SUBJECT: Application for a Variance to Dundas Sign By-law, 30 York Street (Dundas) (PED06223) (Ward 13)

RECOMMENDATION:

That approval be given to Sign Variance Application SV-06-03, Highland Physiotherapy, Owner, to permit a ground sign on lands in a Highway Commercial “CH” Zone which are used exclusively for accounting and bookkeeping services and the office of a health practitioner, at 30 York Street (former Town of Dundas), as shown on Appendix “A” to Report PED06223, on the following basis.

(a) That the ground sign shall be permitted with a reduced setback of 0.10 metres to the base of the sign from the north-easterly side property line.

(b) That the ground sign shall be required to display on the top or bottom of the sign, the municipal address number in numerals that are a minimum height of 15 centimetres.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The application was received from Thompson Signs to permit a 2.17 metre x 3.17 metre single-sided ground sign on the subject lands for the purpose of advertising a physiotherapy clinic and an accountant’s office, as shown on Appendix “B”.

The proposal complies with the Dundas Sign By-law’s provisions for ground signs with the exception of the setback requirements from a property line. The sign will be located 0.10 metres from the north-east property line as shown on Appendix “C”.

The application has merit and can be supported because the proposed ground sign would be compatible with the streetscape and the surrounding area. As such, the general intent and purpose of the By-law would be maintained.

**BACKGROUND:**

**Proposal**

The applicant is requesting the establishment of a 2.17 metre x 3.17 metre single-sided ground sign on the north-easterly side of the property, as shown on Appendix “C”, to advertise a physiotherapy clinic and an accountant’s office currently existing on the subject lands.

The applicant is requesting a variance to the former Town of Dundas Sign By-law 3094-79, as amended. As per Section 8.5 of the By-law, the municipality recognizes that there may be exceptions to the rule and appeals may be made to Council for amendments to the Sign By-law. Council may approve, deny, or modify any request for a sign variance.

Generally, the proposed sign complies with the requirements of Section 5.3 (Ground Signs) of the By-law with respect to height, area, number of signs permitted on a property, and proximity to street lines and driveways. However, the proposed sign does not meet the provisions with respect to the minimum setback requirement from the property line. The By-law requires a minimum separation distance of 1.5 metres from the property line. The applicant is proposing the sign be located 0.10 metres from the north-east property line.

The property is located in an area characterized by commercial and single-detached residential uses, and is zoned Highway Commercial “CH” Zone.

**Details of Submitted Application**

**Owner/Applicant:** Highland Physiotherapy

**Agent:** Thompson Signs

**Property Size:**
- Frontage: 22.33m (73.25 ft)
- Depth: 53.64m (176 ft) average
- Area: 0.12 hectares (0.3 acres)
EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>Subject Lands:</td>
<td>Physiotherapy Clinic and Accountant’s Office</td>
<td>Highway Commercial “CH” Zone</td>
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<td>Surrounding Lands:</td>
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<tr>
<td>West</td>
<td>Commercial</td>
<td>Central Area Commercial “CAC” Zone</td>
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<tr>
<td>East</td>
<td>Business Office, Fast Food Restaurant</td>
<td>Highway Commercial “CH” Zone</td>
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<tr>
<td>North</td>
<td>Commercial and Public Park</td>
<td>Highway Commercial “CH” Zone, Park and Recreation – Floodplain “PR1-FP” Zone</td>
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<tr>
<td>South</td>
<td>Single-Detached Residential</td>
<td>Low Density Residential “R4” Zone</td>
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ANALYSIS/RATIONALE:

1. Former Town of Dundas Sign By-law 3094-79

   Minimum Setback from Property Line

   Section 5.3.3 of By-law 3094-79 stipulates that all ground signs will have a 1.5 metre minimum setback from the property line. The proposed sign location is adjacent to the north-east side property line and will provide a setback of only 0.10 metres. The location of the existing building does not allow for compliance with the By-law. The portion of the neighbouring property that is adjacent to the proposed sign location contains a parking lot. The proposed sign would be located at a sufficient distance from the street line, and would not interfere with the sight-lines from either property. Further, staff received no comments from the Traffic Engineering and Operations Section of the Public Works Department with respect to the location of the proposed sign. Therefore, the sign would have no negative impacts. As a result, staff considers the variance minor and in keeping with the general intent of the By-law.

