

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

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**You are receiving this notice because you are either:**

- Assessed owner of a property located within 60 metres of the subject property
  - Applicant/agent on file, or
  - Person likely to be interested in this application
- 

**APPLICATION NO.:** HM/A-20:252

**APPLICANTS:** Owner: 2002002 Ontario Inc. c/o Carlo Caravaggio  
Agent: GSP Group c/o Brenda Khes

**SUBJECT PROPERTY:** Municipal address **202 Cannon St. E., Hamilton**

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

**ZONING:** D5, H17, H19, H20 district (Downtown Residential “D5” zone)

**PROPOSAL:** To permit the construction of a sixteen (16) unit Multiple Dwelling and accessory buildings in order to facilitate Site Plan Application File No. DA-20-040 notwithstanding that:

1. A minimum rear yard of 7.0m shall be permitted instead of the minimum required rear yard of 7.5m.
2. Buildings and structures accessory to the multiple dwelling shall not be subject to maximum side yard (being 7.5m) and maximum flankage yard (being 3.0m) regulations.

**NOTE:**

- i) The variances are necessary to facilitate Site Plan File No. DA-20-040.
- ii) No Building or Elevation Plans were submitted.

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

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**DATE:** Thursday, January 21<sup>st</sup>, 2021

**TIME:** 3:25 p.m.

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

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

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### **PUBLIC INPUT**

**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

**Orally:** If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

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

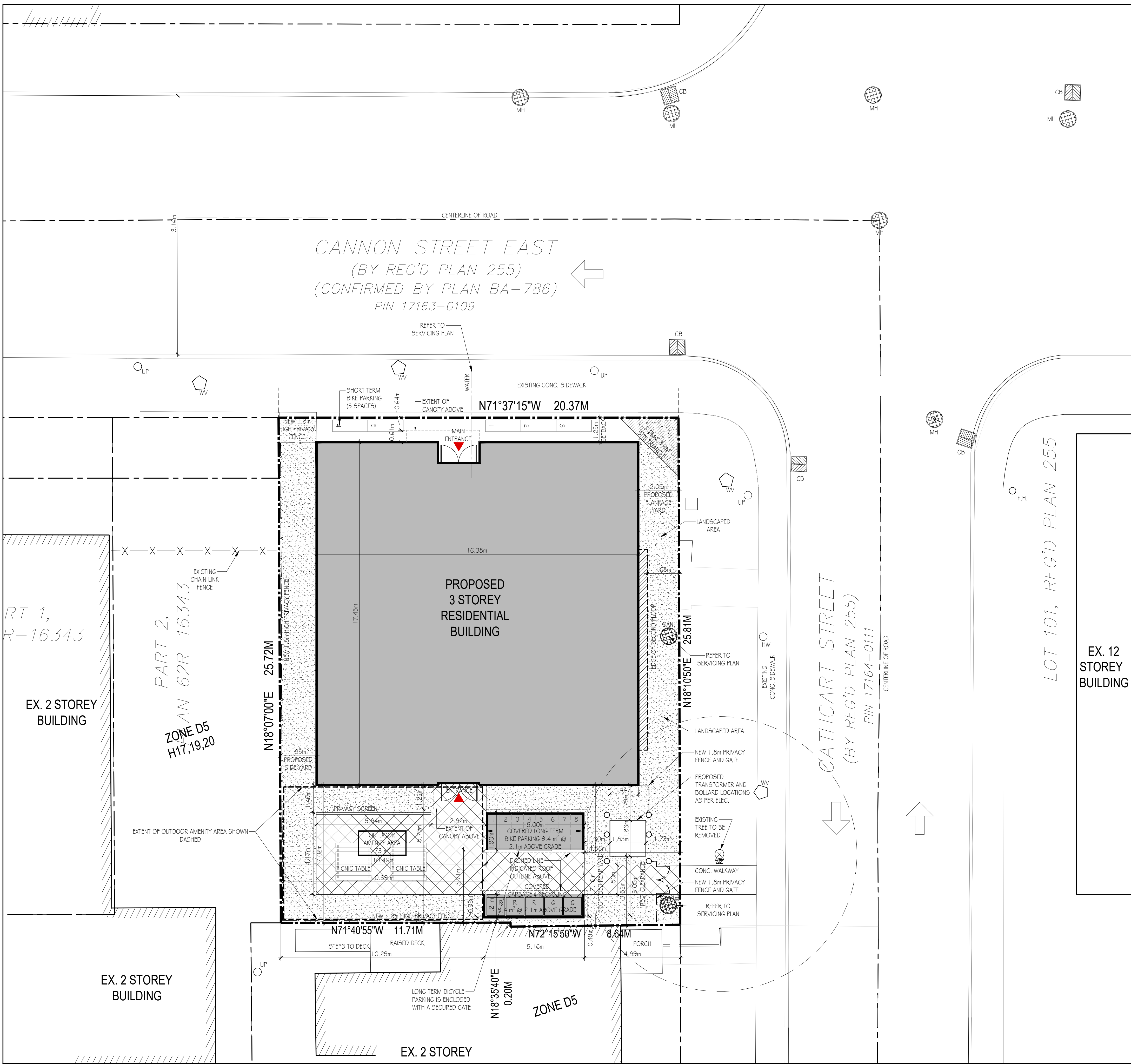
DATED: January 5<sup>th</sup>, 2021.

