

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.: SC/A-20:158

APPLICANTS: IBI Group c/o J. Marcus on behalf of the owner 1970752 Ontario Inc.

SUBJECT PROPERTY: Municipal address **102 King St. W., Stoney Creek**

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

ZONING: "C3 and 579" (Community Commercial) district

PROPOSAL: So as to permit the construction of a new two (2) storey, mixed use building on the proposed property identified as Property 'A', a new one (1) storey addition to the existing commercial building on the property identified as Property 'B', and create a shared parking area throughout the development in accordance with Site Plan Control Application DA-18-085 notwithstanding that:

Property 'A'

Variances to Former Stoney Creek Zoning By-law 3692-92:

1. A minimum front yard setback of 4.3m shall be provided instead of the minimum required front yard setback of 9.0m;

Variances to Hamilton Zoning By-law (Prior to By-law 17-240):

1. No parking spaces shall be required for an Office use being less than 450.0m² whereas the by-law requires parking to be provided at a rate of one (1) space for each 30.0m² of gross floor area.
2. No parking spaces shall be required for a Personal Service use being less than 450.0m² whereas the By-law requires parking to be provided at a rate of one (1) space for each 16.0m² of gross floor area.
3. A maximum gross floor area for an individual commercial establishment shall be 794.0m² instead of the maximum permitted area of 500.0m² for an individual commercial establishment.
4. A maximum of six (6) parking spaces shall be 2.6m in width and 5.8m in length and shall be dedicated as being for small vehicles whereas the by-law requires a minimum parking space size of 3.0m x 5.8m.

Notes for Property 'A'

- i. Where 50 or more parking spaces are proposed within a Commercial and Mixed-Use Zone, specific Landscape Island provisions are required to be complied with in accordance with Subsection 5.2(h) of Hamilton Zoning By-law 05-200. As 50

parking spaces are intended on the lands known as 'Property A', the applicant shall ensure compliance with these requirements has been achieved otherwise further variances may be required. Insufficient information has been provided at this time to determine zoning compliance.

Property 'B'

Variances to Hamilton Zoning By-law (Prior to By-law 17-240):

1. No parking spaces shall be required for a Retail use being less than 450.0m² whereas the By-law requires parking to be provided at a rate of one (1) space for each 20.0m² of gross floor area.
2. A Restaurant use shall require parking at a rate of one (1) parking space for each 9.0m² of gross floor area instead of the minimum parking requirement of one (1) space for each 8.0m² of gross floor area.
3. Two (2) parking spaces shall be required for the existing Motor Vehicle Service Station (Lube Shop) instead of the minimum required 12 parking spaces.

Variances to Hamilton Zoning By-law 05-200:

1. A Restaurant use shall require parking at a rate of one (1) parking space for each 9.0m² of gross floor area instead of the minimum parking requirement of one (1) space for each 8.0m² of gross floor area.
2. Two (2) parking spaces shall be required for the existing Motor Vehicle Service Station (Lube Shop) instead of the minimum required 12 parking spaces.

Property 'C'

Variances to Hamilton Zoning By-law 05-200:

1. A Restaurant use shall require parking at a rate of one (1) parking space for each 11.0m² of gross floor area instead of the minimum parking requirement of one (1) space for each 8.0m² of gross floor area.

Variances to the entire development area (Properties 'A', 'B', and 'C'):

1. For the purpose of this development, the external boundaries of the properties shown as "A", "B" and "C" on the Site Plan (DA-18-085) dated July 07, 2020, shall be deemed to be the lot lines for the purpose of providing the required parking for the proposed Medical Clinic on property "A", maneuvering space aisle width for all the parking on site and access driveways providing means of ingress and egress to all required parking on site and shall be the boundaries and not the individual property boundaries of Property "A", "B" & "C" created by land severance application SC/B-.18:157.

Notes for the entire development area:

- i. These variances are required to facilitate Site Plan Control application DA-18-085.
- ii. The shared parking area between properties (including parking spaces, aisles and access driveways) are also be subject to the appropriate access/parking easements (as deemed necessary) in the normal manner.
- iii. Please be advised that Amending By-law No. 17-240 was passed on November 8, 2017 which changed the zoning of this property from GC-32 under Stoney Creek Zoning By-law 3692-92 to C3 zone under Hamilton Zoning By-law 05-200. Additionally, this amending by-law changed the parking requirements for certain commercial and residential uses. As of today, there are portions of this By-law

which are still under appeal and therefore are not yet final and binding. In such cases, the former zoning provisions shall apply until such time that the appealed sections become final and binding. In some instances (such as parking), the former provisions of Hamilton Zoning By-law 05-200 remain in effect. In any case, if there was no such requirement contained in the Zoning By-law 05-200 prior to amending by-law 17-240 being approved, then the requirements of the former Stoney Creek Zoning By-law 3692-92 remain in effect.

- iv. In total, 106 parking spaces including the existing 21 parking spaces on Property “C” are proposed for this development and have shared driveway aisles for vehicular circulation throughout the site. 50 spaces are situated on Property ‘A’, 14 parking spaces are situated on Property ‘B’ and 21 spaces are located on Property ‘C’.
- v. Variances were previously approved for this site under Committee of Adjustment Decision SC/A-19:197.
- vi. Consent applications SC/B-18:157 and SC/B-18:158 were granted to facilitate the creation of the three (3) individual lots.

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

DATE:	Thursday, December 3rd, 2020
TIME:	1:55 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: November 17th, 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.

