



PLANNING
& DEVELOPMENT
CONSULTING

October 11, 2024

Garett Stevenson
Director of Planning
City of Kitchener
200 King Street West
Kitchener, ON N2G 4G7

Dear Mr. Stevenson,

**Re: Zoning By-law Amendment Application ZBA24/017/M/CD - 328 and 300 Mill Street,
City of Kitchener, REVISED PROPOSAL**

I am writing to provide an update on our Zoning By-law Amendment Application for 328-330 Mill Street and outline the revisions made in response to Planning Staff's concerns.

The proposed site-specific provisions are necessary due to the unique constraints of the property. The site has an irregular "L" shape, with the longer leg of the "L" representing the front portion of the property and the shorter, wider leg forming the rear portion. The middle section of the property narrows to 30.39 metres, while the rear portion expands to 51.81 metres. Additionally, the front lot line is angled rather than perpendicular to the street, sloping downward from the southwest to the east. These shape irregularities, particularly the narrower middle and angled front, make it difficult to meet zoning requirements for physical separations and setbacks. As a result, site-specific provisions are necessary to accommodate a functional building design that responds to these constraints while aligning with the City's planning framework.

To address Planning Staff's concerns and better align with the built form zoning requirements, we have made significant modifications to the original proposal. Below are the key changes:

Front Yard Setback and Building Shift:

The ground floor front yard setback has been increased from 4.8 metres to 6.0 metres to address Planning Staff's opinion that the change will enhance the pedestrian environment. While we maintain that the original setback would not have negatively impacted the streetscape, we have made this adjustment in response to Staff's feedback.

The entire building has been shifted eastward as recommended by Staff, resulting in a 3.0 metre westerly side yard. While this shift allows for additional landscaping along the west property line and at the southwest corner of the subject lands, it also brings the southeast corner of the building 0.8 metres closer to the front lot line due to the angled configuration of the lot.

The revised front yard setback reflects the unique shape and angled lot line of the property, which impacts the front yard setback compliance on certain floors. While the southeast corner of the building is closer to the front lot line, this adjustment was necessary to accommodate the shift of the building to the east. Below is a breakdown of the front yard setback compliance by floor:

Front Yard Setback Compliance:

1st Floor: 100% compliance (6.0 metres).

2nd and 3rd Floors: 0% compliance (1.0 metre).

4th to 6th Floors: 98% compliance.

7th to 12th Floors: 28% compliance

13th to 18th Floors: 16% compliance.

19th to 28th Floors: 100% compliance.

The proposed 1.0 metre setback at the southeast corner is the smallest dimension measured from the closest part of the angled front lot line. From the southwest corner of the building, the front yard setbacks are as follows:

- **Ground Floor:** 6.0 metres.
- **2nd to 4th Floors:** 1.0 metre.
- **5th and 6th Floors:** 8.0 metres.
- **7th to 12th Floors:** 7.0 metres.
- **13th to 18th Floors:** 7.0 metres.

- **19th to 28th Floors:** 13.0 metres.

The following provides the justification for the reduced front yard setback:

1. **Pedestrian Protection and Public Amenity:**

The second storey cantilevers over the landscaped plaza, providing shelter and protection from the elements. This design creates a comfortable and protected pedestrian environment, offering shade and coverage, which encourages outdoor activity and makes the streetscape more engaging and user-friendly. The commercial units on the ground floor provide active uses fronting the public plaza, further activating the space. Additionally, the second storey fronting the street houses indoor amenities, such as the gym and common room, ensuring "eyes on the street" and enhancing the overall sense of security and community interaction.

In a highly urban area, which is the intent of this location, it is a benefit to have these types of uses (commercial and amenity) within the building as close to the street as possible to activate the streetscape and create a vibrant public realm.

