

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: June 17, 2024

SUBMITTED BY: Rosa Bustamante, Director of Planning and Housing Policy
519-741-2200 ext. 7319

PREPARED BY: Joanne McCallum, Coordinator of Planning and Zoning Services
519-741-2200 ext. 7075

WARD(S) INVOLVED: Ward 1

DATE OF REPORT: April 15, 2024

REPORT NO.: DSD-2024-204

SUBJECT: Sign Bylaw Amendment Application SVA2023-009
Address: 1495 Victoria Street North
Owner: Linda J. Reinhart (Zdeno Cycle)

RECOMMENDATION:

That Sign By-law Amendment Application SVA2023-009 related to 1495 Victoria Street North for Zdeno Cycle, for the purpose of allowing a billboard sign with automatic changing copy to replace the existing billboard sign without automatic changing copy, requesting the following relief from Section 680 of the Municipal Code (“Sign By-law”):

- A. Section 680.4.2 to allow a billboard sign in a Commercial zone, whereas the Sign By-law does not permit billboard signs in Commercial zones;
- B. Section 680.2.7 to allow a billboard sign to be located 135 metres from a residential zone, whereas the Sign By-law requires a minimum distance of 150 metres;
- C. Section 680.7.4 a) to allow a billboard sign to have a front yard setback of 2 metres and a side yard setback of 2.1 metres, whereas the Sign By-law requires billboard signs to comply with the yard requirements as set out in the applicable Zoning By-law being 6 metres for the front yard setback and 3 metres for the side yard setback;
- D. Section 680.7.4 c) to allow a billboard sign to have a maximum area of 20.24 square metres per sign face whereas the Sign By-law has a required maximum 20 square metres; and,
- E. Section 680.7.7 to allow a billboard sign to be located 215 metres from another billboard sign, whereas the Sign By-law requires a minimum of 300 metres from another billboard sign;

be refused.

REPORT HIGHLIGHTS:

- The purpose of this report is to make a recommendation on a Sign By-law Amendment application to allow for the replacement of an existing billboard sign at 1495 Victoria Street North with a digital copy billboard subject to site specific regulations. Staff are recommending refusal.
- It is Planning staff's opinion that the proposed billboard does not meet the intent of the Sign By-law, and more specifically, is not a permitted sign type in Commercial zones and will promote visual clutter as further described in this report.
- There are no financial implications to the City associated with this matter.
- Community engagement included circulation of the application to all property owners within 120 metres of the subject property.
- This report supports the delivery of core services.

BACKGROUND:

The Sign By-law regulates signs throughout the city. The intent of the Sign By-law is to:

- authorize the appropriate size, number and location of signs to the type of activity or use to which they pertain;
- provide reasonable and appropriate means for the public to locate and identify facilities, businesses and services without difficulty or confusion;
- be compatible with their surroundings;
- protect and enhance the aesthetic qualities and visual character of the city;
- be consistent with planning, urban design and heritage objectives;
- not create a distraction or safety hazard for the travelling public;
- minimize adverse impacts on nearby properties; and,
- provide businesses adequate and flexible means to identify themselves, while recognizing that the primary function of signage is to identify rather than advertise.

In 1995, Council directed staff to update the Sign By-law to introduce more restrictive regulations for billboard signs, resulting in the Sign By-law limiting billboard signs to industrial / employment zones.

A sign variance application was received on December 5, 2023, for the subject property to propose replacing the existing billboard sign containing four panels with a new digital double-sided billboard. In the initial application, the double-sided billboard sign was proposed to be 27.8 square metres of sign area per panel. The application was evaluated by staff, and it was determined that due to the extent of variances requested, along with the fact that billboard signs are not a permitted sign type in a Commercial zone, the request goes beyond the scope of a staff-delegated variance and should be brought to Council as a Sign By-law Amendment. An amended application was received on March 28, 2024, with a reduced sign area as discussed in this report.

REPORT:

The subject Sign By-law amendment application for 1495 Victoria Street North proposes replacing the existing four-sided static billboard sign with a new double-sided digital billboard sign. The digital portion of a sign is referred to as automatic changing copy in the Sign By-law. The sign area for each of the four faces of the existing billboard sign is approximately 18.9 square metres for a total sign area of approximately 75.6 square metres. The initial application proposed a replacement of the four-sided billboard sign with a double-sided fully digital billboard sign, with a sign area for each side of 27.8 square metres, for a total sign

area of 55.6 square metres. The application was subsequently amended when staff notified the applicant that a sign by-law amendment would be required with a reduced sign area from 27.8 square metres per panel to 20.24 square metres per panel.

