

## **NOTICE OF PUBLIC HEARING** **Minor Variance**

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**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
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**APPLICATION NO.:** HM/A-19:260

**APPLICANTS:** Zelinka Priamo Ltd. c/o Katelyn Crowley on behalf of the owner  
CP Reit Ontario Properties Limited Trustee

**SUBJECT PROPERTY:** Municipal address **65 Mall Road, City of Hamilton**

**ZONING BY-LAW:** Zoning By-law 05-200, as Amended

**ZONING:** "C4" (Mixed Use High Density (C4) Zone)

**PROPOSAL:** To permit a Seasonal Garden Centre, including tents, accessory to the existing Retail Store (Fortino's) notwithstanding that:

1. The Seasonal Garden Centre shall be permitted to occupy a maximum of 17.1% the total number of parking spaces provided instead of the requirement that a Seasonal Garden Centre shall not occupy more than 10% of the total number of provided parking spaces.

**NOTE:**

- i) The Seasonal Garden Centre occupies 80 parking spaces of the 469 parking spaces provided on the site.

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

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**DATE:** Thursday, July 9th, 2020

**TIME:** 2:05 p.m.

**PLACE:** Via video link or call in (see attached sheet for details)

To be streamed at [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)  
for viewing purposes only

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**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](http://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](mailto:cofa@hamilton.ca)

DATED: June 23rd, 2020.

*Original Signed*

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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.***



19-134203



Hamilton

Planning and Economic Development Department  
Planning Division

**Committee of Adjustment**  
City Hall  
5<sup>th</sup> 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.**

<b>FOR OFFICE USE ONLY.</b>	
APPLICATION NO. <u>HM1A-19:260</u>	DATE APPLICATION RECEIVED <u>July 11/19</u>
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.



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

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

_____	Postal Code _____
_____	
_____	Postal Code _____

6. Nature and extent of relief applied for:  
Relief form the Zoning By-law to permit a temporary garden centre to make use of more  
than 10% of the provided parking spaces on the site. The garden centre will operate April 15th-July 15th annually.  
The temporary tents make use of 80 parking spaces where it is only permitted to occupy 46 spaces.
7. Why it is not possible to comply with the provisions of the By-law?  
Due to the standard size of the garden centre which has been in operation for 15 years, the  
garden centre is not able to be relocated on the site in an area which takes up less than  
80 spaces. The temporary tent use is compliant with all other provisions of the Zoning By-law  
according to Section 4.18 c).
8. Legal description of subject lands (registered plan number and lot number or other  
 legal description and where applicable, street and street number):  
65 Mall Road, Hamilton
9. PREVIOUS USE OF PROPERTY
- Residential ☐ Industrial ☐ Commercial ☒  
 Agricultural ☐ Vacant ☐  
 Other ☐
- 9.1 If Industrial or Commercial, specify use  
Retail - Grocery Store
- 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 ☒ 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?  
N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 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.

\_\_\_\_\_  
Date

See Attached Authorization  
\_\_\_\_\_  
Signature Property Owner

\_\_\_\_\_  
Print Name of Owner

10. Dimensions of lands affected:  
Frontage 155.0m  
Depth 210.0m  
Area 3.43 ha  
Width of street N/A
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: See attached site plan  
  
  
  
Proposed: See attached site plan
12. Location of all buildings and structures on or proposed for the subject lands;  
(Specify distance from side, rear and front lot lines)  
Existing: See attached site plan  
  
  
  
Proposed: See attached site plan

13. Date of acquisition of subject lands:  
N/A
14. Date of construction of all buildings and structures on subject lands:  
N/A
15. Existing uses of the subject property: The lands are currently occupied by a Fortinos food store.
16. Existing uses of abutting properties: Mixed Use Medium Density (i.e. Scotiabank, LCBO, Dynacare); Neighbourhoods (i.e. single-detached dwellings); Additional Mixed Use High Density (i.e. CF Lime Ridge Mall)
17. Length of time the existing uses of the subject property have continued:  
N/A
18. Municipal services available: (check the appropriate space or spaces)  
 Water X Connected X  
 Sanitary Sewer X Connected X  
 Storm Sewers X
19. Present Official Plan/Secondary Plan provisions applying to the land:  
Mixed Use High Density
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:  
Mixed Use High Density (C4)
21. Has the owner previously applied for relief in respect of the subject property?  
☒ Yes ☐ No  
 If the answer is yes, describe briefly.  
A minor variance was applied for and granted in 2008 (HM/A-08:140) for a reduction in required parking under By-law 6593.
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?  
☐ Yes ☒ No
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.

**SWORN DECLARATION**


Commissioner of Oaths.

\_\_\_\_\_ of the \_\_\_\_\_ City \_\_\_\_\_ of \_\_\_\_\_ County \_\_\_\_\_ of \_\_\_\_\_ Middlesex \_\_\_\_\_

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 \_\_\_\_\_ London \_\_\_\_\_ )  
in the \_\_\_\_\_ County \_\_\_\_\_ )  
of \_\_\_\_\_ Middlesex \_\_\_\_\_ )  
this \_\_\_\_\_ 23 \_\_\_\_\_ day of \_\_\_\_\_ May \_\_\_\_\_ A.D. 20 \_\_\_\_\_ 19 \_\_\_\_\_ )

 **RICHARD HENRY ZELINKA, a Commissioner, etc.,**  
A Commissioner, etc. \_\_\_\_\_ County of Middlesex, for Zelinka Priamo Ltd.  
Expires March 28, 2021

**PART 25 OWNERS AUTHORIZATION**

As of the date of this application, I (NAME) \_\_\_\_\_ See Attached Authorization \_\_\_\_\_ 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:

\_\_\_\_\_ of \_\_\_\_\_  
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 \_\_\_\_\_ SIGNED \_\_\_\_\_

**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, \_\_\_\_\_ See Attached Authorization \_\_\_\_\_, 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.

\_\_\_\_\_  
Date Signature of Owner



**PART 27 PERMISSION TO ENTER**

Date: May 23<sup>rd</sup>, 2019


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

Dear Secretary/Treasurer;

Re: Application to Committee of Adjustment

Location of Land: 65 Mall Road, Hamilton  
(Municipal address)

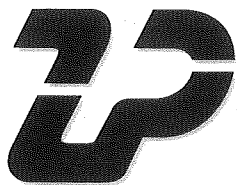
I hereby authorize the members of the Committee of Adjustment and members of the staff of the City of Hamilton to enter on to the above-noted property for the limited purposes of evaluating the merits of this application.

  
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, 1<sup>st</sup> floor, 71 Main Street West, City Hall, Hamilton, Ontario, Telephone: 905-546-2424, ext. 1284.



**ZELINKA PRIAMO LTD**

*A Professional Planning Practice*

July 9, 2019

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

Attention: Committee of Adjustment Secretary-Treasurer

**Re: Application for Minor Variance  
Fortinos – 65 Mall Road  
Hamilton, Ontario  
Our File: LPL/GDN/HAM/99-03**

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Zelinka Priamo Ltd., on behalf of Loblaw Properties Limited, is pleased to submit an application for Minor Variance for the above-noted property (the "subject lands").

A minor variance (AN/A-08:140) was in place, however is now void because of the new Zoning By-law (05-200). Unfortunately when the property was reviewed through the comprehensive Zoning By-law review process the garden centre minor variances were missed.

The purpose of the minor variance application is to permit the operation of a temporary garden centre on the site. The Fortinos' garden centre program is operational during a 3 month period annually for the sale of seasonal garden products. The proposed location, as discussed, would require the use of 50 parking spaces to erect the temporary garden centre. As a result, the garden centre would occupy more than 10% of the parking spaces provided on the subject lands during the temporary operation of the garden centre. This location is located away from the entrance of the store and is not considered to be prime parking area for the store. As such, the overall impact on parking during this period is anticipated to be negligible.

We believe that the requested variance satisfies the four tests for consideration of a minor variance, as follows:

**Satisfies the intent of the Official Plan**

The subject lands are designated Mixed-Use High Density in the City of Hamilton Official Plan. This designation permits the day to day retail service that the temporary seasonal garden centre would provide to residents of the City of Hamilton. The proposed development of a temporary garden centre, on a small portion of the subject lands satisfies the intent of the Official Plan.

