

Turkstra Mazza

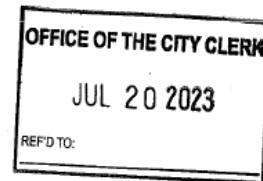
Hamilton London Toronto

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July 20, 2023

**VIA SAME DAY COURIER and
EMAIL TO andrea.holland@hamilton.ca**

City of Hamilton
Office of the City Clerk
Attention: Andrea Holland, City Clerk
71 Main Street West (First Floor)
Hamilton, ON L8P 4Y5



Dear Ms. Holland,

**RE: Appeals of Non-Decision of the City of Hamilton to the Ontario Land Tribunal pursuant to ss. 22(7), 34(11) and 51(34) of the *Planning Act*
Official Plan Amendment Application No.: UHOPA-20-021
Zoning By-Law Amendment Application No.: ZAC-20-037
Draft Plan of Subdivision Application No.: 25T-202006
544-550 Rymal Road East, City of Hamilton
Rymal East Development Corp. - Our File No. 13656**

We are counsel to Rymal East Development Corp. (the "Applicant") in this matter. Our client owns property municipally known as 544-550 Rymal Road East in the City of Hamilton ("Subject Lands").

The Subject Lands

The Subject Lands are located south of Rymal Road East, east of Upper Wentworth Street and west of Upper Sherman Avenue. The Subject Lands have an area of approximately ±16,140

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square metres (1.61 ha) with approximately \pm 76.86 metres of frontage on Rymal Road East. The Subject Lands consist of two large parcels of land, one is currently used for residential purposes and contains a single detached dwelling (544 Rymal Road East) and the other is vacant (550 Rymal Road). The surrounding area is largely built-out, containing a variety of residential, commercial and institutional land uses.

The Proposed Development

The Subject Lands are proposed to be developed with a total of 429 dwelling units, consisting of 196 apartment style dwellings in one 20 storey apartment building, 193 apartment style dwellings in one 15 storey apartment building and 40 stacked townhouse dwelling units in two 3.5 storey stacked townhouse buildings (the “Proposed Development”). A total of 427 parking spaces are proposed in a combination of 19 at-grade and 408 underground parking spaces, representing 0.995 spaces per unit.

The Applications and Appeal

Our client made applications for an Official Plan Amendment, Zoning By-Law Amendment, and Draft Plan of Subdivision (the “Applications”) in September 2020 with a further submission in July 2021. These Applications were deemed complete by the City on October 23, 2020.

To date, Council has failed to make decisions in connection with the Applications within the statutory timeframe in the *Planning Act*. As such, we hereby appeal the Applications to the Ontario Land Tribunal pursuant to section 22(7) of the *Planning Act* for the Official Plan Amendment, section 34(11) of the *Planning Act* for the Zoning By-Law Amendment and section 51(34) of the *Planning Act* for the Draft Plan of Subdivision. In our respectful submission, the three matters should be consolidated.

While we understand that as a result of recent modifications to the Urban Hamilton Official Plan through Official Plan Amendment No. 167, the Proposed Development no longer requires an official plan amendment. Nevertheless, out of an abundance of caution, we are appealing the Official Plan Amendment as well.

The Proposed Development is consistent with and conforms to the Provincial Policy Statement 2020, the Growth Plan for the Greater Golden Horseshoe (2020) and the Urban Hamilton Official Plan. The Proposed Development will expand the range of housing in the area, adding to a complete community. It represents compact residential development in a manner and location that is both transit-oriented and transit-supportive. Rymal Road East is a Major Arterial Road and a high-order transit route, allowing ease of access vehicles and public transit.

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The form of the Proposed Development is compatible with surrounding residential development with respect to setbacks, massing, buffering, shadowing, overlook, and built form. The Proposed Development provides for an appropriate transition of built form and density with the 15 storey building proposed along Rymal Road East, a Major Arterial Road and intensification corridor. The 20 storey building is proposed beside a hydro corridor, with a transition to 3.5 storey stacked townhouses. The street-oriented design of the Proposed Development will enhance the streetscape along Rymal Road East, promoting a vibrant and distinctive streetscape which conveys a sense of place.

