



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, 3935 Fax (905) 546-4202  
E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

# **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
- 

**APPLICATION NO.:** HM/A-20:113

**APPLICANTS:** Owner 2606043 Ont. Inc.

**SUBJECT PROPERTY:** Municipal address **1375 King St. E., Hamilton**

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

**ZONING:** "C2" (Neighbourhood Commercial) district

**PROPOSAL:** To permit the construction of a thirty-three (33) square metre commercial outdoor patio associated with an existing restaurant, notwithstanding that:

1. The proposed outdoor patio is to be located on a lot that abuts a Residential Zone ("E" Multiple Dwellings, Lodges, Clubs, Etc, "D" Urban Protected Residential – One and Two Family Dwellings, Etc., and "D/S-535" Urban Protected Residential – One and Two Family Dwellings, Etc.), instead of being located on a lot where the lot lines do not abut a Residential Zone, Downtown D5, or Downtown D6 Zone.

### NOTE:

Specific details regarding the seated capacity of the proposed outdoor patio have not been provided to confirm compliance with Section 4.20(b).

The proposed outdoor patio is to comply with Section 4.20(b) and Section 4.20(d) of Hamilton Zoning By-law 05-200.

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

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**DATE:** Thursday, July 16th, 2020

**TIME:** 3:40 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:

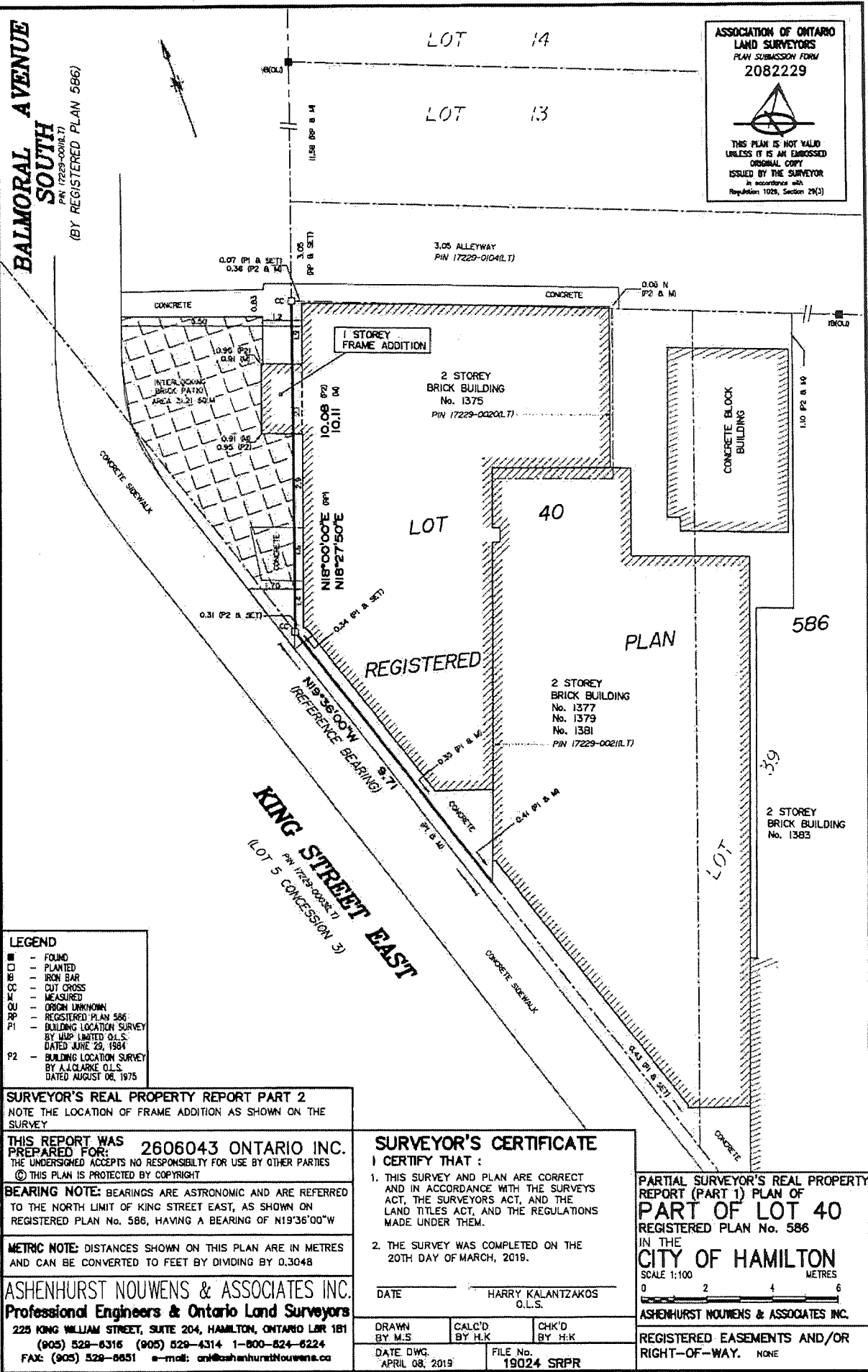
- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

DATED: June 30th, 2020.

