



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 11, 2023
<b>SUBJECT/REPORT NO:</b>	Sign Variance Appeal SV-22-011 for the Property Known as 1038, 1040 and 1042 Garner Road West, Ancaster, Denied by the Director of Development Planning and Appealed by the Owner (PED23149) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<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-22-011, by the **Owners 2228023 Ontario Inc. c/o Dan Gubekjian**, which seeks relief from Section 5.2.2 of Sign By-Law No. 10-197 to allow for the existing Ground Sign with an electronic message display to allocate up to 50% of the sign area or 8.70 square metres for third party advertising, specifically for 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 on digital Ground Sign; for the property known as 1038, 1040 and 1042 Garner Road West, Ancaster (refer to Appendix "A" attached to Report PED23149), be **Denied**, on the following basis:

- (a) That the requested variance is not in keeping with the general intent and purpose of Sign By-law No. 10-197;
- (b) That the requested variance does not meet the tests stipulated in Sign By-law No. 10-197.

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**EXECUTIVE SUMMARY**

The Applicant, Arcadis Professional Services (Canada) Inc. c/o John Ariens on behalf of the Owners, 2228023 Ontario Inc. c/o Dan Gubekjian, submitted Sign Variance application SV-22-004 on October 26, 2022 to use the existing digital Ground Sign for third party advertisement on-site. The agent proposed to provide 10% of the available advertising sign time for community use advertisement, resulting in continuous advertisement turn over. The digital sign is pre-existing on the site but in accordance with the Sign By-law No. 10-197, does not currently display third party advertisements.

The electronic digital Ground Sign will have a total digital sign display area of 8.70 m<sup>2</sup> per side and allow 50% of the sign area or 8.70 square metres for third party advertisement, display names of on-site tenants, and provide 10% of community use advertisement (as shown on Appendix “C” attached to Report PED23149).

The proposed variance was denied by the Director of Development Planning on May 3, 2023. The applicant appealed the denial on May 15, 2023. The proposed electronic message display for third party advertising cannot be supported as it does not meet the intent of the Sign By-law and there are no special circumstances or practical difficulties that contribute to the proposal’s inability to be able to meet the requirements of the By-law.

**Alternatives for Consideration – See Page 5**

**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. 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 Development Planning to deny a Sign Variance application.

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**BACKGROUND**

In accordance with Section 5.2.2(g)(vi) of Sign By-Law No. 10-197, for a Ground Sign that is 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 of 25% of the sign area or 1.2m<sup>2</sup>, whichever is lesser, except for an electronic message display, may be allocated to 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 (as shown on Appendix “D” to Report PED23149).

The applicant is proposing to use the existing Ground Sign with an electronic message display for third party advertisement on-site and provide 10% of community use advertisement and has requested the following variance to Sign By-Law No. 10-197:

- To allow for a Ground Sign face that is electronic message display that allocates up to 50% of the sign area or 8.70 square metres 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 on digital Ground Sign.

On May 15, 2023, the variance was denied by the Director of Development Planning, and notice was sent to the applicant advising of the decision (as shown on Appendix “E” attached to Report Report PED23149). On June 1, 2023, the owner appealed the decision by the Director of Development Planning to deny the variance and requested that the matter be considered by the Planning Committee (as shown on Appendix “F” attached to Report PED23149).

**DETAILS OF SUBMITTED APPLICATION**

<b>Location:</b>	1038, 1040 and 1042 Garner Road West, Ancaster
<b>Owner</b>	2228023 Ontario Inc. c/o Dan Gubekjian
<b>Applicant:</b>	IBI Group c/o Brianne McIntosh
<b>Property Description:</b>	Frontage: ±137.0 metres
	Lot Depth: ±90.3 metres
	Area: ±1.3 hectares

## **POLICY IMPLICATIONS AND LEGISLATED REQUIRMENTS**

The proposed Ground Sign was reviewed against Sign By-law No. 10-197 and the following variance was identified:

- Section 5.2.2 (g)(vi) of the Sign By-law prohibits a Ground Sign with an electronic message display to advertise 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 applicant is proposing to use the existing Ground Sign with an electronic message display for third party advertisement on-site and provide 10% of community use.

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

The subject property is zoned Prestige Business Park (M3, 376, 678, 771) Zone in the City of Hamilton Zoning By-law No. 05-200, which permits a range of industrial, warehousing, and commercial uses, subject to the applicable provisions.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The following is staff's analysis of the requested variance:

The applicant is proposing to use an existing digital Ground Sign for third party advertisement, display names of on-site tenants, and provide 10% of community use advertisement. The digital sign is pre-existing on the site but does not currently display third party advertisements.

Section 5.2.2 (g) (vi) of the Sign By-law No. 10-197 specifies that 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. The existing Ground Sign will allocate 50% of the sign area, or 8.70 sq. m, all of which is electronic message display, to third party advertising which does not conform to the Sign By-law No. 10-197.

The intent of the Sign By-law specifically prohibits the use of electronic message display for third party advertising. There are no special circumstances that result in the Ground Sign not being able to meet the requirements of Sign By-law No. 10-197. Staff are of the opinion that with the exception of foregone revenue that third party advertising

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would generate there would be no practical difficulties or unnecessary and unusual hardship if the applicant were to comply with this provision of the By-law. Staff are of the opinion that third party advertising, and the allocation of 50% of the sign face to an electronic message display would alter the essential character of the area as this underdeveloped area transitions to more urban uses and set a precedent for electronic message display for third party advertising proposed in the future.

The variance requested does not have regard for the four tests and does 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 Development Planning, Planning Division, to refuse the proposed variance as it does 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 Development Planning, Planning Division, and support the proposed variance, 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 and 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.

### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

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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.

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**Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

**Built Environment and Infrastructure**

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

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Our People and Performance**

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

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED23149 - Location Map

Appendix "B" to Report PED23149 - Site Plan

Appendix "C" to Report PED23149 - Elevations and Renderings of Proposed Ground Sign

Appendix "D" to Report PED23149 - Sign Variance Application Report SV-22-011

Appendix "E" to Report PED23149 - Notice of Decision

Appendix "F" to Report PED23149 - Appeal Correspondence

AH:sd