



## WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
--------------------------------------	--	---	--

**To:** Mayor Zebian and Members of West Hants Regional Municipal Council

**Submitted by:** \_\_\_\_\_  
Sara Poirier, Director of Planning and Development

**Date:** 2023-04-25

**Subject:** Development Agreement: Payzant Drive, Windsor PID 45276441 and 45366986; File #22-28 B

---

### LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

### RECOMMENDATION

Should Council wish to proceed to Public Hearing, the following motion would be in order:

...that Council gives First Reading and will hold a Public Hearing to consider entering into a development agreement to permit an apartment building with up to 90 apartment units and up to 10,000 sq. ft. of commercial space on a portion of PID 452766441 and 45366986 on Payzant Drive in Windsor in a manner substantively the same as the draft set out in Attachment C of the report to the Planning and Heritage Advisory Committee #22-28 dated April 13, 2023.

...that Council requires that the development agreement with Mitch Brison which permits an apartment building with up to 90 apartment units and up to 10,000 sq. ft. of commercial space on a portion of PID 452766441 and 45366986 on Payzant Drive in Windsor 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 <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"/>
--	--	--------------------------------------	---------------------------------	-----------------------------------	---

A completed application was received on December 19, 2022, from Chrystal Fuller from Brighter Community Planning & Consulting on behalf of the property owner Mitch Brison of 3229190 Nova Scotia Limited. The application was to consider permitting one, 8-storey, 90-unit apartment building with up to 10,000 sq. ft. (929.03 sq. m.) of commercial space on the ground floor on a portion of PID 452766441 and 45366986 on Payzant Drive. There is currently a single unit dwelling located on PID 452766441 and the portion of PID 45366986 being considered in this application is vacant. Both lots are owned by 3229190 Nova Scotia Limited; Mr. Brison is the President of that company.

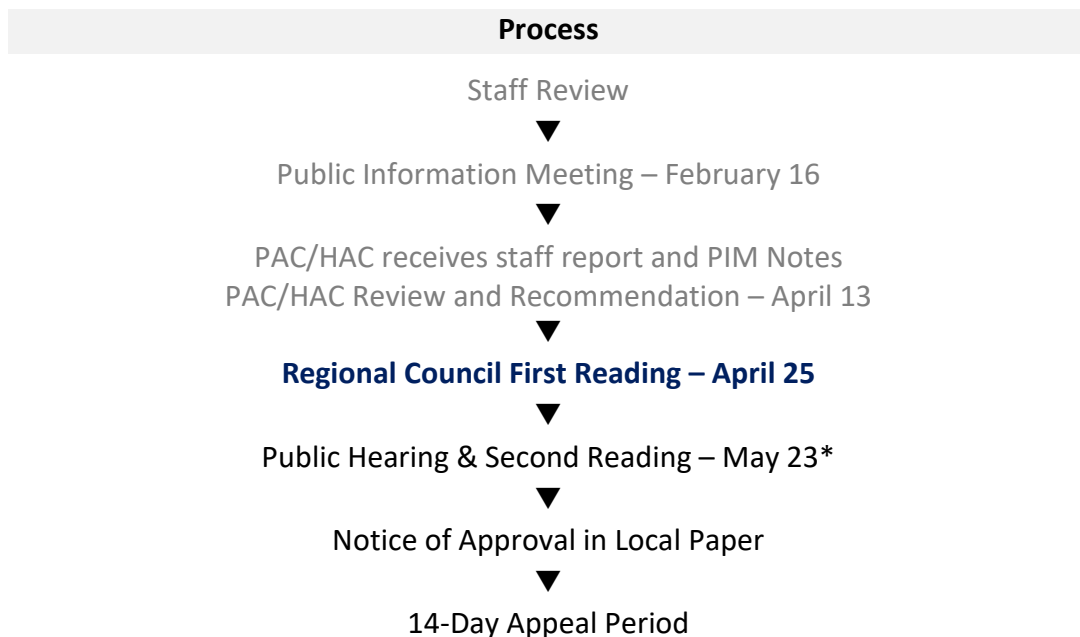
## DISCUSSION

A Public Information Meeting was held on February 16, 2023.

On April 13, 2023 staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Appendix A). PAC/HAC recommended in favour of the application on April 13, 2023.

## NEXT STEPS

The process for this application is as follows.



\*anticipated dates; final dates set by Council

## **FINANCIAL IMPLICATIONS**

There are no anticipated costs to the Municipality in regard to this development.

## **ALTERNATIVES**

In response to the application, Council may decide to:

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

## **APPENDICIES**

Appendix A 2023-04-13 Staff Report Development Agreement: Payzant Drive, Windsor PID 45276441 and 45366986; File #22-28

## **CHIEF ADMINISTRATIVE OFFICER REVIEW**

The draft development agreement (DA) and its components are in keeping with the development in the immediate area. Due public process has been carried out to-date, all public feedback has been captured and the DA has been drafted with the engagement of the developer.

I support the recommendation.

Report Prepared by: \_\_\_\_\_

Sara Poirier, Director of Planning and Development

Report Approved by:  \_\_\_\_\_

Mark Phillips, Chief Administrative Officer



## Appendix A

### WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
--------------------------------------	--	---	--

**To:** Members of Planning and Heritage Advisory Committee (PAC/HAC)

**Submitted by:** \_\_\_\_\_  
Sara Poirier, Director of Planning and Development

**Date:** 2023-04-13

**Subject:** Development Agreement: Payzant Drive, Windsor PID 45276441 and 45366986; File #22-28

---

### LEGISLATIVE AUTHORITY

Section 230 of the Municipal Government Act.

### RECOMMENDATION

To allow the requested development, staff recommends that the PAC/HAC forward a positive recommendation by passing the following motion:

...that PAC/HAC recommends that Council give First Reading to consider entering into a development agreement to permit an apartment building with up to 90 apartment units and up to 10,000 sq. ft. of commercial space on a portion of PID 452766441 and 45366986 on Payzant Drive in Windsor in a manner substantively the same as the draft set out in Attachment C of the report to the Planning and Heritage Advisory Committee #22-28 dated April 13, 2023.

...that PAC/HAC recommends that Council require that the development agreement with Mitch Brison which permits an apartment building with up to 90 apartment units and up to 10,000 sq. ft. of commercial space on a portion of PID 452766441 and 45366986 on Payzant Drive in Windsor 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 <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"/>
--	--	--------------------------------------	---------------------------------	-----------------------------------	---

A completed application was received on December 19, 2022, from Chrystal Fuller from Brighter Community Planning & Consulting on behalf of the property owner Mitch Brison of 3229190 Nova Scotia Limited. The application was to consider permitting one, 8-storey, 90-unit apartment building with up to 10,000 sq. ft. (929.03 sq. m.) of commercial space on the ground floor on a portion of PID 452766441 and 45366986 on Payzant Drive. There is currently a single unit dwelling located on PID 452766441 and the portion of PID 45366986 being considered in this application is vacant. Both lots are owned by 3229190 Nova Scotia Limited; Mr. Brison is the President of that company.

## DISCUSSION

PID 452766441 is approximately 10.53 acres (42,613.34 sq. m.) in size. The applicant proposes to use a 2-acre (8,093.71 sq. m.) portion of the lot for this proposed apartment building. PID 45366986 is approximately 3.3 acres (13,371.6 sq. m.) in size and an approximately 1.8 acre (7,284.34 sq. m.) portion of this lot will also be used for the apartment building. The applicant will go through the subdivision process to subdivide the lot as shown on the site plan attached to the draft development agreement if the proposed development agreement is approved.

The lots are designated Residential on the Generalized Future Land Use Map (Figure 1) of the Windsor Municipal Planning Strategy (WMPS) and zoned Single Unit Residential (R-1) and High Density Residential (R-4) on the Zoning Map of the Windsor Land Use By-law (WLUB) (Figure 2).

