



Hamilton

**COMMITTEE OF ADJUSTMENT**

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

Telephone (905) 546-2424, ext. 4221, 3935

E-mail: [cofa@hamilton.ca](mailto: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

<b>APPLICATION NO.:</b>	<b>HM/A-23:284</b>	<b>SUBJECT PROPERTY:</b>	1760 Upper James Street, Hamilton
<b>ZONE:</b>	"C7" (Arterial Commercial)	<b>ZONING BY-LAW:</b>	Zoning By-law City of Hamilton 05-200, as Amended

**APPLICANTS:** Owner: 1704202 Ontario Inc.  
Agent: UrbanSolutions Planning & Land Development Consultants Inc. c/o Matt Johnston

The following variances are requested:

1. A retail store, office and personal services shall be permitted within the existing building notwithstanding that said uses are not permitted in the current "C7" (Arterial Commercial) zone.

**PURPOSE & EFFECT:** To add additional permitted uses within the current C7 zone as were previously permitted under the former zoning of the lands within the existing building.

**Notes:**

This property was formerly zoned "G" (Neighbourhood Shopping Centre) under the former Hamilton Zoning By-law 6593 which permitted various types of commercial uses including a business or professional offices, personal service uses, and most retail uses, excluding a second-hand shop, pawnbroker's shop, plumbing fixture shop or pet shop.

**This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.**

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

<b>DATE:</b>	<b>Thursday, December 7, 2023</b>
<b>TIME:</b>	<b>10:30 a.m.</b>
<b>PLACE:</b>	<b>Via video link or call in (see attached sheet for details)</b>
	<b>2<sup>nd</sup> floor City Hall, room 222 (see attached sheet for</b>

	<b>details), 71 Main St. W., Hamilton</b>
	<b>To be streamed (viewing only) at</b> <a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a>

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

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Visit Committee of Adjustment staff at 5<sup>th</sup> floor City Hall, 71 Main St. W., Hamilton
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935

## **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, calling in, or attending in person. Please see attached page for complete instructions, including deadlines for registering to participate virtually and instructions for check in to participate in person.

## **FURTHER NOTIFICATION**

If you wish to be notified of future Public Hearings, if applicable, regarding HM/A-23:284, you must submit a written request to [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided a Notice of Decision, you must attend the Public Hearing and file a written request with the Secretary-Treasurer by emailing [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.



 Subject Lands

DATED: November 21, 2023

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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, and may include posting electronic versions.



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## PARTICIPATION PROCEDURES

### Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing or via email in advance of the meeting. Comments can be submitted by emailing [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon two days before the Hearing.**

Comment packages are available two days prior to the Hearing and are available on our website: [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)

### Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

#### 1. Virtual Oral Submissions

**Interested members of the public, agents, and owners must register by noon the day before the hearing to participate Virtually.**

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email [cofa@hamilton.ca](mailto:cofa@hamilton.ca). The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

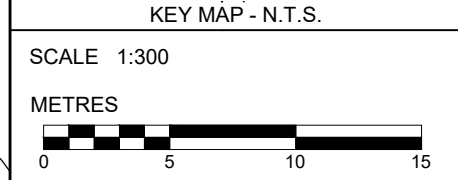
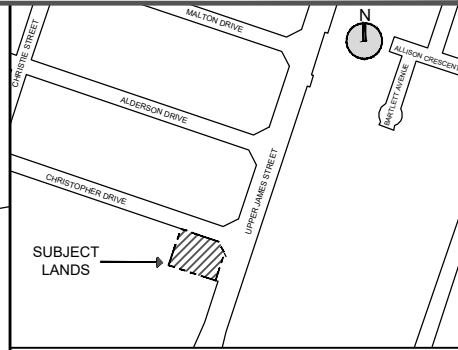
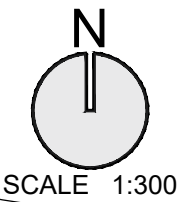
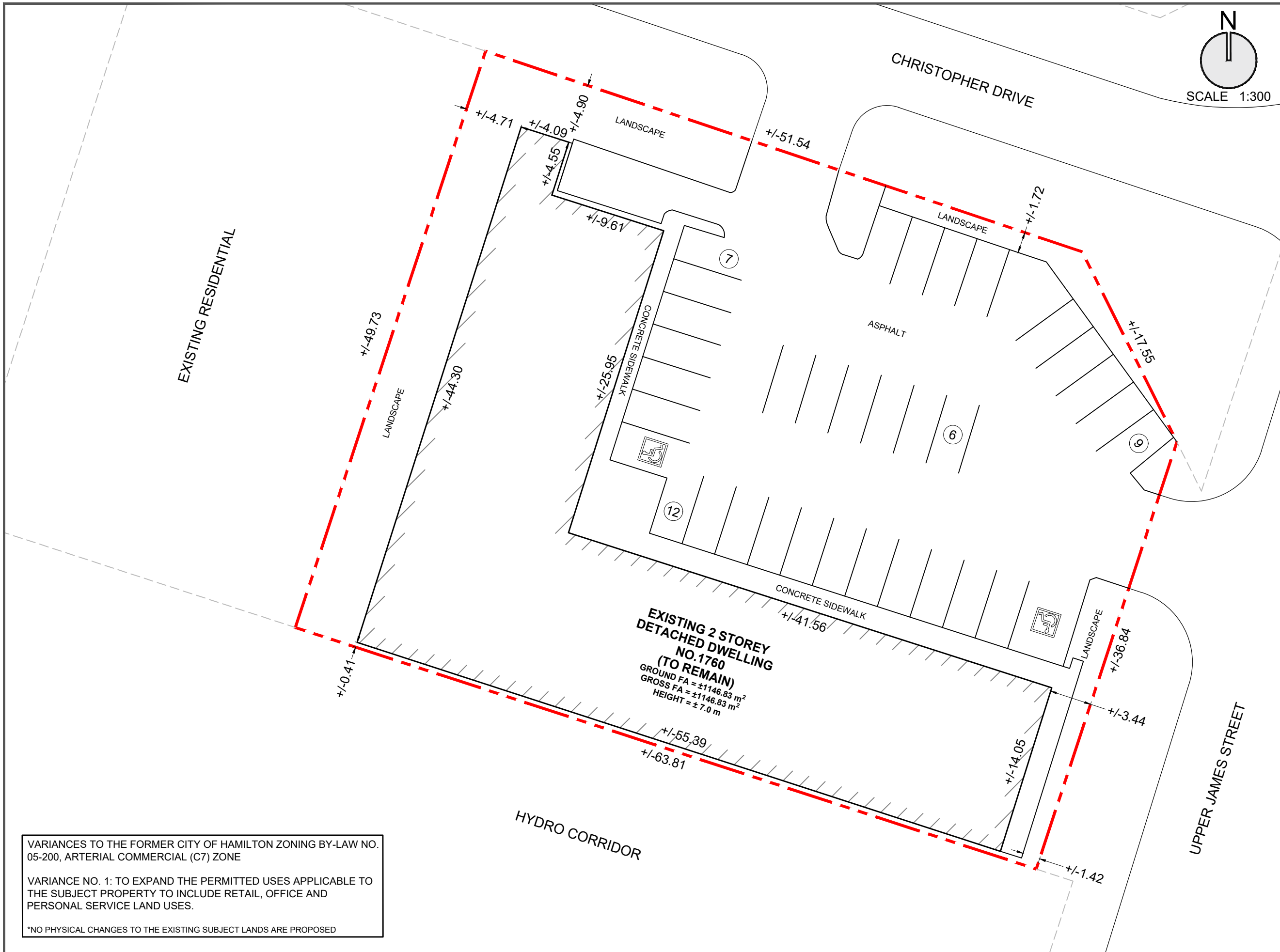
A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting the Wednesday afternoon before the hearing. The link must not be shared with others as it is unique to the registrant.

#### 2. In person Oral Submissions

**Interested members of the public, agents, and owners who wish to participate in person must sign in at City Hall room 222 (2<sup>nd</sup> floor) no less than 10 minutes before the time of the Public Hearing as noted on the Notice of Public Hearing.**

We hope this is of assistance and if you need clarification or have any questions, please email [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by phone at 905-546-2424 ext. 4221.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.



- LEGEND**
- - - SUBJECT LANDS
  - EXISTING PROPERTY LINE / PARCELS
  - EXISTING BUILDING

**NOT FOR CONSTRUCTION**  
ISSUED FOR REVIEW & COMMENTS ONLY

DESIGN BY: J. STANLEY	CHECKED BY: S. ERICKSON
DRAWN BY: J. STANLEY	DATE: SEPTEMBER 29, 2023

**URBAN SOLUTIONS**  
PLANNING & LAND DEVELOPMENT  
3 STUDEBAKER PLACE, UNIT 1  
HAMILTON, ON L8L 0C8  
905-546-1087 - urbansolutions.info

PROJECT:  
**1704202 ONTARIO INC.**  
1760 UPPER JAMES STREET  
CITY OF HAMILTON

TITLE:  
**MINOR VARIANCE SKETCH**

U/S FILE NUMBER: 463-22	SHEET NUMBER: 1
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VARIANCES TO THE FORMER CITY OF HAMILTON ZONING BY-LAW NO. 05-200, ARTERIAL COMMERCIAL (C7) ZONE

VARIANCE NO. 1: TO EXPAND THE PERMITTED USES APPLICABLE TO THE SUBJECT PROPERTY TO INCLUDE RETAIL, OFFICE AND PERSONAL SERVICE LAND USES.

\*NO PHYSICAL CHANGES TO THE EXISTING SUBJECT LANDS ARE PROPOSED



October 19, 2023

463-22

**Via Email & Delivered**

Ms. Jamila Sheffield  
Secretary Treasurer, Committee of Adjustment

City of Hamilton  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON L8P 4Y5

Dear Ms. Sheffield,

**RE: 1760 Upper James Street, Hamilton  
Minor Variance Application**

UrbanSolutions Planning & Land Development Consultants Inc. (UrbanSolutions) is the authorized planning consultant for 1704202 Ontario Inc., the registered owner of the land municipally known as 1760 Upper James Street, Hamilton (subject lands). On behalf of the owner, UrbanSolutions has prepared the enclosed Minor Variance application to the City of Hamilton.

The subject property is designated as “Arterial Commercial” in the Urban Hamilton Official Plan. The lands are currently zoned Arterial Commercial (C7) under the City of Hamilton Zoning By-law No. 05-200. Currently, 1760 Upper James Street is occupied by a neighbourhood commercial plaza containing a restaurant, a pet food store, a martial arts training facility and surface parking lot serving the daily needs of local residents.

Prior to the implementation of the City of Hamilton Zoning By-law 05-200 Commercial Zones, the subject property was zoned Community Shopping and Commercial, etc. “H” District in the Former City of Hamilton Zoning By-law No. 6593. The “H” District permitted a variety of land uses on the subject lands including retail store, office, barber shop and beauty parlour uses. However, once the zoning of the subject property was changed to the Arterial Commercial (C7) Zone, retail, office and personal service uses were no longer included as permitted uses for the site. As a result, the present landowner is unable to lease out vacant units in the existing commercial plaza to any business which would be defined as the above noted uses.

The purpose of this Minor Variance application is to request a variance to restore retail, office and personal service uses as permitted uses within the C7 Zone applicable to the subject lands. We believe permitting the outlined land uses on the subject lands is reflective of the land uses and site characteristics that are currently present on site and appropriate given the historic land use permissions on the property. The ultimate goal of this process is to provide the same flexibility to the landowner from a leasing perspective that was once permitted under his former “H” District zoning.

In accordance with Section 45(2)(a)(ii) of the *Planning Act*, the Committee may permit the use of a building for a purpose that, in the opinion of the Committee, is similar to the purpose for which it was used on the day the applicable by-law was passed. The proposed variance regarding permitted uses should accordingly be evaluated against Section 45(2)(a)(ii) of the *Planning Act*. The proposed variance would permit uses which are directly in keeping with the permitted uses applicable to the subject lands prior to the passing of the City-wide Zoning By-law No. 17-240 which established the Arterial Commercial (C7) Zones. Further, being that the proposed uses were previously permitted on site through the historic “H” District zoning, it can be concluded that the retail, office and personal service uses would be a compatible and appropriate for the subject property and surrounding area.