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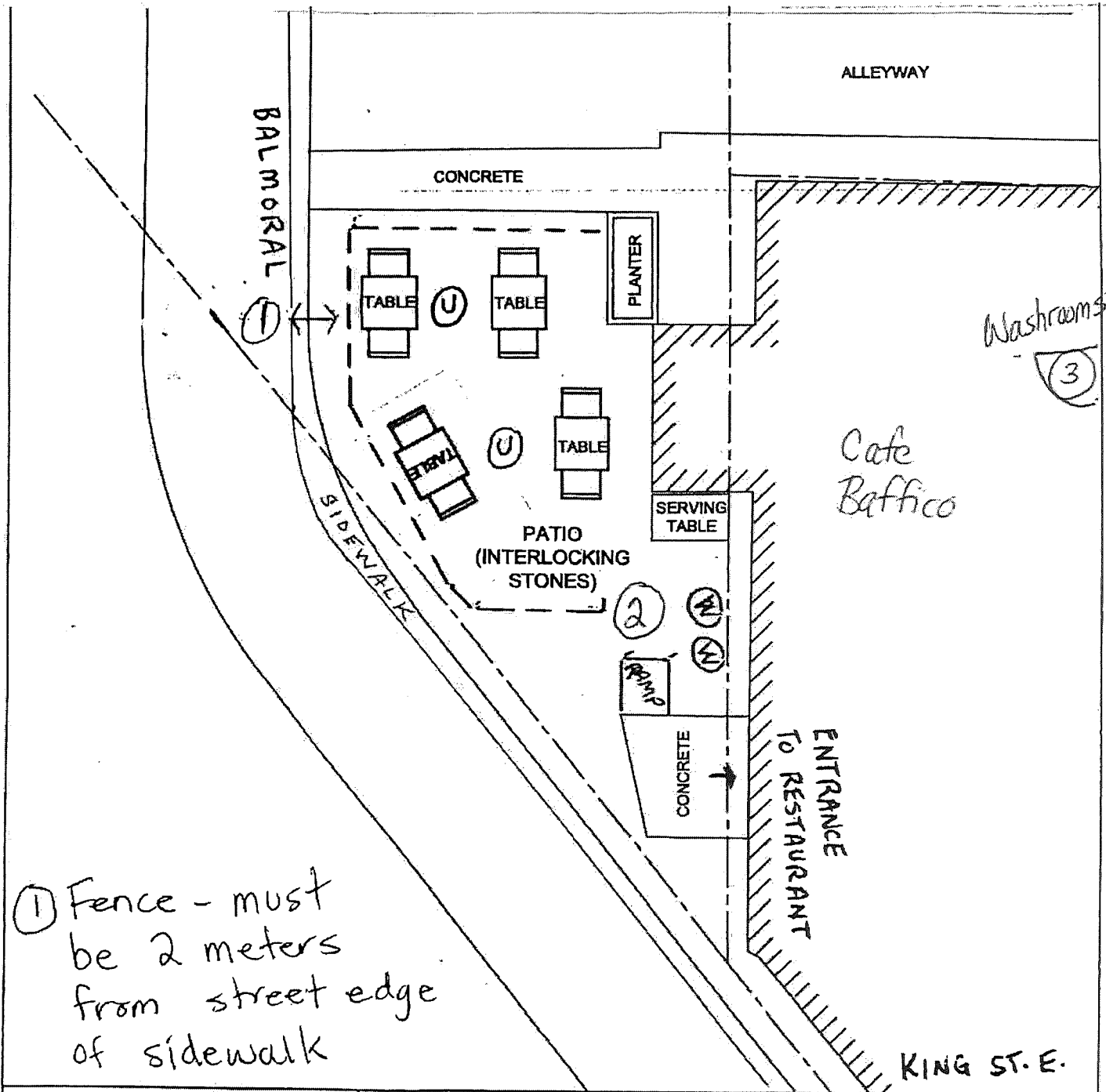
Jamila Sheffield,  
Secretary-Treasurer  
Committee of Adjustment

***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.***



HM/A-20:113  
Sketch 1

Residential apartment ↗ N.



JORDAN & SHERRI WEISZ	PROJECT: CAFE BAFFICO PATIO 1575 KING STREET EAST HAMILTON, ON	Date: 04/18	Scale: N.T.S.
	① Waste receptacle	Drawn by: SW	Checked by: JW
	② umbrella/stand	Drawing No. -	

- ② fence entrance to patio
- ③ indoor washrooms

Google Maps Balmoral Ave S



© 2019 Google

Hamilton, Ontario

Google

Street View

HM/A-20:113  
Sketch 3

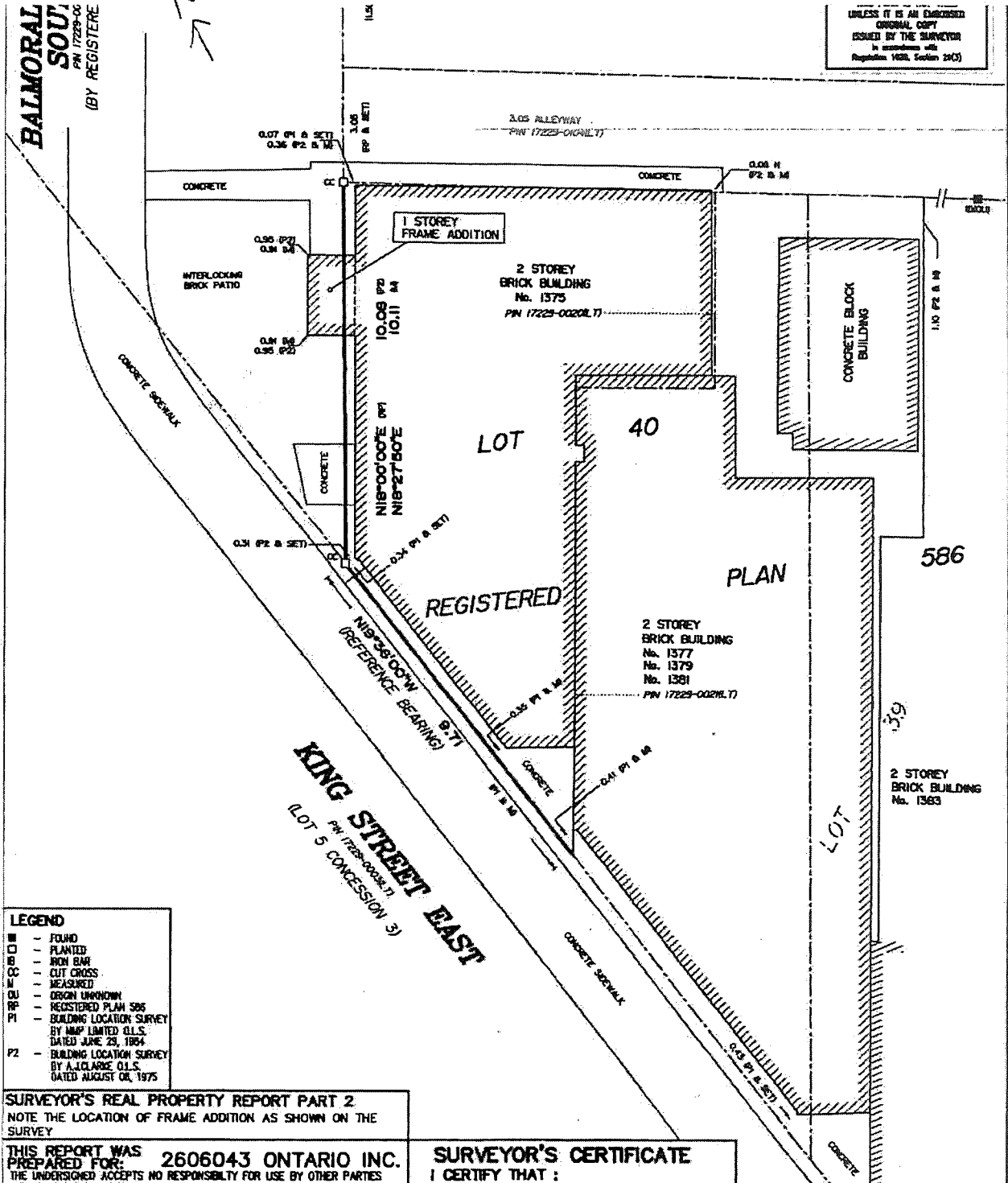
Cafe Baffico  
1375 King St. E.

Google Rd

Google

BALMORAL  
SOUTH  
PN 17229-00  
(BY REGISTRE)

UNLESS IT IS AN EMBOSSED  
ORIGINAL COPY  
ISSUED BY THE SURVEYOR  
IN ACCORDANCE WITH  
REGULATION 162, SECTION 24(3)



**LEGEND**

- FOUND
- PLANTED
- IRON BAR
- CUT CROSS
- MEASURED
- DESIGN UNKNOWN
- REGISTERED PLAN 586
- BUILDING LOCATION SURVEY BY MAP LIMITED O.L.S. DATED JUNE 28, 1984
- BUILDING LOCATION SURVEY BY A. J. LARSEN O.L.S. DATED AUGUST 08, 1975

**SURVEYOR'S REAL PROPERTY REPORT PART 2**  
NOTE THE LOCATION OF FRAME ADDITION AS SHOWN ON THE SURVEY

THIS REPORT WAS PREPARED FOR: **2606043 ONTARIO INC.**  
THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES  
© THIS PLAN IS PROTECTED BY COPYRIGHT

**BEARING NOTE:** BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE NORTH LIMIT OF KING STREET EAST, AS SHOWN ON REGISTERED PLAN No. 586, HAVING A BEARING OF N19°36'00"W

**METRIC NOTE:** DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

**ASHENHURST NOUWENS & ASSOCIATES INC.**  
Professional Engineers & Ontario Land Surveyors  
225 KING WILLIAM STREET, SUITE 204, HAMILTON, ONTARIO L8N 1B1  
(905) 529-4316 (905) 529-4314 1-800-824-8224  
FAX: (905) 529-6851 e-mail: [info@ashenhurstnouwens.ca](mailto:info@ashenhurstnouwens.ca)

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, AND THE LAND TITLES ACT, AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE 20TH DAY OF MARCH, 2019.

DATE: **APRIL 9, 2019**  
HARRY KALANTZAKOS  
P.L.S.

DRAWN BY M.S. CALC'D BY H.K. CHK'D BY H.K.  
DATE DWG. FILE NO.

**PARTIAL SURVEYOR'S REAL PROPERTY REPORT (PART 1) PLAN OF PART OF LOT 40 REGISTERED PLAN No. 586**

IN THE CITY OF HAMILTON

SCALE 1:100 METRES

ASHENHURST NOUWENS & ASSOCIATES INC.

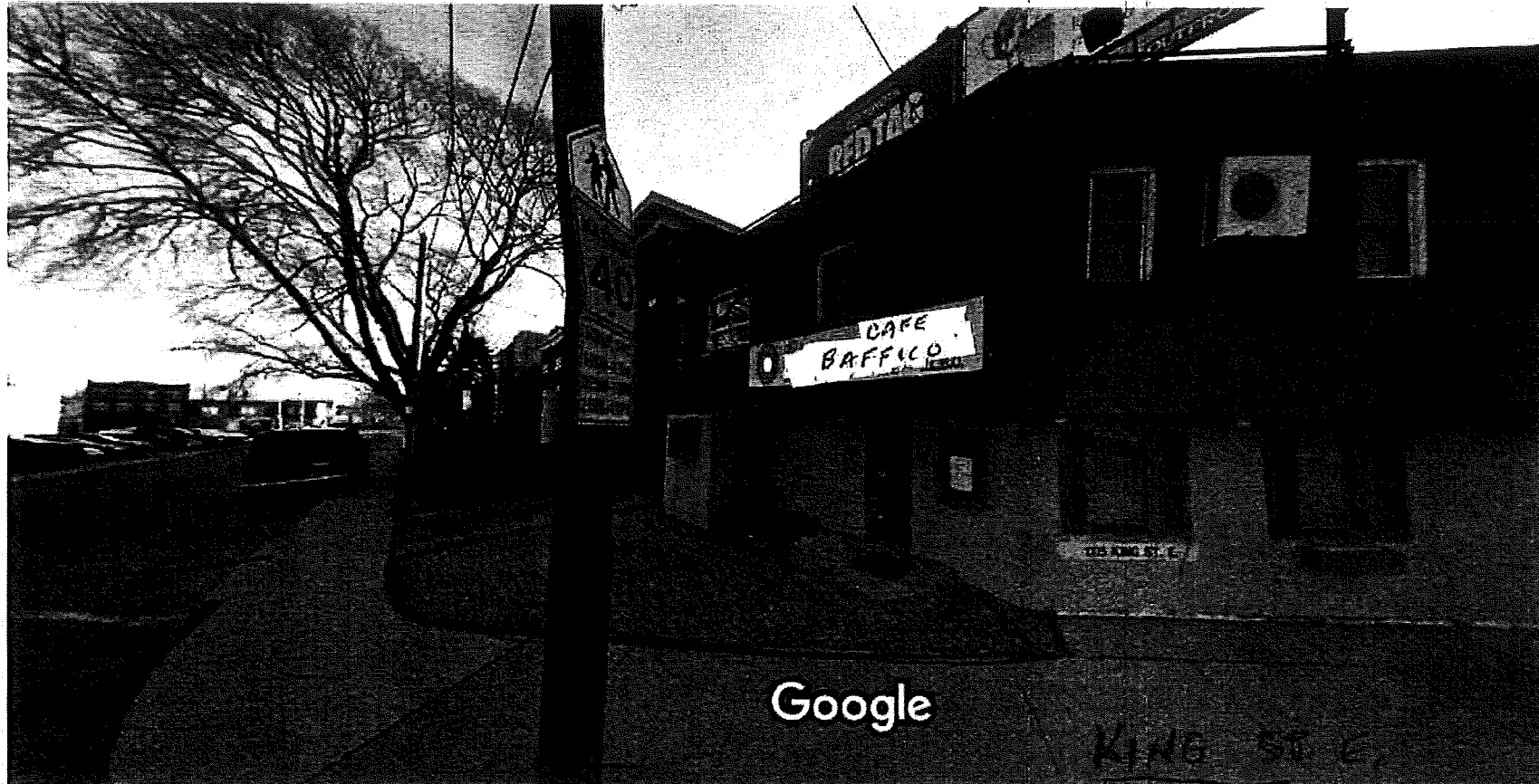
REGISTERED EASEMENTS AND/OR RIGHT-OF-WAY. NONE