Part 5.0 of the WMPS contains the overall intention for properties designated Residential in Windsor and Sections 5.4 and 5.5 describe the intention for high density residential development and residential buildings greater than 3 storeys in the Residential designation. Part 9.0 of the WMPS contains the overall intention for mixed-use developments in the Residential designation. Residential uses are permitted as-of-right in the Single Unit Residential (R-1) and High Density Residential (R-4) zones however an apartment building of three or more dwelling units and greater than 3 storeys in height that includes commercial uses must be considered by development agreement.

The subject lots directly abut properties with a variety of designations and zoning including Residential and Community Use designations, and Single Unit Residential (R-1), Two Unit Residential (R-2), Medium Density Residential (R-3), High Density Residential (R-4), and Institutional (I) zoning.

### ***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 By-law and the Municipal Planning Strategy must identify the kinds of uses Council may consider in each area. Uses which Council may consider are those which Council has determined may have sufficient impact on an area that a negotiated process is required to ensure the potential impact is minimized. In the Municipal Planning Strategy Council usually identifies both specific and general criteria which must be considered when making decisions regarding a development agreement.

A proposal being considered must be measured against only the specific and general criteria for the proposal in the Municipal Planning Strategy and not any other criteria.

### **Windsor Land Use By-law**

Section 6.0 of the WLUB, Development Agreements, states that *“The following developments may be considered only by development agreement in accordance with the Municipal Government Act and the Municipal Planning Strategy:*

- (b) multiple unit residential development consisting of three or more units in a Residential designation in accordance with Policy 5.4.6 of the Municipal Planning Strategy;
- (c) dwellings in excess of three storeys in a residential zone in accordance with Policy 5.5.1 of the Municipal Planning Strategy; and
- (k) mixed use multiple residential/commercial uses in the Residential designation in accordance with Policy 9.1.1 of the Municipal Planning Strategy;”

### ***Proposed Development Agreement***

The applicant proposes to develop 90 apartment units and up to 10,000 sq. ft. (929.03 sq. m.) of commercial space within a single apartment building. The permitted uses on the lots are outlined in Section 2.1, *Use*, of the draft development agreement (Attachment C). The permitted commercial uses are specifically listed to ensure they will be compatible with the proposed residential uses and the surrounding residential area. Commercial uses within the development will be permitted to operate only between the hours of 7:00 a.m. and 9:00 p.m. daily, as outlined in Section 2.11.

Section 2.2 (c) of the draft development agreement outlines the maximum height of the buildings as 80 ft. (24.38 m.) and requires a minimum side yard of 15 ft. (4.57 m.) or at least one-half the building height, whichever is greater. This would meet the criteria in Policy 5.5.1 (a) and (b).

The draft development agreement requires the following:

- a minimum of one (1) parking space per dwelling unit and a minimum of one (1) parking space for every 500 sq. ft. (46.45 sq. m.) of commercial floor area dedicated to commercial uses (Section 2.4);
- a minimum of 13,500 sq. ft. (1,254 sq. m.) of usable recreation space (Section 2.6);
- the Owner to have sole responsibility for snow plowing and garbage collection for the development (Section 2.8); and
- a 5 ft. (1.52 m.) wide pedestrian walkway from Payzant Drive and Community Way to the main entrances of the building (Section 2.3).

Section 3.3 of the draft development agreement outlines substantive matters of the development agreement. Substantive matters are any items that Council has determined would significantly alter the intended effect of the development agreement if changed. If a request is received from the developer to change a substantive matter outlined in a development agreement, the request must go through the entire development agreement process including Public Hearing prior to Council making a final decision on the proposed amendment. Staff have determined the following items in this draft development agreement are substantive matters:

- the number of units permitted within the apartment building as listed in Section 2.1, *Use*;
- the minimum side yard requirements and maximum building height of the building as listed in Section 2.2, *Development Location and Design*;
- the fire safety requirements listed in Section 2.5, *Fire Safety*; and
- the hours of operation for the commercial uses as listed in Section 2.11, *Hours of Operation*.

Other items such as accessible parking, elevators, sprinkler systems, and barrier free units may be required in the buildings by the Manager of Building and Fire Inspection Services in accordance with the National Building Code. A full review of the building plans would be conducted when the property owner applies for development and building permits. These items are not listed in the draft development agreement as the National Building Code would take precedence over the development agreement as outlined in Section 5.1, *Compliance with other By-laws and Regulations*, in the draft development agreement.

### **Windsor Municipal Planning Strategy**

Part 5.0 of the WMPS contains the overall intention for properties designated Residential in Windsor and Section 5.4 describes the intention for high density residential development. Policy 5.4.6 establishes Council's intention to consider proposals for multiple unit residential development consisting of three or more units in the Residential designation by development agreement and Policy 5.5.1 enables Council to consider entering into a development agreement to allow dwellings in excess of three storeys.

Part 9.0 of the WMPS contains the overall intention for mixed-use development in Windsor. Policy 9.1.1 establishes Council's intention to consider proposals for mixed use residential/commercial developments with two or more dwelling units in the Residential designation by development agreement.

### ***WMPS Specific Criteria***

Policy 5.4.6, 5.5.1 and 9.1.1 outline the specific criteria to be considered by Council, which are examined in detail in Attachment A.

In summary, the criteria are met since:

- the development is generally consistent with the High Density Residential (R-4) zone standards;
- the development is compatible with adjacent land uses;
- the side yards will be at least one-half the height of the building;
- the building will not exceed 80 ft. (24.38 m.) in height; and
- the commercial uses are located on the street level and do not exceed one-third of the total floor area of the development.

### ***WMPS General Criteria***

The proposed development meets the general criteria for development agreements set out in the WMPS Policy 16.3.1. These criteria are examined in detail in Attachment B. In summary:

- the proposal is not 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 Manager of Public Works Operations have no concerns which have not been addressed in the development agreement.

## **MUNICIPAL CLIMATE CHANGE ACTION PLAN**

The Municipal Climate Change Action Plan (MCCAP) for Windsor (2014) highlights two simulated flooding scenarios. The first scenario is based on a storm surge that occurred in 1997, which shows the expected damage is to occur along the coastline. The second scenario shows the simulated flooding extent for probable maximum flood due to climate change. Under this scenario most of the community of Windsor will experience extensive flooding. The subject lot in this application does not appear to be affected under this scenario, however Payzant Drive itself may experience flooding.

Upon request by the Public Works Department the property owners engineer provided a letter regarding proposed stormwater management for the site. This letter stated "The Nova Scotia Provincial regulations require that when developing land with storm sewers, the post development storm drainage flows for both the 1 in 5-year storm and the 1 in 100-year storm

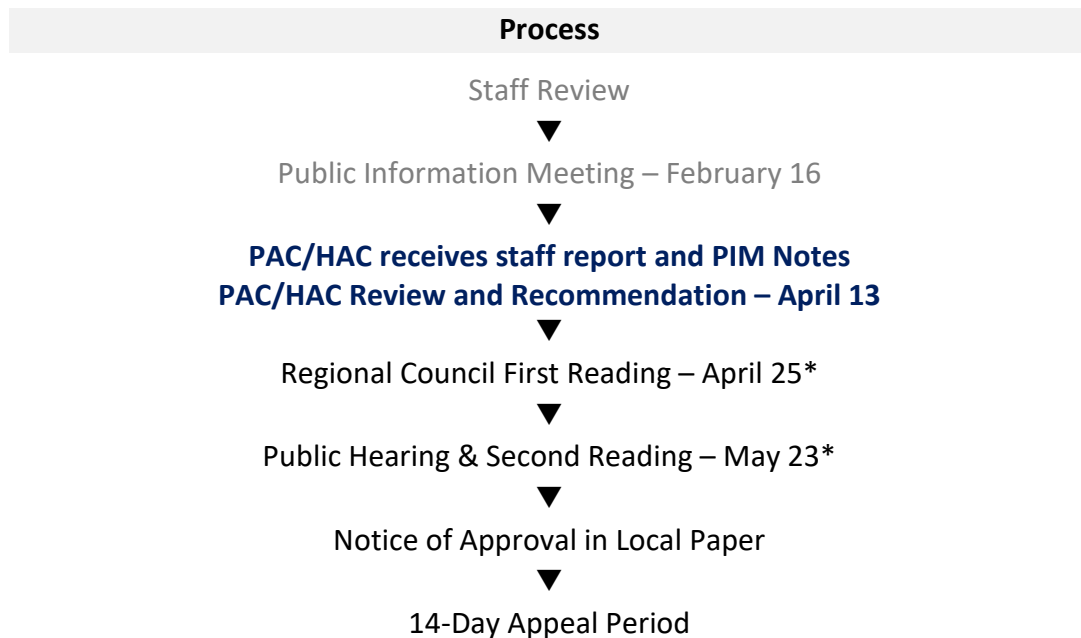
must be balanced with the pre-development flows. This is because when land is changed from forest to urban surfaces such as roofs, lawns, roads, and driveways the stormwater flows increase dramatically due to the reduced infiltration and depression storage. To balance the pre and post development flows on site, storage is typically used in the form of stormwater detention ponds or underground storage such as oversized pipes.