Further, Section 1.12(b) of the City of Hamilton Zoning By-law 05-200 provides a transitional provision which states “Within the C1 to C7 Zones, a building permit may be issued to permit the erection of a building or structure in accordance with any minor variance, site specific zoning, site plan, consent, plan of subdivision or plan of condominium that has been approved or conditionally approved by the City of Hamilton or the Ontario Land Tribunal as it read on the day before By-law No. 17-240 was passed by Council, provided the Building Permit Application complies with the Zoning By-law that affected the lot before By-law No. 17-240 came into effect”. In our professional opinion, the subject property is an eligible candidate for Section 1.12(b) of the By-law to be applied to permit those land uses which were applicable to the site prior to the conversion of the property’s zoning to the C7 Zone. This application of Section 1.12(b) of Zoning By-law 05-200 was also utilized in a similar scenario for 1289 Upper James Street (HM/A-19:458) to recognize “H” District land use permissions for office and retail uses which were lost when the property was rezoned to Arterial Commercial (C7).

Accordingly, the following variance is required:

- **Minor Variance No. 1:** To expand the permitted uses applicable to the subject property to include retail, office and personal service land uses.

As previously noted, the above-noted variances are solely required to re-establish the previously permitted land uses applicable to the subject property which were removed through the City-initiated alterations to commercial zones around the City. As such, it is our opinion that the requested variances satisfies Section 45(2)(a)(ii) of the *Planning Act*, in that the intended use of the land is similar to the purpose for which it was used on the day the By-law was passed and is compatible with the uses permitted by the By-law. Therefore, the requested variance represents good land use planning.

In support of this application, please find enclosed the following:

- One (1) copy of the completed Minor Variance application form;
- One (1) copy of the Minor Variance Sketch prepared by UrbanSolutions,
- One (1) cheque in the amount of **\$3,735.00** payable to the City of Hamilton for the Minor Variance application.

We trust that the enclosed is in order; however, please feel free to contact the undersigned with any questions.

Regards,  
**UrbanSolutions**



Matt Johnston, MCIP, RPP  
*Principal*



Scott Beedie, MCIP, RPP  
*Planner*

cc: 1704202 Ontario Inc.  
Councillor John-Paul Danko, Ward 8, City of Hamilton  
Ms. Shannon McKie, Manager of Zoning & Committee of Adjustment, City of Hamilton





Hamilton

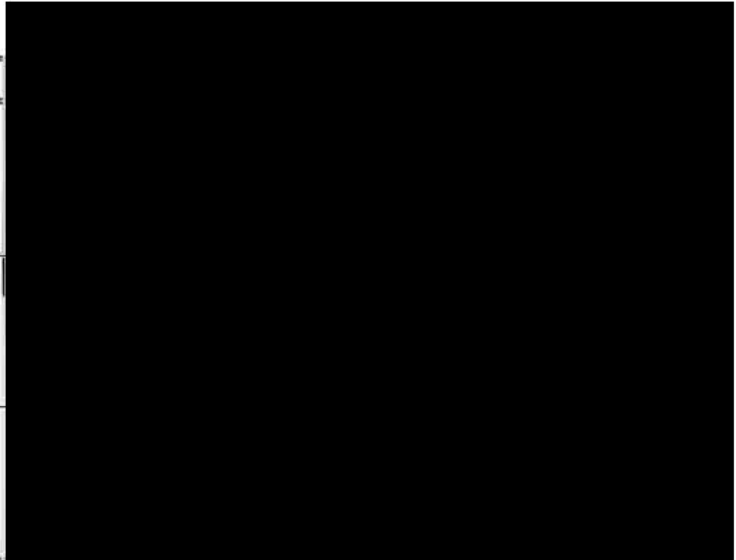
Committee of Adjustment  
City Hall, 5<sup>th</sup> Floor,  
71 Main St. W.,  
Hamilton, ON L8P4Y5

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

## APPLICATION FOR A MINOR VARIANCE/PERMISSION UNDER SECTION 45 OF THE PLANNING ACT

### 1. APPLICANT INFORMATION

	NAME
Registered Owners(s)	1704202 Ontario Inc.
Applicant(s)	Same as owner.
Agent or Solicitor	UrbanSolutions Planning & Land Development Consultants Inc. c/o Matt Johnston



1.2 All correspondence should be sent to  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.3 Sign should be sent to  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.4 Request for digital copy of sign  Yes\*  No

If YES, provide email address where sign is to be sent



1.5 All correspondence may be sent by email  Yes\*  No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will be sent by email.