Google Maps

1350 King St E  
CAFE BAFFICO

Street view

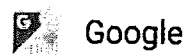
BALMORAL



Google

KING ST E

Hamilton, Ontario



Street View - Apr 2018

Image capture: Apr 2018 © 201

KING ST E.

b



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.**

**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.

1. Name of Owner 2606043 ONT. INC Telephone No. Sherri Weisz

2.

3.

4.

**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:

N/A

Postal Code \_\_\_\_\_

Postal Code \_\_\_\_\_



\*see attached letter

6. Nature and extent of relief applied for:

To allow an outdoor patio on the west side of building abutting a residential zone, whereby Hamilton by-law 05-200 does not permit an outdoor patio where lot lines abut a residential zone or laneway.

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

The only physical space for a patio is on the west side of the building adjacent to the residential zone to the north.

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

Part Lot 40, Plan 586  
1375 King St. E Hamilton ON L8M 1H6

9. PREVIOUS USE OF PROPERTY

Residential ☐ Industrial ☐ Commercial ☒

Agricultural ☐ Vacant ☐

Other ☐

- 9.1 If Industrial or Commercial, specify use restaurant

- 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 X

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 \_\_\_\_\_ Unknown X

9.11 What information did you use to determine the answers to 9.1 to 9.10 above?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

June 16, 2020  
Date

Signature Property Owner

Sherri Weisz  
Print Name of Owner

10. Dimensions of lands affected: - approx.

Frontage

10.2 m (King St)

Depth

18 m

Area

110 sq. m.

Width of street

13.5 m - King St, 8.3 m Balmoral

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:

2 storey building with interlocking stoned  
patio area facing Balmoral.  
Building - entire lot - 10.2 m x 18 m  
- 110 sq. m.

Proposed:

Patio area - approx 9 m x 5.5 m  
- 33 sq. metres.

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

Existing: Building abuts all property lines - 0 setbacks

Proposed: Patio is on road allowance

13. Date of acquisition of subject lands:  
NOVEMBER 29, 2017
14. Date of construction of all buildings and structures on subject lands:  
unknown
15. Existing uses of the subject property: basement + main street level - Cafe Baffico restaurant  
- 2nd level - apartment
16. Existing uses of abutting properties: N - residential apartments  
E - commercial
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 ✓ Connected \_\_\_\_\_  
Sanitary Sewer ✓ Connected \_\_\_\_\_  
Storm Sewers ✓ \_\_\_\_\_
19. Present Official Plan/Secondary Plan provisions applying to the land:  
N/A
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:  
re patio - by law 05-200
21. Has the owner previously applied for relief in respect of the subject property?  
Yes PATIO AREA ONLY No  
If the answer is yes, describe briefly.  
May 2019 - encroachment acknowledgement - approved  
March 2020 - outdoor patio agreement - approved
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?  
Yes No (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

2606043 ONTARIO INC  
1375 KING ST. EAST  
HAMILTON, ON L8M 1H6  
Tel: (647) 228-2161 [Sherlee555@gmail.com](mailto:Sherlee555@gmail.com)

June 15, 2020

Attention: Committee of Adjustment – Minor Variance Application - City of Hamilton

I am the owner of the commercial property at 1375 King St. East. The restaurant (Café Baffico) on the main floor is planning an outdoor patio. This process was started when we first opened in December 2018. We were granted an encroachment acknowledgement in May 2019 and had a patio, but, we were not allowed to serve liquor. In March of this year, we were granted the encroachment agreement for an outdoor patio - allowing us to apply for a liquor license. The liquor application is in process. The main stipulation for a liquor license is that the area needs to be fenced in. The AGCO contacted the city and we have since been advised that we may require a minor variance for the patio. The reason explained is that the restaurant is adjacent to both an alleyway and residential property.

The restaurant owner and I have spent a considerable amount of time and money to get the patio up and running for this summer. Of course due to the pandemic, there were obvious delays, but we hoped to have the patio and permits ready by the time the city opens up again. The patio is extremely important as the restaurant has only been open 1.5 years and is very small – interior with seating for 30 people. The restaurant had never provided take-out service – it is a small family run and family-friendly neighborhood restaurant. We have had a lot of support from the community. As we had closed our doors since mid-March, we have lost a lot of revenue and are hoping to recoup by the addition of the patio.

I received an email from the City on June 3 stating that there had been an oversight on the encroachment agreement, and a minor variance would be required. This was not only a shock but came at a very bad time, as we were in the process of fencing the area and purchasing other necessary equipment for the patio. After many conversations with Johanna Black (Planning) she was able to reach out to the various department and the Building department has agreed to support and sponsor our application. (emails attached)

Please find attached our application that we are hoping will be submitted for the July 16<sup>th</sup> hearing. Looking forward to a favourable outcome. Please let me know if you require further information.

