



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th 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

NOTICE OF PUBLIC HEARING **Minor Variance**

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-20:192

APPLICANTS: Kelsey Hammerton on behalf of the owner Dr. Mohammed Reza Noei

SUBJECT PROPERTY: Municipal address **612 Upper James St., Hamilton**

ZONING BY-LAW: Zoning By-law 05-200, as Amended by By-law 17-240

ZONING: "C5a" (Mixed Use Medium Density - Pedestrian Focus) district

PROPOSAL: To permit the conversion of an existing commercial building from a restaurant to a medical clinic on the ground floor comprising 148 square metres of gross floor area and two apartment dwelling units on the second floor, notwithstanding that:

Zoning By-law 05-200

1. The parking requirement for the medical clinic shall be 6 parking spaces instead of the required 9 parking spaces.
2. Parking spaces shall be permitted to be located not closer than 2.75 metres from a street line on Upper James Street and Genesee Street instead of the required 3 metres.
3. No planting strip shall be required between the street line and parking spaces on Upper James Street and Genesee Street instead of the required minimum 3.0 planting strip.
4. The minimum length of a tandem parking space shall be 5.1 metres instead of the minimum required 6.7 metres.
5. Parking spaces which are angled 35 degrees shall have minimum dimensions of 2.7 metres by 3.6 metres, whereas the Zoning By-law permits parking spaces to be angled at 30 degrees with minimum dimensions of 3.0 metres by 5.8 metres.
6. No barrier free parking space shall be required instead of the minimum required 1 barrier free parking space.
7. No short term bicycle parking shall be required instead of the minimum required 5 short term bicycle parking spaces.

Zoning By-law 05-200 (Pre-Amending By-law 17-240)

8. Parking spaces which are angled shall have a minimum length of 3.6 metres, whereas the Zoning By-law requires a minimum length of 5.5 metres.

NOTES:

1. Variance #1 was written by the applicant. Additional variances are applicable to parking and were identified through the review of the application.
2. By-Law 17-240 (Create New Commercial and Mixed Uses and Utility Zones for the City of Hamilton) was passed November 8, 2017, which also made changes to Section 5 (parking Regulations) of Hamilton 05-200 Zoning By-Law. The more restrictive zoning regulations have been noted by an asterisk in variance 5.
3. The C5a Zone permits dwelling units to be developed in conjunction with a commercial use. The two proposed dwelling units are greater in area than 50 square metres and require one parking space in the C5a Zone.
4. The submitted site plan does not show the distance of parking spaces to the street lines, the dimensions of parking spaces, and the aisle widths. Accordingly, additional information for these requirements has been provided by the applicant.
5. The subject property is identified in the City of Hamilton's Inventory of Heritage Buildings.
6. Concerning Variance #5, the Zoning By-law provides minimum aisle width requirements for angled parking spaces in Section 5.1(i). This does not cover 35 degree angled parking spaces. However, If the angle is 30 degrees, the minimum aisle width shall be 3.7m and for 45 degree spaces, the minimum aisle width shall be 4.5m.

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

DATE: Thursday, October 22nd, 2020
TIME: 3:10 p.m.
PLACE: Via video link or call in (see attached sheet for details)
To be streamed at www.hamilton.ca/committeeofadjustment
for viewing purposes only

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
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

