




Hamilton

CITY OF HAMILTON  
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
Planning Division

5.5

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 19, 2014
<b>SUBJECT/REPORT NO:</b>	Sign Variance Application SV-14-002 for the Hamilton Port Authority Lands, Hamilton, Denied by the Director, Planning Division, and Appealed by the Applicant (PED14227)(Ward 5)
<b>WARD(S) AFFECTED:</b>	Ward 5
<b>PREPARED BY:</b>	Sarah Cellini (905) 546-2424 Ext. 2634
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	 for J.T.

**RECOMMENDATION**

That the Appeal of Sign Variance Application SV-14-002, by Ken Neufeld, to construct two (2) ground signs to advertise businesses located on Hamilton Port Authority Lands (Hamilton), locations shown on Appendix "A" to Report PED14227, be **DENIED** on the following basis:

- (a) That the requested variances are not in keeping with the intent of Sign By-law No. 10-197;
- (b) That the requested variances do not meet the tests of Sign By-law No. 10-197; and,
- (c) The Ministry of Transportation does not support the requested variances.

**EXECUTIVE SUMMARY**

The applicant submitted Sign Variance Application SV-14-002 on February 14, 2014 and the application was subsequently deemed complete on February 28, 2014. The application proposes to construct two (2) ground signs to advertise businesses located on Hamilton Port Authority (HPA) Lands: one sign will be located south of Hamilton Harbour; and the other sign will be located on the southwest corner of Eastport Drive and Pier 26 Gateway. Both signs are identical in size, being double sided, 20 m high, with an LED signface area of 62.87 sq m (see Appendix "B").

The Director of Planning denied the application because the proposed variances are not in keeping with the general intent of Sign By-law No. 10-197 and do not meet the tests for sign variance provided in Section 6.5 of Sign By-law No. 10-197.

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Pursuant to Section 6.6 of the Sign By-law, the applicant has appealed the decision of the Director, Planning Division, and has requested that the Sign Variance application be brought to the Planning Committee for their review.

***Alternatives for Consideration – See Page 13***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** None.

**Staffing:** None.

**Legal:** The application is under the Municipal Act, and there are no requirements for a Public Meeting. Sign By-law No. 10-197 requires the City Clerk to notify the applicant once a hearing date at Planning Committee has been scheduled to consider an appeal to the decision of a Sign Variance Application.

**HISTORICAL BACKGROUND**

On August 12, 2010, Council approved Sign By-law No. 10-197. Part 6.0 of Sign By-law No. 10-197 provides regulations with respect to variances to the Sign By-law, including regulations regarding delegated approval authority, processing sign variance applications, regulations regarding merit to grant variances, and the process of appealing the variance application decision.

In January of 2014, staff met with the applicant to discuss the submission of a Sign Variance Application for the proposed sign and to discuss the merit of the proposed variances.

On February 14, 2014, staff received the application to construct two ground signs to advertise businesses located on Hamilton Port Authority Lands. Two variances (one variance for the height of the ground sign, and one variance for 100% electronic display) were included in the application. The applicant's rationale for why the application should be supported was due to the land size of the HPA Lands and the visible identification required at the proposed locations warrant larger signs than permitted by Sign By-law No. 10-197 regulations.

On May 25, 2014, staff met with the applicant to clarify whether the proposed signs were considered ground signs or billboard signs. Other discussions included whether the Sign By-law No. 10-197 applies to HPA Lands (see Page 4 for explanation of how Section 2.2.4 is applied to the subject lands).

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On July 21, 2014, the variances were denied by the Director, Planning Division, and notice was sent to the applicant advising them of the decision. On August 12, 2014, the applicant appealed the denial decision by the Director, Planning Division, and requested that the proposed sign variance application be considered by the Planning Committee (see Appendix "C").

**Details of Submitted Application**

**Location:** HPA Lands (one sign will be located south of Hamilton Harbour; and the other sign will be located on the southwest corner of Eastport Drive and Pier 26 Gateway), Hamilton

**Owner:** Hamilton Port Authority

**Applicant/Agent:** Ken Neufeld, Neufeld Signs Ltd.

**Property Description:** Frontage: 848 m (approximately)  
(for the portion affecting the Lot Depth: 263 m (approximately)  
subject application) Area: 27 ha (approximately)

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**City of Hamilton Sign By-law No. 10-197**

Sign By-law No. 10-197 provides regulations for signs and other advertising devices within the City of Hamilton.

Section 5.1.1 specifies which signs are not to be displayed or permitted. Section 5.2 specifies the regulations in which a Ground Sign can be lawfully erected. The proposed variances will permit two ground signs that are in contravention of eight Sign By-law No. 10-197 regulations and could set a standard or precedent for other signs of similar nature to be located within the City of Hamilton. The required variances and associated staff analysis is contained in the Analysis and Rationale Section of this Report.

For reference, Subsection 2.2.4 states:

"This By-law does not apply to signs displayed, or permitted to be displayed by federal, provincial or municipal governments, a conservation authority or other local board as defined in the Municipal Act, 2001, including, but not limited to, signs required by a federal or provincial statute or regulation or by a municipal by-law, such as: a traffic sign; a street name sign; a permanent sign displayed on a street to inform the public of the location of Business Improvement Areas, public buildings, hospitals, public libraries, institutions, places of worship, parks,

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recreational or educational facilities; a sign designating a public library, a public community centre, a public arena; a sign required by the City to inform the public of planning applications submitted under the Planning Act; a Tourism Ontario Destination sign; a Trailblazer sign and a sign displayed for the purposes of public safety or convenience.”

The Hamilton Port Authority, not the Federal Crown, owns the lands upon which the proposed ground signs are to be erected. As a result, the proposed signs are not exempt from the scope of the Sign By-law No. 10-197 as HPA Land is not Crown Land nor are the proposed ground signs integral to the shipping and navigation activities of the Port. The proposed ground sign does not meet any of the requirements noted above in order to be exempt from the By-law as the sign is advertising for lands owned by Hamilton Port Authority, whose tenants are privately operated businesses; nor are they required signs by any federal, provincial or municipal government, a conservation authority or other local board; and, is not a Tourism Ontario Designation sign.

The Hamilton Port Authority requested that the agent consult with the City of Hamilton regarding the Sign Variance application. This is consistent with the approach to Site Plan applications in which the Port Authority consults with the City to ascertain if the City is supportive of the proposal and if so, to identify the appropriate conditions of approval for development or redevelopment projects. The Hamilton Port Authority's agent confirmed that the proposed ground signs will be used for business identification purpose as opposed to third party advertising, for those businesses located on Hamilton Port Authority Lands (as stated in the meeting on May 15, 2014). With confirmation from the applicant that the proposed signs would be advertising businesses having location on HPA Lands, the review of the Sign Variance application continued with the review of the ground sign regulations as opposed to billboard sign regulations.

For further reference, Subsection 2.2.6 states:

“Notwithstanding subsection 2.2.4, the applicable regulations under this By-law shall apply with necessary modifications for signs displayed under a permit issued in accordance with section 34 or section 38 of the Public Transportation and Highway Improvement Act and a permit is required under this By-law for such signs.”

As noted in the Relevant Consultation section below, the City received comments from the Ontario Ministry of Transportation (MTO), which is the authority that implements the Public Transportation and Highway Improvement Act. The MTO deemed both signs to be billboard signs and the MTO does not permit any billboard signs/third party advertisement billboard signs to be installed along a Class 1A Highway, in this case the Queen Elizabeth Way (QEW).

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**RELEVANT CONSULTATION**

The following Departments/Agencies having no comments or concerns:

- Growth Management (Development Engineering)
- Corridor Management (Public Works)

**Building Services Division (Building Construction Section)** provides the following comments:

1. According to Section 2.2.4. of Sign Bylaw No. 10-197, *This by-law does not apply to signs displayed, or permitted to be displayed by federal, provincial or municipal governments, a conservation authority or other local board as defined in the Municipal Act, 2001.* However, the City's Legal Department clarified that this only applies to Crown Land. As such, because the HPA Lands are not considered Crown Land, the regulations of Sign By-law No. 10-197 apply.
2. According to Section 5.1.1.(a) of Sign By-law No. 10-197, *"(a) any sign with a video screen or any flashing, kinetic, or illusionary motion except an electronic display as permitted under this By-law."* These signs are considered to be video screens. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
3. According to Section 5.1.1.(c) of Sign By-law No. 10-197, *"(c) any sign displayed within a visibility triangle."* No information has been provided to show the exact location of these signs. However, they appear to be located within the visibility triangles. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
4. According to Section 5.1.1.(f) of Sign By-law No. 10-197, *"(f) any sign within 400.0 m of the right of way of Highway 403, The Queen Elizabeth Way, the Lincoln M. Alexander Parkway or the Red Hill Valley Parkway that is visible from the travelled portion of the right of way."* These signs are within 400.0 m of the right of way of The Queen Elizabeth Way. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
5. According to Section 5.2.2.(e) of Sign By-law No. 10-197, *"(e) maximum sign area of 0.3 m<sup>2</sup> for every 1.0 m of frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0 m<sup>2</sup> for a single-faced Ground Sign or 36.0 m<sup>2</sup> for a double or multi-faced Ground Sign."* Each of the proposed Ground Signs, which both front onto Eastport Drive, has an area of 62.4 m<sup>2</sup> per sign face. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.

