



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

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-23:342	SUBJECT PROPERTY:	1227 BARTON STREET E, HAMILTON
ZONE:	“C4 E647” (Mixed Use High Density)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200, as Amended 17-240

APPLICANTS: Owner: CP BARTON GP INC.
 Applicant: TRIOVEST REALTY ADVISORS (C/O YASMIN SERVAT)
 Agent: ZELINKA PRIAMO LTD. (C/O JONATHAN RODGER)

The following variances are requested:

1. A minimum building height of 4.77 metres shall be permitted for the building proposed in “Block O”, instead of the 6.0 metre minimum building height required.
2. A minimum building height of 5.54 metres shall be permitted for the building proposed in “Block T2”, instead of the minimum 6.0 metre minimum building height required.

PURPOSE & EFFECT: To facilitate site plan application SPA-23-063.

Notes:

1. Requested variances have been written exactly as requested by the applicant.

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:

DATE:	Tuesday, February 13, 2024
TIME:	3:10 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	City Hall Council Chambers (71 Main St. W., Hamilton)

	To be streamed (viewing only) at www.hamilton.ca/committeeofadjustment
--	---

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

- Visit www.hamilton.ca/committeeofadjustment
- Visit Committee of Adjustment staff at 5th floor City Hall, 71 Main St. W., Hamilton
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221

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, written comments must be received no later than February 9, 2024

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, registration to participate virtually must be received no later than February 12, 2024

FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding HM/A-23:342, you must submit a written request to 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 or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.



 Subject Lands

DATED: January 25, 2024

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.



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

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 advance of the meeting. Comments can be submitted by emailing 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 on the date listed on the Notice of Public Hearing.**

Comments are available the Friday prior to the Hearing and are available on our website: 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 on the day listed on the Notice of Public 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. 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 one business day before the Hearing. Only those registered will be called upon to speak.

2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **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 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.

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

E INV 81.47 Ø1.0
S INV 81.55 Ø1.0
W INV 81.41 Ø1.0
N INV 82.44
SE INV 82.41
S INV 82.63

SKETCH SHOWING TOPOGRAPHIC DETAILS ON
TRIOVEST-
CENTRE ON BARTON
1191 BARTON STREET EAST
CITY OF HAMILTON

SCALE 1 : 200



NOTES

THIS SKETCH WAS PREPARED FOR THE SOLE USE OF TRIOVEST.

LEGEND

- CCU ----- CURB CUT
- TWP ----- TACTILE WARNING PLATE
- CB ----- CATCH BASIN
- CT ----- CONIFEROUS TREE
- SIGN ----- SIGN
- LS ----- LIGHT STANDARD
- M ----- MANHOLE
- B ----- BOLLARD
- WV ----- WATER VALVE/KEY
- BR ----- BICYCLE RACK

BENCH MARK

ELEVATIONS ARE GEODETIC AND REFERRED TO VERTICAL CONTROL MONUMENT No. 0722010037, TAKEN FROM MINISTRY OF NATURAL RESOURCES COSINE SITE, HAVING AN ELEVATION OF 89.241 METRES (CGVD28-PRE78).

CAUTION:

THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSE INDICATED IN THE TITLE BLOCK.

TOPOGRAPHIC DETAILS SHOWN HEREON WERE OBTAINED ON THE 21st. DAY OF MARCH, 2023.