DEVELOPMENT DETAILS – PROPERTY A COMMUNITY COMMERCIAL (C3-579) ZONE			
	REQUIRED	PROPOSED	AMENDMENT NEEDED
LOT AREA	N/A	±3998m ²	
LOT FRONTAGE	N/A	39.64m	
MIN. FRONT YARD**	9.0 m	4.33 m	X
MIN. SIDE YARD**	9.0 m	7.55 m	X
BUILDING SETBACK FROM A STREET	MIN. 1.5 m MAX. 4.5 m	4.33 m	
MIN. REAR YARD	7.5 m	26.98 m	
MIN. INTERIOR SIDE YARD	1.5 m	12.64 m	
MAX. BUILDING HEIGHT	14.0 m	13.94 m	
BUILDING GFA	N/A	2325.3m ²	
MAX. COMMERCIAL GFA	500m ²	978.7m ²	X
MAX. RESIDENTIAL GFA RELATIVE TO TOTAL BUILDING GFA*	50%	56.4%	X
BUILT FORM FOR NEW DEVELOPMENT			
i) MIN. WIDTH OF GROUND FLOOR FACADE	40% OF LOT LINE=15.86m	49.0% OF LOT LINE=19.45m	
ii) NO PARKING BETWEEN FACADE AND FRONT LOT LINE		NOT PROVIDED	
iii) MIN. OF ONE PRINCIPLE ENTRANCE ACCESSIBLE FROM STREET		PROVIDED	
MIN. PLANTING STRIP ADJACENT TO RESIDENTIAL	1.5 m	1.5 m	
MIN. PARKING SETBACK FROM A STREET LINE	3.0 m	3.0 m	
MIN. PLANTING STRIP BETWEEN PARKING AND STREET LINE	3.0 m	3.0 m	
MIN. LANDSCAPED AREA WITHIN A PARKING LOT WHERE 50 OR MORE SPACES ARE PROVIDED	10% 156.7m ²	14.9% 234.1m ²	
RESIDENTIAL PARKING**	1.25 SPACES/UNIT = 16 SPACES	1 SPACES/UNIT = 13 SPACES	X
COMMERCIAL PARKING			
BLDG 1 – MEDICAL (794m ² – MAX.) OPTION FOR REMAINING SPACE	1 SPACE/16m ² = 50 SPACES	37 SPACES	X
RETAIL (184.7m ²)**	1 SPACE/28m ² = 7 SPACES	0 SPACES	X
PERSONAL SERVICE (184.7m ²)**	1 SPACE/18.5m ² = 10 SPACES	0 SPACES	X
OFFICE (184.7m ²)**	1 SPACE/30m ² = 6 SPACES	0 SPACES	X
TOTAL PARKING	76 SPACES	50 SPACES	X
BARRIER FREE PARKING (INCLUDED IN TOTAL)	4% OF REQUIRED PARKING = 3 SPACES	2 SPACES	X
SMALL CAR PARKING	10% OF REQUIRED PARKING = 8 SPACES	6 SPACES	
SHORT TERM BICYCLE PARKING: RESIDENTIAL	5 SPACES	6 SPACES	
COMMERCIAL	5 SPACES	6 SPACES	
LONG TERM BICYCLE PARKING: RESIDENTIAL	0.5 SPACES/UNIT = 7 SPACES	7 SPACES	
COMMERCIAL	2 SPACES	2 SPACES	
*TOTAL RESIDENTIAL GFA EXCLUDES SHARED BUILDING AREAS			
**REGULATION PER STONEY CREEK ZONING BY-LAW			

DEVELOPMENT DETAILS – PROPERTY B COMMUNITY COMMERCIAL (C3-579) ZONE			
	REQUIRED	PROPOSED	AMENDMENT NEEDED
LOT AREA	N/A	±1714m ²	
LOT FRONTAGE	N/A	27.47m	
MIN. FRONT YARD**	9.0 m	10.65 m	
MIN. SIDE YARD**	9.0 m	7.04 m	X
BUILDING SETBACK FROM A STREET	MIN. 1.5 m MAX. 10.7 m**	10.65 m – BLDG 3	
MIN. REAR YARD	6.0 m	13.80 m – BLDG 2	
MIN. INTERIOR SIDE YARD	1.5 m	7.04 m – BLDG 3 7.68 m – BLDG 2	
MAX. BUILDING HEIGHT	14.0 m	6.93 m	
MAX. COMMERCIAL GFA	10,000m ²	430m ²	
MAX. RESIDENTIAL GFA RELATIVE TO TOTAL BUILDING GFA	50%	N/A	
BUILT FORM FOR NEW DEVELOPMENT			
i) MIN. WIDTH OF GROUND FLOOR FACADE	37% OF LOT LINE**	37% OF LOT LINE	
ii) NO PARKING/DRIVE AISLES BETWEEN FACADE AND FRONT LOT LINE	PERMITTED**	PROVIDED	
iii) MIN. OF ONE PRINCIPLE ENTRANCE ACCESSIBLE FROM STREET	NOT REQUIRED**	NOT PROVIDED	
MIN. PLANTING STRIP BETWEEN PARKING/DRIVE AISLE AND STREET LINE	NOT REQUIRED**	NOT PROVIDED	
MIN. PARKING/DRIVE AISLE SETBACK FROM A STREET LINE	2.7 m**	2.77 m	
MIN. PLANTING STRIP ADJACENT TO RESIDENTIAL	0.0 m**	1.5 m	
MIN. LANDSCAPED AREA WITHIN A PARKING LOT WHERE 50 OR MORE SPACES ARE PROVIDED	10%	N/A	
COMMERCIAL PARKING			
BLDG 2 – UNIT 1 – RETAIL (104m ²)	1 SPACE/28m ² = 4 SPACES	1 SPACES	X
UNIT 2 – RESTAURANT – MAX. 44 SEATS (104m ²)	1 SPACE/4 SEATS = 11 SPACES	11 SPACES	
BLDG 3 – MOTOR VEHICLE SERVICE STATION (195m ²) 3 BAYS	2 SPACES**	2 SPACES	
TOTAL PARKING	17 SPACES	14 SPACES	X
BARRIER FREE PARKING (INCLUDED IN TOTAL)	1 SPACE	1 SPACE	
SHORT TERM BICYCLE PARKING: COMMERCIAL	5 SPACES	6 SPACES	
LONG TERM BICYCLE PARKING: COMMERCIAL	0 SPACES	0 SPACES	
*REGULATION PER STONEY CREEK ZONING BY-LAW			
**REGULATION PER SC/B-19-197			