For this project, site stormwater drainage will be conveyed to a municipal stormwater service that will discharge to a stormwater storage pond located West of Payzant Drive. This stormwater storage pond, built as part of The Community Way Phase 2 project, was designed to accommodate the proposed multi-unit residential site and balance the pre and post flows for the Community Way projects.”

The Public Works Department confirmed that “this letter satisfies our previous stormwater concerns and confirms that the pre/post-construction stormwater flows from this subject property have been designed and allocated into the newly constructed stormwater system on Payzant Drive.”

## NEXT STEPS

As noted above, the proposed development agreement has been considered within the context of the general policies of the WMPS, and is consistent with the intent, objectives, policies and criteria of the WMPS. As a result, it is reasonable to enter into a development agreement to permit an apartment building with up to 90 apartment units and up to 10,000 sq. ft. (929.03 sq. m.) of commercial space on the ground floor on PID 45276441 and 45366986 on Payzant Drive in Windsor.



\*anticipated dates; final dates set by Council

## **FINANCIAL IMPLICATIONS**

There are no anticipated costs to the Municipality in regard to this development.

## **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/HAC;
- provide alternative direction such as requesting further information on a specific topic.

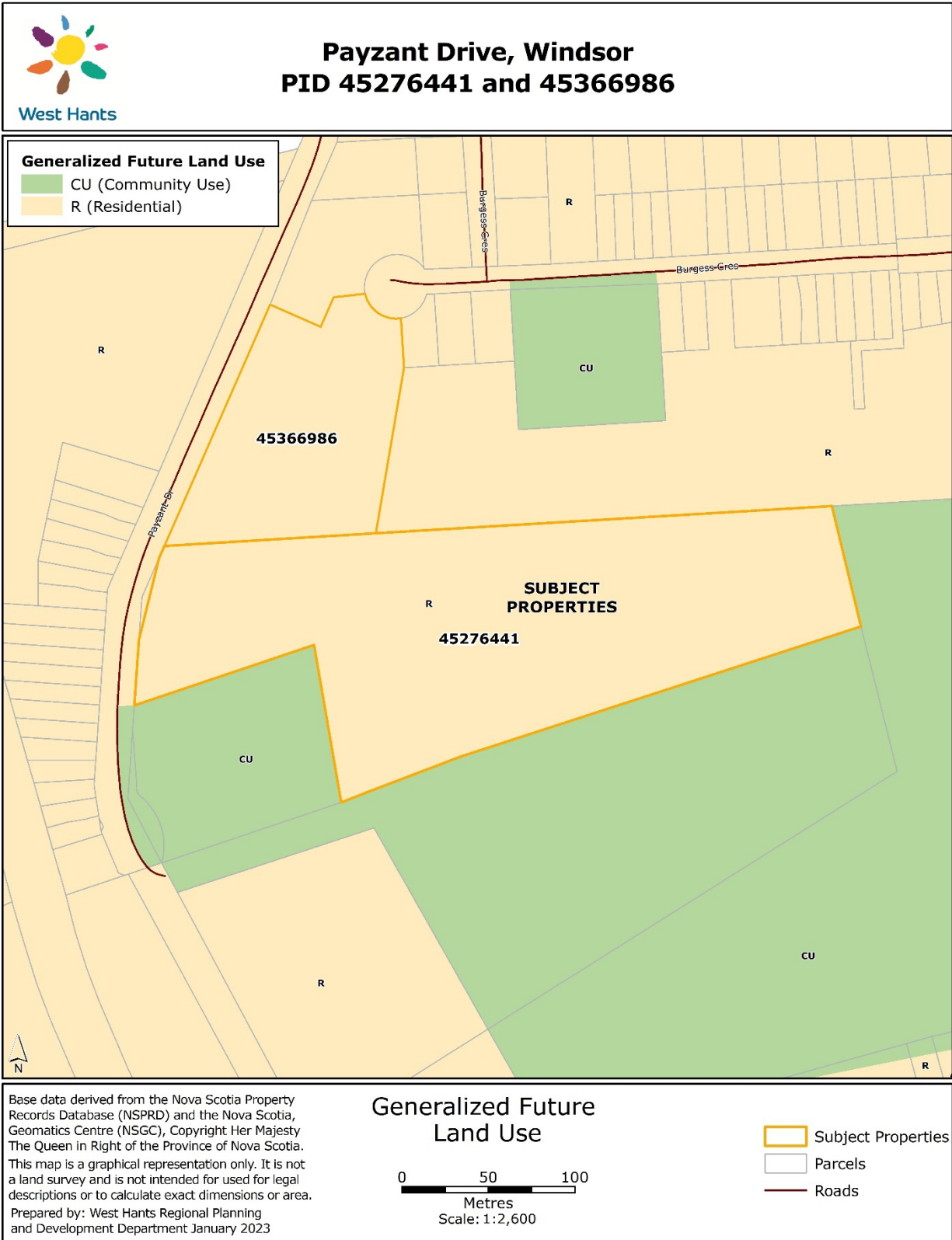
## **ATTACHMENTS**

Figure 1	Windsor GFLUM Extract
Figure 2	Windsor Zoning Map Extract
Attachment A	Specific Criteria for Development Agreement
Attachment B	General Criteria for Development Agreement
Attachment C	Draft Development Agreement
Attachment D	Public Information Meeting Notes

