



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: April 23, 2024

Subject: Development Agreement: PID 45054350, O'Brien Street, Windsor;
File # 24-04A

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

RECOMMENDATION

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

...that Council gives First Reading and will hold a Public Hearing to consider entering into a development agreement to allow a multiple unit residential building, consisting of 6 dwelling units, on PID 45054350 on O'Brien Street in Windsor which is substantively the same as the draft set out in Attachment B of the report File #24-04 to the Planning and Heritage Advisory Committee dated April 11, 2024.

...that Council requires that the development agreement with Edward Edelstein which permits a multiple unit residential building, consisting of 6 dwelling units, on PID 45054350 on O'Brien Street 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 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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An application was received from Edward Edelstein of Geome Properties Limited on February 13, 2024. The application is to allow a 6-unit dwelling on O’Brien Street by development agreement.

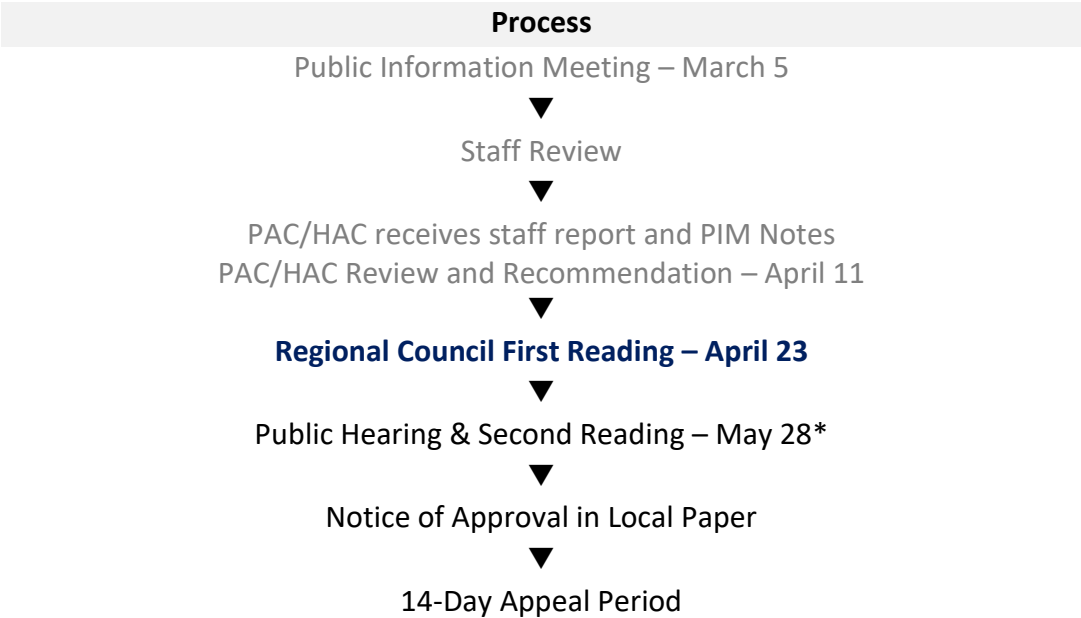
DISCUSSION

A Public Information Meeting was held on March 5, 2024.

On April 11, 2024, staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Appendix A). The only comment from a Committee member in relation to this application was to consider allowing development proposals similar to this as-of-right through the plan review process. During the meeting PAC/HAC recommended in favour the application.

NEXT STEPS

The process for this application is as follows:



*anticipated dates; final dates set by Council

FINANCIAL IMPLICATIONS

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

ALTERNATIVES

In response to this application, Council may:

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

APPENDIX

Appendix A 2024-04-11 Staff Report - Development Agreement: PID 45054350, O'Brien Street, Windsor; File # 24-04

CHIEF ADMINISTRATIVE OFFICER REVIEW

I support the recommendation and the application to proceed through to the Public Hearing stage of the planning process. At the time of the Public Hearing it will allow for an up-to-date presentation of all information pertaining to the application for both Council and residents. Further, it will allow for a thorough review of that information at second reading when Council is asked to make a final decision on this matter.