Form and Fee

We enclose a cheque made payable to the Minister of Finance in the order of \$3,300.00 as the appropriate filing fee for the three (3) appeals, along with a completed A1 Appeal Form.

Should you require anything further in connection with the filing of these appeals, please let us know.

Yours truly,



Scott Snider

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TURKSTRA MAZZA ASSOCIATES, LAWYERS



Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5
Tel: 416-212-6349 | 1-866-448-2248
Web Site: olt.gov.on.ca

Appeal Form (A1)

Municipal/Approval Authority Date Stamp	Receipt Number (OLT Office Use Only)	Date Stamp – Appeal Received by OLT
	OLT Case Number (OLT Office Use Only)	

Please complete this Appeal Form by following the instructions in the companion document titled "Appeal Form Instructions". Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal's [website](#) for different appeal types to assist you in filing an appeal.

Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.

Section 1 – Contact Information (Mandatory)

Applicant/Appellant/Objector/Claimant Information			
Last Name:	First Name:		
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):			
Rymal East Development Corp.			
Email Address:			
Daytime Telephone Number:		Alternative Telephone Number:	
	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:

City/Town:	Province:	Country:	Postal Code:

Representative Information			
X I hereby authorize the named company and/or individual(s) to represent me			
Last Name:		First Name:	
Snider		Scott	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):			
Email Address:			
ssnider@tmalaw.ca			
Daytime Telephone Number:		Alternative Telephone Number:	
	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:
	15	Bold Street	
City/Town:	Province:	Country:	Postal Code:
Hamilton	Ontario	Canada	L8P 1T3
<p>Note: If your representative is not licensed under the <i>Law Society Act</i>, please confirm that they have your written authorization, as required by the <i>OLT Rules of Practice and Procedure</i>, to act on your behalf and that they are also exempt under the Law Society's by-laws to provide legal services. Please confirm this by checking the box below.</p>			
<p><input type="checkbox"/> I certify that I understand that my representative is not licensed under the <i>Law Society Act</i> and I have provided my written authorization to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time along with confirmation of their exemption under the Law Society's by-laws to provide legal services.</p>			

Location Information	
Are you the current owner of the subject property? X Yes <input type="checkbox"/> No	
Address and/or Legal Description of property subject to the appeal:	
544-550 Rymal Road East	
Municipality:	
City of Hamilton	
Upper Tier (Example: county, district, region):	

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Language Requirements

Do you require services in French? Yes No

To file an appeal, please complete the section below. Complete one line for each appeal type

	Subject of Appeal	Type of Appeal (Act/Legislation Name)	Reference (Section Number)
Example	Minor Variance	<i>Planning Act</i>	45(12)
1	Official Plan Amendment	<i>Planning Act</i>	22(7)
2	Zoning By-Law Amendment	<i>Planning Act</i>	34(11)
3	Draft Plan of Subdivision	<i>Planning Act</i>	51(34)
4			
5			

Section 2 – Appeal Type (Mandatory)

Please select the applicable type of matter

Select	Legislation associated with your matter	Complete Only the Section(s) Below
X	Appeal of <i>Planning Act</i> matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances	3A
<input type="checkbox"/>	Appeal of <i>Development Charges Act, Education Act, Aggregate Resources Act, Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B
<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A
<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i>	4B
<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5

<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6
<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal

Section 3A – Planning Matters

Appeal Reasons and Specific Information

Number of new residential units proposed:

429

Municipal Reference Number(s):

Official Plan Amendment Application No.: UHOPA-20-021
 Zoning By-Law Amendment Application No.: ZAC-20-037
 Draft Plan of Subdivision Application No.: 25T-202006

List the reasons for your appeal:

Please see attached letter.

