



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202
E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING
Minor Variance

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
 - Applicant/agent on file, or
 - Person likely to be interested in this application
-

APPLICATION NO.: SC/A-21:71

APPLICANTS: Owner 2324780 Ontario Inc.
Agent MHBC Planning c/o S. Mirtitsch

SUBJECT PROPERTY: Municipal address **1809, 1817, 1821 Rymal Rd. E, Stoney Creek**

ZONING BY-LAW: Zoning By-law 3692-92, as Amended by By-law 19-083

ZONING: RM3-67 district (Residential Multiple, Modified)

PROPOSAL: To So as to permit the construction of 144 townhouses and maisonette dwelling units along condominium roads , notwithstanding that,

1. The regulations for setbacks shall be based on distances from the RM3-67 lot boundaries instead of individual property boundaries of the dwelling units created by registration of a condominium plan or created by Part Lot Control.
2. The development shall consist of a minimum 35.7 % landscaped open space instead of the minimum required 38%.
3. The minimum side yard from a flankage street shall be 3.2 metres instead of the minimum required 7.5 metres.
4. The minimum side yard from an abutting residential zone shall be 3.0 metres instead of the minimum required 7.5 metres.

NOTES:

1. Variances 1 and 2 are written as requested by the applicant. Additional variances identified through this review have been included to address side yard requirements based on the proposed site plan.
2. The RM3-67 Zoning was approved by By-law 19-083 on April 24, 2019.
3. The proposed townhouse development is under Site Plan application DA-19-125 and has received conditional approval.
4. Information for the encroachment of eave and gutters has not been provided. If the projections exceed 0.5 metres for the townhouses or maisonettes within this development, additional variances shall be required.

This application will be heard by the Committee as shown below:

DATE: Thursday, March 18th, 2021
TIME: 1:15 p.m.
PLACE: Via video link or call in (see attached sheet for details)
To be streamed at
www.hamilton.ca/committeeofadjustment
for viewing purposes only

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

Orally: If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: March 2nd, 2021.

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.

SITE PLAN NOTES:

- All work involved in the construction, relocation, repair of municipal services for the project shall be to the satisfaction of the Director of Planning and Chief Planner, Planning and Economic Development Department.
- Fire Route Signs and 3-Way Fire Hydrants shall be established to the satisfaction of the City Fire Department and at the expense of the owner.
- Main driveway dimensions at the property line boundaries are plus or minus 7.5 m unless otherwise stated.
- All driveways from property lines for the first 7.5 m shall be within 5% maximum grade, thereafter, all driveways shall be within 10% maximum grades.
- The approval of this plan does not exempt the owner's bonded contractor from the requirements to obtain the various permits/approvals normally required to complete a construction project, such as, but not limited to the following:
 - Building Permit
 - Road Cut Permit
 - Approach Approval Permit
 - Committee of Adjustment
 - Sewer and Water Permit
 - Relocation of Services
 - Encroachment Agreements (if required)
- Abandoned accesses must be removed and the curb and boulevard restored with sod at the Owner's expense to the satisfaction of the Geomatics and Corridor Management Section, Public Works Department.
- For visibility triangles at the vehicular access points, the following note to be provided:

"5.0 metre by 5.0 metre visibility triangles in which the maximum height of any objects or mature vegetation is not to exceed a height of 0.70 metres above the corresponding perpendicular centreline elevation of the adjacent street."
- Proposed signage shall conform to the City's Sign By-law No. 10-197.
- Lighting must be directed on site and must not spill over to adjacent properties or streets.
- A minimum 1.2 metre separation must be provided within the City's road allowance area between driveways, a fence, and any pole, utility, fire hydrant, tree sign, etc. Any costs for traffic signs or utility relocated are the sole responsibility for the Applicant/Owner. It is the Applicant's responsibility to coordinate with the appropriate departments ahead of time.
- This property is eligible for weekly collection of Garbage, Recycling, Organics and Leaf and Yard Waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City's Solid Waste Management By-law 09-067, as amended.

