



Hamilton

Mailing Address:
City Hall, 71 Main St. W, 5th Floor
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

Planning and Economic Development Department
Planning Division
71 Main Street West, 5th Floor, Hamilton, ON L8P 4Y5
Phone: 905-546-2424 ext. 4281 Fax: 905-546-4202

May 15, 2023

FILE: SV-22-011

IBI Group c/o Brianne McIntosh
Suite 200, East Wing
360 James St. N.
Hamilton ON L8L 1H5

Dear Brianne McIntosh,

Re: Sign Variance Application by IBI Group c/o Brianne McIntosh for Lands Located at 1038, 1040 and 1042 Garner Road West, Hamilton (Ward 12)

Please be advised that pursuant to By-law No. 10-197, which regulates signs and other advertising devices pursuant to the provisions of the *Municipal Act* and which delegates the approval of variances for the provisions of the By-law to the Director of Development Planning, I hereby **Deny** the following variance for Sign Variance application SV-22-011:

1. 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 notwithstanding subsection 5.2.2 (g)(vi) of Hamilton Sign By-law No. 10-197, which permits a Ground Sign proposed outside of the Downtown Community Improvement Area, a Business Improvement Area, the Ancaster Village Core Area, or the Glanbrook Village Core Area to allocate a maximum of 25% of the sign area or 1.2 square metres, whichever is lesser, except for an electronic message display, 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.

The reason for the refusal of the above variance is that it is not in keeping with the general intent of the By-law and does not meet the four tests for sign variances provided in Section 6.5 of By-law No. 10-197. Any departure from the By-law is prohibited and could result in financial penalties, as provided for in By-law No. 10-197.

Pursuant to Section 6.6 of Sign By-law No. 10-197, the applicant may appeal the variance application decision of the Director of Planning and Chief Planner to the Planning Committee. To appeal the decision, a written response must be submitted to

**Re: Sign Variance Application by IBI Group c/o Brianne McIntosh
for Lands Located at 1038, 1040 and 1042 Garner Road West,
Hamilton (Ward 12)**

the Planning Committee (c/o Lisa Kelsey, Legislative Coordinator, City Clerks) within 21 days of the date of this decision.

Should you have any questions please contact Aman Hansra at 905-546-2424 ext. 1252 or by email at Aman.Hansra@hamilton.ca.

Yours truly,



Anita Fabac, MCIP, RPP
Director of Development Planning
Planning Division

cc. T. Gardner, Supervisor, Licensing and Permits
J. Beckett Manager, Building Engineering
Councillor Craig Cassar, Ward 12

SIGN VARIANCE APPLICATION – SV-22-011

ADDRESS: 1038, 1040 and 1042 Garner Road West, Ancaster (Ward 12)

Owner: 2228023 Ontario Inc. c/o Dan Gubekjian
Tenant: N/A
Agent: IBI Group c/o Brianne McIntosh
Date Application Received: October 26, 2022

Background and Description of Proposed Variances:

The subject lands are located at 1038, 1040 and 1042 Garner Road West, Ancaster and are developed with three, two storey buildings with approximately 25 occupied commercial units with a total gross floor area of approximately 6,336 square metres supported by 134 parking spaces, which was reviewed and approved through Site Plan Control application DA-18-027.

A Plan of Condominium application (25CDM-2021013) for the establishment of tenure of 38 units was also received by the City and draft approved on December 1, 2021.

The lands are currently zoned Prestige Business Park (M3, 376, 678, 771) Zone. The Owner applied for an amendment to the City of Hamilton Zoning By-law No. 05-200 to permit a restaurant on the subject lands. By-law No. 22-062 was passed by Hamilton City Council on March 22, 2022.

The subject property is surrounded by other commercial uses. To the north of the subject property is a commercial plaza with a Walmart, Winners, GoodLife Fitness, Pet Valu, etc. To the south, there are properties with various warehousing uses. The site has an existing digital Ground Sign with static digital advertising for the tenants on the subject lands.

The applicant is proposing to use the existing digital Ground Sign for third party advertisement on-site and provide 10% of community use advertisement, resulting in continuous advertisement turn over.

The requested variance is as follows:

1. 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; notwithstanding subsection 5.2.2 (g)(vi) of Hamilton Sign By-law No. 10-197, which permits a Ground Sign proposed outside of the Downtown Community Improvement Area, a Business Improvement Area, the Ancaster Village Core Area, or the Glanbrook Village Core Area to allocate a maximum of 25% of the sign area or 1.2 square metres, whichever is lesser, except for an electronic message display, 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.

Plans/Drawings/Photos Submitted with Application:

Location Map (Appendix "A")
Site Plan (Appendix "B")
Sign Elevations (Appendix "C")
Sign By-Law Provisions Chart (Appendix "D")

Staff Assessment:

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 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 is allocating 50% of the sign area or 8.70 sq. m, all of which is electronic message display, which does not conform to the Sign By-law No. 10-197.

Staff are of the opinion that the proposed change to allow 50% of the sign area to advertise third party businesses will create vehicular distractions from the advertisement turn over and is not in keeping with the essential character of the area.

Staff are not supportive of proposal and are of the opinion that the proposal does not meet the intent of the By-law as per the four tests as set out in Section 6.5 of By-law No. 10-197 with respect to the electronic message display. The basis for not supporting this variance is further analyzed in the Evaluation section below.

Circulation

The application for the requested variances was circulated on October 26, 2022 to internal departments/divisions.

The **Development Engineering Approval Section** indicated that the proposed sign does not appear to have any impact on drainage, servicing, grading or utilities within the site. From a drainage and servicing perspective, Development Engineering has no objections to the Sign Variance application.

The **Transportation Planning Section** indicated that they have no concerns or objections to the approval of the proposed Sign Variance application.

The **Zoning and Committee of Adjustment Section** have reviewed the application, and their comments are attached as Appendix "D".

Evaluation:

The City of Hamilton may approve a Sign Variance application if the general intent and purpose of the Sign By-law is maintained and if the proposal has regard for the four tests as set out in Section 6.5 of By-law No. 10-197.

The four tests are:

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

According to the Sign By-law No. 10-197, providing advertisement to 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 is prohibited. Garner Road West is classified as a Major Arterial Road within the Urban Hamilton Official Plan – Map B.7.4-3 – Transportation Classification Plan. Garner Road West is a high capacity road in terms of traffic flow and the traffic speed posted is 70 km/hour. The digital Ground Sign will be visible to vehicular traffic and can create distractions from the continuous advertisement turn over. There are no special circumstances that result in the Ground Sign not be able to meet the requirements of the By-law.

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;

A strict application of the Sign By-Law would not permit a Ground Sign on this site to allocate a maximum of 50% of the sign area to third party advertisement.

The applicant has provided justification regarding the size of the proposed third party advertisement in their application, stating “there will be no adverse impact on the subject lands or surrounding properties to allow for non-tenant; third party advertisement on-site ... proposing to provide 5-10% of community use advertisement which will ultimately benefit community organizations and surrounding neighbourhoods.” Staff are of the opinion that there would be no practical difficulties or unnecessary and unusual hardship if the applicant were to comply with this provision of this By-law.

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

The digital Ground Sign is a pre-existing condition. The applicant is proposing third party advertisement display and 10% of community use advertisement. This is not considered a pre-existing condition and there are no special circumstances or conditions that apply that result in the Ground Sign not conforming to the Sign By-law No. 10-197.

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 electronic Ground Sign is the second electronic message display sign along Garner Road West. In 2019, a 100% electronic message display Ground Sign was permitted by Council at 1147 Garner Road West, approximately 240 metres to the west.

The character of 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 the allowance of third party advertisement for the proposed Ground Sign that is the subject of this application. 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 and set a precedent for Ground Signs proposed in the future as this underdeveloped area transitions to more urban uses.

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.

Recommendation:

That Sign Variance application SV-22-011 proposing a digital Ground Sign to allow for third party advertisement and provide 10% of community use advertisement with the following variance:

1. 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; notwithstanding subsection 5.2.2 (g)(vi) of Hamilton Sign By-law No. 10-197, which permits a Ground Sign proposed outside of the Downtown Community Improvement Area, a Business Improvement Area, the Ancaster Village Core Area, or the Glanbrook Village Core Area to allocate a maximum of 25% of the sign area or 1.2 square metres, whichever is lesser, except for an electronic message display, 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.

be **Denied** on the basis that it does not meet the general intent of the intent of the Sign By-law No. 10-197.

Approval:

Authorized:

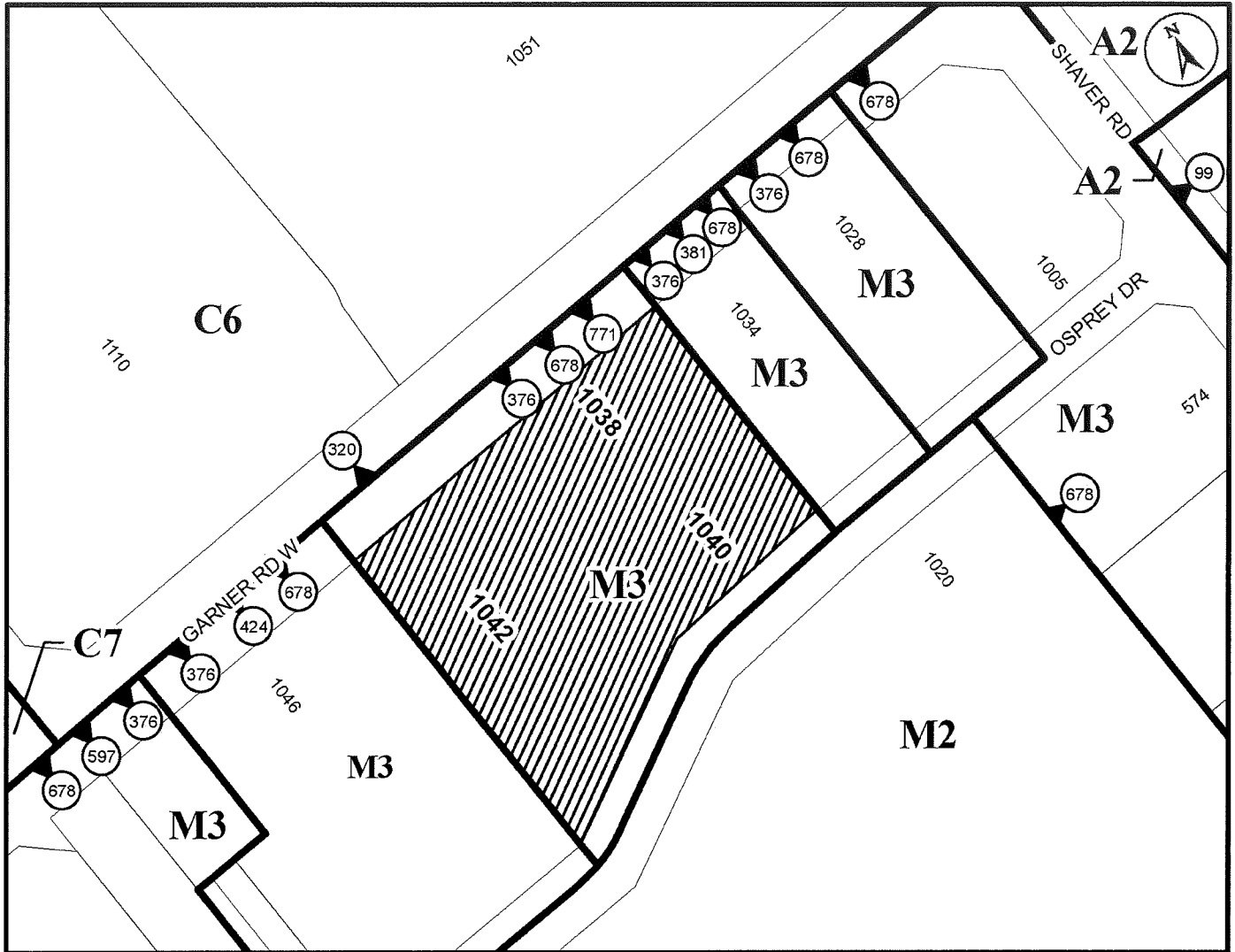
TV

 Tim Vrooman
 Area Planning Manager – Suburban Team
 Development Planning, Planning Division

Authorized:

Anita Fabac
Director of Development Planning
Planning Division

AH
Attach. (4)



● Site Location

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
SV-22-011

Date:
February 17, 2023

Appendix "A"

