



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation X	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Members of Planning and Heritage Advisory Committee (PAC/HAC)

Submitted by: _____
 Alex Dunphy, Planner

Date: January 12th, 2023

Subject: File # 22-20: Burgess Crescent, Windsor (PID 45338688) – Development Agreement

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

RECOMMENDATION

...that PAC/HAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to allow an 8-unit townhouse and attached 20-unit apartment building on Burgess Crescent, Windsor (PID 45338688) which is substantively the same as the draft set out in Attachment B of the report File #22-20 to the Planning and Heritage Advisory Committee dated January 12, 2023.

...that PAC/HAC recommends that Council require that the development agreement with Floran Lambie for Burgess Crescent, Windsor (PID 45338688) be signed within 120 days from the date of final approval by Council or the date that any appeals have been disposed of; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Property X	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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The completed application was submitted by Mark Higgins of OT Developments LTD on behalf of Floran Lambie on October 4th, 2022 to consider an 8-unit townhouse and attached 20-unit apartment building by development agreement on Burgess Crescent, Windsor (PID 45338688).

Surrounding Context

Properties to the west and south of the subject lots are designated Residential and zoned High Density Residential (R-4), lots to the north are designated Residential and zoned Single Unit Residential (R-1) and lots to the east are designated Community Use and zoned Open Space (OS). Lands surrounding the subject lots include an existing apartment building, low-density residential uses, and parkland.

DISCUSSION

The subject lot is designated Residential on the Generalized Future Land Use Map (GFLUM) of the Windsor Municipal Planning Strategy (MPS) (Figure 1) and zoned High Density Residential (R-4) on Schedule A of the Windsor Land Use By-law (LUB) (Figure 2).

Municipal Planning Strategy Document Review

Policy 5.4.6 is the primary enabling policy to be considered for this application. This policy provides Council with the ability to consider in the Residential designation, new multiple unit residential development consisting of three or more units by development agreement. The policy also includes criteria which must be met by the proposed development. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria since:

- the proposal is generally consistent with the High Density Residential (R-4) zone standards;
- the proposal has considerations for landscaping;
- the proposal is compatible with adjacent land uses; and
- the Development Officer and Municipal Traffic Authority have no concerns which have not been addressed in this report.

Policy 5.4.5 provides the criteria which requires adequate recreational space for multiple unit residential development. This policy is considered met as the amount of recreational space provided in the proposal exceeds the amount of recreational space required by the Windsor Land Use By-law and the Development Officer had commented that they have no concerns regarding recreational space.

Policy 5.5.1 provides the specific criteria which must be met for residential buildings in excess of three stories. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria since:

- the proposed building has side yards that are at least one-half the height of the main building;
- the proposed building will not exceed 80 ft in height; and

- the proposed building is compatible with the design, height and scale of the surrounding area.

Policy 16.3.1 establishes the general criteria that all development agreements must meet. The full list of criteria is included with this report in Attachment A. In summary, the proposal meets the criteria as:

- the proposal is not considered premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated; and
- the Fire Chief, Development Officer, Manager of Building and Fire Inspection Services, Municipal Project Engineer, and Municipal Traffic Authority have no concerns which have not been addressed in this report.

Additional Considerations

Subclause (a) (i) of Policy 5.4.6 states *“in the case of a new building or the conversion of an existing non-residential building, that the development is generally consistent with the High Density Residential (R-4) zone standards”*. Comments from the Development Officer show that the proposal has a total lot area of 26,047 sq ft and the High Density Residential (R-4) zone would require a total lot area of 56,500 sq ft, if built as-of-right. However, the Development Officer also commented that they had no concerns regarding the adequacy of the dimensions or shape of the lot for the proposed use. The development agreement process allows for flexibility in meeting standard zone requirements and must be considered on a case-by-case basis. In addition to this, the proposal is of a similar bulk and scale to other buildings that would be permitted in the High Density Residential (R-4) zone and would be considered compatible with other uses in the surrounding area.

Clause (g) of Policy states *“the development abuts an arterial or collector street as shown on the Transportation Map (Map 2), if the development consists of 12 or more units”*. The development does not directly abut an arterial or collector street, however it is located close to both Payzant Drive, an existing collector street and a proposed collector street as seen on the Future Streets Conceptual Plan. In addition, the Municipal Traffic Authority had no concerns regarding traffic generation from this proposal.

NEXT STEPS

Discussion from PAC will be incorporated into the report and presentation to Council.

FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality or residents with regard to the filing of this report.

