



Hamilton

**STAFF COMMENTS**

**HEARING DATE: September 24, 2024**

HM/A-23:261 – 1865 Rymal Road East, Stoney Creek

**Recommendation:**

Development Planning - Approve

**Proposed Conditions:**

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.

**Proposed Notes:**



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## **Development Planning:**

### **Background**

To facilitate the construction of a mixed-use building containing a total of 195 dwelling units and ground floor commercial.

The variances are necessary to facilitate Site Plan Control Application DA-21-017.

Conditional approval was granted on November 9, 2022, to permit construction of an eight storey (27.00 metre) mixed use building with 172 residential units, 317.00 square metres of commercial floor area and 107 parking spaces, including 35 surface parking spaces and 72 below grade parking spaces.

On May 26, 2022, the Committee of Adjustment approved Minor Variance application HM/A-22:131, to permit a maximum building height of 27.0 metres.

On June 11<sup>th</sup>, 2024, the Committee of Adjustment tabled Minor Variance application HM/A-23:261 in order for the revised site plan to be reviewed comprehensively by staff.

### **Analysis**

#### **Urban Hamilton Official Plan and Trinity West Secondary Plan**

The Urban Hamilton Official Plan designates the property as “Mixed Use – Medium Density” in Schedule E-1 – Urban Land Use Designations. Mixed use multiple dwellings are permitted in the above designation. Staff note that Official Plan Amendment No. 167 came into effect as of November 4, 2022.

The Trinity West Secondary Plan designates the property as “Mixed Use – Medium Density” in Land Use Plan Map B.7.7-1 and further identifies the northeast corner of the subject lands as “Core Areas” and “Area Specific Policy USC-1 (Eramosa Karst)” in Natural Heritage System Map B.7.7-2.

The following policies, amongst others, apply to the proposal:

#### **Volume 1**

**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.

**E.4.6.8** Additional height up to a total of 12 storeys may be permitted without an amendment to this Plan, provided the applicant demonstrates:



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- a) there are no adverse shadow impacts created on existing residential uses within adjacent lands designated Neighbourhoods;
- b) buildings are progressively stepped back from adjacent areas designated Neighbourhoods. The Zoning by-law may include an angular plane requirement to set out an appropriate transition and stepping back of heights; and,
- c) buildings are stepped back from the street to minimize the height appearance from the street, where necessary.”
- a) The development shall provide for a mix of unit sizes to accommodate a range of household sizes and income levels, to be implemented through the Zoning By-law; (OPA 167)
- b) The development shall incorporate sustainable building and design principles including but not limited to use of locally sourced and/ or recycled materials, water conservation and energy efficient techniques and low impact development approaches: (OPA 167)
- c) there are no adverse shadow impacts created on existing residential uses within adjacent lands designated Neighbourhoods;
- d) buildings are progressively stepped back from adjacent areas designated Neighbourhoods. The Zoning by-law may include an angular plane requirement to set out an appropriate transition and stepping back of heights; and,
- e) buildings are stepped back from the street to minimize the height appearance from the street, where necessary.

### **Volume 2**

**B.7.7.4.1.** In addition to Section E.4.6 – Mixed-Use – Medium Density of Volume 1, the following policies shall apply to the lands designated Mixed-Use – Medium Density on Map B.7.7-1 – Trinity West – Land Use Plan:

- d) Direct access to individual properties or units from Rymal Road shall be discouraged; shared or combined common access points and rear lane arrangements shall be provided, where possible, through land consolidation and/or rights-of-way.
- f) Where Core Areas and Area Specific Policy – USC-1 areas occur within the Mixed-Use – Medium designation, as shown on Map B.7.7.2 – Trinity West – Natural Heritage System, the policies in Section 2.0 – Natural Heritage System of Volume 1 and USC-1 of Volume 3 shall also apply.