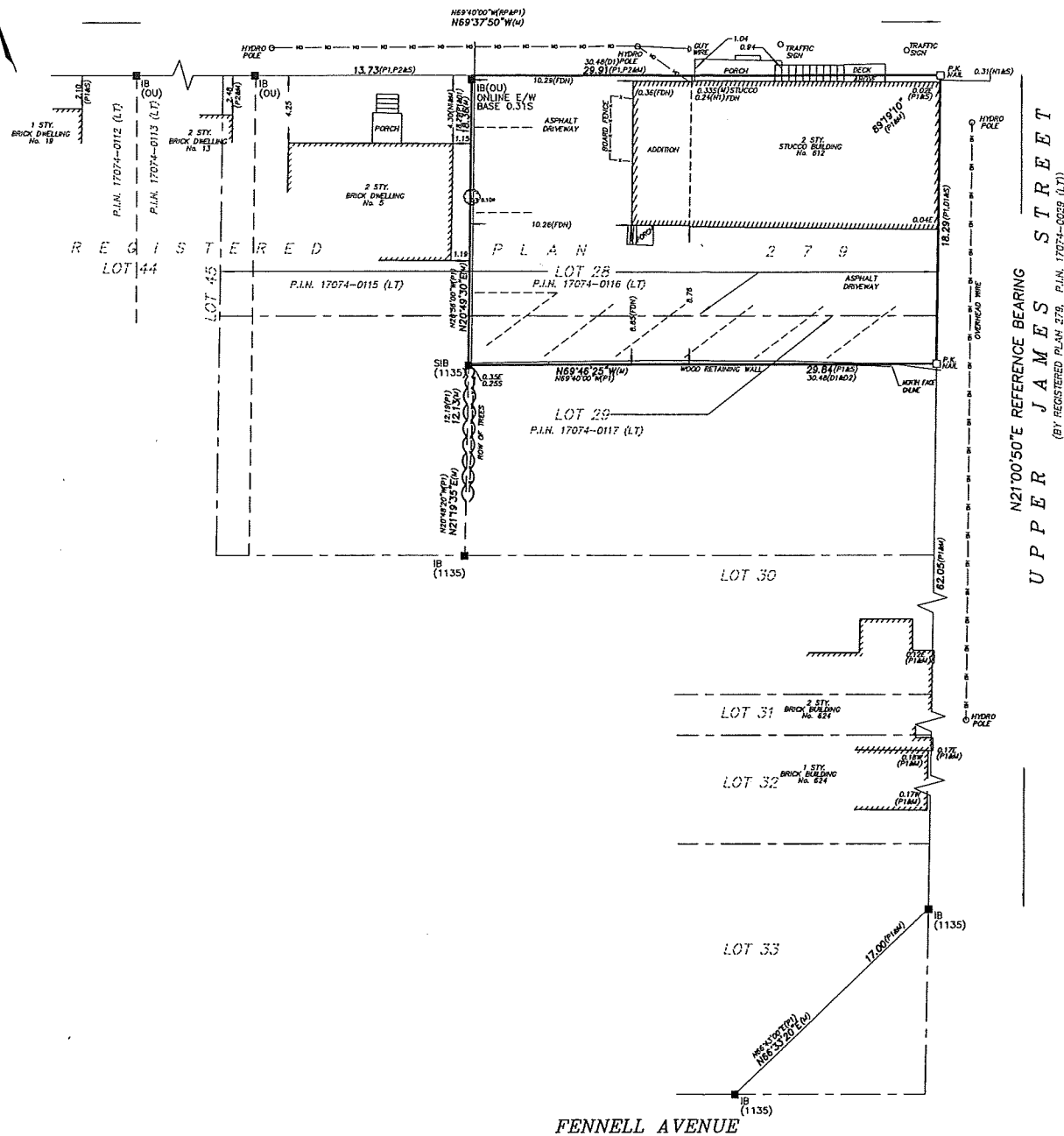
DATED: October 6th, 2020.


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.



GENESEE STREET
(BY REGISTERED PLAN 279, P.I.N. 17074-0105 (LT))

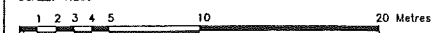


FENNEL AVENUE

SURVEYOR'S REAL PROPERTY REPORT,
PART 1
PART OF LOTS 28 & 29
BLOCK F
REGISTERED PLAN 279
IN THE
CITY OF HAMILTON

SCALE & NOTES

SCALE: 1:200



THOMAS GONDO
ONTARIO LAND SURVEYOR
© COPYRIGHT 2020

LEGEND

■	SURVEY MONUMENT FOUND
□	SURVEY MONUMENT PLANTED
IB	IRON BAR
SIB	STANDARD IRON BAR
OU	ORIGIN UNKNOWN
N-E-W-S	DENOTES NORTH - EAST - WEST - SOUTH
S	DENOTES SET
M	DENOTES MEASURED
RP	DENOTES REGISTERED PLAN 279
P1	DENOTES PLAN 62R18772
P2	DENOTES PLAN 62R2800
D1	DENOTES INST. No. CD293716
D2	DENOTES INST. No. AB232669
D3	DENOTES INST. No. CD444002
N1	DENOTES NOTES BY L.G. WOODS, O.L.S. DATED SEPT 05, 1984
FDN	DENOTES FOUNDATION
---	DENOTES SUBJECT LANDS BOUNDARY
---	DENOTES DEED LINE
---	DENOTES LOT LINE
---	DENOTES LIMIT OF STREET
-X-X-	DENOTES FENCE LINE
1135	DENOTES LAWRENCE GEORGE WOODS O.L.S.
---	DENOTES OVER HEAD WIRE

THIS PLAN WAS SIGNED WITH A SCANNED SIGNATURE AS A RESULT OF THE
EMERGENCY ORDER RELATED TO THE COVID-19 PANDEMIC

METRIC

DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES
AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

BEARING NOTE

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE WESTERLY
LIMIT OF UPPER JAMES STREET HAVING A BEARING OF N21°00'50"E
AS SHOWN ON PLAN 62R18772

PART 2 - SURVEY REPORT

- 1) THE FENCES ARE NOT ALWAYS ON THE PROPERTY LINES.
- 2) THE EASTERLY SIDE OF THE BUILDING ON THE SUBJECT PROPERTY IS ENCHROACHING THE STREET LIMIT AS SHOWN ON THE PLAN.
- 3) THE PORCH OF THE BUILDING ON SUBJECT PROPERTY IS ENCHROACHING THE STREET LIMIT AS SHOWN ON THE PLAN.

THIS SURVEY IS PREPARED EXCLUSIVELY FOR KELSEY HAMMERTON AND
THE UNDERSIGNED ASSUMES NO RESPONSIBILITY FOR USE BY OTHERS.

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 REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON AUGUST 06, 2020.

DATE: AUGUST 11, 2020.

THOMAS GONDO
ONTARIO LAND SURVEYOR

ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
2126236



THIS PLAN IS NOT VALID
UNLESS IT IS AN ENCLOSED
ORIGINAL COPY
ISSUED BY THE SURVEYOR
IN ACCORDANCE WITH
THE SURVEYS ACT



Lejan land Surveying Inc.
572 Barton Street
Stoney Creek, ON L8E 5N3
Phone: 905-643.6131

DWN BY: AS

CHK BY: TG

FOR No. 20-000



Hamilton

Planning and Economic Development Department
Planning Division

Committee of Adjustment
City Hall
5th 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.**

20-182719

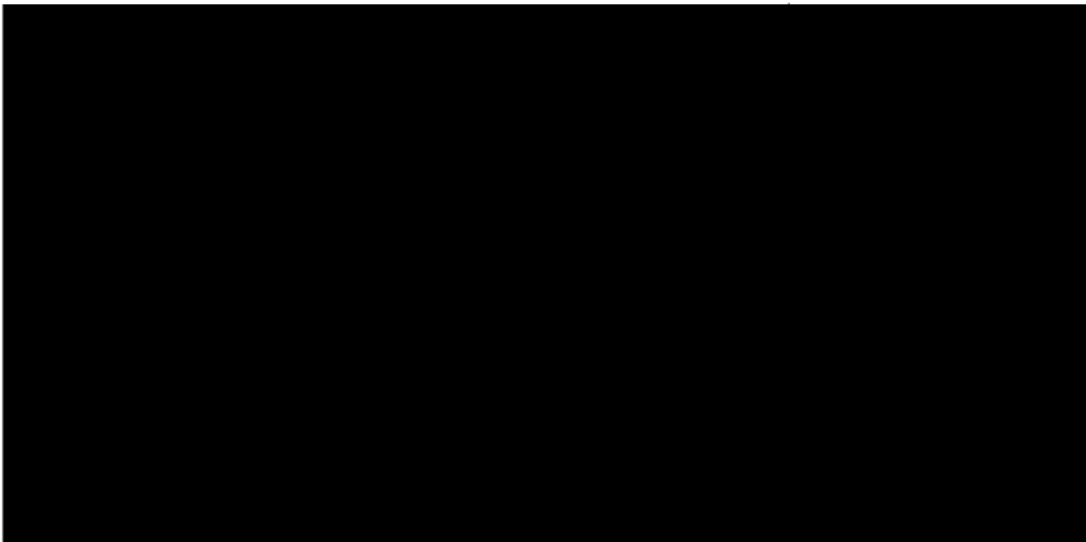
FOR OFFICE USE ONLY.	
APPLICATION NO. <u>Hm/A-20:192</u>	DATE APPLICATION RECEIVED <u>Sept. 8/20</u>
PAID _____	DATE APPLICATION DEEMED COMPLETE _____
SECRETARY'S SIGNATURE _____	