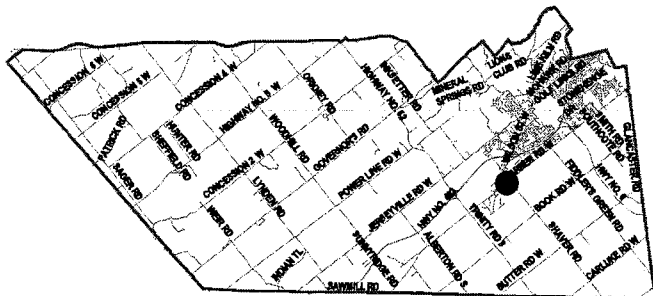
Scale:
N.T.S

Planner/Technician:
AH/NB

Subject Property



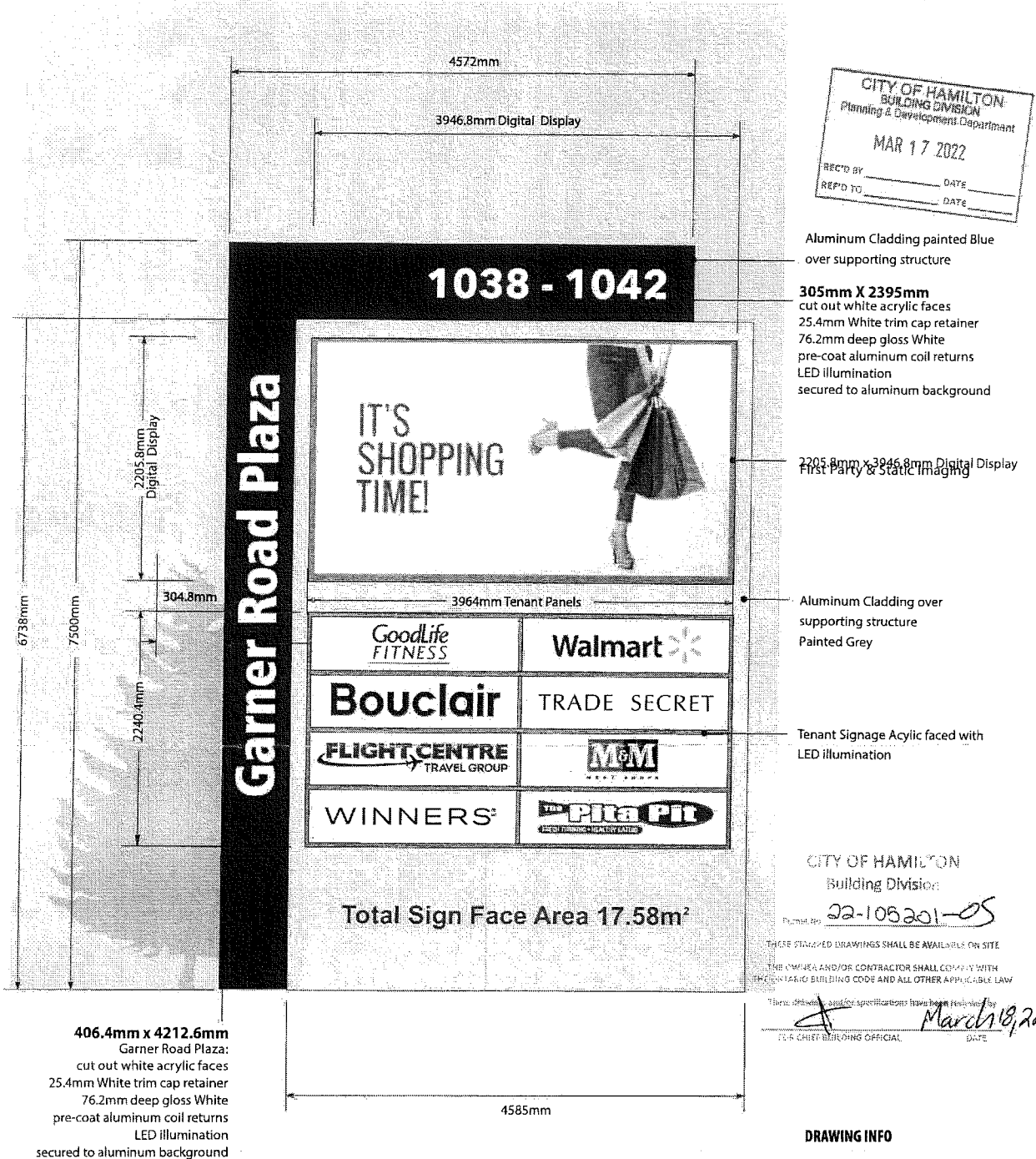
1038, 1040 and 1042 Garner Road West, Ancaster
(Ward 12)



Key Map - Ward 12



****No Other Ground Signs Located on Property****



406.4mm x 4212.6mm
 Garner Road Plaza:
 cut out white acrylic faces
 25.4mm White trim cap retainer
 76.2mm deep gloss White
 pre-coat aluminum coil returns
 LED illumination
 secured to aluminum background

Aluminum Cladding painted Blue
 over supporting structure

305mm X 2395mm
 cut out white acrylic faces
 25.4mm White trim cap retainer
 76.2mm deep gloss White
 pre-coat aluminum coil returns
 LED illumination
 secured to aluminum background


2205.8mm x 3946.8mm Digital Display
 First Party & Static Imaging

Aluminum Cladding over
 supporting structure
 Painted Grey

Tenant Signage Acrylic faced with
 LED illumination

CITY OF HAMILTON
 Building Division
 Permit # 22-106201-05


THESE STAMPED DRAWINGS SHALL BE AVAILABLE ON SITE.
 THE OWNER AND/OR CONTRACTOR SHALL COMPLY WITH
 THE CANADIAN BUILDING CODE AND ALL OTHER APPLICABLE LAW.

These drawings and their specifications have been reviewed by
 **March 18, 2022**
 CHIEF BUILDING OFFICIAL DATE


Double Face Illuminated Custom Pylon

Maximum Allowable Bearing Pressure (Design Value):
 75 kPa - Firm Clay as per OBC 2012 Table 9.4.4.1.