Report Prepared by: _____
Alex Dunphy, Planner

Report Reviewed by: _____
Sara Poirier, Director of Planning and Development

Report Approved by:  _____
Mark Phillips, Chief Administrative Officer

**Appendix A – 2024-04-11 Staff Report - Development Agreement:
PID 45054350, O'Brien Street, Windsor; File # 24-04**



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: April 11, 2024

Subject: Development Agreement: PID 45054350, O'Brien Street, Windsor;
File # 24-04

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

RECOMMENDATION

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

...that PAC/HAC recommends that Council give First Reading and hold a Public Hearing to consider entering into a development agreement to allow a multiple unit residential building, consisting of 6 dwelling units, on PID 45054350 on O'Brien Street in Windsor which is substantively the same as the draft set out in Attachment B of the report File #24-04 to the Planning and Heritage Advisory Committee dated April 11, 2024.

...that PAC/HAC recommends that Council require that the development agreement with Edward Edelstein which permits a multiple unit residential building, consisting of 6 dwelling units, on PID 45054350 on O'Brien Street 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 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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An application was received from Edward Edelstein of Geome Properties Limited on February 13, 2024. The application is to allow a 6-unit dwelling on O’Brien Street by development agreement.

DISCUSSION

The subject lot is designated Residential on the Generalized Future Land Use Map (GFLUM) of the Windsor Municipal Planning Strategy (WMPS) (Figure 1). The subject lot is zoned High Density Residential (R-4) on Schedule A of the Windsor Land Use By-law (WLUB) (Figure 2). This lot would normally allow up to 4 units as-of-right, as the proposal is for 6-units the application is being considered through the development agreement process.

The subject lot is located on the southwest side of O’Brien Street and is currently vacant, following the demolition of the previous building on the lot in 2018.

Surrounding Context

Surrounding properties on the south side of O’Brien Street are designated Residential and zoned High Density Residential (R-4). Surrounding properties on O’Brien Street to the north or east are designated Commercial and zoned General Commercial (GC) and Highway Commercial (HC). Uses on surrounding properties consist of a variety of residential uses, a pharmacy to the east, and new commercial uses to the north.

Municipal Planning Strategy Review

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

- the proposal has setbacks that are consistent with other nearby residential buildings;
- the proposal is considered compatible with adjacent land uses;
- the Development Officer and the Municipal Traffic Authority have no concerns which have not otherwise been addressed in this report.

Policy 16.3.1 of the WMPS establishes the general criteria that must be considered for all development agreements applications. 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, Public Works Engineering Division, and Municipal Traffic Authority have no concerns which have not been addressed in this report.

Comments from the Fire Chief

The current site plan for this proposal displays a right-of-way access of 10 ft. (3.05 m.) to allow access to the rear of the building. The local Fire Chief commented that it would be preferable to have a wider access to the rear of the property to allow potential access for a firefighting apparatus, however it would be unlikely that they would try to access behind the building with a fire truck. In response to this, the Development Officer and the Manager of Building and Fire Inspection Services indicated that there are no requirements in either the National Building Code of Canada or the Windsor Land Use By-law for a right-of-way access to be wider than 10 ft. (3.05 m.). Therefore, staff have required that the driveway providing access to the rear of the property must be maintained at a minimum width of 10 ft. (3.05 m.).

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, including the subject lot.

In accordance with the Municipal Services Specifications Manual, the Public Works Engineering Division will require the developer to provide a confirmation from an engineer that the pre- and post-development flows are neutral or better than before the development.

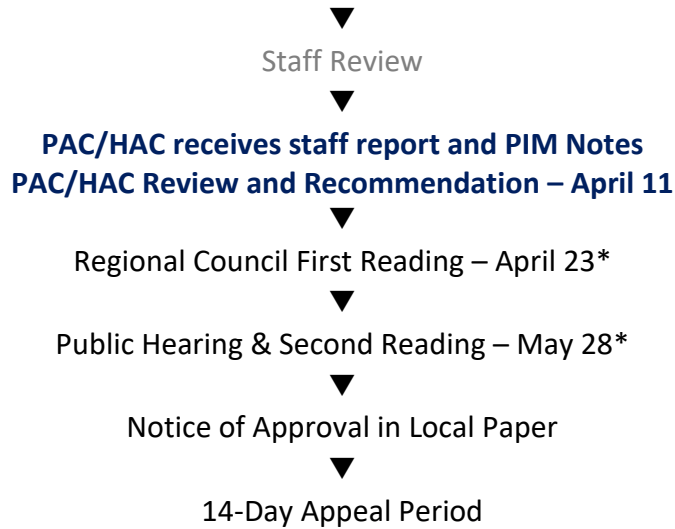
Property owners are responsible for ensuring that their lot is suitable for the proposed uses.

NEXT STEPS

As noted above, the draft development agreement has been considered within the context of both the specific and general policies of the WMPS, and is consistent with the intent, objectives, policies and criteria of the WMPS. As a result, it is reasonable to consider permitting a multiple unit residential building, consisting of 6 dwelling units, on PID 45054350 on O'Brien Street in Windsor by development agreement.

Process

Public Information Meeting – March 5



*anticipated dates; final dates set by Council

FINANCIAL IMPLICATIONS

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

ALTERNATIVES

In response to this application, Council may:

- hold First Reading and authorize a Public Hearing to approve the development agreement as drafted or as specifically revised by direction of PAC/HAC; or
- 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: _____
Sara Poirier, Director of Planning and Development

