



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**NOTICE OF DECISION**  
**Minor Variance**

<b>APPLICATION NO.:</b>	<b>HM/A-23:261</b>	<b>SUBJECT PROPERTY:</b>	1865 Rymal Road East, Stoney Creek
<b>ZONE:</b>	C5, exception 589 (Hamilton Zoning By-law 05-200)	<b>ZONING BY-LAW:</b>	Zoning By-law Hamilton 05-200, as Amended by 17-240

**APPLICANTS:**

Owner: Canadian Grand Development Inc. & Holidatek in trust for 2872885 Ontario Inc.  
Applicant: Holidatek in trust for 2872885 Ontario Inc.  
Agent: Masri O Architects

The following variances are **GRANTED WITH CONDITIONS:**

1. The finished floor elevation of any dwelling unit shall be a minimum of 0.5 metres above grade whereas the by-law required the finished floor elevation of any dwelling unit to be a minimum of 0.9 metres above grade.
2. A minimum setback of 1.5 metres shall be permitted from a street for a building with residential units on the ground floor facing a street instead of the minimum 3.0m setback required from a street for a building with residential units on the ground floor facing a street.
3. A minimum rear yard of 1.7m shall be permitted for any underground parking structure walls projecting more than 0.15m above grade instead of the minimum 7.5m rear yard required.
4. A minimum interior side yard of 1.4 metres shall be permitted for any underground parking structure walls projecting 0.15 metres above the adjacent grade instead of the minimum 7.5m interior side yard required for a lot abutting a Residential or Institutional zone or lot containing a residential use.
5. A maximum building height of 28.2 metres shall be provided instead of the maximum permitted 27.0 metres.
6. A minimum 1.4m wide planting strip shall be permitted along the northerly lot line instead of the minimum 1.5m wide planting strip required where a property line abuts a property line with an Institutional zone and where a parking lot is located.
7. A planting strip may be obstructed by an underground garage vent and a hydro transformer and associated support structures including a concrete pad and decorative screen instead of the

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requirement that a planting strip may not include underground garage vents or hydro transformers as defined.

8. An exterior staircase shall be permitted to be as close as 0.0m from a side lot line whereas the zoning By-law permits an exterior staircase to encroach a maximum of 1.5m or to a maximum of half the distance of the required yard, whichever is the lesser.
9. A rooftop level amenity area shall be permitted to contain a maximum area of 19.5% of the floor area directly beneath and a maximum height of 3.4m whereas the zoning by-law permits a rooftop amenity area to consist of only 10.0% of the floor area directly beneath and a maximum height of 3.0m.

### Notes:

1. The variances are necessary to facilitate Site Plan Control Application DA-21-017.
2. Insufficient details were provided regarding the parking areas including an underground parking floor layout from which to confirm compliance respecting parking spaces sizes, access widths, minimum number of parking spaces, barrier free parking etc. Therefore, further variances may be required.
3. Details regarding bicycle parking were not provided. Therefore, the applicant shall ensure that required short term and long-term bicycle parking is provided; otherwise, further variances shall be required.

### THE DECISION OF THE COMMITTEE IS:

That the variances, as set out above, are **GRANTED WITH CONDITIONS** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is consistent with the general intent and purpose of the By-laws and the Official Plans as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

That the said application be GRANTED subject to the following condition:

1. That the proposed variances only apply to the proposed site plan, as identified on submitted site plan titled "Site Plan" dated 2023.12.08.

DATED AT HAMILTON, September 24, 2024.

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D. Smith (Chairman)

R. Reid

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L. Gaddy

N. Lauwers

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S. Rybarczyk

M. Switzer

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **October 15, 2024 at 4:30pm**. A Notice of Appeal must be filed with the Secretary-Treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information – Minor Variances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. The Decision does not release any persons from the necessity of observing the requirements of building regulations, the license by-law, or any other by-law of the City of Hamilton.



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### APPEAL INFORMATION – MINOR VARIANCES

#### 1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

#### 2. When must an appeal be received to be considered?

Planning Act Section 45(12) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the Decision. Please see Notice of Decision for exact date and time.

#### 3. Where must the appeal be filed to be considered?

Planning Act Section 45(12) appeals must be received in one of the following formats:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to [cofa@hamilton.ca](mailto:cofa@hamilton.ca). Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact [cofa@hamilton.ca](mailto:cofa@hamilton.ca) in advance to request a file sharing link.

E-file Portal: By filing an appeal through the OLT E-file Portal at <https://olt.gov.on.ca/e-file-service/> to Hamilton (City) – Committee of Adjustment and Consent Authority (select appropriate approval body as outlined on the Notice of Decision). Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly chosen approval authority will be time barred and of no effect.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of appeal, the appeal must be filed with one of the other two

options. Appeals received after the date of appeal as a result of one of the methods being unavailable will be time barred and of no effect.

#### **4. What information must be submitted for the appeal to be considered?**

Planning Act Section 45(12) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5<sup>th</sup> floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form or OLT E-file Portal;
- All other information as required by the Appeal Form.