Has a public meeting been held by the municipality? Yes No

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you will rely on one or more of the following grounds:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

And

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan

X Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan
If it is your intention to argue one or more of the above grounds, please explain your reasons:
Please see attached letter.

<i>Oral/Written submissions to council</i>
Did you make your opinions regarding this matter known to council?
<input type="checkbox"/> Oral submissions at a public meeting of council
<input type="checkbox"/> Written submissions to council
<input type="checkbox"/> Not applicable

<i>Related Matters</i>
Are there other appeals not yet filed with the Municipality?
<input type="checkbox"/> Yes X No
Are there other matters related to this appeal? (For example: A consent application connected to a variance application).
X Yes <input type="checkbox"/> No
If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:
The three appeals are related and should be consolidated. Official Plan Amendment Application No.: UHOPA-20-021 Zoning By-Law Amendment Application No.: ZAC-20-037 Draft Plan of Subdivision Application No.: 25T-202006

Section 3B – Other Planning Matters

<i>Appeal Specific Information (Continued)</i>
Date application submitted to municipality if known (yyyy/mm/dd):
Date municipality deemed the application complete if known (yyyy/mm/dd):
Please briefly explain the proposal and describe the lands under appeal:

Are you filing an Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i> ? <input type="checkbox"/> Yes <input type="checkbox"/> No
Identify the portions of the instrument you are seeking to appeal:
Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:
Outline the relief requested:
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the Section 4B Checklist(s) located here and submit all documents listed on the checklist.

Section 5 – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act*

Appeal Specific Information
Development Permit Application File No:
Address or legal description of the subject property:
Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission's website (www.escarpment.org))

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Section 6 – Mining Claim and Conservation Matters

Appeal Specific Information
List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for <i>Mining Act</i> appeals only.)
List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):
Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:
Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:

Respondent Information			
Conservation Authority:			
Contact Person:			
Email Address:			
Daytime Telephone Number:	Alternative Telephone Number:		
	ext.		
Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available			
Unit Number:	Street Number:	Street Name:	P.O. Box:

City/Town:	Province:	Country:	Postal Code:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 6 Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

Section 7 – Filing Fee

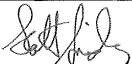
Required Fee			
Please see the attached link to view the OLT Fee Chart .			
Total Fee Submitted: \$3,300.			
Payment Method	<input type="checkbox"/>	Certified Cheque	<input type="checkbox"/>
		Money Order	<input checked="" type="checkbox"/>
		Lawyer's general or trust account cheque	
	<input type="checkbox"/>	Credit Card	

If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form. **DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.**

If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the [Fee Reduction request form](#).

Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)

Section 8 – Declaration (Mandatory)

Declaration		
I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.		
By signing this appeal form below, I consent to the collection of my personal information.		
Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Scott Snider		2023/07/20

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator at OLT.Coordinator@ontario.ca or toll free at 1-866-448-2248 as soon as possible.

Section 9 – Filing Checklists (Mandatory)

Filing/Submitting your form and documentation
You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

If the completed Section is:	You must file with the following:	
Section 3A	Municipality or the Approval Authority/School Board *If you are filing under the <i>Ontario Heritage Act</i> , including under s. 34.1(1) , please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal in addition to the Municipality or Approval Authority.	
Section 3A & 3B or Section 4A or Section 4B or Section 6	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5 Phone: 416-212-6349 1-866-448-2248 Website: www.olt.gov.on.ca	
Section 5	For the Areas of: Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton File with: NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3 rd Floor Georgetown, ON L7G 4B1	For the Areas of: Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon) File with: NIAGARA ESCARPMENT COMMISSION 1450 7 th Avenue Owen Sound, ON N4K 2Z1

Phone: 905-877-5191 Fax: 905-873-7452 Website: www.escarpment.org Email: necgeorgetown@ontario.ca	Phone: 519-371-1001 Fax: 519-371-1009 Website: www.escarpment.org Email: necowensound@ontario.ca
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NOTE: Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

NOTE: Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.