Many thanks,

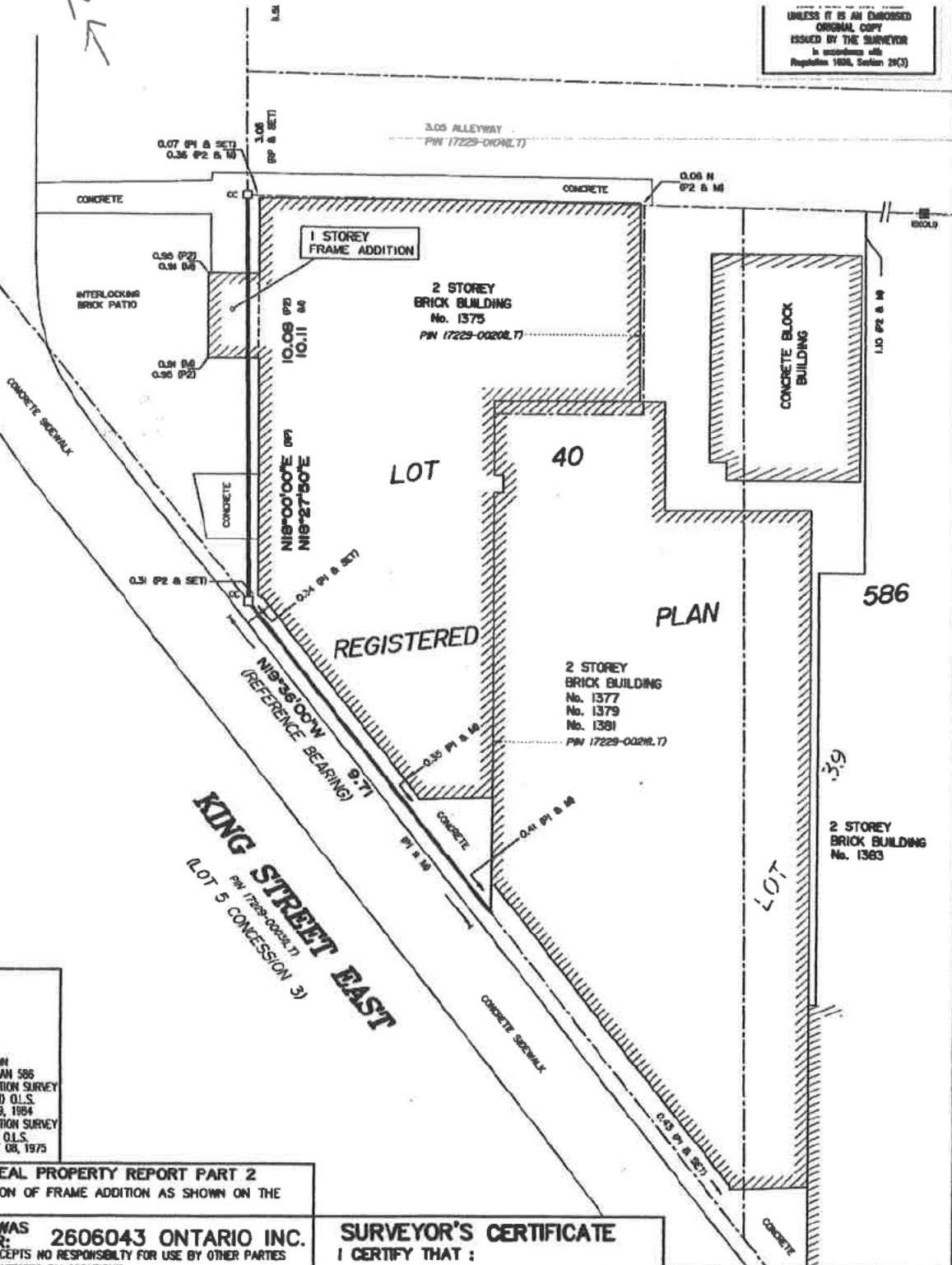
  
Sherri Weisz

2606043 Ontario Inc.

Encls.

**BALMORAL SOUTH**  
PIN 17229-00  
(BY REGISTERED)

UNLESS IT IS AN EMBOSSED  
ORIGINAL COPY  
ISSUED BY THE SURVEYOR  
IN ACCORDANCE WITH  
REGULATION 194, SECTION 29(3)



**LEGEND**

- - FOUND
- - PLANTED
- ▨ - IRON BAR
- ▩ - CUT CROSS
- M - MEASURED
- OU - ORIGIN UNKNOWN
- RP - REGISTERED PLAN 586
- P1 - BUILDING LOCATION SURVEY BY MNP LIMITED O.L.S. DATED JUNE 29, 1984
- P2 - BUILDING LOCATION SURVEY BY A. JOLARIE O.L.S. DATED AUGUST 08, 1975

**SURVEYOR'S REAL PROPERTY REPORT PART 2**  
NOTE THE LOCATION OF FRAME ADDITION AS SHOWN ON THE SURVEY

**THIS REPORT WAS PREPARED FOR:** 2606043 ONTARIO INC.  
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© THIS PLAN IS PROTECTED BY COPYRIGHT

**BEARING NOTE:** BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE NORTH LIMIT OF KING STREET EAST, AS SHOWN ON REGISTERED PLAN No. 586, HAVING A BEARING OF N19°36'00"W

**METRIC NOTE:** DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

**ASHENHURST NOUWENS & ASSOCIATES INC.**  
Professional Engineers & Ontario Land Surveyors  
225 KING WILLIAM STREET, SUITE 204, HAMILTON, ONTARIO L8R 1B1  
(905) 528-4316 (905) 528-4314 1-800-824-8224  
FAX: (905) 528-8851 e-mail: onl@ashenhurstnouwens.ca

**SURVEYOR'S CERTIFICATE**  
I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, AND THE LAND TITLES ACT, AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE 20TH DAY OF MARCH, 2019.

DATE APRIL 9, 2019  
HARRY KALANTZAKOS  
O.L.S.