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6. According to Section 5.2.2.(f) of Sign By-law No. 10-197, "*(f) maximum height of 7.5 m.*" The proposed Ground Signs are 20.0 m in height. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
7. According to Section 5.2.2.(g)(i) of Sign By-law No. 10-197, "*(g)(i) includes the municipal address number of the property on which the Ground Sign is displayed shown at the top or the bottom in numerals that are a minimum height of 15.0 cm.*" The proposed Ground Signs have not shown any municipal numbers at the top or bottom. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
8. According to Section 5.2.2.(g)(ii) of Sign By-law No. 10-197, "*(g)(ii) includes one or more of the following copy that is a minimum height of 15.0 cm: 1. The name of the business; 2. The registered trademark of the business; 3. The ownership of the business; or 4. The name of the activity, product or service available.*" The proposed Ground Signs show none of this information. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
9. According to Section 5.2.2.(g)(iii) of Sign By-law No. 10-197, "*(g)(iii) may allocate a maximum 50% of the sign face to a readograph or electronic message display provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination.*" The proposed Ground Signs are 100% video screens. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
10. According to Section 5.2.2.(i) of Sign By-law No. 10-197, "*(i) not within 1.5 m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line.*" The location of the proposed Ground Sign should be 75% of the maximum height of 7.5 m which works out to be 5.62 m from any property line. No information has been provided to show the exact distance that these signs are setback from the property lines. However, it appears that they are less than 5.62 m from any property line. Therefore, the proposed signs do not conform to Sign By-law No. 10-197.
11. According to Section 5.2.2.(k) of Sign By-law No. 10-197, "*(k) where more than 1 Ground Sign is displayed along a frontage, not displayed within 200 m of another Ground Sign along the same frontage.*" The proposed Ground Signs are more than 300 m apart. Therefore, the proposed signs do conform to Sign By-law No. 10-197.

It is noted that Variance No. 3, as provided by Building Division staff on Page 5 of this Report, has not been included in the variances above, as one sign (of the two ground

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signs proposed) located south of the Pier 26 Gateway and Eastport Drive intersection, is located approximately 6 m (or greater) from the intersection of Eastport Drive and Pier 26 Gateway. As such, the identified variance for the proposed signs located within the visibility triangle was included as a precautionary variance; however staff are satisfied that the sign will be located outside of the required visibility triangle.

**Ministry of Transportation Ontario** provides the following comments:

The Ministry of Transportation Ontario (MTO) was circulated the Sign Variance Application and provided comments with respect to the location of the proposed signs.

After reviewing the matter, the MTO has reached the conclusion that the proposed signs do fall under MTO jurisdiction. Both proposed signs are considered billboard signs and the MTO does not permit any billboard signs/third party advertisement billboard signs to be installed along a Class 1A Highway (in this case the QEW). Hence, these signs will not be permitted in the proposed locations. The MTO's comments are attached as Appendix "D".

**City of Hamilton, Building Services (Zoning)** provides the following comments:

Building Division advises that a detailed drawing will be required at the time of building permit submission in order to determine if the location of the signs are proposed in planting strips or other requirements as outlined in Hamilton Zoning By-law No. 6593. If variances to Hamilton Zoning By-law No. 6593 are required as a result of the erection of the two proposed ground signs, a successful application for minor variance will be required to be submitted prior to a building permit being issued.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The City of Hamilton may approve a Sign Variance application if the general intent and purpose of the By-law is maintained, and the proposal has regard for the four tests, as set out in Section 6.5 of Sign By-law No. 10-197.
2. The lands owned by the Hamilton Port Authority (HPA) encompass a large area of land surrounding the Hamilton Harbour. The applicable HPA Lands specific to this application are located along the west side of Eastport Drive between Pier 26 Gateway to the south and Hamilton Harbour to the north and west.

The required variances are as follows:

- a) That notwithstanding Section 5.1.1(a) of Hamilton Sign By-law No. 10-197, any sign with a video screen or any flashing, kinetic, or illusionary motion may be permitted whereas Hamilton Sign By-law No. 10-197 does not

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permit any sign with a video screen or any flashing, kinetic, or illusionary motion;

- b) That notwithstanding Section 5.1.1(f) of Hamilton Sign By-law No. 10-197, a sign may be displayed on a property within 400.0 m of the Queen Elizabeth Way, whereas Hamilton Sign By-law No. 10-197 does not permit a sign to be displayed on a property within 400.0 m of Highway 403, the Queen Elizabeth Way, the Lincoln M. Alexander Parkway or the Red Hill Valley Parkway;
- c) That notwithstanding Section 5.2.2(e) of Hamilton Sign By-law No. 10-197, a double faced ground sign may have a sign area of 62.4 sq m, whereas Hamilton Sign By-law No. 10-197 does not permit a double faced ground sign to exceed a total sign face area of 36.0 sq m;
- d) That notwithstanding Section 5.2.2(f) of Hamilton Sign By-law No. 10-197, a ground sign may have a maximum height of 20.0 m, whereas Hamilton Sign By-law No. 10-197 does not permit a ground sign to exceed a maximum height of 7.5 m;
- e) That notwithstanding Section 5.2.2(g)(i) of Hamilton Sign By-law No. 10-197, to exempt the proposed ground signs from the provisions of Sign By-law No. 10-197 that requires municipal numbers and the municipal address number of the property on which the ground sign is displayed to be shown at the top or bottom in numerals that are a minimum height of 15.0 cm;
- f) That notwithstanding Section 5.2.2(g)(ii) of Hamilton Sign By-law No. 10-197, to exempt the proposed ground signs from having to provide one or more of the following copy that is a minimum height of 15.0 cm: 1. the name of the business; 2. the registered trademark of the business; 3. the ownership of the business; or 4. the name of the activity, product or service available whereas Hamilton Sign By-law No. 10-197 requires a ground sign to include one or more of the following copy that is a minimum height of 15.0 cm: 1. the name of the business; 2. the registered trademark of the business; 3. the ownership of the business; or 4. the name of the activity, product or service available;
- g) That notwithstanding Section 5.2.2(g)(iii) of Hamilton Sign By-law No. 10-197, to permit a ground sign to have 100% of the sign face as an electronic message display provided that no copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination whereas Hamilton Sign By-law No. 10-197 allocates a maximum 50% of the sign face to a readograph or electronic message display provided that no



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copy displayed on an electronic message display shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination; and,

- h) That notwithstanding Section 5.2.2(i) of Hamilton Sign By-law No. 10-197, to permit a ground sign to be located within 5.62m from any lot line whereas Hamilton Sign By-law No. 10-197 permits a ground sign to be located within 1.5 m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line.

Variance a) is required as a result of the signs proposed. Staff have determined that this variance is required because the ground signs proposed are considered to be video screens and therefore do not conform to Sign By-law No. 10-197. The proposed signs will have electronic displays and may illuminate the road ways. The proposed electronic signs may be a distraction to drivers as well as the residential neighbourhood located north of the subject property (north of the QEW). Staff are not supportive of the variance as requested.

Variance b) is required as a result of the location of the proposed signs abutting the QEW. According to Section 5.1.1 f) of Sign By-law No. 10-197, any sign is not permitted to be displayed within 400 m of the right of way of the QEW. Therefore, the existing businesses located on HPA Lands abutting the QEW are not permitted to display any signs along the entire stretch of the HPA Lands that abut the QEW due to the 400 m restriction. The MTO was circulated the sign variance application because this variance impacts the 400 m restriction within MTO jurisdiction. The MTO provided comments which stated that the signs would not be permitted in the proposed locations. Based on the foregoing, staff are of the opinion that the variance cannot be supported.

