



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.: SC/A-21:307

APPLICANTS: Owner Penequity Realty Corporation c/o Jeff Lumsden
Agent MHBC Planning c/o Oz Kemal

SUBJECT PROPERTY: Municipal address **400 Winona Rd., Stoney Creek**

ZONING BY-LAW: Zoning By-law 05-200, as Amended by By-law No. 17-240

ZONING: C6, 301 district (District Commerical (C6) zone)

PROPOSAL: To permit the development of Buildings B2A and B2B within an existing shopping centre consisting of Sites A to F, future Site G together with a 1.0 acre Transit hub in order to facilitate Site Plan File # SPA-21-071 and future Site Plan Control Applications notwithstanding that:

1. Parking for the shopping centre in Sites A, B, C, D, F and in the easterly portion of the Site G within the subject lands shall be determined based on 0 parking for less than 450.0 square metres of gross floor area; 1 parking spaces for each 17.0 square metres of gross floor area between 450.0 square metres and 4,000.0 square metres and 1 parking space for each 50.0 square metres of gross floor area greater than 4,000.0 square metres instead of the requirement that the number of required parking spaces shall be determined based on each individual use as regulated by Section 5.6 c).

NOTE:

i) As Site E and the westerly portion of Site G are under separate ownership, this parking variance does not apply and the existing parking regulations would be applicable.

ii) If Variance # 1 is granted, a minimum of 1,295 parking spaces are required for Sites A to F including Buildings G, G4 and G5 and a total of 1,613 parking spaces have been provided. Further, if Variance # 1 is granted, a minimum of 1,496 parking spaces are required for the entire shopping centre including all of Sites A to G and a total of 1,984 parking spaces have been provided.

iii) If Variance # 1 is granted, Variance # 2 as requested in the Minor Variance Application and letter of August 6, 2021 is not necessary as the required number of parking spaces will be provided on the lot.

iv) The variances are necessary to facilitate Site Plan File No. SPA-21-071. Minor Variance File No. SC/A-21:306 (395 Fifty Road and 1360 South Service Road, Stoney Creek) is also intended to facilitate Site Plan File No. SPA-21-071.

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

DATE: Thursday, September 23rd, 2021
TIME: 3:10 p.m.
PLACE: Via video link or call in (see attached sheet for details)
To be streamed at
www.hamilton.ca/committeeofadjustment
for viewing purposes only

PUBLIC INPUT

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

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

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

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

DATED: September 7th, 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.