**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.



Postal Code L8N 4G7

Postal Code _____

6. Nature and extent of relief applied for:
ALLOW FOR 2 LESS PARKING SPOTS THAN REQUIRED BY BL-LAW
ACCORDING TO SQUARE FOOTAGE CALCULATION.
7. Why it is not possible to comply with the provisions of the By-law?
THERE IS NOT ENOUGH ROOM ON THE EXISTING LOT.
8. Legal description of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number):
612 UPPER JAMES ST, HAMILTON, ON, L9C 2Z1
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 ☒

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 ☒

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.

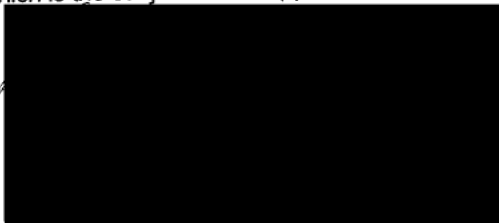
Is the previous use inventory attached? Yes ☐ No ☒

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.

2020-08-26

Date



10. Dimensions of lands affected:

Frontage 18.29 m
Depth 29.91 m
Area 548.10 sq m
Width of street

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: BUILDING AREA - GROUND FLOOR: 148 sq m, SECOND FLOOR: 119 sq m,
MEZZANINE, 40.5 sq m
NUMBER OF STORIES - 3
WIDTH - 29'-9" (9m), LENGTH: 64'-0" (19.5m)

Proposed: BUILDING AREA - GROUND FLOOR: 148 sq m, SECOND FLOOR: 119 sq m,
MEZZANINE, 40.5 sq m
NUMBER OF STORIES - 3
WIDTH - 29'-9" (9m), LENGTH: 64'-0" (19.5m)

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

Existing: FRONT: 0m, REAR: 10.28m, NORTH SIDE: 0.31m, SOUTH SIDE: 8.76m

Proposed: FRONT: 0m, REAR: 10.28m, NORTH SIDE: 0.31m, SOUTH SIDE: 8.76m

13. Date of acquisition of subject lands:

JANUARY 31, 2020

14. Date of construction of all buildings and structures on subject lands:

1917

15. Existing uses of the subject property:

UNKNOWN

16. Existing uses of abutting properties: RETAIL STORE & RESTAURANT

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

YES

Sanitary Sewer ☒

Connected

YES

Storm Sewers

19. Present Official Plan/Secondary Plan provisions applying to the land:

20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:

21. Has the owner previously applied for relief in respect of the subject property?

Yes

No

If the answer is yes, describe briefly.

22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?

