Minutes – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 3 Conditional Use – 2479 Pembina Highway
(Waverley West Ward)
File DCU 215337/2019C [c/r DAV 215347/2019C]

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment did not concur in the recommendation of the Winnipeg Public Service and approved a Conditional Use on "the land" to permit the establishment of a billboard, digital static copy sign use, subject to the following condition:

1. That plans shall be submitted to the Director of Planning, Property, and Development for approval and the applicant must thereafter construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

Minutes – Board of Adjustment – January 8, 2020

DECISION MAKING HISTORY:

The Winnipeg Public Service advised that all statutory requirements with respect to this application have been complied with.

Moved by Bill Evans,

That the report of Winnipeg Public Service be taken as read.

Carried

Moved by Bill Evans,

That the receipt of public representations be concluded.

Carried

Moved by Bill Evans,

That in accordance with Section 254 and Subsection 247(3) of The City of Winnipeg Charter, the Conditional Use,

(a) [✓] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [✓] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and

(d) [✓] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. Anything in that student housing building is going to be visible by looking out your window, but if you're sitting in that unit and you're annoyed by something, that's a whole different story. This particular sign isn't going to be annoying in any way, shape or form that I could see.

DECISION MAKING HISTORY (continued):

2. I looked at the video for student housing this afternoon and there's no doubt that the sign is going to be visible by that building, if you take a look at the video that those people have produced, but I still don't see it as being annoying and so I think that the sign people have done everything that they can to make it as acceptable as possible.

Carried

Moved by Bill Evans,

That the recommendation of the Winnipeg Public Service not be concurred in, and the Conditional Use be approved, subject to the following condition:

1. That plans shall be submitted to the Director of Planning, Property, and Development for approval and the applicant must thereafter construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

Carried

Moved by Bill Evans,

That the public hearing with respect to this application be concluded.

Carried

THE CITY OF WINNIPEG
CONDITIONAL USE ORDER
BOARD OF ADJUSTMENT

DCU 215337/2019C [c/r DAV 215347/2019C]

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Evans Joel Remis
Hearing:	January 8, 2020 Council Building, 510 Main Street
Applicant:	Pattison Outdoor Advertising (Eric Seniuk)
Premises Affected:	2479 Pembina Highway
Legal Description:	LOT 27/28 PLAN 21995 124 ST N *, hereinafter called “the land”
Property Zoned:	"C2" Commercial Community
Nature of Application:	For a Conditional Use under the Winnipeg Zoning By-law No. 200/2006 to permit For a Conditional Use under the Winnipeg Zoning By-law No. 200/06 to permit the establishment of a billboard, digital static copy sign use..

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Conditional Use meets the statutory criteria as outlined in Section 254 and Subsection 247(3) of The City of Winnipeg Charter in that it:

(a) [✓] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [✓] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; and

(d) [✓] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. The Board of Adjustment did not agree with the administrative comments contained in the report of the Urban Planning Division dated December 30, 2019.

ORDER:

The Board of Adjustment orders that a Conditional Use is approved on "the land" to permit the establishment of a billboard, digital static copy sign use, subject to the following conditions, which the Board of Adjustment considers necessary to ensure compliance with criteria (a), (b) and (d) as outlined in Section 254 and Subsection 247(3) of The City of Winnipeg Charter, namely:

1. That plans shall be submitted to the Director of Planning, Property, and Development for approval and the applicant must thereafter construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: January 14, 2020

CERTIFIED BY:

K. McMillan
Senior Committee Clerk

HOW TO APPEAL

If you object to this Order, you are entitled to file a notice of appeal. Your notice of appeal must:

(a) be in writing;

(b) contain your name, mailing address and phone number;

(c) be addressed as set out below;

(d) be received at that office not later than 4:30 p.m. on January 31, 2020;

[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(e) refer to Conditional Use Order No. DCU 215337/2019C; and

(f) provide the reason(s) for the appeal

The City Clerk may not schedule an appeal hearing until your notice of appeal meets the above requirements.

