



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation	Decision Request <input checked="" type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____
Madelyn LeMay, Director, Planning and Development

Date: July 27, 2021

Subject: File # 21-08D: Windsor Development Agreement 233 Gray Street and Abutting Lot

LEGISLATIVE AUTHORITY

Municipal Government Act Section 210.

POSSIBLE MOTION

Following conclusion of the Public Hearing on September 28, should Council wish to enter into the proposed development agreement, the following motion would be in order:

... that Council enter 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.

BACKGROUND

Property <input checked="" type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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A Public Information Meeting was held on April 28, 2021 (Attachment A).

On June 10, 2021 staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Attachment B) and PAC/HAC made a positive recommendation to Council.

Council held First Reading on June 22, 2021 and set the date for a public hearing.

NEXT STEPS



ATTACHMENTS

- Attachment A Public Information Meeting Notes – File 21-08A
- Attachment B Staff Report Secondary Suites - File #21-08
- Attachment C First Reading Report – File # 21-08B
- Attachment D Proposed Development Agreement

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

Report Approved by:  _____
Mark Phillips, CAO

ATTACHMENT A

Public Information Meeting Notes

April 28, 2021- May 11, 2021

File 21-08A

233 Gray Street and Abutting Lot PID # 45354065

Meeting date and time	A public information meeting was held on April 28, 2021 beginning at 7 p.m. The meeting was broadcast live on the Municipal Facebook page.
File Number	21-08 A
Attending	Councillor Jim Ivey, PIM Chair Madelyn LeMay, Director, Planning and Development Sara Poirier, Planner John Salah, Applicant Xhavid Kuka, Owner Jani Mroshaj , Owner As this meeting was held virtually there were no members of the public present.
Applicant John Salah, Quadra Engineering Agent 3332758 Nova Scotia Limited Xhavid Kuka, President Jani Mroshaj, Vice President	Ms. LeMay outlined the application for a development agreement to permit a portion of the parking required for 233 Gray Street to be located on the abutting vacant lot, PID 45354065. A presentation was not made by the applicant.
Comments	Written comments were received from four (4) individuals: <ul style="list-style-type: none">• three individuals thought the development agreement was for an apartment building which is permitted as-of-right; all of their comments or questions were about the apartment building;• 2 individuals requested digital copies of the plan for the parking lot;• 1 individual indicated there is no point in meeting if changes might be made after the PIM;• 1 individual was not opposed to the parking arrangements;• 1 individual had questions but no comments
Adjournment	The presentation portion of the PIM ended at approximately 6:15 p.m.; comments could be submitted by the public by mail, drop-off at the Municipal Office, e-mail and telephone to Ms. LeMay until May 11, 2021.
Attachment A	PIM Submissions

ATTACHMENT A

PIM Submissions: 233 Gray Street

Received April 21 to May 11, 2021

Compiled May 12, 2021

From: Garth Hancock

Sent: Wednesday, April 21, 2021 12:58 PM

To: Madelyn LeMay <MLeMay@westhants.ca>

Subject: 233 Gray St

please e-mail me a legible copy of the proposed parking plan

Second - why is a red line shown on the picture of Wagners court I'm not aware of any road on that property

Yes I can see this plan not like the one mailed out. What is the sense of a meeting if you change things after?. I notice a 15' sideline set back but balconies extend out within the 15'. What is the required sideline setback.

The developer will get as much as he can get away with ,the come back and ask for changes to get more. All we can do as is try to keep things as allowed and try not to have the Municipality give things that are not as of right. The meetings are just a waste of time process for the neighbours after the meeting it is the Municipality that will tow the line or sell us out. I will see if I can find the requirements for R-4 if I can not I will ask you where to find them.

Due to Covid we will not be attending any public meetings. I understand the specks will change after the meeting so the meeting seems pointless anyway.

Please accept my comment as any input I would of given at a meeting.

What people want is as low of a building as possible - The most green space possible abutting their property as possible and as much privacy from the building as possible.

Please note The notice of this meeting sent to the public contained incorrect information the plan mailed out was not legible and the information should of included a copy of the R-4 Zoning requirements . It appears some of the requirements differ from the proposal.

I personally would like to see any Balconies facing existing buildings placed at a maximum distance to the lot line as this is where people will flick cigarette butts and other butts and have B.B.Q's weather they are allowed or not. Normally fire safety is an important issue.

It will be up to the Municipality to make the development meet requirements any gifts to the developer will come at a cost to the adjacent property owners in the way of loss of value and enjoyment

Thanks please accept this as input.

From: (Doug Allen)

Sent: Thursday, April 22, 2021 5:10 PM
To: Madelyn LeMay <MLeMay@westhants.ca>
Subject: 233 Gray

Hi Madelyn;

Just received your communication related to 233 Gray.

No objections to the change related to the parking arrangements.

The 15 unit apartment building. No objections as long as the build remains 15 units or less.

Cheers
Doug Allen

For Irene Allen

From: Chris Sanford
Sent: Wednesday, April 28, 2021 5:33 PM
To: Madelyn LeMay <MLeMay@westhants.ca>
Subject: digital copy of plot plan not readable

Hi

Can you forward me a digital copy of the plot plan that was sent out via regular mail. The copy sent out is not readable.

Thanks
Chris Sanford

From: Janet Smith
Sent: Tuesday, May 11, 2021 3:07 PM
To: Madelyn LeMay <MLeMay@westhants.ca>
Subject: 233 Grey Street

Dear Ms. LeMay,

I wish to inquire regarding the proposed development located at 233 Gray Street. I have a few questions for your consideration:

1. Is this project a government subsidized public/private partnership receiving funding from either Federal, Provincial or Municipal government or a combination of all sources?
2. How tall is the proposed development i.e. how many floors?
3. Why was there no public consultation regarding this development considering this is the heritage property district and the development is to be situated in the center of, and thus surrounded mostly by single family dwellings of historic character?