DRAWN BY M.S.	CALC'D BY H.K.	CHK'D BY H.K.
DATE DWG. 10/01/19	FILE No. 10001	

**PARTIAL SURVEYOR'S REAL PROPERTY REPORT (PART 1) PLAN OF PART OF LOT 40**  
REGISTERED PLAN No. 586

IN THE CITY OF HAMILTON  
SCALE 1:100  
METRES  
0 2 4 6

ASHENHURST NOUWENS & ASSOCIATES INC.  
**REGISTERED EASEMENTS AND/OR RIGHT-OF-WAY.** NONE

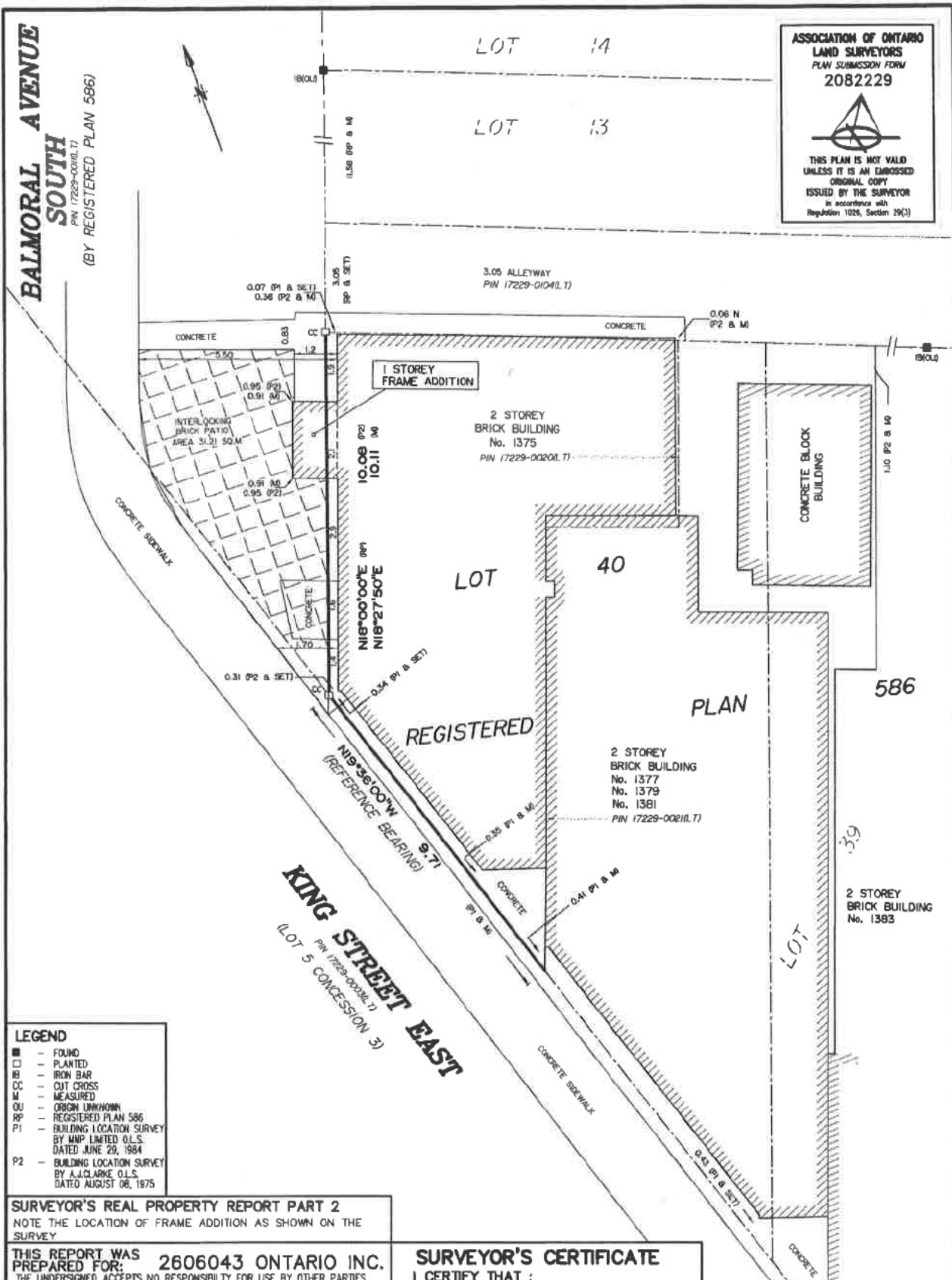
**BALMORAL AVENUE SOUTH**  
 (BY REGISTERED PLAN 586)

LOT 14  
 LOT 13

ASSOCIATION OF ONTARIO  
 LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 2082229



THIS PLAN IS NOT VALID  
 UNLESS IT IS AN EMBOSSED  
 ORIGINAL COPY  
 ISSUED BY THE SURVEYOR  
 in accordance with  
 Regulation 1026, Section 29(3)



**LEGEND**

■	FOUND
□	PLANTED
IR	IRON BAR
CC	CUT CROSS
M	MEASURED
OU	ORIGIN UNKNOWN
RP	REGISTERED PLAN 586
P1	BUILDING LOCATION SURVEY BY MNP LIMITED O.L.S. DATED JUNE 29, 1984
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 225 KING WILLIAM STREET, SUITE 204, HAMILTON, ONTARIO L8R 1B1  
 (905) 529-6315 (905) 529-4314 1-800-824-6224  
 FAX: (905) 529-6651 e-mail: ash@ashenhurstnouwens.ca

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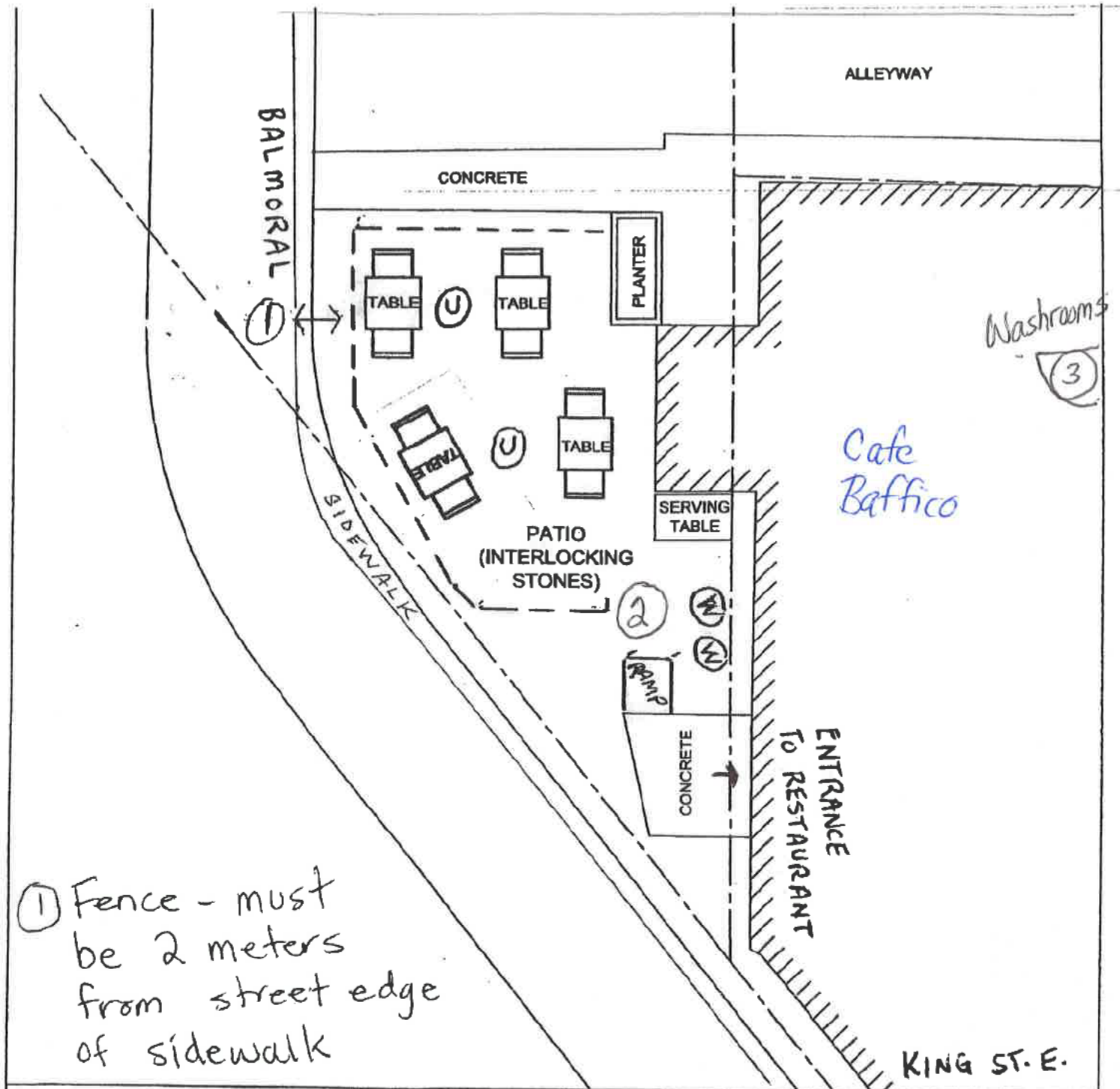
DATE \_\_\_\_\_ HARRY KALANTZAKOS  
 O.L.S.

DRAWN BY M.S. CALC'D BY H.K. CHK'D BY H.K.

DATE DWG. APRIL 08, 2019 FILE No. 19024 SRPR

**PARTIAL SURVEYOR'S REAL PROPERTY REPORT (PART 1) PLAN OF PART OF LOT 40 REGISTERED PLAN No. 586 IN THE CITY OF HAMILTON**  
 SCALE 1:100 METRES  
 0 2 4 6  
**ASHENHURST NOUWENS & ASSOCIATES INC.**  
 REGISTERED EASEMENTS AND/OR RIGHT-OF-WAY. NONE

Residential apartment ↗ N.



① Fence - must be 2 meters from street edge of sidewalk

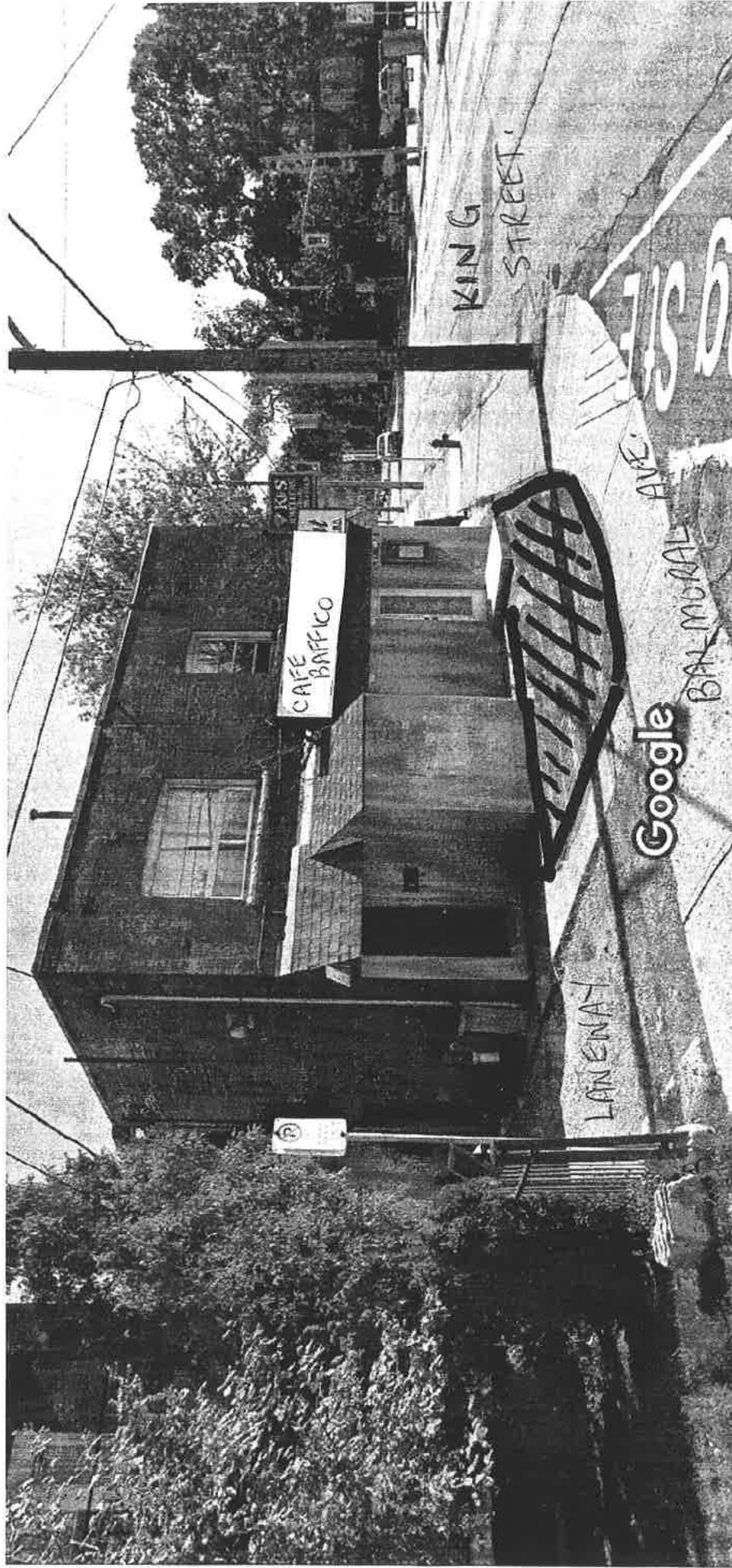
JORDAN & SHERRI WEISZ	PROJECT: CAFE BAFFICO PATIO 1370 KING STREET EAST HAMILTON, ON	Date: 04/18	Scale: N.T.S.
	<p>① Waste receptacle</p> <p>② umbrella/stand</p> <p>--- fence 36" ht</p>	Drawn by: SW	Checked by: JW
		Drawing No. -	

