



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 15, 2015
SUBJECT/REPORT NO:	Sign Variance Application SV-15-008 for the Property Known as 1775-1801 Stone Church Road East, Hamilton, Denied by the Director of Planning and Chief Planner, Planning Division, and Appealed by the Applicant (PED15140) (Ward 9)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	Danielle Beck Planning Technician (905) 546-2424 Ext. 1285 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Appeal of Sign Variance Application SV-15-008 dated July 23, 2015, by Matt Johnston of Urban Solutions, to construct a triple-faced sign at the top of the existing telecommunications tower, for the property located at 1775-1801 Stone Church Road East (Hamilton), as shown on Appendix "A" to Report PED15140, 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 proposed triple-faced sign does not conform to Hamilton Zoning By-law No. 6593 since it is located within a required landscape strip;
- (c) That the requested variances do not meet the tests of Sign By-law No. 10-197.

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EXECUTIVE SUMMARY

The applicant submitted Sign Variance Application SV-15-008 on April 28, 2015, which was subsequently deemed complete on May 12, 2015. The application proposes to construct a triple-faced sign at the top of the existing telecommunications tower located at 1775-1801 Stone Church Road East. The sign will be located along the western boundary of the subject lands, adjacent to the Red Hill Valley Parkway entrance ramp from Stone Church Road East (see Appendix “B”).

The proposed variances have previously been reviewed through Sign Variance Application SV-14-010 which was denied on November 19, 2014, but not appealed within 21 days of the decision. The subject application is a resubmission of the previous application, proposing identical signage and requesting the same variances. The subject application was circulated, reviewed, and denied by the Director of Planning and Chief Planner, Planning Division, on July 22, 2015. The applicant appealed the denial on July 23, 2015.

Alternatives for Consideration – See Page 11

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: The application is subject to the *Municipal Act*, and as such, there are no Public Meeting requirements. By-law No. 10-197 requires the City Clerk to notify the applicant once a hearing date before the Planning Committee has been fixed.

HISTORICAL BACKGROUND

On August 12, 2010, Council approved Sign By-law No. 10-197. Part 6.0 of By-law No. 10-197 provides regulations in dealing with variances, including delegated approval authority, what the City of Hamilton shall have regard for when reviewing Sign Variance Applications (Section 6.5), and the process of appealing the Sign Variance Application decision (Section 6.6) (see Appendix “C”).

PROPOSAL

On April 28, 2015, staff received an application to construct a triple-faced sign at the top of the existing telecommunications tower (see Appendix “D”).

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The requested variances are as follows:

1. That notwithstanding Section 5.1.1(f) of Hamilton Sign By-law No. 10-197, to permit a sign to be displayed within 400.0 m of the Redhill Valley Parkway 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;
2. That notwithstanding Section 5.2.2(e) of Hamilton Sign By-law No. 10-197, to permit a triple-faced sign with a sign area of 35.0 sq m per sign face for a total of 105.0 sq m, whereas Hamilton Sign By-law No. 10-197 permits a maximum sign area of 0.3 sq m for every 1.0 m of the frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0 sq m for a single-faced Ground Sign or 36.0 sq m for a double or multi-faced Ground Sign;
3. That notwithstanding Section 5.2.2(f) of Hamilton Sign By-law No. 10-197, to permit a Ground Sign to have a maximum height of 35.0 m, whereas Hamilton Sign By-law No. 10-197 does not permit a Ground Sign to exceed a maximum height of 7.5 m;
4. That notwithstanding Section 5.2.2(g)(i) of Hamilton Sign By-law No. 10-197, to exempt the proposed Ground Sign 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;
5. That notwithstanding Section 5.2.2(i) of Hamilton Sign By-law No. 10-197, to permit a Ground Sign to be located within 4.5 m 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% (26.25 m) of the height of the Ground Sign, whichever is greater, of any property line; and,
6. That notwithstanding Section 5.2.2(j) of Hamilton Sign By-law No. 10-197, to use Stone Church Road East to calculate the maximum sign area whereas Hamilton Sign By-law No. 10-197 requires the sign to be located along the same frontage used to calculate the maximum sign area.

Furthermore, the existing telecommunications tower is located within a required landscape strip. A telecommunications tower is exempt from the requirements of the Zoning By-law; however the proposed sign is not. A sign is not permitted to be located within a required landscape strip, and therefore the proposed sign does not conform to Hamilton Zoning By-law No. 6593.