Panel 1

Panel 2

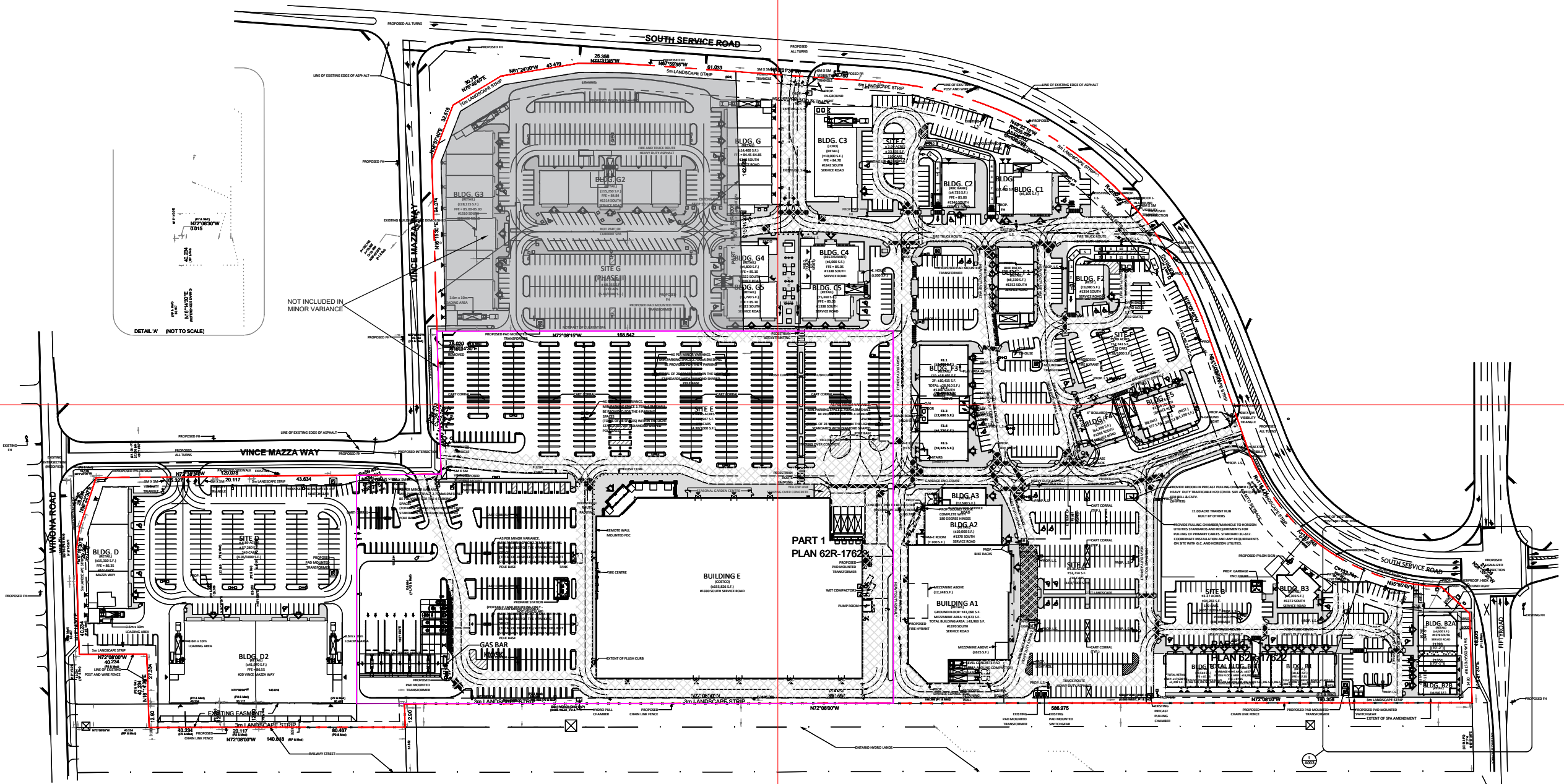
OVERALL SITE PLAN

WINONA CROSSING

Stoney Creek, Ontario

SITE STATISTICS

SC2-4(H) Zone	Proposed
Lot Area	17.86 Ha
Lot Frontage	48.905 M
Lot Coverage	23.69%
G.F.L.A.	± 41,104 S.M.
TOTAL	± 41,104 S.M.
Entire Site Area	± 17.77 Ha
Total Retail Site Area	± 17.37 Ha
Site A Area	± 1.76 Ha
Site B Area	± 1.36 Ha
Site C Area	± 1.62 Ha
Site D Area	± 1.98 Ha
Site E Area	± 5.69 Ha
Site F Area	± 2.22 Ha
Site G Area	± 2.74 Ha
Transit Facility Area	± 0.41 Ha
SITE A	± 1.76 Ha
Building A1 Ground Floor Area	± 3,817 S.M.
Building A1 Mezzanine Area	± 267 S.M.
Building A1 Gross Floor Area	± 4,084 S.M.
Building A2	± 929 S.M.
Building A3	± 241 S.M.
M+E Room	± 28 S.M.
Total Retail Area	± 4,987 S.M.
Total Building Area	± 5,282 S.M.
Parking Provided	216 Cars; 4.09/100 S.M.
Coverage	28.42%
SITE B	± 1.36 Ha
Building B+B1	± 1,681 S.M.
Building B2A+B2B	± 874 S.M.
Building B3	± 400 S.M.
Total Building Area	± 2,955 S.M.
Parking Provided	139 Cars; 4.70/100 S.M.
Coverage	21.67%
SITE C	± 1.62 Ha
Building C	± 226 S.M.
Building C1	± 474 S.M.
Building C2	± 440 S.M.
Building C3	± 929 S.M.
Building C4	± 557 S.M.
Building C5	± 498 S.M.
Total Building Area	± 3,125 S.M.
Parking Provided	110 Cars; 3.52/100 S.M.
Coverage	19.35%
SITE D	± 1.98 Ha
Building D	± 1,422 S.M.
Building D2	± 3,899 S.M.
Total Building Area	± 5,321 S.M.
Parking Provided	249 Cars; 4.68/100 S.M.
Coverage	26.91%
SITE E	± 5.69 Ha
Building E	± 14,477 S.M.
Gasbar Kiosk	± 11 S.M.
Total Building Area	± 14,488 S.M.
Parking Provided	670 Cars; 4.62/100 S.M.
Coverage	25.48%
SITE F	± 2.22 Ha
Building F1	± 774 S.M.
Building F2	± 286 S.M.
Building F3	± 2,686 S.M.
Building F4	± 408 S.M.
Building F5	± 701 S.M.
Total Building Area	± 4,855 S.M.
Parking Provided	229 Cars; 4.72/100 S.M.
Coverage (± 41,828 S.F.)	17.49%
SITE G	± 2.74 Ha
Building G	± 1,338 S.M.
Building G2	± 1,417 S.M.
Building G3	± 2,612 S.M.
Building G4	± 446 S.M.
Building G5	± 538 S.M.
Total Building Area	± 6,350 S.M.
Parking Provided	371 Cars; 5.84/100 S.M.
Coverage	23.19%
TOTAL RETAIL SITE	± 17.37 Ha
Total Gross Floor Leasable Area (N.I.C. -3% for M+E Rooms & Exterior Walls)	± 42,375 S.M.
Total Parking Provided (Based on G.L.A.)	1,984 Cars; 4.83/100 S.M.



Panel 3

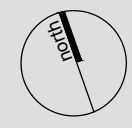
Panel 4

Date: August 3, 2021

Scale: N.T.S.