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Jamila Sheffield,  
Secretary-Treasurer  
Committee of Adjustment

***Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.***

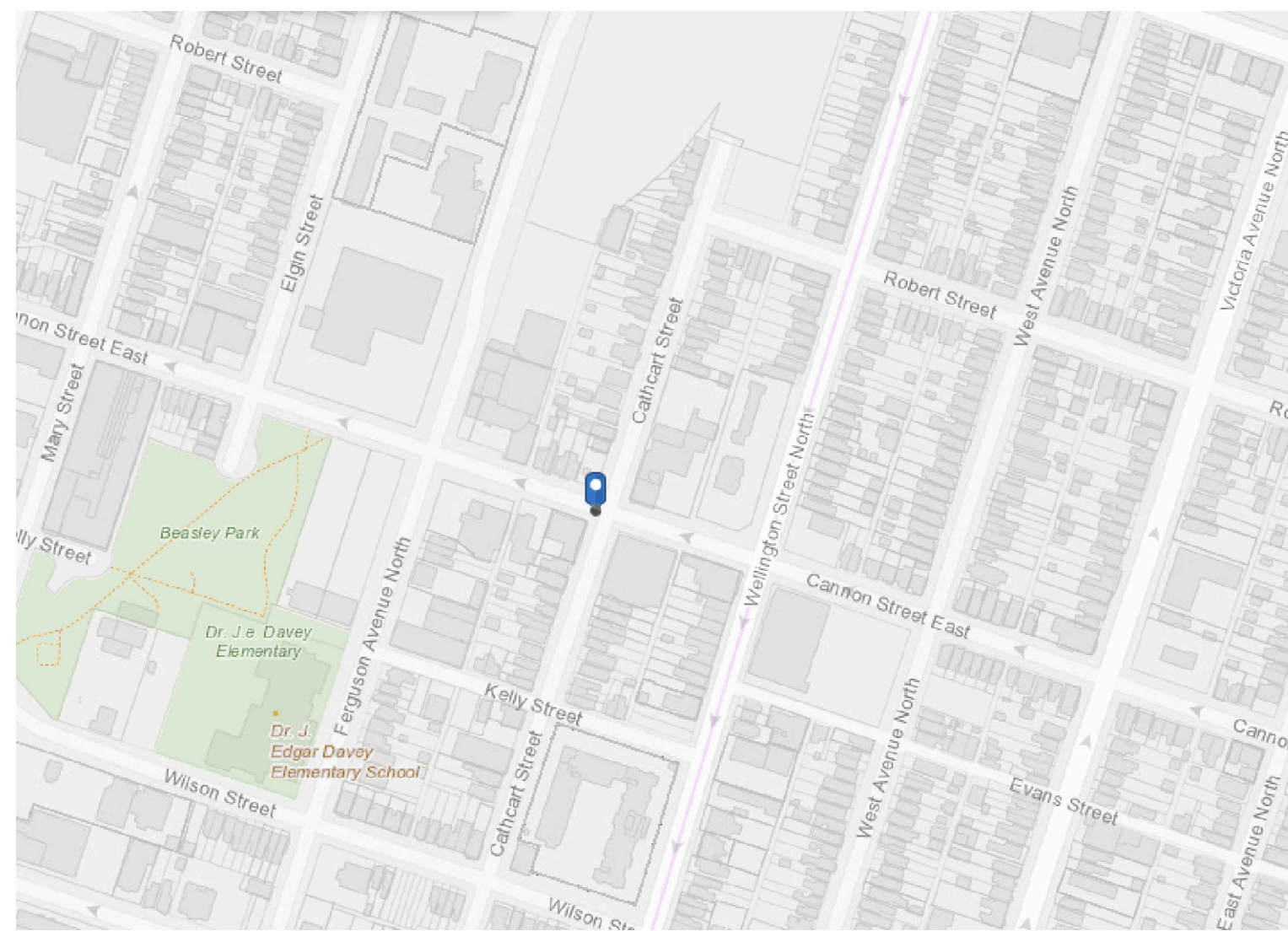




1 PROPOSED SITE PLAN  
SCALE: 1:100

DEVELOPMENT STATISTICS				November 10, 2020
Municipal Address	202-204 Cannon St E			
Legal Description	Part of Lots 78 & 79, Registered Plan 255, City of Hamilton			
Existing Zoning	D5			
Existing Use	Multiple Dwelling			
Proposed Use	Multiple Dwelling – 16 units			
ZONING REGULATIONS	D5 Downtown Residential Required	Proposed		Compliance ✓ or ✗
Site Data				
Street Frontage	4.50 m min.	20.37 m	✓	
Lot Width	12.00 m min.	20.37 m	✓	
Lot Area	300 m² min.	524.48m²	✓	
Yards & Setbacks				
Front Yard (Cannon St E)	4.50 m max.	1.25 m	✓	
Flankage Yard (Cathcart St)	3.00 m max.	1.60 m (2 <sup>nd</sup> /3 <sup>rd</sup> Floor)	✓	
Rear Yard (South)	7.50 m min.	7.16 m	✗	
Side Yard (West)	7.50 m max.	1.85 m	✓	
Building				
Building Area	225.00 m2 min,	288 m²	✓	
Building Height	7.50 m min (15.00 m max.)	11.54 m	✓	
Number of Storeys	N/A (D5) 30 Storeys (Official Plan)	3 1/2 Storeys	✓	
Floor Area		Basement	282 m²	N/A
		Ground Floor	282 m²	N/A
		Second Floor	288 m²	N/A
		Third Floor	288 m²	N/A
		Total	1,140 m²	N/A
Dwelling Units				
Number of Dwelling Units	N/A	16 units TOTAL	N/A	
Bachelor (<50m2)		3 units		
1 Bedroom (<50m2)		6 units		
1 Bedroom (>50m2)		7 units		
Parking				
Occupant Spaces	Units >50m2 - 1 to 12 units = 0 space/unit	0 spaces	✓	
	Units <50m2 – 1 to 12 units = 0 space/unit	0 spaces	✓	
Bicycle Parking (Long-Term)	0.5 spaces/dwelling unit min. @ 16 units = 8 spaces	8 spaces	✓	
Bicycle Parking (Short-Term)	5 spaces min.	5 spaces	✓	
Amenity Area				
Dwelling Units	4.0 m²/unit min. where 10+ units @ 16 units = 64 m²	73.00 m²	✓	
Landscape Area	10% of Lot Area min. @ 524.48 m² = 52.44 m²	100.00 m²	✓	
Accessory Building Areas				
Bike Storage	<42.4 m² (30% of rear yard (140.8m²))	9.4 m²	✓	
Garbage Storage	<42.4 m² (30% of rear yard (140.8m²))	5.4 m²	✓	
Accessory Building Setbacks (General Provisions Section 4.8.1.c. ) AREA <10 m²				
Bike Storage				
Rear Yard (South)	n/a	3.71 m	n/a	
Flankage Yard (Cathcart St)	n/a	4.86 m	n/a	
Side Yard (West)	n/a	10.46 m	n/a	
Garbage Storage				
Rear Yard (South)	n/a	0.33 m	n/a	
Flankage Yard (Cathcart St)	n/a	4.89 m	n/a	
Side Yard (West)	n/a	10.29 m	n/a	

