



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 1, 2019
<b>SUBJECT/REPORT NO:</b>	Sign Variance Appeal SV-19-002 for the property known as 1147 Garner Road West, Ancaster, Denied by the Director of Planning and Chief Planner and Appealed by the Owner (PED19195) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Sara Rogers (905) 546-2424 Ext. 2694
<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-19-002, by Ancaster Self Storage Inc., Owner**, to permit a proposed electronic message display Ground Sign proposing a 100% electronic message display and third party advertising, increased height, decreased setback from a property line, and no display of the municipal address to be included, for the property located at 1147 Garner Road West, Ancaster, as shown on Appendix "A" to Report PED19195, 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-19-002 on December 21, 2018. The application was amended by the owner on May 7, 2019. The amended application proposed to erect a Ground Sign 0.0 metres from the property line abutting Garner Road West, with a maximum height of 8.14 metres, upon which the municipal address of the property would not be displayed, and would allocate 100% of the sign face to an electronic message display, for the purposes of advertising for Ancaster Self Storage,

located on the subject property (see Appendices “B”, “C” and “D” to Report PED19195), as well as for third party advertising (i.e. other self-storage facilities owned by the applicant).

The variances were denied by the Director of Planning and Chief Planner, on July 15, 2019. Staff were generally supportive of the one variance to permit a Ground Sign to be located 0.0 m from the property line abutting Garner Road West, whereas Sign By-law 10-197 requires the proposed Ground Sign to be located a minimum of 6.1 m from any property line; however, staff were unable to support the overall massing, height, third party advertising, and extent of the electronic component of the proposed Ground Sign. As a result, staff could not support the proposed Ground Sign to be located at a distance of 0.0 m from the property line as the Ground Sign variances overall could not be supported.

The owner appealed the decision to deny the variances on July 26, 2019, and requested the proposed Sign Variance Application be considered by the Planning Committee.

***Alternatives for Consideration – See Page 8***

**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 provides the regulations in dealing with variances, including the 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 “E” to Report PED19195).

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On December 21, 2018, 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 application was amended subsequently by the owner on May 7, 2019.

The following variances were requested:

- 1) To permit a Ground Sign with a maximum height of 8.14 metres whereas the Sign By-law required 7.5 metres;
- 2) To permit a Ground Sign that does not display the municipal address of the property on which the Ground Sign is displayed;
- 3) To permit a Ground Sign to allocate 100% of the sign face to an electronic message display whereas the Sign By-law permits a maximum of 50% of the sign face for electronic display;
- 4) To permit a Ground Sign for the purposes of 'third party' advertising whereas the Sign By-law permits Ground Signs to only advertise a business, activity, product, or service that is available on the property;
- 5) To permit a Ground Sign not within a Business Improvement Area or the Ancaster Village Core Area to allocate 100% of an electronic message display for the purposes of third party advertising; and,
- 6) To permit a Ground Sign to be located at a distance of 0.0 metres from a property line whereas the Sign By-law requires a setback of 6.1 metres from the Garner Road property line.

On July 15, 2019, the variances were denied by the Director of Planning and Chief Planner, and notice was sent to the applicant advising of the decision. On July 26, 2019, the owner 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 "F" to Report PED19195).

**Details of Submitted Application**

**Location:** 1147 Garner Road West, Ancaster

**Owner** Ancaster Self Storage Inc.

**Applicant:** Urbancore Developments

**Property Description:** Frontage: ±86 metres  
Lot Depth: ±87 metres  
Area: ±8,779 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 By-law 10-197 specifies which signs shall be prohibited. Section 5.1.1 (a) prohibits “any sign with a video screen or any flashing, kinetic, or illusionary motion, except an electronic message display as permitted under this By-law”. The proposed Ground Sign is a full colour LED display with no illusionary motion. Therefore, the proposed Ground Sign does conform to the Sign By-law 10-197.

The proposed Ground Sign was reviewed against Sign By-law 10-197 and the following deviations were identified:

Section 5.2.2 (f) of the Sign By-law 10-197 restricts the height to a maximum of 7.5 metres. Therefore, the proposed Ground Sign at a height of 8.14 metres does not conform to the Sign By-law 10-197.

Section 5.2.2 (g) (i) of the Sign By-law 10-197 requires the content of a Ground Sign to include the “municipal address number of the property on which the Ground Sign is displayed”. Therefore, the proposed Ground Sign which does not display the municipal address does not conform to the Sign By-law 10-197.

Section 5.2.2 (g) (iii) of the Sign By-law 10-197 restricts the extent of an electronic message display to “a maximum of 50% of the sign face area...provided that no copy...shall be displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination”. Therefore, the proposed Ground Sign which is allocating 100% of the sign face area to a full colour LED display with no illusionary motion does not conform to the Sign By-law 10-197.

Section 5.2.2 (g) (v) of the Sign By-law 10-197 restricts advertising to “a business on the property on which the Ground Sign is displayed, or an activity, product or service available on that property, or a charity’s or community organization’s activities”. Therefore, the proposed Ground Sign which is advertising a business, activity, product or service which is not available on the subject site does not conform to the Sign By-law 10-197.

Section 5.2.2 (g) (vi) of the Sign By-law 10-197 permits third party advertising on a portion of the sign face area for Ground Signs not within the “Downtown Community Improvement Project Area, a Business Improvement Area, the Ancaster Village Core Area or within the Glanbrook Village Core Area”. A maximum 25% of the sign area or 1.2 sq. m, whichever is lesser, except for an electronic message display, may be allocated to third party advertising. Therefore, the proposed Ground Sign which is not within one of the areas noted above and which is allocating 100% of the sign area or 11.29 sq. m, all of which is electronic message display, does not conform to the Sign By-law 10-197.