City of Hamilton Design Data:
OBC-2021 Supplementary Standard SB-1:
Wind Loads:
 q1/10= 0.36 KPa (7.52 psf) ; q1/50= 0.46 KPa (9.61 psf)
 Importance Category: Normal
 Importance Factors: Iw [ULS]= 1.0 , Iw [SLS]= 0.75
Snow Loads:
 Ss= 1.5 KPa (31.33 psf) ; Sr= 0.4 KPa (8.36 psf)
 Importance Category: Normal
 Importance Factors: Is [ULS]= 1.0 , Is [SLS]= 0.9
Seismic Data:
 Sa(0.2) = 0.260 , Sa(0.5) = 0.128 , Sa(1.0) = 0.061
 Sa(2.0) = 0.028 , Sa(5.0) = 0.0068 , Sa (10.0) = 0.0027
 PGA = 0.168 , PGV = 0.101



FOR STRUCTURAL ELEMENTS ONLY
 Project #: 22-027



20-2881 Sherwood Heights Drive
 Oakville, ON, L6J 7K1
 TEL: 289-837-4333 FAX: 289-813-9985
 www.sigmacaneng.com

DRAWING INFO

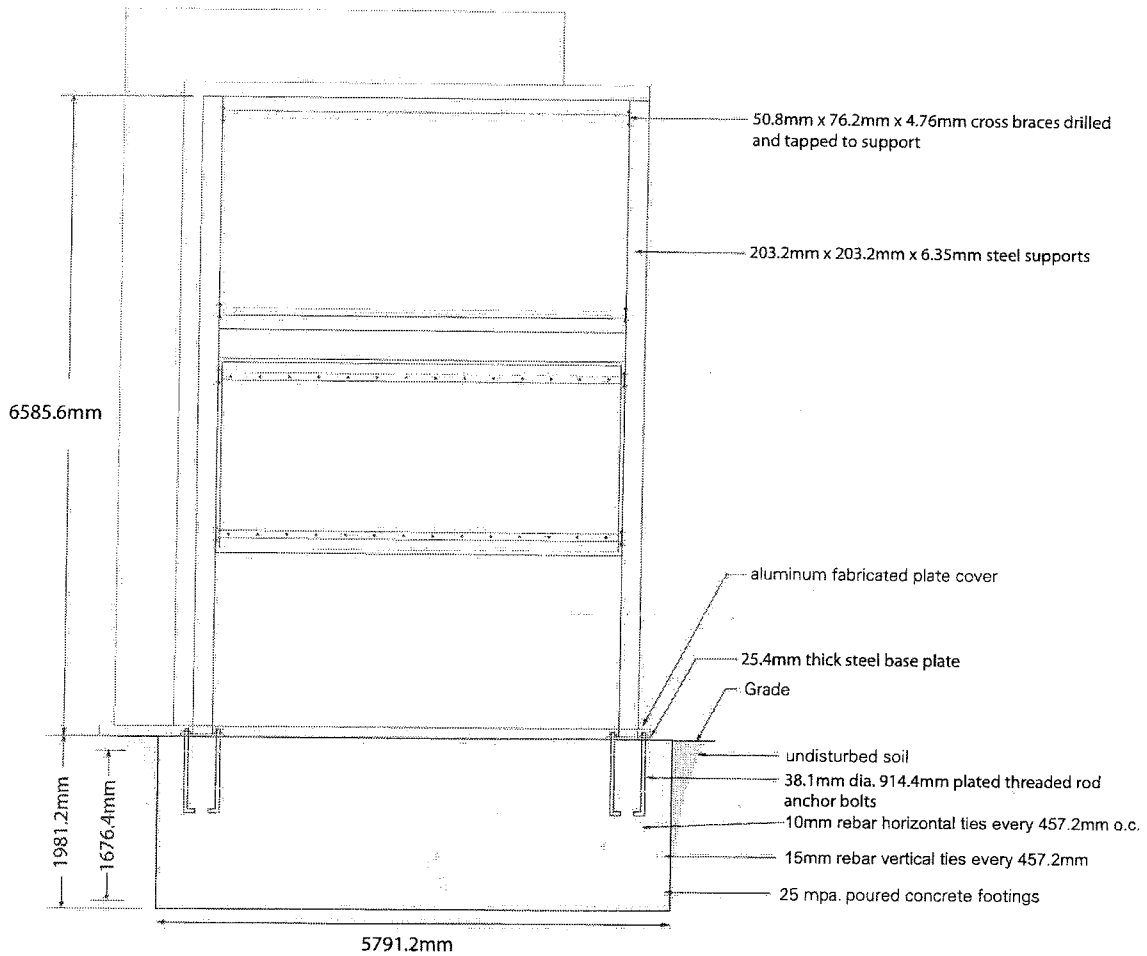
DATE 25/11/2021
REV. DATE 00/00/2020
CLIENT MD Developments
LOCATION Gardener Road Plaza
SALE REP. KN 1051 Garner Road,
 Ancaster, ON L9G 3K9
DESIGNER AS