4. After this development is completed, will the municipality accept application and consider this property eligible for a 'Phased In Assessment Agreement' under the DEVELOPMENT SUPPORT PROGRAM, for Taxation Rebates?
5. Is the West Hants Housing Coalition involved in this project/development?
6. Is this project/development involved with the National Housing Strategy / Rapid Housing Authority and Rental Construction Financing Initiative?
7. On what date did the 'Developer' make application for the proposed development and when does the Department of Planning and Development intend to finalize the application?
8. What is the estimated annual tax revenue this development is expected / calculated to contribute to the Windsor West Hants Municipality?

Thank you for your time and attention to these questions and I look forward to hearing from you at your nearest opportunity.

Sincerely,
Janet Smith

ATTACHMENT B
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

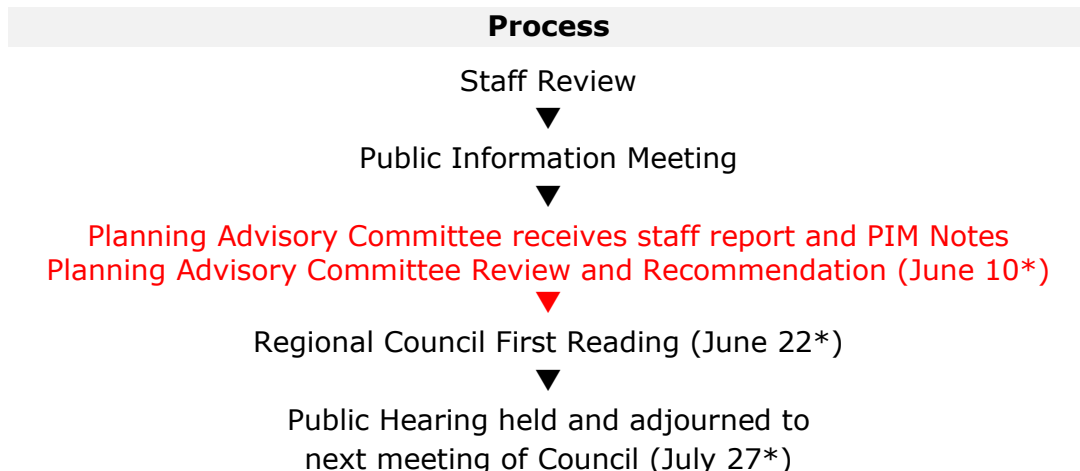
The proposal meets the general criteria for development agreement set out in WMPS Policy 16.3.1. These criteria are examined in detail in Attachment B. In summary, the proposal is neither premature nor inappropriate and no problems are anticipated by either the Traffic Authority or the Development Officer.