Variance c) is required as a result of the proposed double faced, ground sign sizes allocated to electronic display. Due to the size of the property and the intended audience/clients, the variance requests larger sign areas to accommodate the large traffic volumes on the QEW. The proposed ground signs are double the permitted size requirement for ground signs and the variance is not in keeping with the intent of the Sign By-law. Based on the foregoing, staff are of the opinion that the variance cannot be supported.

Variance d) is required as a result of the proposed height of the ground signs. The proposed ground signs request an increased height than permitted by the Sign By-law. The size of the property and the proximity of the property to the highway audience is the main consideration for the proposed variance. The proposed signs are more than double the height of what Sign By-law No. 10-197 permits. The Sign By-law requires a maximum ground sign height of 7.5 m. Staff is of the opinion that the maximum Sign By-law requirement of 7.5 m is sufficient

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for business identification purposes. As such, staff are not supportive of this variance as it does not meet the intent of Sign By-law No. 10-197.

Variance e) is required to address the proposed ground signs not having municipal numbers located on the signs. The purpose of a ground sign is to identify the location of the business on the subject property. As the application is silent to municipal addresses, without an address, there may be some confusion as to where the business may be located within the large area of lands owned by the HPA, as the ground sign may not be fixed on the land where the physical business is located. The proposed ground signs, although advertising only businesses located on HPA Lands, seem to function as a billboard sign. As such, staff are not supportive of this variance.

Variance f) is required to address the proposed ground signs that do not meet the regulations for a certain size of text (referred to as "copy" in Sign By-law No. 10-197) required for ground signs. The application submitted made no indication nor did the images submitted with the application contain information regarding the type of text and the size of the text to be included on the signs. As such, staff are not supportive of this variance.

Variance g) is required to permit the entire sign face area of the proposed ground signs to be used for electronic display. The By-law permits ground signs to have a maximum 50% electronic message display unless the sign is displayed on a property used for an institutional use. The By-law permits the proposed signs to have 31.43 sq m of electronic display with the remaining 50% of the sign area to be composed of non-electronic signage, instead of the proposed 62.86 sq m (or 100%) of electronic display proposed. Staff are of the opinion that the 50% electronic display message required by Sign By-law No. 10-197 is adequate for ground sign advertisements. As such, staff are not supportive of this variance.

Variance h) is required to permit the ground sign within 75% of the maximum height of the ground sign from any property line. The Sign By-law does not permit a ground sign to be located within 1.5 m or 75% of the height of the ground sign whichever is the greater. The location of the proposed ground signs should be 75% of the maximum height of 7.5 m which works out to be 5.62 m from any property line. No information has been provided to show the exact distance that these signs are setback from the property lines. Staff are of the opinion that the setback requirement is not overly onerous for compliance. As such, staff are not supportive of this variance.

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3. Pursuant to Section 6.5 of Hamilton Sign By-law, in considering applications for sign variance, the following four tests shall be considered:

- a) Special circumstances or conditions applying to the land, building or use referred to in the application;
- b) Whether strict application of the provisions of this By-law in the context of the special circumstances applying to the land, building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;
- c) Whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant; and,
- d) Whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located.

The four tests have been evaluated in the following paragraphs:

- a) Special circumstances or conditions applying to the land, building or use referred to in the application.

The locational constraints of the HPA Lands are considered special circumstances for the purposes of this application. The HPA Lands are located along Hamilton Harbour and Lake Ontario and encompass approximately 1,200 ha of land. In order to provide businesses located on the HPA Lands the opportunity to advertise, an application for variance to Sign By-law No. 10-197 is warranted. The locational restraints for the businesses located along Eastport Drive (which runs parallel to the QEW) require signage that can be seen by the travelling public. The applicant's rationale for a larger sign area and increased height is to provide locational signage for the properties located on HPA's expansive lands to be visible by local and regional traffic on City of Hamilton roadways and the QEW. The majority of the variances are for regulations that are required for private properties and are intended to restrict the size and location of signage that may impact residential properties abutting the subject lands. Residential land is located within 300 m of the proposed signs, but is physically separated by Eastport Drive and the QEW. Although the residential lands are separated from the proposed signs by the QEW noise wall, the light and visual impact of the proposed signs could be experienced by the residents. The Sign Visibility Study prepared by Creative Media Development Inc. (see Appendix "E"), indicates that 14 homes within the visibility area have sight lines to the proposed ground sign faces. For the reasons mentioned above, the

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variances do not meet the general intent and purpose of the Sign By-law. Therefore, staff are not supportive of the variances under this test.

- b) Whether strict application of the provisions of this By-law in the context of the special circumstances applying to the land, building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law.

The locational constraints would not result in practical difficulties for the applicant. Hypothetically, if the HPA Lands were located abutting the QEW only, strict application of the Sign By-law would have created an unusual hardship for the businesses located on the HPA Lands. However, because the HPA Lands surround the Hamilton Harbour, there are other opportunities to erect signs for the purposes of advertising businesses located on the HPA Lands. Additionally, as the proposed signs are within the jurisdiction of the MTO, who is not supportive of the signs as proposed by the applicant (see Appendix "D"), staff advise the applicant to consult with the MTO prior to applying for a building permit, as required by Section 3.2.2(e) of the Sign By-law. Staff are of the opinion that the strict application of Sign By-law No. 10-197, in the context of the locational constraints, would not result in practical difficulties. Therefore, staff are not supportive of the variances under this test.

- c) Whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant.

The locational constraints of the HPA Lands are pre-existing and were not created by the Owner or agent. However, a larger parcel of land does not automatically warrant a bigger ground sign, as the purpose of a ground sign is to provide for business identification for the business located on the lands wherever the company is positioned within the HPA Lands. Although the HPA Lands are large and encompass lands surrounding Hamilton Harbour, it would be advisable to provide signage where the businesses are located instead of along the QEW and Eastport Drive because the proposed signs are not permitted in the proposed locations. Additionally, for companies located on the opposite end of the Harbour, the purpose of the ground sign for business identification and locational purposes may be lost with the construction of the proposed signs on lands not located on or near the business location. The proposed ground signs function as billboard signs, albeit the only businesses that will be advertised are those businesses located on HPA Lands, as confirmed by the applicant. Staff are of the opinion that the locational constraints are pre-existing, however the proposed ground signs do not maintain the intent of Sign By-law No. 10-197. Therefore, staff are not supportive of the variances under this test.

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- d) Whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located.

The subject lands are designated for "Shipping and Navigation" in the Urban Hamilton Official Plan and are zoned for Harbour Uses (i.e. shipping and navigation uses and uses not used for bona fide shipping and navigation as listed in the "F-3" (Harbour Use) District and "A" (Conservation, Open Space, Park and Recreation) District of Hamilton Zoning By-law No. 6593). The proposed signs (although advertising businesses located on HPA Lands and located on lands designated for industrial, shipping and navigation uses) will visually impact the area, altering the character of the area. Adjacent properties, including the QEW and Eastport Drive, will be impacted by the proposed signs. Impacts may include light emanating from the electronic displays and visibility impacts of the travelling public. Motorists on the QEW and Eastport Drive, as well as residents of Beach Boulevard, may be impacted by the proposed signs from the light emanating from the electronic display and may result in vehicle traffic safety concerns within the area. The Sign Visibility Study prepared by Creative Media Developments Inc. (see Appendix "E"), outlined where the residential properties in the affected area are compared to the number of households with sight lines to the proposed sign faces measured at different proposed sign heights (i.e. 15 m, 20 m, 25 m). A review of the study indicated that at the proposed sign height of 20 m, 14 households of the total 90 households within the visibility area would be negatively impacted. If the sign was erected at the maximum permitted height of 7.5 m, the impact would be less to the residents. Therefore, staff are not supportive of the variances under this test.

4. The variances requested do not have regard for the four tests and do not maintain the general intent and purpose of the Hamilton Sign By-law No. 10-197 and therefore should be denied. As such, the Sign Variance application was denied by the Director, Planning Division, on July 21, 2014.

## **ALTERNATIVES FOR CONSIDERATION**

### **Option 1**

Council may uphold the recommendation of the Director, Planning Division, to refuse the proposed variances as they do not maintain the general intent and purpose of Sign By-law No. 10-197. The signs could be redesigned and relocated to another property on the subject lands to provide compliance to Sign By-law No. 10-197.

