

WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Members of Planning and Heritage Advisory Committee

Submitted by: _____
Madelyn LeMay, Planner

Date: June 10, 2021

Subject: Development Agreement: 233 Gray Street and PID #45354065,
Windsor
File # 21-08

1.0 LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

2.0 RECOMMENDATION

Staff recommends that the PAC/HAC forward a positive recommendation by passing the following motion:

...that PAC/HAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to permit the required parking for two fifteen-unit apartment buildings, located on 233 Gray Street, PID 45059938 and the abutting lot, PID 45354065, to be located in a manner substantively the same as described in the draft set out in Attachment A of the report to the Planning and Heritage Advisory Committee regarding File 21-08 dated June 10, 2021.

3.0 BACKGROUND

An application was completed on April 9, 2021 from John Salah of Quadra Engineering, acting for 3332758 Nova Scotia Limited, to consider a development agreement to allow part of the parking for the 15-unit apartment building at 233 Gray Street to be located on the abutting vacant lot (PID 45354065). An application for a development permit for the vacant lot showed that parking for the apartment building at 233 Gray Street (PID 45059938), which should be entirely located on the lot at 233 Gray Street, has spilled over onto the vacant lot in violation of the WLUB (Figure1).

Both lots are designated Residential on the Generalized Future Land Use Map of the Windsor Municipal Planning Strategy (WMPS) and zoned High Density

Residential (R-4) on the zoning map of the Windsor Land Use By-law (WLUB). Both lots are held in the same ownership: 3332758 Nova Scotia Limited.

Each of these lots can be sold separately. In order that future owners of both lots are aware of the agreement regarding parking, it is appropriate that the development agreement be recorded on the title of each property.

4.0 DISCUSSION

4.1 Vacant Lot: PID 45354065

The developer has requested permission to construct a 15-unit apartment building on this lot. Although the lot has only 40' of frontage on the street, the lot was created in June 2005, prior to the effective date of the WLUB (September of 2005), and s.5.13 of the WLUB enables it to be developed. All parking for the new building can be located on the now-vacant lot, and all other requirements of the WLUB have been met, so a development permit has been issued for the 15-unit apartment building.

4.2 233 Gray Street, PID 45059938

4.2.1 Existing Violation

In 2005 a development permit was issued for a 15-unit apartment building on the lot at 233 Gray Street. The building was constructed and is in use to-day. The parking required by the development permit has not remained all on the lot at 233 Gray Street; it has expanded into the abutting vacant lot. As a result, the existing building is in violation of the WLUB.

4.2.2 Request for Development Agreement

Clause 6.1 (a) of the WLUB enables parking to be located on a separate lot by development agreement in accordance with Policy 4.11.3 of the Windsor Municipal Planning Strategy. The owner of both lots has requested a development agreement to regularize the placement of part of the parking for 233 Gray Street on the now-vacant lot.

The development agreement proposal provides a minimum of 43 parking spaces for the two fifteen (15) unit apartment buildings. This is two spaces short of the parking which would usually be required by the Land Use By-law, but is more than would be required by a more usual modern standard of 1.25/unit (38 spaces). Each parking space is 9' by 20' which is narrower than required by the WLUB, but meets most modern standards.

4.2.3 Development Agreement

A development agreement is a contract between an owner of land and the Municipality to allow Council to consider a use that is not a listed, permitted use within a zone on a specific lot. The ability for Council to consider a development

agreement must be stated in the Land Use Bylaw (LUB) and the Municipal Planning Strategy (MPS) must identify the kinds of uses Council may consider in each area. In the case of considering parking on a separate lot only by development agreement, Council is ensuring that the parking is tied legally to the use and that any future purchaser of the property will be aware of the requirements.

A proposal being considered must be measured against only any specific criteria for that use and the general criteria for the proposal in the MPS. No other criteria are used when considering a development agreement.

4.2.4 WMPS Specific Criteria for Parking by Development Agreement

Each of the criteria is met by the proposal (Attachment A). It is within 300' of the lot which the parking serves, the lots are held in the same ownership and the draft development agreement ties the parking for each lot to both property descriptions.