UNDERTAKING:

RE: 1809 Rymal Road East, Stoney Creek FILE NO: DA-19-129

- I, (We) _____, the owner(s) of the land, hereby undertake and agree without reservation,
- To comply with all the content of this plan and drawing and not to vary therefrom;
 - To perform the facilities, works or matters mentioned in Section 41(7)(a) of the Planning Act shown on this plan and drawing(s) in accordance with the conditions of approval as set out in the Letter of Approval dated _____;
 - To maintain to the satisfaction of the City and at my (our) sole risk and expense, all of the facilities, works or matters mentioned in Section 41(7)(a) of the said Act, shown in this plan and drawings, including removal of snow from access ramps and driveways, parking and loading areas and walkways;
 - In the event that the Owner does not comply with the plan dated _____, the owner agrees that the City may enter the land and do the required works, and further the Owner authorizes the City to use the security filed to obtain compliance with this plan;
 - That the Owner affixes address plaques to each unit indicating the full address and unit number in a manner such as (81-1), and is easily visible, to the satisfaction of the section Director of Growth Management;
 - The owner shall complete to the satisfaction of the Senior Director of Growth Management of the City of Hamilton and Canada Post:
 - Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - That the home/business mail delivery will be from a designated Centralized Mail Box.
 - That the developers/owners are responsible for officially notifying the purchasers of the exact Centralized Mail Box location prior to the closing of any homes sales.
 - The owner further agrees to:
 - Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
 - Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes.
 - Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
 - Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans.
 - Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
 - Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (Lock Box Assembly) at their own expense (less than 200 units will require a front loading Lock Box Assembly and more than 100 units will require a rear loading Lock Box Assembly which will require a mail room) will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.
 - That the Owner shall indicate in the Agreement, in words satisfactory to Bell Canada, that it will grant to Bell Canada any easements that may be required, which may include a blanket easement for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for relocation of such facilities or easements.
 - That the owner/developer provide to Union the necessary easements and/or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Union.

Dated this _____ day of _____ 20____

Witness (signature)
Owner(s) (signature)

Witness (print)
Owner(s) (print)

Address of Witness

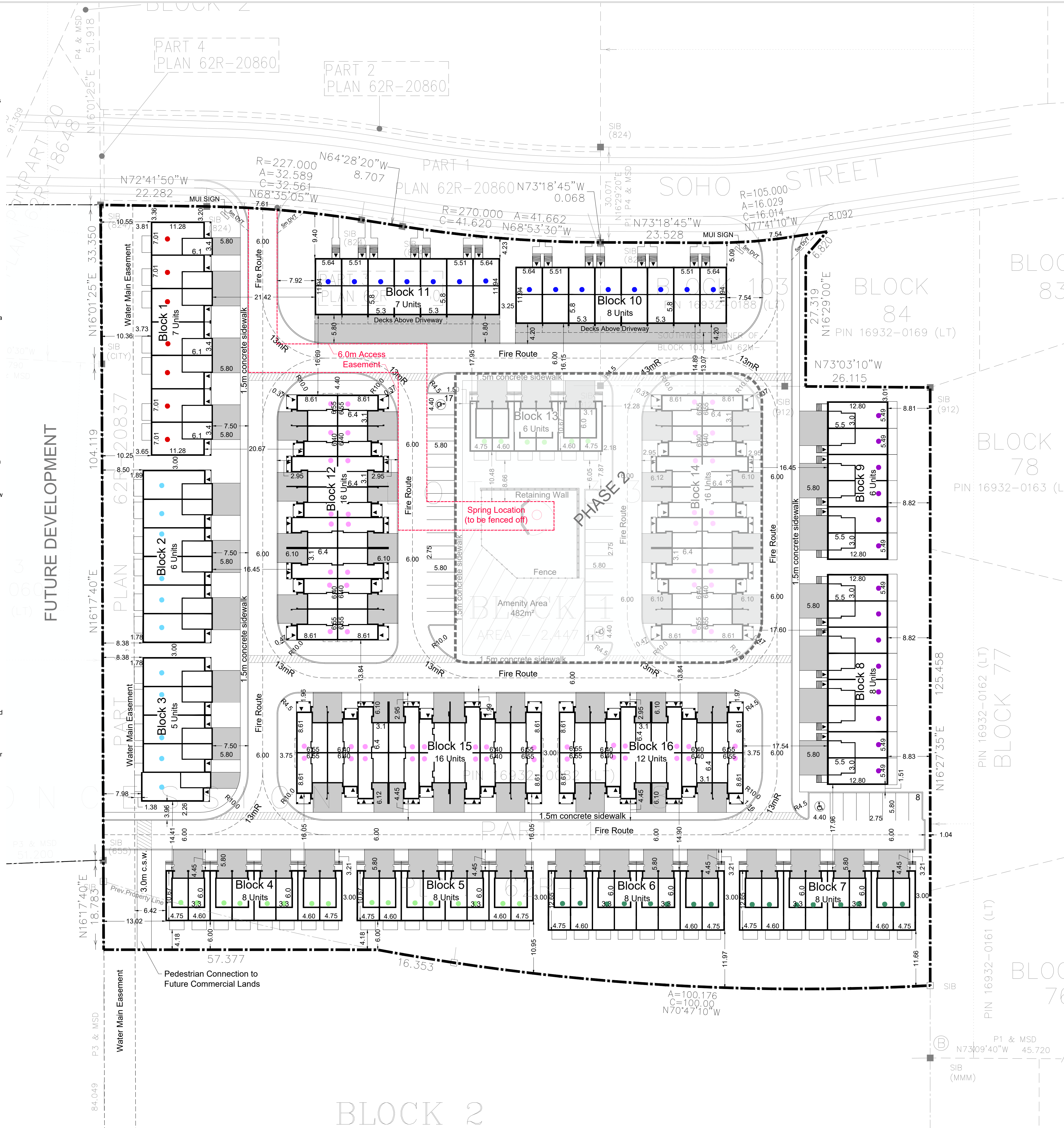
STREET TOWNS:

- Parkside Units (7)
- Whitehaven Units (14)
- Abbotsford Units (15)
- Esprit Units (22)
- Esprit Grande Units (16)
- Westbrook Units (11)

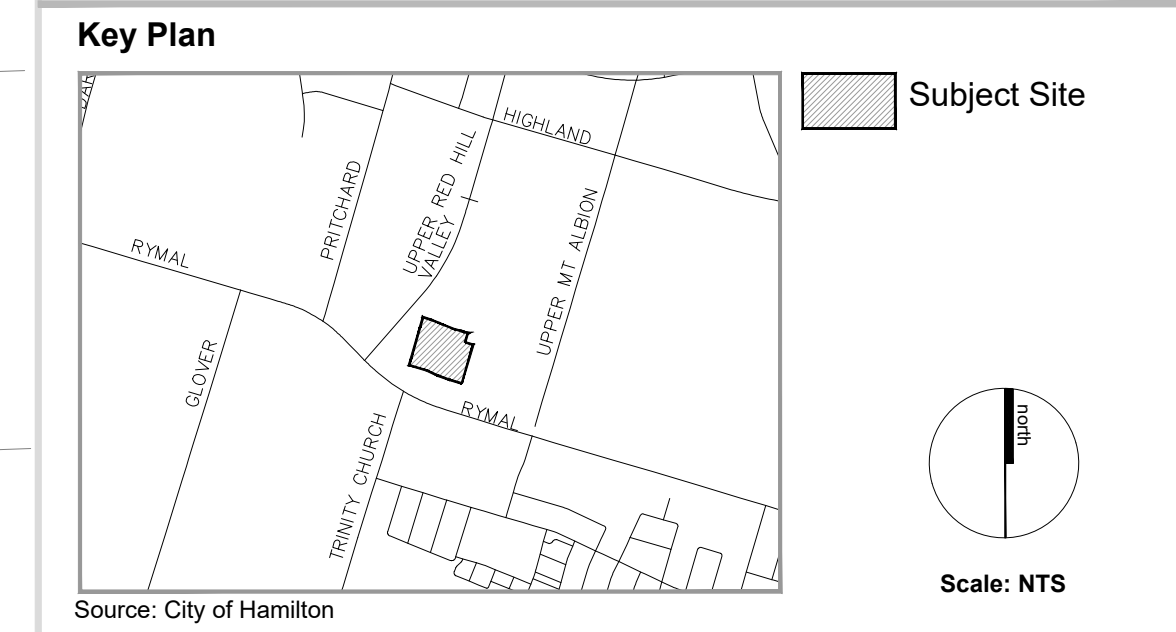
BACK TO BACK:

- Urban Back to Back Units (60)

Total Units: 145



Legal Description
1831 Rymal Road
CITY OF HAMILTON



Residential Lands 26,161m² (2.61ha)

