Minutes – Board of Adjustment – February 5, 2020

PUBLIC HEARINGS

Item No. 9 Conditional Use – 1105 St. Mary's Road
(St. Vital Ward)
File DCU 219914/2019C [c/r DAV 219915/2019C]

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 Conditional Use on "the land" to permit the establishment of a Digital Static Copy, Billboard 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 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. This particular sign is in a rather unique location. It's not on St. Mary's Road as such, it's on Dakota and I don't see where the sign really, the one facing north that's already there that doesn't affect anybody, and the one that's going to be the V-shaped, I don't see who that affects except the traffic coming down St. Mary's Road.

2. From a pedestrian standpoint, it doesn't affect any pedestrian traffic on St. Mary's Road, and I don't see where it really affects any pedestrian traffic on Dakota either.

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 Conditional Use be approved.

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 219914/2019C [c/r DAV 219915/2019C]

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Evans Kara Bjornson
Hearing:	February 5, 2020 Council Building, 510 Main Street
Applicant:	Pattison Outdoor Advertising (Eric Seniuk)
Premises Affected:	1105 St. Mary's Road
Legal Description:	LOT 1,3 PLAN 15509 45/46 ST V, hereinafter called “the land”
Property Zoned:	"C3" Commercial Corridor
Nature of Application:	For a Conditional Use under the Winnipeg Zoning By-Law No. 200/2006 to permit the establishment of a Digital Static Copy, Billboard 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. This particular sign is in a rather unique location. It's not on St. Mary's Road as such, it's on Dakota and I don't see where the sign really, the one facing north that's already there that doesn't affect anybody, and the one that's going to be the V-shaped, I don't see who that affects except the traffic coming down St. Mary's Road.

2. From a pedestrian standpoint, it doesn't affect any pedestrian traffic on St. Mary's Road, and I don't see where it really affects any pedestrian traffic on Dakota either.

ORDER:

The Board of Adjustment orders that a Conditional Use is approved on "the land", to permit the establishment of a Digital Static Copy, Billboard use

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

DATE OF ORDER: February 11, 2020

CERTIFIED BY:



Leah Cowan
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) contain your name, mailing address and phone number;

(e) be addressed as set out below;

(f) be received at that office not later than 4:30 p.m. on February 28, 2020;

[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(g) refer to Conditional Use Order No. DCU 219914/2019C; and

(h) 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 PERONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

C.L. Chappell
Jeff Pinchin
Eric Seniuk

In Opposition:

Nil

For Information:

Nil

For the City:

J. Hildebrand, Planner, Planning Property and Development Department
R. Galston, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 219914/2019C

1. Application dated December 23, 2019
2. Notification of Public Hearing dated January 13, 2020
3. Manitoba Status of Title 2514818/1
4. Letter of authorization dated December 16, 2019 from Mikhail Sapozhnik 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 2 for File DCU 219914/2019C dated December 23, 2019
7. Report from the Urban Planning Division dated January 27, 2020
8. Inspection Report
9. Communication dated February 2, 2020 from Charles L. Chappell in support of the application
10. Documentation in support of the application submitted by the Applicant at the public hearing

Exhibit "7" referred to in File DCU 219914/2019C

ADMINISTRATIVE REPORT

Title: DCU 19-219914\C – 1105 St Mary's RD

Issue: For consideration at the public hearing for a conditional use associated with the expansion of an existing Digital Static Copy and Poster 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
Simi Jerez	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends **rejection** of the application for a conditional use under Zoning By-Law No. 200/2006 to permit the establishment of a Digital Static Copy, Billboard use.

REASON FOR THE REPORT

- This report provides information and makes recommendations regarding the subject application's compliance with The City of Winnipeg Charter.
- 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, a development permit **cannot** be issued.