2. **Architectural Interest and Distinct Podium Design:**

The reduced front yard setback at the upper floors, particularly at the southeast corner where the building is closest, does not negatively impact the streetscape and, in my opinion, enhances the building's architectural expression. Stories 4-6 of the podium at this corner is angled, adding articulation and visual interest to the façade, which makes the podium distinct from the tower above. Eliminating the angled and cantilevered design to increase the front yard setback would, in my opinion, compromise the architectural expression and diminish the dynamic form that benefits the streetscape.

3. **No Negative Impact on Streetscape or Pedestrian Environment:**

Despite the reduced setback at the upper storeys, this does not negatively impact the pedestrian environment or the overall streetscape. The reduction in setback is limited to the southeast corner and affects only a small portion of the building. Even with the reduced setback, the façade maintains a strong relationship with the street, particularly within the context of an urban environment. The articulation and setback variations result in a visually engaging design that contributes to a vibrant and attractive streetscape.

4. **Ample Space for Landscaping and Active Public Space:**

The front yard setback reduction at the higher floors does not limit the availability of urban space at ground level. The building's design ensures ample room for an urban plaza that can accommodate landscaping, seating, and other public amenities, fostering an active streetscape and enhancing the overall urban fabric of the area.

5. **Visual Interest Without Overlook Issues:**

The reduced front yard setback at the upper storeys allows for a distinct architectural expression while still maintaining appropriate visual separation from neighboring properties, ensuring there are no issues with overlook or privacy concerns for adjacent properties. The front of the building overlooks the street, further emphasizing its urban context and reinforcing its role in activating the public realm.

Easterly Pinch Point

The pinch point on the east side of the site presents a significant constraint that prevents the building from fully meeting the physical separation requirements to the easterly lot line in that specific area. Originally, the building was proposed with a 4.9 metre setback to the easterly lot line at the pinch point, with a 1.0 metre westerly side yard. At the recommendation of Staff, the building was shifted as far east as possible, reducing the physical separation at the pinch point to 2.0 metres. Staff's rationale was that since the physical separation requirement could not be fully met at the pinch point due to site constraints, a further reduction would not materially impact the overall condition. However, they emphasized the need to achieve full compliance with the physical separation requirements on the west side.

It is important to note that the physical separation issue at the east side pinch point should not be directly connected to the justification for the reduced setback on the west side for storeys 19-28. The reduced separation at the pinch point can be justified independently, as the adjacent properties directly to the east are constrained by the proximity to Shoemaker Creek and the associated floodway. This constraint means that the adjacent lots are too small to accommodate the same built form as proposed for the subject site. If the adjacent properties are redeveloped without additional lot consolidation with lands to the north, they are more likely to be developed for a low-rise form of housing.

Given this context, the reduced physical separation at the pinch point on the east side will not create issues of overlook between two similarly sized high-rise buildings. Instead, the separation provides ample space relative to the adjacent, likely smaller-scale redevelopment. This ensures that the reduced setback at the pinch point will not lead to privacy concerns or negative impacts on adjacent properties, as the scale of future development on those lands will be significantly less than what is proposed for the subject lands.

In support of this revised design, the following percentages demonstrate that, despite the pinch point constraint, a substantial portion of the building meets or exceeds the required physical separation along the easterly lot line:

- **96%** of the building meets the 3-metre separation requirement.
- **80%** meets the 6-metre separation requirement.

- **63%** meets the 9-metre separation requirement.
- **47%** meets the 12-metre separation requirement.

In the wider portion of the site, the separation to the east lot line is as follows:

- **Storeys 7-12:** 19 metres
- **Storeys 13-18:** 21 metres
- **Storeys 19-28:** 21 metres

This demonstrates that while the pinch point restricts separation in a small section, the overall design achieves substantial compliance and exceeds the minimum requirements in most areas of the building. By shifting the building eastward at the pinch point, compliance on the west side was largely achieved, though relief is still being requested for storeys 19-28, which require a 10-metre separation instead of 12 metres.