Residential Zoning Summary (RM3-67)		
	Required (min)	Provided
Lot Area	4,000m ² (0.04ha)	26,161m ² (2.61ha)
Units	-	145
Front Yard	3.0m	3.2m
Side Yard for Maisonettes, Townhouses, Stacked Townhouses and Dwelling Groups	1.2 metres, except for 7.5 metres for a flankage yard, 7.5 metres abutting a zone permitted as single detached, semi-detached or duplex dwellings and 3 metres where an end unit abuts any lot line of a street townhouse	3.0m
Minimum Rear Yard for a Townhouse or Stacked Townhouses	6.0 metres	6.0m
Minimum Distance Between Buildings on the Same Lot	3.0 metres between end walls and 13.5 metres between front walls	3.0m between end walls 14.9m between front walls
Density	Minimum of 50 units per hectare Maximum of 75 units per hectare	55.55 units/ha
Max. Building Height	13.5 metres or 3 Storeys, whichever is the less of the two	3 storeys / 13.5m max
Max. Lot Coverage	35%	32.6%
Privacy Area	Minimum depth of 4.5m adjacent to dwelling. Notwithstanding the yard requirements, privacy area requirements shall not apply to maisonette units	Provided
Landscaped Open Space	Not less than 38% of the lot area for maisonettes, townhouses, stacked townhouses and dwelling groups shall be landscaped including privacy areas	35.7% (9,335m ²)
Outdoor Amenity Space	One outdoor amenity space, having a minimum area of 480 square metres, shall be provided, and thereafter maintained, excluding assessments and excluding the area containing a natural spring and required buffer associated with said spring	482m ²
Required Parking Spaces	326 Total (290 + 36 Visitor) (2 Parking spaces and 0.25 visitor parking spaces for each maisonette and townhouse dwelling unit. Tandem parking is permitted for non-visitor parking spaces)	340 Total 144 driveway parking spaces 160 garage parking spaces 36 visitor parking spaces (includes 3 barrier free parking spaces)

NOTES:
- All dimensions are in metres unless otherwise noted
- Fire route to be designated by by-law
- Dimensions from face of curb to face of curb
- c.s.w. = concrete sidewalk

Rev. No.	Date	Issued / Revision	By
7.	November 2, 2020	Updated turn radius, pedestrian connection, unit types	GC
6.	Oct 14, 2020	Revisions to plan	GC
5.	Aug 13, 2019	Revisions to plan	GC
3.	June 14, 2019	Revisions to plan	GC
2.	July 11, 2018	Revisions to plan	GC
1.	Mar 21, 2018	For preliminary submission to City	GC

MHBC PLANNING URBAN DESIGN & LANDSCAPE ARCHITECTURE

200-540 BINGEMANS CENTRE DR., KITCHENER, ON. N2B 3X9 | P: 519.576.3650 F: 519.576.0121 | WWW.MHBCPLAN.COM

Approval Stamp	Date
THE CITY OF HAMILTON Plans and drawings are approved pursuant to Section 41 of the Planning Act	November 2, 2020
Date of Approval Anita Fabac Manager, Development Planning Planning & Economic Development Department	Drawn By: GC Plan Scale: 1:500 (36x24) File No.: 14196AO
Project: 1831 RYMAL ROAD	Checked By: D.A.
Client: DA-19-129	Other:
File Name: MIDTOWN RESIDENTIAL SITE PLAN	Dwg No.: 1 of 1

February 12, 2021

Committee of Adjustment
City of Hamilton
71 Main Street West, 5th Floor
Hamilton, Ontario, L8P 4Y5

RE: Minor Variance Application – 1809, 1817, 1821 Rymal Road East (Central Park Midtown)
OUR FILE: 14196AO

On behalf of our client, Losani Homes, we are pleased to submit an application to the Committee of Adjustment for a Minor Variance for the property located at 1809, 1817, 1821 Rymal Road, Hamilton, herein referred to as the “subject lands”. The subject lands are legally described as Part of Lot 33, Concession 8, Former Geographic Township of Saltfleet. These lands form Block 1 of draft approved plan of subdivision 29T-201609.

The lands have been subject to an Official Plan Amendment (UHOPA-16-025) and Zoning By-law Amendment (ZAC-16-064) to permit the proposed development. Through these applications, extensive consultation was undertaken with City Staff to prepare an Official Plan Amendment and Zoning By-law Amendment.

A Site Plan Application (DA-19-129) is in process for the subject lands, and is conditionally approved. The requested minor variance is required as a condition of final site plan approval.

The following variances are requested:

1. To deem the boundary of the RM₃-67 zone line to be the lot line, and that the regulations of the RM₃-67 zone shall be from the boundaries of this zone, and not from individual property boundaries of the dwelling units created by registration of a condominium plan or created Part Lot Control
2. To permit a reduction in the landscaped open space requirement for the subject lands from 38% required to 35.7%

1. RM3-67 Zone Boundary

The purpose of this minor variance application is to address a technical variance for interpretation of the proposed development, and will allow for the development of the block as a condominium with a private road network.

