



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 17, 2022
<b>SUBJECT/REPORT NO:</b>	Sign Variance Appeal SV-21-002 for the property known as 1632 Upper James Street, Hamilton, Denied by the Director of Planning and Chief Planner and Appealed by the Owner (PED22120) (Ward 8)
<b>WARD(S) AFFECTED:</b>	Ward 8
<b>PREPARED BY:</b>	Aman Hansra (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-21-002, for the property known as 1632 Upper James Street, Hamilton (refer to Appendix "A" attached to Report PED22120), by the **Owners 1632 Upper James Inc.**, which seeks relief from Section 5.10A of Sign By-Law No. 10-197 to permit the construction of a digital billboard sign with a height of 9.5 m to be located 0.3 m from the northern interior side lot line of the property; 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 stipulated in Sign By-law No. 10-197.

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**EXECUTIVE SUMMARY**

The owner, 1632 Upper James Inc., submitted Sign Variance Application SV-21-002 on March 29, 2021 to erect a new digital billboard sign to replace an existing billboard sign. The existing billboard sign is setback 0.3 m from the northern interior side lot line and ±8.0 m from the front lot line of the Upper James Street frontage. The proposed digital billboard will maintain the 0.3 m setback from the northern interior side lot line and will be located approximately 4.0 m closer to the Upper James Street frontage but will provide a setback of 4.0 m from the lot line and encroach onto two of the required parking spaces on the subject lands (indicated on Appendix “B” attached to Report PED22120). The proposed digital billboard sign will have a pole height of 9.5 m, a sign height of 3.05 m, a sign width of 2.44 m, and an area of 18.06 m<sup>2</sup> per side.

The requested variances were denied by the Director of Planning and Chief Planner, on October 14, 2021. The proposed digital billboard sign cannot be located, as proposed, as it does not meet, among other considerations, the minimum required setback of 300 m from any residential zone. At the proposed location, the billboard sign will obstruct two parking spaces and due to the potential light trespass the sign will illuminate the adjacent property as well as the path of vehicular traffic on Upper James Street.

**ALTERNATIVES FOR CONSIDERATION – See Page 6**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: The Application is subject to the *Municipal Act*, and there are no requirements for a Public Meeting Sign. On August 12, 2010, Council approved Sign By-law No. 10-197. Section 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).

By-law No. 10-197 requires the City Clerk to notify the owner once a hearing date has been fixed for the Planning Committee to consider an appeal of the decision of the Director of Planning and Chief Planner to deny a sign variance Application.

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**BACKGROUND**

In accordance with Section 5.10A of Sign By-Law No. 10-197, a digital billboard sign may not be located within 3.5 m of any property line and not less than 300 m from any residential zone. A billboard sign may not obstruct any required parking spaces under the City's Zoning By-law and shall not display a sign which illuminates any adjacent property or the path of vehicular traffic (see Appendix "D" attached to Report PED22120).

The proposed digital billboard, as proposed by the Applicant, requires the following variances to the Sign By-Law No. 10-197:

- To permit a digital billboard sign to be located 0.30 m from the northern side lot line, whereas 3.5 m is required;
- To permit a digital billboard sign to be located 51.0 m from a residential zone, whereas 300 m is required;
- To permit a digital billboard sign which obstructs or is displayed in a required parking space under the City's Zoning By-laws; and,
- To permit a digital billboard sign to illuminate any adjacent property or path of vehicular traffic, whereas the By-law prohibits this.

The proposed digital billboard is located at the base of two (2) parking spaces within the existing parking lot. In accordance with Section 5.2(ii), (iii) and (v) of Hamilton Zoning By-law 05-200, the placement of the pole intended to support the digital billboard will impact parking spaces along the north side of the property. To rectify the zoning conflict, a successful a Minor Variance application would also be required as the proposed sign pole encroaches 0.54 m into two parking spaces.

On October 21, 2021, the variances were denied by the Director of Planning and the Chief Planner, and notice was subsequently sent to the Applicant advising of the decision (see Appendix "F" attached to Report PED22120). On November 3, 2021, the owner appealed the decision by the Director of Planning and the Chief Planner to deny the variances and requested that the matter be considered by the Planning Committee, in accordance with the provisions of Sign By-law No. 10-197 (see Appendix "G" attached to Report PED22120).

