



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-20:258

APPLICANTS: Owner: GPM Real Property Ltd.
Agent: Steven Albanese

SUBJECT PROPERTY: Municipal address **1575 Upper Ottawa St., Hamilton**

ZONING BY-LAW: Zoning By-law 05-200, as Amended by By-Law 17-240 and 19-062

ZONING: C7, 600 district (Arterial Commercial (C7) zone)

PROPOSAL: To permit the existing shopping centre to continue to remain notwithstanding that:

1. A maximum combined gross floor area for Retail of 2,150m² for each lot shall be permitted instead of the required maximum combined gross floor area for Retail of 1,500m² for each lot.
2. Notwithstanding Section 5.6 c) "Parking Schedules", parking space regulations for this shopping centre shall be based on a "shopping centre" regulations which requires: 0 parking spaces for less than 450m² of gross floor area; one (1) parking space for each 17.0m² of gross floor area between 450m² and 4,000m²; and, one (1) parking space for each 50.0m² of gross floor area greater than 4,000m² instead of the required parking spaces being based on individual uses within each of the buildings as required pursuant to Section 5.6 c) prior to passage of Amending By-law No. 17-240.

NOTE:

- i) Be advised that Amending By-law No. 17-240 was passed on November 8, 2017 which changed the zoning of this property from "M-11" and "M-12" under Hamilton Zoning By-law No. 6593 to "C7, 600" under Hamilton Zoning By-law No. 05-200. However, there are portions of Amending By-law No. 17-240 which are still under appeal to the Local Appeal Planning Tribunal (LPAT); therefore, it is not yet final. As such, the proposed development is reviewed under the regulations contained within Hamilton Zoning By-law 05-200, except where portions of these regulations are still under appeal by By-law No. 17-240 both the existing and proposed Zoning By-law regulations will be examined with the more restrictive zoning regulation being applied. An exception to this policy is for Building Permits, which are reviewed under the former existing Zoning and/or Zoning By-law regulation until such time that Amending By-law No. 17-240 comes fully into force. Once By-law No. 17-240 is approved in its entirety by the Local Appeal Planning Tribunal (LPAT), the zoning and regulations under this By-law will be applicable.

- ii) If Variance # 2 is approved, a minimum of two hundred and thirty-four (234) parking spaces will be required for the total gross floor area of 5,261m² for Buildings A, B and C. A total of two hundred and sixty-three (263) parking spaces are shown which will conform to the shopping centre parking regulations. Be advised that the Minor Variance Sketch indicates a total of 256 parking spaces being provided; however, when all the parking spaces shown are added, a total of 263 parking spaces are actually shown.

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

DATE: Thursday, January 21st, 2021
TIME: 2:00 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.

Important note: *If a person or public body that files an appeal of a decision of the Committee of Adjustment in respect of the proposed consent does not make written submission to the Committee of Adjustment before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal (LPAT) may dismiss the appeal.*

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: January 5th, 2021.

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.

PLAN (to be read in conjunction with Report Summary (Part 2))
SEE LETTER ATTACHED TO THIS PLAN DATED JULY 15th, 1999.

SURVEYOR'S REAL PROPERTY REPORT (PART 1)
PLAN OF SURVEY OF
PART OF LOT 4
CONCESSION 8
KNOWN AS MUNICIPAL No. 1575 UPPER OTTAWA STREET
IN THE GEOGRAPHIC TOWNSHIP OF BARTON
BEING IN THE
CITY OF HAMILTON
REGIONAL MUNICIPALITY OF HAMILTON - WENTWORTH
SCALE: 1:500
0 5 10 15 20 30 40 metres
MackAY, MackAY & PETERS LIMITED - 1999

COPYRIGHT © 1999 MackAY, MackAY & PETERS
ALL RIGHTS RESERVED NO PORTION OF THIS PLAN MAY BE REPRODUCED
IN ANY FORM WITHOUT WRITTEN PERMISSION FROM MackAY, MackAY & PETERS LTD.

NOTE
MackAY, MackAY & PETERS LIMITED grants UPPER MALL GROUP ["The Client(s)"] their solicitor and other related parties permission to use "Original Copies" of the Surveyor's Real Property Report in transactions involving "The Client(s)".