The requested variance is technical in nature and defines the lot lines for zoning interpretation. The proposed provision will identify that the setbacks for the proposed development are to be measured from the zone line as opposed to the individual lot lines which will be created by way of a future plan of condominium. No changes are proposed to the proposed dwellings.

The proposed variance achieves the intent of the approved site specific zoning and official plan designation to allow for a condominium townhouse development with a private road network.

In our opinion, the requested variance meets the tests in accordance with Section 45(1) of the *Planning Act*.

2. Landscaped Open Space

The purpose of this minor variance application is to allow for a reduction in the overall landscaped open space from 38% to 35.7%. The variance is required to permit minor changes in the site plan design that have occurred since the initial site specific zoning application.

The variance will allow for the development of the block as a condominium. The overall site will have a common amenity area central to the site, and each unit will have a combination of decks / patios and rear yards, which will provide for landscaped area and amenity space for the units.

The proposed variance achieves the intent of the approved site specific zoning and official plan designation to allow for a condominium, townhouse development.

In our opinion, the requested variance meets the tests in accordance with Section 45(1) of the *Planning Act*.

In addition to this letter and in support of our application, please find enclosed the following:

- Completed and signed Minor Variance Application Form;
- Site Plan, prepared by MHBC, dated November 2, 2020;
- 1 cheque in the amount of \$3,320.00 for the Minor Variance Application fee (to be delivered under separate cover).

We kindly ask that this application be considered at the next available Committee of Adjustment meeting. If you have any questions regarding the application, please do not hesitate to contact the undersigned.

Yours truly,

MHBC

A handwritten signature in black ink that reads "Mirtitsch". The letter "M" is large and stylized, with a loop that extends upwards and then curves back down to the start of the word. The rest of the letters are written in a cursive, flowing style.

Stephanie Mirtitsch, BES, MCIP, RPP
Senior Planner

cc Marib Pirzada, Losani Homes



Hamilton

Planning and Economic Development Department
Planning Division

Committee of Adjustment

City Hall
5th floor 71 Main Street West
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424 ext.4221
Fax (905) 546-4202

**PLEASE FILL OUT THE FOLLOWING PAGES AND
RETURN TO THE CITY OF HAMILTON PLANNING
DEPARTMENT.**

FOR OFFICE USE ONLY.	
APPLICATION NO. _____	DATE APPLICATION RECEIVED _____
PAID _____	DATE APPLICATION DEEMED COMPLETE _____
SECRETARY'S SIGNATURE _____	

**CITY OF HAMILTON
COMMITTEE OF ADJUSTMENT
HAMILTON, ONTARIO**

The Planning Act

Application for Minor Variance or for Permission

The undersigned hereby applies to the Committee of Adjustment for the City of Hamilton under Section 45 of the *Planning Act*, R.S.O. 1990, Chapter P.13 for relief, as described in this application, from the Zoning By-law.

- Name of Owner 2324780 ONTARIO INC.
Losani Homes (1998) Ltd. Telephone No. _____
FAX NO. _____ E-mail address. _____
- Address _____
Postal Code _____
- Name of Agent MHBC c/o Stephanie Mirtitsch Telephone No. _____
FAX NO. _____ E-mail address. _____
- Address _____
Postal Code _____

Note: Unless otherwise requested all communications will be sent to the agent, if any.

- Names and addresses of any mortgagees, holders of charges or other encumbrances:

Postal Code _____

Postal Code _____

6. Nature and extent of relief applied for:

Refer to cover letter details

7. Why it is not possible to comply with the provisions of the By-law?

Refer to cover letter details

8. Legal description of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number):

Part of Lot 33, Concession 8, Former Geographic Township of Saltfleet

Municipal Address: 1809,1817,1821 Rymal Road East

9. PREVIOUS USE OF PROPERTY

Residential Industrial Commercial

Agricultural Vacant

Other _____

9.1 If Industrial or Commercial, specify use

9.2 Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?

Yes No Unknown

9.3 Has a gas station been located on the subject land or adjacent lands at any time?

Yes No Unknown

9.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?

Yes No Unknown

9.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?

Yes No Unknown

9.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or sewage sludge was applied to the lands?

Yes No Unknown

9.7 Have the lands or adjacent lands ever been used as a weapon firing range?

Yes No Unknown

9.8 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational/non-operational landfill or dump?

Yes No Unknown

9.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (eg. asbestos, PCB's)?

