres (1.8 m) above the average adjacent grade.

In your resubmission, work to reduce the height of the building. If compliance cannot be achieved then additional Zoning amendment will be required. To help staff review the building height compliance please submit the following:

- a. Updated elevation plan with the building height measured from the average grade line, as described above.
- b. A cross-section of the front of the building (east-west cross-section) with the average grade line show.

Response: Please find attached a Building Height Cross section diagram demonstrating how building height was measured in accordance with, in addition to the definition of storey, the following relevant definitions contained within the Zoning By-law:

BUILDING HEIGHT – For all other BUILDINGS and STRUCTURES, means the vertical distance from the finished ground level abutting the FRONT BUILDING FAÇADE, measured as the average of five (5) points equally spaced apart adjacent to the entire FRONT BUILDING FAÇADE to:

a) for a flat roof, the highest point of:

- The roof's surface; or
- The parapet, where the parapet exceeds 1.2 metres in height, whichever is higher.

The following shall be disregarded when calculating BUILDING HEIGHT:

- Chimney
- Church spire, church steeple, church belfry, and the like
- Rooftop mechanical, ventilation, electrical, utility and service equipment not exceeding four metres in height
- elevator penthouse not exceeding six metres in height
- rooftop architectural feature (see section 3.A.5)
- mechanical and service equipment noise barriers
- elevator penthouse
- stairway structure
- non-habitable and unenclosed rooftop amenity structures
- safety guards
- ornamental domes, skylights, and cupolas
- telecommunication equipment

BUILDING FAÇADE, FRONT – means the exterior wall or face of the BUILDING abutting a FRONT YARD.

GRADE – means the finished ground level of the land, and when used in reference to a BUILDING OR STRUCTURE, shall mean the finished ground level of the land adjacent to the exterior walls of the BUILDING or STRUCTURE.

STRUCTURE – means any erection, permanent or temporary, fixed to or supported by the soil. Excludes signs, flag poles, fences, retaining walls, electrical authority hydro transformers, telecommunication utility pedestals, municipal hydrants, gasoline pump islands, and light standards.

As shown, the five points to create the average grade line is taken from where the finished ground level abuts the FRONT BUILDING as the planter boxes are not attached to the main building. Since our original submission, we have redesigned the front yard by replacing the planter boxes with amour stone and redesigning the stairs to be less than 0.6 m in height. The retaining wall at the most easterly corner of the building has been redesigned to be less than 0.6 metres in height and is not attached to the building. The finished ground level has been redesigned to abut the retaining wall.

With respect to the number of storeys on the eastern end of the building, the east elevation provides dimensions demonstrating that the ceiling height of any portion of the building partly below grade does not exceed 1.8 metres above the average adjacent grade. As a result, the building does not exceed the 6-storey height limit and is in compliance with the maximum building height of the RMU-20 zone.

5. Front Yard Setback

Staff Comment: The raised patio/terraced retaining wall system at the front of the building, is viewed as a combined structure and it forms part of the multi-residential building. As such, any portion of this combined structure that is greater than 0.6m above grade in height has to comply with the minimum street line setback requirements. Please refer to section 3.A.7.4 of the Zoning By-law. In addition, any stairs that are over 0.6m in height also have to comply with the minimum street line setback. Please refer to section 3.A.7.3 of the Zoning By-law. Staff note that the number of retaining walls currently shown in the front yard will likely not be conducive to shade tree growth in the front yard. It is recommended that the number of retaining walls be reduced to ensure that there are large, landscaped areas in the front yard that would allow for shade tree planting.

Based on staff's review of the proposed development, it appears that the stairs and the raised patio/retaining wall system in the front yard is not in compliance with the minimum 5m street line setback. In your resubmission, please redesign the building to achieve compliance. If compliance is not possible then any portion of the stairs/raised patio/retaining wall system that is greater than 0.6m above grade will have to be clearly identified on the submitted plans and will have to be included in the requested zoning amendments. Please note that if you are

seeking any additional zoning amendments a planning rationale for any additional amendments will have to be submitted through a planning justification addendum letter as part of your resubmission.

Response: The front yard was redesigned by replacing the planter boxes with amour stone and redesigning the stairs to be less than 0.6 m in height.

6. Landscape Open Space

Staff Comment: Based on staff's review of the submitted site plan the proposed development does not appear to meet the required 30% Landscaped Open Space requirement. For reference, stairs, retaining walls and utilities should not be included in the Landscape Open Space calculation. See below for the definition of Landscape Open Space:

LANDSCAPED OPEN SPACE: means a portion of a LOT predominantly used for the growth of trees, shrubs, grasses and or other vegetation. Includes: COMMON OUTDOOR AREA and ACCESSORY outdoor hardscapes such as surface walkway, patios, or DECK. Excludes:

- a) BUILDINGS and STRUCTURES (except for a DECK)
- b) parking areas, including parking decks
- c) DRIVEWAYS
- d) LOADING SPACES
- e) Covered or enclosed BICYCLE PARKING
- f) curbs and retaining walls
- g) garbage enclosures
- h) rooftop AMENITY AREAS, rooftop decks, rooftop terraces constructed after the effective date of this BY-LAW
- i) stairs and ramps
- j) utilities

Please double check whether the calculation of the Landscape Open Space meets the above definition and demonstrate in your resubmission how the landscape open space has been calculated

Response: Please find attached a diagram which illustrates how the landscape open space has been calculated. In the original submission, stairs, retaining walls, a portion of the outdoor bicycle parking that is covered and the barrier free accessible parking access aisles were included as part of the calculation. As the attached diagram illustrates, careful consideration was made to exclude these areas and as a result, there is a small deficiency related to the percentage of Landscape Open Space. The attached planning justification addendum letter provides the planning rationale for this amendment.