Yes

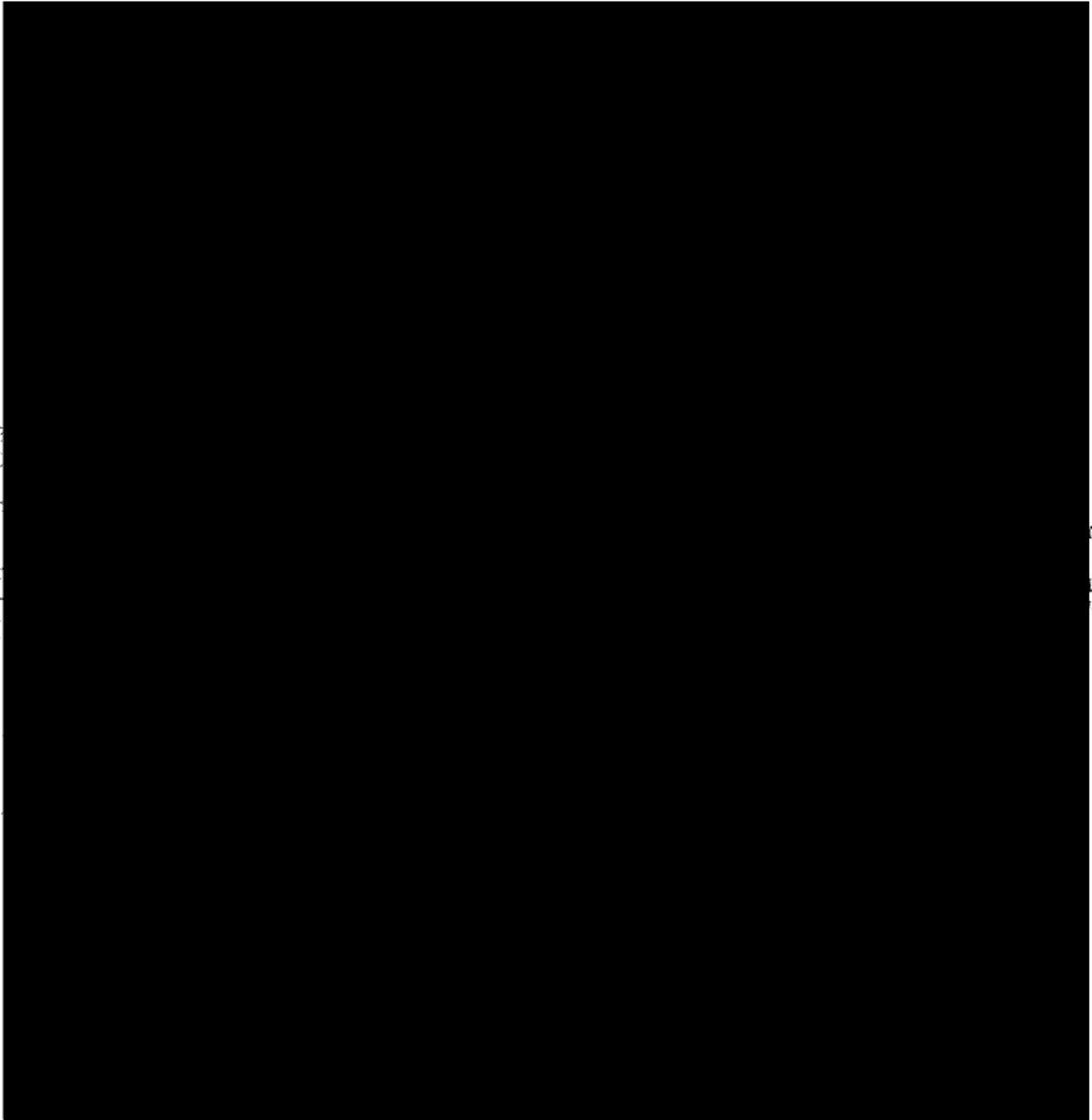
No

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.

PART 24 AFFIDAVIT OR SWORN DECLARATION



(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.

2020-08-26

Date

PART 27 PERMISSION TO ENTER

Date: _____

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

Dear Secretary/Treasurer;
Re: Application to Committee of Adjustment

Location of Land: _____
(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

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

CITY OF HAMILTON
COST ACKNOWLEDGEMENT AGREEMENT

This Agreement made this 8th day of SEPTEMBER, 20 20.

BETWEEN



Developer"

-and-

City of Hamilton

hereinafter referred to as the "City"

WHEREAS the Developer represents that he/she is the registered owner of the lands described in Schedule "A" attached hereto, and which lands are hereinafter referred to as the "lands";

AND WHEREAS the Developer has filed for an application for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval/minor variance.

AND WHEREAS it is a policy of the City that any City costs associated with an appeal to the Local Planning Appeal Tribunal, by a party other than the Developer, of an approval of a consent, rezoning, official plan amendment, plan of subdivision, and/or minor variance, such as, but not limited to, legal counsel costs, professional consultant costs and City staff costs, shall be paid by the Developer.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of two dollars (\$2.00) now paid by the City to the Developer, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. In this Agreement:

- (a) "application" means the application(s) for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval or minor variance dated _____ with respect to the lands described in Schedule "A" hereto.
- (b) "Expenses" means all expenses incurred by the City if the application is: (a) approved by the City; (b) appealed to the Local Planning Appeal Tribunal by a party other than the developer; and (c) the City appears before the Local Planning Appeal Tribunal or any other tribunal or Court in support of the application, including but not limited to: City staff time, City staff travel expenses and meals, City disbursements, legal counsel fees and disbursements and all consultant fees and disbursements including, without limiting the generality of the foregoing planning, engineering or other professional expenses

- 2. The City agrees to process the application and, where the application is approved by the City but appealed to the Local Planning Appeal Tribunal by a party other than the Developer, the Developer shall file an initial deposit, in the form of certified cheque or cash with the General Manager, Finance & Corporate Services within fifteen days of the date of the appeal of the application by a third party in the amount of 50% of the estimated expenses associated with the appeal as estimated by the City Solicitor in his sole discretion which shall be credited against the Expenses.