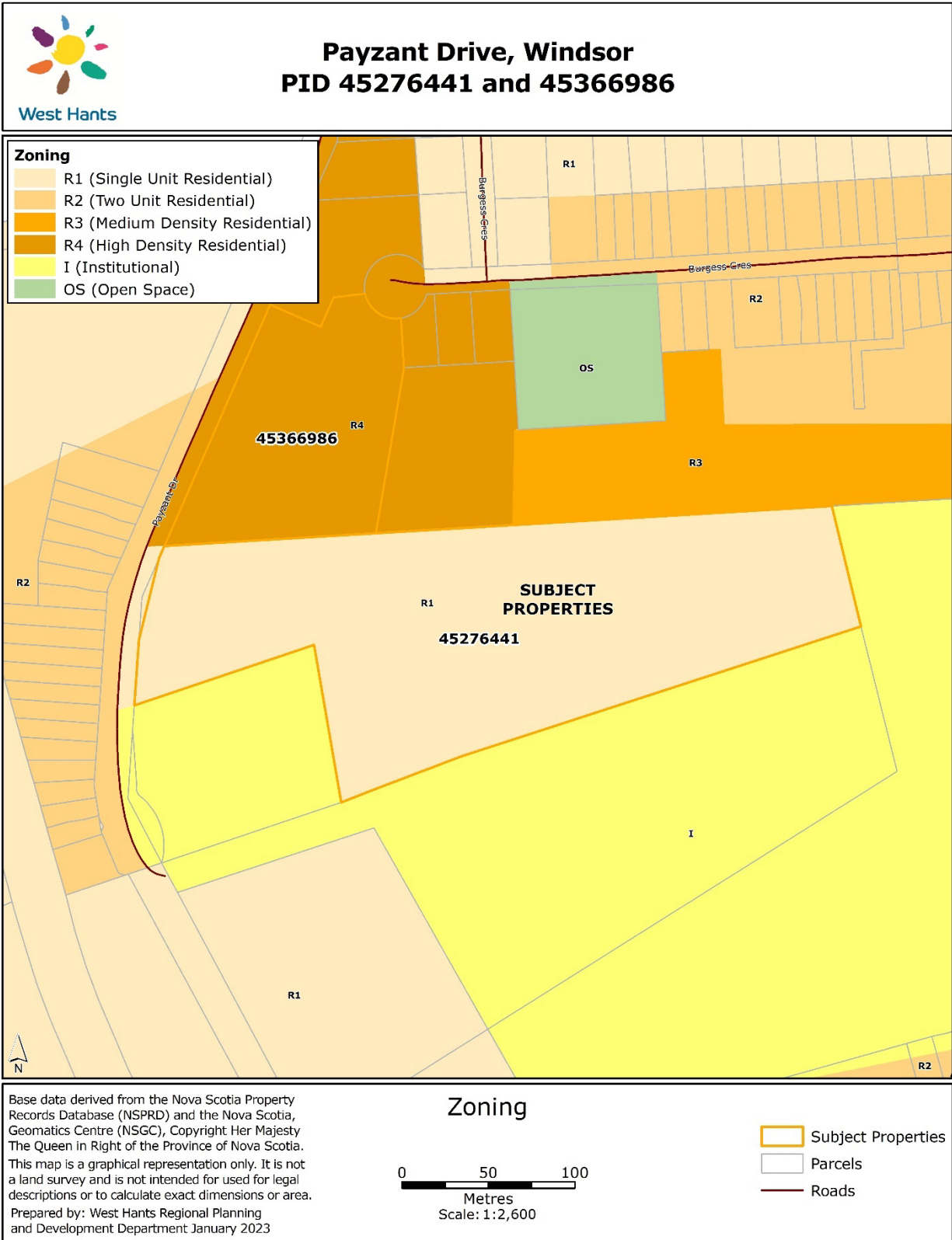
Report Prepared by: \_\_\_\_\_  
Sara Poirier, Director of Planning and Development

Report Reviewed by: \_\_\_\_\_  
Alex Dunphy, Planner

Figure 1  
Windsor GFLUM Extract



**Figure 2  
Zoning Map Extract**



**Attachment A**  
**Specific Criteria for Development Agreement**

**Windsor Municipal Planning Strategy**

**Policy 5.4.6** 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>CRITERIA</i>	<i>COMMENT</i>
(a) the proposed use meets one of the following:	
(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	<p>The developer is proposing to construct one new apartment building through the draft development agreement. The maximum height of main buildings permitted in the High Density Residential (R-4) zone in Windsor is three storeys, however Policy 5.5.1 of the Windsor Municipal Planning Strategy allows Council to consider dwellings in excess of three storeys by development agreement. Therefore, the maximum height listed in the draft development agreement is 80 ft. (24.38 m.) which is consistent with the policies and criteria in the Municipal Planning Strategies, as reviewed in this report.</p> <p>The minimum lot frontage requirements, lot size requirements, setback requirements, and the maximum height of accessory buildings in the draft development agreement are generally consistent with the High Density Residential (R-4) zone.</p> <p>The development must be connected to Municipal water and sewer service as outlined in Section 2.8 (b)(i), <i>Water and Sewer Service</i>, of the draft development agreement. Section 2.6, <i>Recreation Space</i>, and Section 2.4 (b), <i>Parking</i>, of the draft development agreement outlines the</p>

	required recreation space and parking spaces for the proposed uses.
(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;	Not applicable as the applicant is proposing to construct a new building.
(b) the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;	<p>The Payzant Drive area and the Crossing development currently mostly consists of single storey residential buildings. There are a few two and three storey buildings located on Payzant Drive and Burgess Crescent including the Hants Community Hospital and Avon View High School. The footing permit has been issued for a 6-storey 83-unit apartment building in the Crossing (Building A) and two other 7-storey apartment buildings (Buildings B and C), each with up to 88-units, were recently approved by development agreement.</p> <p>The draft development agreement requires a minimum front and rear yard of 35 ft. (10.67 m.) and a minimum side yard of 15 ft. (4.57 m.) or one-half the height of the building, whichever is greater. These larger yard requirements will minimize the impact of height on the properties fronting on the west side of Payzant Drive. In response to an inquiry, the Development Officer stated “this proposed development is compatible with surrounding neighboring uses.”</p>
(c) the development is considered compatible with the residential character of the area with respect to traffic generation and population density;	The West Hants Regional Municipality contracted WSP to perform an intersection infrastructure needs assessment in 2021. The intersection of Wentworth Road and Payzant Drive was investigated in the study. Based on

findings from this study, in conjunction with the Hants County Exhibition Expansion Traffic Impact Study (WSP, May 2021), it was recommended that plans be prepared to upgrade this intersection to a roundabout. A staff report was presented to Committee of the Whole on October 12, 2021 recommending DesignPoint be awarded the contract to design the roundabout for the Wentworth Road at Payzant Drive intersection. The report states that “the Municipality would like to be prepared to call for tenders for a spring/summer construction start, with project completion within the 2022/23 fiscal period.” DesignPoint presented at the January 10, 2023 Committee of the Whole meeting outlining the proposed design for upgrades to the Payzant-Wentworth intersection. Once designs are finalized, the Public Works Department will request authorization from Council to go to tender for construction. The developer provided a traffic study in relation to this proposed apartment building. The Manager of Operations for the Municipal Public Works Department commented that existing streets are adequate to support the development provided that the proposed roundabout be constructed at the Payzant Drive and Wentworth Road intersection.

Windsor has a population density of 522 people per sq. km. (Statistics Canada Census for 2022). The Crossing development as currently constructed has a population density of almost double this and this area of Payzant Drive, Burgess Crescent, Underwood Drive and Fraser Drive has a population

	<p>density almost three and a half times the population density of Windsor. The footing permit has been issued for a 6-storey 83-unit apartment building in the Crossing (Building A) and two other 7-storey apartment buildings (Buildings B and C), each with up to 88-units, were recently approved by development agreement, which would also increase the population density in this area. This proposed apartment building would be consistent with the current and future development plans and population for the area.</p>
<p>(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;</p>	<p>Section 2.2 (g), <i>Development Location and Design</i>, of the draft development agreement requires the developer to keep all undeveloped areas of the Properties landscaped which may include grass, shrubs, trees or other appropriate vegetative cover. Additionally, Section 2.8 (a)(ii) of the draft development agreement requires the owner to keep any outdoor storage of garbage in an enclosed structure or in some way adequately screened so as not to be visible from or cause a nuisance to nearby properties.</p>
<p>(e) adequate on-site parking is provided and parking areas are well designed;</p>	<p>The WLUB currently requires 1.5 parking spaces per dwelling unit and 1 parking space for every 300 sq. ft. of commercial space, each 10 ft. by 20 ft. in size. Due to the location of the lot in the community of Windsor and proximity of the lot to surrounding services, staff determined that it would be appropriate to reduce the amount of required parking per dwelling unit. Additionally, as the commercial uses are limited by size and type, and these commercial uses will most likely serve people</p>

