

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



22-010-OLT-01 Attachment 1

**ISSUE DATE:** March 09, 2022

**CASE NO(S):** PL180302

The Ontario Municipal Board (the “OMB”) and the Local Planning Appeal Tribunal (the “LPAT”) is continued under the name Ontario Land Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board or Local Planning Appeal Tribunal in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Knightstone Capital Management II Inc.
Subject:	Application to amend Zoning By-law No. 05-200 – Refusal or neglect of City of Hamilton to make a decision
Existing Zoning:	Downtown Multiple Residential (TOC1, H63)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the institutional student resident development
Property Address/Description:	1190 Main Street West et al
Municipality:	City of Hamilton
Approval Authority File No:	ZAC-17-065
OLT Case No.:	PL180302
OLT File No.:	PL180302
OLT Case Name:	Knightstone Capital Management II Inc. v. Hamilton

BEFORE:

T.F NG	)	Wednesday, the 9 <sup>th</sup>
MEMBER	)	
	)	day of March, 2022

**THIS MATTER** having come on for a public hearing by Telephone Conference Call on December 15, 2021;

**AND THE TRIBUNAL** having determined that the appeal under subsection 34(11) of the *Planning Act* (the “Appeal”) should be allowed, in part, but the Final Order withheld until the Tribunal is advised in writing that the Parking Agreement has been executed;

**AND THE TRIBUNAL** having been advised in writing that the Parking Agreement has been executed;

**THE TRIBUNAL ORDERS** that the Appeal is allowed, in part, and that:

1. By-law No. 05-200 is amended, as set out in Attachment “1” to this Order;  
and,
2. The municipal clerk is authorized to format, as may be necessary, and to assign a number to this by-law for record keeping purposes.

*“Euken Lui”*

EUKEN LUI  
ACTING REGISTRAR

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal.

**PL180302 – Attachment 1****CITY OF HAMILTON****BY-LAW NO. 22-010-OLT**

**To Amend Zoning By-law No. 05-200, Respecting Lands located at 1190 Main Street West, 43, 47, 51 and 55 Forsyth Avenue South, 75, 77, 81, 83, 99, 103, 107, 111 and 115 Traymore Avenue and 50 Dalewood Avenue (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** the first stage of Zoning By-law No. 05-200 came into force and effect on the 25<sup>th</sup> day of May, 2005;

**AND WHEREAS** the Ontario Land Tribunal, in its Decision/Order No. PL180302, dated 10th day of January, 2022, approved the amendment to Zoning By-law No. 05-200 as hereinafter provided;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan, as amended by Official Plan Amendment No. 127.

**NOW THEREFORE** the Ontario Land Tribunal enacts as follows:

1. That Map No. 948 of Schedule “A” – Zoning Maps of By-law No. 05-200 is hereby amended by changing the zoning to the Mixed Use - Medium Density (C5, 733) Zone, to the extent and boundaries of which are shown on Schedule “A” annexed hereto and forming part of this By-law.
2. That Schedule “C” Special Exceptions of By-law No. 05-200 is amended by adding an additional exception as follows:

“733. Within the lands Zoned Mixed Use - Medium Density (C5) Zone, and identified on Map No. 948 of Schedule “A” Zoning Maps and described as at 1190 Main Street West, 43, 47, 51 and 55 Forsyth Avenue South, 75, 77, 81, 83, 99, 103, 107, 111 and 115 Traymore Avenue and 50 Dalewood Avenue, the following special provisions shall apply:

- (a) Notwithstanding Section 3, as it relates to Amenity Area and for the purposes of Special Exception 733, roof top amenity areas shall be prohibited.
- (b) Notwithstanding Section 3, as it relates to the definitions of a Lodging House and Lodging Unit for the purposes of Special Exception 733, it shall also include up to 16 accessory Dwelling Units.
- (c) In addition to the definitions in Section 3, the following definition shall apply for the purposes of Special Exception 733:

“Storey” shall mean that the portion of the building or structure, other than a cellar, included between the surface of any floor and the surface of the floor, roof deck, or ridge next above it, except an attic storey.