2 SITE AND ZONING DATA  
SCALE: N.T.S.



3 LOCATION MAP  
N.T.S.



NOTES:  
1. THE CONTRACTOR OR PROJECT MANAGER WILL CHECK AND VERIFY ALL DIMENSIONS AND JOB CONDITIONS ON THE JOB AND REPORT ANY DISCREPANCIES TO THE ARCHITECT PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. COORDINATION OF WORK IS THE RESPONSIBILITY OF THE CONTRACTOR OR OWNER/CONTRACTOR. 2. THIS DRAWING MUST NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL SIGNED BY THE ARCHITECT. 3. ALL DRAWINGS ARE THE PROPERTY OF THE ARCHITECT AND MAY NOT BE COPIED, REPRODUCED OR ALTERED WITHOUT WRITTEN PERMISSION FROM THE ARCHITECT. 4. DO NOT SCALE THE DRAWINGS.

DD/MM/YY	REVISION
10/11/2020	ISSUED FOR SITE PLAN APPLICATION REVISION

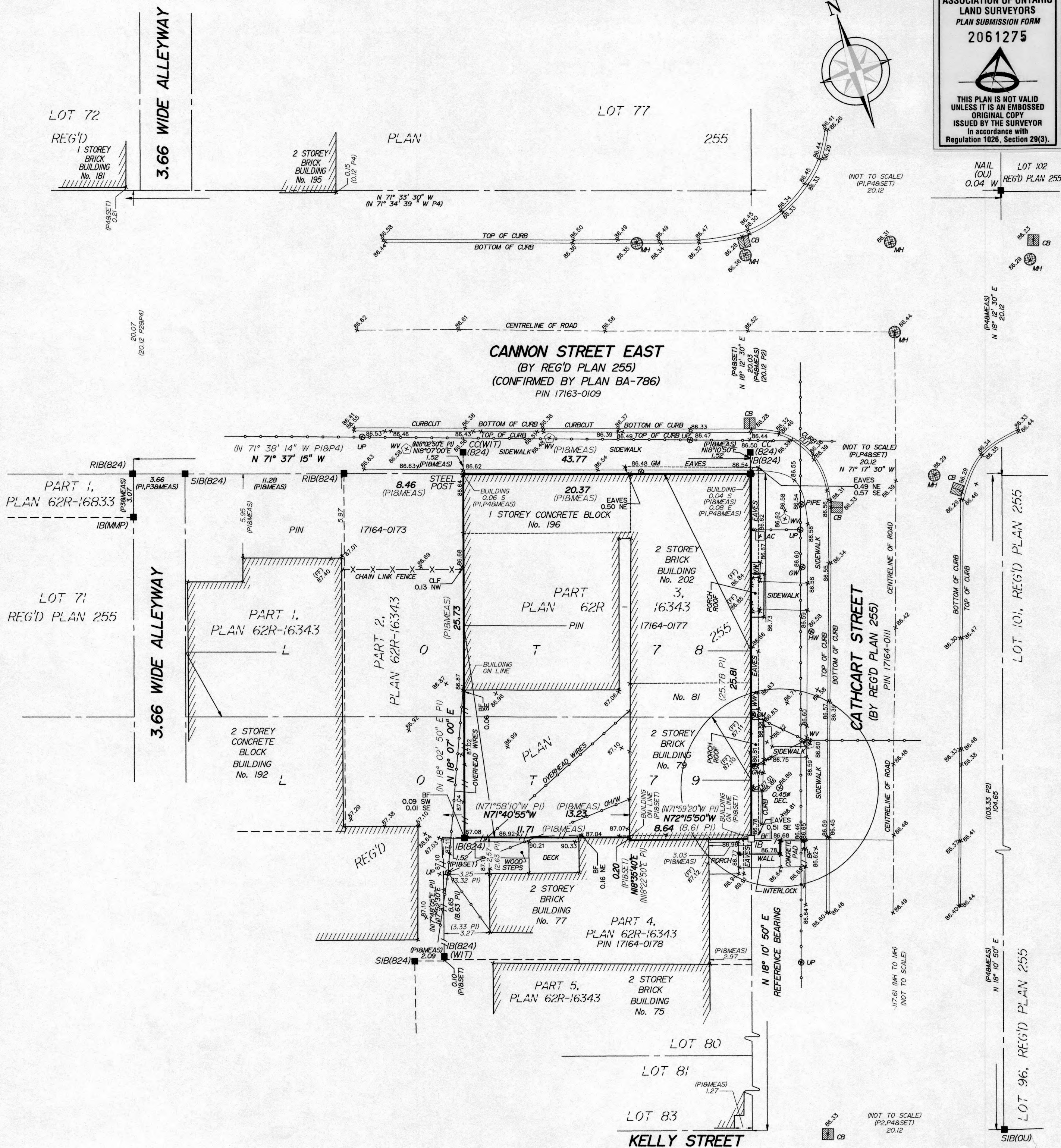
SCALE:	AS NOTED
DRAWN BY:	RL
PRINT DATE:	11/02/2020

CANNON ST. E.  
MULTI-UNIT RESIDENTIAL  
202-204 CANNON ST. E.  
HAMILTON, ONTARIO

PROPOSED  
SITE PLAN

A1.0





ASSOCIATION OF ONTARIO  
LAND SURVEYORS  
PLAN SUBMISSION FORM  
2061275

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

**SURVEYOR'S REAL PROPERTY REPORT - PART 1**  
PLAN OF SURVEY AND TOPOGRAPHY OF  
**PART OF LOTS 78 & 79**  
**REGISTERED PLAN 255**  
**CITY OF HAMILTON**

0 5 10 15 20 Metres

SCALE 1 : 200

J. H. Gelbloom Surveying Limited  
Ontario Land Surveyor 2018

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the written permission of J. H. Gelbloom Surveying Limited is Strictly Prohibited.