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**Volume 3 – USC-1**

1.0 In addition to the policies of Section C.2.0 – Natural Heritage System of Volume 1, the following policies shall apply to the lands located [within] the entire Feeder Area as identified in Figure 2 to the Eramosa Karst ANSI report (Buck, Worthington and Ford, 2003) shown as Area Specific USC-1 on Map SC-1:

a) The Eramosa Karst Area of Natural and Scientific Interest (ANSI) has been divided into various zones, with different levels of protection. The Core Area includes the highest density of significant features and has been identified as a Core Area in the Natural Heritage System. The Feeder Area includes all of the watersheds for streams that contribute flow to the provincially significant karst systems in the Core Area. The Feeder Area provides water flows which are important to the continued functioning and development of the karst features within the Core Area.

b) Notwithstanding Section C.2.0 – Natural Heritage System of Volume 1, the Feeder Area shall be afforded a level of protection to ensure that:

- i) the flows of the creeks into the Core Area are substantially maintained (i.e. stream discharge including low flow and high flow characteristics and discharge response to runoff events);
- ii) water quality is improved (i.e. primarily a reduction in sediment load); and,
- iii) protective measures are employed to reduce the risk of contamination of surface streams by substances that would significantly impact groundwater and the karst.

c) Notwithstanding Section C.2.0 – Natural Heritage System of Volume 1, no development shall occur within the Feeder Area unless it can be shown, through technical studies completed to the satisfaction of the City, the Province and the Conservation Authority, that these objectives shall be met. Individuals who review these studies must have expertise in environmental hydrology and geomorphology, and civil engineering.

**Zoning By-law City of Hamilton 05-200**

The subject site is zoned “C5, 589” (Mixed Use Medium Density) which permits the use.

**Variance 1**

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.

The intent of this provision is to ensure the privacy of ground floor residential units by reinforcing a clear physical delineation between the residential use and public realm.

Staff are of the opinion that the variance maintains the general intent of the By-law as a physical delineation between the residential dwelling and public realm is being maintained. Staff note that the



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proposal is still providing 0.5 metres above grade, which provides an elevation for the units from the street level. Staff further note that the majority of the units are setback greater than 3.0 metres from the lot line, which provides a transition between the public and private realm. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Based on the foregoing, **staff support the variance.**

## **Variance 2**

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.

The intent of this provision is to provide a distance separation reinforcing a clear physical delineation between a residential unit and a street and to ensure sufficient space to allow for entering and exiting the residential dwelling.

Staff note that only a small portion of the building containing a residential dwelling unit on the ground floor is less than the required 3.0 metre setback due to the subject site being a corner lot and setbacks from the daylighting triangle. Furthermore, staff note that there will be additional buffer between the lot line and street within the public realm that will provide a distance separation between the residential unit and street. Staff are of the opinion that the general intent of the By-law is being maintained as sufficient space is being provided between the residential dwelling and street line. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Staff note that if the variance is approved that a condition be added to the approval that the variance only apply to the portion of the building as identified on submitted site plan titled "Site Plan" dated 2023.12.08. Based on the foregoing, **staff support the variance.**

## **Variance 3**

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.

The intent of this provision is to ensure sufficient space is provided for access, grading, and to ensure that proper massing is being provided. Staff defers any grading concerns to Development Engineering.

Staff note that the technical rear yard for the corner lot is the eastern lot line, which acts as the subject sites side yard. Staff are of the opinion that the variance maintains the general intent of the By-law as sufficient access and massing is being proposed. Staff note that only a small portion of a retaining wall in the northeast corner of the subject lands, projecting up to 1.2 metres above grade, requires the variance within the rear yard. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Staff note that if the



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variance is approved that a condition be added to the approval that the variance only apply to the portion of the building as identified on submitted site plan titled "Site Plan" dated 2023.12.08. Based on the foregoing, **staff support the variance.**

## Variance 4

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.

The intent of this provision is to ensure sufficient space is provided for access, grading, and to ensure that proper massing is being provided. Staff defers any grading concerns to Development Engineering.

Staff note that due to the technical interior side yard is the north lot line, which acts as the rear yard. Staff are of the opinion that the variance maintains the general intent of the By-law as sufficient access and massing is being proposed. Staff note that only the rear portion of a retaining wall in the northeast corner of the subject lands, projecting up to 1.2 metres above grade, requires the variance within the side yard. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Staff note that if the variance is approved that a condition be added to the approval that the variance only apply to the portion of the building as identified on submitted site plan titled "Site Plan" dated 2023.12.08. Based on the foregoing, **staff support the variance.**

## Variance 5

5. A maximum building height of 28.2 metres shall be provided instead of the maximum permitted 27.0 metres.

The intent of this provision is to limit massing and the height of the dwelling to ensure compatibility to the surrounding uses.