File: 10179 - Z

By: Turner Fleischer Architects



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11X17.DWG

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URBAN DESIGN
& LANDSCAPE
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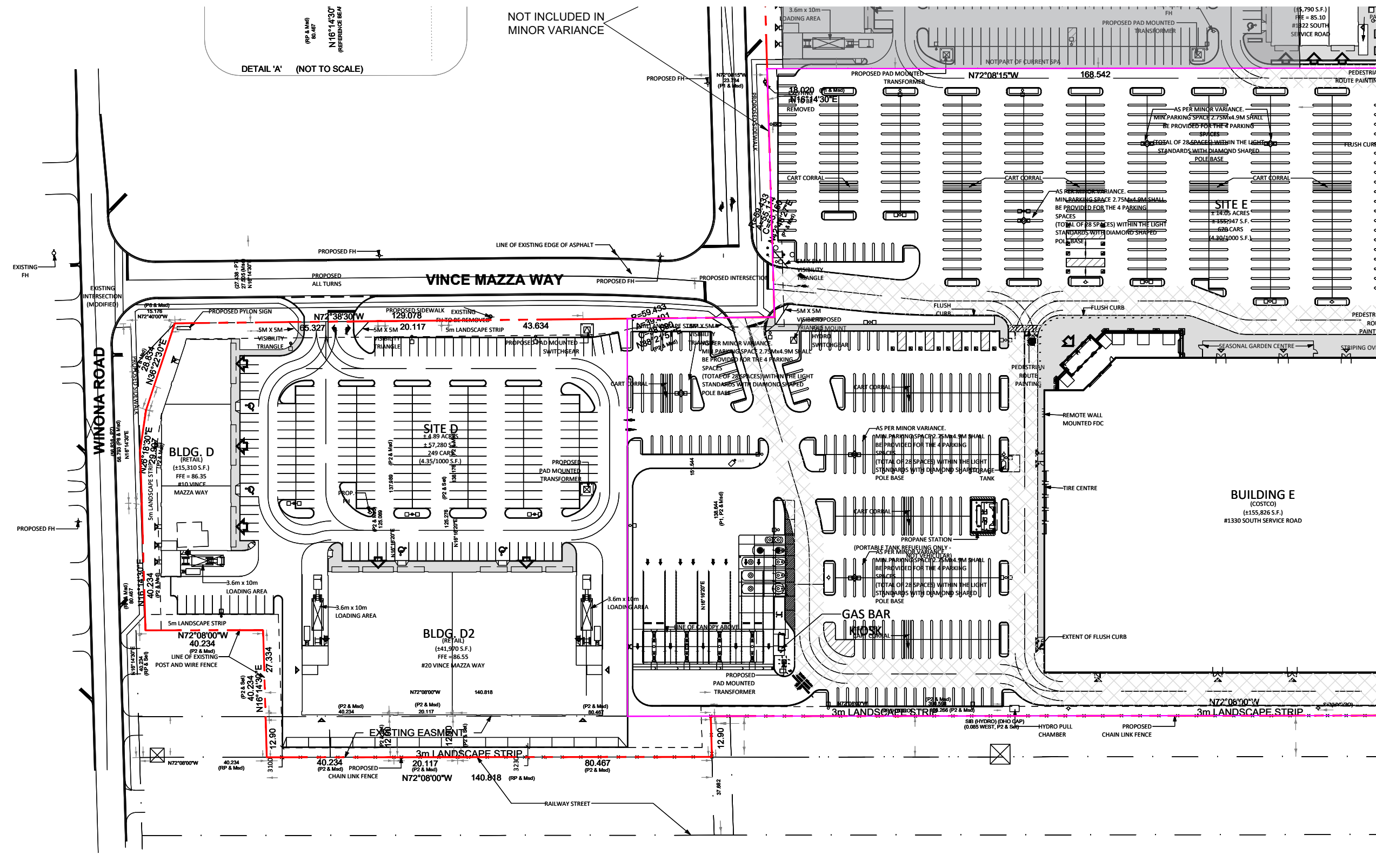
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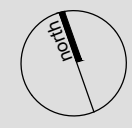