Figure 1 – Windsor GFLUM Extract

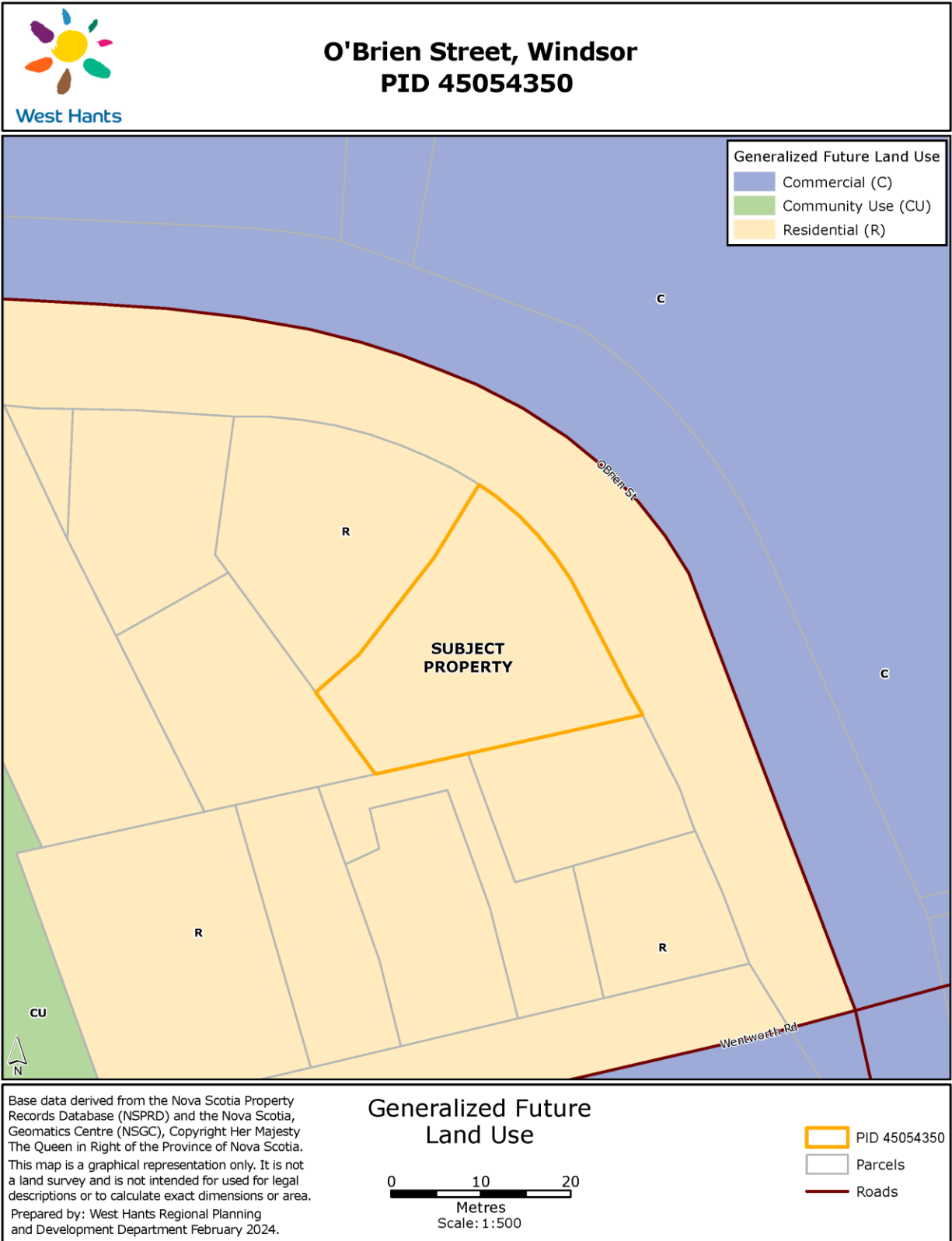
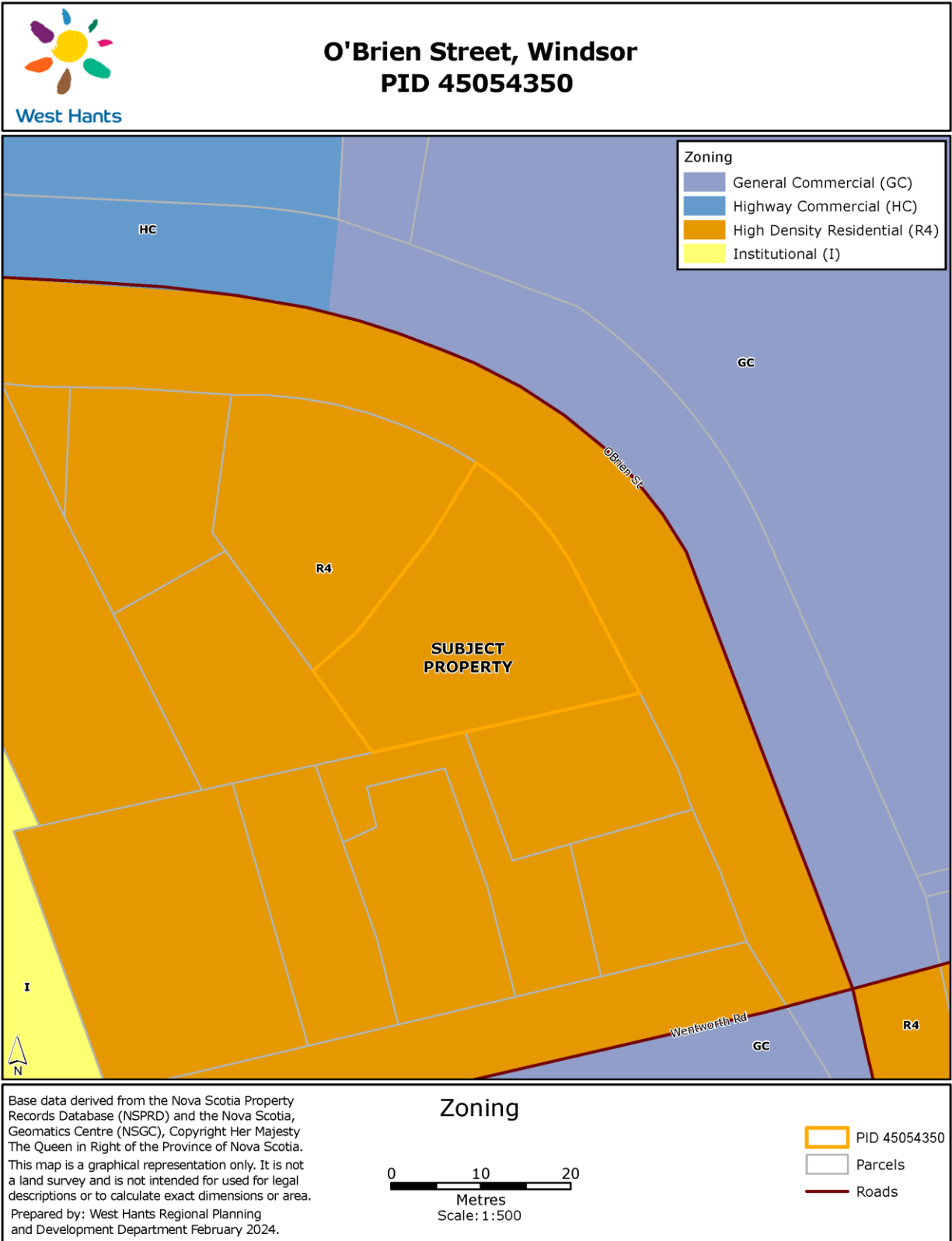


Figure 2 – Windsor Zoning Map Extract



Attachment A – Policy Summary for Development Agreement

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:*

(a) the proposed use meets one of the following:

<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 proposal meets all of the zone standards for the High Density Residential (R-4) zone except for the front and side yard setback requirements, and the minimum lot area. However, Section 5.6 of the Windsor Land Use By-law allows for the front yard setback to be reduced to the average setback of adjacent buildings and in this case, reduced to 10 ft. (3.05 m.). Both the side yard setback and the minimum lot area are able to be reduced through the development agreement process and in this case, are similar to other buildings in the area, as well as previous development agreements in Windsor. The Development Officer confirmed that the proposal is adequate in terms of meeting the zone requirements through the development agreement process.</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>Not applicable, as the proposal is for a new building.</p>
<p><i>(b) the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</i></p>	<p>The Development Officer commented that they had no concerns regarding the built form of the development.</p>

	The proposal appears to be compatible with the size and appearance of adjacent land uses.
<i>(c) the development is considered compatible with the residential character of the area with respect to traffic generation and population density;</i>	The Municipal Traffic Authority commented that they have no concerns regarding traffic generation or population density of the proposed development.
<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>	The site design of the proposal is similar to other nearby residential uses as the main building is located near the front lot line and four of the parking spaces are located near the rear lot line of the subject lot. Of the remaining two parking spaces, one proposed to be located on the north side of the main building and the other is proposed to be located on the south side of the main building, with both being near the front lot line. The parking spaces near the rear lot line are obscured from the road by the bulk of the main building and similarly located on the lot to other adjacent residential properties. Due to the shape of the lot and the existing parking area on the abutting property to the north, the development agreement only requires buffering for parking spaces to adjacent properties to the south and west. Staff consider this criterion met.
<i>(e) adequate on-site parking is provided and parking areas are well designed;</i>	A total of 6 parking spaces are provided within the proposal, this is consistent with other development agreements for residential uses in Windsor. The Development Officer commented that the parking proposed would be adequate for the development.
<i>(f) there is adequate on-site recreational open space suitable in extent and design to the nature of the development; for conversion of</i>	As the existing subject lot is undersized, there is limited space for on-site recreational space aside from balconies.

<i>existing buildings, nearby public parks may be deemed sufficient;</i>	There are nearby recreational spaces, such as Victoria Park, within walking distance from the proposal. The Development Officer commented that they have no concern regarding the adequacy of nearby recreational space for the proposal.
<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>	Not applicable, as the proposal consists of 6 dwelling units in total. However, this criterion would be met regardless, as O'Brien Street is considered an arterial street on the Transportation Map of the WMPS.
<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>	Not applicable, as the subject lot is not within an Architectural Control District.
<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>	Not applicable, as the proposal is for a new build.
<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 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 Public Works Engineering Division commented that the subject lot has access to Municipal services and there are no concerns regarding capacity for the proposal.

<p><i>(ii) the adequacy of school facilities;</i></p>	<p>The Director of Operations for the Annapolis Valley Regional Centre for Education has stated that they will accommodate all students.</p>
<p><i>(iii) the adequacy of fire protection;</i></p>	<p>The Manager of Building and Fire Inspection Services commented that they did not have any concerns. The local Fire Chief commented that it would be preferable to have a wider access to the rear of the property to allow potential access for a firefighting apparatus, however it would be unlikely that they would try to access behind the building with a fire truck. In response to this, staff reached out to the Development Officer and the Manager of Building and Fire Inspection Services. Both commented that there is no requirement in either the National Building Code of Canada or the Windsor Land Use By-law for a right-of-way access to be wider than 10 ft. (3.05 m.). Therefore, staff have required that the driveway providing access to the rear of the property must be maintained at a minimum width of 10 ft. (3.05 m.).</p>
<p><i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i></p>	<p>The Traffic Authority has no concerns regarding the road networks adjacent or leading to the proposed 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 the proposed development.</p>
<p><i>(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i></p>	<p>The Traffic Authority has no concerns regarding movement suitability on the subject lot. There is a deeded right-of-way shared with the abutting property to the north of the subject lot which provides access to the proposed development.</p>

	<p>Sidewalks are provided on O'Brien Street and pedestrian access is required to the building entrance in the draft development agreement.</p> <p>There is no active rail line in the vicinity.</p>
<p><i>(c) the adequacy of the dimensions and shape of the lot for the intended use;</i></p>	<p>The draft development agreement reduces the required minimum setbacks for the front and side yard, as well as the minimum lot area. The underlying High Density Residential (R-4) zone requirements were met in all other cases. The requirements of the proposed development agreement are similar to other development agreements for residential uses in Windsor. The Development Officer commented that the subject lot is suitable in terms of dimension and shape for this proposal.</p>
<p><i>(d) the pattern of development which the proposal might create;</i></p>	<p>The proposal does not significantly change the existing pattern of development. The Development Officer has no concerns regarding the pattern of development that the proposal may create.</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>The subject lot is not located within the Dykeland Overlay or the Environmental Constraints Overlay. The lot appears relatively flat and stable with no visible watercourse present.</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



West Hants

DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2024.

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 -

GEOME PROPERTIES LIMITED, a body corporate with a head office at 2159 Gottingen Street, 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 at PID 45054350 on O’Brien Street in Windsor 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 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 a multiple unit building consisting of up to 6 dwelling units on the Property (the “Development”); and

WHEREAS Policy 5.4.6 of the Municipal Planning Strategy and Section 6.1 (b) of the Land Use By-law enables Council to consider multiple unit residential dwellings of three units or more by development agreement; and

WHEREAS the Council of the Municipality, at a meeting held on **Month Day**, 2024, approved this request and adopted this Agreement by policy, subject to the execution of this development agreement by the parties hereto and the other conditions herein;

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) “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) “Ceased Operation” means the stopping of work on the Development once active construction has commenced for an extended period of time, but shall not apply to stoppages of a seasonal nature or resulting from Force Majeure; and
- (c) “Commencement” means the date the Owner begins Active Construction on the apartment buildings within this Agreement as permitted by an issued development and building permit.