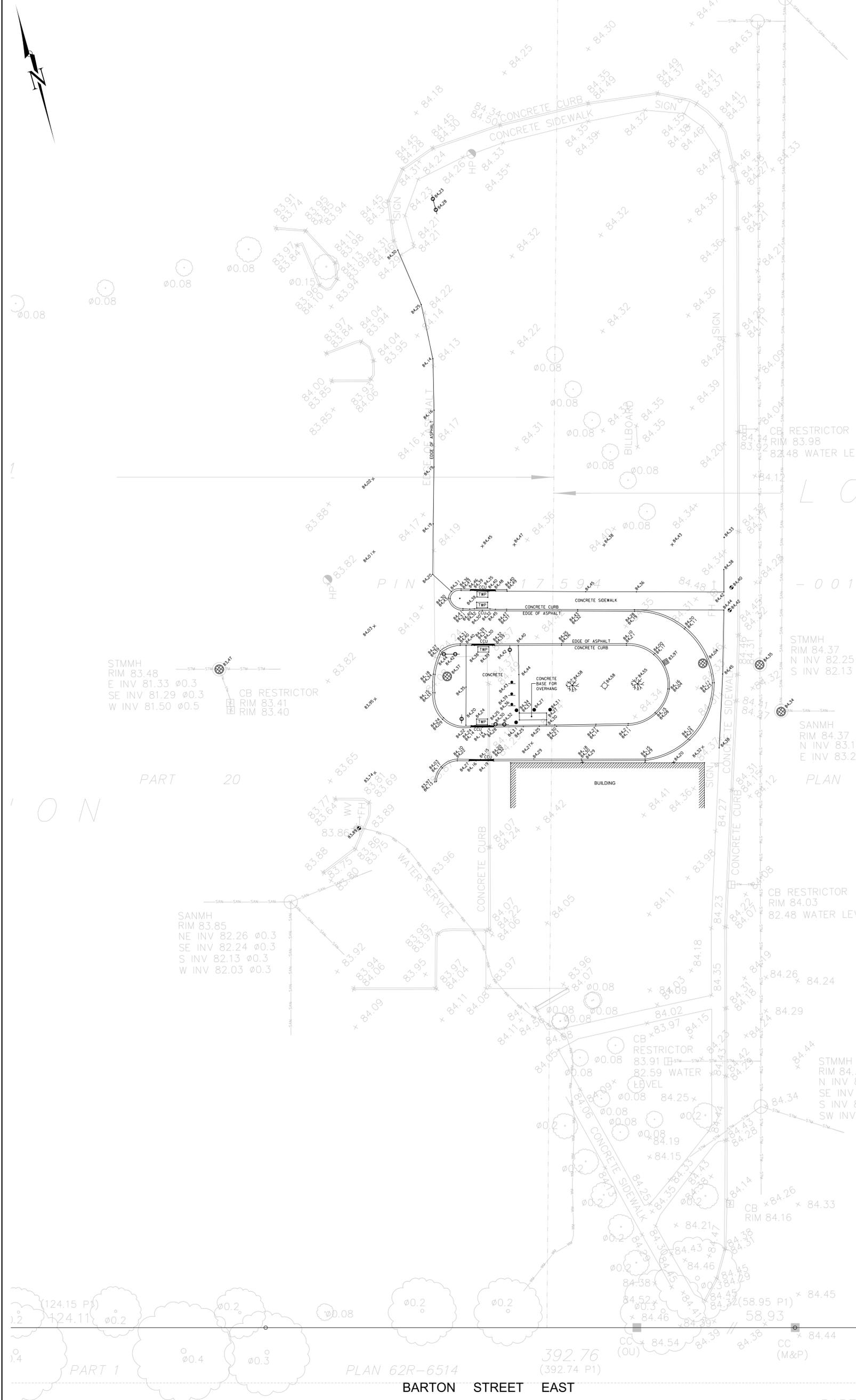
NO LEGAL SURVEY WORK WAS PERFORMED.

MARCH 27, 2023.
DATE: _____

COPYRIGHT, 2023 NANFARA & NG SURVEYORS INC.
THE REPRODUCTION, ALTERATION OR USE OF THIS DRAWING, IN WHOLE OR IN PART, WITHOUT THE EXPRESS PERMISSION OF NANFARA & NG SURVEYORS INC., IS STRICTLY PROHIBITED.

nanfara & ng surveyors inc
PROFESSIONAL LAND SURVEYORS
#1 ASHBRIDGE CIRCLE, UNIT 9 WOODBRIDGE, ONTARIO, L4L 3R5
TEL: 905.856.5923 FAX: 905.856.7092 nnsurveyors@gmail.com

CHECKED BY: FYN	DRAWN BY: FYN	REV. DATE: 2023/03/27	W.D.: 20221098T1	REV. A
-----------------	---------------	-----------------------	------------------	--------



STMMH
RIM 83.48
E INV 81.33 Ø0.3
SE INV 81.29 Ø0.3
W INV 81.50 Ø0.5

CB RESTRICTOR
RIM 83.41
RIM 83.40

SANMH
RIM 83.85
NE INV 82.26 Ø0.3
SE INV 82.24 Ø0.3
S INV 82.13 Ø0.3
W INV 82.03 Ø0.3

STMMH
RIM 84.37
N INV 82.25 Ø0.3
S INV 82.13 Ø0.3

SANMH
RIM 84.37
N INV 83.19
E INV 83.20

CB RESTRICTOR
RIM 84.03
82.48 WATER LEVEL

STMMH
RIM 84.30
N INV 82.25
SE INV 82.24
S INV 82.13
SW INV 82.03

392.76
(392.74 P1)

