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Date November 1, 2023 **Report No.** 2023-641

To Chair and Members
City of Brantford Committee of Adjustment

From Sarah Hague
Intermediate Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Minor Variance

2.0 Topic

Application No.	A34/2023
Agent	Arcadis c/o Odete Gomes
Owner/Applicant	2518300 Ontario Inc.
Location	113 King George Road

3.0 Recommendation

- A. THAT application A34/2023 seeking relief from Section 478.14.11 of Chapter 478 of the Municipal Code to permit 3 billboard signs on one lot, whereas a maximum of 2 billboard signs are permitted, BE REFUSED;
- B. THAT the reason(s) for refusal of the minor variance to Section 478.14.11 is that the relief requested is not desirable for the appropriate development and use of the subject lands;

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- C. THAT application A34/2023 seeking relief from Section 478.4.12 to permit the flashing illumination of a sign within 31 m of a residential zone whereas 40 m is required, BE APPROVED;
 - D. THAT the reason(s) for approval of the minor variance to Section 478.4.12 is as follows: the proposed variance is in keeping with the general intent of the Official Plan, Zoning By-law, and Chapter 478 of the Municipal Code, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands; and,
 - E. THAT pursuant to Section 45(8) – (8.2) of the Planning Act, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-641.”

4.0 Purpose and Description of Application

A Minor Variance application has been received for the lands municipally addressed as 113 King George Road. The subject lands currently house a Dairy Queen restaurant and recently received Site Plan Approval for a 2-sided Billboard to be located above the existing building. Since receiving approval, the applicant has decided to add a third billboard sign (indicated to be either digital or static on the application form but shown as static on the Engineer’s elevation drawings), proposed to face west. After receiving the application, but prior to this report being written, the billboards were installed on site, following the issuance of a building permit. While the third face of the sign was installed along with the 2 sign faces that were approved through Site Plan Control, both the approved Site Plan drawings and the approved Building Permit drawings note that no signage is permitted on the 3rd (west-facing) sign. This Minor Variance application has been submitted to permit signage on that 3rd sign face. If approved, the site plan file will require an update to the approval.