**SURVEYOR'S REAL PROPERTY REPORT - PART 2**  
**REGISTERED EASEMENTS AND/OR RIGHT-OF-WAY**  
None

**NOTABLES**  
note the Location of the Fences around the Subject Property.  
note the Location of the Eaves along the Northerly & Easterly Limit  
of the Subject Property.

- LEGEND**
- Survey Monument Found
  - Survey Monument Set
  - SIB Standard Iron Bar
  - IB Iron Bar
  - RIB Round Iron Bar
  - CC Cut Cross
  - (OU) Origin Unknown
  - (WIT) Witness
  - MMP Mackay Mackay & Peters Ltd., O.L.S.
  - B24 A. T. McLaren O.L.S.
  - P1 Plan 62R-16343
  - P2 Registered Plan 255
  - P3 Plan 62R-16833
  - P4 Plan BA-786
  - WV Water Valve
  - BF Board Fence
  - UP Utility Pole
  - DEC. Deciduous
  - MH Maintenance Hole
  - CB Catch Basin
  - CLF Chain Link Fence
  - N Denotes North
  - S Denotes South
  - E Denotes East
  - W Denotes West
  - GM Gas Metre
  - WW Window Well
  - HW Hand Well

**BENCHMARK**  
Elevations are Referred to the City of Hamilton Benchmark No. 07720100048  
having an Elevation of 87.622 m.

**NOTE**  
This REPORT can be updated by this office, however NO ADDITIONAL  
PRINTS of this ORIGINAL REPORT will be issued, subsequent to the  
DATE OF CERTIFICATION.  
All building ties are perpendicular to property lines unless otherwise noted.

This REPORT was prepared for Caran Developments Ltd. and the undersigned  
accepts no responsibility for use by other parties.

**NOTE**  
Distances shown on this plan are in metres and can be converted to  
feet by dividing by 0.3048.

**BEARING NOTE**  
Bearings are Astronomic, and are Referred to the Westerly limit of  
Cathcart Street as shown on Plan BA 786, having a Bearing  
of N 18° 10' 50" E.

**SURVEYOR'S CERTIFICATE**  
I certify that:  
1: This survey and plan are correct and in accordance with the Surveys  
Act, the Surveyors Act, and the Regulations made under them.  
2: The survey was completed on the 29th day of October, 2018.

Oct. 31, 2018  
Date  
Andrew Musil, O.L.S.

Party Chief:	Drawn By:	Checked By:	Project:
M.A./D.L.	M.K./M.A.	A.M.	18-175

**J. H. Gelbloom Surveying Limited**  
Ontario Land Surveyor  
476 Morden Road, Unit 102, Oakville, Ont, L6K 3W4  
office@jhgssurveying.ca  
Phone:(905) 338-8210 Fax:(905) 338-9446





Hamilton

Planning and Economic Development Department  
Planning Division

**Committee of Adjustment**

City Hall  
5<sup>th</sup> floor 71 Main Street West  
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424 ext.4221  
Fax (905) 546-4202

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

**FOR OFFICE USE ONLY.**

APPLICATION NO. \_\_\_\_\_ DATE APPLICATION RECEIVED \_\_\_\_\_

PAID \_\_\_\_\_ DATE APPLICATION DEEMED COMPLETE \_\_\_\_\_

SECRETARY'S  
SIGNATURE \_\_\_\_\_

**CITY OF HAMILTON  
COMMITTEE OF ADJUSTMENT  
HAMILTON, ONTARIO**

*The Planning Act*

**Application for Minor Variance or for Permission**

The undersigned hereby applies to the Committee of Adjustment for the City of Hamilton under Section 45 of the *Planning Act*, R.S.O. 1990, Chapter P.13 for relief, as described in this application, from the Zoning By-law.

1. Name of Owner 2005002 ONTARIO INC.  
ATTN: Mr. Carlo Caravaggio Telephone No. \_\_\_\_\_  
FAX NO. \_\_\_\_\_ E-mail address. \_\_\_\_\_
2. Address \_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_
3. Name of Agent GSP GROUP INC.  
ATTN: Ms. Brenda Khes Telephone No. \_\_\_\_\_  
FAX NO. \_\_\_\_\_ E-mail address. \_\_\_\_\_
4. Address \_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_

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

5. Names and addresses of any mortgagees, holders of charges or other encumbrances:  
\_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Postal Code \_\_\_\_\_

6. Nature and extent of relief applied for:

Rear Yard Setback relief from 7.5 metres, as required by By-law 05-200, as amended to 7.0 metres, as proposed.

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

Refer to Planning Justification Brief.

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 Lots 78 and 79, Registered Plan 255

202 Cannon Street East

9. PREVIOUS USE OF PROPERTY

Residential ☒ Industrial ☐ Commercial ☐

Agricultural ☐ Vacant ☒

Other ☐

9.1 If Industrial or Commercial, specify use

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?

Cultural Heritage Impact Assessment, Aerial Photography, Fire Insurance Plans

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 5, 2020

Date

Signature Property Owner

Carlo Caravaggio, 2005002 ONTARIO INC.