② fence entrance to patio

③ indoor washrooms



# Google Maps Balmoral Ave S



} © 2019 Google

Hamilton, Ontario

Google

Street View

Cafe Baffico  
1375 King St. E.



Google Maps

1350 King St E

CAFE BAFFICO

Street view

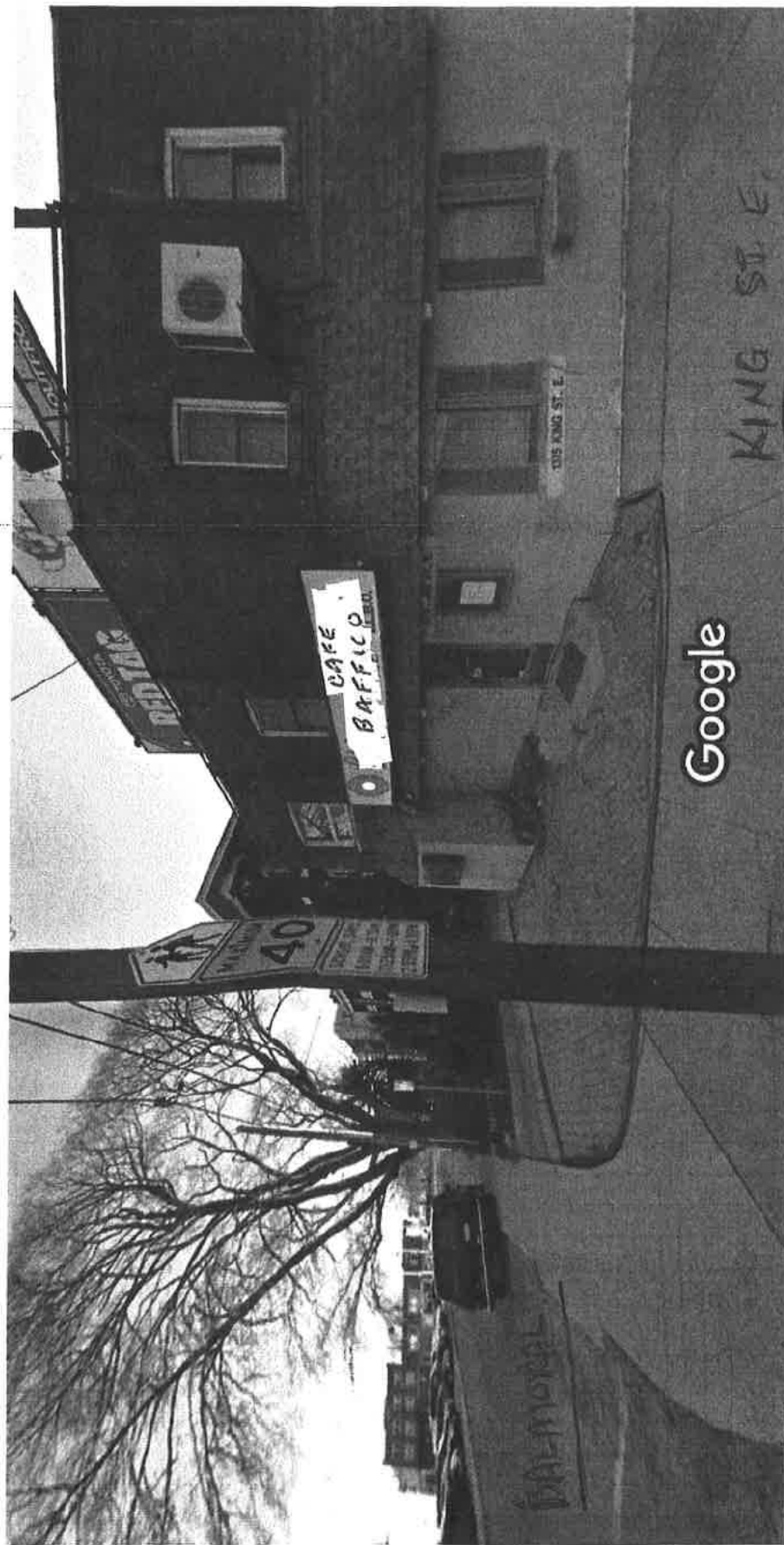


Image capture: Apr 2018 © 201

Hamilton, Ontario



Street View - Apr 2018