

**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
- 

<b>APPLICATION NO.:</b>	<b>A-25:113</b>	<b>SUBJECT PROPERTY:</b>	1041 West 5th Street, Hamilton
<b>ZONE:</b>	I1, 462 (Neighbourhood Institutional)	<b>ZONING BY-LAW:</b>	Hamilton Zoning By-law 05-200, as Amended 14-343

**APPLICANTS:** Owner: 1804487 Ontario Inc  
Agent: Ed Fothergill – Fathergill Planning & Development Inc

The following variances are requested:

1. A maximum of 69 residents shall be permitted for a Retirement Home instead of the maximum permitted 60 residents.

**PURPOSE & EFFECT:** To construct additional rooms within an existing Retirement Home.

**Notes:**

- i. The property is within Parking Rate Area 1 therefore no parking spaces are required.

**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, July 17, 2025</b>
<b>TIME:</b>	<b>3:00 p.m.</b>
<b>PLACE:</b>	<b>Via video link or call in (see attached sheet for details)</b>
	<b>City Hall Council Chambers (71 Main St. W., Hamilton)</b>
	<b>To be streamed (viewing only) at</b> <b><a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a></b>

## A-25:113

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

## PUBLIC INPUT

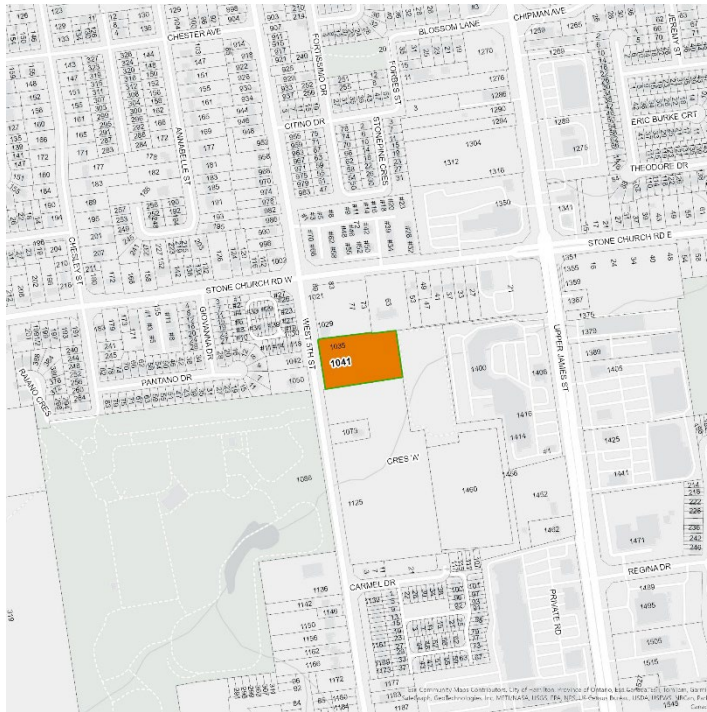
**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, written comments must be received no later than noon July 15, 2025

**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 noon July 16, 2025

## FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding A-25:113, 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: June 30, 2025

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

Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto: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](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 on the date listed on the Notice of Public Hearing.**

Comments are available the Tuesday 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 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](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 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.

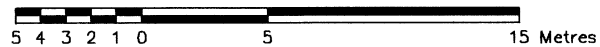
We hope this is of assistance and if you need clarification or have any questions, please email [cofa@hamilton.ca](mailto:cofa@hamilton.ca).

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.

PLAN OF SURVEY OF  
PART OF LOT 15  
CONCESSION 8  
GEOGRAPHIC TOWNSHIP OF BARTON  
CITY OF HAMILTON

SCALE - 1 : 300



WEST & RUUSKA LTD.

SCHEDULE

PART	LOT	CONCESSION	P.I.N.
1	PART OF 15	8	PART OF 16912-0064(LT)
2	PART OF 15	8	PART OF 16912-0064(LT)
3	PART OF 15	8	PART OF 16912-0064(LT)
4	PART OF 15	8	PART OF 16912-0064(LT)

I REQUIRE THIS PLAN TO  
BE DEPOSITED UNDER THE  
LAND TITLES ACT.

DATED June 14, 2018

JIM JOHNSON, O.L.S.

PLAN 62R-20938

RECEIVED AND DEPOSITED

DATED 2018-07-19

"C. LANGRANER"

REPRESENTATIVE FOR LAND REGISTRAR  
FOR THE LAND TITLES DIVISION OF  
WENTWORTH (No. 62)

PARTS 1, 2, 3 and 4 COMPRISE ALL OF P.I.N. 16912-0064(LT).  
PARTS 2 and 4 SUBJECT TO EASEMENT AS EXPROPRIATED BY BY-LAW 06-254, REGISTERED AS EXPROPRIATION PLAN WE424570.  
PARTS 2 and 4 SUBJECT TO EASEMENT IN INSTRUMENT WE460362.