X SIGNATURE

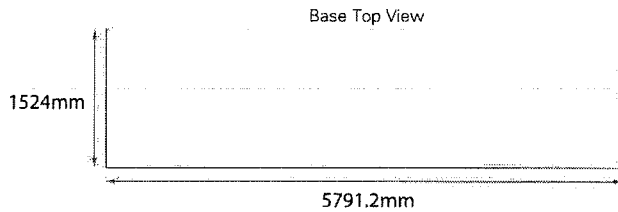


Contact: Karl Murray
 info@regionalsignsinc.com
 332 Glover Road, Stoney Creek, ON L8E 5M3
 Phone: 905.962.8107

****No Other Ground Signs Located on Property****



CITY OF HAMILTON
Building Division
Permit No. 22-105201-05
THESE STAMPED DRAWINGS SHALL BE AVAILABLE ON SITE
THE OWNER AND/OR CONTRACTOR SHALL COMPLY WITH
THE ONTARIO BUILDING CODE AND ALL OTHER APPLICABLE LAW
These drawings and/or specifications have been reviewed by
[Signature] March 18, 2022
DATE
FOR CHIEF BUILDING OFFICIAL



1051 Garner Road,
Ancaster, ON L9G 3K9

CITY OF HAMILTON
BUILDING DIVISION
Planning & Development Department
MAR 17 2022
REC'D BY _____ DATE _____
REP'D TO _____ DATE _____



FOR STRUCTURAL ELEMENTS ONLY
Project #: 22-027

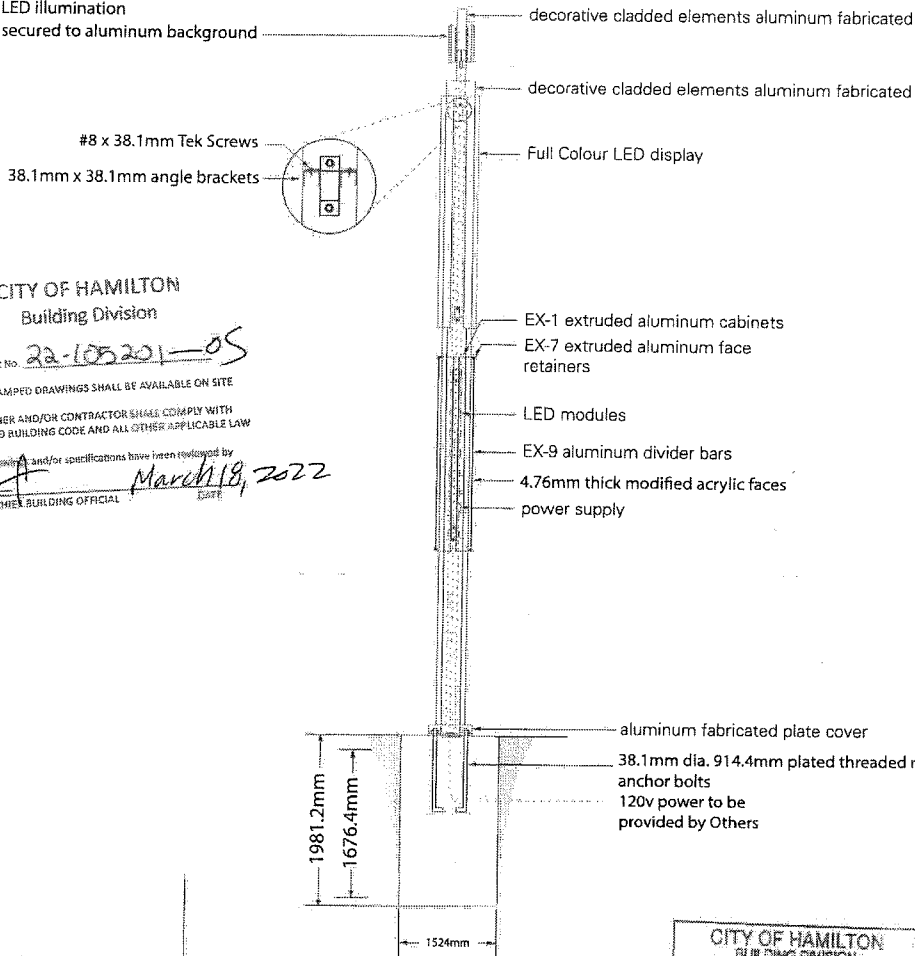
ALMACAN ENGINEERING INC.
CONSULTING ENGINEERS - STRUCTURAL DIVISION
29-2861 Sherwood Heights Drive
Oakville, ON, L6J 7K1
TEL: 289-837-1333 FAX: 289-813-9085
www.almacaneng.com