4.2.5 WMPS General Criteria

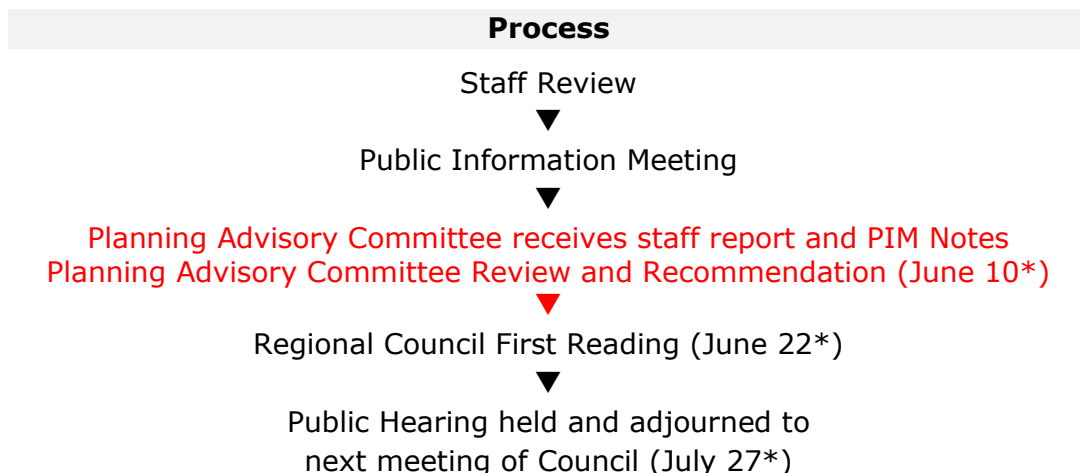
The proposal meets the general criteria for development agreement set out in WMPS Policy 16.3.1. These criteria are examined in detail in Attachment B. In summary, the proposal is neither premature nor inappropriate and no problems are anticipated by either the Traffic Authority or the Development Officer.

4.2.6 Municipal Climate Change Action Plan

Since this is a development agreement outside the Environmental Constraints Area only to regularize parking on an abutting lot, the application was not measured against the Municipal Climate Change Action Plan.

5.0 **NEXT STEPS**

As noted above, the proposed development agreement has been considered within the context of both the specific and general policies of the WMPS and is consistent with the intent, objectives and policies. Dates shown are the anticipated dates; the final dates will be set by Council.



▼
Council completes Public Hearing and
holds Second Reading (September 28*)

▼
Ministerial Approval or Appeal Period

▼
Notice of Approval in Local Paper

6.0 FINANCIAL IMPLICATIONS

There are no anticipated costs to the Municipality regarding this development agreement.

7.0 ALTERNATIVES

In response to the application, PAC/HAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the development agreement as drafted or as specifically revised by direction of PAC;
- provide alternative direction such as requesting further information on a specific topic.

8. ATTACHMENTS

Figure 1 Orthophoto: Existing Situation

Figure 2 Windsor GFLUM Extract

Figure 3 Windsor Zoning Map Extract

Attachment A Specific Criteria for Development Agreement

Attachment B General Criteria for Development Agreement

Report Prepared by: _____
Madelyn LeMay, Director of Planning and Development

Figure 1

Orthophoto: Existing Situation



Figure 2

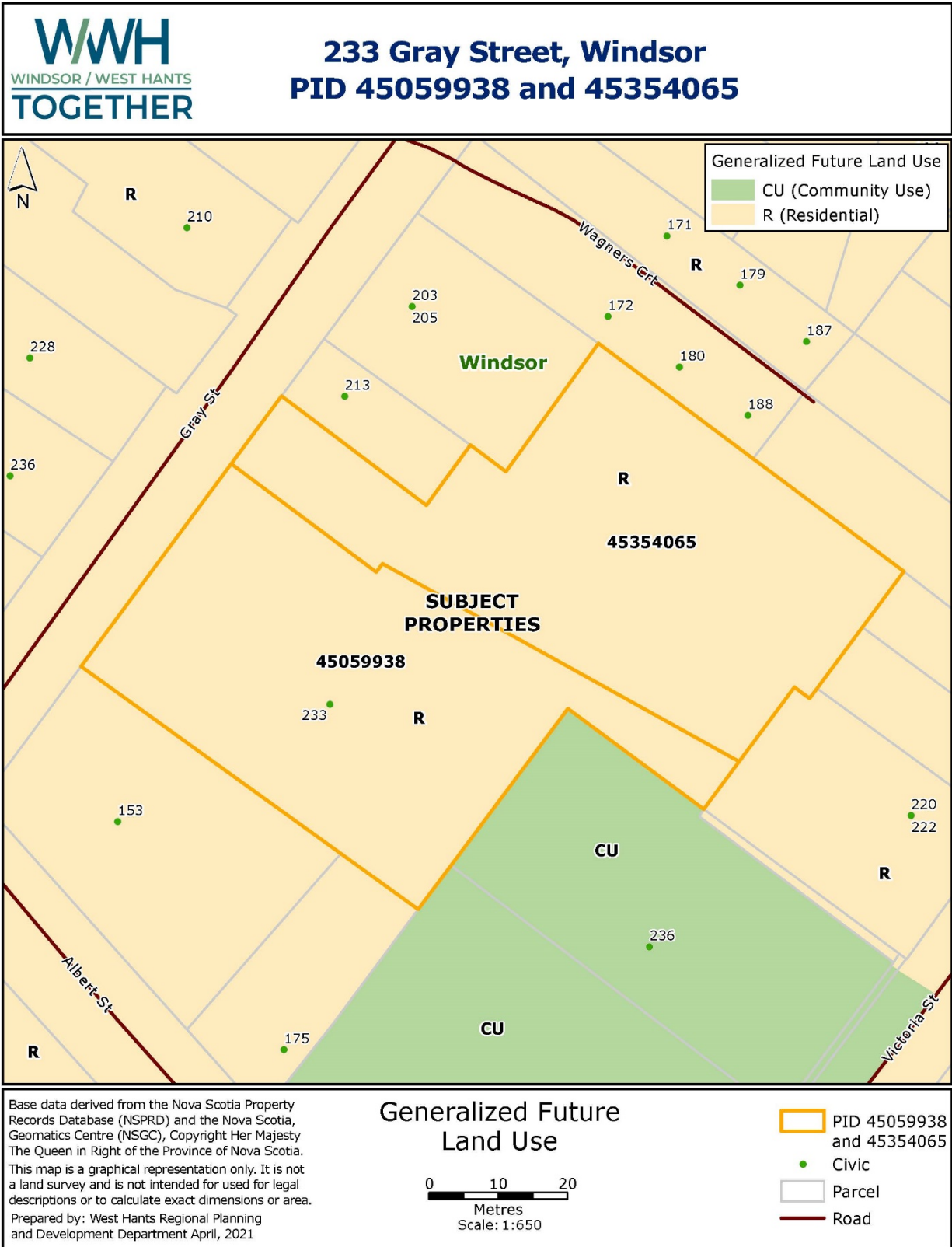
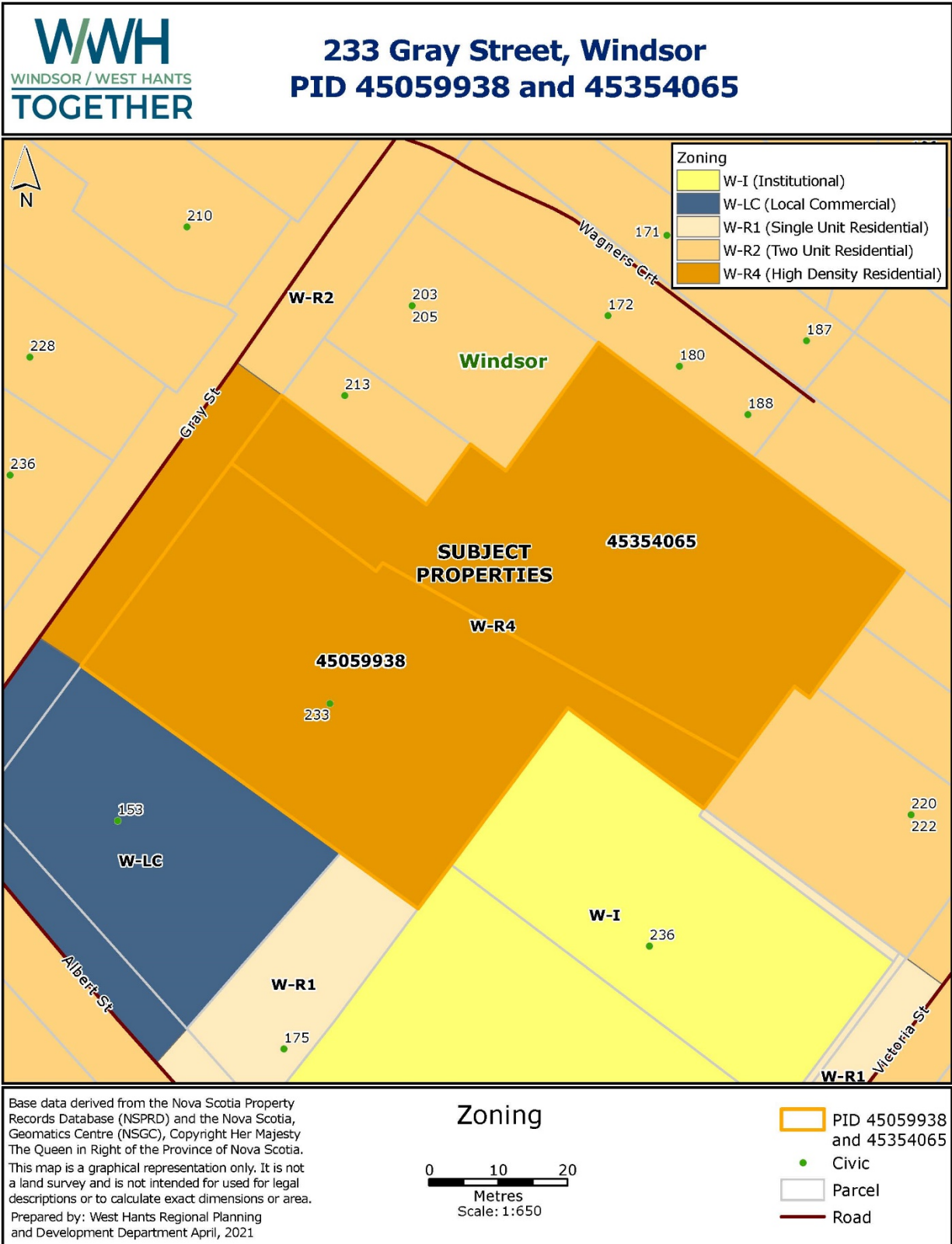