ALTERNATIVES

The Planning and Heritage Advisory Committee (PAC/HAC) may:

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

ATTACHMENTS

Figure 1	Windsor GFLUM Extract
Figure 2	Windsor Zoning Map Extract
Attachment A	Policy Summary for Development Agreement
Attachment B	Draft Development Agreement
Attachment C	Public Information Meeting Notes

Report Prepared by: _____

Alex Dunphy, Planner

Report Approved by: _____

Madelyn LeMay, Director of Planning and Development

Figure 1 – Windsor GFLUM Extract (Pre-consolidation of lots)

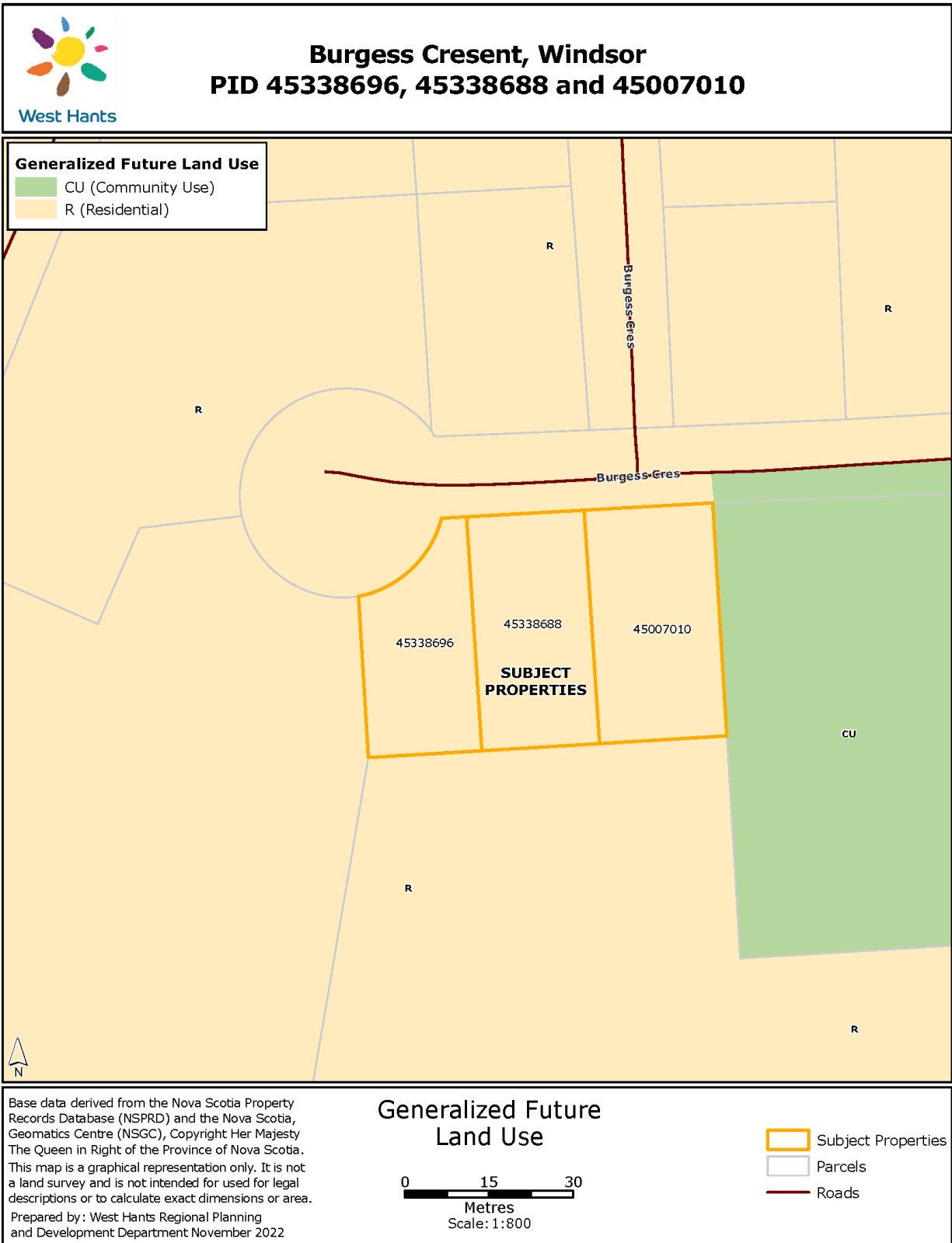
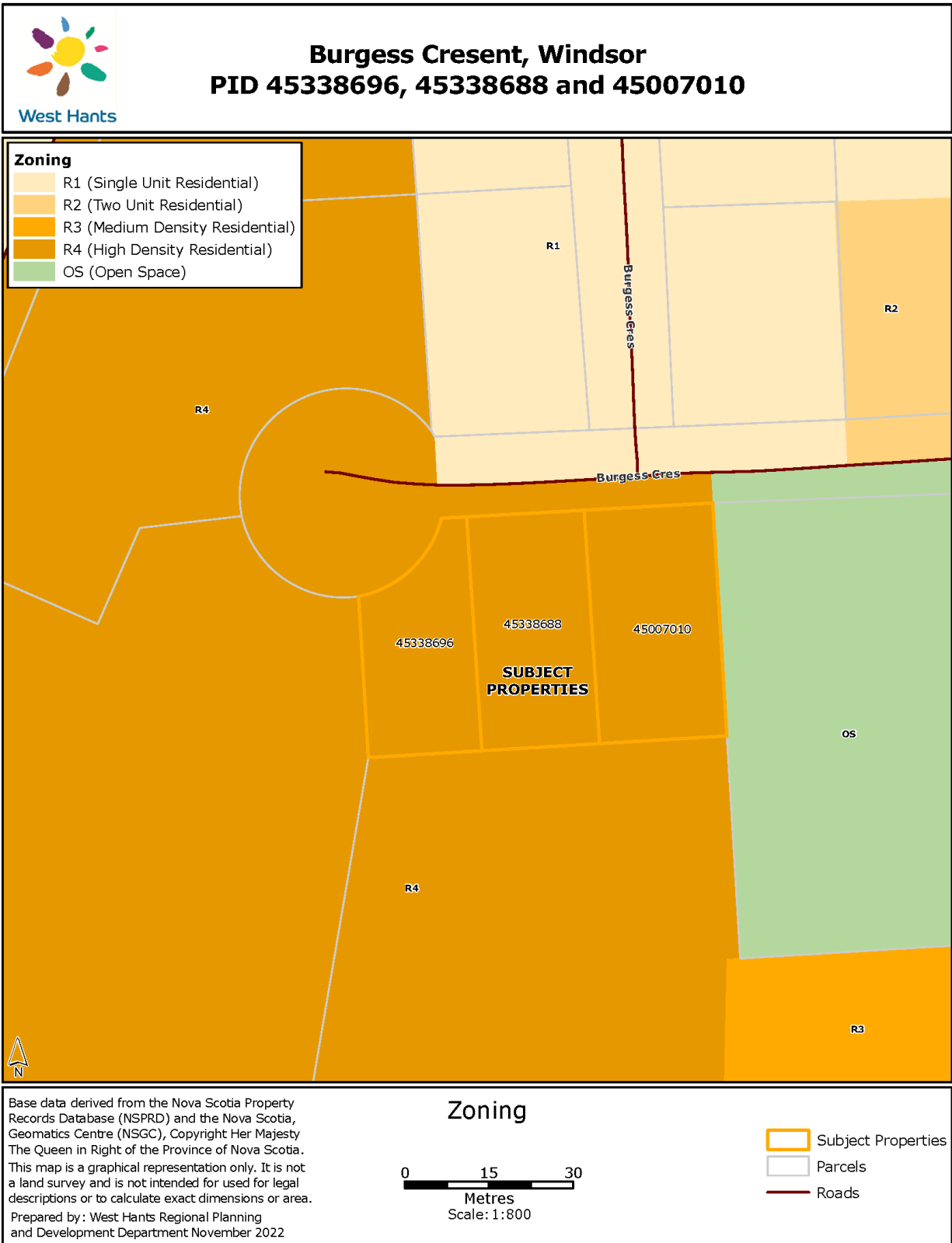