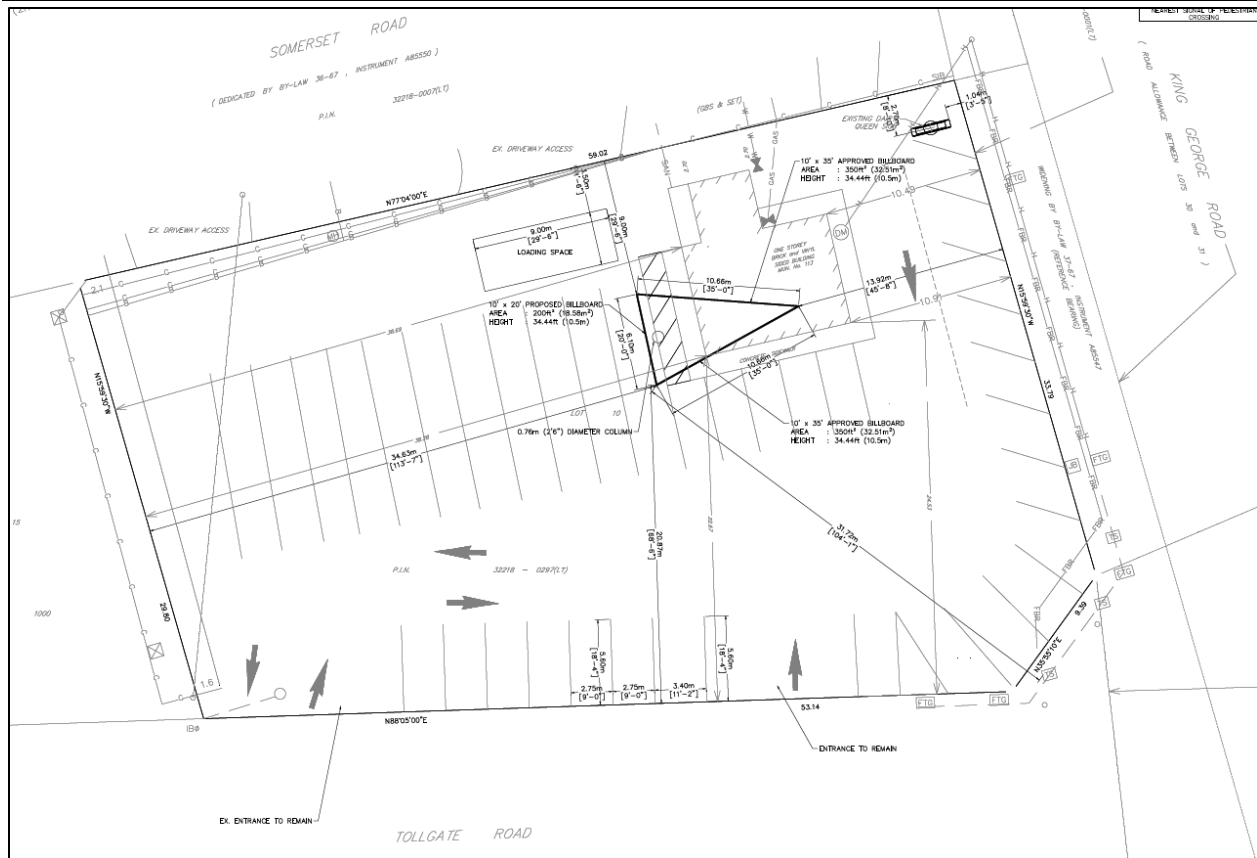


Figure 1 - Site Plan

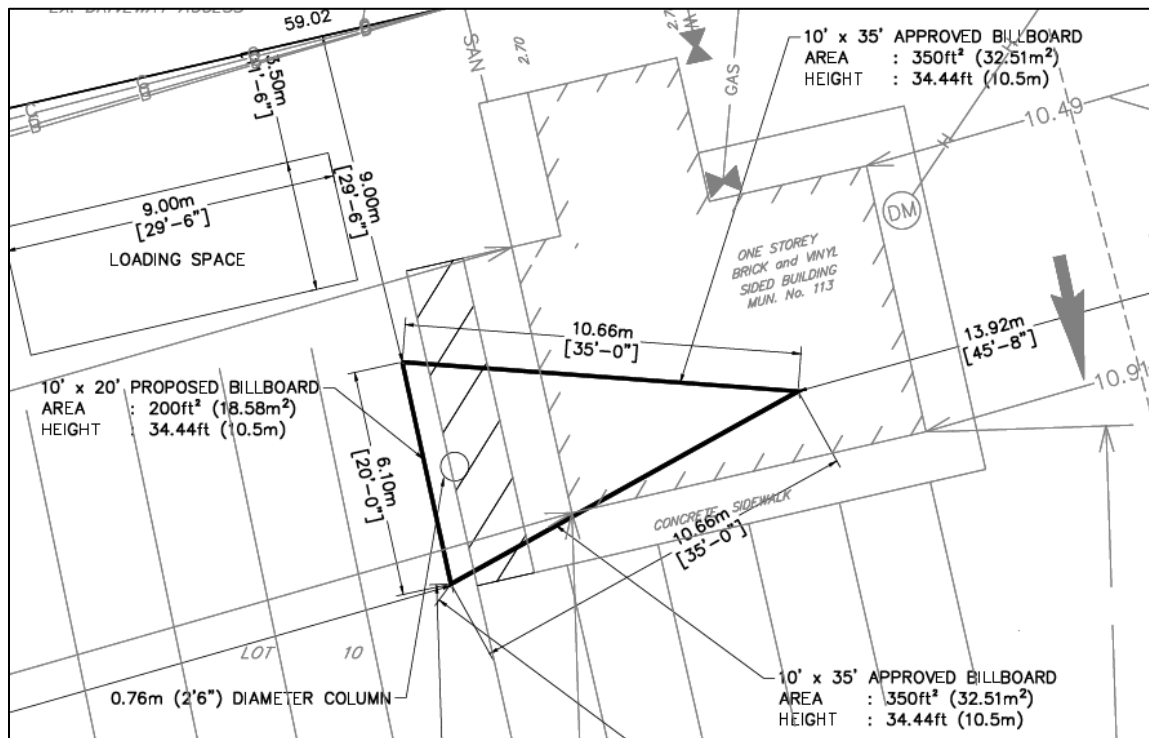


Figure 2 - Detailed Layout of Billboards on Site Plan

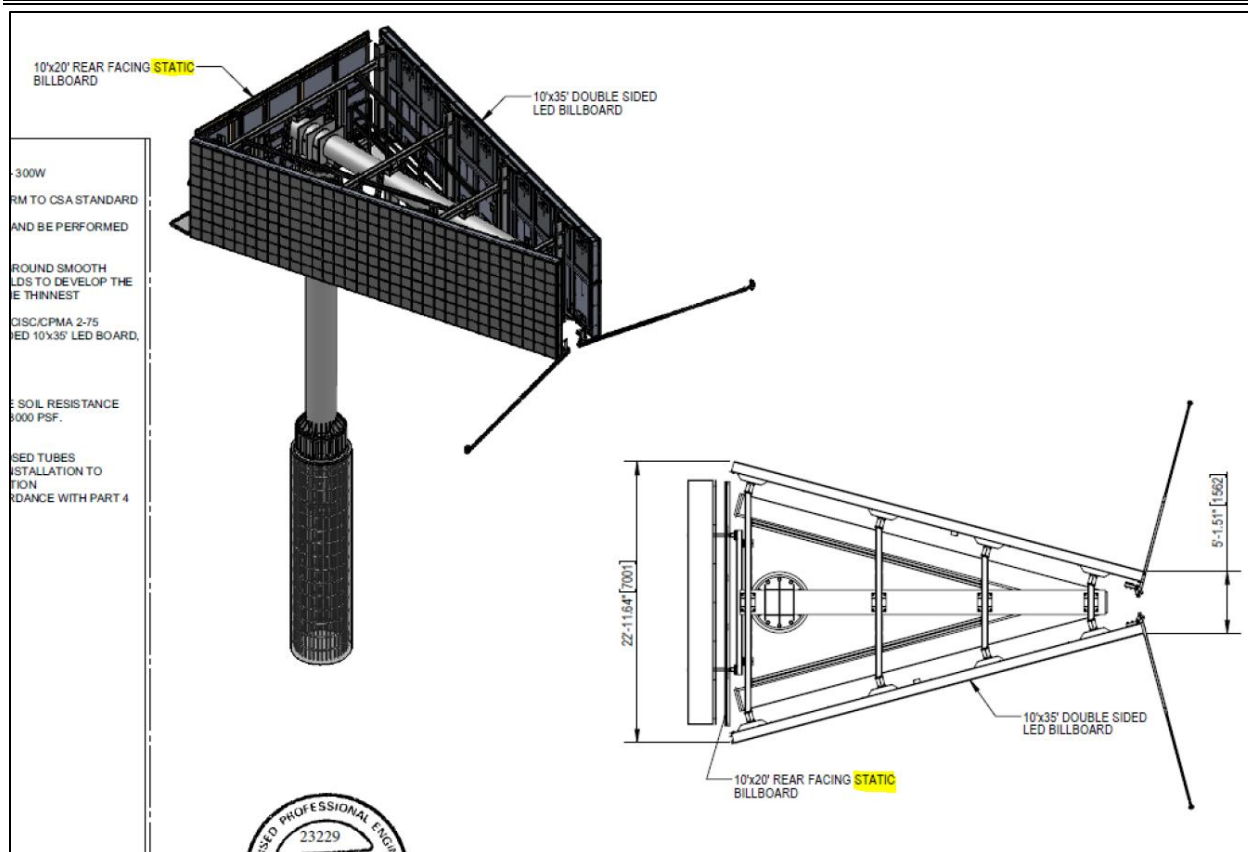


Figure 3 - Sign Elevations

To facilitate the third sign and increase functionality of the existing signs, the applicant is requesting relief from the following sections of Chapter 478 of the Municipal Code (the Sign By-law):

Table 1 - Requested Relief from Chapter 478 of the Municipal Code

Regulation	By-law Section	Required	Proposed	Relief Requested
Minimum distance for flashing illumination from residential zone	478.4.12	40 m	31 m	9 m
Maximum number of signs on a lot	478.14.11	A maximum of 2 side by side billboard signs or 1 double-sided billboard sign	A 3-sided billboard sign	1 sign face

5.0 Site Features

The subject lands are located north of Highway 403, bounded by Somerset Road to the north, Tollgate Road to the southwest, and King George Road to the east. The lands have an area of approximately 2,000 m² and are occupied by a Dairy Queen. The subject lands are surrounded by a range of low density residential uses, open space, and commercial uses. The property immediately to the south has a 2-storey apartment building with 24 units, the property directly behind the subject lands (where the proposed sign will face) is Dunsdon Park, a small, 0.3 acre open space block, the property to the northwest is a 35 unit condominium development of block townhouses, there are single detached dwellings to the north east and commercial properties to the north and east. An aerial photo, location map, and site photographs are included below.