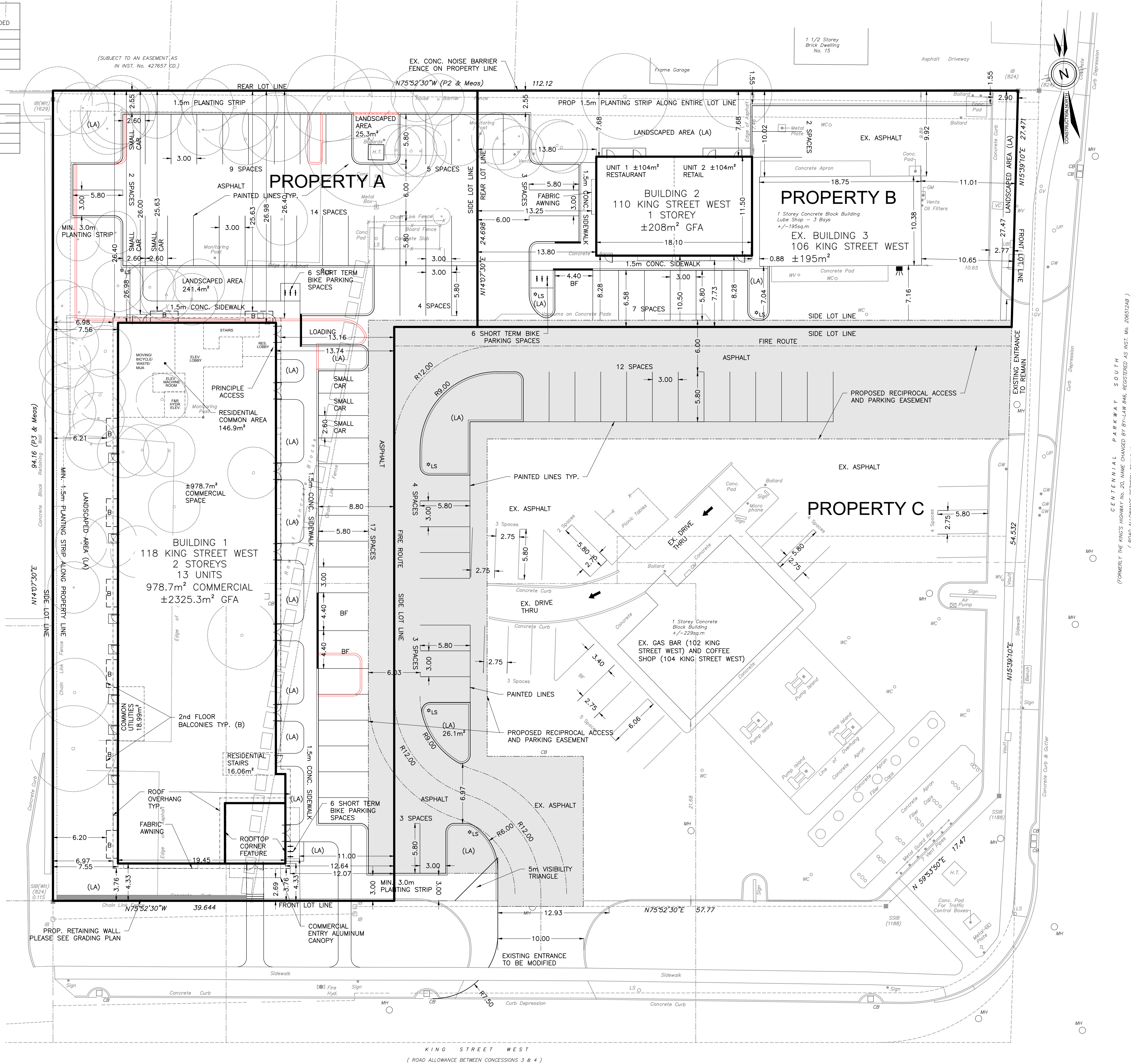
UNDERTAKING
RE: 102 King Street West, Hamilton
File No. DA-18-085

- I. (We) 1970752 Ontario Inc., the owner(s) of the land, hereby undertake and agree without reservation,
- to comply with all the content of this plan and drawing and not to vary therefrom;
 - to perform the facilities, works or matters mentioned in Section 41(7)(a) of The Planning Act shown on this plan and drawing on or before March 7, 2019;
 - to maintain to the satisfaction of the City and at my (our) sole risk and expense, all of the facilities, works or matters mentioned in Section 41(7)(b) of the said Act, shown in this plan and drawing, including removal of snow from access ramps and driveways, parking and loading areas and walkways; and,
 - in the event that the Owner does not comply with the plan dated July 20, 2020, the owner agrees that the City may enter the land and do the required works, and further the Owner authorizes the City to use the security filed to obtain compliance with this plan.
- *Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Tourism, Culture and Sport (MTCOS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCOS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)*
- That the Owner agrees to include any noise warning clauses on title and in all offers and agreements of purchase and sale or lease for all residential units.
 - That the Owner agrees to establish any noise mitigation measures identified in the required Environmental Noise Study.
 - That the Owner agrees to affix the physical municipal number to the building in a manner that is visible from the street, or a sign at the front entrance with either the municipal number or full address.
 - That the owner submit to the Legislative Approvals section of Growth Management, a final unit numbering list indicating the unit numbers that will be assigned to each unit on each floor of the building.
 - That the Owner agrees to coordinate address with staff from the Growth Planning Section.
 - The Owner submit a Record of Site Condition or a signed Record of Site Condition (RSC) being to the City of Hamilton and the Ministry of the Environment and Climate Change (MOECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton's current RSC administration fee.
 - The owner shall complete to the satisfaction of the Director of Engineering of the City of Hamilton and Canada Post:
 - Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - That the home/business mail delivery will be from a designated Centralized Mail Box.
 - That the developer/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
 - The owner further agrees to:
 - Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
 - Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes
 - Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
 - Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans.
 - Maps are also to be submitted to the sales office(s) showing specific Centralized Mail Facility locations.
 - Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (Lock Box Assembly) at their own expense (less than 100 units will require a front loading Lock Box Assembly & more than 100 units will require a rear loading Lock Box Assembly which will require a mail room) will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.
 - That the Owner include the following warning clause on title and in all offers and agreements of purchase and sale or lease of all residential units:

"This dwelling unit has central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that indoor sound levels are within the Municipality's and the Ministry of the Environment's noise criteria."