FILE/APPLICANT DETAILS

FILE:	**DCU 19-219914\C**
RELATED FILES:	DAV 19-219915/C
COMMUNITY:	Riel Committee
NEIGHBOURHOOD #:	5.517 (Worthington)
SUBJECT:	For a Conditional Use under Zoning By-Law No. 200/2006 to permit the expansion of a Digital Static Copy, Billboard use.
LOCATION:	1105 St Mary's RD
LEGAL DESCRIPTION:	LOT 1,3 PLAN 15509 45/46 ST V
APPLICANT:	Eric Seniuk 1 Portage AVE E Unit 100 Winnipeg , Manitoba R3B 3N3
OWNER:	1105 ST MARY'S RD Winnipeg , Manitoba R2M 3T6

HISTORY

DCU 17-156972/C

- On October 18, 2017, the Board of Adjustment concurred in the recommendation of the Winnipeg Public Service and rejected the application for a Conditional Use under File DCU 156972/2017C for the establishment of a Digital Static Copy, Billboard use, stating that, “This is a third party sign, it wouldn’t be reflecting the businesses on site. The additional signage would impact the environment on site. Also, the safety issues affecting the area.” The applicant appealed this decision.
- On January 26, 2018, the Appeal Committee allowed the appeal, and did not concur in the decision of the Board of Adjustment and approved a Conditional Use to permit on “the land” the establishment of a Digital Static Copy, Billboard use, subject to the following conditions:
    1. That final plans showing location of signage, including some aesthetic design options, shall be submitted to the Riel Community Committee and the Director of Planning, Property and Development, for plan approval prior to the issuance of any building or development permits.
- Based on the Appeal Committee approval, the free-standing Digital Static Copy, Billboard use was established in 2018.

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 at the southwest corner of St. Mary's Road and Dakota Street in the Worthington Neighbourhood of the St. Vital Ward.
- The property is approximately 1.3 acres in area and contains a commercial building comprised of a hotel and a number of other commercial uses.
- The site is located along a Regional Mixed Use Corridor (St. Mary's Road) under the *Complete Communities Direction Strategy* and is zoned "C3" Commercial Corridor.

