



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 18, 2017
SUBJECT/REPORT NO:	Sign Variance Application SV-16-015 for the property known as 502 Centennial Parkway North, Hamilton, Denied by the Director of Planning and Chief Planner and Appealed by the Applicant (PED17069) (Ward 5)
WARD(S) AFFECTED:	Ward 5
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the Appeal of Sign Variance Application SV-16-015, by **Confederation Park Shopping Centre Ltd., Owner**, to permit a double sided multi-purpose LED digital Ground Sign for the property located at 502 Centennial Parkway North, Hamilton, as shown on Appendix "A" to Report PED17069, be **Denied** on the following basis:

- (a) That the requested variances are not in keeping with the general intent and purpose of Sign By-law No. 10-197;
- (b) That the requested variances do not meet the tests of Sign By-law No. 10-197.

EXECUTIVE SUMMARY

The applicant submitted Sign Variance Application SV-16-015 on July 19, 2016, which proposed to construct a 12.22 m high double sided Ground Sign that has a combined sign area of 140.44 sq. m. for an existing multi-unit commercial property (see Appendices "B" and "C" to Report PED17069).

The variances were denied by the Director of Planning and Chief Planner, on December 23, 2016. The applicant appealed the decision on January 20, 2017 and requested the proposed Sign Variance Application be considered by the Planning Committee.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: The application is subject to the *Municipal Act*, and there are no requirements for a Public Meeting. By-law No. 10-197 requires the City Clerk to notify the applicant once a hearing date before the Planning Committee has been fixed to consider an appeal of the decision by the Director of Planning and Chief Planner to deny a sign variance application.

HISTORICAL BACKGROUND

On August 12, 2010, Council approved Sign By-law No. 10-197. Part 6.0 of By-law No. 10-197 establishes the parameters for dealing with Sign Variance Applications (section 6.5), and the process to appeal a decision on a Sign Variance Application (section 6.6) (see Appendix “D” to Report PED17069).

On July 19, 2016, staff received an application for a Sign Variance to permit the establishment of a new Ground Sign which did not conform to the applicable provisions of Sign By-law No. 10-197.

The following variances were applied for:

- 1) To permit a sign to be located within 400m of the travelled portion of the right-of-way of the Queen Elizabeth Way;
- 2) To increase the maximum sign area;
- 3) To increase the maximum sign height;
- 4) To not include the municipal address on the sign;
- 5) To increase the maximum space on the sign that can be used for third party advertising; and,
- 6) To decrease the minimum setback requirement from the front property line.

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On December 23, 2016, the Sign Variance Application was denied by the Director of Planning and Chief Planner. Notice was subsequently sent to the applicant advising of the decision. On January 20, 2017, the applicant appealed the decision by the Director of Planning and Chief Planner to deny the variances, and requested that the matter be considered by the Planning Committee (see Appendix “E” to Report PED17069).

Details of Submitted Application

Location: 502 Centennial Parkway North, Hamilton

Owner Confederation Park Shopping Centre Ltd.

Applicant: Emily Roukhkian

Property Description: Frontage: 339.4m

Lot Depth: 426.5m

Area: 144,738.4 sq. m.

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” to Report PED17069). 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 Analysis and Rationale for Recommendation section below.

City of Hamilton Zoning By-law No. 6593

The subject property is zoned “G-1/S-1613” (Designated Shopping Centre) District in the City of Hamilton Zoning By-law No. 6593, which permits a range of commercial uses.

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As the proposed Ground Sign is not located in any required parking, landscaped strip, manoeuvring space, loading space, planting strip, or access driveway, the proposed Ground Sign conforms to the City of Hamilton Zoning By-law No. 6593.

RELEVANT CONSULTATION

Departments / Agencies having no comments or concerns:

- Corridor Management (Public Works Department);
- Growth Management (Planning and Economic Development); and,
- Building Services (Zoning) (Planning and Economic Development).