DEVELOPMENT DETAILS – PROPERTY A MIN. LANDSCAPED AREA WITHIN A PARKING LOT WHERE 50 OR MORE SPACES ARE PROVIDED	
ORIGINAL ASPHALT AREA	1566.7m ²
REVISED ASPHALT AREA	1332.6m ²
TOTAL LANDSCAPED AREA REQUIRED	10% = 156.7m ²
TOTAL LANDSCAPED AREA PROVIDED	14.8% = 231.6m ²

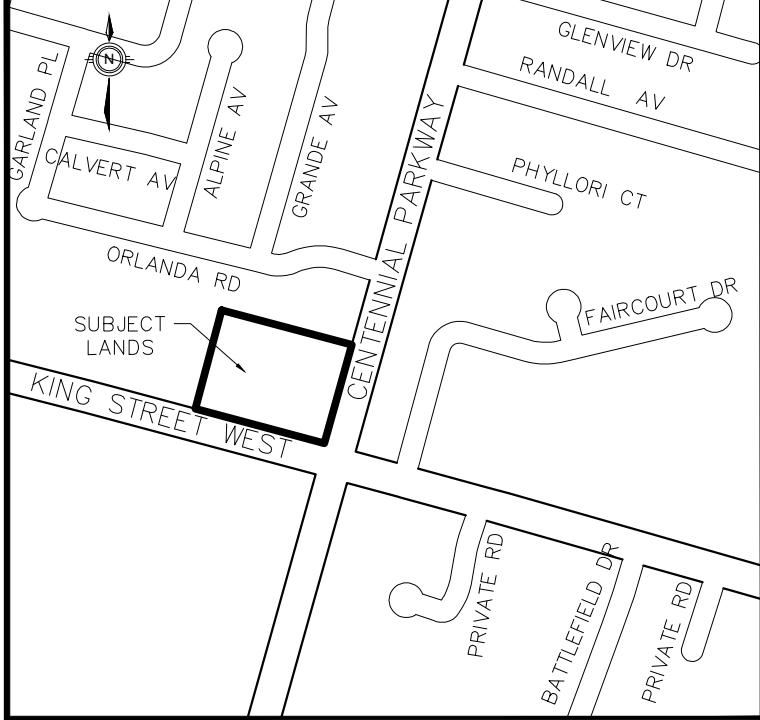
PARKING AVAILABILITY	
PROPERTY A	50 SPACES
PROPERTY B	14 SPACES
PROPERTY C	42 SPACES
TOTAL AVAILABLE PARKING	106 SPACES



GENERAL NOTES:

- ALL WORK INVOLVED IN THE CONSTRUCTION, RELOCATION, REPAIR OF MUNICIPAL SERVICES FOR THE PROJECT SHALL BE TO THE SATISFACTION OF THE DIRECTOR OF PLANNING, PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT.
- FIRE ROUTE SIGNS AND 3-WAY FIRE HYDRANTS SHALL BE ESTABLISHED TO THE SATISFACTION OF THE CITY FIRE DEPARTMENT AND AT THE EXPENSE OF THE OWNER.
- THE APPROVAL OF THIS PLAN DOES NOT EXEMPT THE OWNER'S BONDED CONTRACTOR FROM THE REQUIREMENTS TO OBTAIN THE VARIOUS PERMITS/APPROVALS NORMALLY REQUIRED TO COMPLETE A CONSTRUCTION PROJECT, SUCH AS, BUT NOT LIMITED TO THE FOLLOWING:
 - BUILDING PERMIT
 - SEWER AND WATER PERMITS
 - ROAD CUT PERMIT
 - RELOCATION OF SERVICES
 - APPROACH APPROVAL PERMITS
 - ENCROACHMENT AGREEMENTS
 - (IF REQUIRED)
- PROPOSED SIGNAGE SHALL CONFORM TO THE CITY'S SIGN AND OTHER DEVICES BY-LAW NO. 10-197.
- PROPOSED FENCING SHALL CONFORM TO THE CITY'S FENCE BY-LAW NO. 10-142.
- THIS PROPERTY IS INELIGIBLE FOR WEEKLY COLLECTION OF GARBAGE, RECYCLING, ORGANICS, AND LEAF AND YARD WASTE THROUGH THE CITY OF HAMILTON.
- UNION GAS, HYDRO ONE AND ALECTRA UTILITIES MAY HAVE SERVICE LINES RUNNING

- WITHIN THE AREA WHICH MAY BE AFFECTED BY THE DEVELOPMENT, SHOULD THE SITE PLAN IMPACT THE SERVICES IT MAY BE NECESSARY TO RELOCATE THE LINES, ANY SERVICE RELOCATION WOULD BE AT THE COST OF THE PROPERTY OWNER.
- SHOW LOCATION OF GARBAGE COLLECTION AND STORAGE ACTIVITIES FOR BUILDING 1 AND BUILDING 2.
 - THE APPROVAL OF THIS PLAN DOES NOT EXEMPT THE OWNER'S BONDED CONTRACTOR FROM THE REQUIREMENTS TO OBTAIN THE VARIOUS PERMITS/APPROVALS NORMALLY REQUIRED TO COMPLETE A CONSTRUCTION PROJECT, SUCH AS, BUT NOT LIMITED TO THE FOLLOWING:
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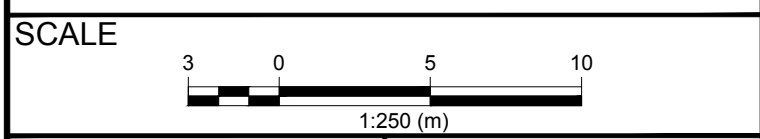
- BEFORE STARTING WORK
- THE CONTRACTOR SHALL NOTIFY THE CITY OF HAMILTON AND IBI GROUP AT LEAST 48 HOURS PRIOR TO COMMENCING CONSTRUCTION.
 - THE POSITION OF THE POLE LINES, CONDUITS, WATERMANS, SEWERS, AND OTHER UTILITIES AND STRUCTURES ARE NOT NECESSARILY SHOWN ON THE CONTRACT DRAWINGS, AND WHERE SHOWN, THE ACCURACY OF THE POSITION OF SUCH UTILITIES AND STRUCTURES IS NOT GUARANTEED.
 - PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, ALL BENCHMARKS, ELEVATIONS, DIMENSIONS, AND GRADES MUST BE CHECKED BY THE CONTRACTOR AND ANY DISCREPANCIES REPORTED TO THE ENGINEER.
 - ALL EXISTING UNDERGROUND UTILITIES WITHIN THE LIMITS OF CONSTRUCTION SHALL BE LOCATED, MARKED AND PROTECTED. ANY UTILITIES DAMAGED OR DISTURBED DURING CONSTRUCTION SHALL BE REPAIRED OR REPLACED TO THE SATISFACTION OF THE ENGINEER, AT THE CONTRACTOR'S EXPENSE.
 - AT LEAST TWO DIFFERENT BENCHMARKS MUST BE REFERRED TO AT ALL TIMES.