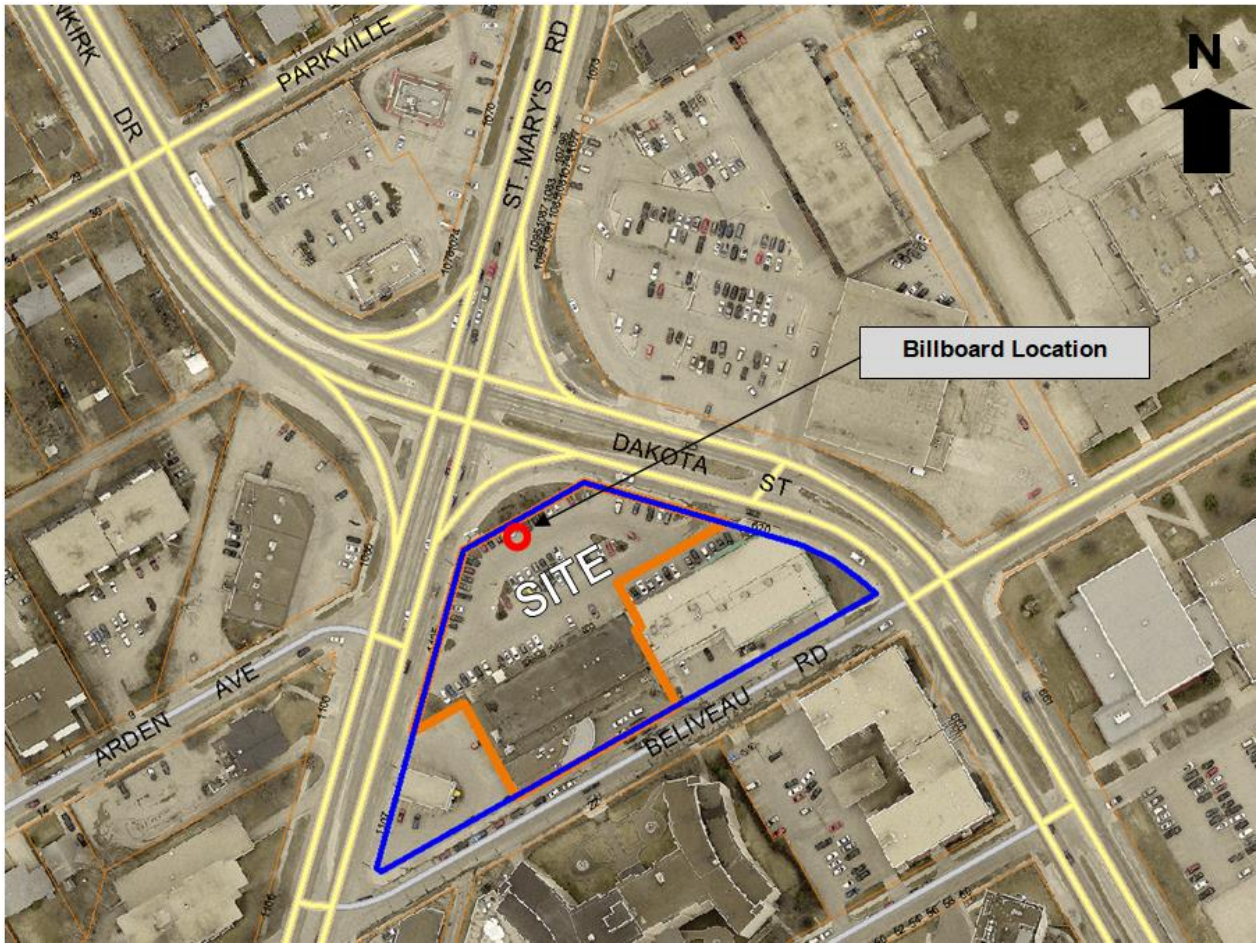


Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: The intersection of Dakota Street and St. Mary' Road; then commercial uses zoned "C2" Commercial Community and "C1" Commercial Neighbourhood.

South: Beliveau Road; then multi-family residential uses zoned "RMF-L" Residential Multi-family Large.

East: Dakota Street; then commercial uses zoned "C3" Commercial Corridor and two schools zoned "R1-M" Residential Single Family (Medium).

West: St. Mary's Road; then commercial uses zoned "C2" Commercial Community and multi-family residential uses zoned "RMF-L" Residential Multi-family Large.

