

Minutes – Council – September 26, 2024

Minute No. 444

Report – Executive Policy Committee – September 17, 2024

**Item No. 13 Zoning Agreement Amendment – 1873 Henderson Highway
(North Kildonan Ward)
File ZAA 3/2024 [c/r DCU 151935/2024D]**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Caveat No. 264048 be discharged in its entirety, subject to the condition that the owner of the subject land (the “Owner”) enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:
 - A. That a 20 foot (6.10 metre) landscaped buffer be maintained between any drive aisle adjacent to a drive-through restaurant and the easterly boundary of the lands.
 - B. That the Owner must submit plans showing the location and design of any and all proposed:
 - i. buildings
 - ii. accessory parking areas
 - iii. driveways
 - iv. garbage enclosures
 - v. fencing
 - vi. freestanding signage
 - vii. landscapingon the Owner’s Land (“Works”) to the Director of Planning, Property and Development and East Kildonan-Transcona Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.
2. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

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COUNCIL DECISION (continued):

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Zoning Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.
4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Gillingham,

That the recommendation of the Executive Policy Committee be adopted
by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2024, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 4, 2024, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

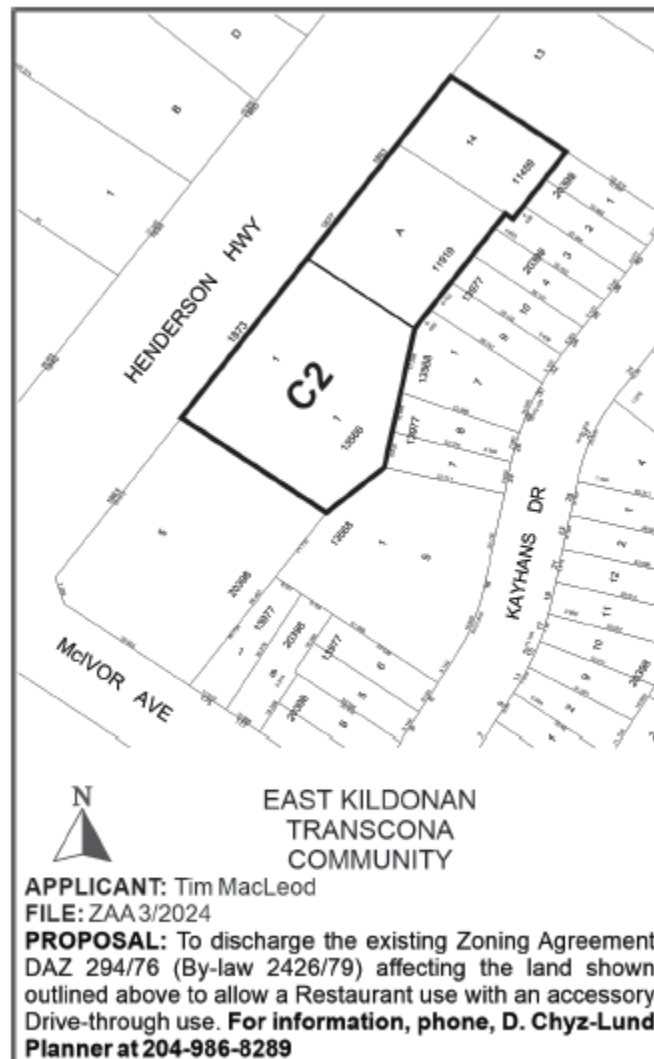
File: ZAA 3/2024

Before: East Kildonan-Transcona Community Committee
Councillor Schreyer, Chairperson
Councillor Browat

Public Hearing: September 4, 2024
Council Building, 510 Main Street

Applicant: Tim MacLeod

Subject:



Premises Affected: 1873 Henderson Highway

For submission to: Executive Policy Committee

Prepared by: K. McMillan, Manager of the Decision-Making Process
East Kildonan-Transcona Community Committee