Address:	City Clerk, City of Winnipeg c/o Appeal Committee Susan A. Thompson Building Main Floor, 510 Main Street Winnipeg, Manitoba, R3B 1B9
Fax:	204-947-3452
Email:	CLK-Appeals@winnipeg.ca

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Charles L. Chappell
Jeff Pinchin
Eric Seniuk

In Opposition:

Nil

For Information:

Nil

For the City:

S. Jerez, Planner, Planning, Property and Development Department
R. Hayer, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 215337/2019C

1. Application dated December 9, 2019
2. Notification of Public Hearing dated December 18, 2019
3. Manitoba Status of Titles 1434188/1, 1434192/1
4. Letter of authorization dated October 5, 2019 from Wayne Zilkie to Pattison Outdoor Advertising
5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
6. Plans, Sheets 1 to 3 inclusive, for File DCU 215337/2019C dated December 11, 2019
7. Report from the Urban Planning Division dated December 30, 2019
8. Inspection Report
9. Communication dated January 7, 2020 from Charles L. Chappell in support of the matter
10. Presentation dated January 7, 2020, in support of the application submitted by the Applicant at the public hearing

Exhibit "7" referred to in File DCU 215337/2019C

ADMINISTRATIVE REPORT

Title: DCU 19-215337/C – 2479 Pembina Highway

Issue: For consideration at the public hearing for a conditional use associated with the establishment of a billboard sign.

Critical Path: Board of Adjustment as per the Development Procedures By-law and The City of Winnipeg Charter.

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Galston, MCP	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends **rejection** of the application for a conditional use under Zoning By-law No. 200/06 to permit the establishment of a billboard, digital static copy sign use.

REASON FOR THE REPORT

- Conditional Use applications require a public hearing as per *The Development Procedures By-law* No. 160/2011 and *The City of Winnipeg Charter*, section 249.
- The report is being submitted for the Board of Adjustment's consideration of the development application at the public hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, permits for the establishment of a billboard sign can not be issued.

FILE/APPLICANT DETAILS

FILE: **DCU 19-215337/C**
RELATED FILES: **DAV 19-215347/C**
COMMUNITY: Assiniboia

NEIGHBOURHOOD #: 5.640 (Montcalm)

SUBJECT: For a Conditional Use under Zoning By-law No. 200/06 to permit the establishment of a billboard, digital static copy sign use.

LOCATION: 2479 Pembina Highway
LEGAL DESCRIPTION: LOT 27/28 PLAN 21995 124 ST N *

APPLICANT: Pattison Outdoor Advertiseing (Eric Seniuk)
1 Portage Avenue E., Unit 100
Winnipeg, Manitoba R3B 3N3

OWNER:
857 Horizon Court
Kelowna, British Columbia V1Z 3L3

HISTORY

N/A

DISCUSSION

CRITERIA FOR APPROVAL

Pursuant to Section 247(3) of *The City of Winnipeg Charter*, an application for a conditional use with respect to a property may be approved if the conditional use:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(d) is compatible with the area in which the property to be affected is situated.

SITE DESCRIPTION

- The subject property is located on the west side of Pembina Highway, at the northwest corner of Pembina and Bison Drive, in the Montcalm Neighbourhood of the Waverley West Ward.
- The subject property has a total area of approximately 22,764 square feet. An autobody repair service is the principal use of the subject property. An existing free-standing billboard (static copy) accessory use is located on the southern side of the property, oriented to Bison Drive.
- The subject site is located on a Regional Mixed Use Corridor (Pembina Highway) under the *Complete Communities Direction Strategy*. It is zoned “C2” – Commercial (Community).
- The subject property is located across Pembina Highway from The University of Manitoba, a major post-secondary educational and research institution.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Office uses zoned "C2" – Commercial (Community).

South: Bison Drive, then a mixed-use residential building under construction on land zoned "RMF-L" – Residential Multi-Family (Large).

East: Pembina Highway, then vacant greenspace owned by The University of Manitoba zoned "EI" – Educational and Institutional.