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

- LEGEND:**
- DENOTES A SURVEY MONUMENT FOUND
 - DENOTES A SURVEY MONUMENT PLANTED
 - SIB DENOTES STANDARD IRON BAR
 - SSIB DENOTES SHORT STANDARD IRON BAR
 - ⊕ DENOTES IRON BAR
 - ⊙ DENOTES ROUND
 - CC DENOTES CUT CROSS
 - CP DENOTES CONCRETE PIN
 - WT DENOTES WITNESS
 - (OU) DENOTES ORIGIN UNKNOWN
 - P1 DENOTES PLAN BY A. J. CLARKE, O.L.S. DATED JAN. 2, 1990
 - P2 DENOTES DEPOSITED PLAN 62R-4920
 - 912 DENOTES A. J. CLARKE, O.L.S.
 - RHW DENOTES REGION OF HAMILTON-WENTWORTH

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 13th, DAY OF JULY, 1999.
JULY 14th, 1999
DATE
DA Lamont
DAVID A. LAMONT
ONTARIO LAND SURVEYOR

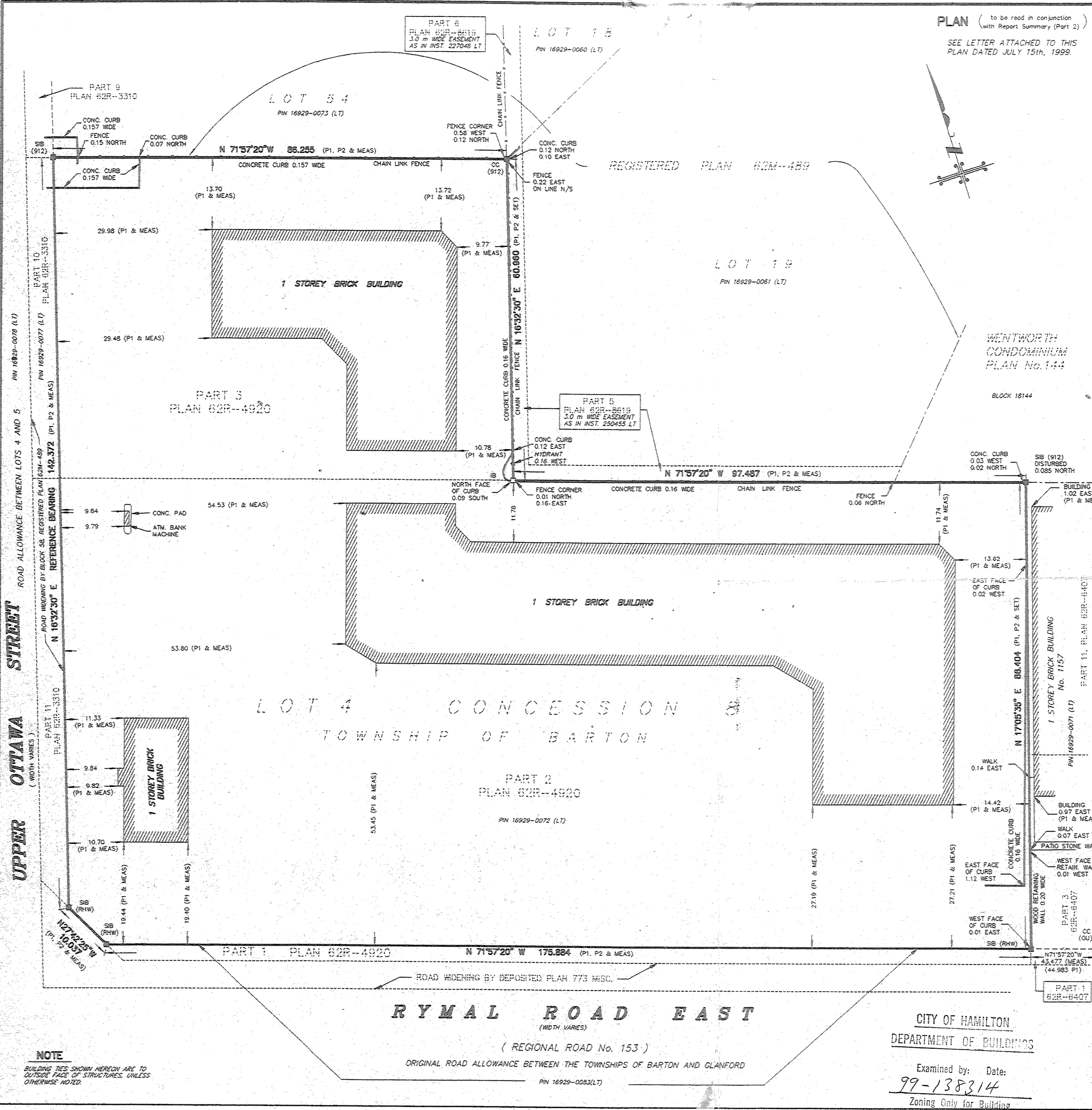
BEARING REFERENCE
BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE EAST LIMIT OF UPPER OTTAWA STREET AS SHOWN ON DEPOSITED PLAN 62R-4920, HAVING A BEARING OF N 16° 32' 30"E.