- 3. It is hereby acknowledged that if the deposit required pursuant to section 2 of this Agreement is not paid by the Developer the City shall have the option, at its sole discretion, of taking no further steps in supporting the Developer's application before the Local Planning Appeal Tribunal.

4. It is hereby acknowledged that all expenses shall be paid for by the Developer. The Developer shall reimburse the City for all expenses the City may be put to in respect of the application upon demand.
5. It is hereby acknowledged and agreed that all expenses shall be payable by the Developer whether or not the Developer is successful before the Local Planning Appeal Tribunal or any other tribunal or Court in obtaining approval for their application.
6. The City shall provide the Developer with copies of all invoices of external legal counsel or consultants included in the expenses claimed by the City.
7. The City shall provide the Developer with an accounting of all staff costs and City disbursements included in the expenses claimed by the City.
8. The City may, at any time, draw upon the funds deposited in accordance with sections 2 and 9 of this Agreement to satisfy expenses incurred pursuant to the appeal of the application.
9. In the event that the amount deposited pursuant to section 2 of this Agreement is reduced to less than 10% of the initial deposit, the City may halt all work in respect of the appeal of the application until the Developer deposits with the City a sum sufficient to increase the deposit to an amount which is equal to 100% of the expenses estimated pursuant to paragraph 2 of this Agreement and still to be incurred by the City.
10. Within 60 days of: (a) a decision being rendered in respect of the appeal or any legal proceedings resulting from the decision, whichever is later; or (b) the termination of all legal proceedings in respect of the application, the City shall prepare and submit a final account to the Developer. If there are any deposit funds remaining with the City they shall be applied against the account. Any amount owing in respect of the final account in excess of deposit funds shall be paid by the Developer within 30 days of the date of the final account. If any deposit funds are remaining after the final account has been paid they shall be returned to the developer within 30 days of the date of the final account.
11. This Agreement shall not be construed as acceptance of the application and nothing herein shall require or be deemed to require the City to approve the application.
12. This Agreement shall not stand in lieu of or prejudice the rights of the City to require such further and other agreements in respect of the application that the City may deem necessary.
13. Every term, covenant, obligation and condition in this Agreement ensures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors, trustees and assigns.
14. When the context so requires or permits, the singular number is to be read as if the plural were expressed, and the masculine gender as if the feminine, as the case may be, were expressed; and,
15. This Agreement and the schedules hereto constitute the entire agreement between the parties in respect of the subject matter contained herein and is not subject to, or in addition to, any other agreements, warranties or understandings, whether written, oral or implied. This Agreement may not be modified or amended except by instrument in writing signed by the Developer and the City, and,
16. The waiver or acquiescence by the City of any default by the Developer under any obligation to comply with this Agreement shall not be deemed to be a waiver of that obligation or any subsequent or other default under this Agreement.

17. The Developer covenants and agrees to be bound by the terms and conditions of this Agreement and not to seek a release from the provisions thereof until such time as the Developer's obligations hereunder have been assumed by its successor, assignee or transferee by way of written agreement in the form set out in Schedule "B" to this Agreement.

IN WITNESS WHEREOF the parties hereto have set their corporate seals under the hands of their duly authorized officers.

DATED at _____ this _____ day of _____, 20 ____.

WITNESS

Per:
I have authority to bind the corporation.