Section 5.2.2 (i) of the Sign By-law 10-197 restricts the location of a Ground Sign to a minimum of “1.5 m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, [from] any property line”. Based on a height of 8.14 m, a setback of 6.1 m from any property line is required. Therefore, the proposed Ground Sign which is located 0.0 m from the property line abutting Garner Road West does not conform to the Sign By-law 10-197.

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

The subject property is zoned Arterial Commercial (C7, 650) Zone in the City of Hamilton Zoning By-law No. 05-200, which permits a range of commercial uses including the self-storage use currently developed on the site.

As the proposed Ground Sign is not located within any required parking or landscaped areas, the proposed Ground Sign conforms to the City of Hamilton Zoning By-law No. 05-200.

## **RELEVANT CONSULTATION**

### **Departments/Agencies having no comments or concerns:**

- Growth Management (Development Engineering) Section;
- Corridor Management Section; and
- Building, Engineering and Zoning Section.

**Building Services Division (Building Construction Section)**

Comments received from the Building Services Division identified which provisions of the Sign By-law were applicable to the proposed Ground Sign, and identified whether the proposed Ground Sign complied or did not comply with the requirements of the By-law. The comments from the Building Services Division identified that the proposed Ground Sign did not conform to a total of six (6) provisions of the By-law as outlined in the Policy Implications and Legislated Requirements Section of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The applicant is proposing to erect an electronic Ground Sign at the subject site to provide a promotional opportunity for the existing 300 unit Self Storage Facility as well as other self storage facilities located elsewhere and owned by the applicant. In particular, the third party advertising proposed and the overall massing, height and extent of the electronic component of the Ground Sign does not conform to the intent of the City of Hamilton Sign By-law 10-197 and does not have regard for the four tests against which the variances are evaluated against.

On August 12, 2010, Council approved Sign By-law No. 10-197. Part 6.0 of By-law No. 10-197 provides the regulations in dealing with variances, pursuant to section 6.5 of the City of Hamilton Sign By-law No.10-197, 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.

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 By-law No. 10-197 (see Appendix “E” to Report PED19195).

The four tests are evaluated in the following comments:

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

The subject lands are currently developed with a self-storage facility. Site Plan Control Application DA-05-185 was approved on November 2, 2006, prior to the Sign By-law coming into force and effect. As a result, the applicant is unable to conform to the location requirements of the Sign By-law (as in Variance 6, Section 5.2.2 (i)) without impacting the vehicular circulation and fire routes that are part of the approved site plan. This situation is considered to be a special condition applying to the land, however this special condition does not require the Ground Sign to be constructed at a height of 8.14 m with 100% electronic message display and third party advertising, without displaying the municipal address. Therefore, while there is a special condition applying to the lands; with respect to sign location, it does not impact Variances 1 to 5.

- 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 provisions of the By-law with respect to maintaining a 6.1 m setback from Garner Road West (Variance 6), would cause the proposed Ground Sign to be located within a drive aisle and fire route, resulting in practical difficulties for the applicant. However, staff are of the opinion that there would be no practical difficulties or unnecessary and unusual hardships as a result of the proposed Ground Sign conforming to the remainder of the Sign By-law.

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

The site design is pre-existing, and signage was not contemplated prior to Site Plan Approval or prior to the Sign By-law coming into force and effect. Staff are satisfied that the conditions for this site are pre-existing and that the applicant did not create the special condition applying to the land with respect to the required setback of the Ground Sign from any property line.

While the layout of the site is pre-existing, there are no special circumstances or conditions that apply to the lands that require the Ground Sign to be constructed at a height of 8.14 m with 100% electronic message display and third party advertising, without displaying the municipal address. Therefore, the special condition is pre-existing; however, it does not impact Variances 1 to 5.

- 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.

Garner Road West in this location is zoned Commercial and Mixed Use on the north side and Industrial on the south side, with the lands to the south being largely underdeveloped as the uses transition from agriculture to industrial. There is a Ground Sign on the abutting property to the west, being 1151 Garner Road West, located at the property line, and another Ground Sign approximately 400 m to the west at 1242 Garner Road West. However, these sign faces contain no readograph or electronic message display.

Staff are generally satisfied that a Ground Sign could be located 0.0 m from the property line abutting Garner Road West without negatively impacting the character of the area as the area is vehicle rather than pedestrian-oriented, with no sidewalks currently provided and a speed limit of 70 km/hr in both directions along Garner Road West. Notwithstanding the foregoing, staff are unable to support this location for the proposed Ground Sign that is the subject of this application. Staff are of the opinion that the proposed height, third party advertising, and the allocation of 100% of the sign face to an electronic message display would alter the essential character of the area and set a precedent for Ground Signs proposed in the future as this underdeveloped area transitions to more urban uses. Therefore, the Ground Sign that is the subject of these variances would alter the essential character of the area.

The Sign Variance Application was denied by the Director of Planning and Chief Planner, on July 15, 2019. The reasons for the refusal are that the proposed sign variances do not maintain the general intent and purpose of the Sign By-law and do not meet the four tests for sign variances provided in Section 6.5 of By-law No. 10-197 (see Appendix "E" to Report PED19195).

## **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 owner would be permitted to erect a Ground 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 City of Hamilton Sign By-law No. 10-197.

### **Option 3**

Council may support Variance 6 to permit the Ground Sign to be located within 0.0 m of the property line abutting Garner Road West, and refuse Variances 1 to 5. The owner would be permitted to erect a Ground Sign at a distance of 0.0 m from the property line abutting Garner Road West provided that the Ground Sign is in conformity with all other applicable provisions of the City of 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.*

## **APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Site Plan
- Appendix "C": Site Plan – Detail
- Appendix "D": Elevations and Renderings of proposed Ground Sign

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

Appendix "F": Appeal Letter