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

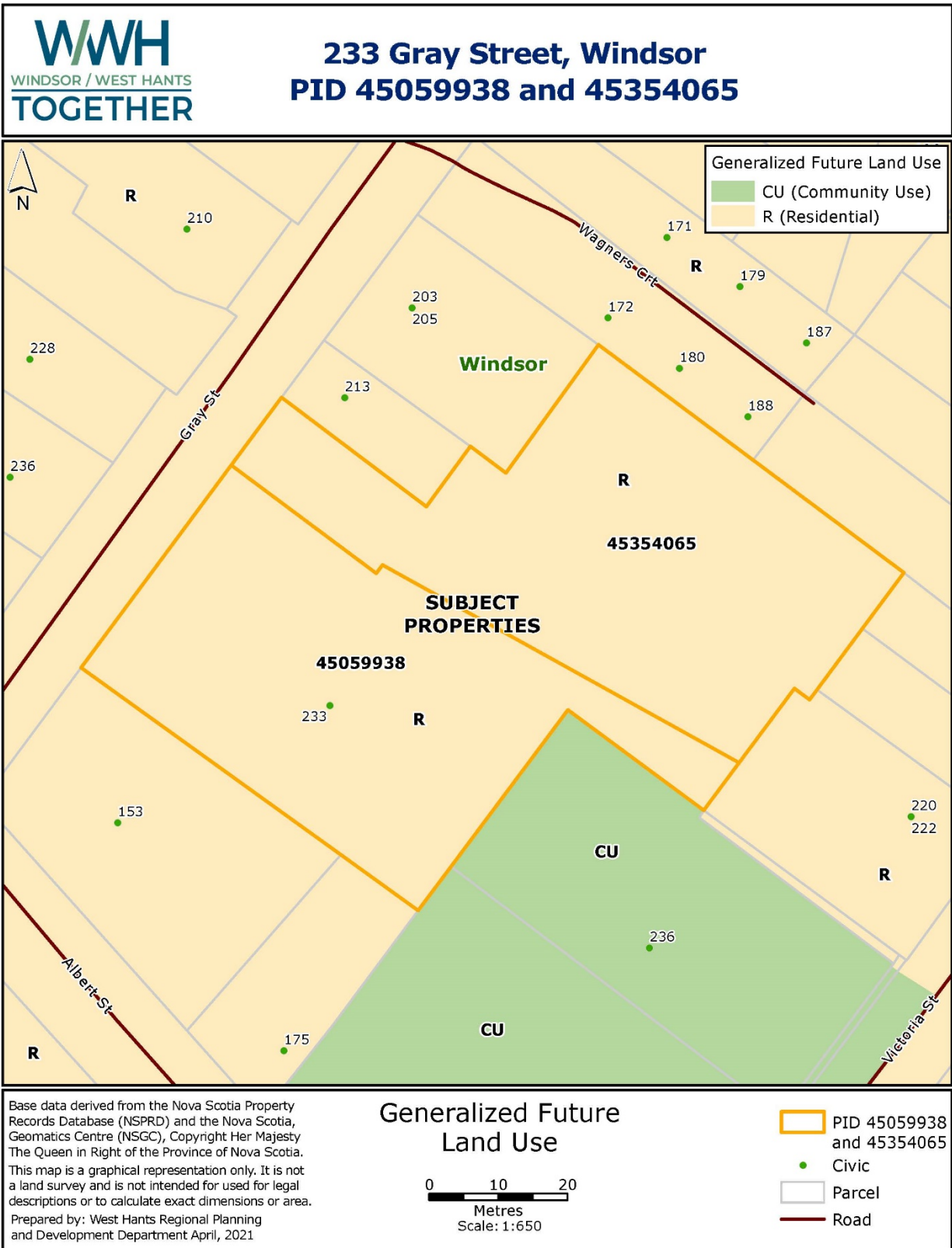
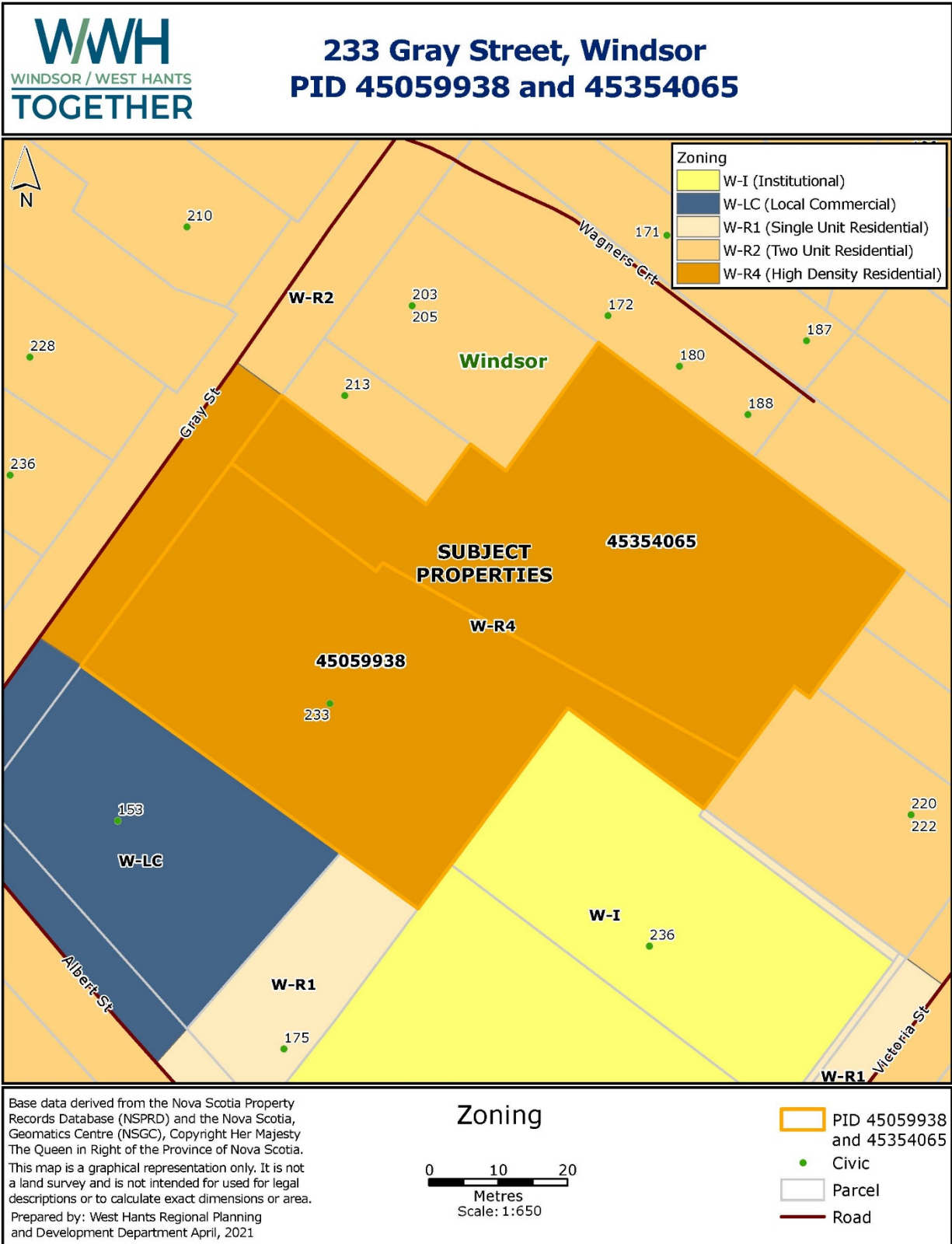


Figure 3



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.



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2021

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the Municipal Government Act, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the "Municipality")

OF THE FIRST PART

- and -

3332758 NOVA SCOTIA LIMITED, a body corporate, with a head office at Bedford, Province of Nova Scotia,

(Hereinafter referred to as the "Owner")

OF THE SECOND PART

WHEREAS the Owner is the registered owner of two lots located at 233 Gray Street, PID 45059938 and PID 45354065, Windsor hereinafter referred to as the "Properties", which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Properties are designated Residential on the Generalized Future Land Use Map of the Windsor Municipal Planning Strategy (September 21, 2005) and zoned High Density Residential (R-4) on the Zoning Map of the Windsor Land Use By-law (September 21, 2005); and

WHEREAS the Owner wishes to accommodate part of the parking required for a fifteen-unit apartment building located at 233 Gray Street, PID 45059938 on PID 45354065; and

WHEREAS Policy 4.11.3 of the Windsor Municipal Planning Strategy (the “Municipal Planning Strategy”) and Clause 6.1 (a) of the Windsor Land Use By-law (the “Land Use By-law”) provide that parking located on separate lot within 300’ of the use it supports may be considered by development agreement; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day**, 2021, approved this request;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use By-law, except those defined as follows:

Parking Space means a space measuring 9’ by 20’, exclusive of driveways, ramps or aisles, to park one vehicle for purposes other than the display or offering of sale of commodities.