Report date: September 5, 2024

Community Committee Recommendation:

On September 4, 2024, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That Caveat No. 264048 be discharged in its entirety, subject to the condition that the owner of the subject land (the “Owner”) enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:
 - A. That a 20 foot (6.10 metre) landscaped buffer be maintained between any drive aisle adjacent to a drive-through restaurant and the easterly boundary of the lands.
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2. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Zoning Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.
4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The East Kildonan-Transcona Community Committee provided the following supporting reasons for its recommendation:

1. It's good to see that there hasn't been any widespread opposition to this.
2. Henderson Highway is a major commercial area and it was pointed out again that the former building had substantial ceiling height and was quite close to the rear property line so this in fact opens up the rear properties a little bit.
3. It's consistent with other uses on Henderson Highway, in terms of commercial usage.

Exhibits Filed:

1. Application dated May 17, 2024
2. Notification of Public Hearing dated July 29, 2024
3. Manitoba Status of Title 3212111/1
4. Letter of authorization dated August 31, 2024 from 10136704 Manitoba Ltd. to Tim McLeod
5. Letter of authorization from 10136704 Manitoba Ltd. (Michael Froese and Mark Penner) to Tim MacLeod
6. Caveats 264048/1, 248766/1
7. Plans (4 pages)
8. Report from the Urban Planning Division dated August 26, 2024
9. Inspection Report
10. Recording of Representations

REPRESENTATIONS:

In Support:

Ron Raghoo
Cassy MacLeod
Tim MacLeod

In Opposition:

Nil

For Information:

Nil

For the City:

D. Chyz-Lund, Planner, Planning, Property and Development Department

ADMINISTRATIVE REPORT

Title: ZAA 3/2024 – 1873 Henderson Highway

Issue: For consideration at the public hearing to replace a Zoning Agreement under File DAZ 294/76 to allow the establishment of a drive-through restaurant.

Critical Path: East Kildonan – Transcona Community Committee > Standing Policy Committee
on Property and Development > Executive Policy Committee > Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Chyz-Lund, MCP	N/A	N/A	

RECOMMENDATIONS

1. That Caveat No. 264048 be discharged in its entirety, subject to the condition that the owner of the subject land (the “Owner”) enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:
 - a. That a 20 foot (6.10 metre) landscaped buffer be maintained between any drive aisle adjacent to a drive-through restaurant and the easterly boundary of the lands.
 - b. That the Owner must submit plans showing the location and design of any and all proposed:
 - i. buildings;
 - ii. accessory parking areas;
 - iii. driveways;
 - iv. garbage enclosures;
 - v. fencing;
 - vi. freestanding signage; and,
 - vii. landscapingon the Owner’s Land (“Works”) to the Director of Planning, Property and Development and East Kildonan-Transcona Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

2. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").
3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Zoning Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.
4. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

- The applicant is proposing to discharge parts of the Zoning Agreement under File DAZ 294/76 to allow for the establishment of a drive-through restaurant on an existing commercially zoned lot.
- The existing Caveat registered on title prohibits "drive-in" businesses and hotels on the subject site.
- The Public Service has recommended discharging the entire caveat, subject to a new Zoning Agreement being entered into.
- Modification of caveats on a Land Title requires a Zoning Agreement Amendment application.
- Approval of a Zoning Agreement Amendment application requires a public hearing as per the Development Procedures By-law and The City of Winnipeg Charter.
- The Report is being submitted for the Committee'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, the subject Zoning Agreement under File DAZ 294/76 will be replaced.

HISTORY

DAZ 294/76

In 1976, the subject site was rezoned to "C2", subject to a zoning agreement restricting drive-through restaurant and hotel uses on the property, requiring a landscape buffer, and requiring Plan Approval to the East Kildonan - Transcona Community Committee.