BEARING and COORDINATE NOTE:

BEARINGS and COORDINATES ARE GRID and ARE DERIVED FROM THE  
COORDINATES SHOWN ON PLAN 62R-20011 and REFERRED TO THE  
UTM NAD83 (Original) COORDINATE SYSTEM, ZONE 17, CENTRAL  
MERIDIAN 81° DEGREES LONGITUDE.

DISTANCES SHOWN ON THIS PLAN ARE ADJUSTED GROUND DISTANCES  
AND CAN BE CONVERTED TO GRID DISTANCES BY MULTIPLYING BY AN  
AVERAGE COMBINED SCALE FACTOR OF 0.99967845.

UTM COORDINATES (Metres)

REFERENCE POINTS	NORTHING	EASTING
A	4784802.985	589819.316
B	4784835.457	589983.187

THESE COORDINATE VALUES COMPLY WITH SECTION 14(2) O. REG 216/10.  
THESE COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH  
THE CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

WEST FIFTH STREET

( REGIONAL ROAD No. 158 )  
( ESTABLISHED BY MUNICIPAL SURVEY No. 879 )  
P.I.N. 16912 - 0041(LT)

Part 3

Part 4

SURVEYOR'S CERTIFICATE

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE 11th DAY OF JUNE, 2018.

DATED: June 14, 2018

JIM JOHNSON  
ONTARIO LAND SURVEYOR

LEGEND

DENOTES	
□	SET MONUMENT
■	FOUND MONUMENT
IB	IRON BAR
SIB	STANDARD IRON BAR
OU	ORIGIN UNKNOWN
600	S.W. WOODS, O.L.S.
686	M.E. MARTIN, O.L.S.
824	A.T. McLAREN, O.L.S.
1213	M.E. MARTIN, O.L.S.
P1	PLAN 62R-20011
P2	PLAN 62R-18803
D1	INSTRUMENT AB304182
D2	INSTRUMENT BR45069
D3	INSTRUMENT HL116657
D4	INSTRUMENT CD349800
D5	INSTRUMENT BR44387
RHW	REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH



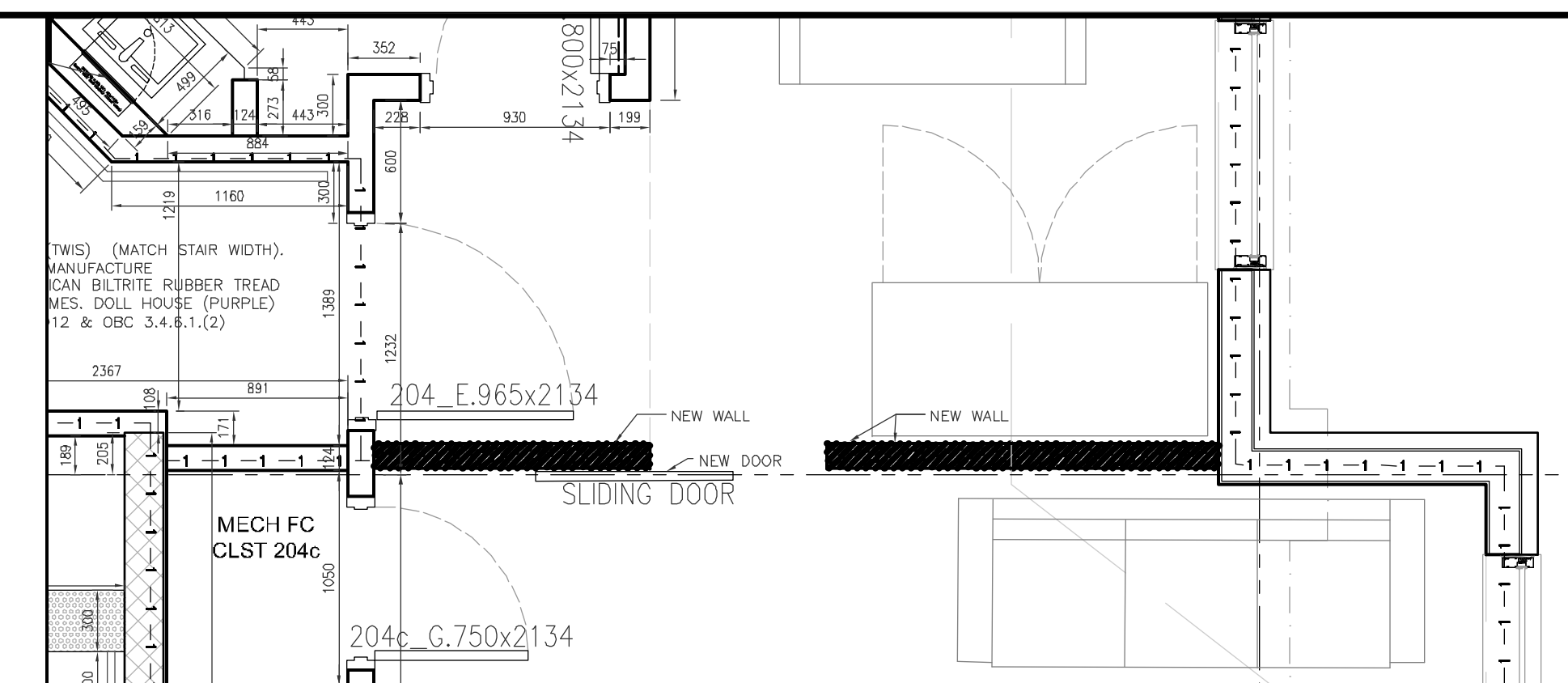
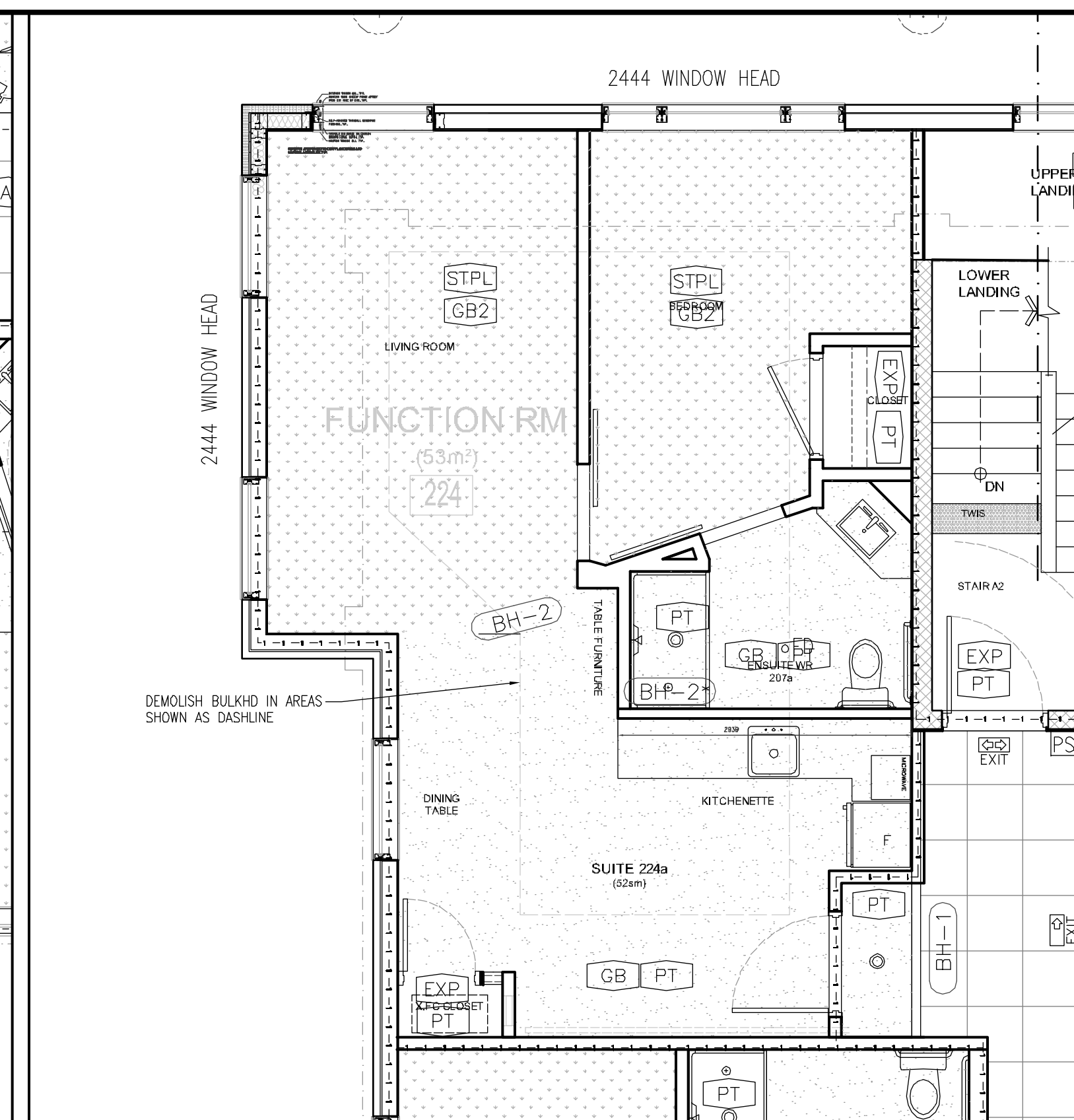
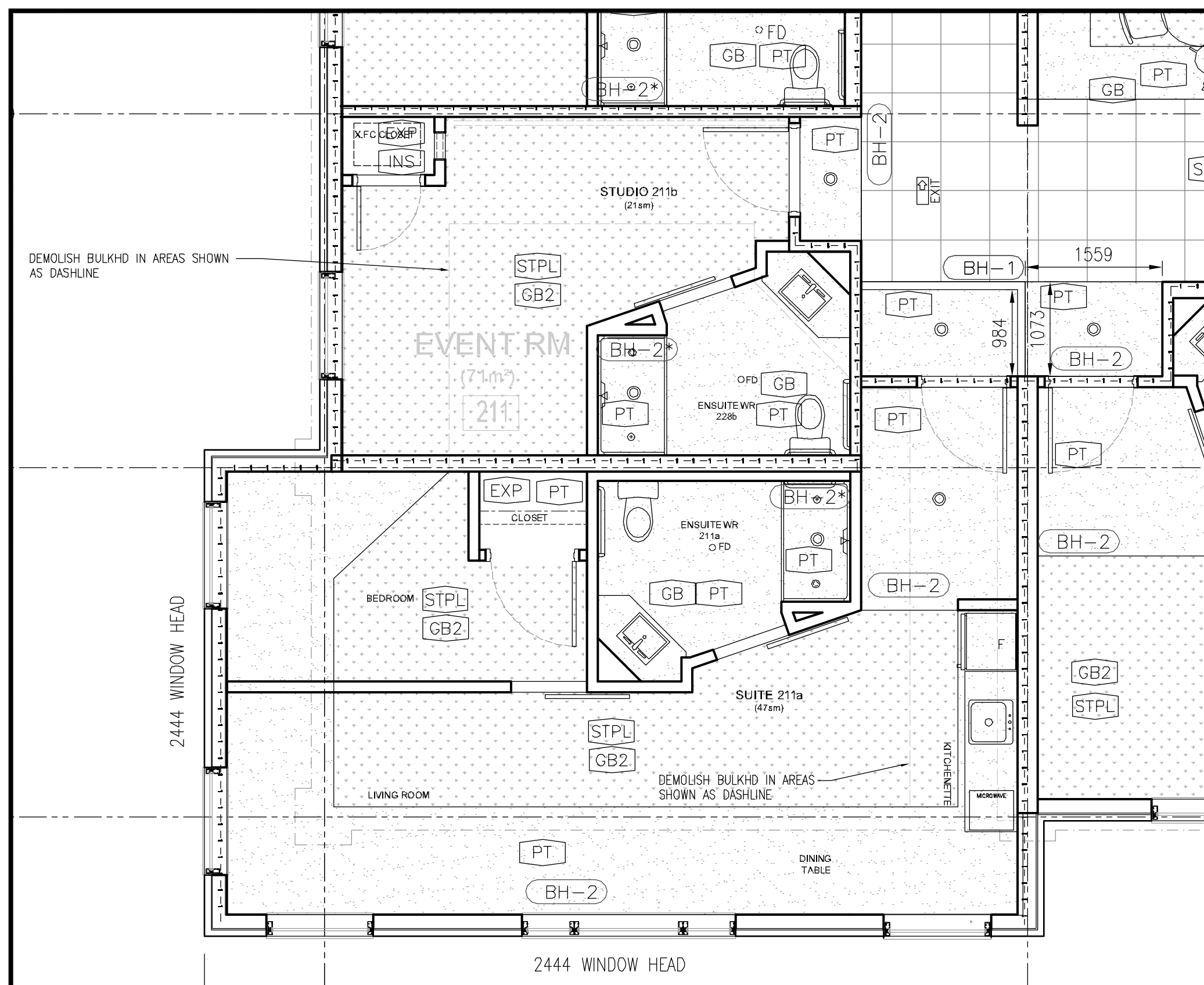
WEST & RUUSKA LTD.  
Land Surveyors