7. Parking Rate

Staff Comment: Staff have no concerns with the requested parking rate reduction. In your resubmission, update the site data chart as per below. The subject site is located within Parking Area F and requires 1.10 spaces/unit for the residential units and 0.1 spaces per unit for the visitors. When calculating the required parking for the site each of these rates should be calculated on their own, rounded up and then added together for the total required parking. The required parking should be 113 parking spaces and should be calculated as per below:

$$1.10 \text{ spaces/unit} \times 93 \text{ units} = 102.3 \text{ spaces} = 103 \text{ spaces}$$

$$0.1 \text{ spaces/unit} \times 93 \text{ units} = 9.3 \text{ spaces} = 10 \text{ spaces}$$

Please note that given the requested reduced parking rate of 0.9 spaces/unit (84 spaces) the required number of accessible parking spaces is two (2) Type A and two (2) Type B spaces as per Table 6D (s. 6.4.1). Currently, two (2) Type A and three (3) Type B accessible parking spaces are shown on the submitted plans.

Response: The revised Site Plan reflects the required number of barrier free accessible parking spaces based on the reduced parking rate of 0.9 spaces/unit (84 spaces). One (1) Type A is provided in the underground parking garage and one (1) Type A and two (2) Type B are provided on the surface parking lot.

8. Commentary Related to Submitted Plans

Staff Comments:

Grading/Servicing Plan

a) Please explain why the grading plan indicates that the maximum height of the raised foundation wall is 2.57m, whereas the elevations indicate that the height of the exposed parking structure is between 3.15m and 3.6m?

Response: The grading plan did not properly factor in the 1.12 metre concrete guard on top of the parking deck, which increases the overall wall height when viewed from the Karen Walk properties. This has been revised on the latest grading plan.

b) Please explain why the grades shown at the bottom of the exposed parking garage wall are inconsistent. The grades jump from 338.99m to 340.59m/340.26 and back down to 338.21m.

Response: The elevations have been revised on the grading plan to follow the natural drop in grade from west to east along the rear property line.

c) The 3:1 slopes should be reduced. With such steep slopes proposed around the side and rear of the structure how will the development ensure that adjacent properties are not impacted by water run-off from the development?

Response: The 3:1 slope is necessary to reduce the visual impact of the height of the parking garage wall. The amount of run-off in this area will be insignificant given that the parking deck area drains capture the majority of the water that will fall on site.

A stormwater management brief is being prepared as part of the Site Plan approval process and will demonstrate that the adjacent properties are not impacted by water run-off from the development.

Site Plan

d) The accessible parking access aisle cannot be shared with pedestrian movement to access the building. Three doors appear to open into accessible parking access aisles. Please redesign in resubmission to ensure that there is no conflict between accessible parking access aisles and building access points.

Response: The accessible parking spaces were located to be as close to the building entrances as possible. With that being said, the location of the spaces will be reviewed as part of the Site Plan application and relocated, if required.

e) The retaining wall along to front of the building should not extend into the driveway daylight triangle (3m by 3m).

Response: The front yard was redesigned by replacing the planter boxes with amour stone and redesigning the stairs to be less than 0.6 m in height. In accordance with 3.D.1 – Daylight Triangle of the Zoning By-law, only landscaping is located within the daylight triangle at a maximum height of 0.50 m so as not to obstruct the vision of a motor vehicle driver or cyclist.

f) Underground parking structure elevation level should be confirmed and noted on the Site Plan.

Response: The underground parking structure elevation level is confirmed and noted on the Site Plan and Underground Parking Plan.

Elevations

g) The elevations do not seem to incorporate the retaining wall that has the transformer unit. The east and west elevations also do not appear to show the extent of the exposed parking structure wall in its entirety. The elevations need to be revised and should show the entire property extending from property line to property line. Include property lines on the elevation and demonstrate how the grade falls away from the building and meets up with existing grades along the property line.

Response: Both the east and west elevations have been revised to show the entire property extending from property line to property line and demonstrate how the grade falls away from the building and meets up with existing grades along the property line, in accordance with the updated grading plan.

h) The parking garage wall at the rear of the site appears to be 52 m on the submitted elevations and 55 m on the submitted site plan. Why is there a 3 m discrepancy?

Response: It is unclear where the 52m assumption came from. Where the wall projects closest to the rear property line, it is 54.99 m in length and an additional 6.04 m in width where the transformer is proposed.

General

In your resubmission ensure that all plans are coordinated with consistent information.

Response: Acknowledged.