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The Sign Variance Application was denied by the Director of Planning and Chief Planner, Planning Division, on July 22, 2015 as the requested variances do not maintain the general intent and purpose of the Sign By-law; do not comply with Hamilton Zoning By-law No. 6593; and, do not meet the four tests for sign variances provided in Section 6.5 of By-law No. 10-197 (attached as Appendix “C”).

Pursuant to Section 6.6 of the Sign By-law, the applicant has appealed the decision of the Director of Planning and Chief Planner, Planning Division, on July 23, 2015, and has requested that the variance application be brought to the Planning Committee for consideration (see Appendix “E”).

Details of Submitted Application

Location: 1775-1801 Stone Church Road East, Hamilton

Owner Heritage Greene Development

Applicant: Urban Solutions

Property Description: Frontage: 236.0 m (approximate / irregular)
(Stone Church Road East)

Lot Depth: 175.0 m (approximate / irregular)
(Upper Mount Albion Road)

Area: 12.2 ha (approximate)

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

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

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

Section 5.1.1 of the By-law 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 (see Appendix “F”). The proposed variances would permit a sign that is in contravention of six provisions of the Sign By-law and could set precedent for other signs of similar nature to be located within the City of Hamilton. An explanation of the variances can be found in the Relevant Consultation and Analysis and Rationale sections below.

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Section 2.2.3 of the By-law states that the signs may be subject to the provisions of By-laws in addition to the Sign By-law. Furthermore, it specifies that signs located within the City may be subject to the provisions of the City's Zoning By-laws such as those prohibiting signs in required landscaped areas or planting strips.

City of Hamilton Zoning By-law No. 6593

As noted above and in the Relevant Consultation Section below, the proposed triple-faced sign does not comply with the applicable provisions of Hamilton Zoning By-law No. 6593. The existing telecommunications tower is exempt from meeting the Zoning By-law requirements, however, the proposed signage at the top of the telecommunications tower is considered to be a Ground Sign by definition of Hamilton Sign By-law No. 10-197. Signs are not permitted to be located within a required landscape strip as per the definition of "landscape strip" in Hamilton Zoning By-law No. 6593. Therefore, the proposed sign does not comply with Subsection 2.2.3 of the Sign By-law.

RELEVANT CONSULTATION

Department / Agencies having no comments or concerns:

- Growth Management Division (Development Approvals)

The Building Construction Section has reviewed the Sign Variance Application and note the following:

1. "According to Section 5.1.1 (f) of the Sign By-law 10-197, *"No person shall display or permit to be displayed (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."* The proposed Ground Sign is within 400.0 m of the right-of-way of The Red Hill Valley Parkway. Therefore, the proposed Ground Sign does not conform to Sign By-law 10-197.
2. According to Section 5.2 of the Sign By-law 10-197, *"(e) maximum sign area of 0.3 m² for every 1.0 m of the frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0 m² for a single-faced Ground Sign or 36.0 m² for a double or multi-faced Ground Sign."* The proposed Ground Sign, which fronts onto Stone Church Road East, is permitted to have a maximum sign area of 18.0 m² per side or a total of 36.0 m² for all three sides. The proposed Ground Sign area is 35.0 m² per side or a total of 105.0 m² for all three sides. Therefore, the proposed Ground Sign does not conform to Sign By-law 10-197.

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3. According to Section 5.2 of the Sign By-law 10-197, “(f) *maximum height of 7.5 m.*” The proposed Ground Sign is 35.0 m in height. Therefore, the proposed Ground Sign does not conform to Sign By-law 10-197.
4. According to Section 5.2 of the Sign By-law 10-197, “(g)(i) *includes the municipal address 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 Sign does not have the municipal address of the property shown at the top or bottom in numerals that are a minimum height of 15.0 cm. Therefore, the proposed Ground Sign does not conform to Sign By-law 10-197.
5. According to Section 5.2 of the Sign By-law 10-197, “(h) *not within 15.0 m of a traffic signal or traffic control device.*” There doesn’t appear to be any traffic signal or traffic control device within 15.0 m of the proposed Ground Sign. Therefore, the proposed Ground Sign does conform to Sign By-law 10-197.
6. According to Section 5.2 of the Sign By-law 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 height or 26.25 m from any property line. The proposed Ground Sign is only 4.5 m from the rear property line. Therefore, the proposed Ground Sign does not conform to Sign By-law 10-197.
7. According to Section 5.2 of the Sign By-law 10-197, “(j) *along the same frontage used to calculate the maximum sign area.*” The proposed Ground Sign does not front onto any street but is actually located at the rear of the property. Therefore, the proposed Ground Sign does not conform to Sign By-law 10-197.
8. According to Section 5.2.2 (k) of the Sign By-law 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 Sign, as mentioned, does not front onto any street. However, it appears to be more than 200 m away for the existing Ground Sign which does front onto Stone Church Road East. Therefore, the proposed Ground Sign does conform to Sign By-law 10-197.”