The complete application for site plan was received and conditionally approved prior to OPA 167. Conditional site plan approval was granted for a development which was consistent with the intent of the official plan as it read prior to OPA 167. Staff note that note that urban design staff have comprehensively reviewed the proposal and have no concerns regarding the height or massing.

Staff are of the opinion that the variance maintains the general intent of the By-law as the increase of 1.2 metres will not create negative massing to adjacent properties and will be compatible with the surrounding and future uses. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Based on the foregoing, **staff support the variance.**



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## Variance 6

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.

The intent of this provision is to provide a visual planting buffer between an institutional use and parking lot.

Staff are of the opinion that the variance maintains the general intent of the By-law as the 1.4m wide planting strip will provide a buffer between an institutional use and parking lot. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Based on the foregoing, **staff support the variance.**

## Variance 7

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

The intent of this provision is to ensure no obstructions are placed within the visual buffer.

Staff note that the underground garage vent and hydro transformer is located at the corner of the subject site and has been identified to be screened from public view as well as having a planting strip between the transformer and street line. Staff are of the opinion that the variance maintains the general intent of the By-law as the transformer and vent will be screened from the public view and will not interfere with the proposed planting strip. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Based on the foregoing, **staff support the variance.**

## Variance 8

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.

Staff note that due to the subject site being a corner lot, the technical interior side lot yard is proposed to function as the front lot line. Staff defers any visibility concerns to Transportation Planning staff. Staff are of the opinion that the variance maintains the general intent of the By-law as sufficient visibility will be proposed. Staff note that only a small portion of the building will project into the required side yard. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative



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impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Staff note that if the variance is approved that a condition be added to the approval that the variance only apply to the portion of the building as identified on submitted site plan titled "Site Plan" dated 2023.12.08. Based on the foregoing, **staff support the variance.**

## Variance 9

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.

The intent of this provision is to limit rooftop amenity and to ensure that the rooftop amenity area is screened away from the rooftop edge.

Staff are of the opinion that the variance maintains the general intent of the By-law as the proposed amenity area will still be less than the floor area beneath it and will be sufficiently screened away. Staff are of the opinion the variance is minor in nature and desirable for the development as no negative impacts are anticipated to the subject site or surrounding area. Staff are of the opinion that the variance meets the four tests of a minor variance. Based on the foregoing, **staff support the variance.**

## Zoning:

|                      |   |
|----------------------|---|
| Recommendation:      | Comments Only   |
| Proposed Conditions: |   |
| Comments:            | <ol style="list-style-type: none"> <li>1. The variances are necessary to facilitate Site Plan Control Application DA-21-017.</li> <li>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.</li> <li>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.</li> <li>4. Please be advised a portion of the property falls under Hamilton Conservation Authority regulated lands.</li> </ol> |
| Notes:               |   |





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**Development Engineering:**

|                      |              |
|----------------------|--------------|
| Recommendation:      | No Comments. |
| Proposed Conditions: |              |
| Comments:            |              |
| Notes:               |              |