CONSULTATION

In preparing this report there was consultation with:

Legal Services

Land Development

OURWINNIPEG 2045 POLICY ALIGNMENT

Strategic Opportunity #4: Facilitate Compact, Complete Development and Increase Density
4.2 Ensure New Areas of Growth are Designed According to the Principles of Complete Communities

6.40 Commercial Areas

Facilitate the redevelopment, infill, and expansion of existing commercial areas as the preferred method of accommodating new commercial development, while also accommodating local commercial amenities in new neighbourhoods, to ensure completeness from its inception.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Strategic Opportunity #4: Facilitate Compact, Complete Development and Increase Density

- **Key Direction 4.2:** Ensure new areas of growth are designed according to the principles of Complete Communities.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to any of the specific Goals and Objectives in the PRS and it was determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning & Design Division
Prepared by:	Dylan Chyz-Lund MCP
Date:	August 26, 2024
File No.	ZAA 3/2024

List of Schedules and Attachments

- Schedule A – Planning Discussion

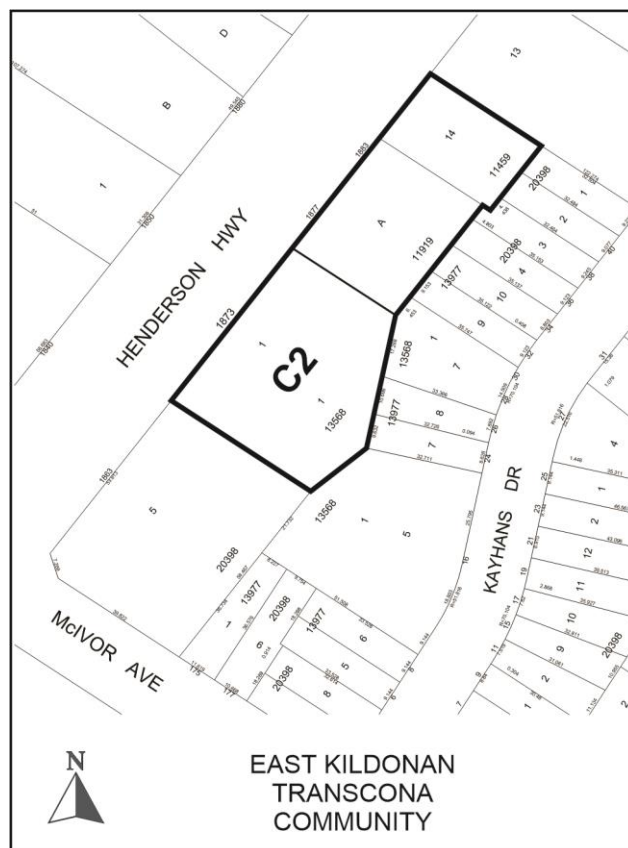
SCHEDULE 'A'

DATE: August 26, 2024
FILE: ZAA 3/24
RELATED FILES: N/A
COMMUNITY: East Kildonan - Transcona Committee
NEIGHBOURHOOD #: 4.418 - (RIVER EAST)

For consideration at the public hearing to replace a Zoning Agreement under File DAZ 294/76 to allow for the establishment of a drive-through restaurant on an existing commercially zoned lot. commercial building

LOCATION: 1873 Henderson HWY

LEGAL DESCRIPTION: LOT 14 PLAN 11459 PCL A PLAN 11919 45 K LOT 1 BLOCK 1 PLAN 13568 45/6 K



APPLICANT: Tim Macleod (Wendy's)
490A St Mary'S Rd

OWNER: Winnipeg, MB R2M 3E1
10136704 MANITOBA LTD.
1877 Henderson Hwy
Winnipeg, MB R2G 1P4

RECOMMENDATION: **Approval**

SITE DESCRIPTION

- The subject site is located on the east side of Henderson Highway between McIvor Avenue and Strood Avenue in the River East neighbourhood of the North Kildonan ward.
- The subject property is currently zoned “C2” Commercial – Community district.
- The subject property is located in an “Established Neighbourhood – Recent Community” policy area as designated in *Complete Communities 2.0*.
- The subject property has an assessed area of 48,627 square feet.
- Currently on the property are three separate commercial buildings.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses (flown 2024)

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: A funeral home zoned “C2” Commercial Community district.

South: A convenience store zoned “C2” Commercial Community district.

East: A park zoned “R1-L” Residential Single-family Large district as two-family dwellings zoned “R2” Residential Two-Family district.

West: Henderson Highway, then multi-family dwellings zoned “RMF-S” Residential Multi-Family (Small) district.



Figure 2: Zoning of the Site and Surrounding Area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to discharge the existing Zoning Agreement caveated on title when the site was rezoned to “C2” Commercial Community in 1976.
- The current zoning agreement permits most commercial uses, however it prohibits drive-through restaurants and hotels.
- The applicant is proposing to remove the southernmost building on the property – the former “Triple B’s Bar and Billiards” – and replace it with a drive-through fast-food restaurant.
- The new building would:
 - Be one storey in height.
 - Have a 9.8’ setback to the front property line and a 102.7’ setback to the rear property line abutting the two-family dwellings and the park.
 - Include a 20’ landscape buffer between the drive through and the rear property line
- Garbage enclosures, the drive-through queuing, and parking stalls are proposed to the rear of the building.

- A noise attenuation fence is proposed along the rear property line.

COLLABORATION

The applicant has worked cooperatively with the Public Service to confirm support for the related Zoning Agreement Amendment. This included revising elements of the site plan to locate the new building closer to Henderson Highway, to increase the size of the landscaping buffer at the rear of the property, and to add a sound attenuation fence to the site plan.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY 2.0

- The *Complete Communities Direction Strategy 2.0 (CCDS 2.0)* is one of four direction strategies supporting *OurWinnipeg*, the city's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.
- The subject site is located in an "Established Neighbourhood – Recent Communities" policy area of CCDS 2.0. Certain goals and policies of CCDS 2.0 apply to the proposal.
- Goal 2 - *Design new development in Established Neighbourhoods to a high standard of urban design and construction to ensure new development adds value to public and private urban spaces to create a sense of place and civic pride.*
 - *2.2 Encourage the location of commercial or mixed-use buildings at or near the front and corner side property lines to create a pedestrian orientation. Use setbacks to reinforce the public realm through landscaping and pedestrian amenities, such as entryways, patios, benches, and bicycle parking.*
 - *2.8 Buildings with commercial uses should be designed to support pedestrian activity by providing building elements that increase visual interest which may include, but are not limited to, the following:*
 - a. *Direct pedestrian access to main building entrances from the street;*
 - b. *Transparent storefront displays;*
 - c. *Human scaled signage; and*
 - d. *Decorative lighting, awnings, benches and other pedestrian oriented amenities.*

The proposed development locates the new building substantially closer to Henderson Highway, with a front entrance facing the street and pedestrian pathway linking the restaurant to the street. Bicycle parking is also located at the front of the building, next to the public sidewalk along Henderson Highway. Large front windows and signage oriented for both motorists and pedestrians support pedestrian activity along this portion of Henderson Highway.

- Goal 4 - *Ensure neighbourhoods accommodate a range of commercial services and amenities within walking distance to meet daily needs.*

- *4.2 In order to protect the vitality and viability of existing commercial areas, encourage the redevelopment and infill of existing commercial areas as the preferred method of accommodating new commercial development.*
- *4.4 New commercial development should be complementary and context sensitive to nearby uses.*

The proposal enables the redevelopment of an existing commercial area that is already zoned “C2” and is characterized by other one-storey commercial buildings.