PLAN 62R-6514
BARTON STREET EAST

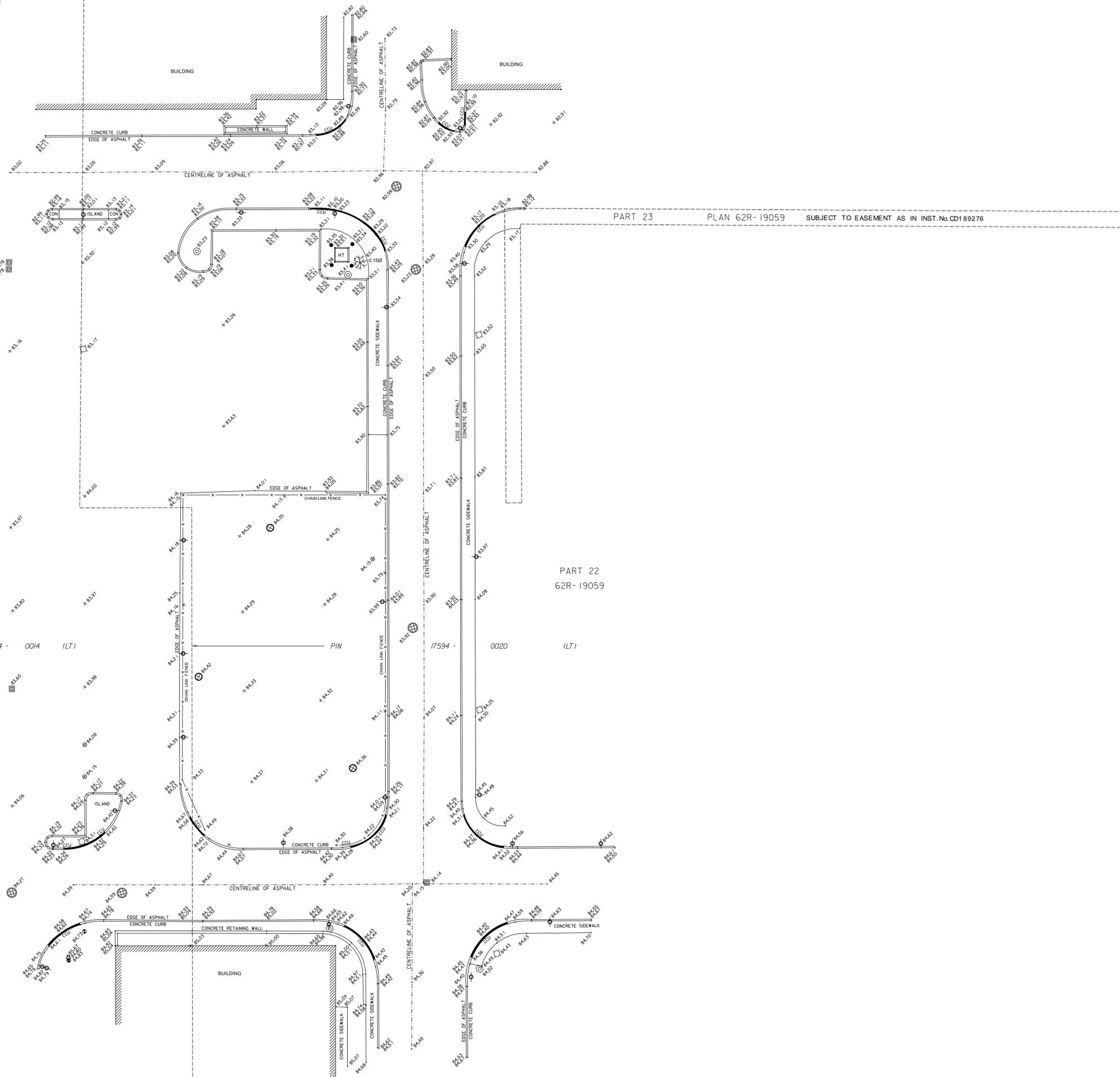
PART 1

PART 3

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



SKETCH SHOWING TOPOGRAPHIC DETAILS ON
**TRIOVEST-CENTRE
 ON BARTON**
 1275 BARTON STREET EAST
CITY OF HAMILTON



PART 23 PLAN 62R-19059 SUBJECT TO EASEMENT AS IN INST.No CD1 89276

PART 20 PLAN

PART 22 62R-19059

PIN 17594 - 0014 (LT)

PIN 17594 - 0020 (LT)