Building Services (Building Construction) (Planning and Economic Development)

Comments received from the Building Construction Section identified the provisions of the Sign By-law that the proposed sign would need to comply with, and identified whether the proposed sign conformed or did not conform with the requirements of Sign By-law No. 10-197. The comments from the Building Construction Section outlined that the proposed sign did not conform to a total of six (6) provisions of Sign By-law No. 10-197 as outlined in the Analysis and Rationale for Recommendation section of this Report.

Ministry of Transportation

The proposed Ground Sign is within 400 m of the Ministry of Transportation's (MTO) right-of-way and therefore, based on MTO policies, would require a permit or approval from the MTO.

Based on the MTO's Corridor Signage Policy, commercial plazas with under 27,870 sq. m. of active development are allowed one (1) pylon sign (Ground Sign) adjacent to the highway and one (1) adjacent to an intersecting road.

The proposed sign is in excess of the maximum 46 sq. m. sign face area (total for both sides) and maximum height of 9m as outlined in the MTO's Corridor Signage Policy. The size and height limits increase as the distance away from the highway increases.

While the proposed sign is both within 400 m of the Queen Elizabeth Way and visible from both the on and off ramps for the Queen Elizabeth Way, and therefore would be subject to an MTO permit, the MTO has agreed to waive the requirement for a Permit for the proposed Ground Sign.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The City of Hamilton may approve a Sign Variance Application if the general intent and purpose of By-law No. 10-197 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 “D” to Report PED17069).

The Sign Variance Application was denied by the Director of Planning and Chief Planner, on December 23, 2016. The reasons for the refusal were that the proposed sign variances did not maintain the general intent and purpose of Sign By-law No. 10-197 and did not meet the four tests for sign variances provided in Section 6.5 of By-law No. 10-197 (see Appendix “D” to Report PED17069).

General Intent and Purpose

Setback from Provincial Highway

Section 5.1.1 (f) of Sign By-law No. 10-197 prohibits any sign within 400.0 m of the right of way of Highway 403, the Queen Elizabeth Way (QEW), 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 located approximately 170 m from the off-ramp of the QEW, and approximately 230 m from the on-ramp of the QEW. The proposed Ground Sign will maintain a separation distance that is less than half the distance that is required in the Sign By-law and therefore, the proposed Ground Sign does not conform to Section 5.1.1 (f) of Sign By-law No. 10-197.

Given the size and scale of the proposed Ground Sign and that the proposed Ground Sign will be visible from the on and off ramps of the QEW, the proposed variance to permit a Ground Sign to be within 400 m of the Right of Way of the QEW is contrary to the By-law requirement. However, it is noted that the (MTO) has waived the requirement of a MTO permit for the proposed Ground Sign.

Maximum Sign Area

Section 5.2.2 (e) of Sign By-law No. 10-197 restricts the maximum sign area to 0.3 sq. m. for every 1.0m 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. Based on the frontage of the property, a Ground Sign with a maximum sign area of 18.0 sq. m. for a single faced Ground Sign or 36 sq. m. for a double or multi-faced Ground Sign is permitted. The proposed Ground Sign will

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have a sign area of 70.22 sq. m. per side (140.44 sq. m. total). Therefore, the proposed Ground Sign does not conform to Section 5.2.2 (e) of Sign By-law No. 10-197.

The proposed 140.44 sq. m. double sided Ground Sign constitutes a Ground Sign that is 104.4 sq. m. larger than what currently existing on-site or 3.9 times larger than the maximum permitted 36 sq. m. The intent of restricting the maximum sign area of a Ground Sign to 36 sq. m. for a double sided Ground Sign is to ensure that the Sign is of an appropriate size and scale and that the Sign maintains the streetscape character of the area. The proposed Ground Sign is larger than what constitutes an appropriate size for a Ground Sign under the Sign By-law and will exceed the size of any other sign in the area. Therefore, the proposed Ground Sign does not conform to Section 5.2.2 (e).

Maximum Sign Height

Section 5.2.2 (f) of Sign By-law No. 10-197 restricts the maximum height of a Ground Sign to 7.5 m. The proposed Ground Sign will have a height of 12.22 m which will exceed the maximum sign height by 4.72 m and therefore, the proposed Ground Sign does not conform to Section 5.2.2 (f) of Sign By-law No. 10-197.