1.2 Schedules

The following attached schedules shall form part of this agreement:

Schedule A – Property Descriptions

Schedule B – Site Plan

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

(a) *Municipal Planning Strategy* means the Municipal Planning Strategy of the Town of Windsor, approved on August 23, 2005, as amended, or successor bylaws;

(b) *Land Use Bylaw* means the Land Use Bylaw of the Town of Windsor, approved on August 23, 2005, as amended, or successor bylaws;

(c) *Subdivision Bylaw* means the Subdivision Bylaw of the Town of Windsor approved on January 24, 2012, as amended, or successor bylaws.

PART 2 GENERAL REQUIREMENTS

2.1 Use

The Parties agree that uses on the Properties shall be limited to the following:

- (a) those uses permitted by the underlying zoning of the Land Use By-law;
- (b) a driveway providing access to parking spaces;
- (c) a minimum of 43 clearly demarcated parking spaces located entirely on PID 45354065 and PID 45059938, arranged approximately as shown on Schedule B, required to support two 15-unit apartment buildings.

Except as otherwise provided in this Agreement, the provisions of the Land Use By-law and the Subdivision By-law apply to any development undertaken pursuant to this agreement.

2.2 Access and Egress

The vehicular entrance and exit for the property shall be via the existing driveway located approximately as shown on the Site Plan (Schedule B).

2.3 Variance

The parking layout and the minimum number of parking spaces required may be varied in writing by the Development Officer without amending this agreement provided that the number of spaces for each apartment unit shall not be reduced below one (1).

2.4 Lighting

Exterior lighting for driveways and parking areas shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.

2.5 Maintenance

- (a) The Owner shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owner shall maintain the driveway to a level adequate to allow for access by emergency services vehicles.

PART 3 CHANGES AND DISCHARGE

- 3.1** The Owner shall not vary or change the use of the Property from that provided for in Section 2.1 of this Agreement, *Use*, unless a new agreement is entered into with the Municipality or this agreement is amended.

- 3.2** There are no substantive matters in this development agreement. The agreement may be changed with the written consent of Council without a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.
- 3.3** Notice of Intent to Discharge this Agreement may be given by the Municipality to the Owner following a resolution of Council to give such Notice:
- (a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or
 - (b) at the discretion of the Municipality, with or without the concurrence of the Owner, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
 - (c) at any time upon the written request of the Owner, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.4** Council may discharge this Agreement thirty (30) days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

- (a) The Owner may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.
- (b) Development as provided in Part 2 of this Agreement shall commence not later than twenty-four (24) months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act thirty (30) days after giving Notice of Intent to Discharge to the Owner. Upon the written request of the Owner, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.

- (c) If the Owner is bona fide delayed from commencing the development for reasons which are beyond the Owner's control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the Owner is excused for the period of the delay and the time period for the Owner to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owner from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the masculine gender shall include the feminine and neutral gender.
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.
- (c) References to particular sections of statutes and bylaws shall be deemed to be references to any successor legislation and bylaws even if the content has been amended, unless the context otherwise requires.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owner about the suitability of the Property for the development proposed by this agreement. The Owner assumes all risks and must ensure that any

proposed development complies with this Agreement and all other laws pertaining to the Development.

- (b) Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Onus for Compliance on Owner

Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.6 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Owner in writing. In the event that the Owner has not cured any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.7 Costs

The Owner shall pay all costs associated with the advertising required for this Agreement, the costs of registering this Agreement, and all costs associated with any amendment thereof.

5.8 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the *Municipal Government Act*.

)
)
) **3332758 NOVA SCOTIA LIMITED**
)

Witness) Per: _____
) Xhavid Kuka, President
)
)

Witness) Per: _____
) Jani Mroshaj, Vice President
)

DRAFT

SCHEDULE A

Property Description taken From Property Online May 26, 2021

PID 45354065

Place Name: GRAY STREET WINDSOR

Municipality/County: TOWN OF WINDSOR/HANTS COUNTY

Designation of Parcel on Plan: LOT W-7A

Title of Plan: PLAN OF SUBDIVISION OF LOT W-7A, LANDS OF MANNEX HOLDINGS LTD, WINDSOR, PARCEL A ADDED TO BLOCK W-7 TO FORM LOT W-7A, REMAINDER OTW-6A