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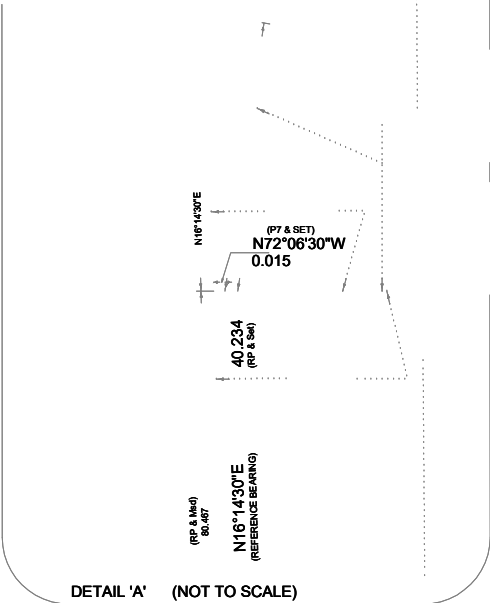
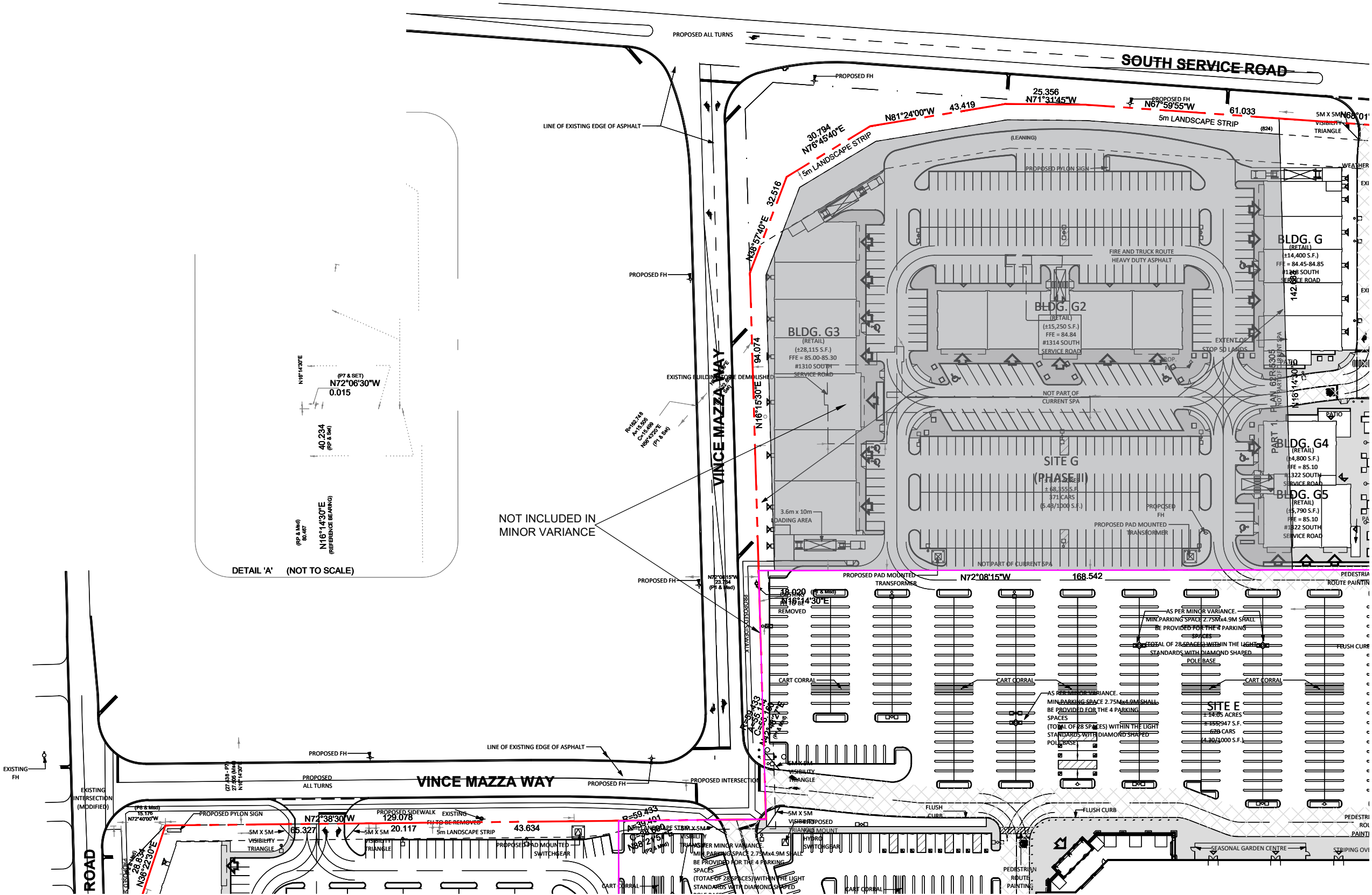
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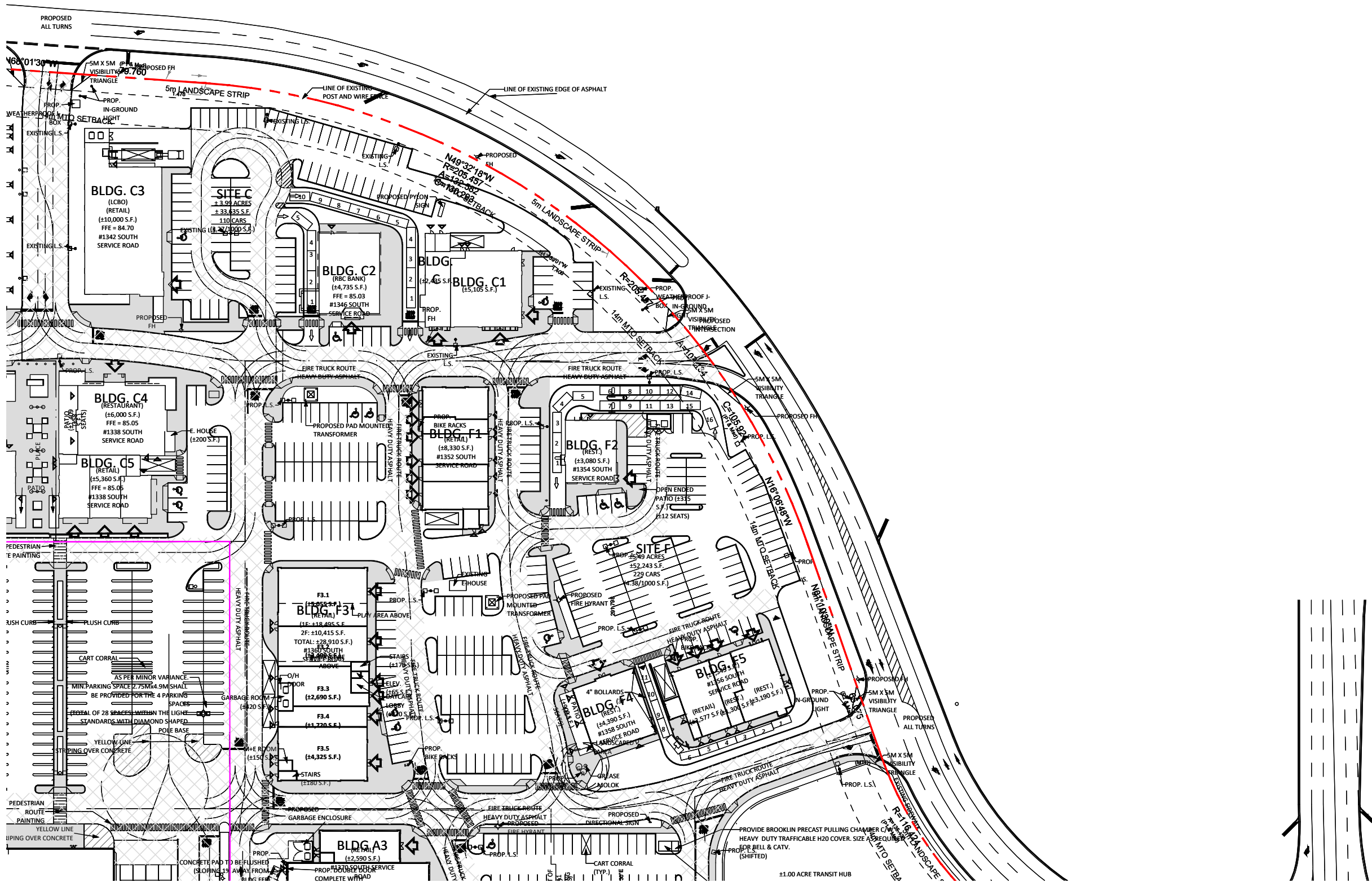
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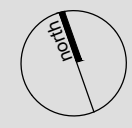


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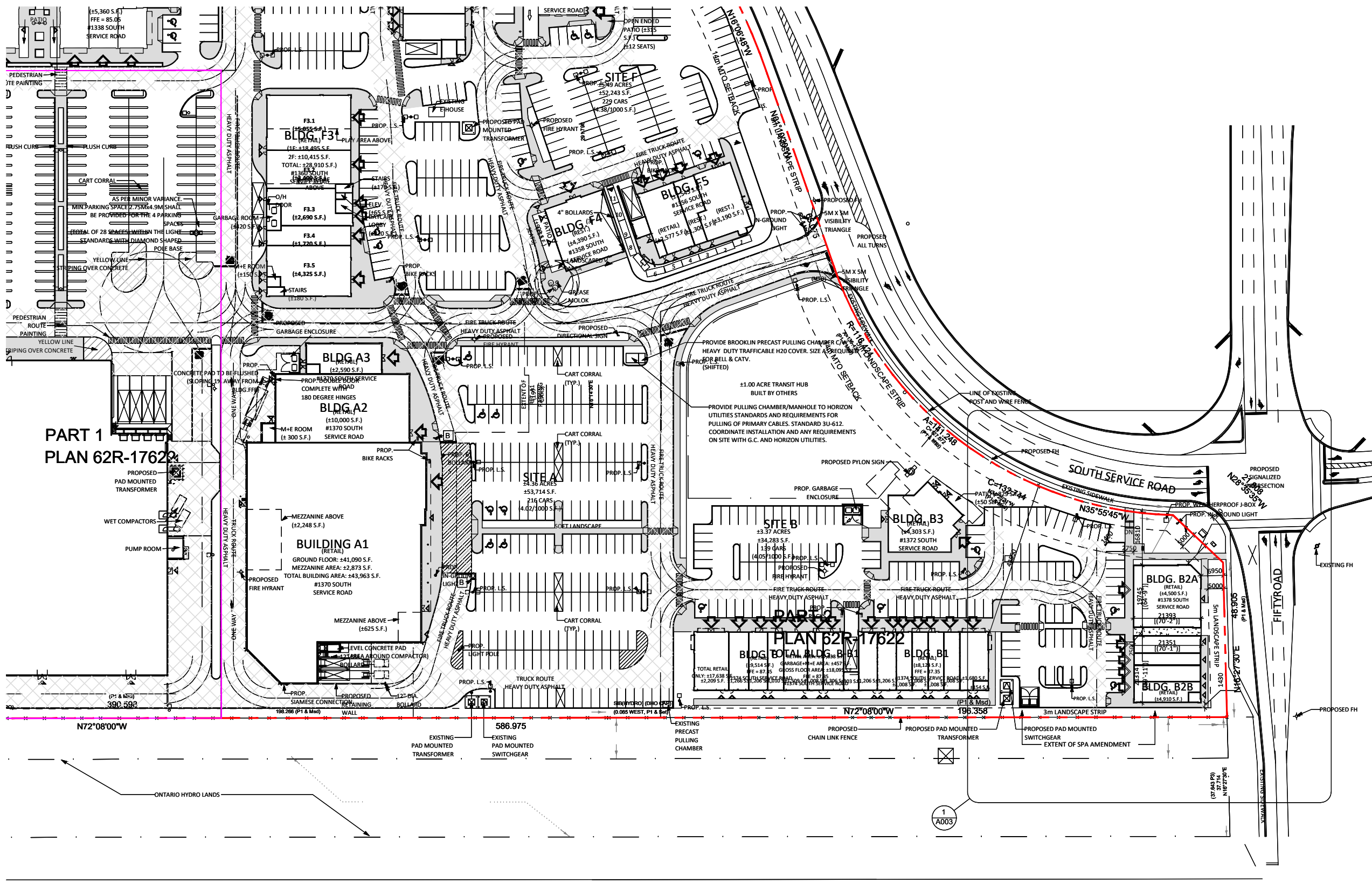
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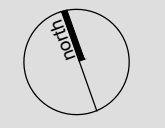
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PART 1
PLAN 62R-17622

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CANADIAN NATIONAL RAILWAY

Date: August 3, 2021
Scale: N.T.S.
File: 10179 - Z
By: Turner Fleischer Architects



N:\10179\Z - QEW & FIFTY RD, HAMILTON\MHBC DOCUMENTS\OVERALL SITE PLAN
1\1X17.DWG



Hamilton

Committee of Adjustment
City Hall, 5th Floor,
71 Main St. W.,
Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221
Email: cofa@hamilton.ca

APPLICATION FOR A MINOR VARIANCE

FOR OFFICE USE ONLY.	
APPLICATION NO. _____	DATE APPLICATION RECEIVED _____
PAID _____	DATE APPLICATION DEEMED COMPLETE _____
SECRETARY'S SIGNATURE _____	

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, 2	NAME	MAILING ADDRESS
Registered Owners(s)	Penady (Stoney Creek) Ltd.	
Applicant(s)*	PenEquity Realty Corporation (c/o Jeff Lumsden)	
Agent or Solicitor	MHBC Planning (c/o Oz Kemal)	

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

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

Cosman Mortgage Holding Corp. 7050 Weston Road, Suite 400 Woodbridge, ON L4L 8G7
Crown Capital Partners Inc. 333 Bay Street Suite 2730, Toronto, ON M5H 2R2

Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled

4. Nature and extent of relief applied for:
 Proposed Variances: 1. Parking for the shopping centre shall be determined based on 0 parking spaces for less than 450.0 square metres of gross floor area and 1 parking space for each 17.0 square metres of gross floor area between 450.0 square metres and 4,000.0 square metres and 1 parking space for each 50.0 square metres of gross floor area greater than 4,000.0 square metres instead of the minimum required as calculated on a per-use basis across the shopping centre.
 2. To permit that the required number of parking spaces have not been provided on the lot pursuant to the existing parking regulations, whereas required parking facilities shall be located on the same lot as the use requiring the parking.
- Secondary Dwelling Unit Reconstruction of Existing Dwelling

5. Why it is not possible to comply with the provisions of the By-law?
 See attached justification letter.

6. Legal description and Address of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number):
 400 Winona Road (PIN 17368-0654) LTS 94, 99, 101, 102, 107, 108, 113 & 114 PL 310; PT LTS 91, 92, 93 & 100, PL 310 BEING PTS 1 & 2 62R17620, SAVE AND EXCEPT PT 1 ON 62R20001; S/T SA52780 STONEY CREEK, CITY OF HAMILTON
 PIN 17368-0112 (LT) PT UNOPENED RD, PL 310, LYING BTN SOUTH SERVICE RD & RAILWAY ST, CLOSED BY COURT ORDER WE546689 AND BY-LAW 08-122 WE551456, PARTS 3 AND 4 ON 62R17620; S/T EASEMENT IN GROSS OVER PART 3 ON 62R17620 AS WE554924, STONEY CREEK, CITY OF HAMILTON
 PIN 17368-0660 (LT) LOTS 95, 96, 97, 98, 103, 104, 105, 106, 109, 110, 111 & 112 AND PART LOTS 89 & 90 PLAN 310 PARTS 5 & 6 62R17620 SAVE & EXCEPT PART 2 62R20001, PART 1 62R20303; S/T SA52780 STONEY CREEK; CITY OF HAMILTON

7. PREVIOUS USE OF PROPERTY
- | | | |
|--------------------------------------------------|-------------------------------------|-------------------------------------|
| Residential <input checked="" type="checkbox"/> | Industrial <input type="checkbox"/> | Commercial <input type="checkbox"/> |
| Agricultural <input checked="" type="checkbox"/> | Vacant <input type="checkbox"/> | Other <input type="checkbox"/> |
- Other _____

- 8.1 If Industrial or Commercial, specify use _____
- 8.2 Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?
 Yes No Unknown Grading completed in accordance with municipal approvals, including DA-13-022.
- 8.3 Has a gas station been located on the subject land or adjacent lands at any time?
 Yes No Unknown
- 8.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?
 Yes No Unknown
- 8.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?
 Yes No Unknown
- 8.6 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
- 8.7 Have the lands or adjacent lands ever been used as a weapon firing range?
 Yes No Unknown
- 8.8 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
- 8.9 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

8.10 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

8.11 What information did you use to determine the answers to 8.1 to 8.10 above?

Discussion with owner. There is an RSC (Record of Site Condition) in place on all of the shopping centre lands. The adjacent lands at 1310 South Service Road were previously the Stop 50 Restaurant, Gas Bar, and Truck Stop (motel).

8.12 If previous use of property is industrial or commercial or if YES to any of 8.2 to 8.10, 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

9. 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.

_____ Date


_____ Signature Property Owner(s)

Penady (Stoney Creek) Ltd.

_____ Print Name of Owner(s)

10. Dimensions of lands affected:

Frontage various (see attached plans)

Depth various (see attached plans)

Area 15.00 hectares

Width of street Approximate: Winona Road: 25.6m, Vince Mazza Way 23-27m, Fifty Road: 28m, MTO corridor: 30m+

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: _

see attached site plan.

Proposed

see attached site plan.

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

Existing:

see attached site plan.

Proposed:

see attached site plan.

13. Date of acquisition of subject lands:
Since roughly 2006
-
14. Date of construction of all buildings and structures on subject lands:
Since 2016
-
15. Existing uses of the subject property (single family, duplex, retail, factory etc.):
commercial centre
16. Existing uses of abutting properties (single family, duplex, retail, factory etc.):
Provincial highway (north); commercial uses, employment uses (west); CN Rail lands, Hydro One corridor (south); agriculture, vacant land (east)
17. Length of time the existing uses of the subject property have continued:
2016
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:
Official Plan: District Commercial
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:
By-law No. 05-200: District Commercial (C6, 301)
21. Has the owner previously applied for relief in respect of the subject property?
Yes No
If the answer is yes, describe briefly.
Previous Minor Variance applications SC/A-12:139, SC/A-14:78, SC/A-16:197 and SC/A-18:177, SC/A-18:178, SC/A-18:179
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?
Yes No
23. Additional Information
See attached justification letter.
24. 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.