17 NELSON STREET, BRANTFORD, ONTARIO, N3T 2M6  
Telephone (519)752-8641

DRAWN BY: Ted S. KUTYLA, CST, CET

A180063





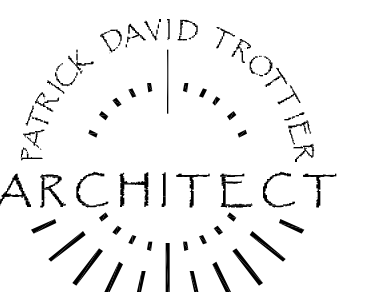
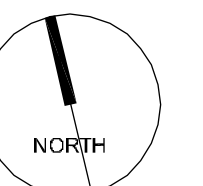
## GENERAL NOTES

1. ALL CONSTRUCTION TO MEET THE CURRENT REQUIREMENTS OF THE ONTARIO BUILDING CODE (O.B.C.) AND MUNICIPAL BY-LAWS.
2. CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS, ASSEMBLES, AND TAGS PRIOR TO CONSTRUCTION. DO NOT SCALE THE DRAWINGS. REPORT ANY DISCREPANCIES TO THE ARCHITECT.
3. THIS DRAWING TO BE READ IN CONJUNCTION WITH ALL RELEVANT SPECIFICATIONS, ARCHITECTURAL, STRUCTURAL, CIVIL, MECHANICAL, ELECTRICAL DRAWINGS, GEOTECHNICAL REPORT(S) & ENVIRONMENTAL REPORT(S).
4. ARCHITECTURAL DRAWINGS SHALL NOT BE REPRODUCED WITHOUT THE CONSENT OF THIS ARCHITECT.

## REVISIONS

No.	DATE	DESCRIPTION	BY
01	2023.04.30	REVISIONS OF CORNER LOUNGES TO SUITES	POTA

2025.05.22 PLAN UPDATES  
PDTA



266 DUFFERIN AVE. BRANTFORD, ON N3T 4S2  
226.208-1543c patrick@pdilarch.ca www.pdilarch.ca

PROJECT PROPOSED PHASED

**4 STOREY SENIORS  
RETIREMENT APARTMENT  
BUILDING**

1041 WEST 5TH STREET,  
HAMILTON, ON

CLIENT  
**1804487 ONTARIO INC**

**RENOVATION FROM  
CORNER LOUNGES TO  
SUITES / STUDIOS.**

**LEVELS 2,3,4  
PLAN DETAILS:**

## FLOOR & CEILING

FILE	17-13	DATE	JUNE 2018
SCALE	AS INDICATED	DRAWN	PDTA
CHECKED	PDTA	DRAWING NO.	

## A2.2a





# FPD

F O T H E R G I L L   P L A N N I N G   &   D E V E L O P M E N T   I N C .

62 DAFFODIL CRES • HAMILTON, ON L9K 1E1 • PHONE 905.577.1077 • EMAIL: ed@fothergillplanning.ca

June 3, 2025

Committee of Adjustment  
City of Hamilton  
71 Main St. W.  
Hamilton ON L8P 4Y5

Re:    **Ressam Gardens – 1041 West 5<sup>th</sup> Street**  
      **Application for Minor Variance - Increase in Level of Service**

Please find enclosed an application for a minor variance to allow for internal renovations to an existing building to accommodate 69 retirement home rooms. This is an increase of 9 units over the existing 60 units which are permitted in the current by-law. There are no changes to the existing site conditions. Included with the application is a copy of a survey and floor plan drawings which illustrate the internal changes to the building. Also enclosed is correspondence from the founder, owner and operator of Ressam Gardens, Mr. Nafia Al Mutawaly which outlines the importance of this specialized facility in the community. It also confirms the success of the project and the need to expand on the tremendous achievements of the project to date.

The variance application can be supported in that it is consistent with the 2024 Provincial Planning Statement (PPS) which encourages the provision of an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area (Policy 2.1.4). The proposal contributes to the efficient use of land and existing building which is consistent with the intent of PPS policies 2.2.1(c) and 2.2.1(d). It also helps to provide a greater level of service for individuals with special needs (Policy 2.1.1(b)(2)). More specifically, the proposal is consistent with regard to the **“redevelopment of utilized commercial and institutional sites which results in an increase in residential units ...”**. It also helps to improve social equity and the overall quality of life for people of all ages, abilities, and incomes, including equity deserving groups consistent with Policy 2.1.6(c).

Included within the range of housing to be provided are opportunities for additional needs housing which are defined as follows:

***“means any housing, including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples of additional needs housing may include, but are not limited to long-term care homes, adaptable and accessible housing, and housing for persons with disabilities such as physical, sensory or mental health disabilities, and housing for older persons.”***



The property is designated as Neighbourhoods in the Urban Hamilton Official Plan (UHOP). This designation allows for the development of a range of uses to help support a mixed-use, active transportation friendly neighbourhood (Policy E.3.1.1) and promotes a range of housing types and densities (E.3.1.3). The proposal is an example of residential intensification as promoted in Policy E.3.1.5. The proposal also helps to implement Policy E.3.2.14 which permits new housing with supports. The application conforms to the policies of the Urban Hamilton Official Plan as it enhances the function of the existing Institutional use which provides an important service which is essential to the maintenance of healthy and complete communities. The internal changes to the building can be accommodated by existing infrastructure.

The property is zoned I1 with a special exception 462. The I1 zone permits a retirement home. The special exception 462 places a limit on the retirement home of 48 residents, and permits a range of ancillary uses and includes specific by-law regulations. In a decision of Committee of Adjustment on October 10, 2019 under File HM/A-19:322, a variance was approved to allow for a maximum of 60 residents. A copy of the Committee decision is enclosed.

The proposal conforms to the general purpose and intent of the existing by-law to permit the Institutional use. These improvements help to strengthen the use and expand its ability to respond to this important community need as outlined in the correspondence from Mr. Al Mutawaly.

The property is located within Parking Rate Area 1 (PRA1) on Schedule A, which does not require the provision of parking. As such, the internal renovations will not trigger the need to provide additional parking.