NOT FOR CONSTRUCTION

SOURCE:
TOPOGRAPHIC SURVEY INFORMATION OBTAINED FROM B.A. JACOBS SURVEYING LTD., JOB No. 18s1-T, DATED MARCH 23, 2018.

BENCHMARK
ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED TO FORMER CITY OF HAMILTON BENCH MARK NO. 65U-141.

LOCATION: LOW CONCRETE RETAINING WALL T WEST SIDE OF PROPERTY OF SUNOCO SERVICE STATION, AT SOUTHWEST CORNER OF KING STREET AND HIGHWAY No. 20, IN FRONT OF HOUSE No. 2880; TABLET IN CENTRE OF NORTHEAST FACE OF CONCRETE BASE OF LIGHT POST AT NORTHWEST END OF WALL, 0.45m BELOW TOP. (BENCH MARK NOW DESTROYED)
ELEVATION = 101.274 m



DESIGN BY: J.MARCUS CHECKED BY: B. ENTER
DRAWN BY: J.MARCUS DATE: 2018-04-19

#	DATE	BY	DESCRIPTION
1	2018-04-19	J.M.	FIRST SITE PLAN SUBMISSION
2	2018-05-07	J.M.	FIRST SITE PLAN CLEARANCE SUBMISSION
3	2020-07-20	J.M.	SECOND SITE PLAN CLEARANCE SUBMISSION
4	2019-05-07	J.M.	FIRST SITE PLAN CLEARANCE SUBMISSION
5	2018-11-22	J.M.	REVISED CONDITIONAL APPROVAL SUBMISSION
6	2018-04-19	J.M.	FIRST SITE PLAN SUBMISSION

DRAWING ISSUE RECORD

#	DATE	BY	DESCRIPTION
1	2018-04-19	J.M.	FIRST SITE PLAN SUBMISSION
2	2018-05-07	J.M.	FIRST SITE PLAN CLEARANCE SUBMISSION
3	2020-07-20	J.M.	SECOND SITE PLAN CLEARANCE SUBMISSION
4	2019-05-07	J.M.	FIRST SITE PLAN CLEARANCE SUBMISSION
5	2018-11-22	J.M.	REVISED CONDITIONAL APPROVAL SUBMISSION
6	2018-04-19	J.M.	FIRST SITE PLAN SUBMISSION

APPROVALS

IBI GROUP
200 East Wingo-360 James Street North
Hamilton ON L8L 1H5 Canada
tel 905 546 1010 fax 905 546 1011
ibigroup.com

CITY OF HAMILTON
102 KING STREET WEST

1970752 ONTARIO INC.

SITE PLAN
DA-18-085

FILE NUMBER: 112990 SHEET NUMBER: SP1



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

**PLEASE FILL OUT THE FOLLOWING PAGES AND
RETURN TO THE CITY OF HAMILTON PLANNING
DEPARTMENT.**

APPLICATION NO. _____ DATE APPLICATION RECEIVED _____
PAID _____ DATE APPLICATION DEEMED COMPLETE _____
SECRETARY'S
SIGNATURE _____

Application for Minor Variance or for Permission

1. Name of Owner 1970752 Ontario Inc.

2.

3. Name of Agent IBI Group c/o Jared Marcus

4.

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:
See attached Minor Variance list
7. Why it is not possible to comply with the provisions of the By-law?
The layout of the proposed development requires changes to the CMU regulations in order to make efficient use of the existing infrastructure.
8. Legal description of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number):
Parts 1-4 & 9-12, 62R-21257, Part of Lots 34, 35 & 37, Registrar's Compiled Plan No. 1405.
106, 110 & 118 King Street West, Stoney Creek
9. PREVIOUS USE OF PROPERTY
- Residential ☐ Industrial ☐ Commercial ☒
Agricultural ☐ Vacant ☐
Other _____
- 9.1 If Industrial or Commercial, specify use
Lube Shop, Coffee Shop, Gas Bar
- 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 X 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 X No _____ Unknown _____

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

Subject lands are currently used for a gas station, coffee shop and lube shop.
Environmental reports and a RSC are underway as part of concurrent Site Plan.

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 28/2020
Date


Signature of Property Owner

CARMINE RICCIARDONE
Print Name of Owner

10. Dimensions of lands affected:

Frontage 82.0m
Depth 114.5m
Area 10,468sq.m
Width of street King St. - 41.6m; Centennial - 37.1m

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: 1 storey gas bar/coffee shop - 229.6sq.m
1 storey lube shop - 195.2sq.m

Proposed: 2 storey mixed-use building - 2325.3sq.m
1 storey commercial building - 235sq.m

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

Existing: Variable lot lines, please see attached Site Plan for details.

Proposed: Variable lot lines, please see attached Site Plan for details.

13. Date of acquisition of subject lands:
Unknown
14. Date of construction of all buildings and structures on subject lands:
Unknown
15. Existing uses of the subject property: _____
Gas bar, coffee shop, lube shop
16. Existing uses of abutting properties: _____
North - Residential, West - Residential/Mixed-Use
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 X Connected X
Sanitary Sewer X Connected X
Storm Sewers X
19. Present Official Plan/Secondary Plan provisions applying to the land:
UHOP - Neighbourhoods
Old Town Secondary Plan - Local Commercial
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:
Community Commercial (C3, 579)
21. Has the owner previously applied for relief in respect of the subject property?
Yes X No
If the answer is yes, describe briefly.
Application SC/A-19:197 was approved and sought relief for the existing
buildings and existing conditions on site.
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?
Yes X (SC/B-18:157 & 158) 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



IBI GROUP
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Hamilton ON L8L 1H5 Canada
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July 28, 2020

Ms. Jamila Sheffield, ACST
Secretary Treasurer-Committee of Adjustment
City of Hamilton
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Ms. Sheffield:

**102 KING STREET WEST, STONEY CREEK - DA-18-085
MINOR VARIANCE APPLICATION**

On behalf of our client, 1970752 Ontario Inc., please find enclosed a Minor Variance application for the above noted development. The proposed variances are necessary to facilitate the associated Site Plan application, DA-18-085. Please note that previous Minor Variance application SC/A-19:197 was approved in July 2019 to recognize existing conditions and to facilitate the Severance of the subject lands into separate parcels (SC/B-18:157 & 158).

In support of the enclosed application please find enclosed the following information:

- One (1) copy of the Minor Variance application form and Minor Variance list;
- One (1) copy of the Site Plan drawing;
- One (1) cheque in the amount of \$3,302.00; and,
- One (1) copy of the Articles of Incorporation for 1970752 Ontario Inc.

Should you require any additional information please do not hesitate to contact the undersigned.

Thanks,

Jared Marcus, CPT

Associate, Manager – Planning

Encl.

Cc: 1970752 Ontario Inc.

Minor Variance List

City of Stoney Creek Zoning By-law No. 3692-92

Property A

1. To permit a Minimum Front Yard Setback of 4.3m instead of the required 9.0m;
2. To permit Dwelling Units in a Mixed Use Residential/Commercial Building or 3 Storeys or Less to have 1 parking space per Dwelling Unit;
3. To permit a Retail use less than 450sq.m in gross floor area to have 0 parking spaces;
4. To permit a Personal Service Shop use less than 450sq.m in gross floor area to have 0 parking spaces;
5. To permit an Office use less than 450sq.m in gross floor area to have 0 parking spaces;

Property B

6. To permit a Retail use less than 450sq.m in gross floor area to have 0 parking spaces;

City of Hamilton Zoning By-law No. 05-200

Property A

7. To permit Dwelling Units in conjunction with a commercial use to occupy 58% of the total gross floor area of all buildings within the lot instead of the permitted 50%;

Properties A & B

8. To permit required parking facilities to be located on the adjacent property subject to a reciprocal access easement;
9. To permit the means of ingress and egress for all required parking to be located on the adjacent property subject to a reciprocal access easement.



**Ministry of
Government Services**

Ministère des
Services gouvernementaux

Ontario
CERTIFICATE
This is to certify that these
articles are effective on

CERTIFICAT
Ceci certifie que les présents
statuts entrent en vigueur le

JUNE 06 JUN, 2017

Director / Directeur

⑧

Business Corporations Act / Loi sur les sociétés par actions

Ontario Corporation Number
Numéro de la société en Ontario

1970752

Form 1
*Business
Corporations
Act*

Formule 1
*Loi sur les
sociétés par
actions*

Articles of Incorporation
Statuts Constitutifs

1. The name of the corporation is: (Set out in BLOCK CAPITAL LETTERS)
Dénomination sociale de la société : (Écrire en LETTRES MAJUSCULES SEULEMENT)

[illegible]

2. The address of the registered office is:
Adresse du siège social :

1871 MAIN STREET EAST

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)
(Rue et numéro ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

HAMILTON

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

ONTARIO

L	8	H	1	G	3
---	---	---	---	---	---

(Postal Code)
(Code postal)

3. Number of directors is/are:
Nombre d'administrateurs :

Fixed number
Nombre fixe

OR minimum and maximum
OU minimum et maximum

1	5
---	---

4. The first director(s) is/are:
Premier(s) administrateur(s) :

First name, middle names and surname
Prénom, autres Prénoms et nom de famille

Address for service, giving Street & No. or R.R. No.,
Municipality, Province, Country and Postal Code
Domicile élu, y compris la rue et le numéro, le numéro de la
R.R. ou le nom de la municipalité, la province, le pays et le
code postal

Resident Canadian?
Yes or No
Résident canadien?
Oui/Non

CARMINE RICCIARDONE

1871 MAIN STREET EAST
HAMILTON, ONTARIO, L8H 1G3

Yes

5. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise.
Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société.

NONE

6. The classes and any maximum number of shares that the corporation is authorized to issue:
Catégories et nombre maximal, s'il y a lieu, d'actions que la société est autorisée à émettre :

An unlimited number of Class "A" Common shares.

An unlimited number of Class "B" Common shares.

An unlimited number of Class "C" Common shares.

An unlimited number of Class "D" Common shares.

An unlimited number of Class "A" Special shares.

An unlimited number of Class "B" Special shares.

An unlimited number of Class "C" Special shares.

An unlimited number of Class "D" Special shares.

7. Rights, privileges, restrictions and conditions (if any) attaching to each class of shares and directors authority with respect to any class of shares which may be issued in series:

Droits, privilèges, restrictions et conditions, s'il y a lieu, rattachés à chaque catégorie d'actions et pouvoirs des administrateurs relatifs à chaque catégorie d'actions qui peut être émise en série :

The Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares shall, each as a class respectively, have attached thereto the following rights, privileges, restrictions, conditions and limitations:

Dividends

- (i) The holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares in each year shall in the discretion of the Directors, for such year, be entitled, out of any or all profits or surplus available for dividends, to non-cumulative dividends at a rate determined from time to time by the Board of Directors.

Redemption Amount

- (ii) The "Redemption Amount" for each of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares shall be equal to the aggregate fair market value of the property transferred to the Corporation as consideration for the issue of Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares (the "property") as of the date of the transfer (the "Valuation Date") less the fair market value of the non-share consideration if any, given by the Corporation to such shareholder at the time of the transfer divided by the number of Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares issued. The fair market value of the property transferred and of the non-share consideration given, if any, shall be determined as of the date of the transfer by the Board of Directors, provided that if at any time Canada Revenue Agency or other taxing authority shall assert by assessment, re-assessment or otherwise that the fair market value of the property at the Valuation Date was other than the amount determined by the Board of Directors, then, with respect to all redemptions made on or after such time, the aggregate Redemption Amount for all of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares on the Redemption Date shall be varied to an amount which shall be equal to:

- (a) such amount as may be agreed to by the taxing authority, the Corporation and the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares shareholders to have been the fair market value of the property on the Valuation Date; or
- (b) in the absence of such agreement, such amount as shall be determined by a court having jurisdiction in the matter (after all appeal rights have been exhausted or all times for appeal have expired without appeals having been taken) to be the fair market value of the property on the Valuation Date;

and

the Redemption Amount per share with respect to all redemptions on or after such time shall be varied to an amount equal to the aggregate Redemption Amount on the Valuation Date as varied less the amount paid for redemption of Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares prior to such time divided by the number of Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares not redeemed at such time.