CAUTION: "Original copies" approved by this office must bear the Ontario Land Surveyor's signature and seal.
Plot date: 1999/7/19 - 11:42
CAD FILE: S:\BARTON\CONB\LOT4\99H190\99H190B

MACKAY MACKAY & PETERS LIMITED
ESTABLISHED 1906
SUITE 700, UNION GAS BUILDING
20 HUGHSON STREET SOUTH
HAMILTON, ONTARIO L8N 2A1
PHONE: (905) 526-7471
FAX: (905) 526-0787

ASSOCIATION OF ONTARIO LAND SURVEYORS
PLAN SUBMISSION FORM
1248447
THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR
In accordance with Regulation 1026, Section 29(3)

DRAWN BY: E.M.
PARTY CHECK: J.M.K.
CHECKED BY: D.J.L.
PROJECT NO.: 99H-1908(H)



NOTE
BUILDING TIES SHOWN HEREON ARE TO OUTSIDE FACE OF STRUCTURES, UNLESS OTHERWISE NOTED.

RYMAL ROAD EAST
(REGIONAL ROAD No. 153)
ORIGINAL ROAD ALLOWANCE BETWEEN THE TOWNSHIPS OF BARTON AND CLANFORD
PIN 16929-0083(LT)

CITY OF HAMILTON
DEPARTMENT OF BUILDINGS
Examined by: Date:
99-138314
Zoning Only for Building
Commissioner.



HAMILTON

Suite 700, Union Gas Building
20 Hughson Street South
Hamilton, Ontario, Canada L8N 2A1
Tel. (905) 526-7471
Fax (905) 526-0787



HALTON

3380 South Service Road
Burlington, Ontario, Canada
L7N 3J5
Tel. (905) 639-1375
Fax (905) 333-9544

REPORT SUMMARY

PART "2" SURVEYOR'S REAL PROPERTY REPORT

(To be read in conjunction with the plan (Part 1))

Description of Land

Part of Lot 4, Concession 8, in the Geographical Township of Barton, on the City of Hamilton, Regional Municipality of Hamilton-Wentworth. Being Part 2 and 3 on Deposited Plan 62R-4920.

Registered Easements and/or Rights-of-Ways

See Remarks.

Buildings

1 Storey Buildings are lying wholly within the property lines.

Fences

Note the existence of those features (ie fences, concrete curbs, etc.) that defines a limit of occupation and their position relative to the property limits. Age and/or ownership of these features have not been verified.

Compliance with Municipal By-Laws

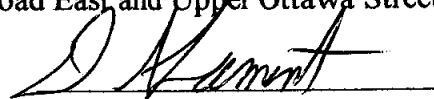
Not certified by this report.

Remarks

The evidence which defines the limits of the said, subtends dimensions generally agrees in comparison to those shown on existing title documents. The corners of the property are monumented with iron bars as shown in Part 1. All monumentation as found has been verified.