The proposed 12.22 m high Ground Sign constitutes a Ground Sign that is 4.72 m or 1.63 times larger than the maximum permitted 7.5 m height or 4.92 m or 1.67 times larger than the existing Ground Sign. The intent of restricting the maximum height of a Ground Sign to 7.5 m is to ensure that the Sign is of an appropriate size and scale and that the Sign maintains the streetscape character of the area. The proposed Ground Sign is larger than what constitutes an appropriate size for Ground Signs under the Sign By-law and the height, along with the large sign face area, creates a Ground Sign that is out of proportion with other signs in the area. Therefore, the proposed Ground Sign does not conform to Section 5.2.2 (f) of Sign By-law No. 10-197.

Municipal Address

Section 5.2.2 (g) (i) of Sign By-law No. 10-197 requires that the municipal address of the property on which the Ground Sign is displayed be shown at the top or the bottom in numerals that are a minimum height of 15.0 cm. The municipal address is not included on the proposed Ground Sign and therefore, the proposed Ground Sign does not conform to Section 5.2.2 (g) (i) of Sign By-law No. 10-197.

The purpose of requiring that the municipal address be included on a Ground Sign is to assist the general public as well as emergency vehicles in locating the property. The proposal to not include the municipal address at either the top or bottom of the Ground Sign will create an impediment to the general public and emergency vehicles in locating

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the property. Therefore, the proposed Ground Sign does not conform to Section 5.2.2 (g) (i).

Third Party Advertising

Section 5.2.2 (g) (vi) of Sign By-law No. 10-197 restricts any Ground Sign that is not within the Downton Community Improvement Area, Business Improvement Area, the Ancaster Village Core Area, or the Glanbrook Village Core Area, to a maximum 25% of the sign area or 1.2 sq. m., whichever is lesser, except for an electronic message display, for advertising a business that is not on the property on which the Ground Sign is displayed or an activity, product or service that is not available on that property. The proposed Ground Sign is allocating 18.87 sq. m. per side for the advertising of a business, activity, product, or service that is not available on-site, which will exceed the maximum sign area permitted for this purpose by 17.67 sq. m. and therefore, the proposed Ground Sign does not conform to Section 5.2.2 (g) (vi) of Sign By-law No. 10-197.

The purpose of restricting the maximum sign area that may be used to advertise business, activities, products, or services not available on-site (Third Party Advertising) to 25% or 1.2 sq. m., whichever is lesser, is to ensure that a Ground Sign is primarily used for advising to the public, the business, activities, products, or services available on-site. The proposed variance to permit 18.87 sq. m. of the Ground Sign to be used for Third Party Advertising, exceeds the maximum size permitted of 1.2 sq. m. by 15.7 times. Furthermore as the proposed Ground Sign only includes signage for the Commercial Developer (Smart Centres) and one on-site business (Walmart), the 18.87 sq. m. space for Third Party Advertising represents a significant portion of the proposed Ground Sign. Therefore, the proposed Ground Sign does not conform to Section 5.2.2 (g) (vi) of Sign By-law No. 10-197.

Setback from All Property Lines

Section 5.2.2 (i) of Sign By-law No. 10-197 restricts the location of a Ground Sign to not within 1.5 m of a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line. Based on the proposed Ground Sign height of 12.22 m, the proposed Ground Sign is required to be setback 9.16 m from all property lines. The proposed Ground Sign will be setback 5 m from the front lot line and therefore, the proposed Ground Sign does not conform to Section 5.2.2 (i) of Sign By-law 10-197.

The purpose of restricting the location of a Ground Sign by requiring a minimum setback of 1.5 m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, from all property lines is to ensure that the Ground Sign is compatible with the

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character of the area. The proposed 5 m setback from the front lot line constitutes a 45.4% reduction in the required setback from the front lot line. The existing Ground Sign is substantially smaller in height and area and was setback 5.5 m from the front lot line, which is further from the front property line than the setback for the proposed Ground Sign. Given the size and scale of the proposed Ground Sign, locating the Ground Sign closer to the street would not be appropriate and would detract from the character of the area. Therefore, the proposed Ground Sign does not conform to Section 5.2.2 (i) of Sign By-law No. 10-197.