NOTES
 THIS SKETCH WAS PREPARED FOR THE SOLE USE OF TRIOVEST

LEGEND

CCU	-----	CURB CUT
CON	-----	CONCRETE
HT	-----	HYDRO TRANSFORMER (ON CONCRETE PAD)
☐	-----	CATCH BASIN
🌳	-----	DECIDUOUS TREE
🔥	-----	FIRE HYDRANT
⊕	-----	HANDWELL
⊙	-----	LIGHT STANDARD
⊗	-----	MANHOLE
⊕	-----	BOLLARD WITH SIGN
⊖	-----	SIGN
⊕	-----	WATER VALVE/ KEY
⊗	-----	EXPOSED WATER PIPE
⊙	-----	BOREHOLE
●	-----	BOLLARD

BENCH MARK
 ELEVATIONS ARE GEODETIC AND REFERRED TO VERTICAL CONTROL MONUMENT No. 07720100037, TAKEN FROM MINISTRY OF NATURAL RESOURCES COSINE SITE, HAVING AN ELEVATION OF 89.241 METRES (CGVD28:PRE78).

CAUTION:
 THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSE INDICATED IN THE TITLE BLOCK.

TOPOGRAPHIC DETAILS SHOWN HEREON WERE OBTAINED ON THE 14th. DAY OF APRIL, 2023.
 NO LEGAL SURVEY WORK WAS PERFORMED.

APRIL 19, 2023.
 DATE: _____

COPYRIGHT, 2023 NANFARA & NG SURVEYORS INC.
 THE REPRODUCTION, ALTERATION OR USE OF THIS DRAWING, IN WHOLE OR IN PART, WITHOUT THE EXPRESS PERMISSION OF NANFARA & NG SURVEYORS INC., IS STRICTLY PROHIBITED.

nanfara & ng surveyors inc
 PROFESSIONAL LAND SURVEYORS

#1 ASHBURIDGE CIRCLE, UNIT 9 WOODBRIDGE, ONTARIO, L4L 3R5
 TEL:905.856.5923 FAX:905.856.7092 nnsurveyors@gmail.com

CHECKED BY: FYN	DRAWN BY: MRD	REV. DATE: 2023/04/20	W.O. 20221098T2	REV. A
--------------------	------------------	--------------------------	--------------------	-----------

SITE STATISTICS

TOTAL SITE AREA:	66.12 ACRES (2,880,422.43 SF) (267,600.00 SM)
TOTAL BUILDING AREA (GFA):	68,815.39 SM (740,720.81 SF)
BUILDING COVERAGE:	25.72 %
TOTAL PARKING REQUIRED :	3,440 CARS
STANDARD PARKING :	3,479 CARS
BARRIER FREE PARKING :	83 CARS
TOTAL PARKING PROVIDED :	3,532 CARS
PARKING RATIO :	4.77/1000 SF (5.13/100 SM)

PROPOSED BUILDING CLASSIFICATION	3.2.2.25. GROUP A UP TO 2 STOREYS
PROPOSED BUILDING O AREA (GFA):	2,531.9 SF (235.2 SM)
PROPOSED PARKING PROVIDED :	11 CARS

NOTES

- Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (MCM) should be notified immediately (416-212-8888). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).
- All work involved in the construction, relocation, repair of municipal services for the project shall be to the satisfaction of the Director of Planning, and Chief Planner, Planning and economic Development Department.
- Fire Route Signs and 3-Way Fire Hydrants shall be established to the satisfaction of the City Fire Department and at the expense of the owner.
- Main driveway dimensions at the property line boundaries are plus or minus 7.5 m unless otherwise stated.
- All driveways from property lines for the first 7.5 m shall be within 5% maximum grade, thereafter, all driveways shall be within 10% maximum grades.
- The approval of this plan does not exempt the owner's bonded contractor from the requirements to obtain the various permits/approvals normally required to complete a construction project, such as, but not limited to the following:
 - Building permit
 - Road cut permits
 - Approach approval permits
 - Committee of Adjustment
 - Sewer and water permits
 - Relocation of services
 - Encroachment Agreements (if required)
 - Sign Permits
- Abandoned accesses must be removed and the curb and boulevard restored with sod at the owner's expense to the satisfaction of the Traffic Engineering Section, Public Works Department.
- For visibility triangles at the vehicular access points, the following note to be provided:

7.5 metre by 5 metre visibility triangles in which the maximum height of any objects or mature vegetation is not to exceed a height of 0.60 metres above the corresponding perpendicular centreline elevation of the adjacent street.
- Signage is not approved through the Site Plan Process. All signs must comply with Hamilton Sign By Law No. 10-197
- Lighting must be directed on site and must not spill over to adjacent properties or streets.
- Do Not excavate within two metres
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owners expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all associated with this work shall be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate (S) and gas pipelines before beginning construction by contacting Ontario One Call at 1-900-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997)Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) - Construction Projects (Electrical Hazards)
 - CSA Standard C22.3 No. 1:20, Overhead System
 - CSA Standard C22.3 No. 7:20, Underground Systems

UNDERTAKING

RE: 1227-1271 Barton Street East, (blocks O and T2) File No. SPA 23-063

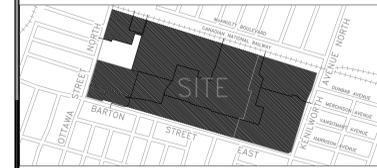
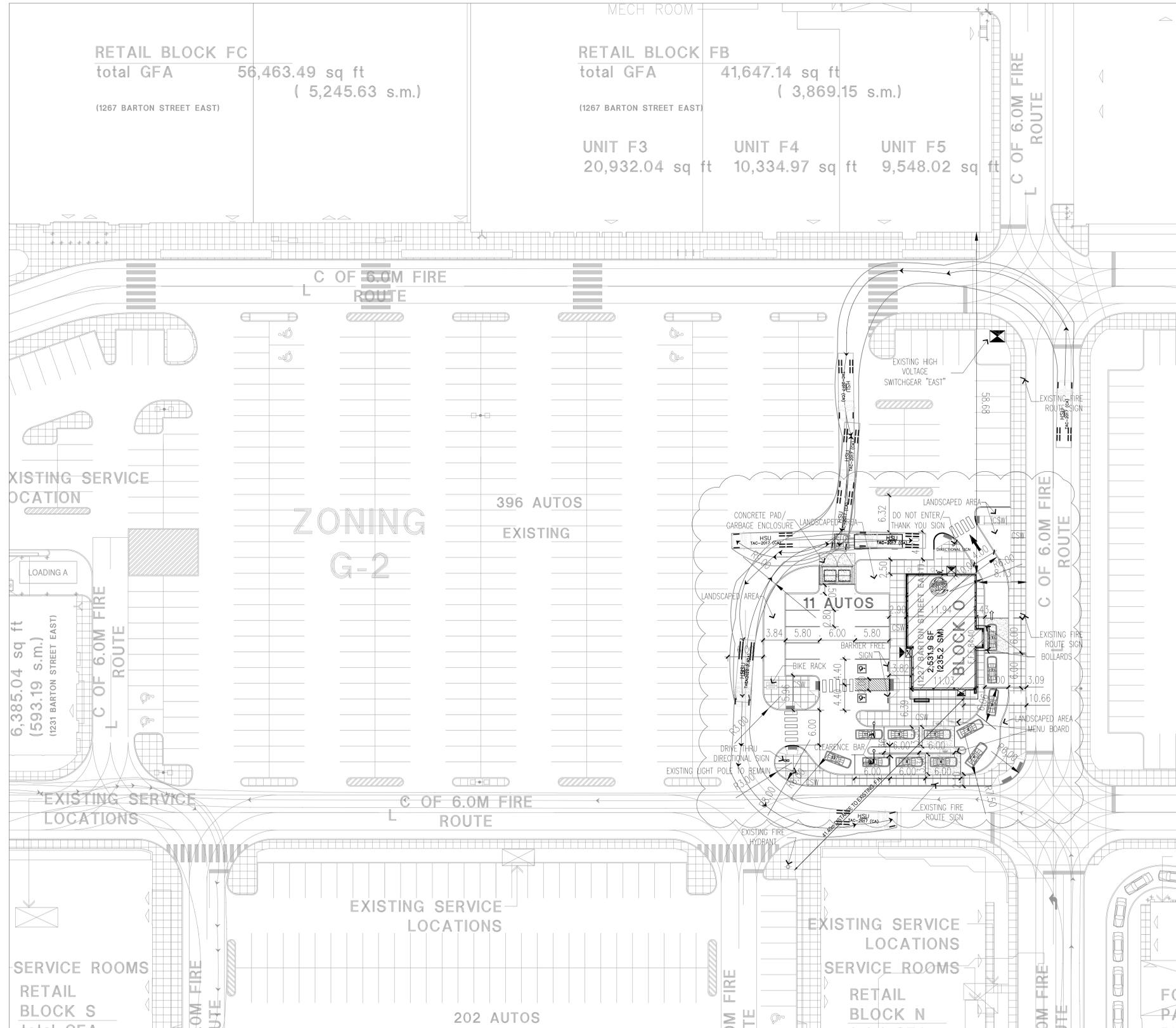
- I, (We) _____ the owner(s) of the land, hereby undertake and agree without reservation,
 - to comply with all the content of this plan and drawing and not to vary therefrom;
 - to perform the facilities, works or matters mentioned in Section 41(7)(a) of the Planning Act shown on this plan and drawing(s) in accordance with the conditions of approval as set out in the Letter of Approval dated November 15, 2023;
 - to maintain to the satisfaction of the City and at my (our) sole risk and expense, all of the facilities, works or matters mentioned in Section 41(7)(b) of the said Act, shown in this plan and drawing, including removal of snow from access ramps and driveways, parking and loading areas and walkways;
 - In the event that the Owner does not comply with the plan dated September 6, 2023, the owner agrees that the City may enter the land and do the required works, and further the Owner authorizes the City to use the security filed to obtain compliance with this plan.
 - That the Owner agrees to physically affix the municipal number(1195 and 1263 Barton Street East) to the building or a sign in accordance with the City's Sign By-law, near the entrance in a manner that is visible from the street.
 - Enbridge Gas Inc. does have service lines running within the area which may or may not be affected by the proposed Site Plan. Should the proposed site plan impact these services, it may be which may or may not be affected by the proposed Site Plan. necessary to terminate the gas service and relocate the line according to the new property boundaries. Any service relocation required would be at the cost of the Owner.