Figure 2 – Windsor Zoning Map Extract (Pre-consolidation of lots)



Attachment A – Policy Summary for Development Agreement

<p>Policy 5.4.5 <i>It shall be the policy of Council to require adequate recreational space for multiple unit residential development.</i></p>	<p>The amount of recreational space provided in the proposal exceeds the amount of recreational space required by the Windsor Land Use By-law. The Development Officer commented that they had no concerns regarding the recreational space provided for the proposed multiple unit residential development.</p>
<p>Policy 5.4.6 <i>It shall be the policy of Council to consider entering into a development agreement to allow, in the Residential designation, new multiple unit residential development consisting of three or more units, grouped dwellings, boarding houses and residential care facilities, as well as the conversion of existing buildings to three or more units, subject to the following:</i></p>	
<p><i>(a) the proposed use meets one of the following:</i></p>	
<p><i>(i) in the case of a new building or the conversion of an existing non-residential building, that the development is generally consistent with the High Density Residential (R-4) zone standards; or</i></p>	<p>The proposed development is consistent with the High Density Residential (R-4) zone standards, except for the minimum lot area. The proposal is of a similar bulk and scale to other buildings that would be permitted in the High Density Residential (R-4) zone. The Development Officer also commented that they had no concerns regarding the adequacy of the dimensions or shape of the lot for the proposed use.</p>
<p><i>(ii) in the case of a conversion of an existing residential building, that any addition or enlargement to the building meets the setback requirements of the zone in which it is located, or that any undersized setbacks are not further reduced by the addition or enlargement;</i></p>	<p>N/A</p>
<p><i>(b) the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</i></p>	<p>The surrounding land uses are primarily residential dwellings of various densities. The proposed development is compatible with other nearby land uses. The Development Officer commented that they had no concerns regarding the height, bulk, or lot coverage.</p>
<p><i>(c) the development is considered compatible with the residential character of the area with respect to traffic generation and population density;</i></p>	<p>The Municipal Traffic Authority commented that they had no concerns regarding the compatibility of the</p>

	proposed development with respect to traffic generation.
<i>(d) consideration is given to the provision of fences and/or landscaping as part of the residential development to minimize effects on adjacent land uses;</i>	Provisions for landscaping have been included within the draft development agreement.
<i>(e) adequate on-site parking is provided and parking areas are well designed;</i>	The Development Officer commented that the parking provided is considered adequate.
<i>(f) there is adequate on-site recreational open space suitable in extent and design to the nature of the development; for conversion of existing buildings, nearby public parks may be deemed sufficient;</i>	The amount of recreational space provided in the proposal exceeds the amount of recreational space required by the Windsor Land Use By-law. The Development Officer commented that they had no concern regarding the adequacy of on-site recreational space.
<i>(g) the development abuts an arterial or collector street as shown on the Transportation Map (Map 2), if the development consists of 12 or more units;</i>	The development does not directly abut an arterial or collector street, however it is located close to both Payzant Drive, an existing collector street and a proposed collector street as seen on the Future Streets Conceptual Plan. In addition, the Municipal Traffic Authority had no concerns regarding traffic generation from this proposal.
<i>(h) the architectural design of the development is reasonably consistent with the provisions of the Architectural Design Manual if the proposed development is located in an Architectural Control District;</i>	N/A
<i>(i) in the case of the conversion of an existing structure, renovations can be made to ensure the safety of residents in case of fire;</i>	N/A
<i>(j) any other matter which may be addressed in a development agreement; and</i>	All relevant matters have been addressed in this report.
<i>(k) the provisions of Policy 16.3.1 of the Municipal Planning Strategy.</i>	See Policy 16.3.1 below.
<p>Policy 5.5.1 In any residential zone, Council may consider permitting dwellings in excess of three storeys by development agreement, subject to the following conditions:</p>	

<i>(a) the side yards are at least one-half the height of the building;</i>	The proposed building is 36 ft in height and has side yards of 18 ft.
<i>(b) the building will in no instance exceed 80 ft (24.38 m) in height;</i>	The proposed building is 36 ft in height.
<i>(c) the building design, height and scale is compatible with the surrounding area;</i>	The proposed building has 4 storeys, however, it will only be 36 ft in height, which is only slightly taller than the 35 ft of height which is usually permitted as-of-right. The Development Officer commented that they had no concerns regarding the height or scale of the development.
<i>(d) any other matter which may be addressed in a development agreement; and</i>	All relevant matters have been addressed in this report.
<i>(e) the provisions of Policy 16.3.1 of the Municipal Planning Strategy.</i>	See Policy 16.3.1 below.

Policy 16.3.1	
<i>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:</i>	
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	The Municipal Project Engineer commented that they had no concerns regarding the adequacy of water and sewer services.
<i>(ii) the adequacy of school facilities;</i>	Comments from the School Board have not yet been received as of the writing of this report. However, staff do not anticipate any concerns with regard to the adequacy of school facilities.
<i>(iii) the adequacy of fire protection;</i>	The Manager of Building and Fire Inspection Services commented that they had no concerns regarding the adequacy of fire protection. The Windsor Fire Chief commented that they would like to see access to the back of the building. Staff have included fire safety provisions in the development agreement to address this concern.