Figure 4 - Aerial Photo

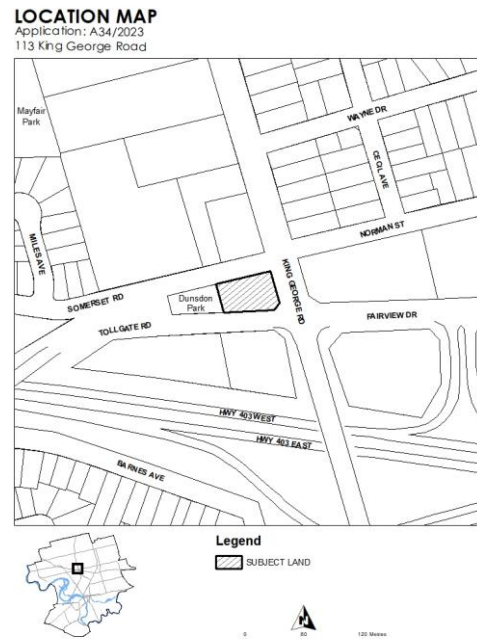


Figure 5 - Location Map



Figure 6 - View of the frontage of the property along King George Road.



Figure 7 - View of the south-facing side from the residential property to the south.

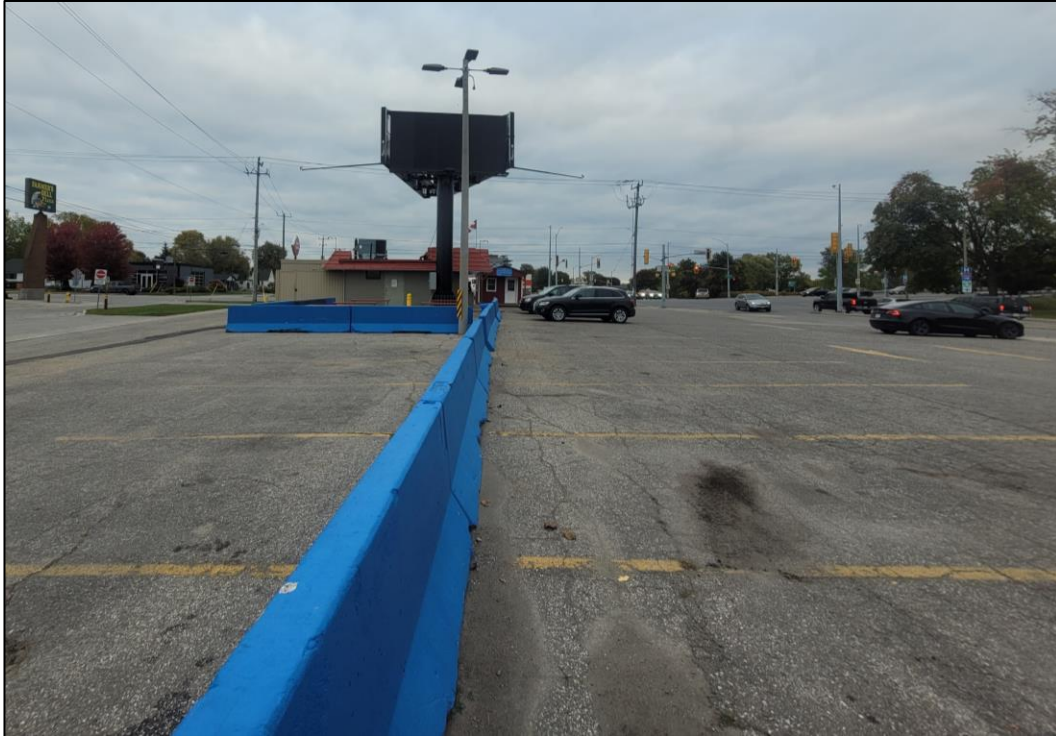


Figure 8 - View of the third sign face (west-facing).