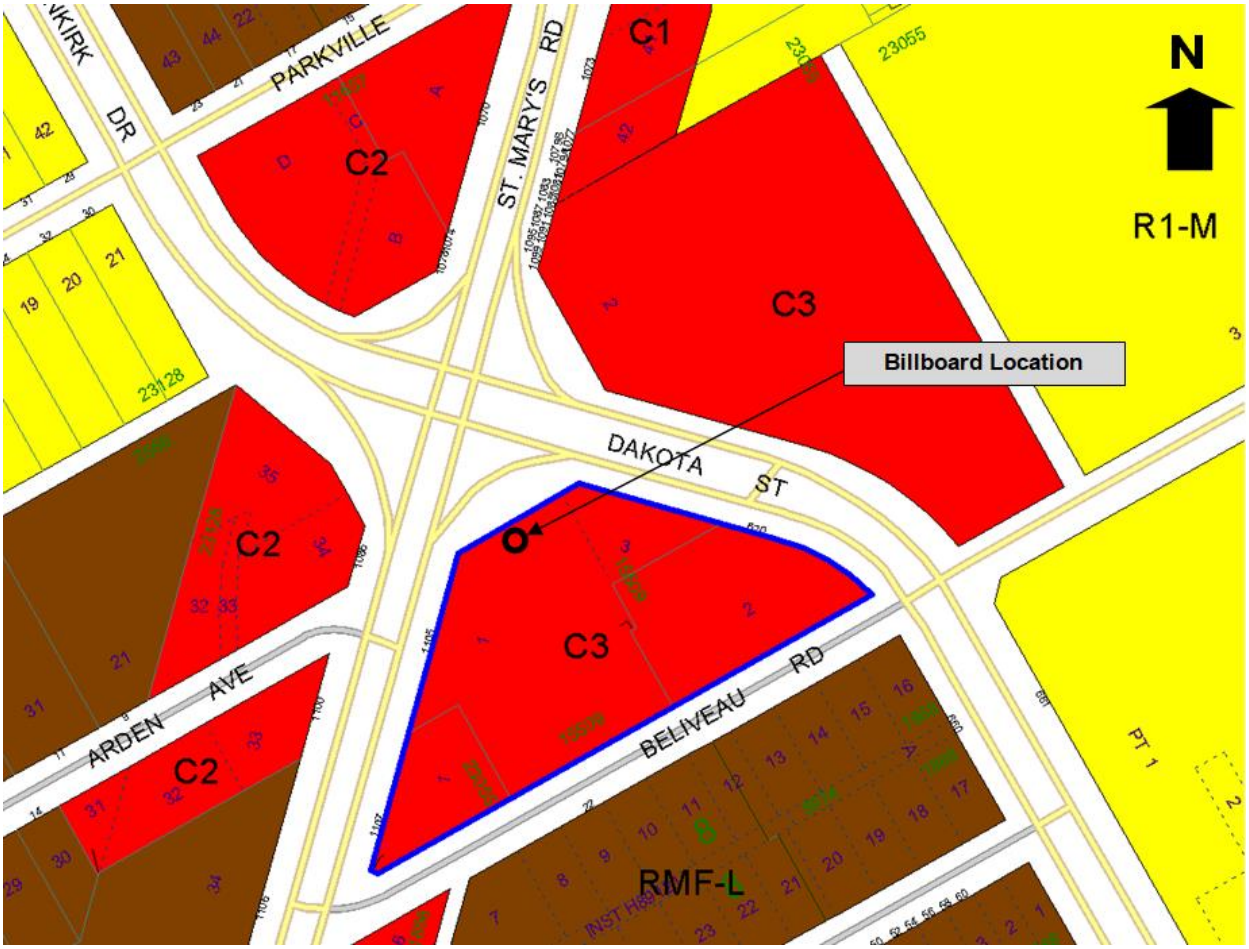


Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The proposal is to expand the existing 20.45 foot high illuminated digital-static copy billboard sign located on the subject site with the addition of a screen on the south side of the structure.
- The proposed digital static copy face of the illuminated billboard will face south-southwest, and combined with the existing face will provide a total sign surface area of 400 square feet.
- The applicant has applied for an associated variance to permit a sign surface area of 400 square feet instead of 200 square feet (DAV 19-219915/C).

COLLABORATION

- The applicant contacted the public service to indicate that the area Councillor has requested that the rear of the subject billboard use be covered to conceal wiring and hardware, and to seek support of the application. The Public Service indicated that while the applicant's effort is appreciated, we maintain that the subject site is not a suitable location for existing use or for its expansion.
- The ward Councillor confirmed that he expressed interest in covering the rear of the billboard, however stated that an additional sign face was not the intent, and that the wires and hardware could be covered with a panel.

ANALYSIS AND ISSUES

OURWINNIPEG and COMPLETE COMMUNITIES DIRECTION STRATEGY

- *OurWinnipeg* is the City's development plan and *Complete Communities* is a "Direction Strategy" of OurWinnipeg that provides additional directions and policies on land use and development in the city.
- Under *OurWinnipeg* and *Complete Communities* the proposed development is located along a Regional Mixed-Use Corridor (St. Mary's Road).
- With respect to all Centres and Corridors, the Key Direction in *OurWinnipeg* states:

1. Section 01A, City That Works, Centres and Corridors

Key Direction: Focus a significant share of growth to centres and corridors in a manner that … provides … high quality urban development … and encourages a built form that supports a pedestrian-friendly environment.

- Key relevant policies guiding development along Corridors under *Complete Communities* include:

1. Section 03(2), Transformative Areas - Centres and Corridors

Vision: Centres and Corridors will be vibrant, pedestrian friendly districts.

Key Direction: Focus a significant share of growth to centres and corridors in a manner that … provides … high quality urban development … and encourages a built form that supports a pedestrian-friendly environment.

Supporting Direction and Enabling Strategies:

- Mitigate the potential impacts of new development on neighbouring streets, parks and properties.
- 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.
- 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.

2. *Section 12, Urban Design:*

Key Direction: Respond to Winnipeg's dynamic urban character and create a legacy of high quality public and private places to ensure its competitive position as a functional, livable and memorable city.

Supporting Direction and Enabling Strategies:

- Promote the design of a livable and beautiful city.
- Where appropriate, respond positively to context, especially to buildings, landscapes, cultural heritage, and heritage districts.

- Consider the comfort, convenience, safety and visual interest of streetscapes, recognizing that streets are places where people gather.
- Use planning tools to establish high quality design standards for signage.
- Promote entranceways and gateways at major entry points to the city, Downtown and communities by using distinctive urban design features, lighting, enhanced vegetation, landscaping and public art.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