West: A railway line (CN's Emerson subdivision), then single-family residential uses zoned "R1-M" – Residential Single-Family (Medium).

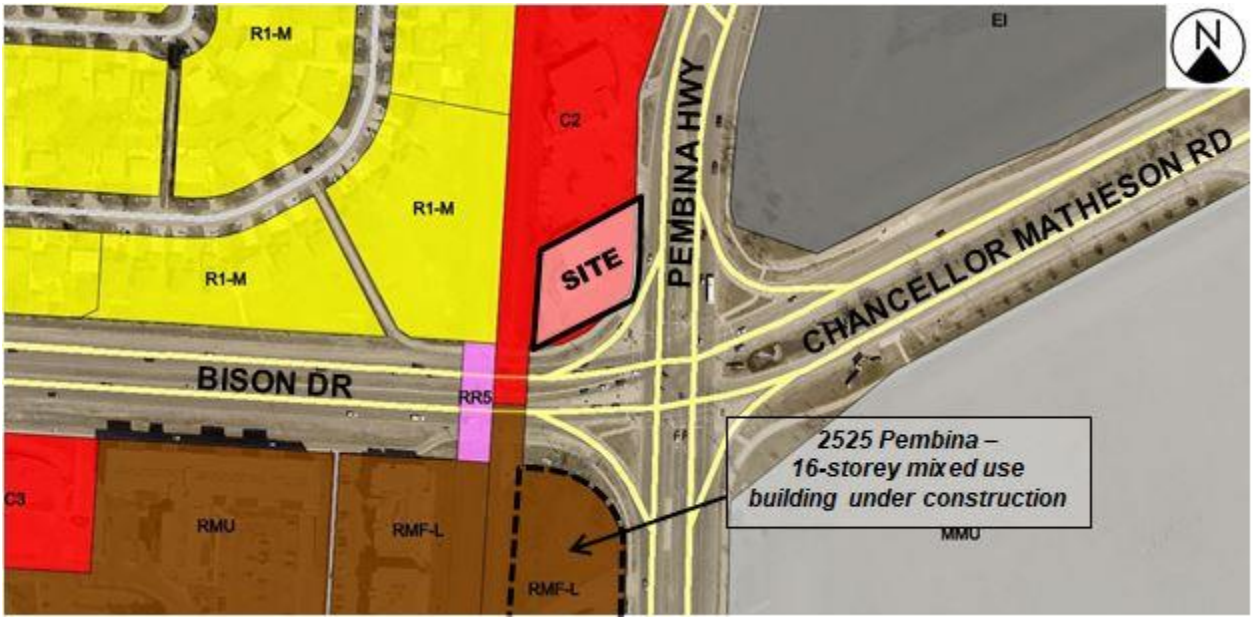


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant proposes to erect a free-standing, digital static copy billboard sign on the subject property. The proposed billboard sign is intended to display third-party advertising.
- Elevation drawings submitted by the applicant show a proposed billboard sign that is 30 feet in height, and has a sign surface area of 400 square feet. The proposed sign has a double-sided "V" configuration and is oriented to northbound and southbound vehicle traffic on Pembina Highway. The applicant has communicated to the Urban Planning Division that this "V" orientation is proposed in order to angle the sign surfaces away from adjacent properties to more directly toward moving traffic on Pembina Highway.
- The proposed billboard sign is to be set back one (1) foot from the Pembina Highway public right-of-way.
- In addition to a conditional use, the proposed billboard sign requires variances to the dimensional standards of the Zoning By-law, namely:
    - A sign surface area of 400 square feet instead of 200 feet;
    - A separation distance of less than 500 feet from another billboard sign; and,
    - Visibility from an adjacent residential use.