Figure 9 - View of the west- and north-facing sign, showing proximity to residential dwelling to the south

6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all applicable departments and agencies. A summary of the comments/conditions is provided below:

Table 2 - Department and Agency Comments

Agency Name	Agency Comment
Building Department	A building permit from this office will be required for alterations, adding a third sign face, to the existing designated structure (billboard sign). Prior to this building permit being issued, an amendment for SPC-05-2022 to permit the additional sign face is required.
Environmental Services	I have reviewed this application and have no objections on behalf of Environmental services. The following comments are for the applicant's information only.
	City records indicate the subject property is currently serviced by a 25 mm copper lateral from the 300 mm PVC watermain in Somerset Rd; this service lateral appears to be located 8.35 m Left of the Left side of the existing dwelling and the curb stop 6.4 m Out from same
	Under Bill 151, Waste Free Ontario Act (WFOA) and "Food and Organic Waste Framework in Ontario", Part B, Waste Policy Statement, new requirements have been established for the future management of food and organic waste materials for residential and commercial locations. The proposed development shall comply will all future requirements of the Provincial Waste Policy Statement;
	The City of Brantford does not collect Commercial, Industrial or Institutional waste materials. The owner must utilize Private Collection services (at property owner's expense) to manage waste material collection;
	The developer or property owner is responsible for the management of all waste and recyclables materials during construction.
Development Engineering	No comments
Landscaping	No comments
Source Water Protection	No requirements
Transportation	No comments
Canada Post	No comments
County of Brant	No comments

6.2 Public Response

Notice of public hearing was issued by personal mail (45 notices) and by posting a sign on-site. A plan illustrating the notification area is included below. At the date of the preparation of this Report, Staff have received one email from a member of the public, who was opposed to the application (included below), and one phone call regarding the application. Staff advised the resident about what constitutes “flashing”, as per the Municipal Code, and shared that the billboards would need to comply with Section 478.4.10 of the Municipal Code, in that all illuminated signs which are visible from within habitable living space within a dwelling in a residential zone need to be extinguished between the hours of 11:00 P.M. and 7:00 A.M.

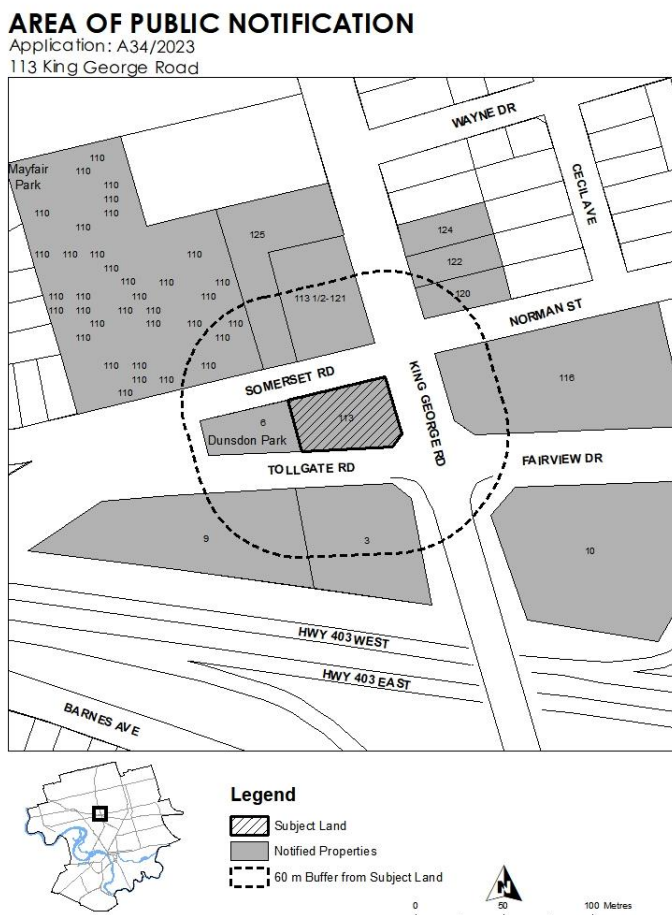


Figure 10 - Area of Public Notification

I do not remember ever receiving a notice about the application for the site plan approval of the sign in question.
I believe the approval of this sign in its location was a bad decision.
I'm just amazed that the city would even consider this 'new' variance request.
Not only will this sign shine directly into the front windows of some of the homes at 110 Somerset Road, but the general light level in the area of these homes is going to be drastically increased. This, along with the flashing of this sign, will affect the quality of life for those residences.
I urge you not to allow this variance.
Should you not see fit to do the right thing and turn this application down please, at least, require the sign to be dimmed between sundown and sunrise.
Sincerely,
Gerald Martin
110 Somerset Road

Figure 11 - Letter of Opposition Received from a Neighbour

7.0 Planning Staff Comments and Conclusion

7.1 Policy Context

This application was reviewed in the context of the Provincial Policy Statement, the Growth Plan, the Official Plan and the Zoning By-law. A summary is provided in the table below:

Table 3 - Policy Context and Conformity

Document	Relevant Policy	Conformity
Provincial Policy Statement (PPS) (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan)	These policies set the standard to which provincial and local interests, policies and goals are implemented. The PPS outlines that Ontario's long term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. The Growth Plan outlines the principals that provide the basis of guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested.	Planning Staff is of the opinion that the proposed minor variance application is consistent with the direction set out in the PPS and conforms to the Growth Plan.