The variance is minor in nature in that it will not generate any visual change to the site or to the exterior of the building, the building footprint or size. The internal renovations will not be noticeable from any public viewpoint. The addition of the 9 rooms will not have any perceptible change in the operation of the facility.

The proposal is desirable for the appropriate use of the land and building. It builds upon the success of the existing retirement home residence and allows for an increased level of care to be provided for the community without expanding the existing building or modifying existing site conditions.

In summary, the minor variance can be supported as it is consistent with the provisions of the Provincial Planning Statement. It complies with the general purpose and intent of the Official Plan and Zoning By-law. It is minor in nature and is desirable for the appropriate use of the land and building. As such, it represents good planning.

Respectfully Submitted,

**FOTHERGILL PLANNING & DEVELOPMENT INC.**

  
E.J. Fothergill, MCIP, RPP  
President



Ressam Gardens Memory Care Community  
1041 West 5<sup>th</sup> St, Hamilton, ON, L9B 1J5

**June 2, 2025**

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

**Re: Request to increase number of residential units at Ressam Gardens, located at 1041 West 5th Street, Hamilton, ON, L9B 1J5.**

To the Committee of Adjustment,

I am writing on behalf of Ressam Gardens to respectfully request to **increase the number of units at Ressam Gardens Memory Care Community from 60 to 69.**

### **Background**

Dementia continues to be a significant and growing concern across Canada. As of the most recent estimates, over 750,000 Canadians are living with Dementia, with tens of thousands of new diagnoses each year. This number is projected to rise sharply in the coming decade, reaching over 1 million cases by 2030. Globally, this is reflected in similar trends, with the number of people living with Dementia expected to surpass 75 million by that same year.

In 2019, Ressam Gardens introduced the concept of a **Living Lab** to Hamilton City Council as part of our development vision. This initiative—integrated into our memory care model—aims to support innovation in aging and dementia care through research, technology testing, and health-system collaboration. The goal is not only to improve the quality of life for individuals living with Dementia but also to contribute to Hamilton's leadership in senior-focused innovation and health technology.

Since that time, we have built and expanded collaborations with several partners:

- Alzheimer Society Canada
- McMaster Institute for Research on Aging (MIRA)
- McMaster School of Engineering Practice and Technology (SEPT)
- McMaster University, Department of Kinesiology



Ressam Gardens Memory Care Community  
1041 West 5<sup>th</sup> St, Hamilton, ON, L9B 1J5

International partnerships have also emerged, reflecting growing global interest in our approach:

- Magic Life Furniture (Turkey)
- Yuan Ze University (Taiwan)

### **Updated Request**

In light of new insights from our research and operational planning, we are formally requesting an increase in the number of residential units within our facility—from the previously approved **60 units to 69 units**.

This increase aligns with both the City of Hamilton’s intensification strategy and our evolving understanding of dementia care best practices. There are three key drivers for this change:

- 1. Enhanced Care through Optimized Design:**

Evidence suggests that individuals with memory-related challenges benefit more from smaller, well-structured environments. Converting unused common areas into residential rooms layouts helps reduce confusion, anxiety, and overstimulation—thereby improving quality of life.

- 2. Offering multi options for residents:**

We have received numerous requests from families who like to be accommodated as a couple. Adding new units, therefore, provide a more suitable living environment for our current and future residents.

- 3. Sustainable and Efficient Land Use:**

This redesign allows us to utilize some common areas, which are not used by our residents, and converting them to suites for couples with the goal to improve their life quality. Increasing occupancy within our existing building will bring the total to 69 units. It should be stated, this modification will involve only minor interior changes and will not alter the building’s total area, height, or exterior structure.



Ressam Gardens Memory Care Community  
1041 West 5<sup>th</sup> St, Hamilton, ON, L9B 1J5

### **Community Benefits – The Connell Park Collaboration**

The proposed expansion strengthens the outcomes of our collaboration with McMaster University through the **Connell Park Project**, which focuses on creating active and inclusive outdoor spaces for older adults.

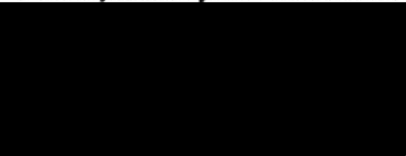
This pilot project is reimagining urban green space as an intergenerational hub that encourages seniors to stay active, socially connected, and engaged with the wider community.

With Ressam Gardens in close proximity to William Connell Park, the additional units will directly contribute to and benefit from this initiative, helping us create a more socially integrated and health-supportive community for Hamilton's seniors.

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We appreciate the City's ongoing commitment to aging with dignity and innovation. By supporting this modification, you are enabling more Hamiltonians living with Dementia to receive the specialized care they need in a supportive, research-driven, and community-integrated setting.

Thank you for your consideration.



Sincerely,

**Dr. Nafia Al-Mutawaly, Ph.D., P.Eng.**

Owner and Founder, Ressam Gardens (1804487 Ont. Inc.)