Justification for Reduced Physical Separation for Storeys 19-28 (West Lot Line)

The reduced physical separation from 12 metres to 10 metres for storeys 19-28 on the west side is a carefully considered adjustment aimed at balancing the functional design of the building with the site's spatial constraints. While full compliance with the 12-metre requirement is not achieved, several factors support the proposed 10-metre setback as a reasonable alternative.

1. **Functional Building Design and Unit Layout:** Maintaining the 12-metre separation for storeys 19-28 would result in the removal of a two-bedroom unit per floor, leading to a total loss of 9 units. This would significantly reduce the building's residential capacity and compromise the financial viability of the project. Additionally, the 12-metre setback results in the remaining unit layout to be reduced to 5 metres in width, making the units nearly unfunctional and not feasible to build. The proposed 10-metre setback, while still tight, allows for a functional unit layout, ensuring that the design meets market demands while still respecting the intent of the physical separation requirements.
2. **Urban Context and Compatibility:** The subject site is located within a Major Transit Station Area (MTSA), where increased density and height are encouraged to support transit-oriented development. The slightly reduced physical separation on the west side still aligns with the broader urban design goals for the area by supporting a high-density building form while ensuring that the tower maintains its slender appearance. This adjustment also complements the city's goals for intensification in key growth

areas without drastically affecting the urban character or compatibility with adjacent properties.

Moreover, the increased density provided by this development plays an important role in supporting the City's inclusionary zoning principles, aimed at integrating affordable housing units into new developments within MTSAs. The additional height and density allow for greater flexibility in unit layout and design, ensuring that both market-rate and affordable units are feasible within the overall development. However, if the 12-metre separation distance on the west side were strictly enforced, it may jeopardize the construction of storeys 19-28 due to the challenge of achieving functional unit sizes within the remaining available floor space. This constraint could compromise the ability to deliver the intended density and housing mix, which supports the city's broader goals for intensification and affordable housing in transit-supportive areas.

3. **Building Massing and Slender Form:** The 10-metre separation for storeys 19-28 still ensures the building's overall massing remains in line with the design intent for a slender tower. The minor reduction in setback does not compromise the visual appearance or architectural integrity of the tower, which is designed to minimize bulk and create a more aesthetically pleasing skyline. By complying with the majority of the building's setbacks, the slender form is maintained, reducing the impact on neighboring properties.
4. **Impact on Neighboring Properties:** The 2-metre reduction in physical separation for storeys 19-28 is minimal and does not significantly affect the neighboring properties to the west. There are four single detached lots adjacent to the west of the subject lands (316-326 Mill Street), and the depth of these lots is approximately three-quarters the length of the subject lands. Should these properties be consolidated for a similar redevelopment of a 28-storey building, the building would be oriented differently, positioned parallel to Mill Street rather than perpendicular. This would result in only a small area of overlap between the two buildings, minimizing the potential for issues related to overlook, shadowing, or loss of privacy.

Furthermore, the design ensures that the tower is still well-separated from the westerly lot line, maintaining a reasonable distance and minimizing any potential negative impact.

5. **Overall Compliance and Intent:** The majority of the building complies with or exceeds the required physical separations, with the exception of the easterly pinch point. The proposed 10-metre separation on the west side for storeys 19-28 is the only other area where relief is requested, representing a minor deviation from the standard. This design balances the need for functional and marketable unit layouts with the city's built form regulations. By minimizing the reduction and maintaining

substantial separation throughout the rest of the building, the proposal aligns with the overall intent of the Strategic Growth Area (SGA) zoning framework while ensuring the building remains both functional and visually appealing.

Parking Garage

The parking garage has been redesigned to provide a 3.0 metre setback along the entire westerly side yard, in response to Staff's concern that the original 1.0 metre setback would not allow adequate space for landscaping. This change, while resulting in the loss of eight parking spaces, creates a larger interior side yard that accommodates more landscaping and enhances the buffer along the westerly property line.