Our Registry Office search of the subject land revealed that the land is currently in the Land Titles System with the Parcel Identifier Number(PIN) 16929-0072(LT) with the designation of "Qualified Title". The current deed CD132464 mentions that the subject land is together with a right of way over Part 1, 62R-4920, however, our this part is now consolidated in to Rymal Road, making the right of way unnecessary. You may wish to discuss this matter with your solicitor. Entrance to the subject land is by way of Rymal Road East, and Upper Ottawa Street.

Date: July 15, 1999



David A. Lamont
Ontario Land Surveyor

File: 99H-190

Associate Company

**CLARKE
SURVEYORS
INCORPORATED**

Windsor, Ontario

Survey Records of JAMES J. MACKAY ERNEST G. MACKAY JOHN T. PETERS, O.L.S. (Retired) YATES & YATES LTD. SEWELL & SEWELL

ROSS A. CLARKE, O.L.S. President
JAMES M. LAWS, O.L.S.
BRIAN COAD, O.L.S.
DAVID A. LAMONT, O.L.S.
J. DAVID PETERS, O.L.S. (Retired)



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.**

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.

- Name of Owner GPM REAL PROPERTY (12) LIMITED PARTNERSHIP herein acting by its general partner GPM (12) GP INC. Telephone No. [REDACTED]
FAX NO. _____ E-mail address. [REDACTED]
- Address [REDACTED] Postal Code [REDACTED]
- Name of Agent Stephen Albanese Telephone No. [REDACTED]
FAX NO. _____ E-mail address. [REDACTED]
- Address [REDACTED] Postal Code [REDACTED]

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

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

Postal Code _____

Postal Code _____

6. Nature and extent of relief applied for:

The proposed minor variance request to Zoning By-law 05-200 and By-law 17-240 Exception 600 is to increase the GFA cap of 1,500 m² for retail uses to permit an additional 650 m² of retail GFA on the subject site. As such, the minor variance request is to update the retail use GFA cap to 2,150 m². No changes to the overall GFA of the subject site are proposed, as all additional GFA will result from internal building revisions. The second minor variance request is to consider the subject site as a Shopping Centre (within a commercial and Mixed Use Zone) under Section 5.6 c) of Zoning By-law 05-200 for the purposes of calculating parking.

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

The current retail gross floor area cap does not adequately allow the owner to be flexible in a rapidly changing and uncertain market. An increase to the retail gross floor area cap allows greater leasing and site flexibility to avoid tenant vacancies. Calculating parking on a use-by-use basis does not reflect the existing nature and use of the site and allows parking to remain flexible and reflective of City of Hamilton future policy objectives.

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

Part of Lot 4, Concession 8, in the Township of Barton, on the City of Hamilton, Regional Municipality of Hamilton-Wentworth, Neing Part 2 and 3 on Deposited Plan 62R-4920

9. PREVIOUS USE OF PROPERTY

Residential _____ Industrial _____ Commercial Agricultural _____ Vacant _____ Other _____

9.1 If Industrial or Commercial, specify use
Retail, Office, Personal Service, 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?
Owner knowledge and confirmation.

Approximately 25 m east from the site was a gasoline service station that had three underground storage tanks.
This was identified in a Phase 1 ESA that was completed back in 2004.

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.

November 9, 2020

Date

Signature Property Owner

GPM Real Property (12) Limited Partnership herein acting by its
general partner GPM (12) GP Inc
Print Name of Owner

10. Dimensions of lands affected:

Frontage 142 m
Depth 176 m
Area 21,458 m²
Width of street Upper Ottawa Street: 30 m (approx.) / Rymal Road East: 36.576 m (approx.)

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: Please note that all measurements are approximate.

Building A:	Building B:	Building C:
Height: 1 storey	Height: 1 storey	Height: 1 storey
Ground Floor Area: 3,558 m ²	Ground Floor Area: 1,409 m ²	Ground Floor Area: 294 m ²
Gross Floor Area: 3,558 m ²	Gross Floor Area: 1,409 m ²	Gross Floor Area: 294 m ²
Width: 49.5 m	Width: 31 m	Width: 24 m
Length: 115 m	Length: 46.5 m	Length: 13 m

Proposed: No physical changes are proposed to any of the Buildings or Structures.

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

Existing: Please note that all measurements are approximate.