*"It takes a village to care for an elder."*





Committee of Adjustment  
Hamilton City Hall  
71 Main Street West, 5<sup>th</sup> floor  
Hamilton, ON L8P 4Y5  
Telephone (905) 546-2424 ext. 4221  
Fax (905) 546-4202

**COMMITTEE OF ADJUSTMENT**  
**DECISION OF THE COMMITTEE**

**APPLICATION NO. HM/A-19:322**  
**SUBMISSION NO. A-322/19**

**APPLICATION NO.:** HM/A-19:322

**APPLICANTS:** Ed Fothergill on behalf of the owner 1804487 Ontario Inc.

**SUBJECT PROPERTY:** Municipal address **1041 West 5<sup>th</sup> St., City of Hamilton**

**ZONING BY-LAW:** Zoning By-law 05-200, as Amended by By-law 14-343

**ZONING:** "I1, 462" (Neighbourhood Institutional) district

**PROPOSAL:** To permit and increase to the capacity of the existing retirement home facility, which includes ancillary uses, from the permitted 48 residents to a maximum of 60 residents notwithstanding that;

1. A minimum barrier free parking space size of 4.4 m in width by 5.5 m in length shall be permitted instead of the minimum required 4.4 m in width by 5.8 m in length; and
2. A minimum of 101 parking spaces shall be provided for the entire site instead of the minimum required 105 parking spaces; and
3. A maximum of 60 residents shall be permitted for the retirement home instead of the maximum permitted 48 residents; and,
4. A minimum parking space size of 2.6m in width by 5.5m in length shall be provided instead of the minimum required 3.0m in width by 5.8m in length.

**Note:**

These variances are necessary to facilitate a building permit application # 19-106292. Please note that ancillary uses may include Medical Offices, Pharmacy, Hair Salon, Coffee Shop and Convenience Store.

This Variance has been submitted for the parking size in amending By-law 17-240 which is not yet final and binding.

**THE DECISION OF THE COMMITTEE IS:**

That the variances, as set out in paragraph three above, are **GRANTED AS AMENDED** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.

**CERTIFIED A TRUE COPY .../2**  
  
**SECRETARY - TREASURER**

**DATED AT HAMILTON** this 10th day of October, 2019.

\_\_\_\_\_  
M. Dudzic (Chairman)

\_\_\_\_\_  
B. Chaters

\_\_\_\_\_  
D. Serwatuk

\_\_\_\_\_  
L. Gaddy

\_\_\_\_\_  
M. Switzer

\_\_\_\_\_  
T. Lofchik

\_\_\_\_\_  
N. Mleczko

\_\_\_\_\_  
M. Smith

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE LOCAL PLANNING APPEAL TRIBUNAL (LPAT) MAY BE FILED IS **October 30th, 2019.**

**NOTE: This decision is not final and binding unless otherwise noted.**

IMPORTANT NOTICE

THIS DECISION IS NOT FINAL AND MUST NOT BE ACTED UPON UNTIL THE PERIOD OF APPEAL HAS EXPIRED

Please note in the attached copy of Subsection (12) to (20) of Section 45 of The Planning Act.

- (a) That a right of appeal is given by Subsection 12; and,
- (b) That if no appeal is filed within the TWENTY days allowed, the Committee's decision is then final and binding; and,
- (c) That under Subsection 14, the applicant is to be given notice of the final disposition of the application.

THE DECISION DOES NOT RELEASE ANY PERSONS FROM THE NECESSITY OF OBSERVING THE REQUIREMENTS OF BUILDING REGULATIONS, THE LICENSE BY-LAW, OR ANY OTHER BY-LAW OF THE CITY OF HAMILTON.

EXTRACT FROM SECTION 45 OF THE PLANNING ACT AND COMMENTS

The applicant, the Minister or any other person or public body who has an interest in the matter within 20 days of the making of the decision appeal to the Local Planning Appeal Tribunal against the decision of the Committee by filing with the secretary-treasurer of the Committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the Local Planning Appeal Tribunal under the Local Planning Appeal Tribunal Act as payable on an appeal from a Committee of Adjustment to the Tribunal.

IMPORTANT NOTE: APPEALS MUST BE FILED AT THE OFFICE OF THE COMMITTEE OF ADJUSTMENT (Hamilton City Hall, 5<sup>th</sup> Floor, 71 Main Street West, Hamilton). DO NOT DELIVER APPEALS TO ANY OTHER DEPARTMENTS OR LOCATIONS. APPEALS RECEIVED BY THE OFFICE OF THE COMMITTEE OF ADJUSTMENT AFTER THE LAST DATE OF APPEAL AS A RESULT OF SECOND HAND MAILING WILL BE TIME BARRED AND OF NO EFFECT.

The secretary-treasurer of a committee, upon receipt of a notice of appeal under Subsection (12) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) to the Local Planning Appeal Tribunal by registered mail together with all papers and documents filed with the Committee of Adjustment relating to the matter appealed from and such other documents and papers as may be required by the Tribunal.