  These variances are the subject of associated file no. DAV 19-215347/C. Please see the associated report for discussion of these variances.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- The *Complete Communities Direction Strategy* is one of four direction strategies supporting *OurWinnipeg*, the city's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.
- As per the Urban Structure Map of the *Complete Communities Direction Strategy*, Pembina Highway is identified as a Regional Mixed-Use Corridor.
- As per *Complete Communities*, Council's direction is to focus a significant share of new growth to all Corridors in a manner that:
    - Provides compact, mixed-use, high-quality urban development;
    - Concentrates urban development in a built form that helps to optimize existing investment, municipal infrastructure, and facilities; and
    - Encourages a built form that supports a pedestrian-friendly environment
- Key relevant policies guiding development specifically along Regional Mixed-Use Corridors include:
    - Support active uses (such as retail and services) at street level and office and housing on the upper levels of multi-storey developments.
    - Promote high-quality plazas, parks and streetscapes as focal points and networks that are connected to the greater community.

- Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential and mixed use development are appropriate.
- Support development in accordance with Universal Design and Crime Prevention Through Environmental Design (CPTED) policies.
- Encourage urban design and/or form-based strategies that help define the character of Centres and Corridors through clarifying the massing and height of buildings, setbacks, appropriate open space areas and appropriate parking design and locations.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

- Per the Winnipeg Zoning By-law, billboard signs with static digital copy are conditional in the "C2" – Commercial (Community) zoning district.
- As such, a conditional use application is required for the proposed billboard sign with digital static copy on the subject property.

ANALYSIS OF CONDITIONAL USE

- As noted above, Section 247(3) of the *City of Winnipeg Charter* requires that all conditional use under the Zoning By-law meet the following criteria:
    a. is consistent with Plan Winnipeg and any applicable secondary plan;
    b. does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
    c. is compatible with the area in which the property to be affected is situated.
- As such, any variance must satisfy all three of the above noted criteria. This report considers the subject variance application and its ability to satisfy each of these criteria.

Consistency with Plan Winnipeg

- As outlined above, policies for Regional Mixed-Use Corridors in the *Complete Communities Direction Strategy* support the gradual transition toward higher-density, mixed-use development that is primarily oriented to pedestrians. The introduction of digital billboard signs may limit future opportunities for redevelopment and have an adverse impact on the quality, comfort, and safety of the pedestrian environment.
- While Pembina Highway does function as a major regional transportation route, this particular area of Pembina Highway has the characteristics of the mixed-use corridor, in that it is characterized by high-frequency transit service, and where existing developments are oriented to and accessed directly from Pembina Highway.

Consistent Development Occurring Nearby

- The transition toward higher-density, mixed-use, and pedestrian oriented development on Pembina Highway is not simply a vision for the future supported by policy. It is currently underway on parts of Pembina Highway, notably at the intersection of Pembina and Bison Drive.

- At the southwest corner of this intersection, at 2525 Pembina Highway, Council recently approved a rezoning of land to an “RMU” – Residential Mixed-Use zoning district under file no. DAZ 207/2019.
- This rezoning application was necessary to enable the construction of a 16-storey mixed-use building which is to contain 368 residential dwellings. Construction is underway as of the date of this report.
- Additionally, variances for this residential mixed-use development at 2525 Pembina Highway were recently approved by the Assiniboia Community Committee under file no. DAV 19-121388/D. These included a variance for a significant reduction in the number of parking stalls – 117 parking stalls instead of the required 495 stalls. Given the building’s use, design, and substantially reduced number of parking stalls, 2525 Pembina can clearly not be considered automobile-oriented development.
- The Urban Planning Division supported both the rezoning and variances for 2525 Pembina Highway because the proposal clearly aligns with policies for Regional Mixed-Use Corridors.
- The intersection of the Pembina Highway and Bison Drive is currently characterized by as a high-frequency transit corridor. Winnipeg Transit has communicated that in the near future there is to be increased transit service on this part of Pembina Highway, which will serve as the St. Norbert branch line of the Southwest Rapid Transit route pending Council approval.
- Additionally, there are a number of existing and proposed multi-family residential uses on and near Bison Drive, to the southwest of the subject property.
- Taken together, these factors further suggest that the intersection of Pembina and Bison Drive will continue to transition toward a busier pedestrian and transit environment that serves as an important link between high-density development on and around Pembina Highway, and the University of Manitoba.
- Allowing a 30 foot-high billboard sign only one (1) foot from the sidewalk would be detrimental to the pedestrian environment of Pembina Highway, and would not support the transition underway in this area.
- For these reasons, the proposed digital billboard sign is not considered consistent with *OurWinnipeg* and the *Complete Communities Direction Strategy.* As such, it is recommended that the conditional use be rejected.