Print Name of Owner

10. Dimensions of lands affected:

Frontage 20.37 metres

Depth 25.81 metres

Area 524.65 square metres

Width of street 20.03 metres (Cannon Street East) and 20.12 metres (Cathcart Street East)

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: Ground Floor Area ± 415.7 square metres, 2 storeys in height and ± 8.5 metres in height.

Proposed: Building Area 281.94 square metres, Gross Floor Area 1,140.10 square metres, 3.5 storeys, 11.54 metres in height and 16 Dwelling Units.

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

Existing: Front Yard Setback - 0.0 metres, Flankage Yard Setback (east) - 0.0 metres, Side Yard Setback (west) - 0.04 metres and Rear Yard Setback - 0.0 metres

Proposed:

Front Yard Setback - 1.25 metres, Flankage Yard Setback (east) - 1.6 metres,  
Side Yard Setback (west) - 1.85 metres and Rear Yard Setback - 7.02 metres

13. Date of acquisition of subject lands:  
2015
14. Date of construction of all buildings and structures on subject lands:  
1885
15. Existing uses of the subject property: Vacant Residential and Commercial structures
16. Existing uses of abutting properties: Residential and Commercial uses to the North, South, east and West
17. Length of time the existing uses of the subject property have continued:  
60 Years
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:  
Downtown Mixed Use - UHOP  
Downtown Residential - Downtown Hamilton Secondary Plan
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:  
Downtown Residential (D5) Holding 17, 19 and 20 Zone, By-law 05-200, as amended
21. Has the owner previously applied for relief in respect of the subject property?  
Yes ☒ No ☐  
If the answer is yes, describe briefly.
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?  
Yes ☐ No ☒
23. The applicant shall attach to each copy of this application a plan showing the dimensions of the subject lands and of all abutting lands and showing the location, size and type of all buildings and structures on the subject and abutting lands, and where required by the Committee of Adjustment such plan shall be signed by an Ontario Land Surveyor.

**NOTE:** It is required that two copies of this application be filed with the secretary-treasurer of the Committee of Adjustment together with the maps





SHAPING GREAT COMMUNITIES

November 6, 2020

File No: 20180

Jamila Sheffield  
Secretary-Treasurer  
City of Hamilton  
Committee of Adjustment  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON  
L8P 4Y5

Dear Ms. Sheffield:

**Re: 202 Cannon Street East  
2005002 Ontario Inc.  
Minor Variance Application**

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GSP Group is the planning representative of 2005002 Ontario Inc., the owner of the property municipally addressed as 202 Canon Street East (the "Site"). The Site is located at the south west corner of Cannon Street East and Cathcart Street. There is an existing 2-storey vacant brick building at 202 Cannon Street East and features an approximate area of 524.65 sq m with frontages of 20.37 m on Cannon Street East and 25.81 m on Cathcart Street.

The purpose of the requested minor variance is to seek relief from the rear yard setback requirements in order to facilitate the construction of a 3 storey multiple dwelling building consisting of 16 residential dwelling units on the Site.

The Site is located within the "Downtown Residential (D5) Holding 17, 19 and 20 Zone" under Zoning By-law 05-200. The existing zoning permits an extensive range of uses including multiple dwelling uses. The following variance is requested to facilitate the proposal:

1. A minimum rear yard setback of 7.0 m is proposed whereas 7.5 m is required.

PLANNING | URBAN DESIGN | LANDSCAPE ARCHITECTURE

72 Victoria Street South, Suite 201, Kitchener, ON N2G 4Y9 519 569 8883  
162 Locke Street South, Suite 200, Hamilton, ON L8P 4A9 905 572 7477  
[gspgroup.ca](http://gspgroup.ca)

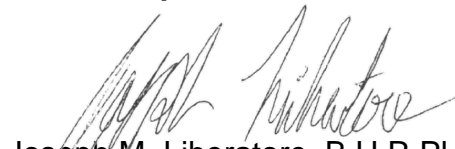
In support of the Minor Variance application, please find enclosed the following:

- Two (2) copies of the completed application forms for the Minor Variance Application;
- One (1) copy of the completed Committee of Adjustment Credit Card Payment Form for the amount of \$3,302.00 made payable to the City of Hamilton for the 2020 Standard Application Fee for the Minor Variance Application;
- One (1) copy of the Planning Justification Brief prepared by GSP Group (dated November 6, 2020);
- Two (2) 11" x 17" copies of the Property Survey Plan prepared by J. H. Gelbloom Surveying Limited (dated October 31, 2018); and
- One (1) 11" x 17" copy of the Site Plan prepared by Cynthia Zahoruk Architects (dated November 3, 2020).

Should you have any questions or require any additional information, please do not hesitate to contact me at 905-572-7477 ext. 6 or via email at [jliberatore@gspgroup.ca](mailto:jliberatore@gspgroup.ca).

Yours truly

**GSP Group Inc.**



Joseph M. Liberatore, B.U.R.Pl., Dip. GIS & Pl.

Planner

cc. Client



## Planning Justification Brief - Minor Variance Application

202 Cannon Street East, Hamilton

November 6, 2020

This Planning Information Brief has been prepared in support of an application for Minor Variance related to the property municipally addressed as 202 Cannon Street East (the "Site") illustrated below in Figure 1.



**Figure 1:** Site Location

### 1.0 Site Overview

The Site is located at the southwest corner of Cannon Street East and Cathcart Street. There is an existing 2-storey vacant brick building at 202 Cannon Street East (Figure 2). The property has an approximate area of 524.65m<sup>2</sup> with frontages of 20.3m on Cannon Street East and 25.8m on Cathcart Street.



**Figure 2:** Existing vacant building at 202 Canon Street East (Southwest View)

Source: GSP Group Inc, 2020

The Site is located in the Beasley neighbourhood and abuts 2-storey street townhouse dwelling units at 77 and 77 1/2 Cathcart Street (Figure 3) to the south; Cathcart Street and a high rise mixed use building to the east; Cannon Street East, auto-oriented commercial uses and residential uses to the north; and, auto-oriented commercial uses to the west (Figure 4).



