

**Minutes - Board of Adjustment - May 18, 2005**

**PUBLIC HEARING**

**Minute No. 132      Conditional Use - 1763 Henderson Highway  
File DCU 120222/2005C**

**BOARD OF ADJUSTMENT DECISION:**

The Board of Adjustment concurred in the administrative recommendation as amended and approved a Conditional Use on “the land” to permit the expansion of an existing hotel use by the establishment of a seasonal patio, subject to the following conditions:

1. That if any development granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Conditional Use shall terminate.
2. That the final plans showing the location and details of landscaping and seasonal patio design shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; and the applicant shall maintain the landscaping to the satisfaction of the Director of Planning, Property and Development.
3. That the outdoor patio restaurant shall be closed between the hours of midnight and 10:00 a.m. daily.
4. There shall be no live entertainment permitted on the outdoor patio restaurant, however recorded music shall be permitted at a reasonably low volume level.
5. That no signage shall be permitted on the outside face of the outdoor patio restaurant fencing.
6. That the outdoor patio restaurant permitted by this order shall not be enclosed with solid walls and windows.

## Minutes - Board of Adjustment - May 18, 2005

### DECISION MAKING HISTORY:

The Administration advised that all statutory requirements with respect to this application have been complied with.

Moved by Mr. David Lettner,  
That the administrative report be taken as read.

Carried

Moved by Mr. David Lettner,  
That the receipt of public representations be concluded.

Carried

Moved by Mr. David Lettner,  
That Section 254 and criteria (a), (b) and (d) of Subsection 247(3) of The City of Winnipeg Charter are satisfied.

Carried

Moved by Mr. David Lettner,  
That the administrative recommendation be concurred in with the following amendments, namely:

- Delete Condition 2. in its entirety and renumber the remaining conditions accordingly
- Add the following Conditions:
  3. That the outdoor patio restaurant shall be closed between the hours of midnight and 10:00 a.m. daily.
  4. There shall be no live entertainment permitted on the outdoor patio restaurant, however recorded music shall be permitted at a reasonably low volume level.
  5. That no signage shall be permitted on the outside face of the outdoor patio restaurant fencing.

**Minutes - Board of Adjustment - May 18, 2005**

DECISION MAKING HISTORY: (Continued)

6. That the outdoor patio restaurant permitted by this order shall not be enclosed with solid walls and windows.

Carried

Moved by Mr. David Lettner,

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

Carried



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**The City of Winnipeg**  
**CONDITIONAL USE ORDER**  
**BOARD OF ADJUSTMENT**

**DCU 120222/2005C**

Before: Board of Adjustment  
Mr. Bill Evans, Chairperson  
Mr. Ken Desrochers  
Mr. David Lettner

Hearing: May 18, 2005  
West Committee Room,  
Council Building, 510 Main Street

Applicant: E.W. Contracting Ltd.

Premises Affected: 1763 Henderson Highway

Legal Description: Lot 2, Plan 20574 48/49 K, hereinafter called "the land"

Property Zoned: "C2" Commercial District

Zoning Atlas Sheet: T29 (MH)

Nature of Application: For a Conditional Use under The Winnipeg Zoning By-law 6400/94 to permit the expansion of an existing hotel use by the establishment of a seasonal patio

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Order meets the statutory criteria of The City of Winnipeg Charter in that it:

- (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.

C.W. Charter Section 254 and Subsection 247 (3)

ORDER:

The Board of Adjustment orders that the expansion of an existing hotel use by the establishment of a seasonal patio is approved on “the land”, subject to the following conditions, which the Board of Adjustment considers necessary to ensure compliance with criteria (a), (b) and (d) above, namely:

That if any development granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Conditional Use shall terminate.

1. That the final plans showing the location and details of landscaping and seasonal patio design shall be submitted to the Director of Planning, Property and Development for approval prior to the issuing of any development or building permits; and the applicant shall maintain the landscaping to the satisfaction of the Director of Planning, Property and Development.
2. That the outdoor patio restaurant shall be closed between the hours of midnight and 10:00 a.m. daily.
3. There shall be no live entertainment permitted on the outdoor patio restaurant, however recorded music shall be permitted at a reasonably low volume level.
4. That no signage shall be permitted on the outside face of the outdoor patio restaurant fencing.
5. That the outdoor patio restaurant permitted by this order shall not be enclosed with solid walls and windows.