Building A:	Building B:	Building C:
Side Setback: 12 m	Side Setback: 12 m	Side Setback: 19 m
Rear Setback: 10 m	Rear Setback: 14 m	Rear Setback: 166 m
Front Setback: 29.5 m	Front Setback: 54 m	Front Setback: 29.5 m

Proposed: No physical changes are proposed to any of the Buildings or Structures.

13. Date of acquisition of subject lands:

December 20, 2012

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

1990

15. Existing uses of the subject property: _____

Retail, Office, Personal Service, Restaurant

16. Existing uses of abutting properties: _____

Automotive Garage, Self-Storage, Residential, Garden Centre, Commercial and Retail

17. Length of time the existing uses of the subject property have continued:

1990-present

18. Municipal services available: (check the appropriate space or spaces)

Water	<input checked="" type="checkbox"/>	Connected	<input checked="" type="checkbox"/>
Sanitary Sewer	<input checked="" type="checkbox"/>	Connected	<input checked="" type="checkbox"/>
Storm Sewers	<input checked="" type="checkbox"/>		

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

Designated Arterial Commercial. Subject to Site-Specific Policy UHC-5 in Chapter C, Volume 3 of the Urban Hamilton Official Plan.

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

Zoned C7 Arterial Commercial by Zoning By-law 05-200. Subject to Exception 600 from By-law 17-240.

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

Yes

No

If the answer is yes, describe briefly.

In 2016 the subject site was being rezoned to Arterial Commercial by the City of Hamilton. An Official Plan Amendment was filed to permit existing retail uses, offices, personal services and financial establishments that were not permitted within the Arterial Commercial designation (OPA 66).

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



IBI GROUP
7th Floor – 55 St. Clair Avenue West
Toronto ON M4V 2Y7 Canada
tel 416 596 1930 fax 416 596 0644
ibigroup.com

November 16th 2020

City of Hamilton – Committee of Adjustment
Attention: Jamila Sheffield
71 Main Street West, 5th Floor
Hamilton, Ontario L8P 4Y5

Dear Ms. Jamila Sheffield:

1575 UPPER OTTAWA STREET MINOR VARIANCE APPLICATION

IBI Group on behalf of GPM REAL PROPERTY (12) LIMITED PARTNERSHIP herein acting by its general partner GPM (12) GP INC is pleased to submit this Application for a Minor Variance to the City of Hamilton Zoning By-law 05-200 for the property legally described as PT LT 4, CON 8, Township of Barton, Regional Municipality of Hamilton-Wentworth, PT 2 & 3, 62R-4920, municipally known as 1575 Upper Ottawa Street. The proposed minor variances request to Zoning By-law 05-200 and By-law 240-17 Exception 600 is to increase the GFA cap of 1,500 m² for retail uses to permit an additional 650 m² of retail GFA, to obtain a retail use GFA cap of 2,150 m² and consider the subject site as a *Shopping Centre (within a commercial and Mixed Use Zone)* under Section 5.6 c) of Zoning By-law 05-200 for the purposes of calculating parking.

In support of this application, please find enclosed:

- One (1) copy of the completed application form;
- One (1) copy of the survey plan;
- One (1) copy of the sketch map;
- One (1) copy of owner authorization form; and
- One (1) cheque totalling \$3,302 made payable to the City of Hamilton to cover the applicable application fee.

We look forward to the opportunity to work with the City of Hamilton and all other relevant agencies, stakeholders and the public with regards to this application.

Please do not hesitate to contact the undersigned should you require clarification or additional information.

Regards,

IBI GROUP

A handwritten signature in black ink, appearing to read 'Stephen Albanese', written in a cursive style.

Stephen Albanese MCIP RPP



IBI GROUP
7th Floor – 55 St. Clair Avenue West
Toronto ON M4V 2Y7 Canada
tel 416 596 1930 fax 416 596 0644
ibigroup.com

November 16, 2020

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

Dear Ms. Jamila Sheffield/Secretary-Treasurer:

PLANNING RATIONALE FOR THE MINOR VARIANCE APPLICATION FOR PART OF LOT 4, CONCESSION 8, PARTS 2 & 3, 62R-4920

IBI Group is pleased to submit the following Minor Variance Application and supporting materials on behalf of GPM REAL PROPERTY (12) LIMITED PARTNERSHIP herein acting by its general partner GPM (12) GP INC for the lands described as PT LT 4, CON 8, Township of Barton, Regional Municipality of Hamilton-Wentworth, PT 2 & 3, 62R-4920, and municipally known as 1575 Upper Ottawa Street (i.e the “subject site”). The intent of the minor variance application is to increase the retail gross floor area (GFA) cap currently present on the subject site and consider the subject site as a *Shopping Centre (within a commercial and Mixed Use Zone)* under Section 5.6 c) of Zoning By-law 05-200 for the purposes of calculating parking.

Introduction and Background

The subject site is 21,458 m² in size with approximate 142 m frontage on Upper Ottawa Street and 176 m of frontage on Rymal Road East. Three buildings are located on the subject site, which are identified as Buildings A, B and C on the accompanying sketch found in Appendix A of this rationale. At the outset it should be noted that this Minor Variance Application is not proposing any changes to the existing building footprints nor proposing any changes to the existing interior demising of the buildings or units.

Proposed Minor Variances

Two minor variances are requested for the subject site, which are to increase the retail cap on the subject site from 1,500 m² to 2,150 m² and to apply the parking standards for a *Shopping Centre (within a commercial and Mixed Use Zone)* under Section 5.6 c) of Zoning By-law 05-200 for the purposes of calculating parking. In IBI Group’s opinion, the minor variance requests are in keeping with the general intent and purpose of the Official Plan and Zoning By-law, are desirable for the appropriate use of the site, and are minor in nature.

Details of the requested variances and analyses of the four tests under Section 45(1) of the Planning Act are provided below.

REQUESTED MINOR VARIANCES

1) Increase Retail GFA Cap

- A variance is requested to Zoning By-law 05-200 and By-law 17-240 Exception 600 to permit an additional 650 m² of retail GFA to the existing retail GFA cap of 1,500 m² on PT LT 4, CON 8, PTS 2 & 3, 62R-4920, for a new retail GFA cap of 2,150 m². The requested variance applies to the permitted uses for all three identified buildings on the subject site.

Analysis of the Four Tests

1. *Is in Keeping with the General Intent and Purpose of the Official Plan*

The subject site is currently designated as *Arterial Commercial* as per *Schedule E-1 Urban Land Use Designations* in the Urban Hamilton Official Plan (UHOP). According to the UHOP, *Arterial Commercial* designations are to provide a range of uses for the travelling public and drive-by customers, or land intensive retail stores that require outdoor storage. Additionally, in accordance with Chapter C of Volume 3 of the UHOP, the site is subject to *Urban Site-Specific Policy UHC-5*. *UHC-5* establishes a maximum total retail GFA of 1,500 m². *UHC-5*'s intent was to permit the legally existing uses at the time of the subject site's re-designation to *Arterial Commercial* in 2016, while prescribing a cap to protect the site for uses more commonly found in the *Arterial Commercial* designation.

The subject site's small-scale retail in proximity to residential neighbourhoods currently serve the local community and act as a neighbourhood shopping centre. With that, the cap established by *UHC-5* is based on the GFA that existed in 2016, enshrining 2016 market and leasing conditions to the subject site in perpetuity. The requested variance to increase the cap allows the subject site to remain flexible to changing and current market conditions and avoid potential vacancies for extended periods of time. As such, the requested variance maintains the ideology of the GFA cap while protecting the purpose, intent and the permitted uses of the *Arterial Commercial* designation. The increase in site flexibility by the requested variance further meets the intent of the UHOP by ensuring the long-term viability and success of commercial areas.

2. *Is in Keeping with the General Intent and Purpose of the Zoning By-law*

The subject site is zoned by City of Hamilton By-law 05-200 as *C7 Arterial Commercial* and subject to By-law 17-240 Exception 600, which prescribes the maximum total retail GFA at 1,500 m². The general intent of *C7 Arterial Commercial Zones* is to permit large-format commercial uses catering to the traveling public in a large-format built form.