The Building, Engineering and Zoning Section reviewed the application and noted that their comments for SV-14-010, dated July 21, 2014, remain as stated.

For reference, the previous comments on SV-14-010 are restated below:

1. “This application will permit the construction of a 10 m tall by 3.5 m wide sign on the top of the existing telecommunications tower that is 35 m tall. Note: Previous Minor Site Plan Application MDA-12-117 to construct the telecommunication tower.

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2. Based on the sign drawings provided with this application, it appears that the proposed ground sign is located within the required 7.5 m landscaped strip on the west property line, which is not permitted. A successful application to the Committee of Adjustment may be required.
3. All new signs proposed for this development must comply with the regulations contained within the Sign By-law.
4. All proposed signs are subject to the issuance of a sign permit from the Building Division in the normal manner.”

The Corridor Management Section has reviewed the Sign Variance Application and note the following:

“We have no objection to the proposed sign variance.

There is no indication or details on the application that the proposed Effort Trust advertising signs will be illuminated and we have based our comments on the consideration that the signs will not be illuminated.”

Staff received confirmation via email from the applicant on June 5, 2015, that the sign will not be illuminated.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The subject lands are owned by Heritage Greene Development and contain multiple commercial buildings (offering a number of services and retail stores to the community). There are three existing large Ground Signs on the subject lands, two of which are located on the south property line along the Stone Church Road East frontage and one is located on the north-east corner of the property along the Upper Mount Albion Road frontage. As such, there are numerous other opportunities to advertise the ownership of the subject lands without constructing the proposed triple-faced sign at the top of the existing telecommunications tower.
2. The subject Sign Variance Application requested six variances and the following is an analysis of the variances requested:

Variance 1 is required as a result of the location of the proposed sign abutting the Red Hill Valley Parkway. The Red Hill Valley Parkway is under the jurisdiction of the City of Hamilton. The proposed sign will be visible from the Red Hill Valley Parkway and the Lincoln Alexander Parkway (LINC) and is located at the entrance ramp from Stone Church Road East to the Red Hill Valley Parkway and

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LINC. The proposed sign is not required for advertisement of the subject lands as the existing commercial buildings have multiple wall signs along the same portion of the subject lands advertising the tenants, services, and retail stores. Advertising the ownership of the property is not required. Based on the foregoing, staff are of the opinion that the variance cannot be supported.

Variance 2 is required as a result of the size of the proposed triple-faced sign. The triple-faced sign is being proposed at the top of the existing triple telecommunications tower and the proposed signage will occupy the entire flat areas at the top. As there are other opportunities to advertise on the subject lands, there is no requirement for a new sign. Therefore, the increase in sign face area is not required for adequate advertising on the subject lands. Based on the foregoing, staff are of the opinion that the variance cannot be supported.

Variance 3 is required as a result of the proposed height of the Ground Sign. The height of the existing telecommunications tower (which is deemed to be a Ground Sign by definition in the Sign By-law) is taller than the permitted 7.5 m by the Sign By-law. The size of the property and the proximity of the property to the highway traffic is the main consideration for the proposed variance. The existing telecommunications tower is 35.0 m in height. As such, the proposed sign height is more than four times what the Sign By-law permits (i.e. 7.5 m). Based on the foregoing, staff are of the opinion that the variance cannot be supported.

Variance 5 is required to address the fact that the proposed sign does not have a municipal number located on the sign. The purpose of a Ground Sign is to identify the location of the business(es), advertise the subject property and for emergency services way-finding. However, the proposed triple-faced sign seeks to advertise ownership of the subject lands and not the tenant businesses. The proposed sign is not required for advertisement of the subject lands as the existing commercial buildings have multiple Wall Signs along the same portion of the subject lands advertising the tenants, services and retail stores. In addition to the existing Wall Signs, there are three existing Ground Signs which have opportunities to advertise ownership and these signs provide the municipal address. Based on the foregoing, staff are of the opinion that the variance cannot be supported.