Contact: Karl Murray
Info@regionalsignsinc.com
332 Glover Road, Stoney Creek, ON L8E 5M3
Phone: 905.962.8107

****No Other Ground Signs Located on Property****

305mm X 2395mm
cut out white acrylic faces
25.4mm White trim cap retainer
76.2mm deep gloss White
pre-coat aluminum coil returns
LED illumination
secured to aluminum background



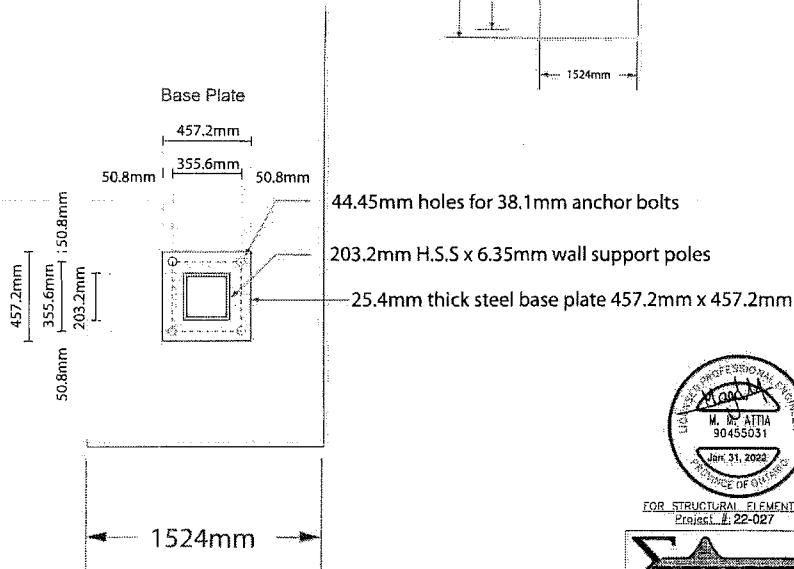
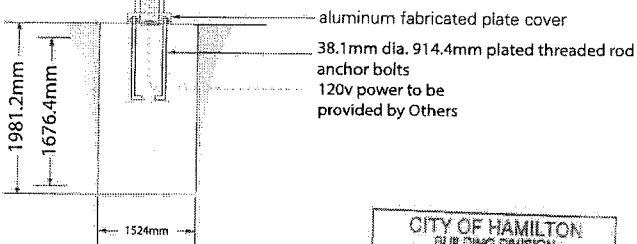
#8 x 38.1mm Tek Screws
38.1mm x 38.1mm angle brackets

CITY OF HAMILTON
Building Division

Permit No. 22-105201-05

THESE STAMPED DRAWINGS SHALL BE AVAILABLE ON SITE
THE OWNER AND/OR CONTRACTOR SHALL COMPLY WITH
THE ONTARIO BUILDING CODE AND ALL OTHER APPLICABLE LAW

These drawings and/or specifications have been reviewed by
[Signature] March 18, 2022
FOR CHECK BUILDING OFFICIAL DATE



CITY OF HAMILTON
BUILDING DIVISION
Planning & Development Department
MAR 17 2022
REC'D BY _____ DATE _____
REF'D TO _____ DATE _____

1051 Garner Road,
Ancaster, ON L9G 3K9



FOR STRUCTURAL ELEMENTS ONLY
Project #: 22-027



Contact: Karl Murray
info@regionalsignsinc.com
332 Glover Road, Stoney Creek, ON L8E 5M3
Phone: 905.962.8107



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
 Planning Division
 71 Main Street West, 5th Floor
 Hamilton, Ontario, L8P 4Y5
 Phone: 905-546-2424 x2719 Fax: 905-546-4202
www.hamilton.ca

November 24, 2022

FILE: SV
 FOLDER: 22-149711-00 SV
 ATTENTION OF: Ilija Stipic
 TELEPHONE NO: (905) 546-2424
 EXTENSION: 4027

Senior Project Manager
 Development Planning
 Planning Division
 Planning and Economic Development Department

Attention: N/A

Re: **Map Number:** <<Map Number>>
Zoning District: <<Present Zoning>>
File Number: SV
Address: 1040 GARNER RD W , ANCASTER

The above, under cover of your letter dated <<Date of Request>>, has been examined.