Zoning Agreement established through DAZ 294/76

- As indicated above under “history”, a Zoning Agreement was established as a condition of approval associated with a rezoning application (DAZ 294/76) in 1976.
- The Zoning Agreement imposes the following key requirements.
 2. The following uses are not permitted on the land:
 - a) Any drive-in business with facilities for attracting and servicing customers travelling in motor vehicles driven onto land where the customer may receive service in the vehicle
 - b) Hotel.
 4. Plan Approval by the East Kildonan-Transcona Community Committee is required prior to issuance of any building or development permit.
 5. Plans shall include a landscaped buffer along the easterly boundary of the lands.

Removal of Clause 2:

- The applicant has applied for an amendment to **remove** clause two from the subject Zoning Agreement.
- The Public Service is supportive of this application, and as detailed below, also recommends the discharging of the remaining caveat subject to a new Zoning Agreement being entered into.

ANALYSIS

“C2 “Commercial Community”

- The “C2” Commercial Community zoning district is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community.

Zoning Agreement DAZ 294/76

- The Urban Planning and Design Division considered whether any use restrictions should continue on the subject property. It was determined that the permitted uses in the “C2”

district are suitable and supportable in this location given that the property fronts onto the Henderson Highway arterial route.

- This section of Henderson Highway is characterized by a mixture of regional and local commercial amenities zoned “C2,” “C3,” and “C4,” along with multi-family developments zoned “RMF-S”.

Landscape buffer to rear property line

- The previous Zoning Agreement required a landscape buffer, however it did not specify a specific size.
- The Urban Planning and Design Division recommends adding a condition requiring that a minimum 20’ landscaped buffer be maintained between any drive aisle adjacent to a drive-through restaurant and the easterly boundary of the lands. This would ensure any drive through restaurants on the site maintain the width of a rear lane between the drive aisle and the abutting dwellings and park, mitigating the effect of queuing vehicles.

Plan Approval

- The previous Plan Approval clause under DAZ 294/76 remains in effect, however includes outdated language. The Urban Planning and Design Division is recommending the following clause to update the Plan Approval requirements and ensure that the future development is reviewed for alignment with CCDS 2.0 policies:

a. *That the Owner must submit plans showing the location and design of any and all proposed:*

viii. buildings;

ix. accessory parking areas;

x. driveways;

xi. garbage enclosures;

xii. fencing;

xiii. freestanding signage; and,

xiv. landscaping

on the Owner’s Land (“Works”) to the Director of Planning, Property and Development and East Kildonan-Transcona Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