### 2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1760 Upper James Street		
Assessment Roll Number			
Former Municipality	Hamilton		
Lot		Concession	
Registered Plan Number	Plan 970	Lot(s)	149 & 150
Reference Plan Number (s)		Part(s)	Except Part 1 on 62R-9933

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes  No

If YES, describe the easement or covenant and its effect:

### 3. PURPOSE OF THE APPLICATION

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

All dimensions in the application form are to be provided in metric units (millimetres, metres, hectares, etc.)

3.1 Nature and extent of relief applied for:

[Please refer to enclosed cover letter.](#)

Second Dwelling Unit  Reconstruction of Existing Dwelling

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

[Please refer to enclosed cover letter.](#)

3.3 Is this an application 45(2) of the Planning Act.

Yes  No

If yes, please provide an explanation:

[Please refer to enclosed cover letter.](#)

### 4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
+/- 36.60 metres	+/- 63.30 metres	+/- 3,031.50 sq.m.	+/- 30.40 metres

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

Existing: Please refer to enclosed Minor Variance Sketch.

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction

Proposed: N/A

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction

4.3. Particulars of all buildings and structures on or proposed for the subject lands (attach additional sheets if necessary):

Existing: Please refer to enclosed Minor Variance Sketch.

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height

Proposed: N/A

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height

- 4.4 Type of water supply: (check appropriate box)
- publicly owned and operated piped water system
  - privately owned and operated individual well

- lake or other water body
- other means (specify)

- 4.5 Type of storm drainage: (check appropriate boxes)
- publicly owned and operated storm sewers
  - swales

- ditches
- other means (specify)

4.6 Type of sewage disposal proposed: (check appropriate box)

publicly owned and operated sanitary sewage

system privately owned and operated individual

septic system other means (specify) \_\_\_\_\_

4.7 Type of access: (check appropriate box)

provincial highway

right of way

municipal road, seasonally maintained

other public road

municipal road, maintained all year \_\_\_\_\_

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):

[Please refer to enclosed cover letter.](#)

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):

[Institutional, Single Detached Residential, Commerical](#)

## 7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:

[Unknown](#)

7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)

[Commerical](#)

7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)

[Commercial](#)

7.4 Length of time the existing uses of the subject property have continued:

[Unknown](#)

7.5 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): [N/A](#) \_\_\_\_\_

Rural Settlement Area: [N/A](#) \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable) [Arterial Commerical](#) \_\_\_\_\_

Please provide an explanation of how the application conforms with the Official Plan.

7.6 What is the existing zoning of the subject land? ["C7" Arterial Commerical By-law 05-200](#)

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

(Zoning By-law Amendment or Minor Variance)

Yes

No

If yes, please provide the file number: \_\_\_\_\_

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

Yes  No

If yes, please provide the file number: \_\_\_\_\_

7.10 If a site-specific Zoning By-law Amendment has been received for the subject property, has the two-year anniversary of the by-law being passed expired?

Yes  No

7.11 If the answer is no, the decision of Council, or Director of Planning and Chief Planner that the application for Minor Variance is allowed must be included. Failure to do so may result in an application not being “received” for processing.

## 8 ADDITIONAL INFORMATION

8.1 Number of Dwelling Units Existing: N/A

8.2 Number of Dwelling Units Proposed: N/A

8.3 Additional Information (please include separate sheet if needed):

## 11 COMPLETE APPLICATION REQUIREMENTS

### 11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application form
- Signatures Sheet

### 11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
  - Authorization from Council or Director of Planning and Chief Planner to submit application for Minor Variance
  - Minimum Distance Separation Formulae (data sheet available upon request)
  - Hydrogeological Assessment
  - Septic Assessment
  - Archeological Assessment
  - Noise Study
  - Parking Study
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