Registration County: HANTS COUNTY

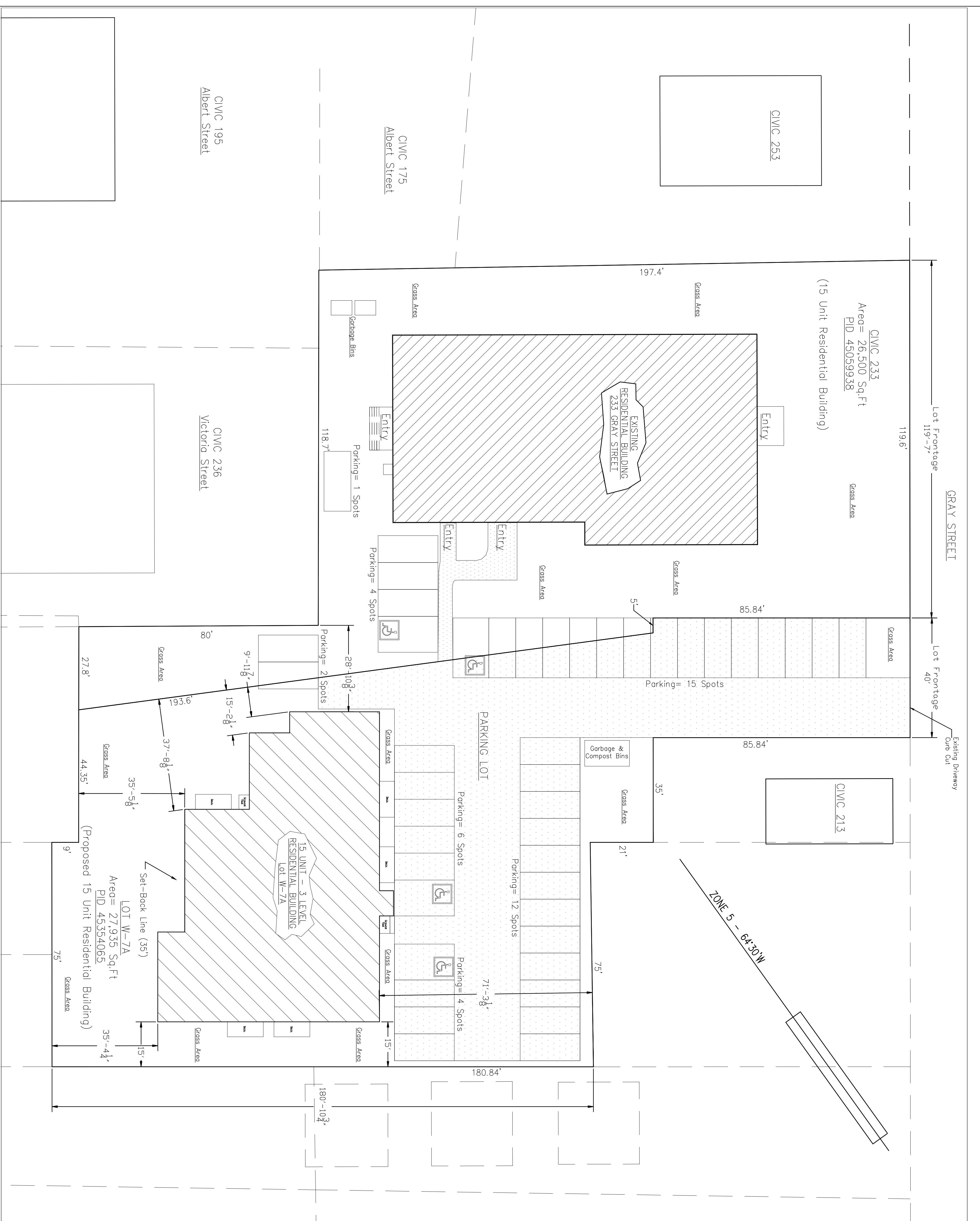
Registration Number of Plan: 82183444

Registration Date of Plan: 2005-06-13 14:16:27

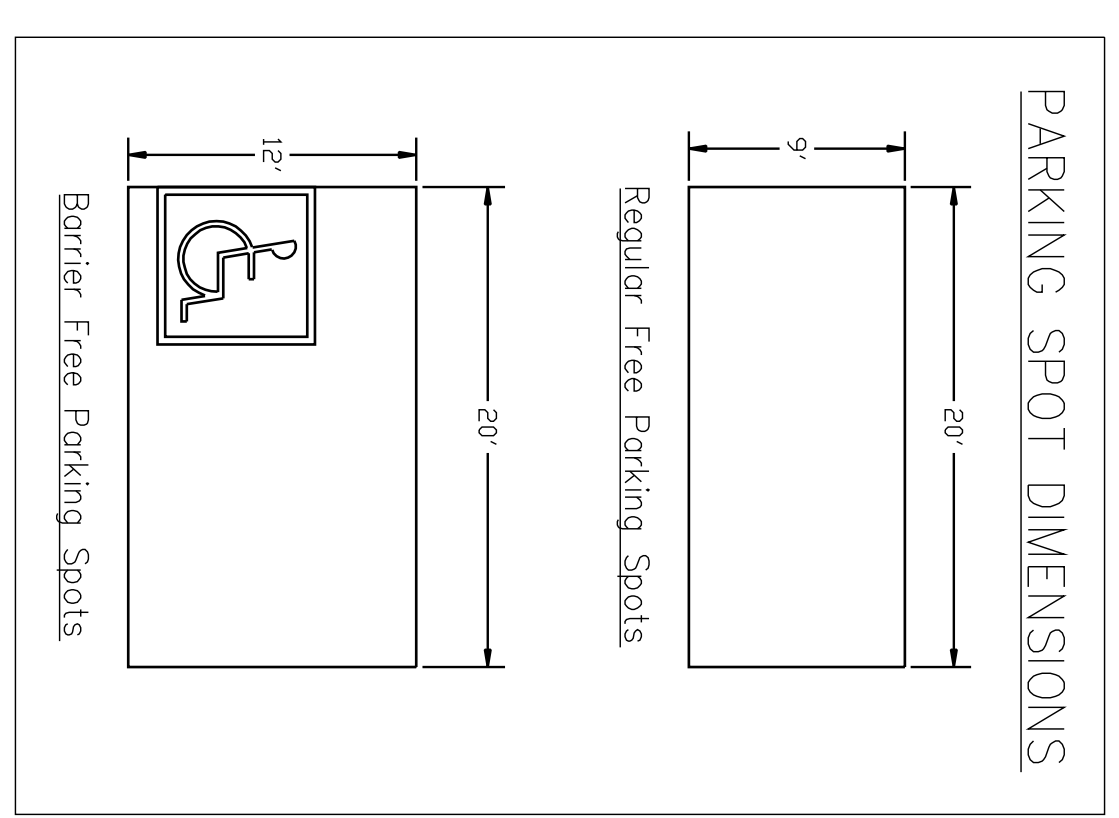
PID 45059938

ALL that lot of land situate at the Town of Windsor, County of Hants, Province of Nova Scotia, shown as Block W-6 on a plan of survey entitled Block W-6 & W-7, Lands Conveyed to Mannex Holdings Limited, dated February 19, 2002, by Bruce Lake, N.S.L.S. and registered in the Registry of Deeds at Windsor, Nova Scotia on November 19, 2004 as Plan No. 76688598.