Adverse Effect and Compatibility

- adverse effects on adjacent properties and the public street environment.
- As discussed above, the intersection of Pembina Highway and Bison Drive is currently transitioning toward higher-density mixed-use development, notably in the case of 2525 Pembina Highway, which is an adjoining property separated by a street (Bison Drive). The addition of the proposed billboard that directs advertising to motorists would not be compatible with this area.
- Notwithstanding the proposed “V” orientation of the billboard, and the distance between the proposed billboard sign and 2525 Pembina Highway, which is approximately 375 feet, the Winnipeg Public Service considers a proposed billboard at this location to have an adverse impact on this major residential mixed-use development.

- In addition to not being consistent with *OurWinnipeg* and the *Complete Communities Direction Strategy*, the proposal is also not compatible with the surrounding area because it does not meet the minimum standards of the Zoning By-law, and requires variances for sign surface area, separation distance from another billboard, and visibility from a residential use. As noted above, these variances are the subject of associated file no. DAV 19-215347/C.
- It should be noted that these standards of the Zoning By-law are intended to ensure that billboards do not have any substantial
- For these reasons, the Urban Planning Division considers the proposed billboard to have an adverse effect on surrounding properties, and is not compatible with current land uses. As such, it is recommended that the conditional use be rejected.

Recent Support for Billboards Elsewhere on Pembina Highway

- It should be noted that the Urban Planning Division does not consistently recommend rejection of billboard applications on all areas of Pembina Highway. For example, in April of 2019, the Urban Planning Division recommended approval of a Conditional Use and Variance application for a billboard at 1125 Pembina Highway, under files DCU 19-112205/C and DAV 19-111012/C. However, at the subject location, there is a clear transition toward higher-density mixed-use, transit- and pedestrian-oriented development occurring. As discussed above, this transition is supported by *Complete Communities Direction Strategy*.

REASONS FOR RECOMMENDATIONS

In the context of Section 247(3), the Urban Planning Division recommends **rejection** for the following reasons:

(a) is **not** consistent with Plan Winnipeg and any applicable secondary plan;

In that, polices under OurWinnipeg *and the* Complete Communities Direction Strategy *support the transition toward higher-density mixed use development currently underway in the adjacent area. A digital billboard sign does not support this transition.*

(b) **does** create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

In that, the proposed billboard would be visible from a 16-storey mixed-use residential building currently under construction on an adjacent property separated by a street (Bison Drive).

(d) is **not** compatible with the area in which the property to be affected is situated.

In that, the surrounding area of Pembina Highway is presently undergoing a transition toward higher-density, mixed-use, and pedestrian- and transit-oriented residential development.