- (d) Notwithstanding Section 4.6 e), no balcony shall be permitted on any part of a building abutting Traymore Avenue, Forsyth Avenue South, or Dalewood Avenue.
- (e) Notwithstanding Section 5.1 a), as it relates to the parking provision for a Lodging House and permitted accessory uses, the following shall apply:
  - i) A minimum of 43 parking spaces shall be provided on the lot.
  - ii) The greater of 35 parking spaces or 2.5 percent of the required parking shall be provided either on the lot

containing the Lodging House use or on another lot within 300 metres of the lot containing the Lodging House use;

- iii) The remainder of the required parking for a Lodging House may be provided on a lot that is greater than 300 metres from the lot containing the Lodging House use;
- iv) Where the required parking is provided in accordance with Subsection ii) above, the owners of both lots shall enter into an agreement with the City to be registered against the title of both the lot upon which parking is to be provided and the lot containing the use requiring the parking. The lot upon which the parking is located, pursuant to the agreement, shall continue to be so used only for such purposes until alternate parking spaces in conformity with the regulations of this By-law are provided; and,
- v) The permitted accessory uses in (f) i) B) 1. shall not require parking.

(f) Notwithstanding 5.6 c), as it relates to a Lodging House, in addition to Section 5.7 c) and e), the following shall apply:

i)	Parking		1 space per 4.5 beds.
ii)	Bicycle Parking	A)	352 long term bicycle parking spaces shall be provided.
		B)	102 short term bicycle parking spaces shall be provided.
		C)	In addition to B) above, short term bicycle parking spaces are prohibited along any portion of the site with outdoor frontage and access on Traymore Avenue.

- (g) Notwithstanding Section 10.5.1, only the following uses shall be permitted:

i)	Permitted Uses	A)	Lodging House
		B)	1. In addition to A) above, the following uses shall only be permitted as accessory uses to a Lodging House: Educational Establishment; Personal Service; Restaurant; and, Retail.
			2. Notwithstanding 1. above, accessory uses shall have no frontage, no access and no signage on any part of a building abutting Traymore Avenue or Dalewood Avenue.

- (h) In addition to Section 10.5.4 and notwithstanding Section 10.5.4 a) and b), the following special provisions shall apply:

i)	Building Setbacks	Shall be provided in accordance with Figure 21 of Schedule F – Special Figures.	
ii)	Building Height	A)	Maximum building height shall be limited in each Area shown on Figure 21 of Schedule F – Special Figures, by the heights, as shown and as follows:

			Area A1: 7.1 metres or 2 storeys; Area A2: 6.0 metres or 1 storey; Area A3: 10.0 metres or 2 storeys; Area B1: 33.0 metres or 8 storeys; Area B2: 14.0 metres or 3 storeys; Area C1: 39.0 metres or 10 storeys; Area D1: 51.0 metres or 15 storeys.
		B)	Three mechanical penthouses shall only be permitted in accordance with Areas C1, D1, and M on Figure 21 of Schedule "F" – Special Figures, shall be permitted to exceed the heights established in B) above by a maximum of 6.4 metres.
iii)	Maximum Gross Floor Area		53,500 square metres.
iv)	Built Form for New Development	A)	The principal entrance shall be provided from Main Street West and shall consist at least four doors.

3. That Schedule F – Special Figures of Zoning By-law No. 05-200 is amended by adding Figure 21: Maximum Building Heights and Building Setbacks from a Street Line attached to By-law No. 05-200.

4. The by-law is passed and shall come into effect immediately upon the date of decision by the Ontario Land Tribunal.

**APPROVED** this 10th day of Janaury, 2022.





This is Schedule "A" to By-law No. 20-  Passed the ..... day of ....., 2020	----- Mayor  ----- Clerk
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<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-law No. 20-_____</p> <p style="margin: 0 0 0 0;">to Amend By-law No. 05-200 Map 948</p>	<p><b>Subject Property</b></p> <p>1190 Main Street West, 43, 47, 51 &amp; 55 Forsyth Avenue South, 75, 77, 81, 99, 103, 107, 111 &amp; 115 Traymore Avenue, 50 Dalewood Avenue</p> <p> Change in zoning from Transit Oriented Corridor - Mixed Use - Medium Density (TOC1, H63) Zone; and, Transit Oriented Corridor - Mixed Use - Medium Density (TOC1, 296, H63) to Mixed Use - Medium Density (C5, 733) Zone</p>
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<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> ZAC-17-065	<p><b>Hamilton</b></p>
<b>Date:</b> July 27, 2020	<b>Planner/Technician:</b> AD/VS	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

