

development. The subject site was rezoned from CG Commercial General to HMU HUB Mixed Use in February 2013.

ANALYSIS:

The applicant is proposing to replace an existing 3.7-meter wide by 4.9-meter tall freestanding advertising sign with a 6.1-meter wide by 3.1-meters tall freestanding advertising sign. The existing sign is anchored to a 7.9m pole and the finished height of the proposed sign will be 7.3m.

The HMU zone does not permit any advertising signs; including freestanding. Subsection 86(1) of The Planning Act (The Act) states that the enactment of a new zoning by-law does not affect any building or use of land or intensity of a use of land if it lawfully existed before the enactment of the new zoning by-law. The Act also states in subsection 89(1) that construction may only be carried out, with respect to an existing building or use, if the construction does not increase the non-conformity and otherwise conforms with the current zoning by-law, all other by-laws and any variances approved under this Part.

The existing advertising sign may continue to exist in its current state under Subsection 86(1) of The Act until it is decommissioned and it cannot be altered in anyway.

Consistency with Part 6, Section 97(1)(b) of The Planning Act and Demonstration that the Variance:

1. Will be compatible with the general nature of the surrounding area;

The surrounding area includes a mixture of commercial and residential development. The sign is located directly to the east and west of existing apartment buildings. The location of the advertising sign in close proximity to multiple residential developments is not compatible with the general nature of the surrounding area.

2. Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area;

The freestanding sign is designed to provide illumination during the evening to increase visibility for all hours of the day. Existing and future residential dwellings may be adversely impacted by the illumination. Non-residential developments will not be adversely impacted by the existence of the illuminated freestanding sign.

3. 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

A freestanding advertising sign is not permitted in the HMU zone. The closest permitted sign type in the HMU zone is a freestanding identification sign; in which the maximum allowable size of the sign is 7.0m² and the maximum allowable height is 2.5m. The existing lawfully non-conforming sign has a surface area of 17.8m² with a proposed size increase to 18.5m². The existing lawfully non-conforming sign has a height of 7.3m. These increases in sign surface area and height compared to a permitted sign type are not the minimum modification to the zoning by-law.

4. Is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law

The Brandon and Area Planning District Development Plan of 2013 subsection 7.2.1 gives authority to The HUB Secondary Plan (The Plan) as the primary document directing development in The HUB. Part 4 of The Plan gives authority to the policies and maps in the secondary plan to guide development of vacant sites and the redevelopment of existing sites.

The urban design objective in The Plan (5.3) is, “to strive for excellence in the quality of public/private places in The HUB by encouraging the development of distinctive character areas, **human scale design/architecture and a pedestrian oriented streetscape.**”

To achieve this objective, The Plan includes the following policy (5.3-m), “Signage shall be **human scale** and add diversity and interest to retail streets, but not be overwhelming”.

The height (7.3m) and size of the sign (18.5m²) is not “human scale” and does not comply with the objectives and policies of The Plan.

Commenting Agencies

No comments were received from circulated stakeholders.

Notification

As required under s. 169 of The Planning Act, notice of this Public Hearing regarding this application was sent to owners of property within 100 metres (328 feet) of the subject property and notice posters were posted on the property.

Public Outreach

In accordance with section 13 of the Zoning By-law, the applicant went door to door to residents living adjacent to the subject site. A letter of support for the application was signed by eight (8) residents living at 1300 and 1400 Pacific Avenue. These letters can be found in Appendix C. As of the writing of this report, the Planning & Building Safety Department has not received any additional representation in favour or in opposition to this application.

RECOMMENDATIONS:

That the Public Hearing for Variance Application V-18-16-B at 1340 Pacific Avenue be concluded.

That Variance Application V-18-16-B to allow a freestanding advertising sign in the HMU HUB Mixed Use zone be **rejected**.