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 Properties shall be limited to the following:

- (a) those uses permitted by the underlying zoning in the Land Use By-law; and
- (b) multiple unit dwelling, consisting of up to 6 total dwelling units.

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 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 that the front yard setback and the driveway access width are not further reduced.
- (c) The Property shall be limited to a multiple unit dwelling consisting of 6 dwelling units. The Development shall conform to the following site requirements:

Minimum front yard	10 ft. (3.05 m.)
Minimum side yard	10 ft. (3.05 m.)
Minimum rear yard	35 ft. (10.67 m.)
Maximum storey of main building	3 storeys*
Maximum height of accessory building	15 ft. (4.57 m.)

*Maximum storey of the main building shall not include a mechanical room or roof access.

- (d) Accessory buildings are permitted in accordance with Section 5.1 of the Land Use By-law, Accessory Buildings and Structures.

- (e) The Owner shall keep all undeveloped areas of the Property 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. The driveway providing access to the rear of the property must be maintained at a minimum width of 10 ft. (3.05 m.).
- (b) The driveways shown on Schedule B shall be constructed to create a stable surface for vehicle traffic and be clearly demarcated and lined by the Owner. The driveways may be constructed using permeable construction materials to assist with stormwater retention. The vehicular entrances and exits shall be clearly demarcated.
- (c) Pedestrian access to all building entrances must be provided.

2.4 Parking

- (a) All parking spaces shall be located on the lot and shall be generally located as shown on Schedule B.
- (b) A minimum of one parking space per dwelling unit shall be provided for the Development.
- (c) Outside parking aisles and spaces shall be constructed 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.
- (d) 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.
- (e) The number of parking spaces may be varied by the Development Officer.

2.5 Buffering

Outdoor parking shall be screened from adjacent properties to the south and west of the Property, through the use of:

- (a) a mix of local species of coniferous trees. At planting, each tree shall have a diameter of at least 2 in. measured at 4.5 ft. above the surrounding grade and a minimum height of 5 ft.; or

- (b) a hedge of a variety of coniferous shrubs each of which will reach over 6 ft. in height at maturity; or
- (c) a wall or an opaque fence which is a minimum of 5 ft. in height and of sufficient height to provide a visual buffer to the abutting property; or

any combination of the above, all arranged to form a dense or opaque screen, and maintained for as long as the buffer is required.

2.6 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.

2.7 Maintenance

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

2.8 Servicing

(a) Waste Collection

- (i) Municipal garbage collection will be provided to the Development from O'Brien Street.

(b) Water and Sewer Services

- (i) The building shall be serviced with water and sewer services provided by West Hants Regional Municipality and 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 Property.

(c) Snow Plowing

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

2.9 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 Property by emergency services vehicles, unless otherwise agreed to in writing by the Fire Chief.

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) a reduction of the minimum front yard setback as listed in Section 2.2, *Development Location and Design*;
 - (c) a reduction of the minimum driveway width as listed in Section 2.3, *Access and Egress*; and
 - (d) the fire safety requirements listed in Section 2.9, *Fire Safety*.
- 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 Properties 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. 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 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 GEOME PROPERTIES LIMITED, 2159 GOTTINGEN STREET, HALIFAX, NOVA SCOTIA B3K 3B5, 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 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:

) **WEST HANTS REGIONAL**

) **MUNICIPALITY**

)

)

)

Per: _____

Witness

) Abraham Zebian, Mayor

)

)

) Per: _____

Witness

) Deanna Snair, Municipal Clerk

)

)

) **GEOME PROPERTIES LIMITED**

)

)

Per: _____

Witness

) Edward Edelstein, President

**PROVINCE OF NOVA SCOTIA
COUNTY OF HANTS**

ON THIS day of , A.D. 2024, 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. 2024, 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, **Edward Edelstein**, 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 _____, 2024
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, Edward Edelstein, Nova Scotia, make oath and say that:

1. I, Edward Edelstein of **GEOME PROPERTIES 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 _____, 2024
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

Edward Edelstein, President

Schedule A
Legal Description – PID 45054350

ALL that lot of land conveyed by Charles MacDonald and wife to Walter E. Regan by Deed dated the 6th day of October, 1952, recorded at the registry of Deeds at Windsor in Book 198, Page 179 and wherein described as follows:

BEGINNING on the Southwestern side of O Brien Street at an iron pipe driven in the ground at the Eastern corner of lands recently conveyed by the said Walter E. Regan to Earl W. Blenkhorn by Deed dated July 15th, 1947;

THENCE Southwesterly along the Southern side of the lands so conveyed to the said Earl W. Blenkhorn as aforesaid Twenty-eight and Three-Tenths Feet, (28.3ft) to an iron pipe driven in the ground;

THENCE continuing in a Southwesterly direction Fifty-two and Six-tenths Feet, (52.6ft) along the said Southern boundary of said lands to another iron pin in front of and in centre of the woodshed Twenty-one Feet (21ft) to the line of lands of John Wilkins conveyed to him by the said Grantors;

THENCE Southerly along the line of the said lands of the said John Wilkins Thirty-six and Five-tenths feet, (36.5ft) or to the Northern line of lands formerly of Rupert Lavers;

THENCE Southeasterly along the line of the lands formerly of the said Rupert Lavers, One Hundred and Three Feet (103ft) more or less, to the Southwestern side of O Brien Street;

THENCE Northerly along the Southwestern side of O Brien Street to the iron pin at the place of beginning;

The same being or intended to be a portion of those lands and premises conveyed to the said Walter D. Regan by Isobel G. Dimock et al by Deed bearing date the 25th day of April, A.D., 1946, and recorded in the Office of the Registrar of Deeds in Book 169, Page 429. Such portion thereof being shown upon a certain plan attached to said Deed to Blenkhorn and filed in the said Registry of Deeds in Book 178, Page 38 and lying to the South of the lands outlined in red thereon conveyed to the said Earl W. Blenkhorn.

Together with all rights of way over and across any portion of the lands lying the north of the lands hereby conveyed and now of the said Earl W. Blenkhorn for gaining access to the lands hereby conveyed as the same were reserved to the said Grantors in the said Deed from the said Grantors to the said Earl W. Blenkhorn aforesaid and also in a Deed from the said Grantors to one John Wilkins, but subject however to all rights-of-way over and upon the lands hereby conveyed as the same were granted by the said Grantors to the said Earl W. Blenkhorn and to the said John Wilkins by the hereinbefore recited Deeds.

Schedule B
Site Plan

Attachment C – Public Information Meeting Notes

March 5 – 19, 2024

Development Agreement: PID 45054350, O’Brien Street, Windsor; File # 24-04

Meeting date and time	A Public Information Meeting was held on March 5, 2024 beginning at 6:00 p.m. The meeting was broadcast live on the Municipal Facebook page.
Attending	In attendance for the meeting: One (1) Chair: <ul style="list-style-type: none">• Deputy Mayor Morton Four (4) members of staff: <ul style="list-style-type: none">• Planner Dunphy• Planner Fredericks• Planning Assistant Lake• Director Poirier No members of the public attending the meeting.
Applicant Edward Edelstein of Geome Properties Limited Property 586 O’Brien Street, Windsor (PID 45054350)	Planner Dunphy outlined the application to allow a proposed 6-unit dwelling on the subject lot by development agreement. Edward Edelstein provided a presentation on the proposal.
Comments	Comments from the public could be submitted by mail, e-mail and telephone between March 5 –19, 2024. No comments were submitted from the public during the comment period. No members of the public spoke during the Public Information Meeting.
Adjournment	The Public Information Meeting ended at 6:16 p.m.