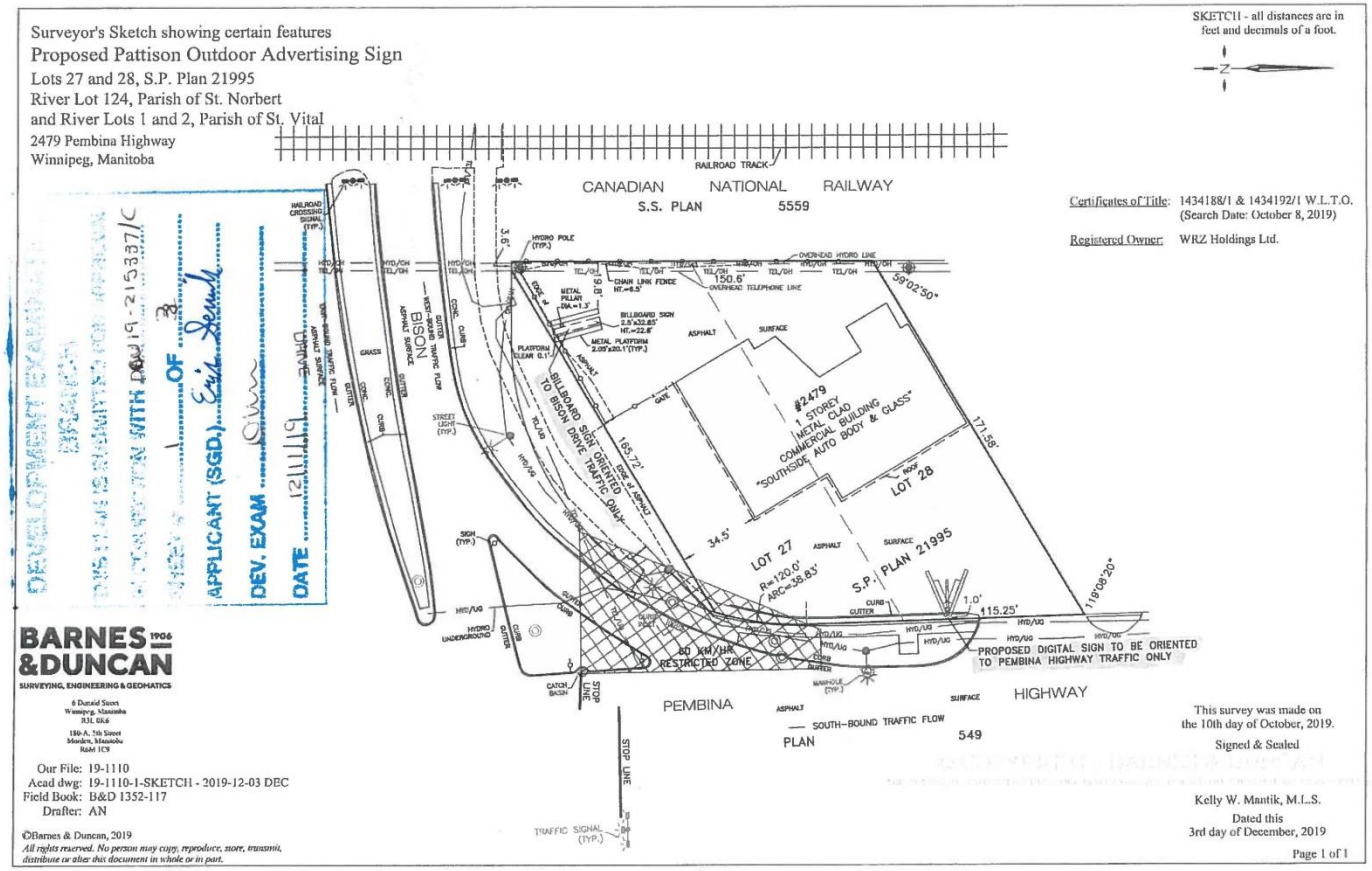
CONSULTATION

In preparing this report there was internal consultation with: N/A

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	Robert Galston, MCP
Date:	Monday, December 30, 2019
File No.	DCU 19-215337/C

Exhibit “6” referred to in File DCU 215337/2019C



DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DEV 19-215337/C
SHEET # 2 OF 3
APPLICANT (SGD.) [signature]
DEV. EXAM [signature]
DATE 12/11/19



PATTISON

PROPOSED 10' X 20' BILLBOARD, DIGITAL STATIC COPY
2479 Pembina Highway :: Driving South on Pembina Highway
Winnipeg, Manitoba.



PATTISON

PROPOSED 10' X 20' BILLBOARD, DIGITAL STATIC COPY
2479 Pembina Highway :: Driving North on Pembina Highway
Winnipeg, Manitoba.

DEVELOPMENT EXAMINATION
BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DEV 19-215337/C
SHEET # 3 OF 3
APPLICANT (SGD.) Eric Senty
DEV. EXAM [illegible]
DATE 12/11/19