**Option 2**

Council may deny the recommendation of the Director, Planning Division, and support one or more the proposed variances, as submitted. If Council supports the proposed variances, staff requires the following conditions of approval:

1. To obtain a Building/Land Use Permit from the Ministry of Transportation;
2. Successful application to the Committee of Adjustment for a Minor Variance to permit the ground signs in a required landscape strip; and,
3. Obtain written confirmation from the HPA that the proposed grounds signs will only be used to advertise businesses located on the HPA lands.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

**Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

**Strategic Objective**

- 1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Location Map and Aerial Photo

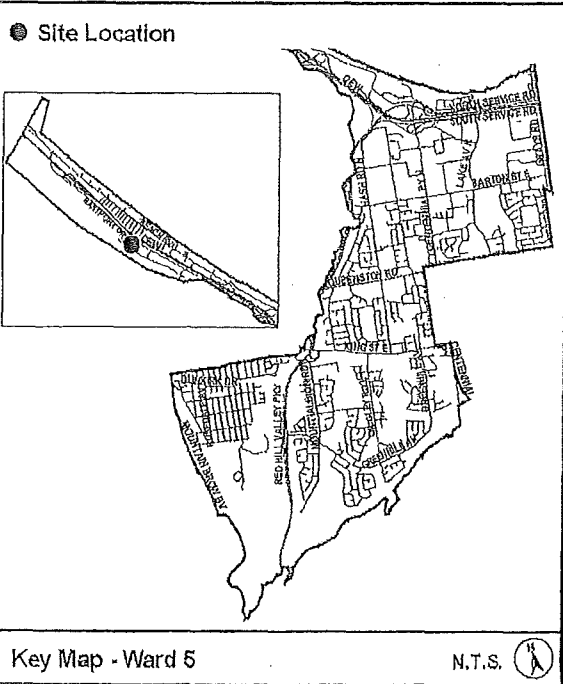
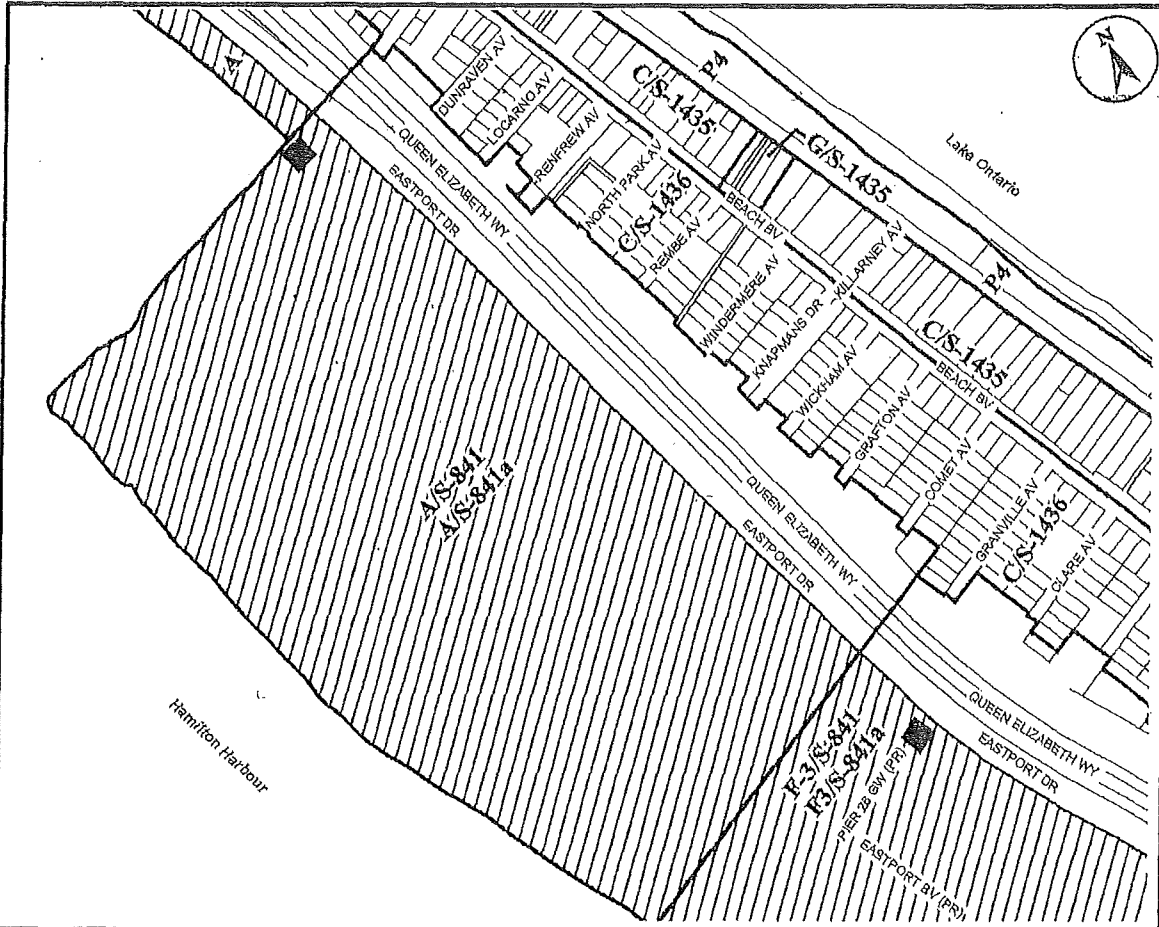
Appendix "B": Structural Plans and Sign Renderings

Appendix "C": Appeal Letter

Appendix "D": Comments from Ontario Ministry of Transportation


Appendix "E": Sign Visibility Study

SC





## Location Map


PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

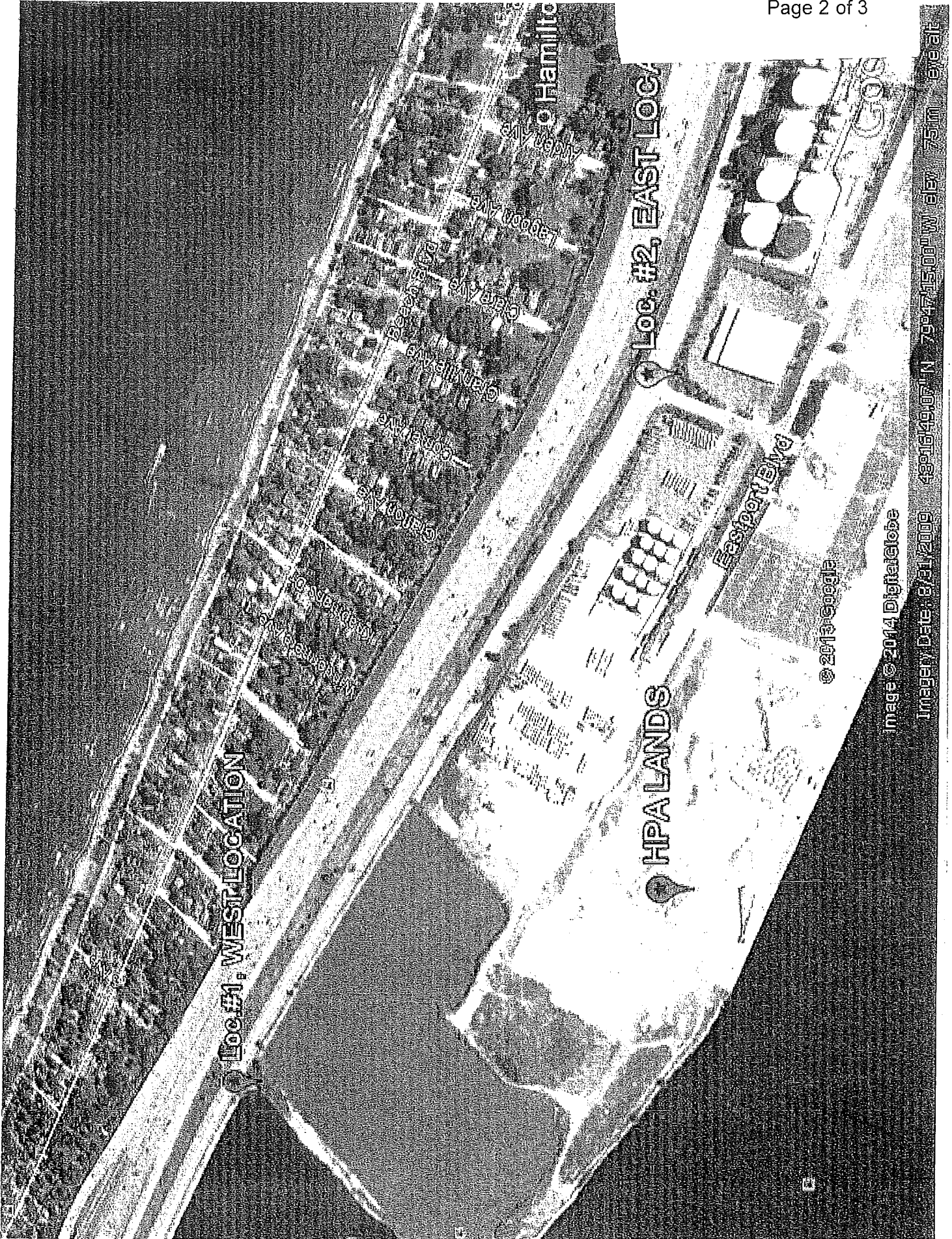
  
Hamilton

File Name/Number: SV-14-002	Date: March 25, 2014
Appendix "A"	Scale: N.T.S.
Planner/Technician: SC/VS	