- The subject site is zoned "C3" Commercial Corridor. The Commercial Corridor (C3) district is intended primarily for uses that provide commercial goods and services to residents of the community in areas that are dependent on automobile access and exposed to heavy automobile traffic, but not including regional shopping malls or regional shopping areas. These commercial uses are subject to frequent view by the public and visitors to Winnipeg, and they should provide an attractive appearance with landscaping, sufficient parking, and controlled traffic movement. C3 districts are generally located in Community or Regional mixed use corridors or along Community or Regional mixed use corridors.
- In the "C3" zoning district "billboard, digital static copy" signs may be allowed as a conditional use with use specific standards.
    - "billboard, digital static copy" means a sign or billboard capable of changing the message or copy on the sign electronically, where all the sign copy is fixed for a set period of time, and which directs attention to a business, commodity, service, thing, message, or entertainment conducted, sold, or offered elsewhere than upon the same zoning lot on which that sign is located.
- Use specific standards for all billboard signs are as follows:
    - Maximum height is 30 feet;
    - Maximum Sign Surface Area is 200 square feet.
    - Must be 250 ft. from a park, plaza, square, playground/top of riverbank, unless billboard sign is not visible from such use.
    - Must fall outside 500 ft. of another billboard sign facing the same direction on the same street.
    - Must not face residential uses.

ANALYSIS OF CONDITIONAL USE

- Certain uses in the Zoning By-law 200/06 are deemed conditional as they may or may not be appropriate for the particular context considered. As such, conditional uses require a higher level of planning review and analysis to determine suitability.
- As a conditional use within the subject zoning district, the suitability of the proposed billboard within its context must always be considered. The Division may or may not determine a Billboard to be complementary to its context due to factors including alignment

with policies that guide growth and change for a corridor or area, applicable design guidelines, etc.

- The subject application proposes an increase in the intensity of a billboard use established in 2018. As earlier outlined, in 2017 the Board of Adjustment concurred in the recommendation of the Winnipeg Public Service and rejected the application for a Conditional Use under File DCU 156972/2017C for the establishment of a Digital Static Copy, Billboard use. On January 26, 2018, the Appeal Committee allowed the appeal, and did not concur in the decision of the Board of Adjustment and approved the Conditional Use. The Public Service maintains its position that the subject site is not a suitable location for a Digital Static Copy, Billboard use.
- The vision that City Council has endorsed for all Corridors – whether they are Regional, Community, or Neighbourhood scale – is that planning and zoning decisions are to be made with respect to supporting their transition toward pedestrian friendly environments.
- The location of the 20.45 foot tall Digital Static Copy Billboard sign is on St. Mary's Road, a Regional Mixed-Use Corridor as defined in Complete Communities. For sites on Regional Mixed-Use Corridors, the Urban Planning Division aims to focus higher intensity and quality development as part of the City's long term growth Strategy.
- As large third party advertising venues are designed to attract attention from passing motorists (through their greater size, height and positioning), Billboards are inherently in opposition to the qualities that define and support a pedestrian friendly urban environment and the policies adopted by City Council with respect to Regional Mixed-Use Corridors under Complete Communities.
- St. Mary's Road at Dakota Street is a high-volume intersection with complicated geometry and alignment. While the subject billboard may not fall within the traffic decision-making area, this together with the pedestrian and transit use of this intersection should be considered.
- A pre-existing 38.5 feet high use identification sign containing seven (7) separate sections, including one digital panel is located on the subject property at 1105 St. Mary's Road directly west of the billboard location. The existing built form along intersection of St. Mary's Road and Dakota Street includes several existing use identification signs on the both sides of the street (see Figures 3 and 4).

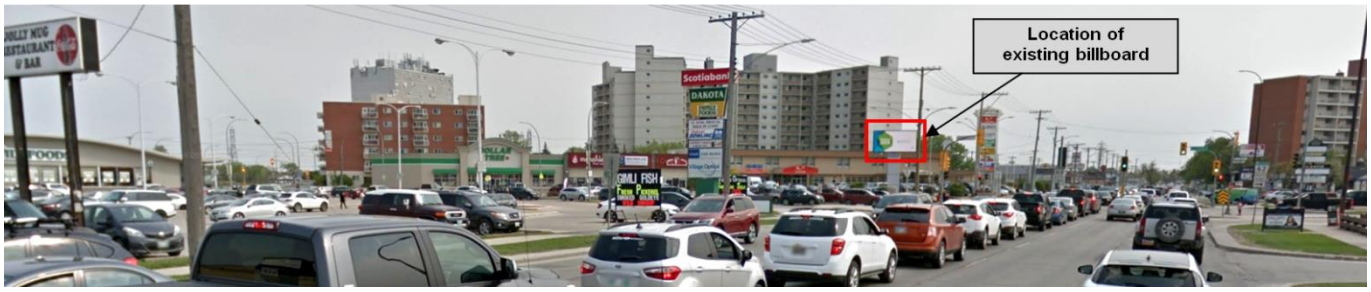


Figure 3: Proposed Billboard Location and Adjacent Signage Street View (Google Earth, 2018)