Four Tests for Sign Variance Approval

Pursuant to section 6.5 of the City of Hamilton Sign By-law, in considering applications for sign variance, the following shall be considered:

- Special circumstances or conditions applying to the land, building or use referred to in the application;
- 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;
- Whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant; and,
- 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.

a) Special circumstances or conditions applying to the lands, building or use referred to in the application;

The proposed variances are seeking to establish a Ground Sign that is significantly larger in sign area and height than what is permitted in the By-law. The increases to the size of the proposed Ground Sign are not required in order for the sign to be visible to traffic travelling north along Centennial Parkway North. A Ground Sign that conforms to the sign area and height requirements of the Sign By-law would be fully visible to traffic travelling north along Centennial Parkway North. For traffic travelling south along Centennial Parkway North, the change in topography of the site would result in a minor obstruction of the lower portions of the sign but the majority of the sign would remain visible. Also, there are alternative locations on-site where a smaller Ground Sign could be located, which would be fully visible for both north and south bound traffic without

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having to increase the size of the proposed Ground Sign beyond what is permitted in the Sign By-law.

The proposed Ground Sign is only providing advertising for Smart Centres and Walmart and therefore a larger Ground Sign is not required. The existing Ground Sign conforms to the maximum sign height, sign face area, and setback requirement and provides adequate space to provide advertisement for multiple businesses. Therefore, a larger Ground Sign is not required to provide advertisement for businesses that are located on-site.

Third Party advertising was identified in the application as being required to offset the cost of establishing the Ground Sign. It is noted that the cost of sign installation does not constitute a special circumstance or condition.

As a smaller Ground Sign, that complies with the By-law and is visible to traffic travelling along Centennial Parkway North, can be provided on-site, there are no special circumstances or conditions applying to the lands, building or use.

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;

As noted there are no special circumstances applying to the lands, building or use that would preclude the establishment of a smaller Ground Sign. Furthermore there is an existing Ground Sign on-site that advertises multiple on-site businesses and conforms to the size and setback requirements of the Sign By-law.

Given a Ground Sign that provides adequate advertising for multiple on-site businesses and conforms to the size and setback requirements of the Sign By-law can be provided on-site, strict application of the provisions of the Sign By-law will 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; and,

As noted there are no special circumstances or conditions that apply to the land. The proposed variances are required as a result of the Sign Owner / Applicant's desire to remove an existing Ground Sign, which conforms to the size and setback requirements of Sign By-law No. 10-197, and replace it with a Ground Sign that is 1.63 times taller and 3.9 times larger in sign area than what is permitted in the Sign By-law. Therefore

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the non-compliance is created by the Sign Owner / Applicant and is not a pre-existing condition.

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 variance is seeking to establish a large Ground Sign on the subject property. The area is characterized as a commercial area with buildings that are low in height with large separations between buildings. There are relatively few signs in the immediate vicinity of the proposed Ground Sign but are greater in number south of the railway tracks. The size and scale of the proposed Ground Sign will be substantially larger than what currently exists on-site and substantially larger than what is envisioned for and permitted in the Sign By-law. The proposed 12.22 m sign height and 70.22 sq. m. sign face area would establish a Ground Sign that would be out of scale with respect to other Signs that exist in the area, and would alter the essential character of the area.

ALTERNATIVES FOR CONSIDERATION

Option 1

Council may uphold the recommendation of the Director of Planning and Chief Planner, Planning Division, to refuse the proposed variances as they do not maintain the general intent and purpose of the Sign By-law. The applicant would not be able to establish the proposed Ground Sign which proposes a sign height and sign area that substantially exceeds the maximum requirements of the Sign By-law. The applicant would be able to maintain the existing Ground Sign and would still be permitted to establish a sign in accordance with the City of 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 proposed variances, as submitted. However, it is staff's opinion that this option does not maintain the general intent and purpose of the Sign By-law.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

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Our People and Performance

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APPENDICES AND SCHEDULES ATTACHED

Appendix "A": Location Map

Appendix "B": Site Plan

Appendix "C": Elevations and Renderings

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

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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