	<p>living in the building or located nearby, the parking requirements for the commercial uses have also been reduced. As outlined in Section 2.4, <i>Parking</i>, of the draft development agreement, parking will be required at one (1) space per dwelling unit and one (1) space for every 500 sq. ft. (46.45 sq. m.) commercial floor area dedicated to commercial uses. Each parking space will have a minimum size of 9 ft. by 20 ft.</p>
<p>(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;</p>	<p>Section 2.6, <i>Recreation Space</i>, requires a minimum of 13,500 sq. ft. (1,254 sq. m.) of usable recreational space to be provided on the property. This was deemed sufficient by development control staff due to the proposed Community Centre adjacent to the proposed apartment.</p> <p>There is also the Burgess Crescent Park located nearby which will abut Community Way and provide public recreational space for residents in the area.</p>
<p>(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;</p>	<p>These lots abut Payzant Drive and a new street under construction, Community Way. This area of Payzant Drive is a minor collector street as shown on the Transportation Map (Map 2) of the WMPS.</p>
<p>(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;</p>	<p>Not applicable as the subject lots are not located in an Architectural Control District.</p>
<p>(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;</p>	<p>Not applicable as the applicant is proposing to construct new buildings.</p>

<p>(j) any other matter which may be addressed in a development agreement; and</p>	<p>Services such as garbage collection and snow plowing would be the responsibility of the owner of the property. These requirements are outlined in Section 2.10 (a), <i>Waste Collection</i>, and (c), <i>Snow Plowing</i>, of the draft development agreement.</p> <p>It is the responsibility of the property owner to ensure the site is suitable for the proposed uses.</p> <p>All other matters are addressed elsewhere in this report.</p>
<p>(k) the provisions of Policy 16.3.1 of the Municipal Planning Strategy.</p>	<p>Please see Attachment B for further details.</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:

<b>CRITERIA</b>	<b>COMMENT</b>
<p>(a) the side yards are at least one-half the height of the building;</p>	<p>Section 2.2 (c) requires the side yards of the buildings to be one-half the height of the building or 15 ft. (4.57 m.) whichever is greater.</p>
<p>(b) the building will in no instance exceed 80 ft (24.38 m) in height;</p>	<p>The maximum height listed in the draft development agreement is 80 ft. (24.38 m.) which ensures the development meets this criterion. The maximum building height is also listed as a substantive matter in the draft development agreement which means that staff have recommended, based on the criteria in 5.5.1 (b), that any future proposed change to the height of the apartment buildings would significantly alter the intent of the development agreement and would go through the entire development agreement process, including Public Hearing before Council, prior to Council making a final decision on the proposed amendment.</p>

(c) the building design, height and scale is compatible with the surrounding area;	As noted in 5.4.6 (b) the building proposed through this development agreement would be consistent with the height and scale of the single, two and three storey buildings constructed on Payzant Drive and the proposed multiple unit buildings already permitted by development agreement on Community Way. The lot is not within an Architectural Design Control District therefore the design of the building was not reviewed as part of this application.
(d) any other matter which may be addressed in a development agreement; and	All other matters have been addresses elsewhere in this report.
(e) the provisions of Policy 16.3.1 of the Municipal Planning Strategy.	Please see Attachment B for further details.

**Policy 9.1.1** It shall be the intention of Council to consider mixed use residential/commercial developments with two or more dwelling units by development agreement in areas designated Residential subject to the following:

<b>CRITERIA</b>	<b>COMMENT</b>
(a) the density, scale and architectural design of the development are compatible with the surrounding area;	As noted in 5.4.6 (c) and 5.5.1 (c) the development is considered compatible with the density and scale of the surrounding area. The lot is not within an Architectural Design Control District therefore architectural design was not reviewed as part of this application.
(b) the development is reasonably consistent with the provisions of the Architectural Design Manual, if it is located in an Architectural Design Control District;	Not applicable as the lots are not included in an Architectural Design Control District.
(c) the development is reasonably consistent with the yard standards of the underlying zone;	The properties are zoned Single Unit Residential (R-1) and High Density Residential (R-4). As noted in response to 5.4.6 (a)(i), the minimum yard standards in the draft development agreement are consistent with

	the High Density Residential (R-4) zone requirements, which means they would exceed the Single Unit Residential (R-1) zone requirements.
(d) the proposed development does not compromise the residential integrity of the area;	As noted in 5.4.6 (b), (c) and 5.5.1 (c) the proposed development is compatible with the residential character of the area, and it is not anticipated that this development will compromise the residential integrity of the area.
(e) the commercial use is permitted in the General Commercial (GC) zone;	All of the commercial uses listed in the draft development agreement are listed permitted uses in the General Commercial (GC) zone.
(f) the commercial use is located at the street level and does not exceed one-third of the total floor area of the development;	The 10,000 sq. ft. (929.03 sq. m.) of commercial space will be located on the ground floor of the apartment building and does not exceed one-third of the total floor area of the building.
(g) adequate landscaping, open space and natural or artificial buffering is provided;	Section 2.6, <i>Recreational Space</i> , of the draft development agreement requires a minimum of 13,500 sq. ft. (1,254 sq. m.) of usable recreational space to be provided on the lot and Section 2.2 (g), <i>Development Location and Design</i> , requires the developer to keep all undeveloped areas of the Properties landscaped.

**Attachment B**  
**General Criteria for Development Agreement**

**Windsor Municipal Planning Strategy**

**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
(a) whether the proposal is considered premature or inappropriate in terms of:	
(i) the adequacy of sewer and water services;	The Municipal Project Engineer responded that “there is current availability for Municipal water and sewer at this location”.
(ii) the adequacy of school facilities;	The Regional Executive Director for the Annapolis Valley Regional Centre for Education stated “PID 45276441 is in the Windsor Elementary School, West Hants Middle School, and Avon View High School catchment areas. We have a responsibility to provide public education for students living in the catchment areas served by these schools. We therefore expect our facilities to accommodate any new development.”
(iii) the adequacy of fire protection;	In response to an inquiry, the Manager of Building and Fire Inspection Services stated that access looks acceptable on the drawing however the local Fire Chief should be contacted to confirm. They added that the building will be fully engineer designed including extra requirements for fire protection in accordance with the National Building Code. They noted that the “big thing we need to keep an eye on is water supply with all the development coming as most of these new builds will require sprinkler systems.”  Upon request by the Public Works Department the property owners engineer provided a letter regarding proposed fire flows for the proposal. This letter stated

	<p>“During the detail design phase of a project, DesignPoint will perform an analysis to determine whether the fire and domestic flows and pressures for the proposed multi-unit residential site meet Municipal and Provincial regulations and standards. This analysis will involve modeling the existing water system adjacent to the site in conjunction with hydrant flow testing. The results will be summarized and tabulated in a report letter prepared by DesignPoint.” In response to the letter the Municipal Project Engineer stated “As for our previous fire water capacity concerns of the proposed apartment building; this letter is sufficient confirmation that the detailed design by the Developer’s Engineer will determine the need and specification for any fire pumping system that may be required for the apartment building. It is noted explicitly from Public Works that all costs related to the design and installation of the fire pumping system, including piping and related equipment is the responsibility of the Developer.”</p> <p>The local Fire Chief added “my biggest concern would be 360 access around the building for aerial trucks given the height of the structure.” Section 2.5, <i>Fire Safety</i>, of the draft development agreement ensures all of the curbs in the proposed development will be mountable by emergency service vehicles and that access routes shall be maintained to provide unimpeded access to the properties by emergency service vehicles.</p>
<p>(iv) the adequacy of road networks adjacent to, or leading to the development; and</p>	<p>As noted in 5.4.6 (c), the Manager of Operations for the Municipal Public Works Department commented that the existing</p>

	streets are adequate to support the development provided that a roundabout be constructed at the Payzant Drive and Wentworth Road intersection.
(v) the financial capacity of the Town to absorb any costs relating to the development.	There are no anticipated costs to the Municipality regarding this development.
(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;	<p>The Manager of Operations has stated they have no concerns with regard to the adequacy of road networks adjacent to, or leading to the development, or the impact of the development on traffic generation or traffic safety.</p> <p>In terms of pedestrian traffic movement, the draft development agreement requires a 5 ft. (1.52 m.) wide pedestrian walkway from the sidewalk on Payzant Drive and Community Way to the main entrances of the building, as outlined in Section 2.3 (d), <i>Access and Egress</i>. This will ensure suitable infrastructure for safe pedestrian movement within the site. There is no active rail transportation in the vicinity.</p>
(c) the adequacy of the dimensions and shape of the lot for the intended use;	Development control staff commented that “the dimensions, shape and size of the proposed lots intended for development are adequate for this proposal.”
(d) the pattern of development which the proposal might create;	There are a variety of housing types already built in the Payzant Drive area and the Crossing including mini homes, modular homes, single unit, two unit, and multiple unit dwellings. Footing permits have been issued for a 6-storey apartment building in this area and two (2), 7-storey buildings have been recently approved by development agreement on Community Way. This proposal is not anticipated to create a different pattern of development than is

	already being constructed in the area and permitted through approved development agreements.
(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;	The lot is relatively flat and there are no watercourses, marshes or bogs identified on the mapping for the site. As noted in the report, under the simulated flooding extent for probable maximum flood due to climate change scenario of the Windsor MCCAP (2014) most of the community of Windsor will experience extensive flooding. The subject lot in this application does not appear to be affected under this scenario, however Payzant Drive itself may experience flooding. The property owners engineer submitted a letter to the Public Works Department describing the proposed stormwater management for the site. The Public Works Department confirmed that “this letter satisfies our previous stormwater concerns and confirms that the pre/post-construction stormwater flows from this subject property have been designed and allocated into the newly constructed stormwater system on Payzant Drive.”
(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	All Municipal, Provincial and Federal regulations will have to be met.
(g) any other matter required by relevant policies of this Strategy.	There are no other relevant policies of this Strategy.

**Attachment C**



**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 -

**3229190 NOVA SCOTIA LIMITED** a body corporate, with a head office at 99 Windsor Street, Windsor, in the County of Hants, Province of Nova Scotia,

(Hereinafter referred to as the “Owner”)

OF THE SECOND PART

**WHEREAS** the Owner is the registered owner of parcels of land located on Payzant Drive, PID 45276441 and 45366986, hereinafter referred to as the “Properties”, which lands are more particularly described in Schedule A attached hereto; and

**WHEREAS** PID 45276441 is designated Residential on the Generalized Future Land Use Map of the Municipal Planning Strategy and zoned Single Unit Residential (R-1) on the Zoning Map of the Land Use By-law; and

**WHEREAS** PID 45366986 is designated Residential on the Generalized Future Land Use Map of the Municipal Planning Strategy and zoned High Density Residential (R-4) on the Zoning Map of the Land Use By-law; and

**WHEREAS** the Owner has requested that the Municipality enter into a development agreement to permit up to 90 apartment units and up to 10,000 sq. ft. of commercial space within an eight (8) storey apartment building on the Properties (the “Development”); and

**WHEREAS** Policy 5.4.6 of the Municipal Planning Strategy and Section 6.1 (b) of the Land Use By-law enable Council to consider entering into a development agreement to allow multiple unit residential development consisting of three or more units in a Residential designation, Policy 5.5.1 of the Municipal Planning Strategy and Section 6.1 (c) of the Land Use By-law enable Council to consider entering into a development agreement to allow dwellings in excess of three storeys, and Policy 9.1.1 of the Municipal Planning Strategy and Section 6.1 (k) of the Land Use By-law enable Council to consider entering into a development agreement to allow proposals for mixed use residential/commercial developments with two or more dwelling units in the Residential designation; and

**WHEREAS** the Council of the Municipality, at a meeting held on **Month Day**, 2023, approved this request and adopted this Agreement by policy, subject to the execution of this development agreement by the parties hereto;

**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 Bylaw, except those defined as follows:

- (a) “Active Construction” means that the Owner has active development and building permits for the construction of the apartment building and the associated parking podium, and that construction activity including but not limited to equipment, machinery, and employees, are on-site working towards the necessary building inspections leading to an occupancy permit.
- (b) “Commencement” means the date the Owner begins Active Construction on the apartment building within this Agreement as permitted by an issued development and building permit;

- (c) “Commercial Floor Area” means the total useable floor area within a building used for commercial purposes but excludes washrooms, utility and mechanical rooms, storage rooms and common hallways between stores; and
- (c) “Parking podium” means a concrete structure constructed at least partially under a building or underground that provides parking spaces to the uses within the attached building.

## **1.2 Schedules**

The following attached schedules shall form part of this Agreement:

Schedule A - Legal Description

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 by-laws;
- (b) Land Use By-law means the Land Use By-law of the Town of Windsor, approved on August 23, 2005, as amended, or successor by-laws;
- (c) Subdivision By-law means the Subdivision By-law of the Town of Windsor, approved on January 24, 2012, as amended, or successor by-laws.

## **PART 2 DEVELOPMENT REQUIREMENTS**

### **2.1 Use**

- (a) The Parties agree that uses on the Properties shall be limited to the following:
  - (i) those uses permitted by the underlying zoning in the Land Use By-law;
  - (ii) an eight (8) storey apartment building containing up to 90 apartment units and up to 10,000 sq. ft. (929.03 sq. m.) of Commercial Floor Area on the ground floor for commercial uses which shall be limited to the following:
    - Arts and crafts studios including photography
    - Banks and financial institutions
    - Clubs and community organizations
    - Commercial schools
    - Day care centres, licensed or non-licensed
    - Dry cleaning and laundry establishments
    - Entertainment, recreation and assembly uses
    - Offices

- Repair and rental establishments
- Restaurants, excluding drive-through restaurants
- Retail stores including pharmacies
- Service and personal service shops
- Veterinary clinics and animal hospitals; and

(iii) underbuilding, underground and surface parking for the uses within the 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 in writing minor changes to the location of the building or other aspects of the Site Plan provided the side yards are not decreased. Changes to the Site Plan may also be approved in writing in accordance with reports generated in Section 2.7, *Site Drainage*, of this Agreement provided the side yards are not decreased.
- (c) The apartment building shown on the Site Plan in Schedule B shall be limited to a maximum of 90 dwelling units and up to 10,000 sq. ft. (929.03 sq. m.) of Commercial Floor Area on the ground floor. The building may include underground and underbuilding parking and shall conform to the following requirements:

Minimum Front Yard	35 ft. (10.67 m.)
Minimum Rear Yard	35 ft. (10.67 m.)
Minimum Side Yard	15 ft. (4.57 m.) or one-half the height of the building whichever is greater
Maximum Storey of Main Building	8 storeys
Maximum Building Height	80 ft. (24.38 m.)
Maximum Height of Accessory Building	15 ft. (4.57 m.)

- (d) The parking podium shall not be located closer than 15 ft. (4.57 m.) from any external lot line whether or not the parking podium is visible above ground.
- (e) Accessory buildings are permitted in accordance with Section 5.1 of the Land Use By-law, *Accessory Buildings and Structures*.

- (f) A minimum of 13,500 sq. ft. (1,254 sq. m.) of usable recreation space as outlined in Section 2.8, *Recreational Space*, shall be required.
- (g) The Owner shall keep all undeveloped areas of the Properties landscaped which may include grass, shrubs, trees or other appropriate vegetative cover.

### **2.3 Access and Egress**

- (a) The Owner shall develop, construct, and maintain the driveways in the Development in general conformance with the driveways shown on Schedule B.
- (b) The driveways shown on Schedule B shall be constructed a minimum of 100 ft. (30.48 m.) from a street intersection. The driveways shall be paved with a minimum paved surface width of 20 ft. (6.09 m.). The vehicular entrance and exit shall be clearly demarcated.
- (c) The Owner agrees that it will seek and obtain approval in writing from the Municipality before any other driveway from the Development is connected to Payzant Drive or any other public road.
- (d) A 5 ft. (1.52 m.) wide pedestrian walkway shall be provided from the sidewalk on Payzant Drive and Community Way to the main entrances of the building. The pedestrian walkways shall be constructed so as to create a stable surface and may use permeable construction materials to assist with stormwater retention.

### **2.4 Parking**

- (a) All parking spaces for vehicles using the Properties shall be located on the lot and shall be generally located as shown on Schedule B.
- (b) A minimum of one (1) parking space shall be provided per dwelling unit and a minimum of one (1) parking space shall be provided for every 500 sq. ft. (46.45 sq. m.) of Commercial Floor Area dedicated to commercial uses on the Properties.
- (c) Parking may be provided either underbuilding, underground or outside at grade.
- (d) Outside parking aisles and spaces shall be constructed so as to create a stable surface for vehicle traffic and be clearly demarcated and lined by the Owner. They may be constructed using permeable construction materials to assist with stormwater retention.
- (e) Each parking space shall be a minimum of 9 ft. by 20 ft. (2.7 m. by 6.1 m.) exclusive of driveways and manoeuvring aisles. Parking aisles shall be a minimum of 20 ft. (6.1 m) wide.

- (f) The number of parking spaces may be varied in writing by the Development Officer in accordance with Section 2.13, *Variance*, of this Agreement.

## **2.5 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 has 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 Properties by emergency services vehicles, unless otherwise agreed to in writing by the Fire Chief.

## **2.6 Recreational Space**

A minimum of 13,500 sq. ft. (1,254 sq. m.) of usable recreational space shall be provided on the Properties and may include:

- (a) individual balconies; and
- (b) common use landscaped areas.

## **2.7 Site Drainage**

The Owner shall undertake all construction activities in accordance with an erosion and sedimentation control plan prepared by a Professional Engineer, unless otherwise directed by Nova Scotia Environment, and also agrees to assume sole responsibility for compliance with all regulations of Nova Scotia Environment.

## **2.8 Servicing**

### **(a) Waste Collection**

- (i) No Municipal garbage collection will be provided to the Development. The Owner shall have sole responsibility for collecting, storing and disposing of garbage and other recycling or waste items from the Development.
- (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 or cause a nuisance to 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**

- (i) The building shall be serviced with water and sewer services provided by West Hants Regional Municipality authorized by the Municipal Engineer. 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.
- (ii) The Owner shall be responsible for constructing, installing and maintaining the water and sewer services on the Properties.

**(c) Snow Plowing**

The Owner shall have sole responsibility for snow plowing within the Development.

**2.9 Maintenance**

- (a) The Owner shall keep the Properties 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 driveways to a level adequate to allow for access by emergency services vehicles.

**2.10 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.

**2.11 Hours of Operation**

The hours of operation for the commercial uses within this Development shall be limited to between 7:00 a.m. and 9:00 p.m. daily, inclusive.

**2.12 Subdivision**

- (a) Subdivision of the properties shall be permitted in accordance with the applicable Subdivision By-law. No additional parkland or parkland fees shall be required for subdivision or consolidation of the properties subject to this agreement.

- (b) Any lot(s) subdivided from the portions of PID 45276441 and 45366986 that will be developed under this Agreement, shall no longer be subject to this Agreement.

### **2.13 Variance**

In accordance with Section 5.40 of the Land Use By-law, *Variance*, the Development Officer may grant a variance for one or more of the following requirements subject to the requirements of the *Municipal Government Act*:

- (i) minimum required yard dimensions except side yard requirements as required in Section 2.2 (c) of this Agreement;
- (ii) number of parking spaces required; and
- (iii) floor area occupied by a home-based business.

## **PART 3 CHANGES AND DISCHARGE**

**3.1** The Owner shall not vary or change the number of units within the apartment building on the Properties 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 this Agreement.

**3.3** The following matters are substantive matters:

- (a) the number of units permitted within the apartment building on the Properties as listed in Section 2.1, *Use*;
- (b) the minimum side yard requirements and maximum building height of the building as listed in Section 2.2, *Development Location and Design*;
- (c) the fire safety requirements listed in Section 2.5, *Fire Safety*;
- (d) the hours of operation for the commercial uses as listed in Section 2.11, *Hours of Operation*.

**3.4** Upon conveyance of land by the Owner to either:

- (a) the road authority for the purpose of creating or expanding a public street over the Properties; or
- (b) the Municipality for the purpose of creating or expanding any municipally owned facility or infrastructure in or over the Properties;

registration of the deed reflecting the conveyance shall be conclusive evidence that this Agreement shall be discharged as it relates to the public street or public facility, as the

case may be, as of the date of registration with the Land Registry Office, but this Agreement shall remain in full force and effect for all remaining portions of the Properties.

- 3.5** Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter, and this Agreement may be discharged by Council without a public hearing.
- 3.6** 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 Properties is in accordance with the Land Use By-law or a new Agreement has been entered into.
- 3.7** 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 Properties until the Municipality has issued any development permit, building permit and/or occupancy permit that may be required. The date of commencement will be determined as the date the Owner begins Active Construction on the building within this Agreement as permitted by an issued development and building permit.
- (b) Active Construction shall commence not later than forty-eight (48) 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 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.

#### **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 (10) 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 By-laws 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 Properties (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 Properties 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 Mitchell W. Brison, 99 Water Street, P.O. Box 280, Windsor, NS, B0N 2T0, or at any other address provided in writing or email by the Owner.
- (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 in writing or email by the Municipality to the Owner.

**5.10 Full Agreement**

This Agreement constitutes the entire agreement and contract entered into by the Municipality and the Owner. 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:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

) **WEST HANTS REGIONAL**

) **MUNICIPALITY**

)

)

Per: \_\_\_\_\_

) Abraham Zebian, Mayor

)

) Per: \_\_\_\_\_

) Deanna Snair, Municipal Clerk

)

) **3229190 NOVA SCOTIA LIMITED**

)

Per: \_\_\_\_\_

) Mitchell W. Brison, President

**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 **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 **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, **Mitchell W. Brison**, 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

\_\_\_\_\_  
Deanna Snair, Clerk

Canada  
Province of Nova Scotia

**AFFIDAVIT & PROOF OF EXECUTION (CORPORATE)**

I, Mitchell W. Brison, Nova Scotia, make oath and say that:

1. I Mitchell W. Brison of **3229190 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

\_\_\_\_\_  
MITCHELL W. BRISON, President

**Schedule A  
Legal Description**

**PID 45276441**

Location: Windsor

Designation of Parcel on Plan: Lot PB-2

Title of Plan: Plan of Resurvey Lot PB-2 Lands Conveyed to Nova Scotia Farm Loan Board

Registration County: Hants

Registration Reference of Plan: 7755

The parcel complies with the subdivision provisions of Part IX of the Municipal Government Act.

**PID 45366986**

Place Name: PAYZANT DRIVE WINDSOR

Municipality/County: TOWN OF WINDSOR/HANTS COUNTY

Designation of Parcel on Plan: LOT 77AB

Title of Plan: PLAN OF SURVEY OF LOT 77AB, S/D OF LOT 77 & PORTION OF REMAINDER OF LOT AX, LANDS CONVEYED TO ANAHID INVESTMENTS LTD, PAYZANT DRIVE & BURGESS CRESCENT, WINDSOR

Registration County: HANTS COUNTY

Registration Number of Plan: 86093482

Registration Date of Plan: 2006-09-11 11:44:07



**Attachment D**  
**Public Information Meeting Notes**  
**February 16 – March 1, 2023**  
**File 22-27**  
**Payzant Drive, Windsor; PID 45276441 and 45366986**