Figure 3: Location of Billboard and Proposed Expansion (Google Earth, 2018)

- At 1077 St. Mary's Road, the property directly north of the subject property, is an existing double-sided illuminated use identification electronic message centre sign, approximately 270 feet north of the applicant's billboard location.
- The subject billboard is has the digital static copy sign facing the same direction towards southbound traffic as the existing use identification sign on the subject site as well as the existing use identification sign immediately north of the subject property at 1077 St. Mary's Road. The greater size and massing of the digital static copy face of the proposed billboard is designed to attract attention from passing motorists, and would not help facilitate the transition of this area towards a built form that supports a pedestrian-friendly environment.
- Note that this third party advertising is increases the visual competition with use identification signs for local businesses on the site and in immediate proximity. As shown in Figures 4 and 5, the addition of the proposed billboard would further intensify the concentration of three sign structures at the intersection of St. Mary's Road and Dakota Street, and on the subject property.
- It is noted that in close proximity to the subject property there are existing residential multi-family buildings with windows facing towards the rear of the proposed sign (235 units at 22 Beliveau Road, 94 units at 660 Dakota Street, and 68 units at 1106 St. Mary's Road). In addition, the proposed sign is located approximately in close proximity to Victor Mager School (grades K-8) and Dakota Collegiate (grades 9-12). Within the context of *Complete Communities,* the visual impact on these adjacent uses should be noted and considered. In addition, the increased prominence of the billboard use directed at drivers, together with the existing signs, would contribute to a more cluttered visual environment potentially compromising pedestrian safety.
- Over the past several decades, urban design along such corridors as St. Mary's Road (south of St. Vital Road) has taken on an increasingly auto-oriented look and feel due to a strong presence of large billboard and use identification signs designed primarily to attract attention from passing motorists. However, the context of the proposed billboard use expansion should be noted: this portion of St. Mary's Road near Dakota Street is well serviced by transit, and is characterized by a mix of amenities, services and housing types and draws a significant number of pedestrians.

- Electronic message centres are designed to attract attention from passing motorists, and not to contribute to the safety or visual interest of streetscapes or help transition a street to a safe and comfortable place.
- The intent of Complete Communities is to ensure that new development along Regional-Mixed Use corridors, such as St. Mary's Road, contains urban design features that will help transition these areas into safe, accessible and attractive places for pedestrians.
- The proposed expansion of the Billboard use in this location does not does it fit within the *Complete Communities* vision of supporting the viability of existing commercial strip, nor does it support the intent of contributing to a vibrant and complete community, and enhancing connectivity and an active street presence.
- After review, the proposal:
    - Does not contribute toward the transition of the St. Mary's Road Regional Mixed Use Corridor towards a vibrant and pedestrian-friendly corridor;
    - Does not support or promote a safe and high-quality streetscape that is connected to the community.
- As such, the Urban Planning Division recommends **rejection** of the conditional use application due to the proposal's incongruence with *Our Winnipeg* Section 01A and *Complete Communities* Section 03(2), and with *Complete Communities* Section 12.

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, OurWinnipeg *and* Complete Communities *envision Regional Mixed Use Corridors to transition to vibrant, urban destinations. As large third party advertising venues designed (through their greater size, height and positioning) to attract attention from passing motorists, Billboard signs are inherently in opposition to the qualities that define and support a pedestrian friendly urban environment. The proposal is inconsistent with OurWinnipeg Section 01A, and Complete Communities Sections 03(2) and 12.*

(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, it affects the viability of the existing commercial strip by detracting from the exiting use-identification signs, and it contributes to distracted driving, potentially compromising safety in an area characterized by pedestrians and high transit use.

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

In that, the proposed billboard is located along the St. Mary's Road Regional mixed Use Corridor and does not support the ability of this portion of St. Mary's Road to transition to a vibrant, pedestrian-friendly corridor.

CONSULTATION

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

OURWINNIPEG POLICY ALIGNMENT

1. Section 01A, City That Works, Centres and Corridors

Key Direction: Focus a significant share of growth to centres and corridors in a manner that … provides … high quality urban development … and encourages a built form that supports a pedestrian-friendly environment.