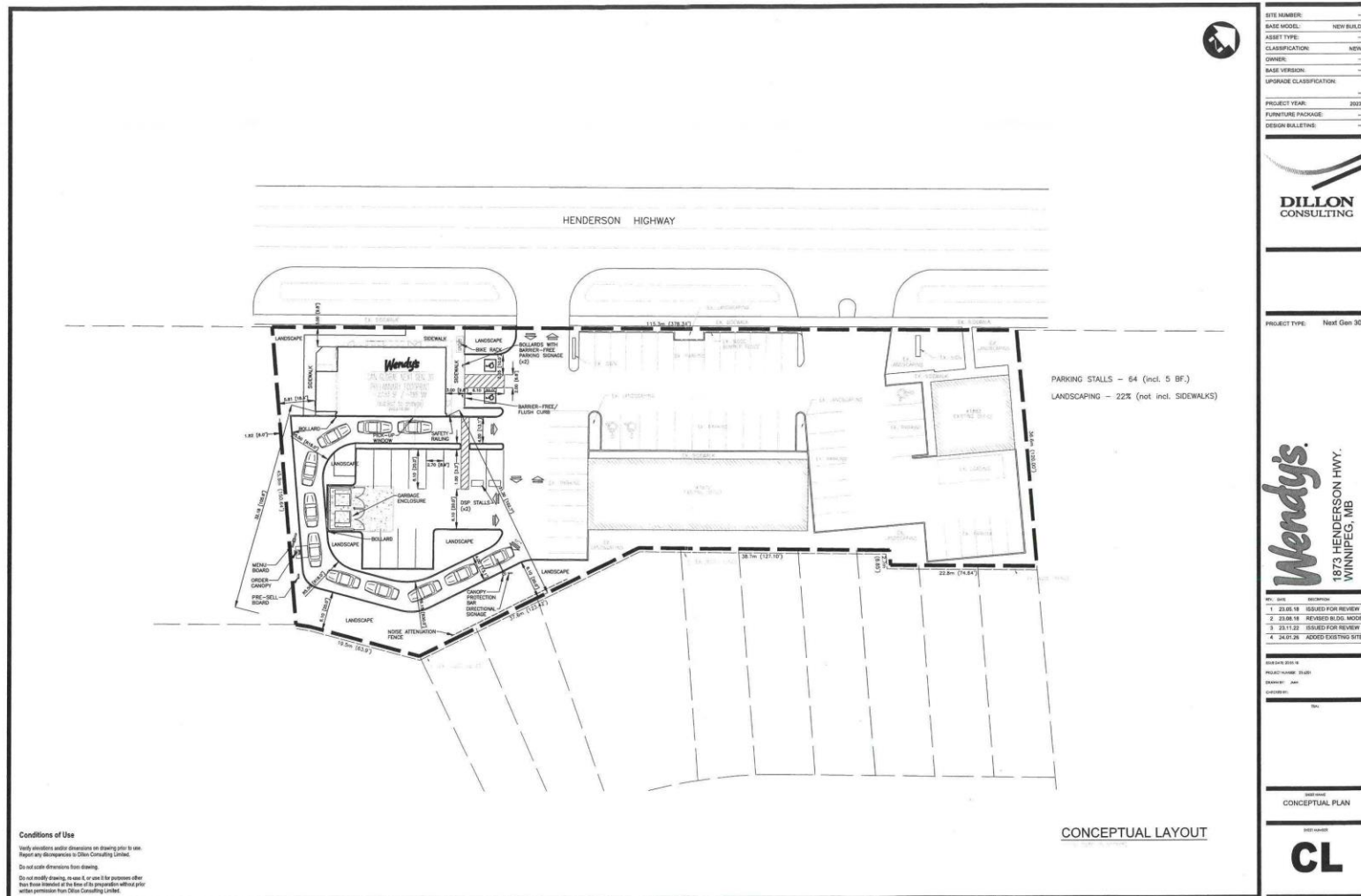
- The proposal will allow additional commercial uses along Henderson Highway in an existing commercial area that is consistent with the policies of *Complete Communities 2.0* and *OurWinnipeg 2045*.

