Minutes – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 4 Variance – 2479 Pembina Highway
(Waverley West Ward)
File DAV 215347/2019C [c/r DCU 215337/2019C]

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment did not concur in the recommendation of the Winnipeg Public Service and approved the application for a Variance on "the land" for the establishment of billboard, digital static copy free-standing sign to permit as follows:

1. a sign surface area of 400 square feet (37.2 square metres)

2. a separation space to another billboard sign less than the required 500 feet (152.40 metres)

3. a billboard sign visible from an adjacent residential use

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 the 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 Subsection 247(3) of The City of Winnipeg Charter, the Variance,

(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;

(c) [✓] is [ ] is not
the minimum modification of a zoning by–law required to relieve the injurious effect of the zoning by–law on the applicant's property; 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, 2020.

Carried

DECISION MAKING HISTORY (continued):

Moved by Bill Evans,

That the recommendation of the Winnipeg Public Service not be concurred in, and the application for a Variance be approved.

Carried

Moved by Bill Evans,

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

Carried

THE CITY OF WINNIPEG
VARIANCE ORDER
BOARD OF ADJUSTMENT

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

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:	To vary the "C2" District Dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 for the establishment of billboard, digital static copy free-standing sign to permit as follows: A. a sign surface area of 400 square feet (37.2 square metres) instead of 200 square feet (18.6 square metres) B. a separation space to another billboard sign use less than 500 feet (152.40 metres) C. a billboard sign visible from an adjacent residential use.

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Variance meets the statutory criteria as outlined in 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;

(c) [✓] is [ ] is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; 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 the provisions of the "C2" dimensional standards of Zoning By-Law No. 200/2006 are varied on "the land" for the establishment of billboard, digital static copy free-standing sign to permit as follows:

1. a sign surface area of 400 square feet (37.2 square metres)

2. a separation space to another billboard sign less than the required 500 feet (152.40 metres)

3. a billboard sign visible from an adjacent residential use

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 Variance Order No. DAV 215347/2019C; 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 DAV 215347/2019C

1. Application dated December 17, 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 DAV 215347/2019C 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 DAV 215347/2019C

ADMINISTRATIVE REPORT

Title: DAV 19-215347/C – 2479 Pembina Highway

Issue: For consideration at the public hearing for a variance 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 to vary the "C2" dimensional standards of Zoning By-Law No. 200/2006 for the establishment of billboard, digital static copy free-standing sign to permit as follows:

A. a sign surface area of 400 square feet (37.2 square metres) instead of 200 square feet (18.6 square metres);

B. a separation space to another billboard sign less than the required 500 feet (152.40 metres);

C. a billboard sign visible from an adjacent residential use.

REASON FOR THE REPORT

- Variance 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:	**DAV 19-215347/C**
RELATED FILES:	**DCU 19-215337/C**
COMMUNITY:	Assiniboia
NEIGHBOURHOOD #:	5.640 (Montcalm)
SUBJECT:	To vary the "C2" dimensional standards of Zoning By-Law No. 200/2006 for the establishment of billboard, digital static copy free-standing sign to permit as follows: a) a sign surface area of 400 square feet (37.2 square metres) instead of 200 square feet (18.6 square metres) b) a separation space to another billboard sign less than the required 500 feet (152.40 metres) c) a billboard sign visible from an adjacent residential 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 variance with respect to a property may be approved if the variance:

(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 the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(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).