Dated this _____ day of _____ 20____

Witness (signature) _____ Owner(s) (signature) _____

Witness (print) _____ Owner (print) _____

Address of Witness _____



SA-01.3 R3

THIS SITE PLAN HAS BEEN PREPARED AS AN ILLUSTRATION OF CONCEPT ONLY, AND SUCH CONCEPT MUST BE CONFIRMED FOR ALL BUILDING CODE, FIRE EXPOSING FACE, AND RELATED ISSUES, BASED UPON INFORMATION TO BE PROVIDED REGARDING ALL EXISTING CONSTRUCTION, LOT LINE PROXIMITY ETC.

NO.	DESCRIPTION	DATE	BY
6	REVISED AS PER CITY'S COMMENTS	DEC. 12, 2023	DR
5	REVISED AS PER CITY'S COMMENTS	NOV. 27, 2023	DR
4	REVISED AS PER CITY'S COMMENTS	JULY 26, 2023	DR
3	ISSUED FOR SITE PLAN APPROVAL	MAR. 23, 2023	DR
2	ISSUED FOR SITE PLAN APPROVAL	MAR. 01, 2023	DR
1	ISSUED FOR CLIENT REVIEW	FEB. 13, 2023	DR

Contractor must check and verify all dimensions on the job and report any discrepancies to the Architect before proceeding with the work.

This drawing contains copyright material belonging to the Architect. This drawing was developed for a specific purpose, use for any other purpose is not permitted. This drawing shall not be reproduced in whole or in part without the written approval of the Architect.

This drawing must be read in the context of all the other drawings which constitute the documents.

SITE PLAN - BUILDING O
File No. SPA 23-063

SCALE: 1:300

HAMILTON CENTRE ON BARTON:
1227 BARTON STREET EAST
HAMILTON, ON

FOR: TRIOVEST

PETROFF PARTNERSHIP ARCHITECTS
PETROFF
260 TOWN CENTRE BLVD. SUITE 300
MARKHAM ONTARIO CANADA L3R 8H8
TEL: 905.470.7000 FAX: 905.470.2500

ONTARIO ASSOCIATION OF ARCHITECTS
ALEXANDER BRADLEY EGGERTS
LICENSE #812

DRAWN BY:	DR	PROJECT NO.	22112
CHECKED BY:	AE	DWG. NO.	Plan 3 of 3
DATE:	MARCH 25, 2019		
ISSUED:	DECEMBER 12, 2023		



Zelinka Priamo Ltd.

LAND USE PLANNERS

VIA EMAIL to cofa@hamilton.ca

December 21, 2023

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

Attention: City of Hamilton Committee of Adjustment, Secretary-Treasurer

Re: Minor Variance Application
CP Barton GP. Inc. & Triovest Realty Advisors
Related City File: SPA-23-063
1227-1271 Barton Street East, Hamilton

Our File: TVS/HAM/23-01

On behalf of CP Barton GP. Inc. and Triovest Realty Advisors, Zelinka Priamo Ltd. is pleased to submit an application for Minor Variance for the lands municipally known as 1227-1271 Barton Street East, and legally known as Parts 20 and 22 of Lots 3 and 4, Registered Plan 62R-19059 (the “subject lands”), related to the development of two (2) new restaurants (the “proposed development”).

SITE AND SURROUNDINGS

The subject lands comprise an area of approximately 26.76 ha bound by Kenilworth Avenue North, Barton Street East, Ottawa Street North and a rail corridor.