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

DATE OF ORDER: May 20, 2005

CERTIFIED BY:



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Carlos Gameiro  
Secretary to the Board

## HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

- (a) be addressed as set out below,
- (b) be received at that office not later than 4:30 p.m. on June 6, 2005,  
[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]
- (c) refer to Conditional Use Order No. DCU 120222/2005C, give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.

Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk, City of Winnipeg  
c/o Appeal Committee  
380 William Avenue  
Winnipeg, MB R3A 0J1  
Fax 986-6634  
Email [cgameiro@winnipeg.ca](mailto:cgameiro@winnipeg.ca)

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Walter Horta  
Gil Gauthier

In Opposition:

Nil

For the City:

Mr. J. Veitch, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 120222/2005C

1. Application dated May 2, 2005
2. Notification of Public Hearing to Applicant dated May 2, 2005
3. Manitoba Status of Title 2059320
4. Surveyor's Building Location Certificate and sketch dated December 17, 2004
5. Letter of authorization from Gilbert Gauthier, to E.W. Contracting dated April 13, 2005
6. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
7. Conditional Use Order DCU 149/88
8. Variance Order DAV 608/88
9. Drawing of subject property
10. Plan, Sheet 1 for File DCU 120222/2005C dated April 26, 2005
11. Report from the Manager of Planning and Land Use dated May 12, 2005
12. Inspection Report



Exhibit "11" referred to in File DCU 120222/2005C

**In reply please refer to / Référence à rappeler :**

**John Wintrup  
(204) 986-5102  
Fax / Téléc (204) 986-3684**

**File No. DCU 05-120222/C**

**May 12, 2005**

Community: East Kildonan-Transcona Community  
Neighbourhood #: 4.418

TO THE CHAIRMAN AND MEMBERS  
OF THE BOARD OF ADJUSTMENT

PROPERTY: 1763 Henderson HWY  
APPLICANT: E.W. Contracting Ltd.  
14 Vryenhoek Place  
Winnipeg, MB R2G 0R4

SUBJECT: For a Conditional Use under Zoning By-Law No. 6400/94 to permit the expansion of an existing hotel use by the establishment of a seasonal patio.

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## **PROPOSED DEVELOPMENT**

The applicant proposes to construct an outdoor patio on the front of the Nor-Villa Hotel.

## **NEIGHBOURHOOD CONTEXT**

The subject property is located on the east side of Henderson Hwy between Fortier and McIvor in the River East neighbourhood of the North Kildonan Ward. The site is zoned "C2" Commercial District and is occupied by the Nor-Villa Hotel. Adjacent properties are zoned "RM-7" to the south and "C4" to the north.

## **DEVELOPMENT ANALYSIS AND ISSUES**

- The outdoor patio will be located on the north west corner of the building, fronting Henderson Hwy.
- The outdoor patio will displace three (3) parking stalls and be approximately 540 square feet.
- The patio will be constructed from pressure treated wood and include a 3.6 foot rail to encircle the outdoor patio.
- There is no indication of any type of landscaping or ornamentation on the wood patio.
- There is no plans indicating the design of the rail that will encircle the patio beyond wood posts being used.

- Unknown in regards to the possible licensing of the outdoor patio by the Manitoba Liquor Control Commission.
- The outdoor patio is not in view of any residential windows in a single family dwelling.
- The outdoor patio is separated by the commercial building from the nearest single family dwelling.

### **RECOMMENDATION AND CRITERIA**

Considering the application in the context of Section 247(3) of The City of Winnipeg Charter Act the proposed conditional use **should be approved** because of the following:

- (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; and
- (d) is compatible with the area in which the property to be affected is situated.

### **REASONS FOR RECOMMENDATION**

- The Administration is of the opinion that the outdoor patio will not be a detriment to the surrounding residential neighbourhood.
- The only concerns the Administration has is the lack of landscaping such as planters, etc; and the lack of details regarding the design of the rail.
- The Administration feels landscaping and/or a well designed rail needs to be implemented to ensure the patio is partially screened from Henderson Hwy, which includes a public sidewalk 50 feet from the patio.

### **CONDITIONS OF APPROVAL**

1. That if any development granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Conditional Use shall terminate.
2. That the Conditional Use granted by the Order shall be operated in compliance with the Noise Control By-law.
3. that, the final plans showing the location and details of **landscaping and seasonal patio design** shall be submitted to the **Director of Planning, Property and Development** for approval prior to the issuing of any development or building permits; and the applicant shall maintain the landscaping to the satisfaction of the Director of Planning, Property and Development.