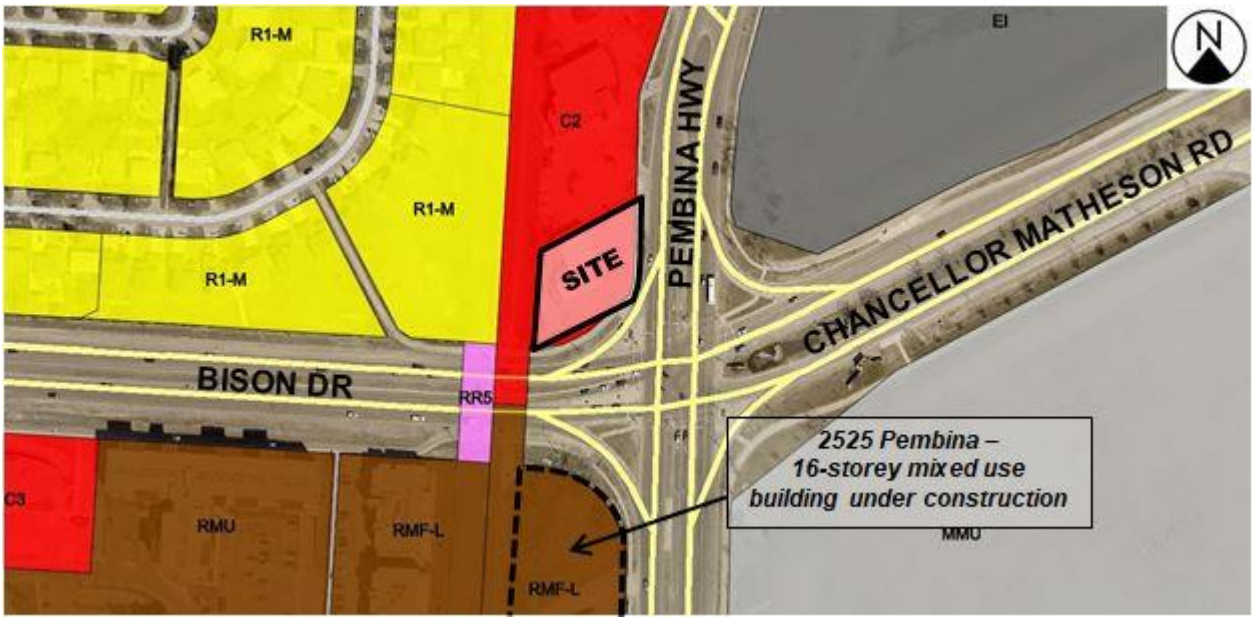


Figure 2: Zoning of the site and surrounding area.

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 the variances that are the subject of this report, a billboard sign is conditional in a "C2" – Commercial (Community) zoning district. A conditional use application is the subject of associated file no. DCU 19-215337/C. Please see the associated report for discussion of this conditional use.

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

- All new billboard signs must comply with the use specific standards for billboards under the Winnipeg Zoning By-law.
- Per these standards:
    - The maximum sign surface area of a billboard is 200 square feet. The applicant is proposing a total sign surface area of 400 square feet. As such, a variance for sign surface area is required.
    - A billboard sign must not be located closer than 500 feet from any other billboard sign that is either on the same street or is facing the same direction in traffic. The applicant is proposing a billboard sign approximately 185 feet of an existing billboard that is on the same property and visible from Pembina Highway. As such, a variance for separation distance is required.
    - A billboard sign must not face an adjacent residential use, unless the billboard sign is not visible from this use. The applicant is proposing a billboard sign visible from a multi-family residential building currently under construction on the opposite side of Bison Drive. As such, a variance for visibility from a residential use is required.

ANALYSIS OF VARIANCES

- As noted above, Section 247(3) of the *City of Winnipeg Charter* requires that all variances to 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 the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
    d. is compatible with the area in which the property to be affected is situated.
- As such, any variance must satisfy all four 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 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 variances be rejected.

Minimum Modification and Injurious Effect

- The applicant has communicated that, by designing the proposed billboard sign with a double-sided “V” configuration, the sign surface area will not be directed toward adjacent properties, including the residential property under construction at 2525 Pembina Highway.
- In some cases, the Urban Planning Division may support a variance for sign surface area in order to accommodate a billboard with this type of a “V” configuration. This is in order to further reduce visibility of the billboard surface area from nearby residential properties. In these cases, the “V” configuration allows a billboard that does not require a variance for visibility from adjacent residential properties.
- However, in the case of the proposed billboard, the proposed billboard will still be clearly and entirely visible from residential units at 2525 Pembina Highway, albeit on an angle. As such, the variance for sign surface area does not ‘cancel out’ a variance for visibility from a residential use; this variance is still required.
- Additionally, the subject property contains an existing non-digital billboard poster sign, which is located on the southern end of the subject property and oriented primarily to eastbound and westbound traffic on Bison Drive. As noted above, this existing billboard sign is approximately 185 feet from the proposed billboard sign. Although this existing billboard is primarily oriented to a different traffic direction (east-west Bison Drive, rather than north-south Pembina Highway), it is located on a property fronting on Pembina Highway, and is visible from Pembina Highway.
- Given that the applicant proposes to erect a second billboard sign on the same property, the Zoning By-law’s requirement for separation distance is not considered to have an injurious effect on the property owner’s development rights, as the injurious effect with regard to this requirement is self-imposed by the existing billboard sign on the subject property.
- For these reasons, the Urban Planning Division does not consider the variances applied for to be the minimum modification of the Zoning By-law, and are not required to relieve

the injurious effect of the Zoning By-law. As such, it is recommended that the variances be rejected.