COMMENTS:

1. This application will permit the for 3rd party advertising within the digital display.

Provision	Required by By-law	Section of By-law No. 10-197	Provided	Conforming/ Non-Conforming
Structure	Any sign with a video screen or flashing, kinetic, or illusionary motion, except an electronic message display as permitted under this By-law is prohibited.	5.1.1 (a)	Digital display proposed.	Conforms
Structure	Embedded in a foundation in the ground to a depth of at least 1.2m or secured in an alternative manner that is satisfactory to	5.2.2(d)	Minimum 1.674m	Conforms

Provision	Required by By-law	Section of By-law No. 10-197	Provided	Conforming/ Non-Conforming
	the Chief Building Official			
Structure	Maximum sign area of 0.3m ² for every 1.0m of the frontage along which the Ground Sign is located, not to exceed a total sign area of 18.0m ² for a single-faced Ground Sign or 36.0m ² for a double or multi-faced Ground Sign	5.2.2(e)	Garner Road West frontage: Approx. 136.7m 136.7 x 0.3 = 41.01sq.m Total Sing Area (single side): 17.58sq.m Therefore, 35.16sq.m double sided	Conforms
Structure	Maximum height of 7.5m	5.2.2(f)	7.62m March 18, 2022: Applicant has revised the sign to a maximum height of 7.5 metres	Conforms
Content	Includes the municipal address number of the property on which the Ground Sign is displayed shown at the top or the bottom in numbers that are a minimum height of 15.0cm	5.2.2(g)(i)	Address provided at top, greater than 15.0cm in height	Conforms
Content	Includes one or more of the following in copy that is a minimum height of 15.0cm: 1. the name of the business; 2. the registered trademark of the business; 3. the ownership of the business; or 4. the name of the activity, product or service available	5.2.2(g)(ii)	Contains name of the businesses, greater than 15.0cm	Conforms
Content	Except a Ground Sign displayed on a property used for an institutional use, may allocate a maximum of 50% of the sign face to a readograph or electronic message display provided that no copy displayed on an electronic message display shall be	5.2.2.(g)(iii)	Digital Display is 8.70sq.m 8.70 / 17.58 = 0.49 = 49%	Conforms

Ilija Stipic

SV
 1040 GARNER RD W , ANCASTER

Page 3 of 4

Provision	Required by By-law	Section of By-law No. 10-197	Provided	Conforming/ Non-Conforming
	displayed for less than three seconds, during which there shall be no movement or change in colour or intensity of illumination			
Content	May advertise 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	5.2.2(g)(v)	The proposed Ground Sign is only advertising for their own business on the property on which the Ground Sign is displayed.	Conforms
Content	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, may allocate a maximum of 25% of the sign area of 1.2m ² , whichever is lesser, except for an electronic message display, 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	5.2.2(g)(vi)	To allow for 3 rd party advertising on digital ground sign.	Non-conforming
Location	Not within 15.0m of a traffic signal or traffic control device	5.2.2(h)	Closest intersection Shaver Rd and Garner Rd W	Conforms
Location	Not within 1.5m or a distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line	5.2.2(i)	5.715 metres is 75% of sign height. The distance to property line is 7.5m.	Conforms
Location	Along the same frontage used to calculate the	5.2.2(j)	Ground Sign along frontage.	Conforms

Ilija Stipic

SV
1040 GARNER RD W , ANCASTER

Page 4 of 4

Provision	Required by By-law	Section of By-law No. 10-197	Provided	Conforming/ Non-Conforming
	maximum sign area			
Location	Where more than 1 Ground Sign is displayed along a frontage, not displayed within 200.0m of another Ground Sign along the same frontage	5.2.2(k)	No other ground signs proposed	Conforms
Location	notwithstanding (k), 1 Ground Sign which provides courtesy or directional information only, such as a menu board or clearance sign, is permitted	5.2.2 (l)	Not Applicable	Not Applicable
Location	No person shall display a Ground Sign on a property that ceases to be vacant or undeveloped and where any Billboard displayed on the property as not been removed	5.2.3	Ground Sign associated with shopping plaza	Conforms

Z1. Variance required for items which do not comply.

1. Signage shall conform to Part 4.0 (General Prohibitions and Regulations) of Sign By-law 10-197. Insufficient information has been provided in order to determine compliance.
2. Signage shall conform to Part 5.1 (Prohibited Signs) of Sign By-law 10-197. Insufficient information has been provided in order to determine compliance.
3. All new signs proposed for this development must comply with the regulations contained within the Sign By-law.
4. The designer shall ensure that the fire access route conforms to the Ontario Building Code.

Yours truly

for the Manager of Zoning and Committee of Adjustment