Yours truly,

C. Knoll  
Manager of Planning and Land Use

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Per: John Wintrup, Planner, 986-5102



**Figure 1: Air Photo of Subject Site and Surrounding Area.**

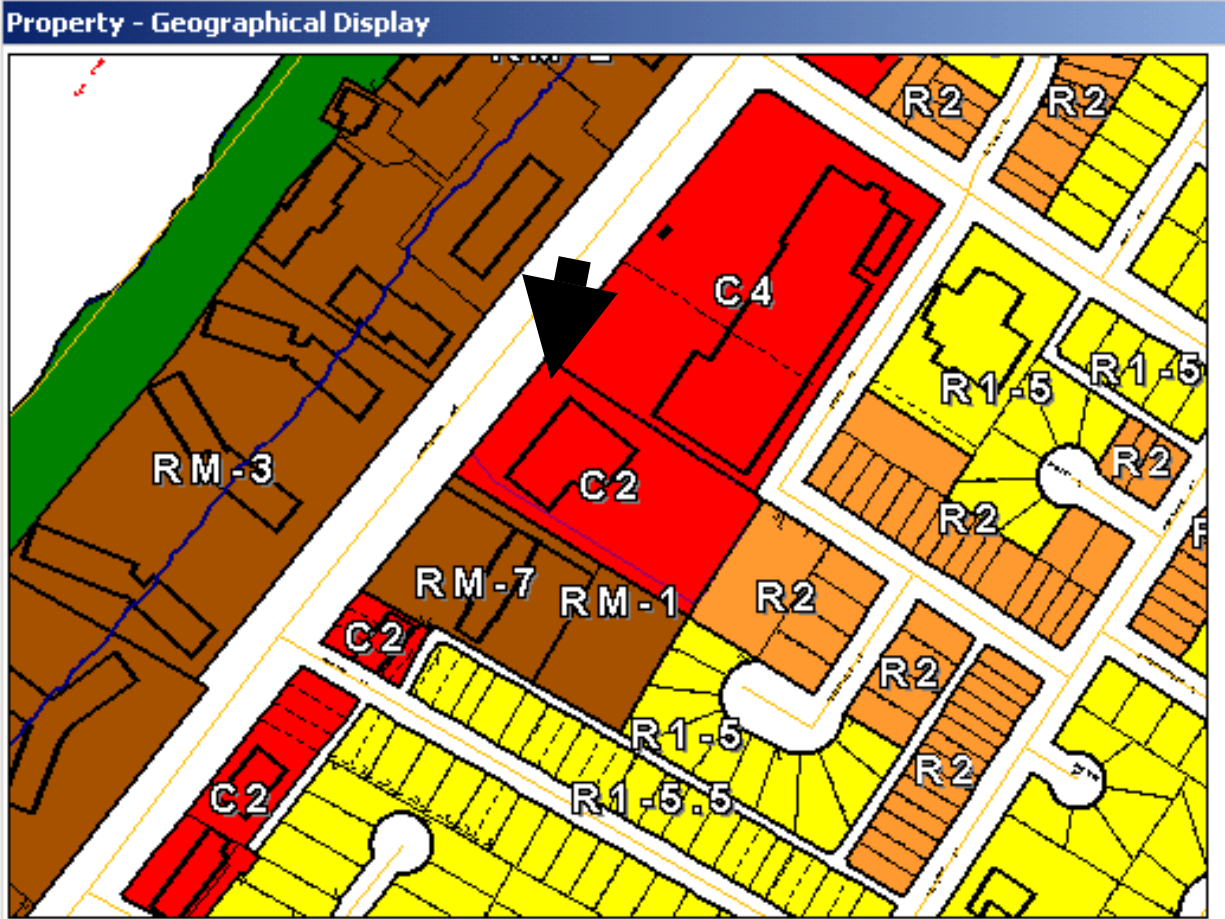
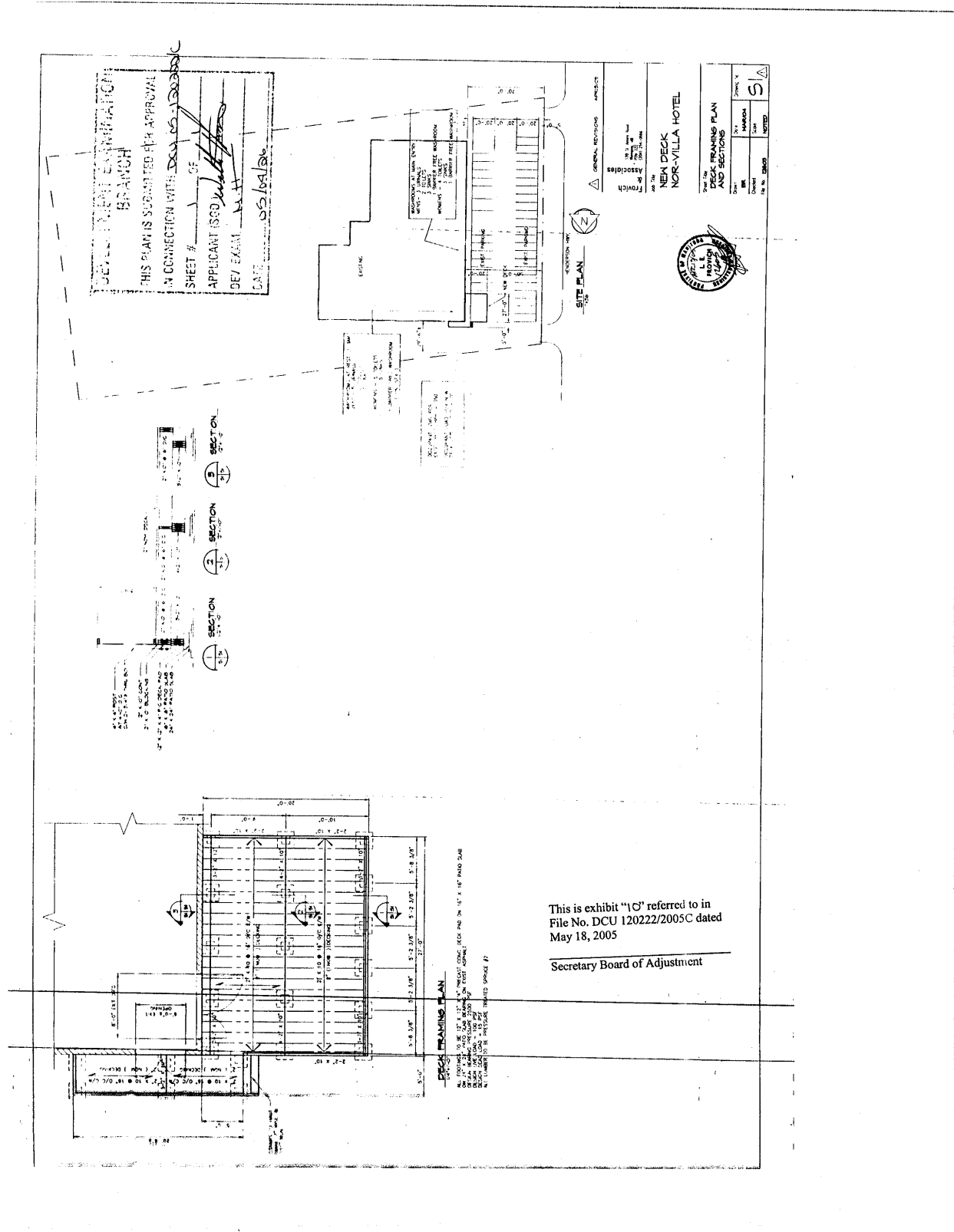