August 6, 2021

Committee of Adjustment
Planning and Economic Development Department
5th floor, 71 Main Street West
Hamilton, ON L8P 4Y5

**RE: APPLICATION FOR MINOR VARIANCE
WINONA CROSSING COMMERCIAL CENTRE
400 WINONA ROAD AND 395 FIFTY ROAD & 1360 SOUTH SERVICE ROAD
RELATED CITY FILES: DA-13-022 & SPA-17-095
OUR FILE: 10179Z**

On behalf of our clients, Penady (Stoney Creek) Ltd and Crestpoint Real Estate (Winona Ph. 1) Inc., we are pleased to submit Minor Variance applications for the Winona Crossing shopping centre located at 395 Fifty Road, 400 Winona Road and 1360 South Service Road. Since the shopping centre is comprised of multiple parcels of land under separate ownerships, we are submitting two concurrent minor variance applications for the areas identified as Areas A, B, C, D, F and a portion of Area G on the attached Minor Variance Sketch. In support of this application, please find enclosed the following for each application:

- Completed Minor Variance Application Form; and.
- Minor Variance Sketches.

OVERVIEW:

The shopping centre is located south of the Queen Elizabeth Way (QEW), west of the Fifty Road interchange. The site is bounded Fifty Road to the east, South Service Road to the east and north, Vince Mazza Way and Winona Road to the west and the CN Rail line and Hydro One corridor to the south. The site is approximately 15 hectares. In consultation with City Staff, despite the fact that the property operates as one site, from a legal perspective, there are a total of four (4) parcels that comprise the Winona Crossing lands. They are (in no particular order):

Address	PIN
395 Fifty Road & 1360 South Service Road	17368-0120 (LT), 17368-0662 (LT)
400 Winona Road	17368-0654 (LT), 17368-0112 (LT), 17368-0660 (LT)
1330 South Service Road	17368-0659 (LT), 17368-0661 (LT)
1310 South Service Road	17368-0279 (LT)

Development on site was approved through a series of site plan applications beginning with the master site plan application DA-13-022. Although Area G has been designed and shown on the site plan drawing, this area has not been the subject of any approvals and is therefore only shown for reference purposes. The proposed variances are intended to apply to all portions of Area G within 395 Fifty Road & 1360 South Service Road.

The site is currently built out with the exception of Areas D, G and Buildings B2A and B2B in Area B. At full build-out, the commercial centre will have a total of approximately 41,104 m² of gross leasable floor area. Building B2A and B2B are currently subject to Site Plan Control application SPA-21-071 for which conditional approval is imminent. As part of the draft conditions of approval, staff identified that a Minor Variance application is required to rectify a parking deficiency for the shopping centre.

Through Site Plan Control application SPA-21-071 staff have identified that 1925 parking spaces, including 30 barrier free spaces are required for Areas A to F under the current rates in Hamilton Zoning By-law 05-200 whereas 1613 parking spaces and 44 barrier free parking spaces are being provided. Note that as per Minor Variance applications SC/A-18:177, SC/A-18:178 and SC/A-18:179, the entire shopping centre (Areas A to D, F and G) is considered as one property for the purposes of zoning review, including parking calculations.

The reason that a parking deficiency has arisen on site is due to the method by which the Local Planning Appeal Tribunal (now the Ontario Land Tribunal or "OLT") has used to resolve the appeal of By-law 17-240. By-law 17-240 was adopted by Council in November 2017 as a comprehensive update to Hamilton Zoning By-law 05-200 to incorporate Commercial and Mixed Use Zoning into the By-law along with corresponding updates to definitions and special parking rates for shopping centres. The OLT made a decision to partially resolve the appeal of By-law 127-240. The part of the appeal that was resolved was for the part of By-law 17-240 that brought the site into Hamilton Zoning By-law 05-200 (and took it out of Stoney Creek Zoning By-law 3692-92) while the part that still remains under appeal is the part that contains the new parking regulations for shopping centres. Given the partial resolution of the appeal of By-law 17-240, the site is now under the jurisdiction of Hamilton Zoning By-law 05-200 but without the appropriate parking provisions (i.e. shopping centre rates) which were intended to be implemented at the same time. As such, staff must apply the parking rate for each individual use on site using existing rates such as for "Retail", "Restaurant" and "Personal Service" to calculate parking requirements on site as opposed to the "Shopping Centre" rate which is still held up at the OLT. As such, a new variance is required to recognize the previous parking rates approved through variances to Stoney Creek Zoning By-law 3692-92 and act as bridge to the as-of-right parking rates for shopping centres, city-wide, adopted by Council through By-law 17-240.

Note that the site was in compliance with parking regulations under Stoney Creek Zoning By-law 3692-92 as approved through previous variances and is in compliance with the parking regulations listed in By-law 17-240, both of which require 849 parking spaces and 18 barrier free spaces to be provided on site (well below what is actually being proposed by the landowner).

REQUESTED VARIANCES:

The following variances are requested to address the parking deficiency on site:

Variance 1: Parking for the shopping centre shall be determined based on 0 parking spaces for less than 450.0 square metres of gross floor area and 1 parking space for each 17.0 square metres of gross floor area between 450.0 square metres and 4,000.0 square metres and 1 parking space for each 50.0 square metres of gross floor area greater than 4,000.0 square metres instead of the minimum required as calculated on a per-use basis across the shopping centre.

Variance 2: To permit that the required number of parking spaces have not been provided on the lot pursuant to the existing parking regulations, whereas required parking facilities shall be located on the same lot as the use requiring the parking.

The rates proposed in variance 1 are the Council approved rates for Shopping Centres in By-law 17-240.

Planning staff have identified that variance 2 is required in conjunction with variance 1 to address the parking deficiency in their draft conditions of Site Plan Approval. Previous variance applications SC/A-18:177, SC/A-18:178 and SC/A-18:179 permitted Areas A-D, F and G to be considered as one lot for the purposes of zoning review and the Owner is not proposing to locate parking on a separate outside of this arrangement. Thus it is our understanding that variance 2 is required as a technicality due to the unique wording contained in Hamilton Zoning By-law 05-200 as opposed to a real need for locating parking spaces off site.