SAVING and EXCEPTING Parcel A as shown on registered Plan No. 82183444



LOT DENSITY CALCULATION
Lot Area = 27,935 Sq.Ft.
Required for First 4 Units = 10,000 Sq.Ft.
1,500 Sq.Ft. For Each additional unit = 11 x 1,500 = 16,500 Sq.Ft.
Total = 26,500 Sq.Ft.
Lot Area is Good for 15 Units
LOT DENSITY CALCULATION
Lot Area = 27,935 Sq.Ft.
Building Area = 6,258 Sq.Ft.
Parking, Etc. Area = 12,847 Sq.Ft.
Landscaped Open Space Available = 8,830 Sq.Ft.
Required Landscaped Open Space = 250 Sq.Ft. Per Unit
= 15 Units x 250 = 3,750 Sq.Ft.
PARKING SPOTS - (Two Buildings)
Regular Parking Spots = 40 (9' x 20')
Barrier Free Parking Spots = 4 (12' x 20')
Total Parking Spots For two Buildings = 44



**PRELIMINARY ONLY
NOT FOR
CONSTRUCTION**

QUADRA ENGINEERING LIMITED
16 Geneva Drive
Halifax, N.S.
BSM 124
Tel: 902-431-6409
Cell: 902-550-0385
quadra@quadraengineering.com

**233 GRAY STREET
WINDSOR NOVA SCOTIA**

REVISIONS	Date	Number
	March 26, 2021	1
	May 13, 2021	2
	May 13, 2021	3

**PROPOSED
SITE PLAN**

Scale: 1/4" = 1'
Date: March 23, 2021
File No: 2021-4
Dwg. No: 2 OF 11

All Drawings and Specifications are the property of Quadra Engineering Limited. They are not to be copied, reproduced, or used in any form without the written consent of Quadra Engineering Limited. No change to design, or material, or to take place without written approval of Quadra Engineering Limited. The drawings and specifications are subject to change without notice.

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2021, before me, the subscriber,
personally came and appeared , a
subscribing witness to the foregoing Indenture, who, having been by me duly
sworn, made oath and said that **WEST HANTS REGIONAL MUNICIPALITY**, one
of the parties thereto, caused the same to be executed in its name and on its behalf
and its corporate seal to be thereunto affixed in h presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

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personally came and appeared , a
subscribing witness to the foregoing Indenture, who, having been by me duly
sworn, made oath and said that, one of the parties thereto, signed, sealed and
delivered the same in h presence.

A Commissioner of the Supreme Court of Nova Scotia

CANADA
PROVINCE OF NOVA SCOTIA

AFFIDAVIT & PROOF OF EXECUTION

I, **NAME AND RESIDENCE** , Nova Scotia, make oath and say that:

1. I am **POSITION** of **3332758 NOVA SCOTIA LIMITED**, the "Corporation". Except as otherwise stated I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. I acknowledge that I executed the foregoing instrument on behalf of the Corporation on the date of this affidavit; this acknowledgment is made for the purpose of registering such instrument pursuant to s.31(a) of the Registry Act, R.S.N.S. 1989, c.392 or ss.79 and 83 of the Land Registration Act as the case may be.
3. I verify that I have the authority to execute the foregoing instrument on behalf of the corporation and thereby bind the Corporation.
4. The Corporation is a resident of Canada under the Income Tax Act (Canada).
5. The ownership of a share or an interest in a share of the Corporation does not entitle the owner of such share or interest in such share to occupy a dwelling owned by the Corporation.

I certify that on this **DATE**, 2021 the Deponent came before me, made oath, and swore the foregoing affidavit at **PLACE**, Nova Scotia.

Print Name:
Authority (e.g. Commissioner of
Oaths): Please affix seal

AFFIDAVIT OF CLERK
WEST HANTS REGIONAL MUNICIPALITY

I, _____ of _____, Hants County, Nova Scotia make oath and swear that:

1. I am the Clerk of West Hants Regional Municipality (The "Municipality") and I have personal knowledge of the matters to which I have sworn in this Affidavit.
2. The Municipality is a body corporate pursuant to the Municipal Government Act, S.N.S. 1988, c.18, as amended.
3. I acknowledge that the Municipality executed the attached Instrument by its proper designates duly authorized in that regard under seal on the date of this Affidavit pursuant to subsection 13(3) of the Municipal Government Act, S.N.S. 1988, c.18, as amended. This acknowledgement is made pursuant to subsection 31(a) of the Registry Act, R.S.N.S. 1989, c.392 and/or clause 79(1)(a) of the Land Registry Act, S.N.S. 2001, c.6, as amended, for the purpose of registering or recording the Instrument.
4. The Municipality is resident in Canada for the purposes of the Income Tax Act (Canada).

Sworn before me at _____, Nova Scotia, this _____, 2021.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

CLERK

I CERTIFY that on this date _____ personally came before me and swore under oath the foregoing Affidavit.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal



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: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____
Madelyn LeMay, Director, Planning and Development

Date: June 22, 2021

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

LEGISLATIVE AUTHORITY

Section 210 of the Municipal Government Act.

RECOMMENDATION or DECISION REQUEST

Should Council wish to proceed to a Public Hearing as recommended by PAC/HAC, the following motion would be in order:

... 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.

BACKGROUND

Property <input checked="" type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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DISCUSSION