<b>Meeting date and time</b>	A virtual Public Information Meeting was held on February 16, 2023, beginning at 6 p.m. The meeting was live broadcast on the Municipal Facebook page.
<b>Attending</b>	<p>In attendance:</p> <p>One (1) Councillor:</p> <ul style="list-style-type: none"> <li>• Councillor Murley (Chair)</li> </ul> <p>Three (3) members of staff:</p> <ul style="list-style-type: none"> <li>• Director Poirier</li> <li>• Planner Dunphy</li> <li>• Meeting Secretary Lake</li> </ul> <p>Applicant:</p> <ul style="list-style-type: none"> <li>• Chrystal Fuller, Brighter Community Planning (Applicants Planner)</li> </ul> <p>PAC/HAC members:</p> <ul style="list-style-type: none"> <li>• Greg Pace</li> <li>• Councillor Ivey</li> <li>• Stefan Palios</li> <li>• Jane Davis</li> <li>• Tasha Rogers</li> </ul> <p>The following members of the public requested invites to attend the PIM via Zoom:</p> <ul style="list-style-type: none"> <li>• Vinciane Mabialah</li> </ul> <p>14 members of the public attended the meeting in-person.</p>
<p><b>Applicant</b>  Mitch Brison, 3229190 Nova Scotia Limited</p> <p><b>Property</b>  Payzant Drive, Windsor; PID 45276441 and 45366986</p>	<p>Planner Poirier outlined the development agreement application to permit one, 8-storey, 90-unit apartment building on a portion of PID 45276441 and 45366986 on Payzant Drive.</p> <p>A formal presentation was made by Chrystal Fuller of Brighter Community Planning on behalf of the applicant.</p>
<b>Comments</b>	Comments from the public could be submitted to Planner Poirier by mail, e-mail, and telephone between February 16 – March 1, 2023.

2 members of the public spoke at the Public Information Meeting and 2 written comments were received via email. The questions and comments from the public are summarized below. The email responses are attached.

The following comments and questions were made at the Public Information Meeting. Staff and applicant responses are included in purple text.

PAC/HAC members asked the following questions and made the following comments:

- There was clarification requested on the affordability of units in this proposed apartment building. Chrystal replied that these are not affordable units and that as more housing supply (i.e., units) are added to the market the market then becomes more affordable in general as it provides more options for people. These apartment units will all be rentals.
- There was clarification requested on the commercial component of the apartment building on the ground floor. Chrystal responded that the commercial uses will be more local in nature to service the residents of the building and the surrounding area. She added that a commercial component makes it more of a vibrant street.
- There were comments on the more concentrated demands for water and sewer services and increase in stormwater runoff with hardscaping of the surfaces in relation to developments.
- Will there be a connection from Payzant Dr. to King St. as access to the proposed development is important? Sara responded that a proposed intersection at Payzant Dr. and King St. was reviewed by Public Works in relation to an overall intersection study, however it is not anticipated to be constructed at this time.
- Will there be consideration for the proposed community centre to become a comfort centre for the residents of this building and future developments? Chrystal commented that comfort centres are typically operated by a municipality. At this time the community centre has not been applied for or reviewed yet, but she will discuss this with the developer.

- Access is extremely important as we put more people in this location. Chrystal mentioned that a traffic study was conducted for the site as part of this application. She also described the future connections in the area through Community Way and then to Cole Drive.

Members of the public asked the following questions:

- Logan asked whether a shadow study been completed for this 8-storey building? Chrystal responded that one has not been conducted to her knowledge. Sara confirmed a shadow study is not currently required for development agreement applications for multiple unit buildings.
- Logan asked if it makes sense to block in the high school property on three sides with seniors housing when families need homes too? Does it make sense to focus on this demographic for this development? Chrystal responded that this development will provide more supply for the market which should open up opportunities for housing for everyone else elsewhere.
- Logan asked whether a geotechnical study been done on the site? Chrystal responded that this has not been done to date however it is up to the developer to do their due diligence with regards to the property
- Logan also asked whether active transportation connectivity has been discussed? Chrystal and Sara responded that this is an active conversation between the Municipality and the developer to ensure connectivity for residents in the area and there will be requirements for walkways to the buildings in the development agreement.
- Krista stated concerns about the increased traffic, in particular the roundabout that is proposed at the end of Payzant Drive. Councillor Ivey responded that the project is being considered in conjunction with this additional development and that future connections to Community Way and to Cole Drive will also most likely be constructed by the time this building is being constructed.
- Krista asked what is the timeline for construction of the 3 buildings on Community Way? Sara confirmed that the developer has a building permit for one of

	<p>the three buildings and that they have 10 years to complete the three buildings.</p> <ul style="list-style-type: none"> <li>• The location is not ideal as it is outside our window.</li> </ul>
<b>Adjournment</b>	The meeting was adjourned at 7:00 p.m.

**Public Email Responses Submitted for the Application PIM**

**February 6, 2023**

**From** Suzanne Milner

**To** Vanessa Lake

I would like to attend the meeting in person please. The letter I received indicated I should contact you if I wanted to attend virtually - I will be attending in person (just in case I need to RSVP).

Thanks  
Suzanne

----

**February 7, 2023**

**From** Vanessa Lake

**To** Suzanne Milner

Good morning!

Thank you for letting us know. There is no need to RVSP, but we appreciate it.

Best,  
Vanessa

----

**February 7, 2023**

**From** Suzanne Milner

**To** Vanessa Lake

Hi Vanessa - I have spent the past 30 minutes on the mini ole website trying to find the traffic study that was completed (2019 I believe but could be wrong) as well as the recommendation (for the Payzant Drive/Wentworth Rd area).

Would you be able to point me to where I might find it LOL.

Thanks  
Suzanne

----

**February 8, 2023**

**From** Vanessa Lake

**To** Suzanne Milner

Hi Suzanne,

Do you mean the development on the location of the old high school? The link to the staff report is here: <https://www.westhants.ca/planning/staff-reports/2022-staff-reports/3826-2022-06-09-recommend-from-staff-to-pac.html> I'm not sure if that contains the traffic information you're looking for. If that's not the file, please let me know. I will also pass this along to our Planners, Sara and Alex, who may have the information you need.

Best,

Vanessa

----

**February 8, 2023**

**From** Suzanne Milner

**To** Vanessa Lake

I attended the public meeting (virtually) for this as well as the one for Brisons crossing extension (seniors apartments as well as single and duplex buildings on Courtney (I think that is the name)).

At these meetings a councillor referenced a traffic study and subsequent proposal for a roundabout at Payzant/Wentworth.

I am looking for that study and subsequent recommendation!

Many thanks

Suzanne

----

**February 8, 2023**

**From** Sara Poirier

**To** Suzanne Milner

Hi Suzanne,

My apologies for the delayed response, I was at a conference last week and had to do a little digging to find the report myself. The Windsor Intersection Infrastructure Needs Assessment was attached to a staff report as part of the Committee of the Whole agenda on December 7, 2021. The report starts on pg. 149 here <https://www.westhants.ca/committee-of-the-whole/committee-of-the-whole-packages-april-2020-march-2021/2021-cotw-agenda-packages/3612-2021-12-07-committee-of-the-whole-package-amended-dec-21-2021-1019am/file.html>

There was a presentation made by DesignPoint at the January 10, 2023 outlining the proposed design for upgrades to the Payzant-Wentworth intersection. The presentation starts on pg. 33 here <https://www.westhants.ca/committee-of-the-whole/committee-of-the-whole-packages-april-2020-march-2021/2023-cotw-agenda-packages/4209-2023-01-10-committee-of-the-whole-package-amended-january-12-2023-pdf/file.html>

Please let me know if you require any additional information.

All the best,  
Sara

---

**February 7, 2023**

**From** Vinciane Mabialah  
**To** Sara Poirier

Hello Sara,

I have few questions:

- #1- Will the 90 unit apartment building be available for sale?
- #2- Will the storey area, e.g commercial space be available for rent or sale?
- #3- The 90 unit apartment will be a retirement residence or for everyone?
- #4- When will the construction start and end?

Regards,  
Vinciane

----

**February 14, 2023**

**From** Sara Poirier  
**To** Vinciane Mabialah

Good morning, Vinciane,

Thank you for your email. Apologies for the late response, I was at a conference last week. I will pass your comments along at the Public Information Meeting. I will also send your questions to the applicants planner, as most questions relate to the business plan of the developer. I will note that the proposal does not include any commercial space within this building.

All the best,  
Sara