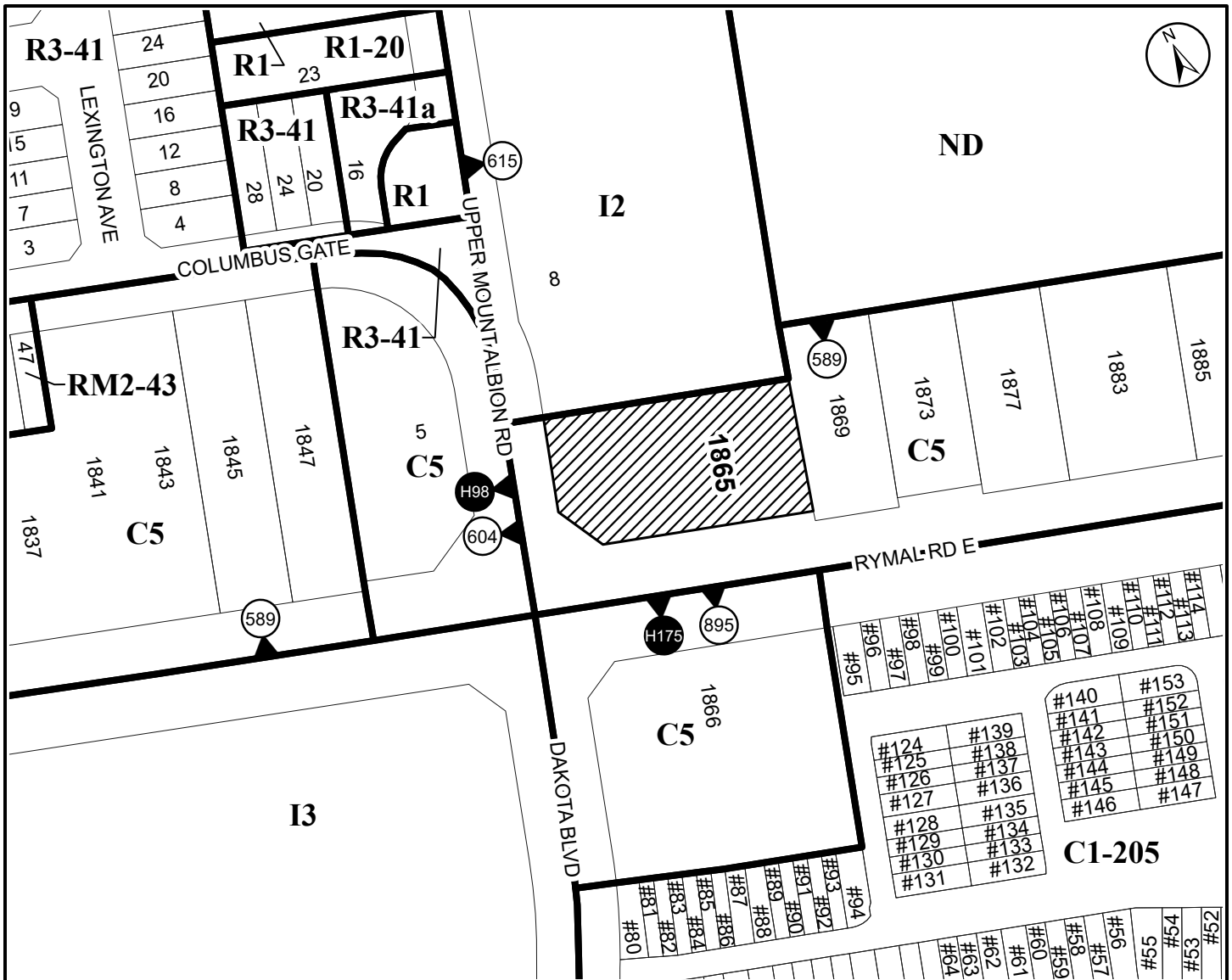
**Building Engineering:**

|                      |  |
|----------------------|--|
| Recommendation:      | Comments Only  |
| Proposed Conditions: |  |
| Comments:            |  |
| Notes:               | <p>A building permit is required for the construction of the proposed eight (8) storey mixed use building.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p> |

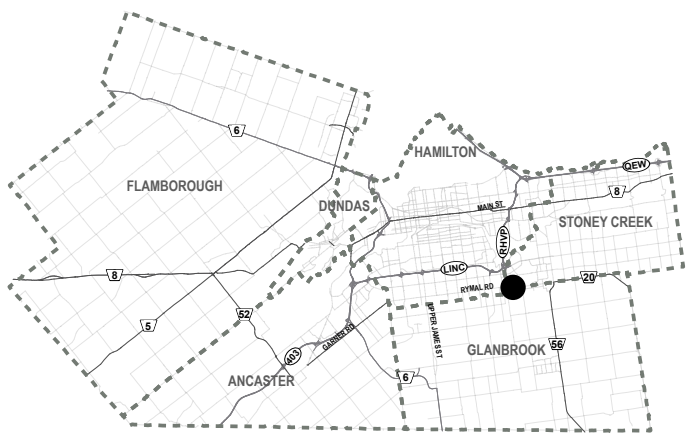
**Transportation Planning:**

|                      |         |
|----------------------|---------|
| Recommendation:      | Approve |
| Proposed Conditions: |         |
| Comments:            |         |
| Notes:               |         |

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



● Site Location



**City of Hamilton**

# Committee of Adjustments

## Subject Property



1865 Rymal Road East,  
Stoney Creek (Ward 9)

File Name/Number:

HM/A-23:261

Date:

September 9, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



**Hamilton**