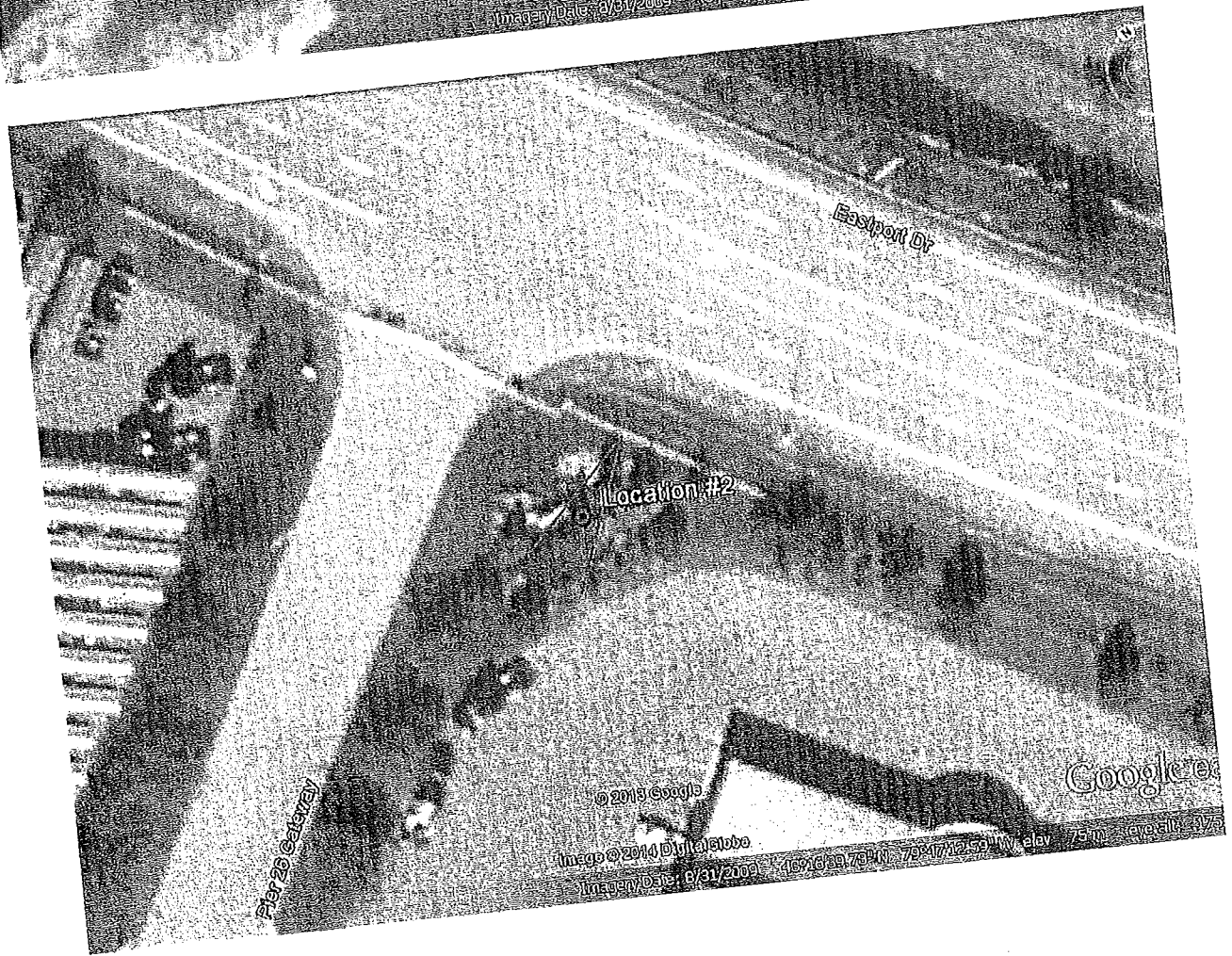
**Subject Property**

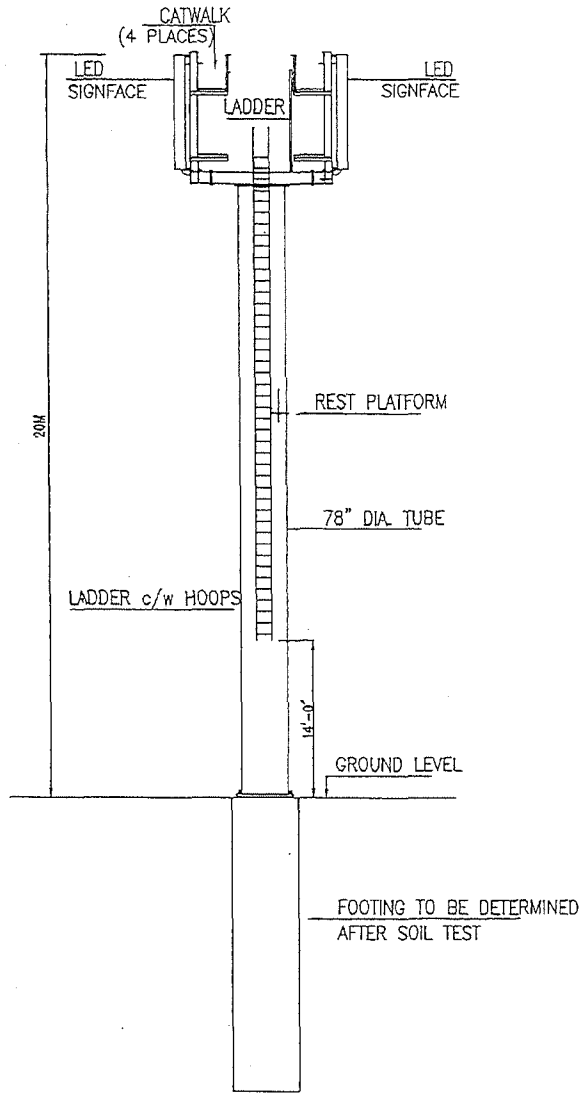
-  A Portion of the Hamilton Port Authority Lands
-  Approximate Ground Sign Locations

N.T.S. 

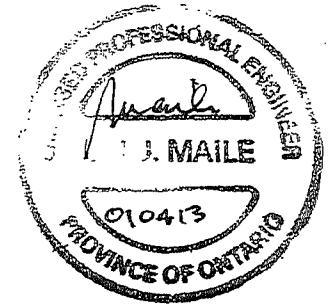
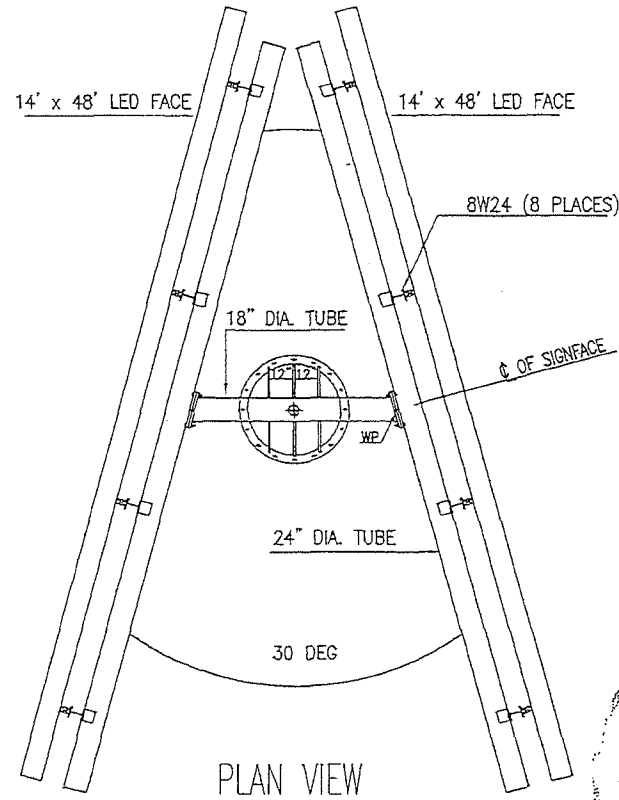








ELEVATION AT OPEN END



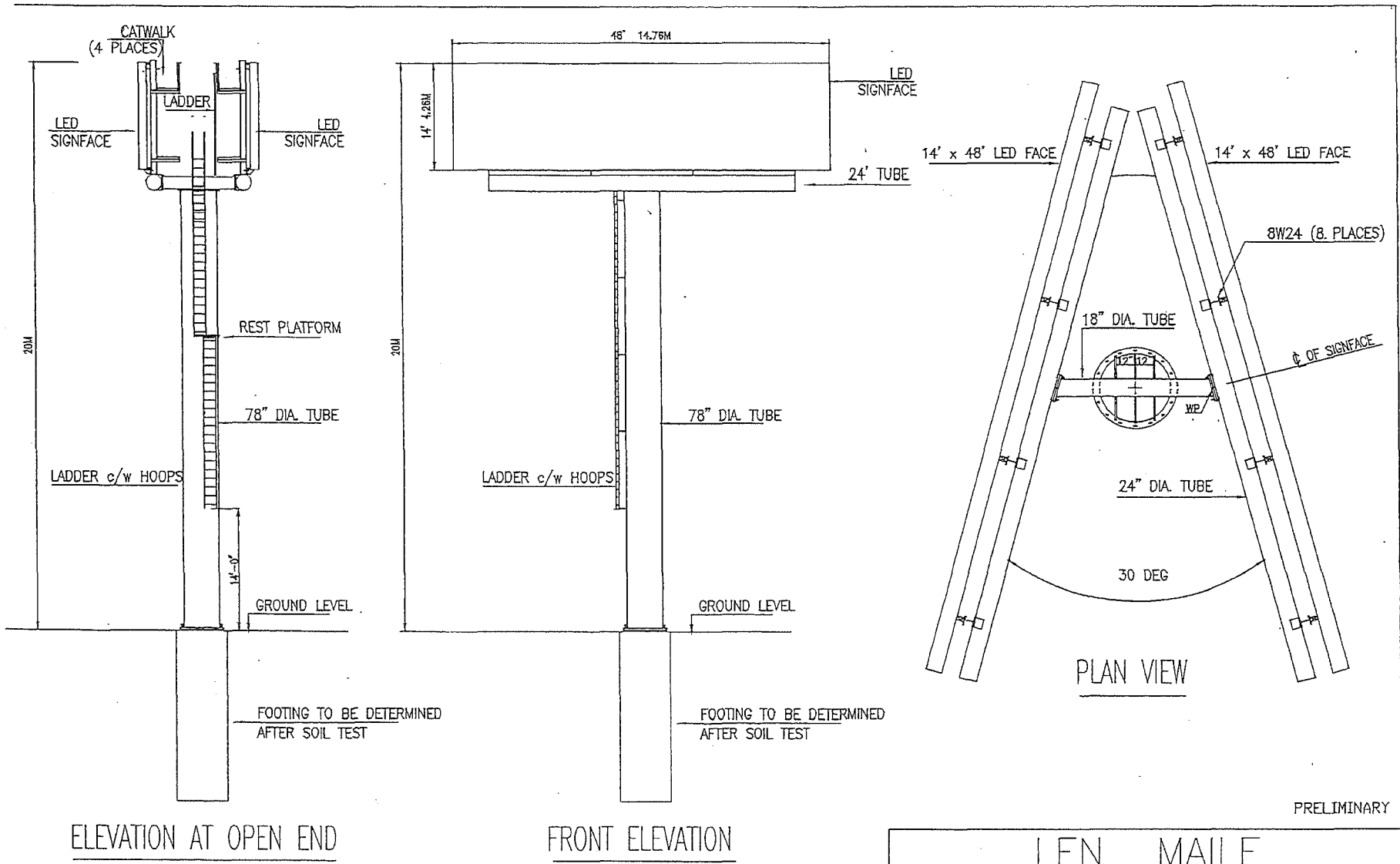
NOTES

1. STEEL REBAR --- DEFORMED --- 400 MPa
2. STEEL HSS --- 50 KSI YIELD
3. STEEL TUBE --- 50 KSI YIELD
4. STEEL STRUCTURAL TO C.S.A. G40.20-04 G40.21-04
5. ANCHOR BOLTS --- 105 KSI YIELD
6. WELDING BE TO C.S.A. W59-03 & W47.1 & CWB REQUIREMENTS
7. BOLTS --- ASTM A325 OR EQUAL
8. CONCRETE STRENGTH --- 32MPa AT 28 DAYS 5% AIR
9. THE DESIGN WIND VELOCITY PRESSURE LOADING IS  $q = 0.46 \text{ kPa}$ .
10. STEEL IS DESIGNED TO CSA S16-01 & TO O.S.C. 2006
11. CONCRETE MATERIALS AND CONSTRUCTION TO BE TO CAN/CSA 23.1-04 & TO CAN/CSA 23.2-04

LEN MAILE	
P.ENG. STRUCTURAL ENGINEER	
28 RIVERSIDE BLVD. THORNHILL ONTARIO L4J 1H3 Telephone 905-881-3729 email: lhjmaile@rogers.com	
HAMILTON PORT AUTHORITY LAND	
01MAY2013	6566-1P

REVISIONS

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	01/05/2013
2	ISSUED FOR PERMIT	01/05/2013
3	ISSUED FOR PERMIT	01/05/2013
4	ISSUED FOR PERMIT	01/05/2013
5	ISSUED FOR PERMIT	01/05/2013
6	ISSUED FOR PERMIT	01/05/2013
7	ISSUED FOR PERMIT	01/05/2013
8	ISSUED FOR PERMIT	01/05/2013
9	ISSUED FOR PERMIT	01/05/2013
10	ISSUED FOR PERMIT	01/05/2013
11	ISSUED FOR PERMIT	01/05/2013
12	ISSUED FOR PERMIT	01/05/2013
13	ISSUED FOR PERMIT	01/05/2013
14	ISSUED FOR PERMIT	01/05/2013
15	ISSUED FOR PERMIT	01/05/2013
16	ISSUED FOR PERMIT	01/05/2013
17	ISSUED FOR PERMIT	01/05/2013
18	ISSUED FOR PERMIT	01/05/2013
19	ISSUED FOR PERMIT	01/05/2013
20	ISSUED FOR PERMIT	01/05/2013
21	ISSUED FOR PERMIT	01/05/2013
22	ISSUED FOR PERMIT	01/05/2013
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24	ISSUED FOR PERMIT	01/05/2013
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26	ISSUED FOR PERMIT	01/05/2013
27	ISSUED FOR PERMIT	01/05/2013
28	ISSUED FOR PERMIT	01/05/2013
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42	ISSUED FOR PERMIT	01/05/2013
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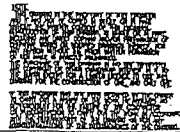
PRELIMINARY

ELEVATION AT OPEN END

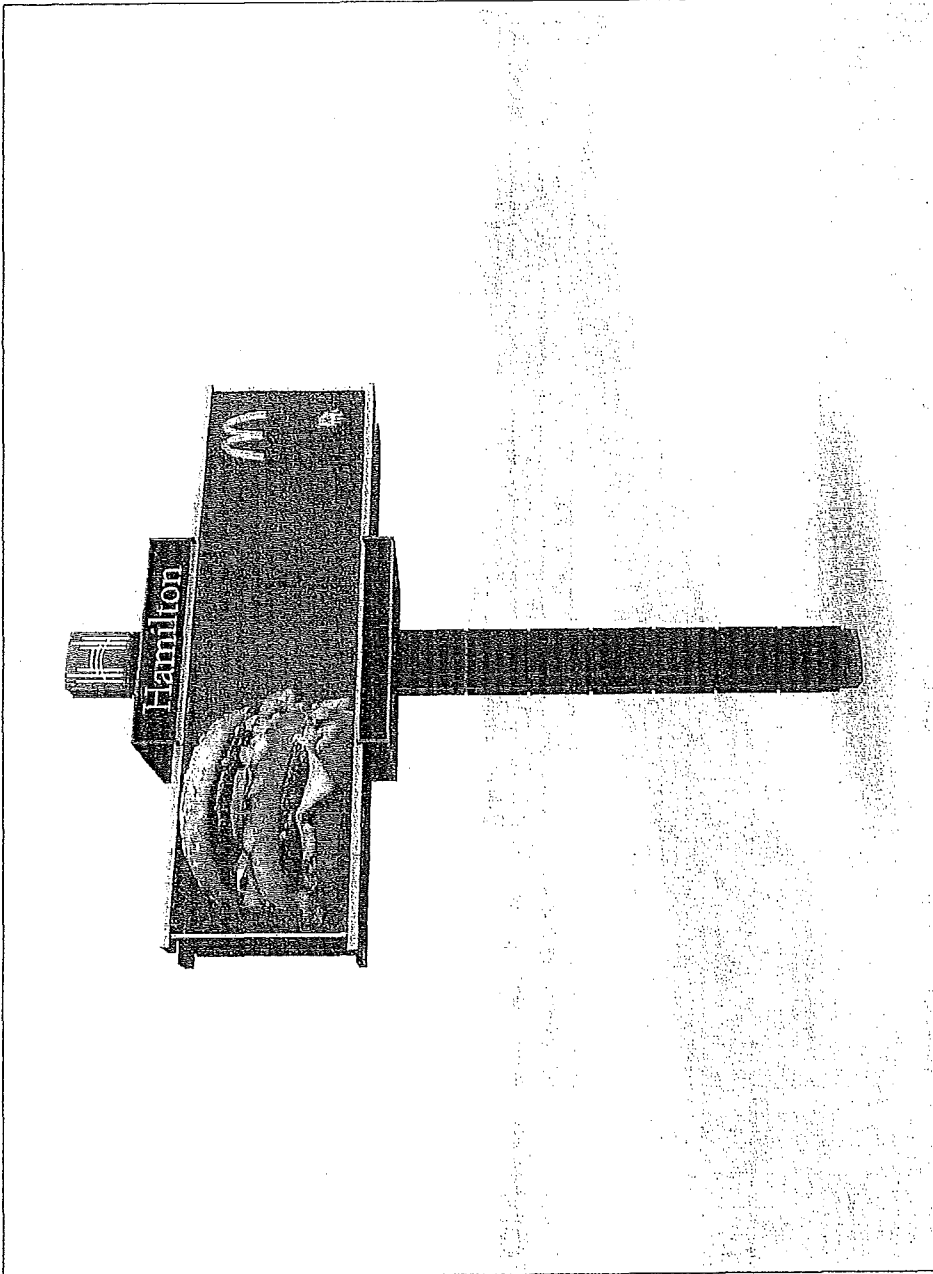
FRONT ELEVATION

NOTES

1. STEEL REBAR --- DEFORMED, 400 MPa
2. STEEL HSS --- 50 KSI YIELD
3. STEEL TUBE --- 50 KSI YIELD
4. STEEL STRUCTURAL TO C.S.A. G40.20-04 G40.21-04
5. ANCHOR BOLTS --- 105 KSI YIELD
6. WELDING BE TO C.S.A. W59-03 & W47.1 & CWB REQUIREMENTS
7. BOLTS --- ASTM A325 OR EQUAL
8. CONCRETE STRENGTH --- 32MPa AT 28 DAYS 5% AIR
9. THE DESIGN WIND VELOCITY PRESSURE LOADING IS 1.0 --- 0.48 MPa.
10. STEEL IS DESIGNED TO CSA S16-01 & TO O.B.C. 2002
11. CONCRETE MATERIALS AND CONSTRUCTION TO BE TO CAN/CSA 23.1-04 & TO CAN/CSA 23.2-04



<b>LEN MAILE</b>	
P.ENG. STRUCTURAL ENGINEER	
28 RIVERSIDE BLVD. THORNHILL ONTARIO L4J 1H3 Telephone 905-881-3729 email: lhjmaile@gmail.com	
<b>HAMILTON PORT AUTHORITY LAND</b>	
01MAY2013	6566-2P

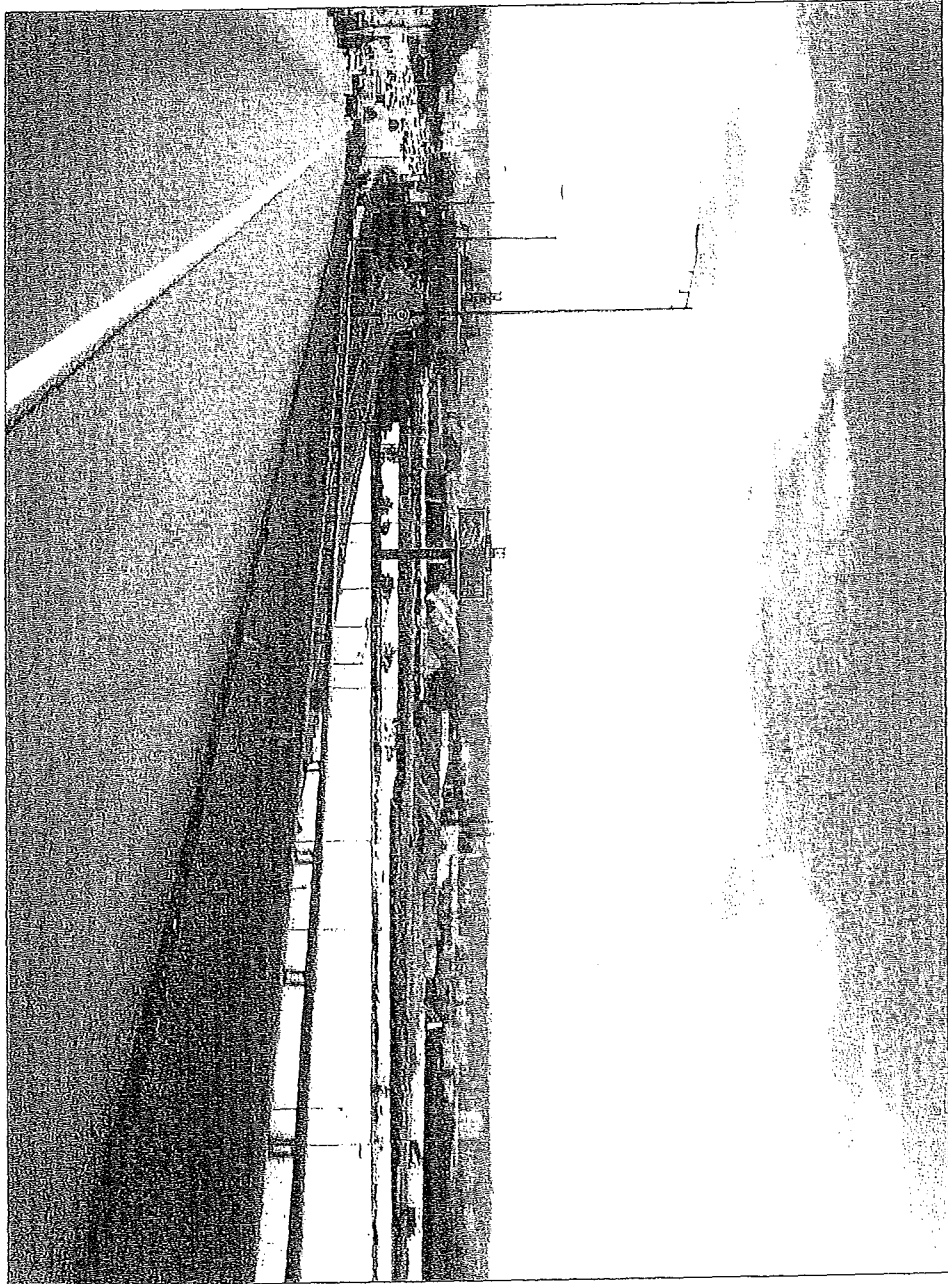


Digital Billboard  
Scheduling  
W1.0  
NTE

CLIENT Vann Media Group 340 Stanley Ave. Mississauga, Ontario, Canada		PROJECT HPA Digital Billboards		DATE Issued for Review: Jan. 12, 2012		TITLE Standalone Rendering		DWG No. W1.0	
APPROVAL		APPROVAL		APPROVAL		APPROVAL		APPROVAL	

