

Authority: Item 4, Planning Committee
Report 23-012 (PED23173)
CM: August 18, 2023
Ward: 5
Written approval for this by-law was
given by Mayoral Decision MDE-2023-01
dated August 18, 2023
Bill No. 158

CITY OF HAMILTON
BY-LAW NO. 23-158

**To Amend Zoning By-law No. 05-200 with Respect to Lands Located at 95, 99, 103
and 105 Highway 8, Stoney Creek**

WHEREAS Council approved Item 4 of Report 23-012 of the Planning Committee, at its meeting held on August 18, 2023;

AND WHEREAS this By-law conforms to the Urban Hamilton Official Plan upon the approval of Official Plan Amendment No. 190;

NOW THEREFORE Council amends Zoning By-law No. 05-200 as follows:

1. That Map No. 1195 of Schedule "A" – Zoning Maps is amended by changing the zoning from the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 862, H158) Zone to the lands as shown on Schedule "A" to this By-law.
2. That Schedule "C" – Special Exceptions is amended by adding the following new Special Exception:

"862. Within the lands zoned Mixed Use Medium Density (C5) Zone on Map No. 1195 of Schedule "A" – Zoning Maps and described as 95, 99, 103 and 105 Highway 8, the following special provisions shall apply:

- a) Notwithstanding Subsection 4.6 e), a balcony may encroach into any required yard to a maximum of 1.5 metres.
- b) Notwithstanding Subsection 4.6 e), a balcony abutting a Street Line may encroach into the required yard to a maximum of 2.0 metres.
- c) In addition to Section 10.5, the following regulations shall apply:
 - i) Underground garage ramps shall have a minimum required rear yard setback of 7.0 metres.
- d) Notwithstanding Sections 10.5.3 a), b), c), and d) ii), iii), iv), A), B), C), the following regulations shall apply:

- i) Building Setback from a Street Line
 - 1. A minimum setback of 3.0 metres;
 - 2. A minimum setback of 5.0 metres for any portion of the building exceeding a height of 30.5 metres; and,
 - 3. A minimum setback of 8.0 metres for any portion of the building exceeding a height of 33.8 metres.
 - 4. A minimum setback of 11.0 metres for any portion of the building exceeding a height of 37.1 metres.
 - 5. A minimum setback of 14.97 metres for any portion of the building exceeding a height of 41.1 metres.

- ii) Minimum Rear Yard
 - 1. A minimum setback of 7.5 metres;
 - 2. A minimum setback of 12 metres for any portion of the building exceeding a height of 12 metres;
 - 3. A minimum setback of 15 metres for any portion of the building exceeding a height of 15 metres;
 - 4. A minimum setback of 18 metres for any portion of the building exceeding a height of 18 metres;
 - 5. A minimum setback of 21 metres for any portion of the building exceeding a height of 21 metres;

6. A minimum setback of 24 metres for any portion of the building exceeding a height of 24 metres;
 7. A minimum setback of 27 metres for any portion of the building exceeding a height of 27 metres;
 8. A minimum setback of 30 metres for any portion of the building exceeding a height of 30.5 metres;
 9. A minimum setback of 33 metres for any portion of the building exceeding a height of 33.8 metres;
 10. A minimum setback of 37 metres for any portion of the building exceeding a height of 37.1 metres;
and,
 11. A minimum setback of 43.2 metres for any portion of the building exceeding a height of 41.1 metres.
- iii) Minimum Interior Side Yard
1. A minimum setback of 3.0 metres to the portion of the garage wall that protrudes above the grade along the western side of the subject lands.
 2. A minimum setback of 14.7 metres for any portion of the building that abuts a residential lot containing a residential use.
- iv) Building Height
1. Maximum 44 metres.

2. In addition to the definition of Building Height in Section 3: Definitions, any wholly enclosed or partially enclosed amenity area, or any portion of a building designed to provide access to a rooftop amenity area shall be permitted to project above the uppermost point of the building, subject to the following regulations:
 - a. The total floor area of the wholly enclosed or partially enclosed structure belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area does not exceed 40% of the floor area of the storey directly beneath;
 - b. The wholly enclosed or partially enclosed structure belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area shall be setback a minimum of 0.0 metres from the exterior walls of the storey directly beneath; and,
 - c. The wholly enclosed or partially enclosed structure belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area shall not

be greater than 6.0
metres vertical
distance from the
uppermost point of the
building to the
uppermost point of the
rooftop enclosure.

3. That Schedule "D" – Holding Provisions be amended by adding the additional Holding Provision as follows:


"158 Notwithstanding Section 10.5 of this By-law, within lands zoned Mixed Use – Medium Density (C5) Zone, identified on Map No. 1195 of Schedule "A" – Zoning Maps and described as 95, 99, 103, and 105 Highway 8, no development shall be permitted until such time as:

- i) The Owner submitting a Sanitary Sewer Capacity Analysis, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- ii) The Owner submitting an updated Functional Servicing Report in accordance with the City's standards, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- iii) The Owner submitting a Watermain Hydraulic Analysis to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- iv) The Owner submitting a revised Hydrogeology Report specifying the levels of underground parking and impacts and mitigation measures for the groundwater systems, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- v) The Owner submitting easement document details for the privately owned rear yard catch basins to be considered as a storm outlet for the subject site and acknowledging that the future condominium corporation on the subject site will be responsible to operate, maintain and mitigate any negative impacts for the proposed storm outlets at the future condominium corporation's cost, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- vi) The Owner making satisfactory arrangements with the City's Growth Management Division and entering into an External Works Agreement with the City for the design and construction of any required improvements to the municipal infrastructure at the Owner's cost, should it be determined that upgrades are required to the municipal infrastructure to support the proposed development,


all to the satisfaction of the Director of Growth Management and
Chief Development Engineer.

- vii) The Owner submitting a revised Tree Protection Plan addressing the protection of the trees found within the City's right-of-way and that finalizes the justification for the removal of the identified trees, and submitting written confirmation, from the owner of 505 Berkindale Drive, for permission to encroach into the dripline of "Tree A", to the satisfaction of the Director of Planning and Chief Planner. The resubmission is also to include the applicable Tree Protection Plan review fee payable to the City of Hamilton.
 - viii) The Owner investigating traffic calming measures on Donn Avenue and Berkindale Drive and pay 50% of the costs, to a maximum of \$50,000.00, of the identified traffic calming measures, to the satisfaction of the Director of Transportation and Parking.
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.
5. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the provisions of the Mixed Use Medium Density (C5, 862, H158) Zone, subject to the special requirements referred to in Section No. 2 and 3 of this By-law.

PASSED this 18th day of August, 2023.





A. Horwath
Mayor



A. Holland
City Clerk



This is Schedule "A" to By-law No. 23-158
 Passed the 18 day of August, 2023



 Mayor

 Clerk

Schedule "A"

Map forming Part of
 By-law No. 23-158

to Amend By-law No. 05-200
 Map 1195

Subject Property
 95-105 Highway No. 8, Stoney Creek

 Change in zoning from the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 862, H158) Zone

Scale: N.T.S	File Name/Number: ZAC-23-034/UHOPA-23-018
Date: July 5, 2023	Planner/Technician: JL/NB