**Figure 3:** Abutting 2-storey street townhouse dwellings at 77 and 77 1/2 Cathcart Street (Northwest View)



**Figure 1:** Abutting auto-oriented commercial uses at 192 Cannon Street East (Southeast View)  
Source: GSP Group Inc. 2020

## 2.0 Proposed Development

The variance relates to a Site Plan application (City File DA-20-040), which is actively proceeding towards conditional approval. The Owner proposes to comprehensively redevelop the Site for a 3 storey multiple dwelling with 16 units, as illustrated in the attached Site Plan (Figure 5). The proposed development also includes eight (8) bicycle parking spaces and an outdoor amenity space located in the rear yard between the proposed building and the south lot line. All existing buildings on Site are to be demolished.

Through the City's internal circulation of the proposed Site Plan, a 1.25m road right-of-way (ROW) widening was requested along Cannon Street. To accommodate the required ROW dedication, the proposed building needed to be setback an additional 1.25m from the front lot line. This in turn resulted in a reduction in the rear yard setback.

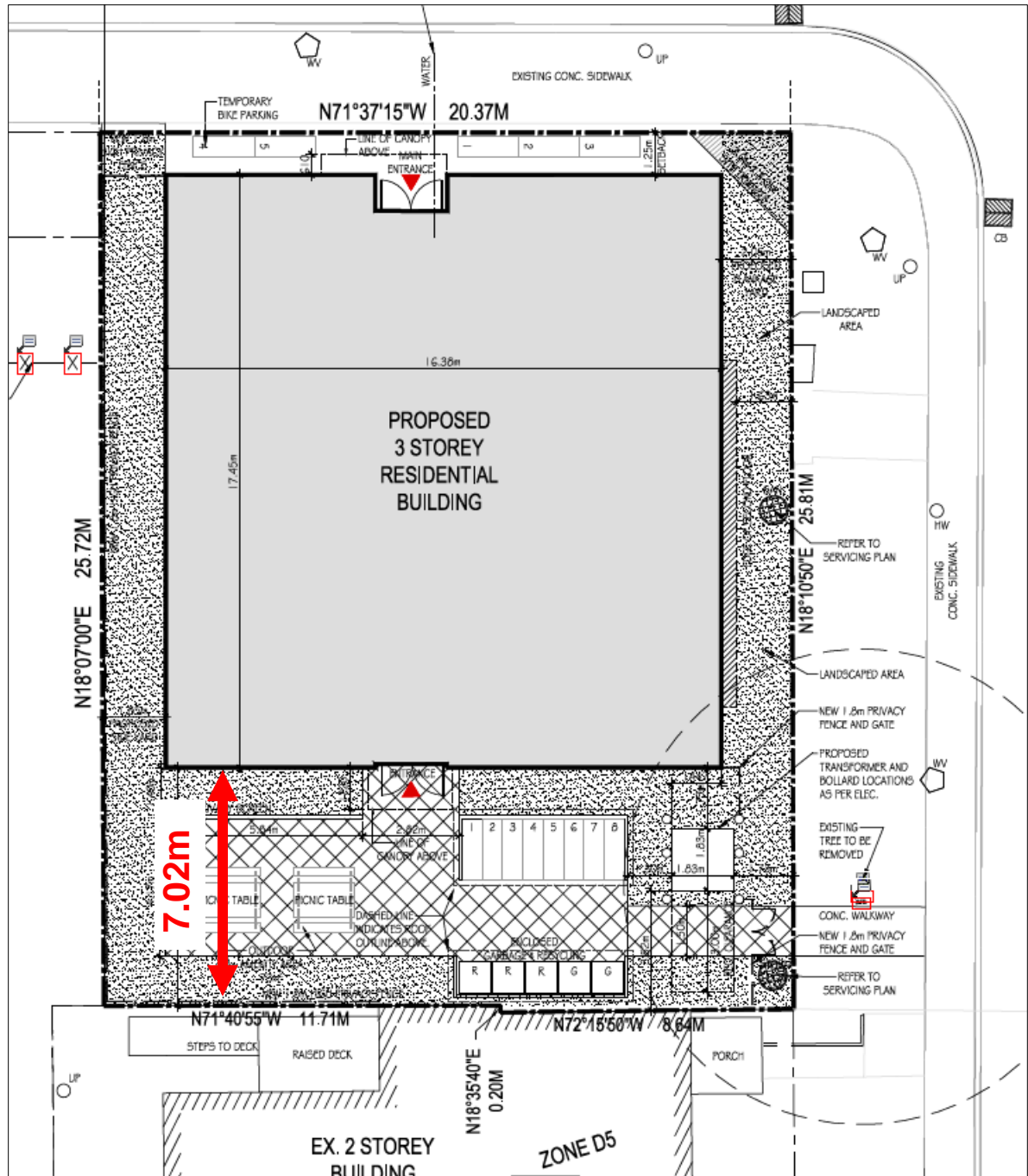
The Site is currently zoned in the Downtown Residential (D5) Holding 17, 19 and 20 Zone" pursuant to Zoning By-law 05-200. The D5 Zone requires a minimum rear yard setback of 7.5m whereas the proposed Site Plan can only accommodate a 7.0m rear yard setback based on the proposed building design.

## 3.0 Requested Minor Variance

The Site is currently zoned in within the "Downtown Residential (D5) Holding 17, 19 and 20 Zone" pursuant to Zoning By-law 05-200.



The existing zoning permits the proposed apartment building (i.e., a multiple dwelling). While the proposed building complies with the majority of the regulations of the D5 Zone, it does not comply with the required 7.5m minimum rear yard setback. Specifically, a 7.0 m rear yard setback is proposed representing a required variance of 0.5m from the rear yard setback requirement of the Zoning By-law.