Redeemable at the Option of the Corporation

- (iii) The Corporation may, upon giving notice as hereinafter provided, redeem the whole or any part of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares on payment for such share(s) to be redeemed of the Redemption Amount, together with all dividends declared thereon and unpaid; not less than thirty (30) days written notice of such redemption shall be given by mailing such notice to the registered holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares to be redeemed, specifying the date and place or places of such redemption; if notice of any such redemption be given by the Corporation in the manner aforesaid and an amount sufficient to redeem the shares shall be deposited with any trust company or chartered bank in Canada, as specified in the notice, on or before the date fixed for redemption, dividends on the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares to be redeemed shall cease after the date so fixed for redemption and the holders thereof shall thereafter have no rights against the Corporation in respect thereof except, upon the surrender of certificates for such shares, to receive payment thereof out of the money so deposited;

Redeemable at the Option of the Holder (Retraction)

- (iv) The holder of a Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares or Class "D" Common Shares may, upon giving notice as hereinafter provided, require the Corporation to redeem the whole or any part of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares or Class "D" Common Shares then held by him on payment for each share to be redeemed of the Redemption Amount, together with all dividends declared thereon and unpaid; not less than thirty (30) days written notice of such requirement to redeem shall be given by mailing such notice to the Secretary of the Corporation at the Corporation's head office; upon receipt of such notice, the Corporation shall, on or before the expiration of the time allowed for redemption, pay to the registered shareholder an amount sufficient to redeem the shares and upon such payment, the Corporation shall require the surrender of such share certificate;

Liquidation, Dissolution or Winding Up

- (v) In the event of the liquidation, dissolution, or winding up of the corporation, or any other distribution of assets or property of the corporation among its shareholders for the purposes of winding up its affairs, the holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares

shall be entitled to receive from the assets and the property of the corporation, a sum equivalent to the Redemption Amount of all Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares or Class "D" Common Shares held by them respectively before any amount shall be paid, but not on any property or assets of the corporation transferred to the holders of Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares or any other class ranking junior to the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares. After payment to the holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares of the amounts so payable to them as above provided, they shall not be entitled to share in any further distribution of the assets or property of the corporation.

Voting

- (vi) The holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares shall be entitled to receive notice of or to attend any meetings of the shareholders of the Corporation and shall be entitled to vote at any such meeting; the holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares shall be entitled to notice of meeting of the shareholders called for the purpose of authorizing the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof.

Change in Preferences

- (vii) Any resolution of the corporation authorizing an amendment of articles to delete or vary preference, right, condition, restriction, limitation or prohibition attaching to the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares shall require, in addition to the authorization by a special resolution, the approval of at least three-fourths (3/4) of the votes cast at a meeting of the shareholders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares duly called for the purpose of considering such amendment of the articles of incorporation;

Restrictions on Transfer

- (viii) There shall be no transfer of any Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares by the holders thereof without approval and consent of the shareholders of the Corporation, except as may

be imposed under the provisions of the Ontario Business Corporations Act or the Income Tax Act (Canada), or except as may be set out in these Articles;

Prohibition on Dividends

- (ix) The corporation shall be prohibited from paying dividends on any issued and outstanding shares of the corporation if payment of the dividend would result in the corporation having insufficient net assets to redeem Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares their aggregate Redemption Amount including all declared and unpaid dividends;

Failure to Redeem, Erosion of Net Assets

- (x) Where the corporation fails to redeem the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and, Class "D" Common Shares after receiving notice pursuant to paragraph (iv) herein, or where the net assets of the corporation are less than the aggregate Redemption Amount of all issued and outstanding Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares, then, the holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares may, with the approval of the three-fourths (3/4) of the votes cast at a meeting of the holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares duly called for the purpose require that the corporation pay dividends to the holders of the Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares at the rate determined in accordance with paragraph (i) herein on a cumulative basis, until such time as the shares required to be redeemed by the holders thereof are redeemed or the net assets of the corporation equal or exceed the aggregate Redemption Amount of all issued and outstanding Class "A" Common Shares, Class "B" Common Shares, Class "C" Common Shares and Class "D" Common Shares.

The Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall, as a class have attached thereto the following rights, privileges, restrictions, conditions and limitations:

Dividends

- (i) The holders of the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special shares in each year shall in the discretion of the Directors, for such year, be entitled, out of any or all profits or surplus available for dividends, to non-cumulative dividends at a rate determined from time to time by the Board of Directors.

Redemption Amount

- (ii) The "Redemption Amount" for each of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall be at \$1.00 per share as consideration for the issue of Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares (the "property") as of the date of the transfer (the "Valuation Date"), provided that if at any time Canada Revenue Agency or other taxing authority shall assert by assessment, re-assessment or otherwise that the fair market value of the property at the Valuation Date was other than the amount determined by the Board of Directors, then, with respect to all redemptions made on or after such time, the aggregate Redemption Amount for all of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares on the Redemption Date shall be varied to an amount which shall be equal to:
- (a) such amount as may be agreed to by the taxing authority, the Corporation and the Class "A" Special, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shareholders to have been the fair market value of the property on the Valuation Date; or
 - (b) in the absence of such agreement, such amount as shall be determined by a court having jurisdiction in the matter (after all appeal rights have been exhausted or all times for appeal have expired without appeals having been taken) to be the fair market value of the property on the Valuation Date;
- and

the Redemption Amount per share with respect to all redemptions on or after such time shall be varied to an amount equal to the aggregate Redemption Amount on the Valuation Date as varied less the amount paid for redemption of Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares prior to such time divided by the number of Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares not redeemed at such time.