WITNESS

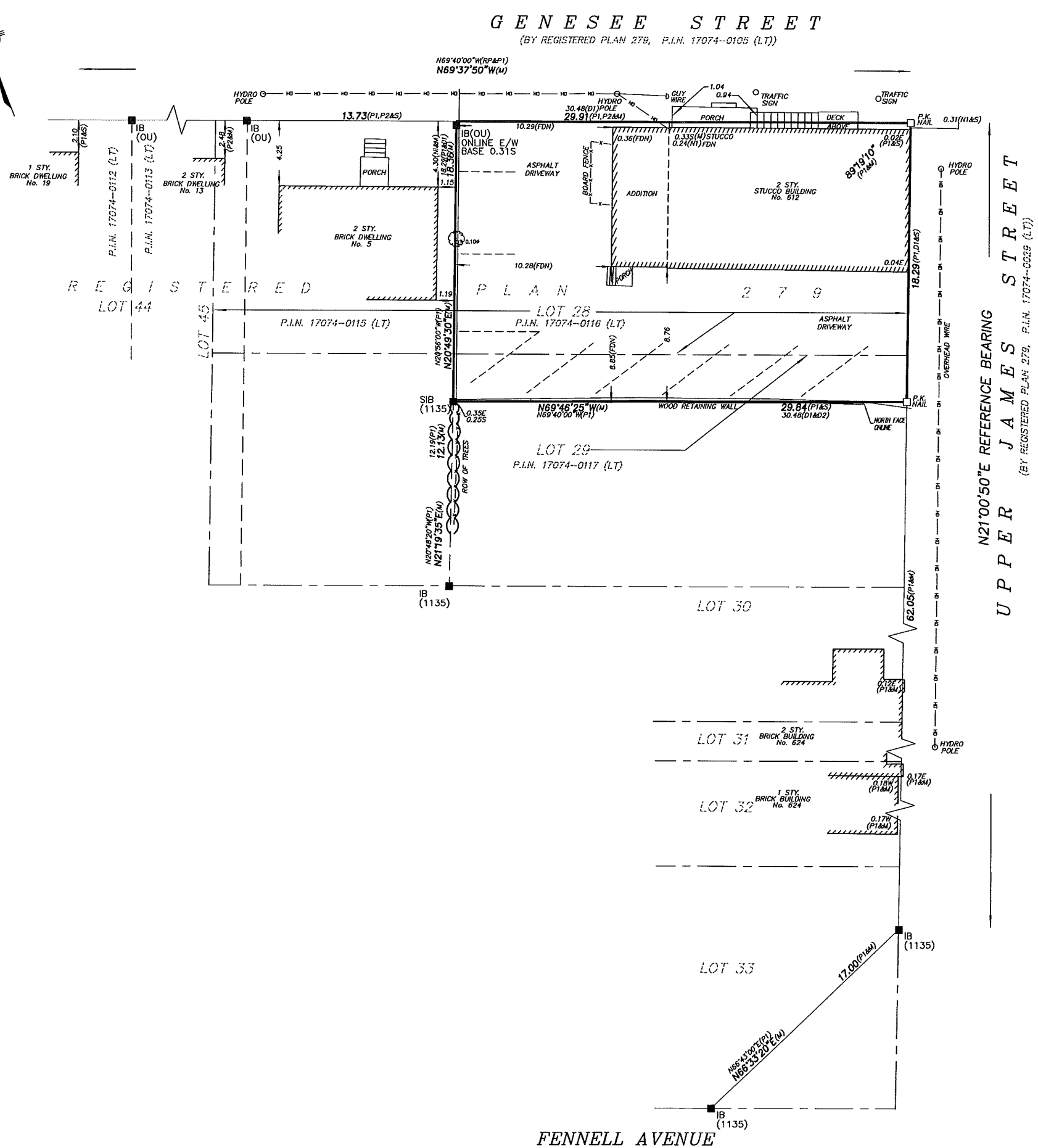
Per:
I have authority to bind the corporation

DATED at Hamilton, Ontario this ____ day of _____, 20____.

City of Hamilton

Per: _____
Mayor

Per: _____
Clerk



SURVEYOR'S REAL PROPERTY REPORT,
PART 1
PART OF LOTS 28 & 29
BLOCK F
REGISTERED PLAN 279
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SCALE & NOTES
SCALE: 1:200
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ONTARIO LAND SURVEYOR
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SURVEYOR'S CERTIFICATE
I CERTIFY THAT
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2. THE SURVEY WAS COMPLETED ON AUGUST 06, 2020.

DATE: AUGUST 11, 2020.
THOMAS GONDO
ONTARIO LAND SURVEYOR

ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
2126236

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ORIGINAL COPY
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In accordance with
Regulation 1026, Section 29(3).

Lejan land Surveying Inc.

572 Barton Street
Stoney Creek, ON L8E 5N3
Phone: 905-643.6131
Email: info@lejansurveying.ca

DWN BY: AS
CHK BY: TG
JOB No. 20-062