**Satisfies the intent of the Zoning By-law**

The subject lands are zoned Mixed Use High Density (C4). The proposed variance, which is required to make efficient use of the garden centre and space of the subject lands, satisfies the general intent of the Zoning By-law as the garden centre is an accessory use to the existing Fortinos' store.

**Is desirable for the appropriate use if the subject lands**

The proposed variance for the temporary garden centre to occupy more than 10% of the existing parking spaces utilizes the subject lands in a more efficient manner for the retail sale of greenery and garden supplies. The subject lands still retain sufficient parking spaces for the Fortinos' store during this time. Therefore, the proposed minor variance is desirable and appropriate for the efficient use of the subject lands.

**Is minor in nature**

The requested variance represents a minor decrease in parking spaces available for the existing Fortinos' market during the 3 month operation of the garden centre. No other relief is required from the regulations of Zoning By-law 05-200. It should be noted that this temporary garden centre has existed on the premises for several years with no known issues. The requested variance is minor in nature.

Please find enclosed the following in support of the application:

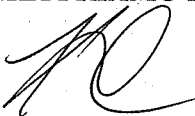
- Two (2) copies of the completed Application Form;
- One (1) copy of the Authorization Letter;
- Cheque in the amount of \$2,738.00, made payable to "The City of Hamilton"; and,
- Two (2) copies of the Site Plan (reduced to 11x17);

We trust that the enclosed information is complete and satisfactory and look forward to and appreciate the City's continued co-operation and support regarding the development of the Fortinos' in Hamilton's core area.

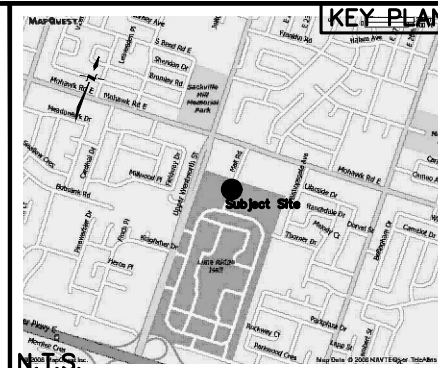
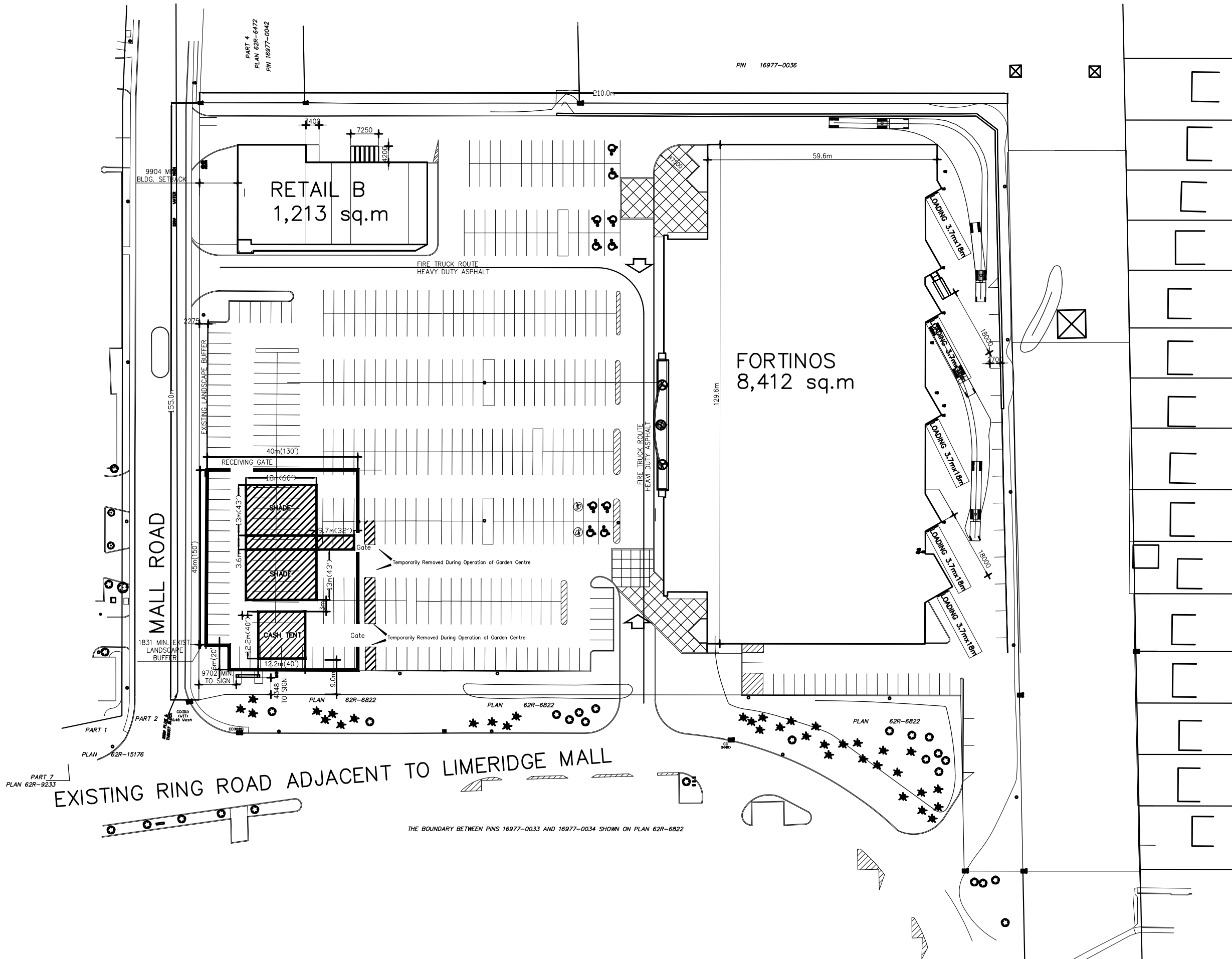
If you have any questions or require further information to process the application, please do not hesitate to call.