**Figure 5: Proposed Site Plan**  
Source: Cynthia Zahoruk Architects 2020

#### 4.0 Four Tests of Minor Variance

Section 45(1) of the *Planning Act* states that the Committee of Adjustment “*may authorize such minor variances from the provisions of the by-law, in respect of the land, building or structure or the use thereof*” provided the following four tests are met:

- a) Does the minor variance maintain the general intent and purpose of the Official Plan?
- b) Does the minor variance maintain the general intent and purpose of the Zoning By-law?
- c) Is the minor variance desirable for the appropriate development or use of the land, building, or structure?
- d) Is the requested variance minor in nature?

The analysis that follows demonstrates how the requested variance satisfies the four tests of a minor variance.

**a) Does the requested variance maintain the general intent and purpose of the Official Plan?**

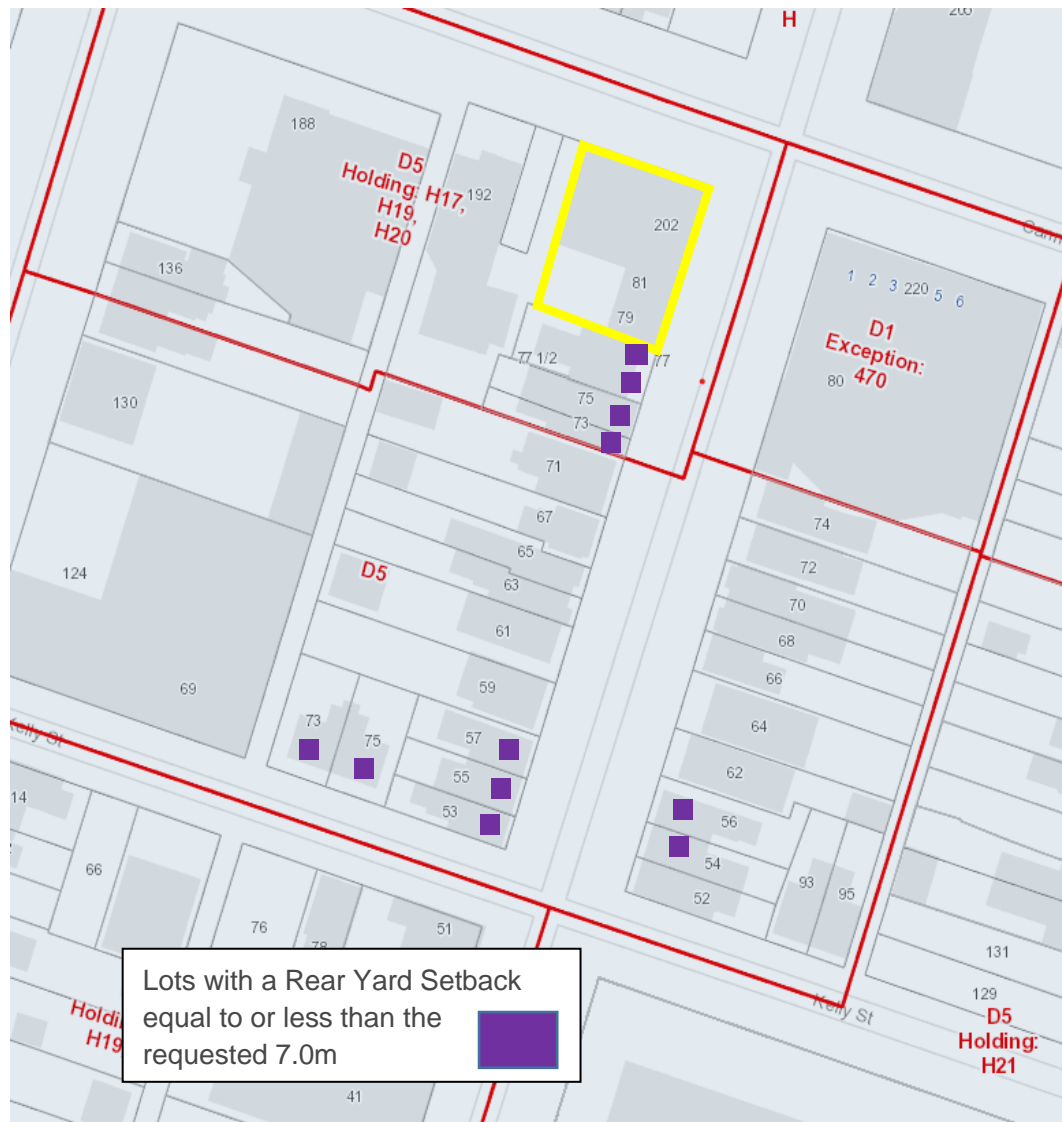
The subject lands are identified within the “Downtown Urban Growth Centre” urban structure element on “Schedule E – Urban Structure” and designated “Downtown Mixed Use” on “Schedule E-1 – Urban Land Use Designations” of the Urban Hamilton Official Plan (“UHOP”). The Site is also within the “Downtown Residential” designation on “Map B.6.1-1 – Land Use Plan” of the Downtown Hamilton Secondary Plan.

In accordance with Downtown Hamilton Secondary Plan Policy B.6.1.4.28, development should be compatible with the context of the surrounding neighbourhood. Respectively, the proposed development contemplates a built form that recognizes the existing massing patterns of its surroundings, and also provides a continuation of the established street wall along Cathcart Street. Additionally, identified in Policy 6.1.4.29 of the Downtown Hamilton Secondary Plan is a requirement for residential developments to feature a form of amenity space. As part of the proposal this outdoor amenity space is planned to be located on the Site within the rear yard setback. While the zoning by-law contemplates a rear yard setback of 7.5 m, a reduction of the requirement to 7.0 m, as proposed provides minimal visual impact along the Cathcart Street streetscape and also allows for the functionality of the associated outdoor amenity space between the rear lot line and the south building elevation.