The application is requesting relief from the Sign By-law to:

- allow a new billboard sign to be erected in a zone that does not permit billboard signs,
- allow a billboard sign to be located 135 metres from a residential zone instead of the required minimum 150 metres,
- allow a billboard sign to have a front yard setback of 2 metres and a side yard setback of 2.1 metres instead of the required minimum 6 metres and 3 metres, respectively,
- allow a billboard sign to have a maximum sign area of 20.24 square metres instead of the required maximum 20 square metres, and
- allow a billboard sign to be located 215 metres from another billboard sign, instead of the required minimum 300 metres.

The images in Figure 1 illustrate the existing billboard sign on the left and the proposed digital billboard sign on the right, looking west along Victoria Street North. An aerial image in Figure 2 shows the location of the proposed billboard and its proximity to Victoria Street.



Figure 1: Existing and Proposed billboard sign (from Planning Justification Report in Attachment A)

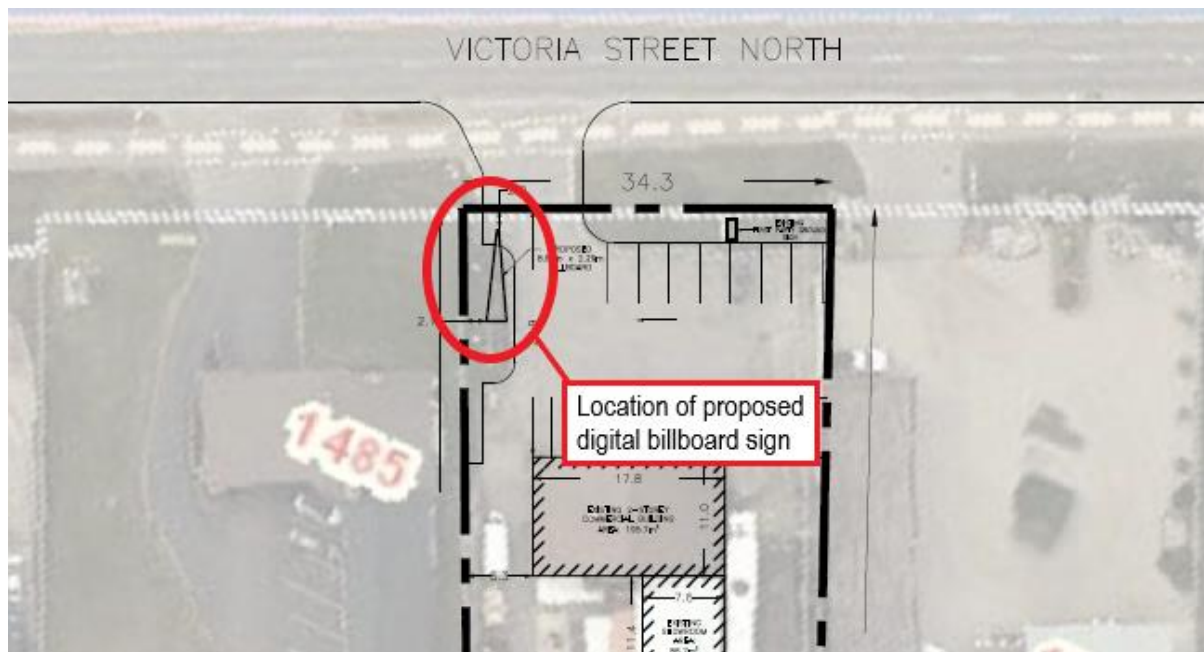


Figure 2: Aerial image showing location of proposed billboard sign (from Planning Justification Report in Attachment A)

Applicable Regulations and Planning Analysis

Official Plan

Kitchener's Official Plan identifies the lands as situated in an Arterial Corridor in the City's Urban Structure and designated Commercial. Arterial corridors are located along arterial streets in locations that have historically developed with a range of auto-oriented and service commercial uses. The planned function for Arterial Corridors is to provide a limited range of service commercial uses intended to serve those traveling, predominantly by automobile, with a limited range of land-extensive retail uses that require outdoor storage or sales.

Commercial Designation

Commercial designations are intended for areas that serve primarily a commercial function. The objectives for lands designated for commercial use are:

- to plan for a sufficient supply and range of commercial goods and services,
- to encourage intensification and redevelopment of existing commercial lands,
- to retain a viable commercial presence by protecting, improving, and providing flexibility for existing commercial developments.