Yes ___ No X Unknown ___

9.10 Is there any reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?

Yes ___ No X Unknown ___

9.11 What information did you use to determine the answers to 9.1 to 9.10 above?
Owner information and reports from previous applications

9.12 If previous use of property is industrial or commercial or if YES to any of 9.2 to 9.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.

Is the previous use inventory attached? Yes ___ No X

ACKNOWLEDGEMENT CLAUSE

I acknowledge that the City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application – by reason of its approval to this Application.

2021-01-06
Date

Mari Bl.
Signature Property Owner

2324780 Ontario Inc.
Print Name of Owner

10. Dimensions of lands affected:

Frontage Refer to attached Midtown Residential Site Plan
Depth Refer to attached Midtown Residential Site Plan
Area 26,161 sq.m
Width of street 6m

11. Particulars of all buildings and structures on or proposed for the subject lands: (Specify ground floor area, gross floor area, number of stories, width, length, height, etc.)

Existing: _____

Proposed: 145 townhouse units - refer to site plan for details

12. Location of all buildings and structures on or proposed for the subject lands; (Specify distance from side, rear and front lot lines)

Existing: _____

Proposed: Refer to site plan for details

13. Date of acquisition of subject lands:

14. Date of construction of all buildings and structures on subject lands:

N/A

15. Existing uses of the subject property: Vacant

16. Existing uses of abutting properties: Residential to the north, east and south,
Upper Red Hill Valley Parkway to the west

17. Length of time the existing uses of the subject property have continued:
Unknown

18. Municipal services available: (check the appropriate space or spaces)

Water X

Connected

Sanitary Sewer X

Connected

Storm Sewers X

19. Present Official Plan/Secondary Plan provisions applying to the land:

Lands subject to an Official Plan Amendment (UHOPA 16-025) to the Trinity West Secondary
Plan and Urban Hamilton Official Plan. Site specific provisions apply for density permissions.

20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:

Lands were subject to a Zoning By-law Amendment (ZAC 16-064). Site specific provisions
apply, RM3-67 under By-law 3692-92.

21. Has the owner previously applied for relief in respect of the subject property?

Yes X

No

If the answer is yes, describe briefly.

UHOPA 16-025 (approved)

ZAC 16-064 (approved)

Relief requested and approved to permit the proposed development.

22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?

Yes

No X

23. The applicant shall attach to each copy of this application a plan showing the dimensions of the subject lands and of all abutting lands and showing the location, size and type of all buildings and structures on the subject and abutting lands, and where required by the Committee of Adjustment such plan shall be signed by an Ontario Land Surveyor.

NOTE: It is required that two copies of this application be filed with the secretary-treasurer of the Committee of Adjustment together with the maps

referred to in Section 5 and be accompanied by the appropriate fee in cash or by cheque made payable to the City of Hamilton.

PART 24 AFFIDAVIT OR SWORN DECLARATION

This declaration to be sworn by a Commissioner of Oaths.

I, MARIB PIRZADA of the CITY of HAMILTON in the - of -

solemnly declare that:

All of the above statements are true and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at the

at the CITY of HAMILTON)
)
in the -)
)
of -)
)
this 06 day of JANUARY A.D. 20 21)

Marib P.)
Applicant

A Commissioner, etc. WILLIAM L. LISKE
LSOE # 391576.

PART 25 OWNERS AUTHORIZATION

As of the date of this application, I (NAME) 2324780 ONTARIO INC. am the registered Owner of the lands described in this application, and I have examined the contents of this application and hereby certify that the information submitted with the application is correct insofar as I have knowledge of these facts, and I hereby authorize:

MHBC PLANNING of KITCHENER

to act as my agent in this matter and to provide any of my personal information that will be included in this application or collected during the processing of the application.

DATE 2021-01-06 SIGNED Marib P.

PART 26 CONSENT OF THE OWNER

Complete the consent of the owner concerning personal information set out below.

Consent of Owner to the Disclosure of Application Information and Supporting Documentation

Application information is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13. In accordance with that Act, it is the policy of the City of Hamilton to provide public access to all *Planning Act* applications and supporting documentation submitted to the City.

I, 2324780 ONTARIO INC., the Owner, hereby agree and acknowledge
(Print name of Owner)

that the information contained in this application and any documentation, including reports, studies and drawings, provided in support of the application, by myself, my agents, consultants and solicitors, constitutes public information and will become part of the public record. As such, and in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, I hereby consent to the City of Hamilton making this application and its supporting documentation available to the general public, including copying and disclosing the application and its supporting documentation to any third party upon their request.

2021-01-06

Date

Marib P.