The requested variance does not propose any changes to the physical buildings or the existing interiors. As iterated above, the purpose of the variance is to grant the subject site greater leasing flexibility by increasing maximum retail GFA limitations to adapt to changing market conditions and ensure continued success in serving the local community and the travelling public. As such, the variance is in keeping with the intent of Exception 600 in maintaining a cap on retail GFA on the subject site. Furthermore, the requested variance maintains the intent of the broader Zoning By-law, as *Arterial Commercial* uses would not be precluded from locating on the subject lands, nor alter any of the permitted uses or established department store and residential prohibitions regulated in *Arterial Commercial Zones*.

3. *Is Desirable for the Appropriate Development and Use of the Land and Building*

The increase in allowable retail GFA does not require any changes to the existing building footprint, nor any interior modifications. The subject site has existing, and successful small-scale retail uses that preclude its *Arterial Commercial* designation and zone. Thus, the requested variance to broaden the GFA cap associated with retail uses maintains the existing form and function of the plaza as well as the existing uses of the land and buildings.

As mentioned throughout this rationale, the requested variance increases the flexibility afforded to the owners to be able to appropriately respond to current market conditions, further supporting the current use of the land and the buildings while maintaining the intent of the UHOP and Zoning By-law. As such, increasing the retail GFA cap to 2,150 m² is desirable for the appropriate

development and use of the land and buildings, as it largely maintains the status quo of the subject site.

4. *Is Minor in Nature*

The minor variance request is minor in nature due to the fact that there are no changes proposed to the existing land use permissions, building footprint GFA and/or to any of the interior demising, at this time. Given this, it is anticipated that there would be no adverse impacts on adjacent properties resulting from the proposed variance. Further, given the UHOP policy and Zoning By-law provisions on the subject site, it should be noted that the land use prohibitions would still be present, and the GFA increase is not substantial enough to accommodate uses such as a large food store.

It has been documented in previous City Staff Reports that due to the close proximity of these lands to major residential areas, these lands have developed into a shopping, service commercial, and office hub that provides for the daily and weekly needs for the local community, rather than functioning as a regional or highway commercial area. As such, the subject site currently permits and supports a range of successful small format retail uses which serve the needs of the neighbourhood as well as the travelling public, notwithstanding the fact that *Arterial Commercial*-related uses can be developed on the subject site.

2) Parking Provisions for Shopping Centre under Zoning By-law 05-200 Shall Apply

- To consider the subject site as a *Shopping Centre (within a commercial and Mixed Use Zone)* under Section 5.6 c) of Zoning By-law 05-200 for the purposes of calculating parking.
- According to Section 5.6 c) of Zoning By-law 05-200, the parking rate for *Shopping Centre (within a commercial and Mixed Use Zone)* shall be calculated as follows:
 - 0 for less than 450.0 square metres of gross floor area;
 - 1 for each 17.0 square metres of gross floor area between 450.0 square metres and 4,000.0 square metres; and,
 - 1 for each 50.0 square metres of gross floor area greater than 4,000.0 square metres.

Analysis of the Four Tests

1. *Is in Keeping with the General Intent and Purpose of the Official Plan*

The variance is in keeping with the general intent and purpose of the Official Plan as the City of Hamilton promotes lower levels of automobile ownership from both a policy perspective and through the provision of additional infrastructure to support alternative modes of transportation. As the subject site is identified in UHOP Appendix B - Major Transportation Facilities and Routes as being adjacent to a 'Potential Rapid Transit Line (B.L.A.S.T.)', IBI Group believes the subject site is an appropriate place to introduce flexibility into the provision of parking. Instead of parking for the subject site being considered on a use by use basis, consideration as a *Shopping Centre* allows for the parking rates to apply to the site as a whole, further allowing tenant and leasing flexibility for various arterial commercial and other commercial uses.

2. *Is in Keeping with the General Intent and Purpose of the Zoning By-law*

For the purposes of calculating parking on the subject site, IBI Group requests that the subject site be considered as a *Shopping Centre (within a commercial and Mixed Use Zone)*. Under Section 3, Definitions in Zoning By-law 05-200, a *Shopping Centre* is defined as "*Shopping Centre Shall mean one or more buildings, or part thereof, containing a group of four or more separate*

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commercial establishments, catering to the broader shopping customer, comprehensively planned and maintained as a single cohesive and integrated site.” (By-law No. 17-240, November 8, 2017).