Urban Design

The City of Kitchener is committed to achieving a high standard of urban design, architecture, and place-making to positively contribute to quality of life, environmental viability, and economic vitality.

Official Plan policy 11.C.1.11 states that the City will support the character of streets through the coordination of site, building and landscape design on and between individual sites with the design of the street. The intent of this policy is to ensure the streetscape is visually attractive, while being safe and functional. Arterial corridors are evolving through the integration of multi-use trails that support active transportation.

Non-Conforming and Non-Complying Uses

The City recognizes that as policies and regulations change, there are instances of non-conforming or non-complying uses. Where desirable, the non-conforming use may continue to exist where it is tolerable and/or compatible with surrounding lands. Uses that do not conform with the goals, objectives, or policies of the Official Plan, nor with the surrounding lands, may be desirable to cease to exist.

Official Plan policy 17.E.21.1 states that any structure that was in existence prior to the approval of the Zoning By-law and continues to be used for such purpose will be recognized and be considered legal non-conforming. If such legal non-conforming use ceases, then the rights derived from such uses will terminate. Official Plan policy 17.E.21.4 states that it is the intention and expectation that legal non-conforming uses, buildings and/or structures will eventually cease and be replaced by uses, buildings and/or structures that conform with the intent of the Official Plan and comply with the Zoning By-law. While the policy does not identify the Sign By-law, it reflects the Official Plan policy intent that non-conforming structures will eventually be phased out over time.

Urban Design Manual

City-wide guidelines in the Urban Design Manual which pertain to signs include avoiding visual clutter, while allowing for a variety of different media, font styles, colours, and design

inspirations; and, locating ground supported signs to complement the character and scale of the area to promote an active, pedestrian-friendly environment. All signs should be integrated into the landscape design and architectural expression of buildings.

Corridor guidelines include:

- creating a safe, comfortable and attractive streetscape and pedestrian environment that emphasizes walking, cycling and transit;
- promoting development patterns that allow for high-quality future intensification;
- integrating all signs into the landscape design and architecture of the site;
- ensuring signs are consistent in scale and character, but are not identical;
- ensuring signs do not dominate other site elements, particularly the public realm and on-site shared spaces.

Arterial guidelines state that all signs should be integrated with the building and landscape design.

Low-rise commercial and mixed-use building guidelines state that back-lit sign boxes, billboards, free-standing signs and roof signs should be avoided.

Zoning By-law

The subject property is in the section of Victoria Street North that is zoned Commercial Zone 3 – Arterial Commercial generally located between Lackner Boulevard and Centennial Road. The purpose of this zone is to accommodate the retailing of bulky, space-intensive goods, and service commercial uses.

Sign By-law

Permitted Signs by Zone

Provided all regulations are met, all sign types are permitted in Commercial zones, except for billboard signs. The Sign By-law permits billboard signs to be located only in Employment Zones throughout the city, including Industrial and Business Park zones.

The existing billboard was legally established prior to 1995 when the Sign By-law was amended to limit billboard signs to Employment zones. The subject property is located in a Commercial zone, which no longer permits billboard signs.

Corridor Analysis

There are many signs along Victoria Street North, mainly consisting of fascia signs (attached to walls of buildings), portable signs (located near the street and requiring monthly sign permits), ground supported signs (located near the street and only allows first-party advertising), and legal non-conforming billboard signs (similar to ground supported signs but allows third-party advertising).

Staff conducted an analysis of billboard signs along Victoria Street North. Victoria Street North consists of Commercial zones, where only existing billboard signs are permitted, and Industrial/Employment zones, where billboard signs are permitted, and sign regulations have been met.

Prior to the 1995 Sign Bylaw changes, there were 23 billboard signs erected along Victoria Street North. Through staff review, there are 17 billboard signs that remain: 14 billboard signs in Commercial zones and 3 billboard signs in Industrial/Employment zones.

Section 680.3.4 of the Sign By-law states that signs that will be altered substantially shall be required to comply with all other requirements of the Sign By-law as though the sign was being newly erected. It is expected that as redevelopment occurs or as sign structures are no longer viable, the existing signs that do not conform to the Sign By-law will be removed.

Due to the large setbacks of the buildings along Victoria Street North that accommodate parking lots, business owners rely on ground supported signs and portable signs which require monthly permits, to help the public locate and identify their businesses. Many businesses in this area are requesting automatic changing copy either on new ground supported signs or alterations to existing ground supported signs which is permitted subject to regulations. The Sign By-law is designed to provide businesses with adequate and flexible means to identify themselves, their products, and their services.

It should be noted that if Council approves the request to allow this existing billboard sign to be replaced with a new digital billboard sign, it will set a precedent for other existing legal non-conforming billboards in Commercial zones to convert to digital copy.

Figure 3, below, shows the existing billboard at 1495 Victoria Street North as well as other nearby existing static billboards.

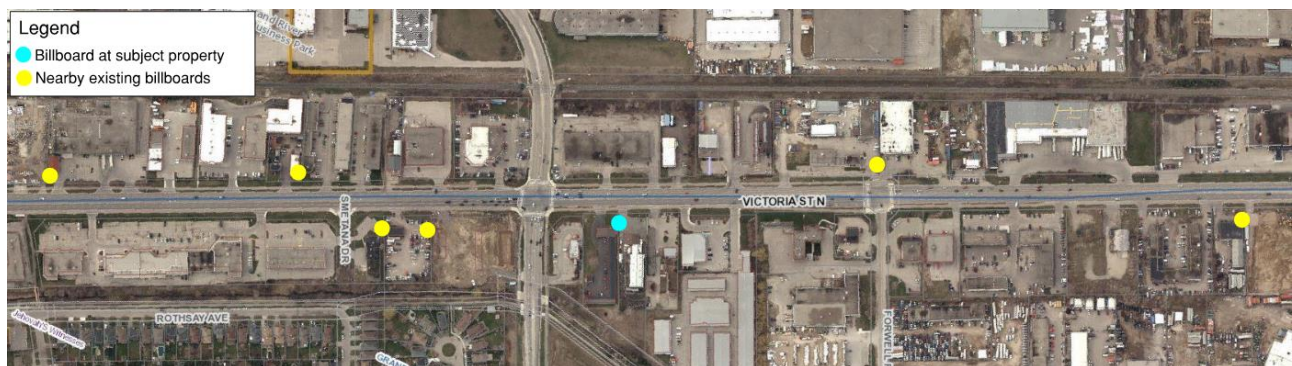


Figure 3: Location of billboards along Victoria Street North

Distance from Residential Zones

The applicant is requesting a distance of 135 metres from a residential zone, whereas the Sign By-law requires billboard signs to be located a minimum distance of 150 metres from a residential zone. The regulation to distance billboard signs from residential zones is to ensure residential areas are not negatively impacted by the industrial nature of billboard signs. Staff recognize this request to be minor and acknowledge that the proposed sign is oriented towards Victoria Street, whereas the nearest residential areas are located south of the sign.

Location and Size Requirements

The Sign By-law restricts billboard signs to be in line with the building setbacks as set out in the Zoning By-law. The front yard and side yard setbacks stated in the COM-3 zone are 6 metres and 3 metres, respectively. The intent of this regulation is to limit the impact that

billboard signs have on the streetscape and ensure that billboard signs do not interfere with or overpower other ground supported signs that support businesses along the corridor.

The Sign By-law restricts the sign area for each face of a billboard sign to 20 square metres. This size was determined to be appropriate when advertising in Employment areas throughout the city as it is more proportional to the buildings and lot sizes typically found in those areas.

Staff have concerns with allowing reduced setbacks for a billboard sign with automatic changing copy as the billboard sign type is large and the digital illumination will further negatively impact the streetscape by introducing more distraction along Victoria Street North. The low-rise commercial guidelines discourage billboards consistent with the Sign By-law which does not allow new billboards in commercial zones.

The proposed billboard’s size, scale, digital format, and proximity to the right-of-way overwhelms and dominates the public realm and other site elements, which is inconsistent with the corridor design guidelines. The corridor currently includes a high number of competing signs (ground supported, portable, billboards, etc.). The proposed digital sign has a different user experience due to its backlit nature and changing copy compared to traditional static billboards and freestanding signs, adding to the visual clutter/sign competition of first-party signs along Victoria Street, which may be a distraction to drivers.

The illumination and automatic changing copy design of the sign adds visual clutter along Victoria Street North. The reduced setbacks proposed may also limit potential development on the subject property which is inconsistent with the corridor design guidelines.

Aside from billboard signs not being permitted in a commercial zone, the table below shows a comparison of the requirements between a digital billboard sign, and a ground supported sign at 1495 Victoria Street North. This comparison further illustrates the difference in scale of billboard signs compared to ground supported signs that advertise businesses on site.