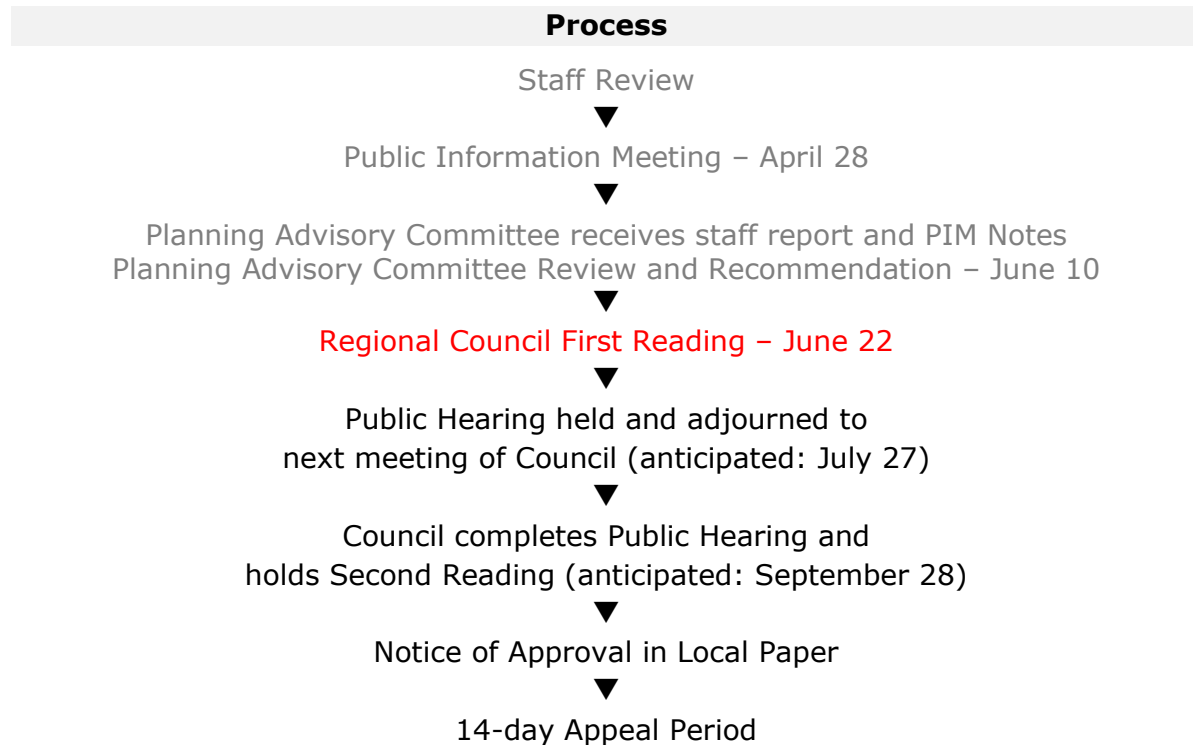
A Public Information Meeting was held on April 28, 2021.

On June 10, 2021 staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC).

PAC/HAC recommended in favour of the development agreement on June 10, 2021.

NEXT STEPS

The process for this application is as follows:



FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality in relation to the filing of this report.

ALTERNATIVES

In response to the application, Council may decide to:

- provide alternative direction such as requesting further information on a specific topic.

APPENDIX

Appendix A Public Information Meeting Notes – File 21-08A
 Staff Report and Recommendation - File 21-08B

CHIEF ADMINISTRATIVE OFFICER REVIEW

I have no further comments. After attending the June 10, 2021 PAC/HAC meeting is support the recommendation.

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

Report Approved by: _____

Mark Phillips, Chief Administrative Officer



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2021

BETWEEN:

WEST HANTS REGIONAL MUNICIPALITY, a body corporate pursuant to the Municipal Government Act, having its chief place of business at 76 Morison Drive, Wentworth Creek, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the "Municipality")

OF THE FIRST PART

- and -

3332758 NOVA SCOTIA LIMITED, a body corporate, with a head office at Bedford, Province of Nova Scotia,

(Hereinafter referred to as the "Owner")

OF THE SECOND PART

WHEREAS the Owner is the registered owner of two lots located at 233 Gray Street, PID 45059938 and PID 45354065, Windsor hereinafter referred to as the "Properties", which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Properties are designated Residential on the Generalized Future Land Use Map of the Windsor Municipal Planning Strategy (September 21, 2005) and zoned High Density Residential (R-4) on the Zoning Map of the Windsor Land Use By-law (September 21, 2005); and

WHEREAS the Owner wishes to accommodate part of the parking required for a fifteen-unit apartment building located at 233 Gray Street, PID 45059938 on PID 45354065; and

WHEREAS Policy 4.11.3 of the Windsor Municipal Planning Strategy (the “Municipal Planning Strategy”) and Clause 6.1 (a) of the Windsor Land Use By-law (the “Land Use By-law”) provide that parking located on separate lot within 300’ of the use it supports may be considered by development agreement; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day**, 2021, approved this request;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

PART 1 AGREEMENT CONTEXT

1.1 Definitions

In this Agreement, all words or phrases used shall carry their customary meaning unless otherwise set out in the Land Use By-law, except those defined as follows:

Parking Space means a space measuring 9’ by 20’, exclusive of driveways, ramps or aisles, to park one vehicle for purposes other than the display or offering of sale of commodities.

1.2 Schedules

The following attached schedules shall form part of this agreement:

Schedule A – Property Descriptions

Schedule B – Site Plan

1.3 Municipal Planning Strategy, Land Use By-law and Subdivision By-law

(a) *Municipal Planning Strategy* means the Municipal Planning Strategy of the Town of Windsor, approved on August 23, 2005, as amended, or successor bylaws;

(b) *Land Use Bylaw* means the Land Use Bylaw of the Town of Windsor, approved on August 23, 2005, as amended, or successor bylaws;

(c) *Subdivision Bylaw* means the Subdivision Bylaw of the Town of Windsor approved on January 24, 2012, as amended, or successor bylaws.

PART 2 GENERAL REQUIREMENTS

2.1 Use

The Parties agree that uses on the Properties shall be limited to the following:

- (a) those uses permitted by the underlying zoning of the Land Use By-law;
- (b) a driveway providing access to parking spaces;
- (c) a minimum of 43 clearly demarcated parking spaces located entirely on PID 45354065 and PID 45059938, arranged approximately as shown on Schedule B, required to support two 15-unit apartment buildings.

Except as otherwise provided in this Agreement, the provisions of the Land Use By-law and the Subdivision By-law apply to any development undertaken pursuant to this agreement.

2.2 Access and Egress

The vehicular entrance and exit for the property shall be via the existing driveway located approximately as shown on the Site Plan (Schedule B).

2.3 Variance

The parking layout and the minimum number of parking spaces required may be varied in writing by the Development Officer without amending this agreement provided that the number of spaces for each apartment unit shall not be reduced below one (1).