Document	Relevant Policy	Conformity
City of Brantford Official Plan (Envisioning Our City: 2051)	The subject lands are designated “Intensification Corridor” in Schedule 3 of the City of Brantford’s Official Plan (Appendix A). The intent of this designation is to provide vibrant, pedestrian and transit oriented places inclusive of residential intensification, infill and redevelopment, and service commercial restaurants with attention to urban design.	The subject application seeks to maximize opportunities for 3 rd party advertising which is not prohibited by the Official Plan.
City of Brantford Zoning By-law 160-90	The subject lands are zoned “General Commercial Zone” (C8) in Zoning By-law 160-90 (Appendix B). The C8 Zone permits a broad range of commercial uses, including restaurants. The proposed variance seeks relief from Chapter 478 of the Municipal Code for a sign variance, and no relief is being sought from Zoning By-law 160-90.	The existing building is a permitted use and conforms to the Zoning By-law. Signs are not regulated by the Zoning By-law. The subject application conforms to the Zoning By-law.
Chapter 478 of the Municipal Code (Sign By-law)	Billboards are permitted in this area, as per Schedule A of Chapter 478 of the Municipal Code. Article 4 speaks to general requirements and Article 14 speaks specifically to billboard signs.	Aside from the requested variances, the 3 billboard signs are expected to meet all of provisions of Chapter 478 of the Municipal Code, including Section 478.4.10 which speaks to the hours a sign visible from a residential zone can be illuminated.

7.2 Planning Analysis

When evaluating the merits of a minor variance application, the Committee of Adjustment must be satisfied that the four tests of Section 45(1) of the *Planning Act* have been met. To be approved, a minor variance must be minor in nature, desirable for the appropriate development and use of the land, and the general intent and purpose of the Zoning By-law and Official Plan must be maintained. These tests are discussed for each of the requested variances in the below sections:

7.2.1 Variance from Section 478.4.12 (Flashing illumination from a residential zone)

Table 1 - Four Tests of a Minor Variance to Section 478.4.12

Four Tests	Discussion
1. That the requested variance is minor in nature	Flashing illumination is defined as signs, displays or lighting that is changed in not less than 8 second intervals and not more than 60 minute intervals.
	The existing and proposed signs are approximately 50 m from the nearest residential building, but the distance is measured to the extent of the zone boundary which is the centerline of the road.
	Relief from this provision of the by-law will permit the south-facing sign to change up to every 8 seconds, whereas otherwise it could not change more than once every 60 minutes.
	The signs meet the minimum distance from a residential zone (30 m), but the flashing illumination of signs requires a distance of 40 m.
	Staff are of the opinion that the impact of the digital sign's illumination on the dwelling units of the adjacent residential zone will be minor, as there is sufficient distance between the sign and residential dwelling units, so it is not expected to have a negative impact on neighbouring properties. Additionally, the signs will need to be extinguished between the hours at 11:00 P.M. and 7:00 A.M., as per Section 478.4.10.
2. That the intent and purpose of the Zoning By-law is maintained	The existing building is a permitted use and conforms to the Zoning By-law. Signs are not regulated by the Zoning By-law, and instead are regulated by the Municipal Code.
	The intent of this provision of the Municipal Code is to provide a minimum setback (40 m) between residential zones and flashing illumination from signs to ensure that there is no negative impact from the illumination of signage to the living areas of residential units within residential zones, and to maintain the character of the neighbourhood.
	As the nearest residential dwelling is approximately 50 m from the signs, Staff is of the opinion that the intent of this regulation is maintained.
3. That the general intent and purpose	The subject property is located in the "Intensification Corridor" designation, which is intended to encourage vibrant

Four Tests	Discussion
of the Official Plan is maintained	development and permits retail and service commercial uses including restaurants, which often use digital signs.
	The Official Plan does not specifically speak to billboards or signage so Staff is of the opinion that it maintains the general intent and purpose of the Official Plan.
4. That the variance is desirable for the appropriate development and use of the land, building or structure	The sign is located in an intensification corridor, along a major arterial road, which is a highly traversed area, where billboards are intended to be located.
	A billboard can help support local businesses and the economy, and the variance is required for the existing south-facing sign to change messages from frequently than once per hour.
	Staff are of the opinion that the requested variance is desirable for the appropriate development of the lands.

7.2.1 Variance from Section 478.14.11 (Number of signs on a lot)

Table 2 - Four Tests of a Minor Variance to Section 478.14.11

Four Tests	Discussion
1. That the requested variance is minor in nature	The By-law permits a maximum of 2 signs on any given lot, with a maximum size requirement of 44 m ² for each 450 m ² of lot area. Given the lot area of 2,070.7 m ² , the maximum permitted sign area for 2 signs would be 88 m ² . The proposed sign area of all 3 signs combined would be 83.6 m ² .
	Given that the proposed sized of all 3 sign faces is within the maximum size permitted for 2 signs, Staff is of the opinion that the addition of the third sign is minor in nature as it is not increasing the maximum permissible sign face area.
2. That the intent and purpose of the Zoning By-law is maintained	The existing building is a permitted use and conforms to the Zoning By-law. Signs are not regulated by the Zoning By-law, and instead are regulated by the Municipal Code.
	The intent of this provision of the Municipal Code is to ensure that billboards to not overwhelm the site or the other use(s) operating on site, and for reasons of urban design.
	Given that the third is proposed behind the existing 2 billboards, and therefore no more than 2 signs would be visible at one time from any direction, Staff is of the opinion that the intent of the Municipal Code is maintained.

Four Tests	Discussion
3. That the general intent and purpose of the Official Plan is maintained	The subject property is located in the “Intensification Corridor” designation, which is intended to encourage vibrant development and permits retail and service commercial uses including restaurants. The Official Plan does not specifically speak to billboards or signage so Staff is of the opinion that it maintains the general intent and purpose of the official plan.
4. That the variance is desirable for the appropriate development and use of the land, building or structure	Desirability, in this regard, is considered from a planning and public interest perspective. While Staff would argue that a billboard can help support local businesses and the economy, the variance is specific to permitting the third billboard sign. Accordingly, the introduction of the third billboard sign would need to be considered desirable.
	There are many provisions in the Municipal Code which seek to limit signs near or facing sensitive uses such as residential properties and parks (Sections 478.14.13, 478.8.7, 478.4.18, 478.4.12, and 478.4.10). Additionally, while the existing double-sided billboard faces a major arterial road, the proposed third sign face would face a local road and a minor arterial road.
	Accordingly, Staff are of the opinion that a third billboard sign on this site, facing west towards residential and open space uses, is not desirable or in the public interest as there is no benefit to the community and it will likely result in negative impacts on the neighbouring residential properties in terms of the light being emitted in the direction of the residential dwellings and amenity areas.

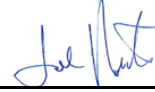
7.1 Conclusion

A site inspection was completed on October 17, 2023. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of 1 of the 2 requested variances regarding file A34/2023. The supported minor variance will permit the existing south-facing billboard sign to change more than once every 60 minutes, which is not expected to negatively impact the surrounding residential uses. For the reasons mentioned above, the Minor Variance from Section 478.4.12 of the Municipal Code satisfies the criteria of section 45(1) of the *Planning Act*, and Staff recommends that this variance be approved. However the variance from Section 478.14.11 for the third sign face, fails to satisfy all of the criteria, in that it is not desirable for the appropriate development and

use of the land, so Staff recommend that this requested variance be refused.



Prepared by: Sarah Hague
Intermediate Development Planner
Prepared on: October 26, 2023