Adverse Effect and Compatibility

- 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.
- It should be noted that the use specific standards of the Zoning By-law are intended to ensure that billboards do not have any substantial adverse effects on adjacent properties and the public street environment. The fact that variances for three (3) of these standards are required, with no identifiable injurious effect or unique condition on the property, suggests that this proposed billboard has an adverse effect.
- For these reasons, the Urban Planning Division recommends that the variances 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 **approval** for the following reasons:

(a) is 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 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;

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).

(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

In that, the variances applied for can not be considered the minimum modification of the Zoning By-law, and that there is no identifiable injurious effect or unique condition on the property.

(d) is 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.

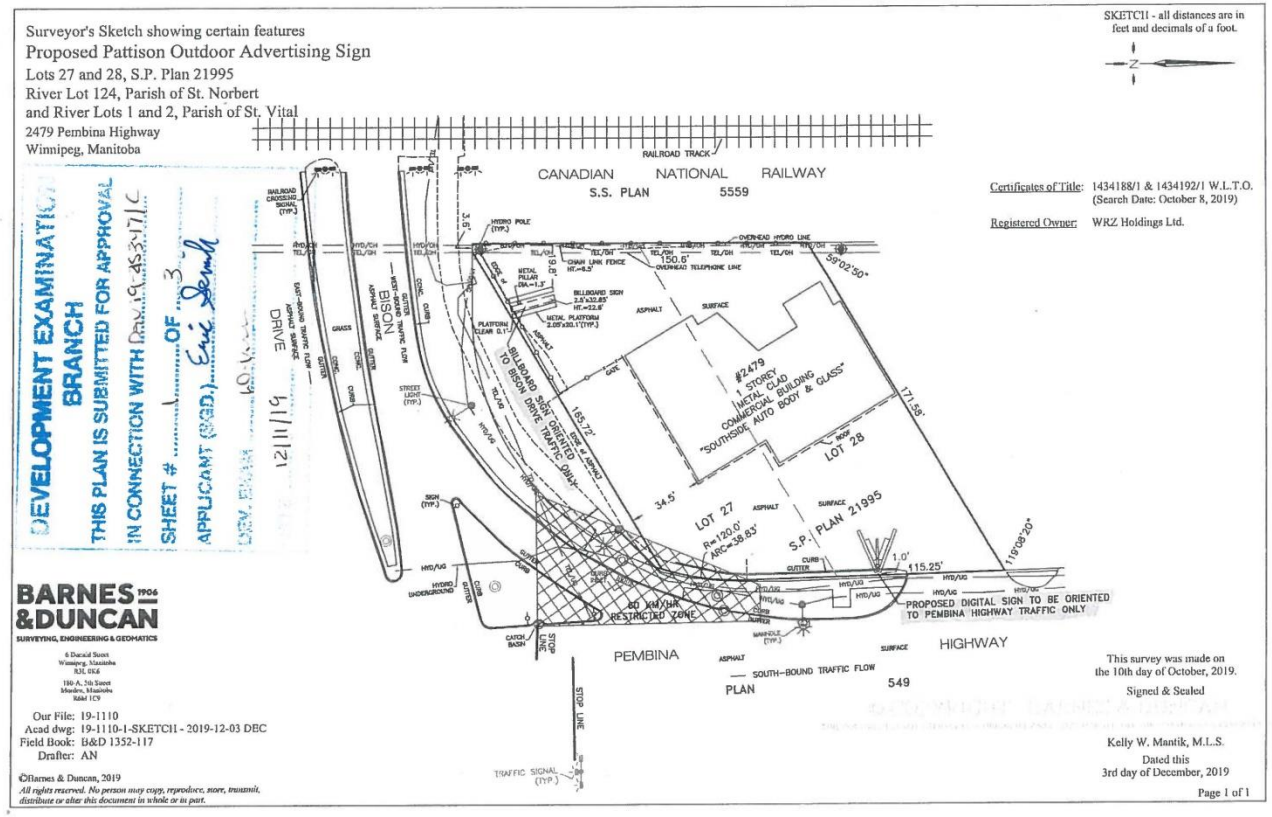
CONSULTATION

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.	DAV 19-215347/C

Exhibit “6” referred to in File DAV 215347/2019C





PATTISON

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

DEVELOPMENT EXAMINER
BRANCH

IN CONNECTION WITH DAV 19-215347/C
SHEET # 2 OF 3
APPLICANT (SGD.) Eric Stevens
DEV. EXAM
DATE 12/11/19



PATTISON

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