<p><i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i></p>	<p>The Municipal Traffic Authority commented that they had no concerns regarding the adequacy of road networks adjacent to or leading to the development.</p>
<p><i>(v) the financial capacity of the Town to absorb any costs relating to the development.</i></p>	<p>There are no anticipated costs to the Municipality regarding this development.</p>
<p><i>(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i></p>	<p>The Municipal Traffic Authority commented that they had no concerns regarding the suitability of any aspect of movement.</p>
<p><i>(c) the adequacy of the dimensions and shape of the lot for the intended use;</i></p>	<p>The Development Officer commented that they had no concerns regarding the adequacy of the dimensions or shape of the lot.</p>
<p><i>(d) the pattern of development which the proposal might create;</i></p>	<p>The proposed development is a multiple unit residential building to be built in the High Density Residential (R-4) zone. The Development Officer commented that they had no concerns regarding the pattern of development.</p>
<p><i>(e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, wetlands, and susceptibility of flooding;</i></p>	<p>Staff noted no issues at the time of the site visit.</p>
<p><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></p>	<p>All Municipal, Provincial, and Federal regulations will have to be met.</p>
<p><i>(g) any other matter required by relevant policies of this Strategy.</i></p>	<p>All relevant matters have been addressed in this report.</p>

Attachment B - Draft Development Agreement



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2023.

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 -

3329179 Nova Scotia Limited, a body corporate with a head office at 6 Main Avenue, Halifax, in the County of Halifax, Province of Nova Scotia,

(Hereinafter referred to as the “Owner”)

OF THE SECOND PART

WHEREAS the Owner is the registered owner of the parcel of land located on Burgess Crescent (PID 45338688) hereinafter referred to as the “Property”, which lands are more particularly described in Schedule A attached hereto; and

WHEREAS the Property is designated Residential on the Generalized Future Land Use Map of the Windsor Municipal Planning Strategy (September 21, 2005) (the “Municipal Planning Strategy”)

and zoned High Density Residential (R-4) on the Zoning Map of the Windsor Land Use By-law (September 21, 2005) (the “Land Use By-law”); and

WHEREAS the Owner has requested that the Municipality enter into a development agreement to permit a 28-unit residential dwelling on the Property (the “Development”) and Section 6.1 (b) of the Land Use By-law enables Council to consider a development agreement for multiple unit residential development consisting of three or more units in a Residential designation; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day, 2023**, 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:

- (a) “Multiple Unit Residential Building” means a building or part thereof, other than a converted dwelling, consisting of three or more dwelling units, which have a common entrance from the street level.

1.2 Schedules

The following attached schedules shall form part of this agreement:

Schedule A - Legal Description

Schedule B - Site Layout

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

- (a) *Municipal Planning Strategy* means the Windsor Municipal Planning Strategy, effective on September 21, 2005, as amended, or successor By-laws;
- (b) *Land Use By-law* means the Windsor Land Use By-law, effective on September 21, 2005, as amended, or successor By-laws;
- (c) *Subdivision By-law* means the Windsor Subdivision By-law, effective on March 21, 2012, as amended, or successor By-laws.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

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

- (a) those uses permitted by the underlying zoning in the Land Use By-law;
- (b) residential development in one building, consisting of 20 apartment dwelling units and 8 townhouse dwelling units; and
- (c) underground parking and surface parking for use of the main building.

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 Development Location and Design

- (a) The development location and design shall be generally consistent with the site plan shown in Schedule B.
- (b) The Development Officer may approve minor changes to the location of the main building or other aspects of the site plan provided the side yards are not decreased.

2.3 Site Requirements

- (a) The multiple unit residential building shall conform to the following site requirements:

Minimum front yard	35 ft (10.67 m)
Minimum rear yard	35 ft (10.67 m)
Minimum side yard	18 ft (5.49 m)
Maximum storeys of main building	4 storeys
Maximum height of main building	36 ft (10.97 m)
Maximum height of accessory building	15 ft (4.57 m)
- (b) Accessory buildings are permitted in accordance with Section 5.1 of the Land Use By-law, Accessory Buildings and Structures.

2.4 Access and Egress

- (a) The vehicular entrance and exit for the Property shall be in general conformance with the entrance and exit shown on Schedule B.
- (b) The vehicular entrance and exit shall be clearly demarcated and paved.

2.5 Parking

- (a) The Owner shall provide a minimum of one and one-half (1.5) parking spaces per dwelling unit on the Property and parking spaces shall be generally located as shown on Schedule B.
- (b) Parking may be provided either under the buildings or outside at grade.
- (c) Each parking space shall be a minimum of 9 by 20 feet (2.7 m by 6.1 m) exclusive of driveways and manoeuvring aisles.
- (d) Parking aisles shall be a minimum of 20 feet (6.1 m) wide.
- (e) Parking spaces and aisles shall be constructed of concrete, asphalt, brick or other hard surface paver.
- (f) The number, location and arrangement of parking spaces, aisles and driveways may be varied by the Development Officer.