The subject lands constitute a retail commercial centre known as “The Centre on Barton”, including uses such as retail, restaurants, financial establishments and a motor vehicle gas bar. The lands generally consist of a large surface parking area with interconnecting shared laneways, landscaped areas and the various buildings containing the aforementioned uses.

The subject lands are designated *Mixed Use - High Density* on Schedule E-1 of the Urban Hamilton Official Plan (UHOP), with a *Community Node* overlay on Schedule E.

The subject lands are zoned as “Mixed Use High Density (C4) Zone” with Special Exception 647. Restaurants are permitted within this zone with a minimum building height of 6.0 m as per Exception 647.

PROPOSAL

CP Barton GP. Inc. and Triovest Realty Advisors are proposing two (2) new restaurant buildings on the subject lands, including a Taco Bell with a gross floor area (GFA) of approximately 204.80 sq. m and a Burger King with a GFA of approximately 235.20 sq. m. The proposed restaurants lie on Blocks ‘T2’ and ‘O’, respectively, of the subject lands.

As part of the proposal, there is a concurrent Site Plan Application applicable to the subject lands (File No. SPA-23-063), for which conditional approval was provided on November 15, 2023. The conditional approval includes that the Owner/Applicant apply for and receive

Final Approval of Minor Variance applications from the Committee of Adjustment, to the satisfaction of the Manager of Heritage and Urban Design.

REQUESTED VARIANCES

In order to allow for the proposed development on the subject lands, the following minor variances are requested:

- a. *To permit a minimum building height of 4.77 metres for the building on Block O, whereas 6.0 metres is required; and*
- b. *To permit a minimum building height of 5.54 metres for the building on Block T2, whereas 6.0 metres is required.*

THE FOUR (4) TESTS OF MINOR VARIANCE

Section 45(1) of the *Planning Act* provides that the Committee of Adjustment may authorize minor variances that meet the four (4) tests. As it relates to the proposed development, it is our opinion that the application meets the four (4) tests and should accordingly be approved. Further detail on the tests is provided below.

1. Is the application minor in nature?

It is our opinion that both of the requested variances are minor in nature. As detailed further below, the deficiencies in minimum building height arise from the definition of building height in the Zoning By-law, which excludes some building elements such as display signs, parapets, and mechanical penthouses.

Though both of the proposed restaurants have heights (measured to uppermost building element other than the excluded elements) of less than the minimum 6.0 m requirement, both buildings have architectural elements that extend upwards beyond the minimum 6.0 m height, and adequately serve the architectural purpose of wayfinding.

2. Is the development desirable for the appropriate development of the lands?

In our opinion, the proposed infill development of two (2) restaurants within the existing commercial centre is desirable and appropriate for the lands. The subject lands have the appropriate Official Plan designation to permit the use, which encourages the addition of a variety of commercial and retail uses. The Zoning By-law permits the restaurants, with the exception of the requested variances.

The subject lands are an appropriate location for the proposed restaurants and will synergistically contribute to the intent and function of the commercial lands.

3. Is the general intent and purpose of the Urban Hamilton Official Plan (UHOP) maintained?

In our opinion, the general intent and purpose of the Official Plan is maintained as the proposed development conforms to the applicable policies, including the policies for the *Mixed Use - High Density* designation and *Community Node* overlay.

The *Mixed Use - High Density* designation permits a full range of retail, service commercial, entertainment, office, and high density residential uses. The range of commercial uses is intended to serve a regional market and provide day-to-day goods and services to residents in the immediate area. Amongst the wide range of permitted uses, restaurants and drive-through facilities are permitted.

The *Community Node* overlay pertaining to the subject lands identifies that the Centre Mall area is to provide a range of uses allowing for housing, employment, services, and

recreation in close proximity to each other including community scale retail stores and services. The built form shall largely be in medium and low rise forms.

The proposed restaurants with drive-through facilities are permitted and conform to the UHOP policies.

4. Is the general intent and purpose of the Zoning By-law maintained?

In our opinion, the general intent and purpose of the Zoning By-law is maintained through the requested variances for reduced minimum building height.

The “Mixed Use High Density (C4) Zone” (special exception 647) permits the proposed restaurant uses, however special exception 647 provides a minimum height of 6.0 m for commercial buildings that contain a restaurant. The definition of building height is set forth in Section 3: Definitions of the Zoning By-law, as the vertical distance from grade to the uppermost point of the building, but not including parapets, display signs, mechanical penthouses, or other similar structures.