**DETAILS OF SUBMITTED APPLICATION**

**Location:** 1632 Upper James Street, Hamilton

**Owner** 1632 Upper James Inc.

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**Applicant:** Pattison Outdoor

**Property Description:** Frontage: ±75 metres  
Lot Depth: ±60 metres  
Area: ±1376 square metres

**POLICY IMPLICATIONS AND LEGISLATED REQUIRMENTS**

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

Section 5.10A.2(l) of the Sign By-law specifies that the location of a Ground Sign will not be less than 300.0 m from any residentially zoned property. The proposed Digital Billboard is located within 51.0 m of the residential property at 22 Kennedy Avenue, Hamilton.

Section 5.10A.2(m) of the Sign By-law specifies that the location of a Ground Sign no less than 3.5 metres from any property line. The proposed sign is located 0.30 m from the northerly lot line.

Section 5.1.1(e) of the Sign By-law prohibits any sign which obstructs or is displayed in a parking space required under the City's Zoning By-laws. The pole supporting the proposed Digital Billboard will be located at the base of two parking spaces.

Section 4.0(h) of the Sign By-law specifies under General Prohibitions and Regulations that no person shall display or permit to be displayed a sign which illuminates any adjacent property or the path of vehicular traffic. The proposed Digital Billboard illuminates the path of Northbound and Southbound vehicular traffic along Upper James Street and the adjacent property 1616-1618 Upper James Street.

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

The subject property is zoned Arterial Commercial "C7" Zone in the City of Hamilton Zoning By-law No. 05-200, which permits a range of commercial uses including office uses. The property is currently used for office uses.

A Minor Variance is required as the proposed sign pole encroaches 0.54 m into two parking spaces, as a result it would not conform with Section 5.2(ii)(iii) and (v) of Hamilton Zoning By-law 05-200.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The following is staff analysis of the requested variances:

### *Setback from North Side Lot Line*

The proposed Ground Sign is located approximately 0.30 m from the north side lot line, while the Sign By-Law No 10-197 requires a 3.5 m setback from the north side lot line. Staff are not supportive of the proposed location because the sign is considered to be too close to the northern side lot line and will obstruct parking on the site. Also, the digital sign will not maintain the character of the streetscape of the area as a result of the proposed location of the sign closer to the street.

### *Setback from Residential Zone*

Sign By-Law No. 10-197 states that no digital billboard sign should be placed on the site which does not meet the 300 m setback requirement from any residentially zoned property. The intent of this provision is to ensure that residential properties are not negatively impacted by the digital billboard. To comply with the By-law, the Applicant would be required to place the sign an additional 3.2 m away from the northern side lot line which will further disrupt the existing parking spaces and interfere with vehicular circulation on the site. The location of the digital billboard sign to residentially zoned property will be disruptive to the surrounding residents.

### *Obstruction to Parking Spaces*

At the proposed location, the billboard sign will obstruct two parking spaces. The proposed sign pole is 0.45 m in diameter and encroaches 0.54 m into two parking spaces. At this proposed location the sign pole will obstruct two parking spaces, this will trigger a Minor Variance Application to the parking provisions in Zoning By-law No. 05-200. Staff are not in support of the requested variances to Sign By-law No. 10-197 as the proposed sign will have a negative impact on the functionality of the site. The placement of the pole at the proposed location will create an obstruction and make it difficult for vehicles to maneuver, contrary to the provisions of Section 5.2(ii) and (iii) of Hamilton Zoning Bylaw 05-200. To comply with Zoning By-law 05-200, the Applicant would be required to apply for and obtain final approval of a Minor Variance to modify the parking spaces. The Building, Engineering and Zoning Section comments are attached as Appendix "D" to PED22120.

*Illuminate Adjacent Property or Path of Vehicular Traffic*

At the proposed location, the digital billboard sign illuminates the adjacent property as well as the path of vehicular traffic on Upper James Street. This contravenes the requirements of the Zoning By-law which states that a billboard sign shall not display a sign which illuminates any adjacent property or the path of vehicular traffic.

**ALTERNATIVES FOR CONSIDERATION**

**Option 1**

Council may uphold the recommendation of the Director of Planning and Chief Planner, Planning Division, to refuse all 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 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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**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED22120 - Location Map

Appendix "B" to Report PED22120 - Site Plan

Appendix "C" to Report PED22120 - Elevations and Renderings of proposed Ground  
Sign

Appendix "D" to Report PED22120 - The Building, Engineering and Zoning Section  
Comments

Appendix "E" to Report PED22120 - Sign Variance Application Report SV-21-002

Appendix "F" to Report PED22120 - Notice of Decision

Appendix "G" to Report PED22120 - Appeal Correspondence

AH:sd

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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.*