2.6 Recreational Space

A minimum of 6960 sq ft of private recreational space shall be provided on the Property and may include:

- (a) individual balconies; and
- (b) common use landscaped areas in accordance with the Site Plan attached as Schedule B.

2.7 Signs and Lighting

Signage and illumination shall be regulated under Sections 5.18 and 7.0 of the Land Use By-law, *Illumination* and *Signs*, which controls lighting, size, location, and number of signs. Exterior lighting for driveways, parking areas, signs or structures shall be shielded and directed downward to ensure there is no light spilling, glare or light cast over neighbouring properties or the street.

2.8 Maintenance

The Owner shall keep the Property and building 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.

2.9 Landscaping

The Owner shall:

- (a) keep all undeveloped areas of the Property landscaped which may include grass, shrubs, trees or other appropriate vegetative cover.

- (b) provide a landscaped area at least 10 ft. (3.05 m.) deep that runs the length of and directly abuts the front lot line along Burgess Crescent, excluding driveway openings and walkways.
- (c) the landscaped area required in Section 2.9 (b) shall be grassed, or other appropriate vegetative ground cover used. New trees shall have a minimum diameter of 2 in. (5.08 cm.) measured at 4.5 ft. above the surrounding grade and a minimum height of 5 ft. (1.52 m.). Where possible, existing trees may be retained and included in the calculation of plantings required.

2.10 Servicing

(a) Waste Collection

- (i) The Owner shall make provisions for private waste collection of any excess waste as determined by the Windsor Solid Waste By-law for the Property.
- (ii) The Owner shall keep any outdoor storage of garbage in an enclosed structure or in some way adequately screened so as not to be visible from nearby properties and abutting roads and it shall not be located closer than 10 ft (3.05 m) to an abutting property.

(b) Water and Sewer Services

The development must connect to Municipal water and sewer service. Detailed design plans of the water and sewer servicing connections and layout shall be in accordance with the Municipal Services Specifications Manual and shall be submitted to the Municipal Engineer for approval prior to construction.

2.12 Fire Safety

- (a) No development permit shall be issued until the location and connection design of any fire hydrant(s) to the municipal water supply have been approved by the water utility, in consultation with the district Fire Chief.
- (b) All curbs shall be designed to be mountable by emergency services vehicles.
- (c) All access routes shall be kept clear of overhead obstructions and wires and be maintained by the Owner to allow unimpeded access to the property by emergency services vehicles, unless otherwise agreed to by the Fire Chief.
- (d) The proposed driveway may be altered to meet fire safety access requirements as determined by the Fire Chief and the Manager of Building and Fire Inspection Services.

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** Any matters in this agreement which are not specified in Subsection 3.3 below are not substantive matters and 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** The following matters are substantive matters:
- (a) the uses permitted on the Property as listed in Section 2.1 *Use*;
 - (b) the fire safety requirements listed in Section 2.12, *Fire Safety*; and
 - (c) the landscaping requirements in Section 2.9, *Landscaping*.
- 3.4** Notwithstanding the foregoing, discharge of this agreement is not a substantive matter and this agreement may be discharged by Council without a public hearing.
- 3.5** 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.
- 3.6** Council may discharge this Agreement 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, 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 Owners' 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.

4.2 Material to be Provided

- (a) The Owner shall provide record drawings to the Development Officer for any portion of the development for which an engineered design is required, within ten days of completion of any work which requires the engineered design.
- (b) The Owner shall, upon written request, provide the Municipality with copies of any documentation, permits or approvals required by Provincial or Federal governments or agencies.

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 neutral gender shall include the masculine and feminine.
- (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 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.

5.6 Costs

The Owner shall pay all costs associated with registering this Agreement and all costs associated with any amendment thereof.

5.7 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*.

5.8 Assignment of Agreement

The Owner may, at any time and from time to time, transfer or assign this Agreement and its rights hereunder and may delegate its obligations hereunder to an assign, successor, heir, or purchaser of the land bound by this Agreement.

5.9 Written Notice

- (a) The Municipality may serve notice on the Owner personally or by ordinary mail which shall be deemed to have been received within three (3) business days of mailing, addressed to 3329179 NOVA SCOTIA LIMITED, 6 MAIN AVENUE, HALIFAX, NOVA SCOTIA, B3M 1A1, or at any other address provided by the Owner in writing.
- (b) The Owner may serve notice on the Municipality by registered mail addressed to the Chief Administrative Officer, West Hants Regional Municipality, 76 Morison Drive, P.O. Box 3000, Windsor, NS, B0N 2T0, or at any successor address provided by the Municipality to the Owner in writing.