In the case of the proposed Burger King restaurant (Block O), the overall height is approximately 6.8 m, although since the uppermost elements of the structure (mechanical, parapet, and display components), do not count towards the definition of building height, the measured height of the building is 4.77 m. Similarly, the proposed Taco Bell restaurant (Block T2) is approximately 7.0 m in total structure height, while the measured height of the building is 5.54 m as per the Zoning By-law’s definition of height. Nevertheless, it is our opinion that the intent of the minimum height is preserved in both cases for reasons including:

- The heights of the buildings are sufficient for their intended use, and would not functionally benefit from a greater ceiling height. This is evidenced by the great variety of similar restaurant uses that exist throughout Hamilton and in other locations that have a similar built form. It is generally the best practice of restaurant uses such as these to optimize the building height for efficiency of internal and external workings, and not to have an excess of height where unnecessary; and
- The restaurants would not be of greater architectural benefit to the public realm through an increased building height. It is understood that part of the minimum building height is to improve the street presence, wayfinding, and appearance of the streetscape. In our opinion, the architectural elements that extend upwards beyond the 6.0 m height serve as an effective identifier for wayfinding purposes. Further, being that the buildings are located internal to the subject lands, a streetscape presence is not applicable, as it would be in the case of a comprehensive redevelopment with buildings fronting onto the street.

SUBMISSION PACKAGE

As required for Minor Variance application submissions, please find enclosed the following:

- Completed Minor Variance Supporting Information Form and Signature Sheets;
- Plans relating to the proposed Burger King (Block O):
 - Site Plan;
 - Architectural Elevations; and
 - Plan of Survey.
- Plans relating to the proposed Taco Bell (Block T2):
 - Site Plan;
 - Architectural Elevations; and

-
- Plan of Survey.

Please note that the Minor Variance application fee of \$3,735.00 will be processed to the City upon receipt of the application by the City.

We trust that the enclosed information is complete and satisfactory. Should you have any questions, or require further information, please do not hesitate to call.

Yours very truly,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPI, RPP, MCIP
Principal Planner

cc. Triovest Realty Advisors



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/PERMISSION
UNDER SECTION 45 OF THE PLANNING ACT**

1. APPLICANT INFORMATION

	NAME	MAILING ADDRESS
Registered Owners(s)		
Applicant(s)		
Agent or Solicitor		

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

1.3 Sign should be sent to Purchaser Owner
 Applicant AgentSolicitor

1.4 Request for digital copy of sign Yes* No
If YES, provide email address where sign is to be sent [REDACTED]

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 sent by email.

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1227-1271 Barton Street East, Hamilton ON		
Assessment Roll Number	2518-040-315-00310-0000		
Former Municipality	Township of Barton		
Lot	3 and 4	Concession	1
Registered Plan Number	62R-19059	Lot(s)	
Reference Plan Number (s)		Part(s)	Parts 20, 22

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:

No easements affecting the areas where development is proposed.

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:

Requesting reduction in minimum building height requirements for the building on Block O (Burger King), from 6.0 metres to 4.77 metres, and for the building on Block T2 (Taco Bell), from 6.0 metres to 5.54 metres.

Second Dwelling Unit

Reconstruction of Existing Dwelling

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

The intent of the minimum heights are to maintain architectural interest and ensure operational flexibility in buildings. The proposed buildings are able to sufficiently operate with the proposed heights and have architectural elements exceeding 6 metres to provide visual interest. The Variance is technical and minor in nature.

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

Yes

No

If yes, please provide an explanation:

4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
		26.76 ha	

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:

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

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
Restaurant (Block O)	+/- 150m	+/- 145m	E: +/- 190m, W: +/- 440m	
Restaurant (Block T2)	+/- 80m	+/- 210m	E: +/- 390m, W: +/- 230m	

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

Existing:

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

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
Restaurant (Block O)	235.2 sq. m	235.2 sq. m	1	4.77m
Restaurant (Block T2)	204.8 sq. m	204.8 sq. m	1	5.54m

- 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.):
Addition of two (2) restaurants to the commercial retail centre.

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

North: Rail corridor, low-density residential beyond. East: Commercial uses along Kenilworth Avenue North, low-density residential beyond.
South: Commercial uses along Barton Street East, low-density residential beyond. West: Commercial and medium-density residential.

7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:

December 22, 2020

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

Commercial

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

Commercial (lands subject to minor variance are currently vacant).

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

Comprehensive redevelopment of property took place between 2007-2010 - since then, subject areas have remained vacant.

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

Rural Hamilton Official Plan designation (if applicable):

Rural Settlement Area:

Urban Hamilton Official Plan designation (if applicable)

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

Please refer to cover letter for fulsome planning analysis.

7.6 What is the existing zoning of the subject land?

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: _____

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:

8.2 Number of Dwelling Units Proposed:

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
-
-