Figure 3



Attachment A
Specific Criteria for Amendment

WMPS Policy 4.11.3

Notwithstanding Policy 4.11.2, parking may be provided on a separate lot by development agreement subject to the following criteria:

CRITERIA	COMMENT
<i>(a) the lot is within 300 ft. (91.44 m.) of the lot for which the parking is required;</i>	The lots abut one another.
<i>(b) the two lots are in the same ownership</i>	Both lots are owned by 3332758 Nova Scotia Limited
<i>(c) the agreement ensures the required parking is continued to be provided for the said use on the separate lot; and</i>	The draft development agreement requires the shared driveway and part of the parking to support the 15-unit apartment building on PID 45059938 be located on PID 45354065.
<i>(d) the provisions of Policy 16.3.1 of the Municipal Planning Strategy.</i>	Please see Attachment B

**Attachment B
General Criteria**

Policy 16.3.1 In considering development agreements and amendments to the Town of Windsor Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

CRITERIA	COMMENT
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	Not applicable as no structure is proposed.
<i>(ii) the adequacy of school facilities;</i>	Not applicable as no structure is proposed.
<i>(iii) the adequacy of fire protection;</i>	Not applicable as no structure is proposed.
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	The Traffic Authority has determined the road network to be adequate.
<i>(v) the financial capacity of the Town to absorb any costs relating to the development.</i>	There are no anticipated costs related to the development.
<i>(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	Traffic Authority has no concerns regarding the proposed parking lot.
<i>(c) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The Development Officer has commented that the lot is appropriate for the intended use.
<i>(d) the pattern of development which the proposal might create;</i>	The proposed shared parking does not affect the development pattern.
<i>(e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, marshes or bogs and susceptibility of flooding;</i>	The lot is now used for parking for the adjacent lot and appears suitable; the development agreement does not warrant that the lot is suitable for the proposed parking use.
<i>(f) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and</i>	There are no apparent Provincial or Federal requirements.
<i>(g) any other matter required by relevant policies of this Strategy.</i>	No other policies are relevant to the proposed development agreement.