Signature of Owner

PART 27 PERMISSION TO ENTER

Date: 2021-01-06

Secretary/Treasurer
Committee of Adjustment
City of Hamilton,
City Hall

Dear Secretary/Treasurer;

Re: Application to Committee of Adjustment

Location of Land: 1809, 1817, 1821 Rymal Rd. East.
(Municipal address)

I hereby authorize the members of the Committee of Adjustment and members of the staff of the City of Hamilton to enter on to the above-noted property for the limited purposes of evaluating the merits of this application.

Marib P.

Signature of Owner or Authorized agent

2324780 ONTARIO INC.

Please print name

Note: The Committee of Adjustment requires that all properties be identified with the municipal address clearly visible from the street. Where there is no municipal address or the property is vacant then the property shall be identified in accordance with the Committee's policy included on the back of the Application Form. Failure to properly identify the subject property may result in the deferral of the application.

PART 28 COLLECTION OF INFORMATION

The personal information contained on this form is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13, and will be used for the purpose of processing the application. This information will become part of the public record and will be made available to the general public. Questions about the collection of this information should be directed to the Coordinator of Business Facilitation, Planning and Economic Development Department, City of Hamilton, 1st floor, 71 Main Street West, City Hall, Hamilton, Ontario, Telephone: 905-546-2424, ext.1284.

CITY OF HAMILTON
COST ACKNOWLEDGEMENT AGREEMENT

This Agreement made this _____ day of _____, 20_____.

BETWEEN:

Applicant's name(s)
hereinafter referred to as the "Developer"

-and-

City of Hamilton
hereinafter referred to as the "City"

WHEREAS the Developer represents that he/she is the registered owner of the lands described in Schedule "A" attached hereto, and which lands are hereinafter referred to as the "lands";

AND WHEREAS the Developer has filed for an application for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval/minor variance.

AND WHEREAS it is a policy of the City that any City costs associated with an appeal to the Local Planning Appeal Tribunal, by a party other than the Developer, of an approval of a consent, rezoning, official plan amendment, plan of subdivision, and/or minor variance, such as, but not limited to, legal counsel costs, professional consultant costs and City staff costs, shall be paid by the Developer.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of two dollars (\$2.00) now paid by the City to the Developer, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. In this Agreement:
 - (a) "application" means the application(s) for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval or minor variance dated _____ with respect to the lands described in Schedule "A" hereto.
 - (b) "Expenses" means all expenses incurred by the City if the application is: (a) approved by the City; (b) appealed to the Local Planning Appeal Tribunal by a party other than the developer; and (c) the City appears before the Local Planning Appeal Tribunal or any other tribunal or Court in support of the application, including but not limited to: City staff time, City staff travel expenses and meals, City disbursements, legal counsel fees and disbursements and all consultant fees and disbursements including, without limiting the generality of the foregoing planning, engineering or other professional expenses
2. The City agrees to process the application and, where the application is approved by the City but appealed to the Local Planning Appeal Tribunal by a party other than the Developer, the Developer shall file an initial deposit, in the form of certified cheque or cash with the General Manager, Finance & Corporate Services within fifteen days of the date of the appeal of the application by a third party in the amount of 50% of the estimated expenses associated with the appeal as estimated by the City Solicitor in his sole discretion which shall be credited against the Expenses.
3. It is hereby acknowledged that if the deposit required pursuant to section 2 of this Agreement is not paid by the Developer the City shall have the option, at its sole discretion, of taking no further steps in supporting the Developer's application before the Local Planning Appeal Tribunal.

4. It is hereby acknowledged that all expenses shall be paid for by the Developer. The Developer shall reimburse the City for all expenses the City may be put to in respect of the application upon demand.
5. It is hereby acknowledged and agreed that all expenses shall be payable by the Developer whether or not the Developer is successful before the Local Planning Appeal Tribunal or any other tribunal or Court in obtaining approval for their application.
6. The City shall provide the Developer with copies of all invoices of external legal counsel or consultants included in the expenses claimed by the City.
7. The City shall provide the Developer with an accounting of all staff costs and City disbursements included in the expenses claimed by the City.
8. The City may, at any time, draw upon the funds deposited in accordance with sections 2 and 9 of this Agreement to satisfy expenses incurred pursuant to the appeal of the application.
9. In the event that the amount deposited pursuant to section 2 of this Agreement is reduced to less than 10% of the initial deposit, the City may halt all work in respect of the appeal of the application until the Developer deposits with the City a sum sufficient to increase the deposit to an amount which is equal to 100% of the expenses estimated pursuant to paragraph 2 of this Agreement and still to be incurred by the City.
10. Within 60 days of: (a) a decision being rendering in respect of the appeal or any legal proceedings resulting from the decision, whichever is later; or (b) the termination of all legal proceedings in respect of the application, the City shall prepare and submit a final account to the Developer. If there are any deposit funds remaining with the City they shall be applied against the account. Any amount owing in respect of the final account in excess of deposit funds shall be paid by the Developer within 30 days of the date of the final account. If any deposit funds are remaining after the final account has been paid they shall be returned to the developer within 30 days of the date of the final account.
11. This Agreement shall not be construed as acceptance of the application and nothing herein shall require or be deemed to require the City to approve the application.
12. This Agreement shall not stand in lieu of or prejudice the rights of the City to require such further and other agreements in respect of the application that the City may deem necessary.
13. Every term, covenant, obligation and condition in this Agreement ensures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors, trustees and assigns.
14. When the context so requires or permits, the singular number is to be read as if the plural were expressed, and the masculine gender as if the feminine, as the case may be, were expressed; and,
15. This Agreement and the schedules hereto constitute the entire agreement between the parties in respect of the subject matter contained herein and is not subject to, or in addition to, any other agreements, warranties or understandings, whether written, oral or implied. This Agreement may not be modified or amended except by instrument in writing signed by the Developer and the City, and,
16. The waiver or acquiescence by the City of any default by the Developer under any obligation to comply with this Agreement shall not be deemed to be a waiver of that obligation or any subsequent or other default under this Agreement.

17. The Developer covenants and agrees to be bound by the terms and conditions of this Agreement and not to seek a release from the provisions thereof until such time as the Developer's obligations hereunder have been assumed by its successor, assignee or transferee by way of written agreement in the form set out in Schedule "B" to this Agreement.

IN WITNESS WHEREOF the parties hereto have set their corporate seals under the hands of their duly authorized officers.

DATED at _____ this _____ day of _____, 20 ____.

WITNESS

Per:
I have authority to bind the corporation.

WITNESS

Per:
I have authority to bind the corporation

DATED at Hamilton, Ontario this ____ day of _____, 20 ____.

City of Hamilton

Per: _____
Mayor

Per: _____
Clerk

Schedule "A"
Description of Lands

SCHEDULE "B"
FORM OF ASSUMPTION AGREEMENT

THIS AGREEMENT dated the _____ day of _____ 20 ____.

BETWEEN

(hereinafter called the "Owner")

OF THE FIRST PART

-and-

(hereinafter called the "Assignee")

OF THE SECOND PART

-and-

CITY OF HAMILTON
(hereinafter called the "Municipality")

OF THE THIRD PART

WHEREAS the owner and the Municipality entered into and executed a Cost Acknowledgement Agreement dated _____.

AND WHEREAS Assignee has indicated that it will assume all of the Owner's duties, liabilities and responsibilities as set out in the Cost Acknowledgement Agreement.

AND WHEREAS Council for the Municipality has consented to releasing the Owner from its duties, liabilities and responsibilities under said Cost Acknowledgement Agreement subject to the Assignee accepting and assuming the Owner's duties, liabilities and responsibilities and subject to the Assignee the Owner and the Municipality entering into and executing an Assumption Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the parties hereto agree as follows.

1. The Assignee covenants and agrees to accept, assume and to carry out the Owner's duties, liabilities and responsibilities under the Cost Acknowledgement Agreement and in all respects to be bound under said Cost Acknowledgement Agreement as if the Assignee had been the original party to the agreement in place of the Owner.
2. The Municipality hereby releases the Owner from all claims and demands of any nature whatsoever against the Owner in respect of the Cost Acknowledgement Agreement. The Municipality hereby accepts the Assignee as a party to the Cost Acknowledge Agreement in substitution of the Owner, and agrees with the Assignee that the Assignee will be bound by all the terms and conditions of the Cost Acknowledgement Agreement as if the Assignee had been the original executing party in place of the Owner.
3. All of the terms, covenants, provisos and stipulations in the said Cost Acknowledgement Agreement are hereby confirmed in full force save and except

for such modifications as are necessary to make said clauses applicable to the Assignee.

IN WITNESS WHEREOF the Parties have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.

SIGNED, SEALED AND DELIVERED

Owner: c/s
Title:
I have authority to bind the corporation

Assignee: c/s
Title:
I have authority to bind the corporation

CITY OF HAMILTON

Mayor

Clerk