The parking garage is still proposed to have a 1.0 metre setback at its closest points to the rear and easterly lot lines. This 1.0 metre setback is primarily due to the irregular shape of the site, where the lot lines are not perpendicular, with the front, rear, and easterly lot lines angled. Despite the limited space at these closest points, the design has incorporated larger setbacks along both the rear and east lot lines to accommodate significant landscaping.

The changes to the parking garage on the west side, which enlarged the westerly side yard, also allowed for more space at the northwest corner of the rear yard for landscaping. Although the parking garage has a 1.0 metre setback at its closest point to the rear lot line, the setback increases to 4.0 metres as you move easterly to the northeast corner of the parking garage, leaving ample space for landscaping along the rear lot line. Similarly, for the easterly side yard, the garage is set back 1.0 metre at its closest point in the northeast corner, but the setback increases significantly to over 3.0 metres as you move south, again providing ample room for landscaping.

These design adjustments ensure that while the parking garage is efficient in layout and functionality, it also maximizes landscaping opportunities along the rear and easterly lot lines, enhancing the site's overall aesthetic.

Driveway Design

To accommodate the eastward shift of the building, which reduced the space available for the original driveway layout, two one-way driveways were introduced.

Building Design and Length Compliance:

In the original proposal, the building had consistent setbacks for storeys 7-15 and storeys 16-20. However, changes were made in the revised design to align with the specific categories of the SGA regulations, breaking the building into storeys 7-12, storeys 13-18, and storeys 19-28. This ensures that the setbacks and massing are more consistent with the intended built form envisioned in the SGA framework.

The revised proposal no longer requires a site-specific regulation for maximum building length. The building length has been adjusted to fully comply with the SGA zoning framework for each storey category, following the guidelines for storeys 7-12, storeys 13-18, and storeys 19-28.

Response to Policy 15.D.2.5

The proposal has been revised to address the site constraints without compromising the functionality of the building, while maintaining the City's objectives with respect to building design and meeting the SGA-3 zone built form regulations as closely as possible. These changes reflect a careful balance between the site's unique challenges and the intent of the City's Strategic Growth Area zoning regulations. Below, I provide an in-depth explanation of how the revised proposal aligns with the relevant planning policies, including considerations of compatibility, design, and site-specific factors outlined in Policy 15.D.2.5.

1. **Compatibility with the Planned Function of the Subject and Adjacent Lands (Policy 15.D.2.5(a))**

The proposed development remains compatible with the planned function of the subject lands and adjacent lands as envisioned in the City's Growing Together initiative. The revised building design respects the intended scale and density of the SGA-3 zoning by incorporating a slender tower form, consistent with the SGA's focus on high-density, transit-supportive development. The proposed adjustments ensure that the development will contribute positively to the existing and future character of the area.

2. **Suitability of the Lot for the Proposed Use and/or Built Form (Policy 15.D.2.5(b))**

Despite the irregular shape of the property and its development constraints, the lot remains suitable for the proposed built form. The revised design aligns with the City's vision for a slender tower and provides a stepped-back form that mitigates the impact of reduced physical separations, while still delivering a high-quality, transit-oriented development. The challenges posed by the angled front lot line and the narrowing pinch point were considered in the revised design, which adjusts the building setbacks and lengths to more closely align with the SGA-3 built form regulations.

3. **Lot Area and Consolidation (Policy 15.D.2.5(c))**

The subject lands are a consolidation of two properties—328 and 330 Mill Street—aligning with Policy 3.C.2.11, which encourages property consolidation to achieve better site configuration, the provision of amenities, and land use efficiency. The original proposal also included 334 and 338 Mill Street; however, the proposal was revised to include only 328 and 330 Mill Street to address the Grand River Conservation Authority concerns related to the proximity of the Shoemaker Creek

floodway. The consolidation of 328 and 330 Mill Street allows for intensification and meets the lot area requirements outlined in Policy 3.C.2.11. Without this consolidation, the built form as envisioned in the City's Growing Together initiative could not be realized. The lot size and configuration, though irregular, are sufficient to support the proposed development form, including the tower and podium elements, while facilitating appropriate intensification.