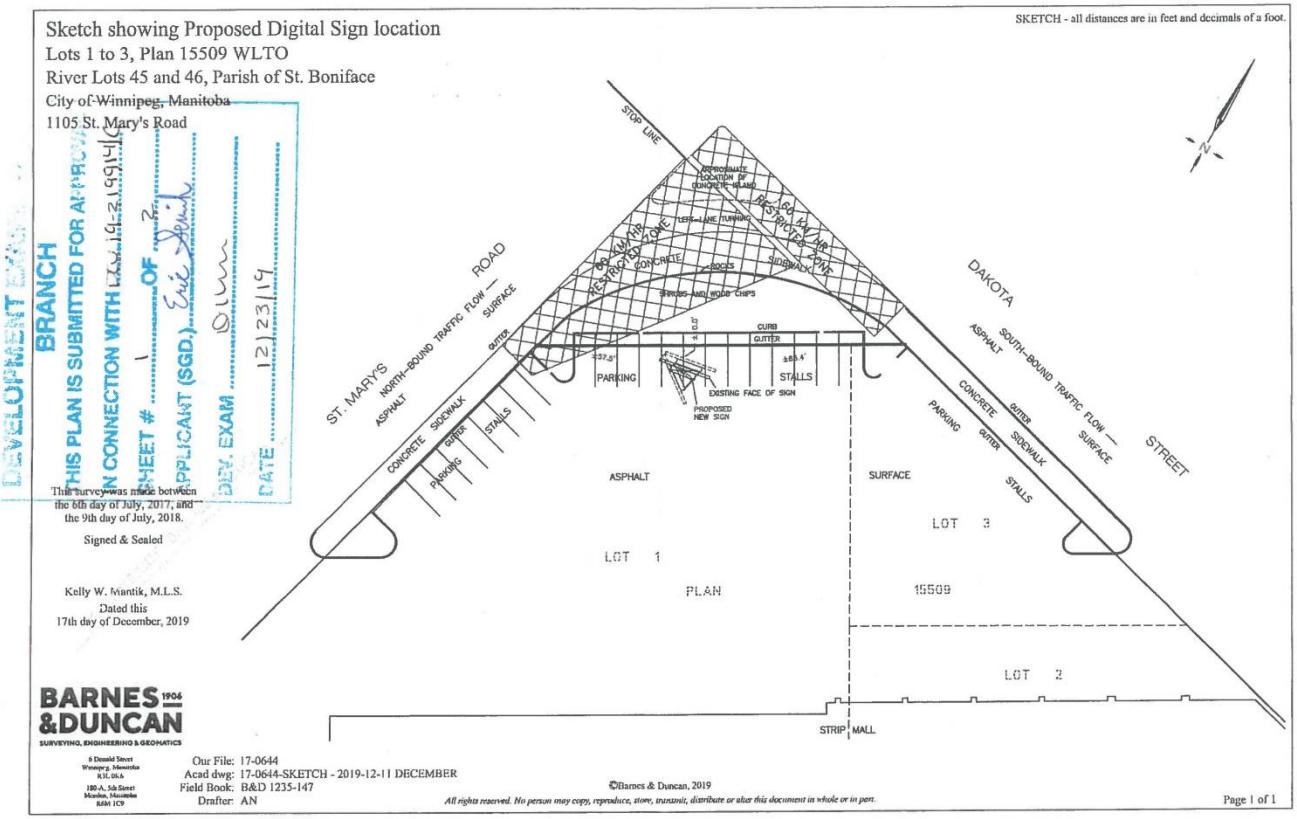
WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	Simi Jerez
Date:	Monday, January 27, 2020
File No.	DCU 19-219914\C

Exhibit “6” referred to in File DCU 219914/2019C



Same photo with rendering of proposed backside face oriented towards Northbound St Mary's Road motorists



DEVELOPMENT EXAMINER
BRANCH
THIS PLAN IS SUBMITTED FOR APP
IN CONNECTION WITH DEV. 19-219914/C
SHEET # 2 OF 2
APPLICANT (SGD.) Eric Lemke
DEV. EXAM
DATE 12/23/19

PATTISON

PROPOSED BACKSIDE ADDITION TO 10' X 20' BILLBOARD, DIGITAL STATIC COPY
1105 St Mary's Road
Winnipeg, Manitoba