



WEST HANTS REGIONAL MUNICIPALITY

Public Hearing Minutes – 543 O'Brien Street (conclusion)

January 26, 2021 6:00 pm

Held via Zoom and Facebook Livestreamed

1. Call to Order

The Public Hearing was called to order at 6:15 pm.

Council Present:

Abraham Zebian, Mayor

Rupert Jannasch, Councillor, District 1

Scott McLean, Councillor, District 2

Mark McLean, Councillor, District 3

Debbie Francis, District 5

Bob Morton, Councillor, District 6

Paul Morton, Deputy Mayor, District 8

Ed Sherman, Councillor, District 7

Richard Murphy, Councillor, District 9

Laurie Murley, Councillor, District 10

Jim Ivey, Councillor, District 11

Staff and Guests Present:

Mark Phillips, Chief Administrative Officer

Todd Richard, Dir. