



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	August 15, 2017
<b>SUBJECT/REPORT NO:</b>	Sign Variance Appeal SV-17-001 for the property known as 430 McNeilly Road, Stoney Creek, Denied by the Director of Planning and Chief Planner and Appealed by the Owner (PED17134) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Danielle Beck (905) 546-2424 Ext. 1285
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the Appeal of Sign Variance Application SV-17-001, by **Losani Homes (1998) Ltd., Owner**, to permit a double sided, electronic message display Ground Sign, with a proposed increased sign face area; increased height; and, 87% electronic message display, for the property located at 430 McNeilly Road, Stoney Creek, as shown on Appendix "A" to Report PED17134, 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; and,
- (b) That the requested variances do not meet the tests of Sign By-law No. 10-197.

**EXECUTIVE SUMMARY**

The owner submitted Sign Variance Application SV-17-001 on December 9, 2016, which proposed to construct a 8.53 metre, double faced Ground Sign, having a total sign face area of 55.2 square metres, and providing 87% electronic message display, for the purposes of advertising for Losani Homes, located on the subject property (see Appendix "B" and "C" to Report PED17134). The sign was erected by the owner without the required permits from the City of Hamilton.

Three of the requested four variances were denied by the Director of Planning and Chief Planner, on May 25, 2017. The one variance that was supported by the Director of Planning and Chief Planner was to permit the proposed Ground Sign to be located 54.5 metres from the right of way of the Queen Elizabeth Way (QEW), whereas Hamilton Sign By-law No. 10-197 does not permit a sign to be displayed within 400 metres of the right of way of the Queen Elizabeth Way (QEW).

The owner appealed the decision to deny the three variances on June 12, 2017, and requested the proposed Sign Variance Application be considered by the Planning Committee.

***Alternatives for Consideration – See Page 6***

**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 owner 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 PED17134).

On December 9, 2016, staff received an application for a Sign Variance to permit the establishment of a new electronic message display 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 400 metres of the right of way of the Queen Elizabeth Way;

- 2) To increase the maximum sign face area;
- 3) To increase the maximum sign height; and,
- 4) To increase the maximum electronic message display.

On May 25, 2017, three of the requested four variances, as proposed in the Sign Variance Application, were denied by the Director of Planning and Chief Planner (see Appendix “E” to Report PED17134). Notice was subsequently sent to the owner advising of the decision. On June 12, 2017, the owner appealed the decision by the Director of Planning and Chief Planner to deny the three variances, and requested that the matter be considered by the Planning Committee (see Appendix “F” to Report PED17136).

At the time of the submission of the Sign Variance Application, one Ground Sign was existing, without approval of a permit (see Appendix “G” to Report PED17134). Staff conducted a site visit on March 6, 2017, and note that the proposed Ground Sign had already been constructed on the subject lands. While the existing Ground Sign is noted to be removed (via an email from the agent dated December 15, 2016) at the time of the preparation of this Report, both the existing Ground Sign and the proposed second Ground Sign were still existing on the subject lands (see Appendix “D”). To date, permits from the Ontario Ministry of Transportation (MTO) and the City of Hamilton have not been obtained to permit the new Ground Sign.

### **Details of Submitted Application**

<b>Location:</b>	430 McNeilly Road, Stoney Creek
<b>Owner</b>	Losani Home (1998) Limited
<b>Applicant:</b>	Jones Neon Display
<b>Property Description:</b>	<u>Frontage:</u> ±181 metres
	<u>Lot Depth:</u> ±80 metres
	<u>Area:</u> ±15,073 square metres

## **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 "I" to Report PED17134). The proposed variances if approved would permit a sign that is in contravention of four provisions of the Sign By-law. While one of the requested variances was supported, the other three requested variances could set a precedent for other signs of a 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.

### Hamilton Zoning By-law No. 05-200

The subject property is zoned Prestige Industrial (M3) Zone in the Hamilton Zoning By-law No. 05-200, which permits a range of industrial uses.

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 Hamilton Zoning By-law No. 05-200.

## **RELEVANT CONSULTATION**

For comments received, refer to Appendix "I" to Report PED17134, Pages 2 to 5.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The following variances were requested by the applicant:

- 1) To permit a sign to be located within 400 metres of the right of way of the Queen Elizabeth Way;
- 2) To increase the maximum sign face area;
- 3) To increase the maximum sign height; and,

- 4) To increase the maximum electronic message display.

*Setback from Provincial Highway*

The proposed Ground Sign is located approximately 54.5 metres from the QEW. Due to the proximity of the subject lands from the QEW, any proposed Ground Sign would require relief from this provision as the entire lands are located within 400 metres of the right of way of the QEW. While the requested location of the proposed Ground Sign does not conform to Section 5.1.1 (f) of Hamilton Sign By-law No. 10-197, this is viewed as a special circumstance that applies to the land and staff were supportive of this variance as outlined in Appendix "I" to Report PED17134.

*Maximum Sign Area*

Based on the frontage of the property (180.71 metres), a Ground Sign with a maximum sign area of 18.0 square metres for a single faced Ground Sign or 36 square metres for a double or multi-faced Ground Sign is permitted. The proposed Ground Sign will have a sign area of 27.6 square metres per side (55.2 square metres total).

The proposed 55.2 square metre double faced Ground Sign constitutes a Ground Sign that is 19.2 square metres larger than currently permitted. The intent of restricting the maximum sign area of a Ground Sign to 36 square metres 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 significantly larger than what constitutes an appropriate size for a Ground Sign under the Hamilton Sign By-law and will exceed the size of any other sign in the area. As outlined in further detail in Appendix "I" to Report PED17134, staff did not support this variance.

*Maximum Sign Height*

The proposed 8.53 metre high Ground Sign constitutes a Ground Sign that is 1.03 metres larger than the maximum permitted 7.5 metre height. The intent of restricting the maximum height of a Ground Sign to 7.5 metres 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. As outlined in further detail in Appendix "I" to Report PED17134, staff did not support this variance.

### *Maximum Electronic Message Display*

The proposed Ground Sign will have a maximum electronic message display of 87%, which will exceed the maximum permitted display by 37%. As outlined in further detail in Appendix "I" to Report PED17134, staff did not support this variance.

## **ALTERNATIVES FOR CONSIDERATION**

### **Option 1**

Council may uphold the recommendation of the Director of Planning and Chief Planner, Planning Division, to refuse three of the four proposed variances as they do not maintain the general intent and purpose of the Sign By-law. The owner would be required to remove the already constructed electronic message display Ground Sign. The owner would be able to construct a new Ground Sign that meets the requirements of Hamilton Sign By-law No. 10-197 and receive a permit from the Ministry of Transportation (MTO).

### **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 Hamilton Sign By-law No. 10-197.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

### **Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

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*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Site Plan
- Appendix "C": Elevations and Renderings of proposed Ground Sign
- Appendix "D": Section 6.0 of Sign By-law No. 10-197
- Appendix "E": Sign Variance Application Report SV-17-001
- Appendix "F": Appeal Letter
- Appendix "G": Picture of Existing Ground Sign
- Appendix "H": Pictures of (proposed) Constructed Ground Sign
- Appendix "I": Definitions and Excerpts of Section 5.1 and 5.2 of Sign By-law No.10-197

DB/jp