While this regulation is currently under appeal, IBI Group requests that it apply to the subject site presently to ensure the parking rates reflect the intent of future zoning by-law regulations for parking from the City of Hamilton.

Notably, the increase in permitted retail GFA would not result in any adverse impacts to parking supply. The subject site currently provides 268 parking spaces whereas 219 spaces are required according to Section 5.6 c) of Zoning By-law 05-200, inclusive of a 650 m² increase in retail GFA, while maintaining an overall GFA of 4,939 m². This represents a surplus of 49 spaces. As such, the subject site has an adequate amount of parking supply for an increase in retail uses, demonstrating the requested variance maintains the intent of the Zoning By-law.

Under the parking regulations from May 2017, which predated passage of Amending By-law No. 17-240 on November 8, 2017, the total required parking for the uses currently on site is 326 parking spaces, whereas 268 spaces are provided. This results in a shortfall of 58 spaces, which is an existing shortfall that is legal and non-confirming. The zoning regulations under By-law 05-200 that are currently under appeal decrease the amount of parking to be provided on site, which helps to support the City's intensification and transit objectives. By being considered as a *Shopping Centre (within a commercial and Mixed Use Zone)*, the subject site would help to achieve these objectives, while also allowing for future flexibility for parking provision on site.

3. *Is Desirable for the Appropriate Development and Use of the Land and Building*

Considering the subject site as a *Shopping Centre (within a commercial and Mixed Use Zone)* under Section 5.6 c) of Zoning By-law 05-200 for the purposes of calculating parking is desirable for the appropriate development and use of the land and building as it allows for the parking rates to be applied to the site as a whole, reflecting the sites' current nature and use as a successful neighbourhood shopping centre. The definition for *Shopping Centre* under Section 3 of By-law 05-200 considers a broad range of commercial and retail establishments, which the subject site currently and historically has provided. Considering the subject site as a *Shopping Centre* allows for the parking provisions to remain flexible on the site, while still meeting the intent of the of *C7 Arterial Commercial Zone*, as it does not preclude arterial commercial uses. Increasing the flexibility afforded to the owners in respect to the provision of parking allows for the site to appropriately respond to current and changing market conditions, while supporting the transit supportive policies of the UHOP.

4. *Is Minor in Nature*

Under the current, in-effect Zoning By-law, parking provisions are applied on an individual use basis resulting in great demand for surface parking and ultimately limiting the ability to respond to market conditions without an amendment to this By-law. The proposed variance is not anticipated to create any parking-related issues on the subject site, given that the overall parking supply is not being reduced, and there are no changes proposed to add GFA. As such, the requested *Shopping Centre* parking permissions better reflect the permitted uses for the *Arterial Commercial* designation in the UHOP and the *C7 Arterial Commercial Zone* permission and is minor in nature.

Furthermore, the requested variance does not result in any adverse impacts to parking supply or have any adverse impacts on the adjacent properties. As mentioned above, the subject site currently provides 268 parking spaces whereas 219 spaces are required according to Section 5.6 c) of Zoning By-law 05-200, inclusive of a 650 m² increase in retail GFA, while maintaining an overall GFA of 4,939 m². Given the site maintains an adequate amount of parking, IBI Group believes the requested variance is minor in nature.

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Conclusion

Overall, as demonstrated above, the proposed variances meet the four tests of a Minor Variance as prescribed by Section 45(1) of the *Planning Act*. The requested variance seeks to increase yet maintain a cap on the maximum permitted retail GFA present on the subject site and allow parking provisions to be flexible while meeting the intent of future policy frameworks. The requested variances are in keeping with the intents of the UHOP and Zoning By-law, are appropriate for the subject site, and are ultimately minor in nature.

Please do not hesitate to contact the undersigned should you require any further clarification.

Respectfully submitted this 16th day of November, 2020.

Regards,

IBI Group

A handwritten signature in black ink that reads "Stephen Albanese". The signature is written in a cursive style with a large, stylized initial 'S'.

Stephen Albanese MCIP RPP

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APPENDIX A: MINOR VARIANCE SKETCH MAP