If within such TWENTY days no notice of appeal is given, the decision of the Committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality.

Where all appeals to the Local Planning Appeal Tribunal are withdrawn, the decision of the Committee is final and binding and the secretary of the Tribunal shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

On an appeal to the Local Planning Appeal Tribunal, the Tribunal shall, except as provided in subsection (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Tribunal may determine.

APPEAL

R.S.O. 1990

Idem

Where no appeals

Where appeals withdrawn

Hearing

(17) Despite the Statutory Powers Procedure Act and subsection (16), the Local Planning Appeal Tribunal may dismiss all or part of an appeal without holding a hearing on its motion or on the motion of any party if;

- (a) it is of the opinion that;
  - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal;
  - (ii) the appeal is not made in good faith or is frivolous or vexatious; or,
  - (iii) the appeal is made only for the purpose of delay;

- (b) the appellant has not provided written reasons for the appeal;
- (c) the appellant has not paid the fee prescribed under the Local Planning Appeal Tribunal Act; or,
- (d) the appellant has not responded to a request by the Local Planning Appeal Tribunal for further information within the time specified by the Tribunal.

(17.1)

Before dismissing an appeal, the Local Planning Appeal Tribunal shall notify the appellant and give the appellant an opportunity to make representation in respect of the appeal and the Tribunal may dismiss an appeal after holding a hearing or without holding a hearing on the motion, as it considers appropriate.

(18)

The Local Planning Appeal Tribunal may dismiss the appeal and may make any decision that the committee could have made on the original application.

(18.1)

On an appeal, the Local Planning Appeal Tribunal may make a decision on an application which has been amended from the original application, if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under subsection (5) and to other persons and agencies prescribed under that subsection.

(18.2)

Any person or public body who receives notice under subsection (18.1) may, not later than TWENTY days after the day that written notice was given, notify the Tribunal of an intention to appear at the hearing or the resumption of the hearing, as the case may be.

(18.3)

If, after the expiry of the time period is subsection (18.2), no notice of intent has been received, the Tribunal may issue its order.

(18.4)

If a notice of intent under subsection (18.2) is received, the Tribunal may hold a hearing or resume the hearing on the amended application.

(19)

When the Local Planning Appeal Tribunal makes an order on an appeal, the secretary of the Tribunal shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

(20)

The secretary-treasurer shall file a copy of the order of the Local Planning Appeal Tribunal with the clerk of the Municipality.

IN ACCORDANCE with the above-noted provision of The Planning Act, the last day of appeal from this decision is:

October 30<sup>th</sup>, 2019

NOTE: The fee is \$300.00 to be paid by certified cheque or money order made out to THE MINISTER OF FINANCE and MUST accompany the Notice of Appeal.

Questions or Information:  
Contact Scott Baldry (905) 546-2424 Ext. 4144

Dismissal of appeal by L.P.A.T. without hearing



**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	MAILING ADDRESS
<b>Registered Owners(s)</b>	1804487 ONTARIO INC.	
<b>Applicant(s)</b>	OWNER	
<b>Agent or Solicitor</b>	Ed Fothergill Fothergill Planning & Development Inc.	

**1.2 Primary contact**

☐ Applicant

☐ Owner  
☒ Agent/Solicitor

**1.3 Sign should be sent to**

☐ Applicant

☒ Owner  
☐ 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 sent by email.

**1.6 Payment type**

☐ In person  
☒ Cheque

☐ Credit over phone\*

\*Must provide number above



## 2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1041 West 5th Street		
Assessment Roll Number			
Former Municipality	Hamilton		
Lot		Concession	
Registered Plan Number		Lot(s)	
Reference Plan Number (s)	62R-20938	Part(s)	1, 2

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:

Servicing Easement - Part 2 Plan 62R-20938

## 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:

Allow for an increase in the number of units from 60 to 69.

☐ Second Dwelling Unit

☐ Reconstruction of Existing Dwelling

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

Proposal allows for a more efficient use of space.

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
78.951	125.052	0.96 ha	unknown

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
Retirement Home	10.5	50 +/- m	21.74 and 23.43	2022

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
No change				

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
Retirement Home	1290 sq.m.	5378 sq.m.	4	15.10 m

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
No change				

- 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  
☐ municipal road, seasonally maintained  
☒ municipal road, maintained all year
- ☐ right of way  
☐ other public road

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

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):  
Multi-unit residential, commercial, park

## 7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:  
October 7, 2009

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

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

7.4 Length of time the existing uses of the subject property have continued:  
Since 2022

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) Neighbourhoods

Please provide an explanation of how the application conforms with the Official Plan.  
Use is permitted in Neighbourhoods designation

7.6 What is the existing zoning of the subject land? I1- Exception 462

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: HM/A-19:322

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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: \_\_\_\_\_

## 8 ADDITIONAL INFORMATION

8.1 Number of Dwelling Units Existing: 60

8.2 Number of Dwelling Units Proposed: 69

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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