4. Compliance with the Urban Design Manual (Policy 15.D.2.5(d))

The revised proposal complies with many of the design principles set out in the City's Urban Design Manual. The tower design incorporates setbacks in alignment with the SGA zoning framework for storeys 7-12, 13-18, and 19-28. While some relief from the physical separation requirements is still requested, the amount of relief has been significantly reduced from the original proposal.

Relief is now only required at the pinch point of the site, where it would always be necessary due to the site constraint. Additionally, the physical separation relief is requested for only a 2-metre difference from the westerly lot line for storeys 19-28, where 12 metres is required, and 10 metres is now proposed, an improvement from the originally proposed 7 metres. Achieving the full 12-metre separation from the westerly property line would result in the removal of a 2-bedroom unit, leading to a total loss of 9 units. Furthermore, the remaining unit width would be reduced to 5 metres, making the layout nearly unfunctional and financially infeasible to build. Despite this, the building's stepped form provides ample articulation and creates a slender, visually appealing skyline.

5. Cultural Heritage Resources (Policy 15.D.2.5(e))

The site does not contain any significant cultural heritage resources that would affect the proposed development. The design respects the surrounding context and ensures compatibility with the broader community.

6. Technical Considerations and Contextual/Site-Specific Factors (Policy 15.D.2.5(f))

As noted, the configuration of the site presents unique challenges that limit the ability to fully meet all SGA regulations. However, the revised proposal reflects a thoughtful response to these site-specific constraints. For instance, further increases in physical separation would compromise the unit sizes, creating units too small to be functional or, alternatively, combining smaller units would result in larger, non-market viable units due to their excessive cost.

Revised Site-Specific Zoning Regulations

In summary, the following site-specific zoning regulations are now being proposed:

Entire Building:

- Reduced minimum front yard setback to 1.0 metre (for the podium), 2.0 metre setback at the easterly side yard pinch point, 1.0 metre for the closest part of the parking garage along a portion of the easterly interior lot line and rear lot line.
- The requirement for Class A bicycle parking has been fully met.

Storeys 7-12:

- Reduced front yard setback from 6.0 metres to 2.5 metres due to the building shift eastward.
- Reduced physical separation at the east pinch point from 6.0 metres to 2.0 metres.

Storeys 13-18:

- Reduced front yard setback from 6.0 metres to 2.5 metres. Reduced physical separation at the east pinch point from 6.0 metres to 2.0 metres.

Storeys 19-28:

- Reduced physical separation at the east pinch point from 6.0 metres to 2.0 metres, and from 12.0 metres to 10.0 metres at the west lot line. The 10.0 metre setback on the west side is necessary to maintain functional unit sizes on these floors.

The revised proposal eliminates most of the previously requested built form variances. The only remaining physical distance relief is for the east lot line pinch point and the west lot line for storeys 19-28, where a 10.0 metre setback is required to maintain functional unit sizes while still respecting the overall design intent. The number of requested site-specific regulations to facilitate the redevelopment has been reduced from 16 to nine, and of those nine, four are related specifically to the easterly lot line pinch point.

Conclusion

We believe that the revised proposal addresses the key concerns raised by Planning Staff and better aligns with the City's strategic growth goals. Although certain site-specific constraints make full compliance with the SGA regulations unattainable, the modifications result in a more slender tower form that respects the intent of the SGA-built form regulations. Uniquely positioned within a Major Transit Station Area, the proposal provides an opportunity to act as a catalyst for revitalizing the area. Tall building design principles—including physical separation, overlook, size and proportion, relative height, and placement—have all been carefully considered in the design to achieve the desired urban design objectives while ensuring a functional building within the confines of the site constraints.

As always, please feel free to contact me or Reema if you have any questions.

Sincerely,



Jennifer Voss, MCIP, RPP

