



# **Sign By-law Variance Application**

Council Meeting – April 18, 2023

# Our Proposal



West Façade (facing Hanlon Creek Blvd)

East Façade (facing the Hanlon Expressway)



# By-law (2021) - 20621

## Section 18.4.2

M) For buildings with 3 or more Storeys, one (1) non-illuminated Fascia Sign per Premises may be located on the top Storey of the building if no Signs are located on any other Storey of the building. If this Section is utilized, then no other signs are permitted to be located on any other Storey of the side of the building to which there is a sign on the top Storey.

# Variance Process

- 7.7** In determining whether to grant a Variance under this section the Sign Administrator [and Council on Appeal] shall consider the following, where applicable:
- a) whether the Sign is compatible with Urban Design guidelines for building, property and the surrounding area;
  - b) whether there is an impact on the Heritage Characteristics of the building, property, and/or the surrounding area;
  - c) whether there is a negative impact on any surrounding residential uses;
  - d) whether the Applicant has complied with all terms and conditions of approval of any previous Sign Permit issued to the Applicant under this section, if any,
  - e) impacts, if any, on accessibility; and
  - f) any written response(s), if any, received in response to a public notice if required by the Sign Administrator.

# Variance Process

## Sign By-law Section 7.7(a):

- a) whether the Sign is compatible with Urban Design guidelines for building, property and the surrounding area
  - ✓ As noted by Staff (and we agree) in order to assess whether a proposed sign is compatible with Urban Design guidelines, we must look to:
    - ✓ Section 3.7 of the Commercial Built Form Standards (CBFS), which established the urban design guidelines for signage
    - ✓ Section 8.14 of the Official Plan, which language generally mirrors the CBFS and which elevates the CBFS to City Policy

# Urban Design Guidelines

## (criterion 7.7(a) of Sign By-law)

### 8.14 Signage\*

1. Signs, display areas and lighting should be compatible in scale and intensity to the proposed activity and tailored to the size, type and character of a development or the space to be used.
2. Signs on cultural heritage resources, including within Heritage Conservation Districts or within cultural heritage landscapes shall be compatible with the heritage character of the property, district or landscape and may be regulated in accordance with the provisions of the Ontario Heritage Act, as applicable.
3. Signage should be incorporated into the building facade design.
4. Commercial signage should be displayed at a consistent height on building facades such as at the top of the ground floor. Signage shall generally not be permitted on the top of buildings or poles.

**SV Law Response:** As noted in more detail in our covering letter (Attachment 3 to the Staff Report), the proposed signs comply with each of these policies

# Urban Design Guidelines

- ✓ Addition Guidelines (not incorporated into OP)\*:
  - ✓ Guideline 3.7.4. Commercial building signage should be visible from the public realm.
    - ✓ SV Law Response: The proposed signage is at the top of the building just below the roofline specifically to ensure that it is visible from the public realm. Clients and visitors travelling southbound on the Hanlon Expressway will see the signage when approaching the Laird Road interchange. Likewise, on the Hanlon Creek Boulevard (west) approach, the signage is mounted at a consistent height with the BDO signage, to be clearly visible from the public realm.
  - ✓ Guideline 3.7.5. Signage should not impede pedestrian circulation or vehicle sight lines
    - ✓ SV Law Response: As a façade sign, there are no ground-level circulation or sightline concerns. There are also no concerns with driver distraction - MTO Permit obtained already (Permit SG-2023-31L-00000034 V1)

# Staff Comment #1

“Illuminated signs on the top storey of buildings that are three or more stories in height are not permitted by Sign by-law (2021) – 20621 to maintain a non-illuminated nighttime aesthetic in the City’s skies.

In addition, an office activity does not require nighttime wayfinding.”