2.4 Lighting

Exterior lighting for driveways and parking areas shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.

2.5 Maintenance

- (a) The Owner shall keep the Property and buildings and any portion thereof clean and in good repair. Any driveways, fences, lawns, trees, shrubs, walkways and other landscaping elements shall be regularly maintained and kept in a tidy state and free from unkempt materials or matter of any kind.
- (b) The Owner shall maintain the driveway to a level adequate to allow for access by emergency services vehicles.

PART 3 CHANGES AND DISCHARGE

3.1 The Owner shall not vary or change the use of the Property from that provided for in Section 2.1 of this Agreement, *Use*, unless a new agreement is entered into with the Municipality or this agreement is amended.

- 3.2** There are no substantive matters in this development agreement. The agreement may be changed with the written consent of Council without a public hearing provided that Council determines that the changes do not significantly alter the intended effect of these aspects of this agreement.
- 3.3** Notice of Intent to Discharge this Agreement may be given by the Municipality to the Owner following a resolution of Council to give such Notice:
- (a) as provided for in Section 4.1, *Commencement of Development*, of this Agreement; or
 - (b) at the discretion of the Municipality, with or without the concurrence of the Owner, where the Development has, in the reasonable opinion of Council on advice from the Development Officer, ceased operation for a period of at least twenty-four (24) months; or
 - (c) at any time upon the written request of the Owner, provided the use of the Property is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.4** Council may discharge this Agreement thirty (30) days after a Notice of Intent to Discharge has been given.

PART 4 IMPLEMENTATION

4.1 Commencement of Development

- (a) The Owner may not commence any construction or use on the Property until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required.
- (b) Development as provided in Part 2 of this Agreement shall commence not later than twenty-four (24) months from the date this Agreement is signed. If, in the opinion of the Development Officer, this time limit has not been met, this Agreement may be discharged at the option of the Municipality by resolution of Council in accordance with Section 229 of the Municipal Government Act thirty (30) days after giving Notice of Intent to Discharge to the Owner. Upon the written request of the Owner, the Municipality, by resolution of Council, may grant an extension to the date of commencement of development without such an extension being deemed to be an amendment to this Agreement.

- (c) If the Owner is bona fide delayed from commencing the development for reasons which are beyond the Owner's control, the determination of which shall be at the sole discretion of the Development Officer, then performance by the Owner is excused for the period of the delay and the time period for the Owner to perform their obligations shall be extended by the Development Officer in writing for an equivalent period, without such an extension being deemed to be an amendment to this Agreement.

PART 5 ADMINISTRATION and COMPLIANCE

5.1 Compliance with Other Bylaws and Regulations

- (a) Nothing in this Agreement shall exempt the Owner from complying with Federal, Provincial and Municipal laws, by-laws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority, or approval required thereunder.
- (b) Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.3 Interpretation

- (a) Where the context requires, the singular shall include the plural and the masculine gender shall include the feminine and neutral gender.
- (b) Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.
- (c) References to particular sections of statutes and bylaws shall be deemed to be references to any successor legislation and bylaws even if the content has been amended, unless the context otherwise requires.

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owner about the suitability of the Property for the development proposed by this agreement. The Owner assumes all risks and must ensure that any

proposed development complies with this Agreement and all other laws pertaining to the Development.

- (b) Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.5 Onus for Compliance on Owner

Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in this Agreement shall not be deemed a waiver of any rights or remedies that the Municipality may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.

5.6 Breach of Terms or Conditions

Upon breach of any term or condition of this Agreement, the Municipality may notify the Owner in writing. In the event that the Owner has not cured any such breach or entered into arrangements with the Municipality related to such breach to the Municipality's satisfaction, acting reasonably, within six (6) months of such notice then the Municipality may rely upon the remedies contained in Section 264 of the *Municipal Government Act* and may enter the land and perform any of the terms contained in the Development Agreement, or take such remedial action as is considered necessary to correct a breach of the Agreement, including the removal or destruction of anything that contravenes the terms of the Agreement and including decommissioning the site. It is agreed that all reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the Development Agreement.

5.7 Costs

The Owner shall pay all costs associated with the advertising required for this Agreement, the costs of registering this Agreement, and all costs associated with any amendment thereof.

5.8 Development Agreement Bound to Land

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Municipality in accordance with Section 229 of the *Municipal Government Act*.

)
)
) **3332758 NOVA SCOTIA LIMITED**
)

Witness) Per: _____
) Xhavid Kuka, President
)
)

Witness) Per: _____
) Jani Mroshaj, Vice President
)

DRAFT

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Sworn before me at _____, Nova Scotia, this _____, 2021.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

CLERK

I CERTIFY that on this date _____ personally came before me and swore under oath the foregoing Affidavit.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA
Print name/affix seal

SCHEDULE A

Property Description taken From Property Online May 26, 2021

PID 45354065

Place Name: GRAY STREET WINDSOR

Municipality/County: TOWN OF WINDSOR/HANTS COUNTY

Designation of Parcel on Plan: LOT W-7A

Title of Plan: PLAN OF SUBDIVISION OF LOT W-7A, LANDS OF MANNEX HOLDINGS LTD, WINDSOR, PARCEL A ADDED TO BLOCK W-7 TO FORM LOT W-7A, REMAINDER OTW-6A

Registration County: HANTS COUNTY

Registration Number of Plan: 82183444

Registration Date of Plan: 2005-06-13 14:16:27

PID 45059938

ALL that lot of land situate at the Town of Windsor, County of Hants, Province of Nova Scotia, shown as Block W-6 on a plan of survey entitled Block W-6 & W-7, Lands Conveyed to Mannex Holdings Limited, dated February 19, 2002, by Bruce Lake, N.S.L.S. and registered in the Registry of Deeds at Windsor, Nova Scotia on November 19, 2004 as Plan No. 76688598.

SAVING and EXCEPTING Parcel A as shown on registered Plan No. 82183444