Figure 2: Zoning Map of subject property and Surrounding Context.



DEVELOPMENT EXAMINATION  
 BRANCH  
 THIS PLAN IS SUBMITTED FOR APPROVAL  
 IN CONNECTION WITH DCU 120222/2005C  
 SHEET # 1 OF 1  
 APPLICANT ISSUED [Signature]  
 DE/ EXAM [Signature]  
 DATE 05/18/05

This is exhibit "10" referred to in  
 File No. DCU 120222/2005C dated  
 May 18, 2005

Secretary Board of Adjustment



NEW DECK  
 NOR-VILLA HOTEL  
 DECK FRAMING PLAN  
 AND SECTIONS

GENERAL NOTES:  
 1. ALL DIMENSIONS UNLESS OTHERWISE NOTED.  
 2. ALL MATERIALS SHALL BE AS SHOWN ON THIS PLAN.  
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.  
 4. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL BUILDING DEPARTMENT.  
 5. ALL WORK SHALL BE SUBJECT TO THE REQUIREMENTS OF THE LOCAL BUILDING DEPARTMENT.  
 6. ALL WORK SHALL BE SUBJECT TO THE REQUIREMENTS OF THE LOCAL BUILDING DEPARTMENT.

SITE PLAN  
 SECTION

SECTION 1  
 SECTION 2  
 SECTION 3