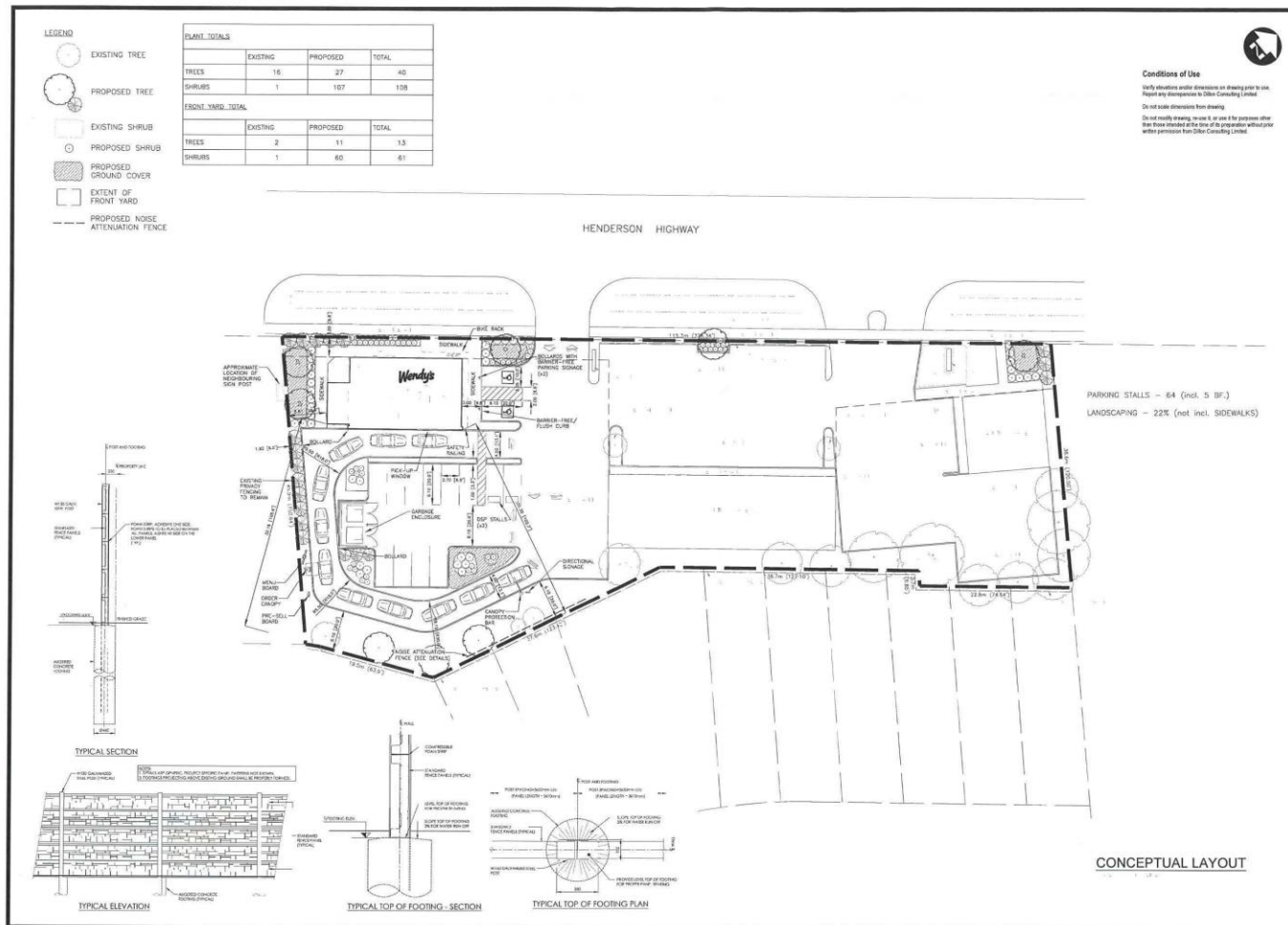
- Replacing the Zoning Agreement associated with DAZ 294/76 will enable the subject property to develop in alignment with established “C2” zoning rights and in a fashion consistent with other “C2” zoned properties along the Henderson Highway.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning & Design Division

Report Prepared By: Dylan Chyz-Lund, MCP
PPD File # ZAA 3/24

Exhibit “7” referred to in File ZAA 3/2024





SITE NUMBER:	---
ASSET MODEL:	NEW BUILD
ASSET TYPE:	---
CLASSIFICATION:	NEW
OWNER:	---
DATE VERSION:	---
UPGRADE CLASSIFICATION:	---
PROJECT YEAR:	2023
PLANNING PACKAGE:	---
DESIGN BULLETIN:	---



PROJECT TYPE: Next Gen 3D

Wendy's
1873 HENDERSON HWY.
WINNIPEG, MB

REV.	DATE	DESCRIPTION
1	2020.10	ISSUED FOR REVIEW
2	2020.10	REVISED ROAD MODEL
3	2021.02	ISSUED FOR REVIEW
4	2020.08	ADDED EXISTING SITE
5	2020.08	ADDED CITY COMMENTS

CONCEPTUAL PLAN

CL