Numer  
 Tel: 416.271.1078  
 Fax: 416.271.5034  
 Design  
 Associate: www/jamer-design.com





1 Right of Way  
 Drawing  
 W1.1 / R12



Kamur Design Associates  
 74 4182-1075  
 4182-1075  
 Fax: 418-21-8624  
 www.kamur-design.com

<b>CLIENT</b>	Vano Media Group 5440 Steeles Ave. Niagara Falls Ontario, Canada
<b>PROJECT</b>	HPA Digital Billboards

<b>DATE</b>	Jan. 12, 2012
<b>Indict for Review</b>	

<b>TITLE</b>	Confidential Rendering
<b>APPROVAL</b>	

DWG No  
 W1.1

**Neufeld Sign Ltd.**

August 11, 2014

City of Hamilton  
71 Main St. W.  
Hamilton, Ontario  
L8P 4Y5

Attn: Planning Committee, Vanessa Robicheau, Co-ordinator, City Clerks

RE: FILE SV-14-002.

Dear Vanessa

RE: Sign Variance Application, Hamilton Port Authority Lands (Ward 5)

This letter is to indicate that we wish to appeal the variance application decision of the Director of Planning to the Planning Committee, regarding the above file. Please respond with the steps necessary to process this appeal.

Sincerely



Ken Neufeld  
President, Neufeld Sign Ltd

**Cellini, Sarah**

---

**From:** Kolet, ArieH (MTO) <ArieH.Kolet@ontario.ca>  
**Sent:** April-04-14 11:30 AM  
**To:** Cellini, Sarah  
**Subject:** File: SV-14-002

Hi Sarah,

**Re: File SV-14-002 - Sign Varlance Application – Hamilton Port Authority Lands**

After careful review of the submitted application form for the following two signs:

- One sign located at the northern extent of HPA lands at Hamilton Harbour
- One sign at the southwest corner of Eastport Dr. and Pler 26 GW

The MTO has reached the conclusion that the proposed signs do fall under MTO jurisdiction. The proposed signs are both billboard signs and **the MTO does not permit any billboard signs/third party advertisement billboard signs to be installed along a Class 1A Highway, in this case the QEW.** Hence these signs will not be permitted in the proposed locations.

Regards,

ArieH Kolet,  
Permits Officer  
Ministry of Transportation  
1201 Wilson Ave., 7th Floor  
Toronto, ON., M3M 1J8  
Tel: (416) 235 3497  
Email: [arieh.kolet@ontario.ca](mailto:arieh.kolet@ontario.ca)

HAMILTON PORT AUTHORITY

Creative Media Development Inc.

SIGN VISIBILITY STUDY

West Location # of Houses in Visibility Area		# of household sight lines to sign faces at 15m (50') total height	# of household sight lines to sign faces at 20m (66') total height	# of household sight lines to sign faces at 25m (82') total height
West Sector	18	0	2	5
East Sector	24	2	5	8
East Location # of Houses in Visibility Area		# of household sight lines to sign faces at 15m (50') Height	# of household sight lines to sign faces at 20m (66') Height	# of household sight lines to sign faces at 25m (82') Height
West Sector	26	2	2	6
East Sector	22	5	5	7

- The house sight line to the sign faces noted above, takes into consideration estimated visibility from the residences exposed to the sign faces
- The non-viewable area noted on the attached overhead views, is due to the sign face not being visible in a 30 degree arc off the end of the sign faces and the signs being placed at a 30 degree angle on a back to back structure
- The normal setback from third party signs to residential properties is varies from 30m. to 100m. for most municipalities in Ontario, versus the 300m. distance used for purposes of this study
- The ambient light generated by the highway and the background City of Hamilton, etc. also obviously have an overall impact on the residential area





2004

Eastport Dr

Image © 2012 DigitalGlobe

© 2012 DigitalGlobe

79° 52' 17.75" N 79° 47' 05.16" W elev. 75m

Burlington Bay James N. Alan Skyway

Comet Ave

Clare Ave

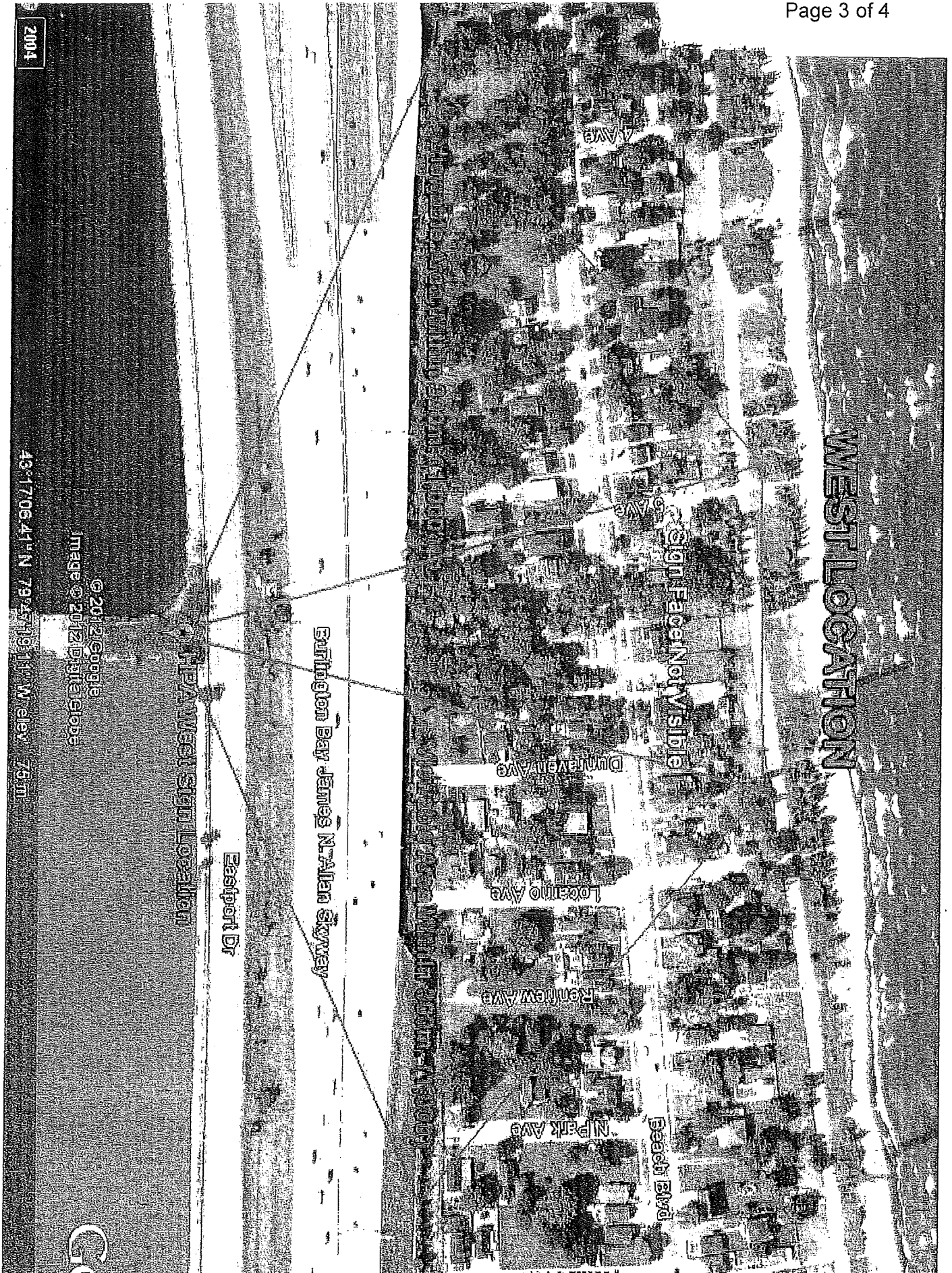
Clare Ave

Lagoon Ave

Arden Ave

Sight Line Not Visible

Dexter Ave



2004

© 2012 Google  
Image © 2012 DigitalGlobe

43°17'06.41" N 79°23'19.11" W elev. 75 m

Google