Redeemable at the Option of the Corporation

- (iii) The Corporation may, upon giving notice as hereinafter provided, redeem the whole or any part of the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares on payment for such share to be redeemed of the Redemption Amount, together with all dividends declared thereon and unpaid; not less than thirty (30) days written notice of such redemption shall be given by mailing such notice to the registered holders of the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares to be redeemed, specifying the date and place or places of such redemption; if notice of any such redemption be given by the Corporation in the manner aforesaid and an amount sufficient to redeem the shares shall be deposited with any trust company or chartered bank in Canada, as specified in the notice, on or before the date fixed for redemption, dividends on the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares to be redeemed shall cease after the date so fixed for redemption and the holders

thereof shall thereafter have no rights against the Corporation in respect thereof except, upon the surrender of certificates for such shares, to receive payment thereof out of the money so deposited.

Redeemable at the Option of the Holder (Retraction)

- (iv) The holder(s) of a Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares may, upon giving notice as hereinafter provided, require the Corporation to redeem the whole or any part of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares or Class "D" Special Shares then held by him on payment for each share to be redeemed of the Redemption Amount, together with all dividends declared thereon and unpaid; not less than thirty (30) days written notice of such requirement to redeem shall be given by mailing such notice to the Secretary of the Corporation at the Corporation's head office; upon receipt of such notice, the Corporation shall, on or before the expiration of the time allowed for redemption, pay to the registered shareholder an amount sufficient to redeem the shares and upon such payment, the Corporation shall require the surrender of such share certificate;

Liquidation, Dissolution or Winding Up

- (v) In the event of the liquidation, dissolution, or winding up of the corporation, or any other distribution of assets or property of the corporation among its shareholders for the purposes of winding up its affairs, the holders of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall be entitled to receive from the assets and the property of the corporation, a sum equivalent to the Redemption Amount of all Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares or Class "D" Special Shares held by them respectively before any amount shall be paid, but not on any property or assets of the corporation transferred to the holders of any of the Class "A" Common shares, Class "B" Common Shares, Class "C" Special Shares and Class "D" Common Shares, or any other class ranking junior to the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares. After payment to the holders of the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares of the amounts so payable to them as above provided, they shall not be entitled to share in any further distribution of the assets or property of the corporation;

Non-Participation

- (vi) The Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall rank both as regard to dividends and return of capital in priority to all other shares of the Corporation, but shall not confer any further right to participate in profits or assets.

Non-Voting

- (vii) The holders of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall not be entitled to receive notice of or to attend any meetings of the shareholders of the Corporation and shall not be entitled to vote at any such meeting; the holders of the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall, however, be entitled to notice of meeting of the shareholders called for the purpose of authorizing the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof.

Change in Preferences

- (viii) Any resolution of the corporation authorizing an amendment of articles to delete or vary preference, right, condition, restriction, limitation or prohibition attaching to the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares shall require, in addition to the authorization by a special resolution, the approval of at least three-fourths (3/4) of the votes cast at a meeting of the shareholders of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares duly called for the purpose of considering such amendment of the articles of incorporation;

Restrictions on Transfer

- (ix) There shall be no transfer of any Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares by the holders thereof without approval and consent of the shareholders of the Corporation, except as may be imposed under the provisions of the Ontario Business Corporations Act or the Income Tax Act (Canada), or except as may be set out in these Articles;

Prohibition on Dividends

- (x) The corporation shall be prohibited from paying dividends on any issued and outstanding shares of the corporation if payment of the dividend would result in the corporation having insufficient net assets to redeem the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares for their aggregate Redemption Amount including all declared and unpaid dividends;

Failure to Redeem, Erosion of Net Assets

- (xi) Where the corporation fails to redeem the Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares after receiving notice pursuant to paragraph (iv) herein, or where the net assets of the corporation are less than the aggregate Redemption Amount of all issued and outstanding Class "A" Special shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares then the holders of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares may, with the approval of the least

three-fourths (3/4) of the votes cast at a meeting of the holders of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares duly called for the purpose require that the corporation pay dividends to the holders of the Class "A" Special Shares, Class "B" Special Shares, Class "C" Special Shares and Class "D" Special Shares at the rate determined in accordance with paragraph (i) herein on a cumulative basis, until such time as the shares required to be redeemed by the holders thereof are redeemed or the net assets of the corporation equal or exceed the aggregate Redemption Amount of all issued and outstanding Class "A" Special shares, Class "B" Special Shares Class "C" Special Shares and Class "D" Special Shares .

8. The issue, transfer or ownership of shares is/is not restricted and the restrictions (if any) are as follows:
L'émission, le transfert ou la propriété d'actions est/n'est pas restreint. Les restrictions, s'il y a lieu, sont les suivantes :

No share(s) shall be allotted, issued or transferred without the express consent of the majority of the Board of Directors to be signified by a resolution passed by the Board of Directors.

9. Other provisions If any:
Autres dispositions, s'il y a lieu :

None

10. The names and addresses of the incorporators are:
Noms et adresses des fondateurs :

First name, middle names and surname or corporate name
Prénom, autres prénoms et nom de famille ou
dénomination sociale

Full address for service or if a corporation, the address of
the registered or head office giving street & No. or R.R.
No., municipality, province, country and postal code
Domicile élu au complet ou, dans le cas d'une société,
adresse du siège social ou adresse de l'établissement
principal, y compris la rue et le numéro ou le numéro de la
R.R., la municipalité, la province, le pays et le code postal

CARMINE RICCIARDONE

1871 MAIN STREET EAST
HAMILTON, ONTARIO, L8H 1G3

These articles are signed in duplicate.
Les présents statuts sont signés en double exemplaire.

Full name(s) and signature(s) of incorporator(s). In the case of a corporation set out the name of the corporation and the
name and office of the person signing on behalf of the corporation
Nom(s) au complet et signature(s) du ou des fondateurs. Si le fondateur est une société, indiquer la dénomination
sociale et le nom et le titre de la personne signant au nom de la société

Signature / signature

CARMINE RICCIARDONE

Name of incorporator (or corporation name & signatories name and office)
Nom du fondateur (ou dénomination sociale et nom et titre du signataire)

Signature / signature

Name of incorporator (or corporation name & signatories name and office)
Nom du fondateur (ou dénomination sociale et nom et titre du signataire)

Signature / signature

Name of incorporator (or corporation name & signatories name and office)
Nom du fondateur (ou dénomination sociale et nom et titre du signataire)

Signature / signature

Name of incorporator (or corporation name & signatories name and office)
Nom du fondateur (ou dénomination sociale et nom et titre du signataire)