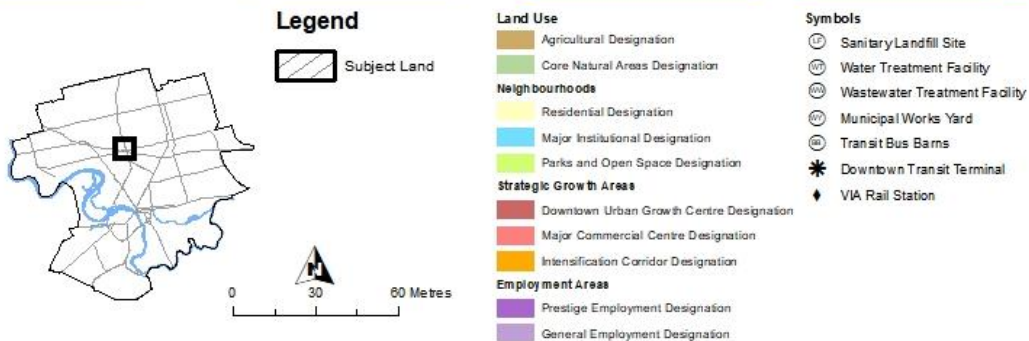
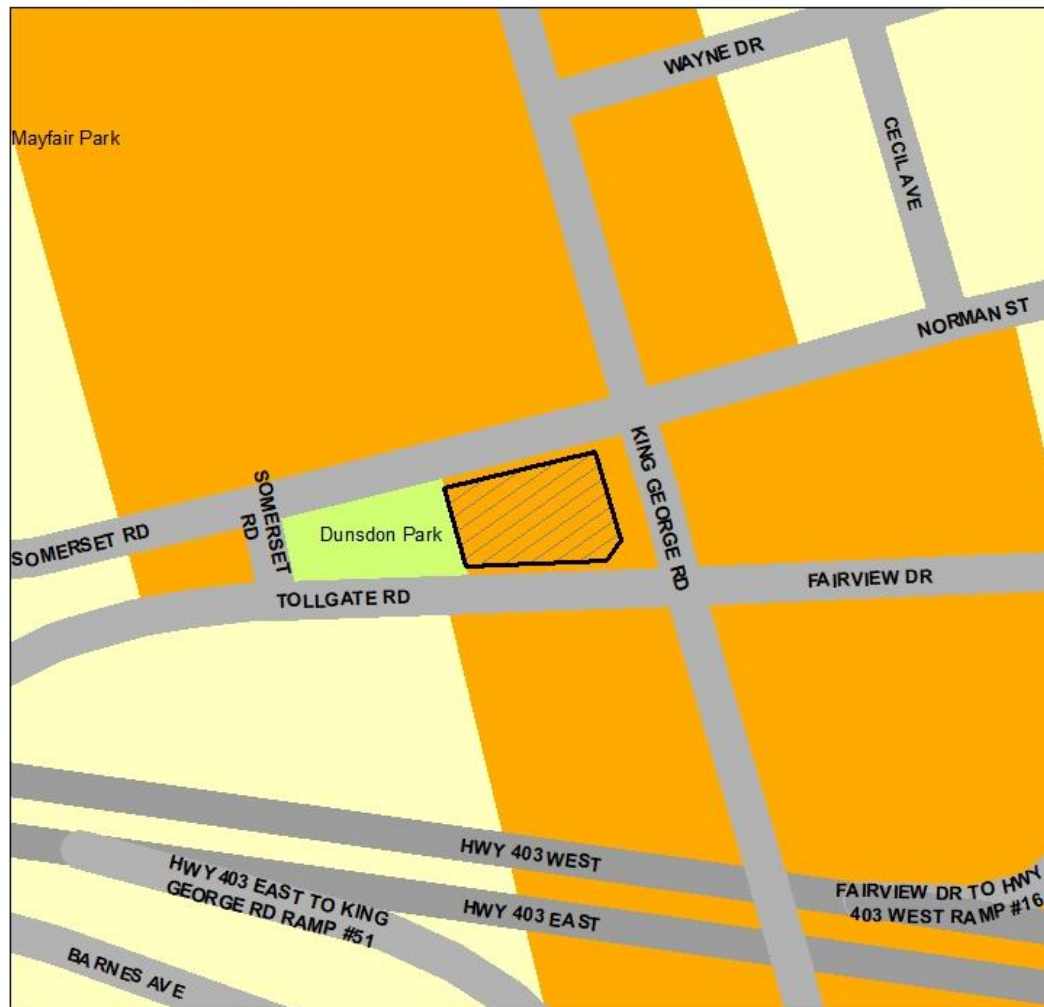


Reviewed By: Joe Muto, RPP, MCIP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A34/2023
113 King George Road



Appendix B – Zoning

ZONING

Application: A34/2023
113 King George Road



Legend

- Subject Land
- Zone Boundary



0 40 80 Metres

ZONING (Bylaw 160-90) and County of Brant(61-16)

- R1A Residential Type 1A (18 metre)
- R1B Residential Type 1B (15 metre)
- R4A Residential Medium Density Type A
- R4B Residential Medium Density Type B
- I1 Institutional Service
- C8 General Commercial
- OS1 Open Space Type 1
- # Exception Number