All the secure bicycle parking spaces appear to be vertical mounted. Getting bikes into and out of vertical mount spaces can be difficult for some and may discourage some residence from riding their bikes. Please redesign the secure indoor bike parking to include some horizontal bike parking spaces.

Response: Bicycle parking will be reviewed as part of the Site Plan application. However, it is important to note that all bicycle parking spaces were designed in accordance with the Zoning By-law and Urban Design Guidelines. Specific to the Urban Design Guidelines, the following criteria and principles were considered as part of the design:

- Outdoor bicycle parking clustered near building entrances including the provision of horizontal sheltered bike parking near primary and secondary entrances.
- Bicycle parking provided in locations that avoid conflicts with pedestrian movement
- Bicycle parking complies with Zoning By-law dimensions
- Ample indoor bicycle parking provided (Urban Design Manual specifically notes that vertical bike rack systems will be supported).

Additional Comments

Sustainable Design

a) As submitted, the application would permit the development of a 6-storey apartment building. Should the application change and contemplate a building that is 7 or more storeys, an Energy Strategy would be required. Requirements for the Energy Strategy can be provided if it becomes applicable.

The incorporation of sustainable design, construction and operational elements is strongly encouraged (e.g. cool or green roofs, on-site renewable energy, enhanced energy performance, etc.).

Response: As demonstrated in the height diagram, the building is 6 stories in height.

Affordable Housing

b) Section 10.1.2(12) of the Official Plan states that regard will be given to an adequate mix of rental and ownership units for a wide variety of household sizes when considering development applications. The proposed condominium apartment is set to have 78 1- bedroom units (comprising 84% of the total units) and 15 2-bedroom units (comprising 16% of the total units). The application materials indicate the development's smaller units are meant to provide an affordable option for residents wanting to own a home in Waterloo.

Staff note that the Provincial Policy Statement, 2020 and the City's Official Plan define 'affordable'. According to this definition, affordable ownership housing in Waterloo is \$368,000 or less (this would include condominium units). No information was contained in the application materials to confirm whether the proposed units would be truly affordable. In resubmission, please address whether units would truly be affordable.

Response: At the onset of the project in 2020, the intent was to release to market a smaller, more affordable unit with the target market being first time home buyers and first-time investors looking to purchase smaller, more affordable units for rental income. At that point in time, the 1-bedroom units on level 2 were projected to start at \$356,900, which as noted, would be considered affordable in accordance with the PPS definition.

Since this time, development charges have increased and construction materials have gone up approximately 15% in 2021 and are expected to rise at least another 12-15% in 2022 (compounded). The price of the unit that was originally estimated at \$356,900 is up at least \$35K since March of 2021 and will likely sell for just under \$400K. The Province's 2020 housing tables do not reflect current market conditions where construction costs are out of control due to world-wide COVID related supply chain chock holds and labour shortages. Coupled with demand for affordable housing outstripping supply of product coming onto the market, it is more difficult than ever to deliver an affordable housing product to the market, especially with outdated housing data that does not reflect the reality of not only regional market conditions but of a larger economic world picture.

Policy 10.1.2(13) in the City's Official Plan states:

The City may provide a range of planning and regulatory incentives that encourage affordable housing. Such incentives may include:

- (a) ***Fast-tracking development applications*** that contain an affordable housing component.
- (b) Application of height and/or density bonusing, as set out in 12.3.1 of this Plan.
- (c) Collaborating with community partners to foster the provision of affordable housing;

(d) Providing financial relief, in the form of waived or deferred Development Charges, for affordable housing projects.

In order to redevelop the subject lands with a medium density-built form in accordance with the City's Official Plan, a Site Plan and minor variance application was originally submitted for this proposal in February of 2020. It was known at the time of the original submission that the proposed unit size and product type was intended to provide a much-needed housing product at a lower price point which would be attractive to first time home buyers and modest investors. Had that original application been supported and processed accordingly, the project would likely have been sold at what would have been deemed to be affordable in accordance with the PPS and the construction of the building well underway.

The importance of timely approvals of development applications cannot be understated, especially where lack of supply is an issue. Fast-tracking does not mean a less desirable outcome or product. A minor variance application would have resulted in the same outcome as what is being proposed as part of a Zoning Amendment application the only difference being is that the project would have been brought to market in a more efficient time frame which has a direct correlation to the cost of the product.

Notwithstanding the fact that the unit price is not likely to meet the definition of 2020 affordable, assuming that this project will be released to market in the first quarter of 2022, it is expected that due to current market conditions, it will be the most affordable housing product on the market and as a result will likely sell out very quickly.

Source Protection

c) The site falls within the area covered by the Grand River Source Protection Plan. A Section 59 Notice will be required at each stage of the development process. The applicant can continue to use taps.regionofwaterloo.ca to confirm what source protection-related activities are regulated on the site.

Response: Please find attached a Notice of Source Protection Plan compliance issued by the Region on September 28, 2021.

Please feel free to contact me at jvoss@shimco.com or telephone at (226) 339-3304 if you have any questions or require any additional information.

Sincerely,



Jennifer Voss, MCIP, RPP

