

**Authority:**

Item [REDACTED], Planning Committee  
Report: 15-[REDACTED] (PED15007)  
CM: [REDACTED]

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO. \_\_\_\_\_**

**To Amend Zoning By-law No. 05-200,  
Respecting Lands Located at 108 James Street North and 111 and 115 Hughson  
Street North (Hamilton)**

**WHEREAS** the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14;

**AND WHEREAS** the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

**AND WHEREAS** Zoning By-law No. 05-200 was enacted on the 25<sup>th</sup> day of May, 2005;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report [REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2015, recommended that Zoning By-law No. 05-200 be amended as hereinafter provided;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan approved August 16, 2013.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Maps 910 and 911, of Schedule "A" to Zoning By-law No. 05-200 be amended by changing the zoning from the Downtown Prime Retail Streets (D2) Zone, the Downtown Mixed Use (D3) Zone and the Downtown Multiple Residential (D6) Zone to the Downtown Prime Retail Streets (D2, 451, H60) Holding Zone, for the lands municipally known as 108 James Street North, 111 Hughson Street North and 115 Hughson Street North and whose extent and boundaries are more particularly described in Schedule "A" attached hereto and further detailed through the attached Concept Plan. Both Schedule "A" and the Concept Plan (Figure 5) annexed hereto form part of this By-law.

2. That Schedule "C" of By-law No. 05-200 is amended by adding an additional exception as follows:

"451. Notwithstanding Sections 6.2.3 of this By-law, within the lands zoned Downtown Prime Retail Streets (D2, 451, H60) Holding Zone, identified on Maps 910 and 911 of Schedule "A" to By-law 05-200 and described as 108 James Street North and 111 and 115 Hughson Street North, and as further detailed and informed through attached Concept Plan (Figure 5), the following special provisions shall apply:

a) PERMITTED USES

i) Notwithstanding Subsection 6.2.1 Permitted uses:

- a) A theatre within the building existing at the time of the passing of this by-law shall be the only permitted use on the lands identified as 111 Hughson Street North.
- b) A 106 unit multiple dwelling and associated commercial uses in accordance with Subsection 6.2.1 shall be permitted on lands identified as 108 James Street North only in conjunction with, and accessory to, the existing theatre auditorium located on lands identified as 111 Hughson Street North.
- c) For the lands identified as 115 Hughson Street North, uses within Subsection 6.2.1 shall be permitted only within the building existing at the time of the passing of this by-law.

- ii) That a maximum of 106 residential units are permitted on lands identified as 108 James Street North.

b) REGULATIONS

a) Minimum Setback  
from a Street Line

- i) 0.0 metres for the first three storeys and 3.0 metres at the 4<sup>th</sup> to the 22<sup>nd</sup> storey on lands identified as 108 James Street North.
- ii) The existing setbacks for the buildings identified as 111 and 115 Hughson Street North, existing at the time of the passing of this by-law, shall be permitted and maintained.

b) Building Height

Notwithstanding Section 6.2.3 c)  
ii) the following shall apply:

- i) A maximum building height of 76 metres shall be permitted for lands identified as 108 James Street North.
- ii) The existing height for the buildings identified as 111 and 115 Hughson Street North, existing at the time of this by-law, shall be permitted and maintained.

c) Built Form for New  
Development

Notwithstanding Section 6.2.3  
c)iii)1, 2, 3 and 4, the following

shall apply:

- i) Minimum of 70% of the ground floor façade along James Street North shall be composed of windows and doors.
- ii) Minimum of 0% of the ground floor façade along Hughson Street North shall be composed of windows and doors.
- iii) Minimum of 60% of the second and 60% of the third storey façades along James Street North shall be composed of windows.
- iv) Minimum of 0% of the second and 0% of the third storey façades along Hughson Street North shall be composed of windows.
- v) Minimum of 20% of the north and south elevations from the 4<sup>th</sup> to 22<sup>nd</sup> storeys for the lands identified as 108 James Street North, shall be composed of windows and glazing and which shall include the transparent material used to enclose the external fire escape.
- vi) The ground floor storey along James Street North shall be no less than 3.6 metres in height and no greater than 6.0 metres in height.
- vii) The second and third storeys along James Street North shall each be no less than 3.0 metres

in height and no greater than 5 metres in height.

d) Parking

- i) In addition to Section 5.2 Design Standards a parking stacking system shall be permitted. For the purpose of this By-law, a parking stacker shall be defined as a mechanical motor vehicle parking facility which:
  - 1. Are positioned above each other.
  - 2. Have dimensions of not less than 2.6 metres in width and 5.6 metres in length; and,
  - 3. May not be readily accessible at all times without manoeuvring another vehicle or a device.
- ii) Notwithstanding Subsection 5.5 Barrier Free Parking, a minimum of 1 barrier free parking spaces shall be required.
- iii) Notwithstanding Subsection 5.6a)i Parking Schedules, parking for a Multiple Dwelling within a mixed-use building shall be provided on the basis of a minimum of 0.5 parking spaces for each dwelling unit.
- iv) Notwithstanding Subsection 5.6a)iv No Parking shall be required for commercial uses within lands identified as 108 James Street North, 111 Hughson Street North or 115 Hughson Street North.

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| e) Restriction of uses within a building | i) Notwithstanding 6.2e)i) a commercial entertainment use shall be permitted within the first 3 storeys.      |
| f) Location of Outdoor Patio             | Notwithstanding Section 4.20 c) i) an Outdoor Commercial Patio is permitted fronting onto James Street North. |
| g) Front Lot Line                        | For the purposes of this By-law, the James Street North Lot Line is to be considered the Front Lot Line.      |

3. That Section 3: Definitions be amended in order to include the term Theatre, which shall mean:

"A place of assembly for the purpose of providing entertainment including but not limited to cinemas, performing arts theatres and cultural events, but shall not include amusement arcade, casino, adult entertainment parlour, dance club or bingo hall."