Yours very truly,

**ZELINKA PRIAMO LTD.**



Katelyn Crowley, BA  
Planner



## STORE 48

65 MALL ROAD  
Hamilton, Ontario



## GARDEN CENTRE + DETAILS

### SITE STATISTICS

RETAIL SITE AREA	±8.20	ACRES	±3.32	HA
ADDITIONAL SITE AREA	±1.03	ACRES	±0.42	HA
RETAIL SITE AREA	±9.23	ACRES	±3.74	HA
FORTINOS AREA	90,556	S.F.	8,412	S.M.
MEZZANINE (NIC)	2,918	S.F.	271.09	S.M.
RETAIL B AREA	13,057	S.F.	1,213	S.M.
TOTAL RETAIL AREA	103,613	S.F.	9,625.93	S.M.
SEASONAL GARDEN CENTRE	19,500	S.F.	1,800.00	S.M.
TOTAL PARKING OCCUPIED	80	SPACES	80	SPACES
PARKING PROVIDED(W/O)GC	469 CARS		469 CARS	
PARKING PROVIDED(W)GC	389 CARS		389 CARS	
COVERAGE	25.47	%		

NOTES ON FILE  
Minor Variance Application (HM/A-08:140) Approved - May 29/08

NO.	NOTES	DATE	INITIAL
3	MOVED TENT TO 9.0m SETBACK	MAR 5/14	MBC
2	ADDED NEW TENT	JUN 17/11	HG
1	CREATED DRAWING	Mar 19/08	HG

DRAWING AND INFORMATION TAKEN FROM:

**TURNER FLEISCHER Architects Inc.**

953A EGLINTON AVENUE EAST  
TORONTO, ONTARIO M4G 4B5

TEL: (416) 425-2222  
FAX: (416) 425-6717

FILE NAME: H:\PROJECTS\62R-6822\62R-6822-1.DWG  
PLOT DATE: 2008-05-14 10:00:00

**ZELINKA PRIMO LTD**  
A Professional Planning Practice

318 Wellington Road, London, Ontario N6C 4P4  
Tel: (519) 474-7137 Fax: (519) 474-2284 e-mail: zp@zpplan.com

DRAWN BY	HG	PROJECT NO.	LPL/GDN/HAM/99-03
DATE	April 2008	SCALE	1: 400