## SV Law Response #1:

Whether or not wayfinding is required (or not) for an office use is wholly irrelevant to criterion 7.7(a) of the Sign By-law. There is nothing in the Urban Design Guidelines (or the implementing Official Plan policies in section 8.14) that discourages illumination, and illuminated fascia signs are permitted as of right at the 2<sup>nd</sup> story in the Business Park

Allowing these signs on the 3<sup>rd</sup> story in the business park, adjacent to the Hanlon, has no impact on the nighttime aesthetic of heritage character areas or residential areas, which is what the Urban Design guidelines and the Sign By-law variance criteria are really focused on

# SV Law Response #1

Also, the “Nighttime Aesthetic”:



195 Hanlon Creek Blvd, looking west from Hanlon northbound onramp)

# SV Law Response #1

The “Nighttime Aesthetic”:



The subject property - 245 Hanlon Creek Blvd - looking west from Hanlon northbound onramp)

# Staff Comment #2

“The approved Site Plan SP20-023 elevation drawings were reviewed with this sign variance and proposed sign locations were not shown on the plans. Building owners/managers are to be aware of the Sign By-law and manage sign locations in multi-tenanted buildings.”

## SV Law Response #2:

This staff comment is highly problematic. First, Site Plan elevation drawings never contain the degree of specificity suggested by staff here. Not only are future tenants and particular sign needs unknown at the time of Site Plan approval, it doesn't make sense that site plan drawings would have specific signage shown when there's a whole other regulatory layer (i.e., the Sign By-law) which has its own permitting process.

Second, the comment from staff that building owners are to be aware of the sign By-law and manage signs in multi-tenant buildings is misplaced in this case, because the Site Plan for 245 Hanlon Creek Blvd was approved in May 2020, and construction started shortly after that, whereas this Sign By-law (and the prohibition on multiple signs at/above the 3<sup>rd</sup> storey) didn't exist until July of 2021, over a year later.

# Staff Comment #3

“Staff is concerned precedent will be set by allowing additional signage on the top storey of a building and future tenants within the subject building and tenants of other multi-unit buildings may request additional signage on the top storey of buildings.”

SV Law Response: Whether a ‘precedent’ will be set is not one of the six criteria in section 7.7. of the Sign By-law that staff and Council are supposed to be considering.

Simply raising the concern of a precedent being set is a way of avoiding testing our application against the actual criteria, and if we apply Staff’s logic, the spectre of precedent being set could be used to deny any sign variance application

That is highly problematic, because citizens and the business community ought to be able to rely on the text of the Bylaw and expect that where all of the variance criteria in Section 7.7 are met, that a variance will likely be granted.

If a future application came along that wanted to use this application as a ‘precedent’, they would also need to meet all six criteria under the by-law just as we do. In that case, that future hypothetical variance application ought to be approved on its own merits because that’s how the by-law is drafted. The only precedent being set if you approve this is that a future application that also meets all six criteria gets approved, as it should

# Staff Comment #4

“Illuminated signage on top storeys of buildings is also a request received by City staff which is mainly not supportable by way of a sign variance as the requests are primarily for businesses that do not operate during nighttime hours.”

SV Law Response #4: recall that the Official Plan discourages signage ‘on the top of buildings’ (i.e., ‘Roof Signs’) – see OP policy 8.14.4. There is nothing in the OP or the Commercial Built Form Standards that discourages the type, location, scale, size, or luminosity of the signs being proposed. Staff are opposed simply because it doesn’t comply with the by-law (and are disregarding the fact that there is an explicit variance process drafted into the by-law that has very specific criteria to be met for a variance). Whether the business operates during nighttime hours (or not) is not one of the criteria. In any event, staff are even opposed to a non-illuminated sign.