Variance 6 is required to calculate the maximum sign height, area and setback as the existing telecommunications tower and proposed triple-faced Ground Sign is not located along a property boundary that can be used as legal frontage. The purpose of a Ground Sign is to identify the location of the business(es) and advertise on the subject property. As the telecommunications tower is not located along a frontage that could be used to calculate sign height, area, or setbacks, Stone Church Road East is the closest frontage and is used to calculate the maximums. The proposed sign is not required for advertisement of the subject

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lands as the existing commercial buildings have multiple wall signs along the same portion of the subject lands advertising the tenants, services and retail stores and the existing three Ground Signs have opportunities to advertise ownership and these signs provide the municipal address. Based on the foregoing, staff are of the opinion that the variance cannot be supported.

3. Hamilton Zoning By-law No. 6593 does not permit signs to be located within required landscape strips. The existing telecommunications tower is located within the required landscape strip which is 7.5 m in width, and therefore does not conform to the Zoning By-law.
4. The City of Hamilton may approve a Sign Variance Application if the general intent and purpose of the Sign By-law is maintained, and the proposal has regard for the four tests, as set out in Section 6.5 of By-law No. 10-197 (see Appendix "C").

Pursuant to Section 6.5 of the City of Hamilton Sign By-law, in considering applications for sign variance, the following 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.

These four tests are evaluated in the following comments:

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

There are no special circumstances or conditions that apply to the land, building or use referred to since there are other opportunities available to advertise on the three existing Ground Signs or to construct another sign on the property that meets the By-law.

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With respect to the variance for including the municipal address, the proposed sign could easily accommodate the municipal address on the sign, however, given the height of the sign and the setback of the sign from the road, the address would not be visible for passing motorists. Additionally the proposed variance is required to facilitate a large sign at the top of a telecommunications tower, and as noted above, there are no special circumstances or conditions that warrant such a departure from the provisions of the By-law.

- 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.

Strict application of the By-law would not permit the construction of the proposed triple-faced sign on the telecommunications tower. There would be no practical difficulties or unnecessary and unusual hardships for the applicant since multiple signs are available on the subject lands for advertisements. Approval of the Sign Variance Application would be inconsistent with the general intent and purpose of the By-law. Additional signage at the top of a telecommunications tower is not required in order for patrons to locate the development and therefore strict application of the provision of the Sign By-law would not result in practical difficulties or unnecessary and unusual hardship for the applicant.

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

There are no special circumstances or conditions applying to the land. The purpose of the application is to advertise the owners of the property and development name on the property. Therefore, there are no pre-existing conditions that are not created by the applicant.

- 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 proposed triple-faced sign on the telecommunications tower will alter the character of the area since it would be the first one in the area and the sign could set a precedent for other businesses in the commercial plaza or other businesses to advertise along the Red Hill Valley Expressway or Lincoln Alexander Parkway where the Sign By-law does not permit advertising along these roads. There are multiple options for advertising on the subject lands including the existing Ground Signs.

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In addition, permitting the signage on the existing telecommunications tower would set a precedent for signage on other telecommunication towers throughout the entire City. As most telecommunication towers are taller than their surrounding buildings or structures, and more visible, the signs would become more intrusive with advertising signs with respect to vehicle traffic, residences within the area of the telecommunication tower and to other businesses within the area of the telecommunication tower.

Based on the foregoing, the variances requested do not have regard for the four tests and do not maintain the general intent and purpose of the Sign By-law.

ALTERNATIVES FOR CONSIDERATION

Option 1

Council may uphold the recommendation of the Director of Planning and Chief Planner, Planning Division, to refuse the Sign Variance Application as it does not maintain the general intent and purpose of the By-law. The sign could be redesigned and relocated to another property in the area or added to one of the three existing Ground Signs, so as to comply with Hamilton Sign By-law No. 10-197.

Option 2

Council may deny the recommendation of the Director of Planning and Chief Planner, Planning Division, and support the Sign Variance Application, as submitted. If Council supports the application, staff require the following condition of approval:

1. That the applicant / owner receive final approval for a Minor Variance Application to the Committee of Adjustment to permit a Ground Sign in a required landscape strip to the satisfaction of the Manager of Development Planning, Heritage and Design.

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.

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Strategic Objective

- 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

Appendix "B": Site Plan

Appendix "C": Section 6.0 of Sign By-law No. 10-197

Appendix "D": Elevations and Renderings

Appendix "E": Appeal Letter

Appendix "F": Definitions and Excerpts of Section 5.1 and 5.2 of Sign By-law No. 10-197

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