



Hamilton

STAFF COMMENTS

HEARING DATE: November 12, 2024

A-24:214 – 95-105 Highway 8, Stoney Creek

Recommendation:

Approve with Condition

Proposed Conditions:

1. That the requested variances generally apply to the provided site plan sketch package titled A.0100-A.0406 dated September 17, 2024, as found in the Notice of Public Hearing for file A-24:214 for 95-105 Highway 8, Stoney Creek.

Proposed Notes:



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Development Planning:

Background

The purpose of this Minor Variance application is in support of the construction of a proposed mixed-use development that was subject to previous planning approvals for Official Plan Amendment, Zoning By-law Amendment & Site Plan Approval. Files include: UHOPA-23-016, ZAC-23-034 & DA-24-047.

The following Variances are being requested by the applicant:

1. A minimum rear yard setback of 11 metres for any portion of the building exceeding a height of 12 metres whereas a minimum rear yard setback of 12 metres is required.
2. A minimum rear yard setback of 14 metres for any portion of the building exceeding a height of 15 metres whereas a minimum rear yard setback of 15 metres is required.
3. A minimum rear yard setback of 17 metres for any portion of the building exceeding a height of 18 metres whereas a minimum rear yard setback of 18 metres is required.
4. A minimum rear yard setback of 20 metres for any portion of the building exceeding a height of 21 metres whereas a minimum rear yard setback of 21 metres is required.
5. A minimum rear yard setback of 23 metres for any portion of the building exceeding a height of 24 metres whereas a minimum rear yard setback of 24 metres is required.
6. A minimum rear yard setback of 26 metres for any portion of the building exceeding a height of 27 metres whereas a minimum rear yard setback of 27 metres is required.
7. A minimum rear yard setback of 29 metres for any portion of the building exceeding a height of 30.5 metres whereas a minimum rear yard setback of 30 metres is required.
8. A minimum rear yard setback of 32 metres for any portion of the building exceeding a height of 33.8 metres whereas a minimum rear yard setback of 33 metres is required.
9. A minimum rear yard setback of 35.5 metres for any portion of the building exceeding a height of 37.1 metres whereas a minimum rear yard setback of 37 metres is required.
10. A minimum rear yard setback of 42 metres for any portion of the building exceeding a height of 41.1 metres whereas a minimum rear yard setback of 43.2 metres is required.

Urban Hamilton Official Plan



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The subject property is designated as Mixed Use-Medium Density in the Urban Hamilton Official Plan. Policy E.4.6.5 permits multiple dwellings and a variety of commercial uses. The subject property is located in the Old Town Secondary Plan found in Volume 2 of the Urban Hamilton Official Plan and further designated as Mixed Use-Medium Density. The site contains a site-specific policy found in Volume 2 B.7.2.8.10, which is included below:

Notwithstanding Policy B.7.2.4.2 c) of Volume 2, for the lands located at 95, 99, 103 and 105 Highway 8, designated Mixed-Use Medium Density, and identified as Site Specific - Area J on Map B.7.2-1, the following policies shall apply:

- a) the building height shall not exceed 12 storeys.

Based on the forgoing, a 12 storey mixed-use building is a permitted use on the subject lands.

The following Official Plan policies among others are also applicable:

“E.4.6.7 Lands designated Mixed Use - Medium Density shall contain a range of densities and building heights to a maximum of six storeys, which shall be set out in the implementing zoning by-law. The specific permitted heights and densities shall depend on the area and be established through secondary plans where one exists and the zoning by-law. (OPA 142)

E.4.6.10 Permitted uses shall be located in single or mixed-use buildings.”

Based on the above policies staff are satisfied that the proposed application meets the general intent and purpose of the Official Plan. The proposed encroachment into the rear yard is minor and meets the general intent of the setback established in the Zoning By-law. The applicant is not proposing changes that will deviate significantly from previous submissions and is only requesting the variance to a small portion of the building, which encroaches into the rear yard setback as the result of an irregular rear lot line.

Archaeology:

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In areas of pioneer Euro-Canadian settlement; and
- 3) Along historic transportation routes.



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These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application.

Cultural Heritage:

No comments

As part of UHOPA-23-016 & ZAC-23-034, staff requested a caution note be added to any future site plan for the property.

Therefore, staff ask that a caution note be added to the site plan as follows:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (MCM) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212- 7499).”

City of Hamilton Zoning By-law 05-200

The subject lands are zoned “C5” (Mixed Use Medium Density) with Special Exception: 862 and Holding: H158 in Zoning By-law No. 05-200. The C5 zone permits the proposed use.

Analysis

Variance 1-10

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The intent of the provisions proposed to be varied is to provide for adequate step backs and establish an angular plane between the proposed building and the low density residential land uses to the north. The purpose of this setback is to help mitigate impacts such as shadowing, privacy/overlook and establish a transition in building height to adjacent development. The purpose of this application and the proposed variances is to slightly modify the step backs for a small portion of the proposed building, which as demonstrated by the applicant encroaches into the required rear yard. Staff note that the encroachment is very minor and only for a small portion of the building. This is the result in the rear lot line of the subject lands being irregular. Staff do not anticipate that this minor encroachment will generate any adverse impacts from a shadowing, overlook, privacy or transition perspective. Staff have reviewed the proposed variances and compared it to previous application submissions and are satisfied that it meets the general intent and purpose of the Official Plan and Zoning By-law, is minor in nature and desirable for the appropriate development of the lands. Staff are supportive of the requested variances and **recommend approval with the identified condition.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	1. Minor Variances will facilitate Site plan control application DA-24-047.
Notes:	

Development Engineering:



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Recommendation:	No Comments
Proposed Conditions:	N/A
Comments:	N/A
Notes:	N/A

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	<p>A building permit is required for the construction the proposed mixed-use development.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

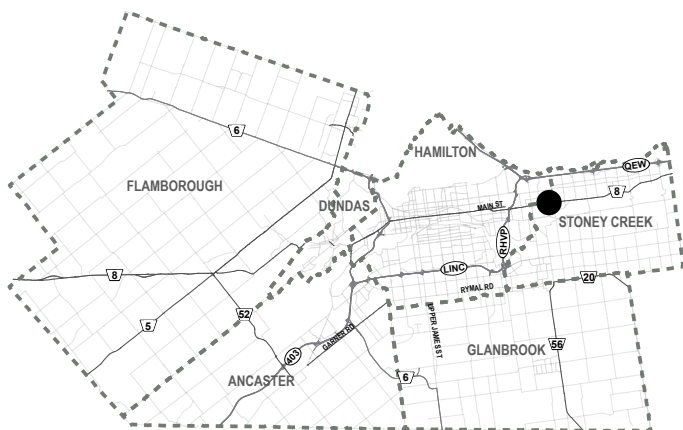
Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Please Note: Public comment will be posted separately, if applicable.



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



95 to 105 Highway 8, Stoney Creek (Ward 5)

File Name/Number:
A-24:214

Date:
October 30, 2024

Technician:
SH

Scale:
N.T.S.

Appendix "A"



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Planning and Economic Development Department