2. Staff has reviewed the proposal within the context of the City’s New Draft Sign By-law. The proposed sign would be regulated by the recommendations of Section 5.2, “Ground Signs”, under the Draft By-law. Under these recommendations, a ground sign shall be located a minimum of 1.5 metres from any property line or a distance equal to 75% of the height of the ground sign,
whichever is greater. As the proposed sign has a height of 3.17 metres, 75% of this value is 2.38 metres. Therefore, under the Draft By-law, the sign would be required to be located at least 2.38 metres from the property line. As such, the proposed 0.10 metre setback would not be in conformity to the Draft By-law.

In this regard, the Draft By-law provides tests for a variance in Section 6.4. The first test involves special circumstances or conditions applying to the land, building or use referred to in the application. The proposal satisfies this test, as the building is designated under the Ontario Heritage Act, and is located in a position that does not allow for many alternatives. The second test asks whether strict application of the provisions of the 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 the By-law. This test is satisfied, as strictly following the provisions of the By-law would not allow the applicant to advertise their business adequately with a ground sign, and the heritage status of the building makes a ground sign a preferred alternative over a wall sign. The third test requires that such special circumstances or conditions are pre-existing and not created by the owner or applicant. The proposal satisfies this requirement, as the building has heritage status and was in existence in its current location long before the applicant made use of it. Finally, the fourth test asks whether the sign that is the subject of the variance will alter the essential character of the area. The proposed sign is compatible with the area’s character and has received heritage approval.

Lastly, the Draft By-law requires that the municipal address number be displayed on the top or bottom of the sign, in numerals that are a minimum height of 15 centimetres. This has been addressed through Recommendation “(b)” of this report.

3. The subject property is designated under the Ontario Heritage Act and listed in Hamilton’s Heritage Inventory (Volume 1) as the “original Hatt Property”. Heritage Permit HP2006-006 was approved by staff, and the location of the sign is in compliance with the intent of the permit. Staff notes that while negotiating with the agent with respect to the design and location of a sign to be mounted on the building, the agent proposed a free-standing sign. As such, the proposal would have no adverse impacts on the heritage property.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application not be approved, the applicant could provide a wall sign that conforms with the provisions of Section 5.4 of the former Town of Dundas Sign By-law, rather than a ground sign. However, as the building on the subject site is a designated heritage building, any such sign would have to be approved by staff.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: N/A.
Staffing: N/A.
Legal: N/A.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

Policy 2.6.1 of the Provincial Policy Statement states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. Furthermore, Policy 2.6.2 outlines that development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted. As the applicant has obtained a Heritage Permit, the proposal will have no adverse impacts on the heritage property and is, therefore, consistent with the principles and policies of the PPS.

Dundas Official Plan

The subject property is designated “Residential / Commercial Mixed Use” by the Dundas Official Plan, which permits offices and business services. As the proposed sign is for the existing physiotherapy clinic and for the existing accountant’s office, the application conforms to the policies of the Official Plan.

Zoning By-law 3581-86

The subject property is zoned Highway Commercial “CH” Zone by the former Town of Dundas Zoning By-law No. 3581-86. The permitted uses include accounting and bookkeeping services and offices of health practitioners, both of which currently exist on the subject property.

RELEVANT CONSULTATION:

The following internal department was circulated and stated no concerns with the proposed application:

- Traffic Engineering and Operations Section, Public Works Department.
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Arts, culture, archaeological and cultural heritage are supported and enhanced.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:SD/dh
Attachs. (3)
These signs are made in the old New England traditional style. They will be made from solid 2 inch Basswood. The letters, graphics and v-grooves, as indicated in gold, will be hand carved and gilded with 23 karat gold leaf. The letters in white will be 2 mil white vinyl.

The posts will be 4 by 4 pressure treated wood. They will be sunk 4 ft. and the holes packed with screenings. The sign faces will be mounted to the posts using 1/4 inch steel mounting brackets.

Thompson Enterprises - Custom Wood Signs (905) 768-8895
Visit our website at www.ThompsonSigns.com
Because we are not allowed to attach the sign to this Heritage building we propose that the sign be placed on 2 4x4 posts which will be on the property but very close to the property line. The sign will not overhang the adjacent property.

A variance is requested because the sign will not have the 1.5 metre set back from the property line as the ground sign bylaw #5.3.3 requires.