4. That Schedule "D" of By-law 05-200 is amended by adding a Holding Provision as follows:

"H60 That notwithstanding Section 6.2 of this By-law, on those lands zoned Downtown Prime Retail Streets (D2, 451, H60) Holding Zone, on Schedule 952 of Schedule "A", known as 108 James Street North and 111 and 115 Hughson Street North (Hamilton), no development shall be permitted until such time as:

- (i) The Ministry of the Environment issues acknowledgement of the submission by the owner/applicant of a Record of Site Condition to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- (ii) That the Owner prepare a Conservation Management Plan that shall include, short, medium and long-term conservation and

maintenance measures for the existing theatre, and a schedule of implementation, all to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

- (iii) That the Owner demonstrate to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton that the properties known as 108 James Street North, 111 Hughson Street North and 115 Hughson Street North, have all merged in title.
- (iv) That the Owner enter into and register on title the following agreements with the City:
  - (a) an agreement pursuant to Section 37(1) of the Ontario Heritage Act for 111 Hughson Street North, 115 Hughson Street North and 108 James Street North, which:
    - 1) Shall ensure that no residential occupancy of the lands identified as 108 James Street North will occur until such time that:
      - i) The City of Hamilton receives confirmation that the Building envelope of lands identified as 111 Hughson Street North is in sound and secure state.
      - ii) Installation and/or upgrade of utilities pursuant to the Ontario Building Code to ensure long-term conservation of the interior features of the building on lands identified as 111 Hughson Street North.
      - iii) Implementation of short-term conservation measures for designated interior features in the auditorium (as outlined in the Conservation Management Plan), consisting of stabilization and repair of remaining historic fabric, including the ceilings, proscenium, colonnades, statuary and other decorative wall elements.
      - iv) Completion of sufficient works to permit the Chief Building Official to issue occupancy permit and use of lands identified as 111 Hughson North as a theatre.
    - 2) Contains a conservation easement to secure the long term conservation and maintenance of the theatre and its heritage features and any further covenants to secure the restoration of the theatre on the property.
    - 3) Restrict the uses to that contained in this zoning by-law amendment and which contains provisions requiring the

provision of securities in the form of cash or a letter of credit in an amount equal to 75% of the cost required to complete the works outlined in 1) above, and released only once the works have been complete.

- 4) Shall ensure that the Conservation Management Plan be implemented according to the schedule of implementation as set out in 4(ii) of this By-law.

All to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

- (b) A Restrictive Covenant restricting the use and/or expansion of 111 Hughson Street North (as per the attached Concept Plan) to only the use of the lands as a theatre within the existing building.
- (c) A Restrictive Covenant preventing the demolition of the building identified as 115 Hughson Street North and requiring the adaptive re-use and maintenance of the building in accordance with the uses and By-law provisions approved through By-law No. 15-XXXXXX.
- (v) That the Owner apply for and receive Heritage Permit approval for the proposed demolition of the lobby (By-law 90-255) and any changes to the remaining auditorium (By-law 04-256) to the satisfaction and approval of the Director of Planning and Chief Planner, City of Hamilton;
- (vi) That a revised Cultural Heritage Impact Assessment report be submitted for review by the Hamilton Municipal Heritage Committee and revised, as appropriate, to the satisfaction and approval of the Director of Planning and Chief Planner, City of Hamilton;
- (vii) That conditional site plan approval be received, which shall address matters including but not limited to Design Review Panel advice and implementation of the Cultural Heritage Impact Assessment report, finalized as per Condition (v) to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.
- (viii) That the Owner submit and receive approval for the site servicing plans for the subject lands to the satisfaction of the Senior Director of Growth Management;
- (ix) That the Owner submit and receive approval of a water servicing report signed and stamped by a qualified professional engineer to



demonstrate adequate domestic and fire demands for the proposed uses and to demonstrate the capacity of the distribution system to meet the domestic and fire demands utilizing the City's WaterCAD model to the satisfaction of the Senior Director of Growth Management;

- (x) That the Owner submit and receive approval of a Functional Servicing Report to address Stormwater Management, Water and Wastewater to the satisfaction of the Senior Director of Growth Management;
- (xi) That the Owner investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Manager of Development Planning, Heritage and Design.

Should a peer review of the acoustical report be warranted, all associated costs should be borne by the owner/applicant and shall be submitted to the satisfaction of the Manager of Development Planning, Heritage and Design, and;

- (xii) That the Owner agree in writing to register on title the final approved Site Plan, to the satisfaction of the Director of Planning and Chief Planner, City of Hamilton.

5. That Schedule "F" – Figure 1 of By-law 05-200 be amended by identifying lands at 108 James Street North with a maximum building height of 76 metres.
6. That Schedule "F" of By-law 05-200 be amended to include a new "Figure 5 – Concept Plan", as attached to this By-law.
7. 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*.
8. That this By-law No. [REDACTED] shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the *Planning Act*, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.



This is Schedule "A" to By-law No. 15-

Passed the ..... day of ....., 2015

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Mayor

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Clerk

## Schedule "A"

Map Forming Part of  
By-law No. 15-\_\_\_\_\_

to Amend By-law No. 05-200

### Subject Property



108 James Street North,  
111 & 115 Hughson Street North

Scale:  
N.T.S.

File Name/Number:  
ZAR-15-001

Date:  
July 2, 2014

Planner/Technician:  
EJ/AL



**Hamilton**

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Figure 5 – Concept Plan