This subject Minor Variance application seeks relief of the rear yard setback requirement of By-law 05-200, to facilitate the construction of a permitted use in the



“Downtown Mixed Use” designation of the UHOP. A quantitative analysis of the rear yard setbacks that exist in the area immediately surrounding the Site was undertaken including only properties within the Downtown Residential (D5) Zone that are within  $\pm 100$  m of the Site. While the City’s mapping is not 100% accurate, it provided a reasonable basis for the review. The Figure below and the chart to follow illustrate the findings of this review.



**Figure 6: Quantitative Analysis - Mapping**

Mapping Source: Hamilton Interactive GIS Mapping 2020

The chart below documents which properties have a rear yard setback above or below the requested 7.5m rear yard setback.

*Above what is requested (7.0 m Rear Yard Setback)*

**Below what is requested (7.0 m Rear Yard Setback)**



Address	Approximate Rear Yard Setback*
SUBJECT SITE: 202 Cannon Street East	7.0 m (Proposed)
77 Cathcart Street	± 2.5 m
77 ½ Cathcart Street	± 2.5 m
75 Cathcart Street	± 4.9 m
73 Cathcart Street	± 4.9 m
71 Cathcart Street	± 24.2 m
67 Cathcart Street	± 27.0 m
65 Cathcart Street	± 22.7m
63 Cathcart Street	± 22.7 m
61 Cathcart Street	± 22.3 m
59 Cathcart Street	± 25.4 m
57 Cathcart Street	± 6.1 m
55 Cathcart Street	± 6.0 m
53 Cathcart Street	± 5.9 m
74 Cathcart Street	± 20.4 m
72 Cathcart Street	± 19.2 m
70 Cathcart Street	± 14.8 m
68 Cathcart Street	± 14.8 m
66 Cathcart Street	± 22.3 m
64 Cathcart Street	± 15.0 m
62 Cathcart Street	± 16.7 m
56 Cathcart Street	± 6.2 m
54 Cathcart Street	± 6.0 m
52 Cathcart Street	± 5.7 m
73 Kelly Street	± 4.7 m
75 Kelly Street	± 4.8 m
93 Kelly Street	± 7.5 m
95 Kelly Street	± 7.5 m

*All measurements taken are approximate and taken from the City of Hamilton Online Mapping platform showing lot fabric.*

*\* setbacks, as defined in By-law 05-200, is measured between a lot line and the nearest part of any building or specified structure exclusive of any permitted yard projections on the lot.*

*\*\*rear yard setback measured to building face, not rear porch/deck (if present)*

As illustrated in Figure 6 and the summary chart, of the 27 units considered, 12 units (i.e., 44%) in the vicinity have similar or smaller rear yard setbacks.

**Therefore, the requested rear yard setback is compatible with the existing character and function of the neighbourhood and therefore the requested variance meets the general intent and purpose of the Official Plan.**

**b) Do the requested variance maintain the general intent and purpose of the Zoning By-law?**

The general intent and purpose of the required 7.5m minimum rear yard setback is to ensure the rear yard is of an adequate size to accommodate landscaping, and private amenity space. The proposed rear yard includes:

- an outdoor amenity space; and,
- a landscaped area along Cathcart street and a fence along the rear lot line to separate the amenity area from the street and ensure privacy from the adjacent existing residential dwellings to the south.

In this regard, the 0.5m reduction in the rear yard does not hinder use of the private amenity space and will allow for the rear yard to function as a rear yard. In addition, based on the review above, the proposed rear yard setback is within the range of rear yard setback sizes that exist in the immediate area and will be compatible with the surrounding lot fabric.

**Therefore, the requested variance maintains the general intent and purpose of the Zoning By-law.**

**c) Is the minor variance desirable for the appropriate development or use of the land, building, or structure?**

What is key in the review of this criterion is whether the minor variance is desirable from a planning and public interest perspective. The test of desirability includes consideration of many factors that can affect the broad public interest as it relates to the subject lands, accepted planning principles and existing pattern of development.

The requested variances will facilitate the approval of a related Site Plan application to permit the residential intensification of the site for a 3 storey multiple dwelling. This serves to implement the policy vision of the UHOP in the downtown where intensification is contemplated.

**In this regard, the variance is therefore desirable for the appropriate development of the land.**



**d) Is the requested variance minor in nature?**

In the determination of whether a variance is minor, consideration of more than solely the numerical difference between the requested setback and the zoning by-law requirement is necessary. Consideration of how the variance impacts the overall area, as well as the Site must be considered. In this instance, there for no visual discernible difference from the public realm along the Cathcart Street of a 7.0m rear yard setback or a 7.5m rear yard setback. The variance in this case is both small numerically, and visually.

The reduced rear yard setback will continue to provide a rear yard that is functional in serving as an outdoor amenity space as intended by the by-law. Furthermore, the requested variance is also closer numerically to existing rear yard setbacks on many other properties in the vicinity.

**Accordingly, the requested variance is both numerically and substantively minor in nature.**

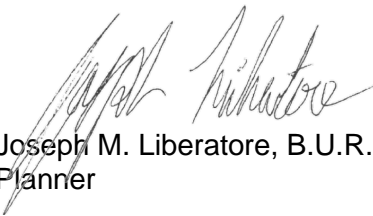
**5.0 Summary and Recommendations**

The requested variance represents good land use planning as it satisfies the four tests of Section 45(1) of the *Planning Act*. Approval of the requested variance will continue to maintain the general intent and purpose of the Urban Hamilton Official Plan and Zoning By-law 05-200, is desirable for the appropriate use of the land, and is considered minor in nature. Because of this, my recommendation is that the variance be approved.

Should you have any questions or require any additional information, please do not hesitate to contact me at 905-572-7477 ext. 6 or via email at [jliberatore@gspgroup.ca](mailto:jliberatore@gspgroup.ca)

Yours truly,

**GSP Group Inc.**



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Planner