RATIONALE

1. The variances maintain the general intent and purpose of the Official Plan

The site is designated District Commercial on Schedule E-1 – Land Uses Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP) and District Commercial with Area Specific Policy G on Map B.7.4-1 – Land Use Plan of the Fruitland-Winona Secondary Plan in Volume 2 of the UHOP. The intent of this land use designation framework is to permit the development of larger format commercial centres that service the daily and weekly shopping needs of people in surrounding neighbourhoods. Area Specific Policy G also recognizes the unique location of the site next to a highway interchange and an arterial road which offers the opportunity to create transit supportive development, a community focal point and act as a gateway into the City. The proposal is consistent with this intent in that it will help establish a destination commercial centre which will serve a wide range of retail and commercial needs. The reduction in parking requirements will allow that the shopping centre to develop in pedestrian friendly and transit supportive manner while

not being overly constrained by outdated minimum parking standards. Therefore, the proposed variances meet the general intent and purpose of the Official Plan.

2. *The variances maintain the general intent and purpose of the Zoning By-law*

The site is zoned District Commercial (C6, 301) Zone in Hamilton Zoning By-law No. 05-200. The intent of the provisions with respect to minimum parking requirements is to ensure that a sufficient amount of parking spaces is provided on site so as to accommodate all uses on the site and prevent spill over parking onto adjacent streets. As noted in the overview section above, Hamilton Zoning By-law No. 05-200 does not currently have parking rates specific to shopping centres. These specific parking rates were supposed to be incorporated into the By-law at the same time that the Commercial and Mixed Zones were incorporated to ensure a consistent zoning framework for regulating commercial land uses. However, due the partial resolution of the appeal of By-law 17-240, the Commercial and Mixed Zones were incorporated without their appropriate corresponding parking rates and thus staff must rely on the next best proxy rates and calculate the total parking requirements on a per-use basis for each individual unit. This artificially raises the minimum required parking space count and causes the site to be out of compliance with the By-law. Therefore, the proposed variances for a reduced parking rate (which is equal to the rate approved by Council in By-law 17-240) meet the intent of By-law as they establish the appropriate parking rates for the use in question which were intended to be implemented at the same as the rest of commercial and mixed use provisions through By-law 17-240.

Additionally, the site was in compliance with the parking regulations under Stoney Creek Zoning By-law 3692-92 as approved through previous variances and is in compliance with the parking regulations listed in By-law 17-240 but this is not currently recognized as the appeal to By-law 17-240 was resolved in in part.

3. *That the requested variances are desirable for the appropriate development or use of the land.*

The reduction in minimum parking requirements will ensure that appropriate parking standards are applied to the site. This will allow the landowner to properly plan for mobility within the site, recognizing that the modern approach to mobility is no longer solely dependent on automobile travel. Although automobiles will likely remain the primary mode of transportation to and from the site for the foreseeable future, the reduction in minimum parking requirements will ensure that the landowner can plan the site in a way that encourages alternative modes of transportation, including walking, cycling and public transit, without being hindered by the significant amount of land that would be consumed by over-supplying parking spaces on site. Therefore, the proposed variances are desirable for the appropriate development of the lands.

4. *That the requested variances are minor in nature*

The proposed variances carry forward the minimum parking requirements applicable under the previous Stoney Creek Zoning By-law 3692-92 which were also approved through a variance. Additionally, these same parking requirements are the as-of-right parking requirements adopted by Council through By-law 17-240 which are applicable to Shopping Centres city-wide. As such, the effect of the variance is to act as a bridge between what was approved for the site under Stoney Creek Zoning By-law 3692-92 and what will be the as-of-right requirements under Hamilton Zoning By-law 05-200 (as amended by By-law 17-240). As such, the

site has always been planned, approved and developed under the parking provisions proposed through this variance application. Therefore, the proposed variance is minor in nature.

Please note, we are seeking a variance approval which allows for onsite flexibility to respond to evolving market needs without reapplying for variances which have already been reviewed and approved. For large commercial sites like Winona Crossing, the City requires the preparation of a comprehensive development plan that demonstrates how the entire site will function at build-out. Since, at the time of planning approvals (including previous Zoning By-law Amendment and Site Plan Control applications), all commercial units are not leased out to prospective tenants, assumptions need to be made about what types of businesses might occupy the space and what their specific needs might be. These assumptions feed into the preparation of the comprehensive development plan which sometimes takes years to approve and construct. Due to the evolving needs of the commercial real estate market, some assumptions may become inconsistent with the present-day needs of prospective businesses. As such, we request that consideration be given to providing reasonable flexibility in the wording of the proposed approval which allows Winona Crossing to respond to the evolving needs of the market with respect mobility and the provision of parking spaces. Such wording should acknowledge that, as the site develops, the Owner may apply for Site Plan Amendment applications that should different building configurations than what was shown on the master site plan is shown on the attached Minor Variance sketch. Therefore, any approved Minor Variances should continue to apply to future Site Plan Amendment applications.

If you require further information please do not hesitate to contact us. We look forward to this matter being scheduled at your earliest convenience.

Thank you.

Yours truly,

MHBC

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

Oz Kemal, BES, MCIP, RPP

Partner

cc: Leger Xavier, Jeff Lumsden – PenEquity Realty Corporation (on behalf of Penady (Stoney Creek) Ltd. and Crestpoint Real Estate (Winona Ph. 1) Inc.)