Table 1: Comparison of Billboard Signs to Ground Supported Signs

Regulation	Ground Supported Sign	Billboard Sign
Maximum height	5.5 metres	7.5 metres
Maximum area	12 square metres	20 square metres
Digital sign area	30% or 3.6 square metres	100% or 20 square metres
Front yard setback	0.4 metres	6 metres

The current lighting level regulations for digital signs in the Sign By-law were designed for larger signs to be viewed only from a distance (set back farther on a property). Staff are working towards updating these regulations to ensure lighting on signs in proximity to the public realm are appropriate for pedestrian and multi-modal environments. Staff plan to incorporate this work into a future Sign By-law update. Should Council choose to approve the subject application, refined lighting standards should be considered that identify manufacturers specifications (in a measurement called “nits”) and an illumination measurement post-installation that considers various transportation modes including pedestrians and cyclists on the multi-use trail (in a “foot candle” measurement from the right-of-way).

Distance from Other Billboard Signs

The Sign By-law restricts billboards from being too close to other billboards to ensure the adequate separation between billboard signs and allow a balance with first-party ground supported signs for businesses on-site. Billboard signs advertise businesses, uses, products or ideas which are not located on the same lot as the billboard sign itself. The purpose of the Sign By-law is to allow businesses to identify themselves rather than advertise. By allowing billboard signs in proximity to one another, local businesses face the challenge of their signs not being noticed by patrons due to the visual dominance of billboard signs. Staff are concerned with the precedent that approval of this Sign By-law amendment will set among the other 13 billboard signs in the commercial section of the Victoria Street North corridor in addition to other non-complying billboards in other areas of the city.

Community, Staff and Agency Comments

The initial Sign Variance application was circulated to all property owners within 120 metres of the subject property. Staff did not receive any comments from the public regarding the requested variance.

Urban Design comments have been integrated into this report.

Region of Waterloo Traffic Engineering - Regional staff have concerns that any digital display takes the pedestrian, cyclist, and driver's eye away from their path of travel and can result in safety concerns. However, we understand that the sign in question is solely located outside of the Region's right-of-way and falls to City jurisdiction for approval.

Conclusions

In summary, staff recommend refusal of the subject Sign By-law Amendment for the following reasons:

- Billboard signs are not permitted in a Commercial zone and do not the intent of the Sign By-law. Additionally, billboard signs are contrary to the City's low-rise commercial guidelines.
- The scale and digital nature of the proposed billboard sign will overwhelm and dominate the streetscape, contrary to the City's corridor guidelines.
- The reduced setback will negatively impact the streetscape.
- The sign will set a precedent for converting other non-conforming billboards to digital.
- Digital signs have a more dominant user experience compared to other sign types causing more visual sign clutter along the Victoria Street corridor which is already experiencing sign competition through excessive signs of all types.

Should Council choose to approve this application, staff suggest the following restrictions for the proposed digital billboard:

- the luminance of the digital billboard shall not exceed 3000 nits between sunrise and sunset, and 150 nits between sunset and sunrise;
- Illuminance shall be measured with the digital screen turned off and again with the digital screen displaying a white image. The difference between the off and white image, measured vertically (parallel to the sign face) shall not exceed 0.3 footcandles at any point along the street line or measured a distance of 10 metres from the sign face from an abutting property. The digital billboard sign shall be equipped with a sensor or other device that automatically determines the ambient illumination and shall be programmed to automatically dim according to ambient light conditions;

- the digital billboard shall comply with the required 6-metre front yard setback;
- the digital billboard shall not exceed 12 square metres in sign area to be consistent with other free-standing signs on lots with similar widths in the commercial corridor.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

COMMUNITY ENGAGEMENT:

INFORM

- On January 9, 2024, the initial sign variance application was circulated for comment to internal departments, external agencies, and property owners within 120 metres of the subject lands.
- This report has been posted to the City’s website with the agenda in advance of the council / committee meeting.

PREVIOUS REPORTS/AUTHORITIES:

- Chapter 680 (“Sign By-law”) of the Municipal Code
- City of Kitchener Official Plan
- City of Kitchener Urban Design Manual
- Zoning By-law 2019-051

REVIEWED BY: Janine Oosterveld – Manager, Customer Experience & Project Management

APPROVED BY: Justin Readman – General Manager, Development Services

ATTACHMENTS:

Attachment A – Planning Justification Report