# Surrounding Streetscape



195 Hanlon Creek Blvd, looking west from Laird Road offramp

# Surrounding Streetscape

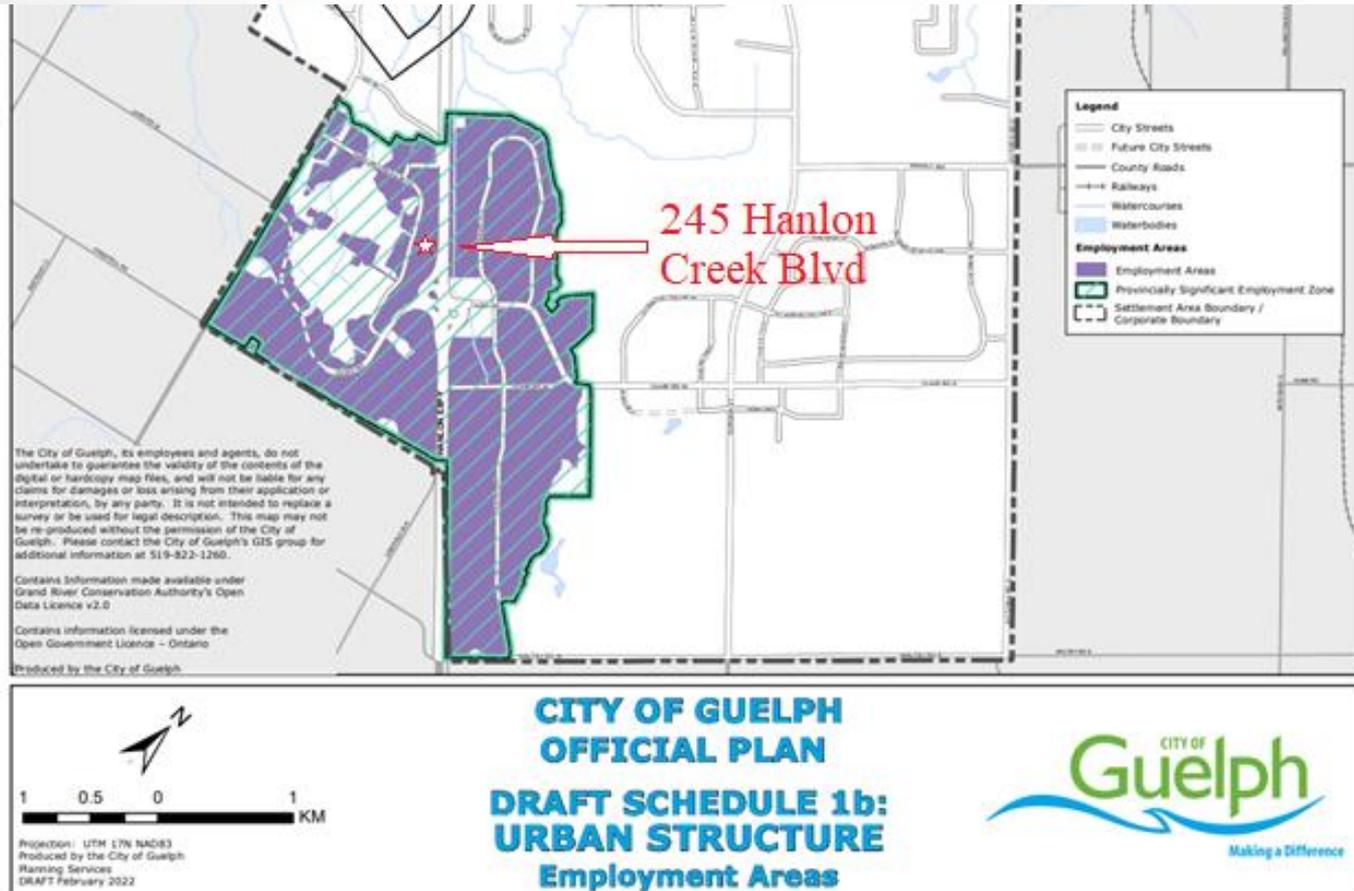


197 Hanlon Creek Blvd (immediately south of subject property),  
looking east from Hanlon Creek Blvd.

# Surrounding Streetscape



# Provincially Significant Employment Zone



# Conclusions

- ✓ Both proposed signs meet all six criteria in Section 7.7 of Sign By-law
- ✓ The signs comply with both the Official Plan signage policies and the Commercial Built Form Standards
- ✓ Visually, signage is in keeping with height of neighbouring 2<sup>nd</sup> storey signage and with the existing illumination of the business park
- ✓ Illumination of our sign is negligible against the highly illuminated backdrop of the Business Park
- ✓ MTO Permit has been issued
- ✓ Located within the Business Park (also a Provincially Significant Employment Zone), and Guelph should be 'open for business'
- ✓ The only 'precedent' set would be for another equally meritorious variance application that meets all requisite criteria (and which should therefore be approved on its own merits per section 7.7)