5.10 Full Agreement

This agreement constitutes the entire agreement and contract entered into by the Municipality and the Owners. No other agreement or representation, oral or written, shall be binding.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto on the day and year first above written.

SIGNED, SEALED AND DELIVERED

In the presence of:

) **WEST HANTS REGIONAL**

) **MUNICIPALITY**

)

)

Witness

)
Per: _____
) Abraham Zebian, Mayor

Witness

)
)
) Per: _____
) Deanna Snair, Municipal Clerk

Witness

)
)
) **3329179 NOVA SCOTIA LIMITED**
)
) Per: _____
) Floran Lambie

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2023, 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 **THE 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 presence.

A Commissioner of the Supreme Court of Nova Scotia

ON THIS day of , A.D. 2023, 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 **THE 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 presence.

A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2023, 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, **Floran Lambie**, one of the parties thereto, signed, sealed and delivered the same in presence.

A Commissioner of the Supreme Court of Nova Scotia

AFFIDAVIT OF CLERK

WEST HANTS REGIONAL MUNICIPALITY

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

1. I am the Clerk of the 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).

I certify that on this _____, 2023
the Municipal Clerk, Deanna Snair came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

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

Deanna Snair, Clerk

Canada
Province of Nova Scotia

AFFIDAVIT & PROOF OF EXECUTION (CORPORATE)

I, Floran Lambie, Nova Scotia, make oath and say that:

1. I Floran Lambie 3329179 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 _____, 2023
the Deponents came before me, made oath,
and swore the foregoing affidavit at
_____, Nova Scotia.

A BARRISTER/COMMISSIONER OF THE
SUPREME COURT OF NOVA SCOTIA

Floran Lambie, President

Schedule A
Legal Description – PID 45338688

Registration County: HANTS COUNTY

Street/Place Name: BURGESS CRESCENT /WINDSOR

Title of Plan: PLAN OF SURVEY OF LOT 74 - 76 CONSOLIDATION OF LOTS 74 75 & 76 LANDS
CONVEYED TO 3329179 NOVA SCOTIA LTD BURGESS CRES WINDSOR

Designation of Parcel on Plan: LOT 74-76

Registration Number of Plan: 121776729

Registration Date of Plan: 2022-12-13 10:23:45

*** Municipal Government Act, Part IX Compliance ***

Compliance:

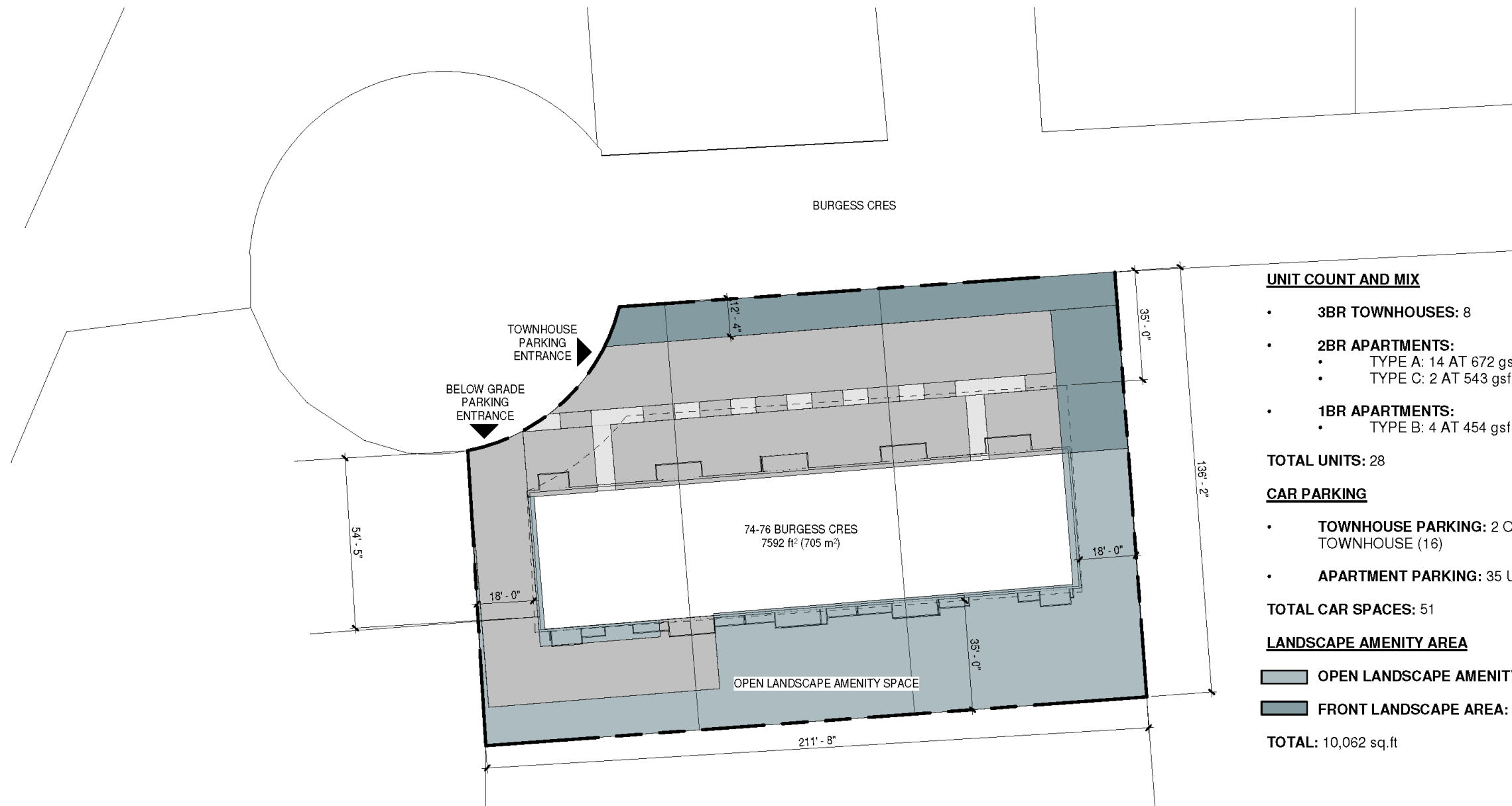
The parcel is created by a subdivision (details below) that has been filed under the Registry Act
or registered under the Land Registration Act

Registration District: HANTS COUNTY

Registration Year: 2022

Plan or Document Number: 121776729

**Schedule B
Site Plan**



UNIT COUNT AND MIX

- **3BR TOWNHOUSES:** 8
- **2BR APARTMENTS:**
 - TYPE A: 14 AT 672 gsf
 - TYPE C: 2 AT 543 gsf
- **1BR APARTMENTS:**
 - TYPE B: 4 AT 454 gsf

TOTAL UNITS: 28

CAR PARKING

- **TOWNHOUSE PARKING:** 2 ON-GRADE SPACES PER TOWNHOUSE (16)
- **APARTMENT PARKING:** 35 UNDERGROUND SPACES

TOTAL CAR SPACES: 51

LANDSCAPE AMENITY AREA

■ OPEN LANDSCAPE AMENITY AREA: 7238 sq.ft

■ FRONT LANDSCAPE AREA: 2824 sq.ft

TOTAL: 10,062 sq.ft

1 SITE PLAN
1:400

74-76 BURGESS CRES PRELIMINARY SET



16 AUGUST 2022

SITE PLAN
ASK-1

Attachment C – Public Information Meeting Notes

December 8 - December 22, 2022

File # 22-20: Burgess Crescent, Windsor (PIDs 45338696, 45338688, and 45007010)* – Development Agreement

Meeting date and time	A public information meeting was held on December 8, 2022 beginning at 6:29 p.m. The meeting was broadcast live on the Municipal Facebook page.
File Number	22-20
Attending	In attendance: One (1) Councillor: <ul style="list-style-type: none">• Councillor Jim Ivey One (1) Member of PAC/HAC <ul style="list-style-type: none">• Member Nicholls (Chair) Four (4) members of staff: <ul style="list-style-type: none">• Director LeMay• Planner Poirier• Planner Dunphy• Meeting Secretary Lake No members of the public were present for this meeting.
Applicant Mark Higgins Property Burgess Crescent, Windsor (PIDs 45338696, 45338688, and 45007010)	Planner Dunphy outlined the application to allow a proposed multiple unit residential building by development agreement. Mark Higgins, the applicant, explained how there was an opportunity to develop housing and they looked for an appropriate density to meet the requirements of the Municipality.
Comments	Comments from the public could be submitted to Alex Dunphy by mail, e-mail and telephone between December 8 – December 22, 2022. Staff received no comments from the public.
Adjournment	The presentation portion of the PIM ended at approximately 6:35 p.m.

*These PIDs have now been consolidated to PID 45338688.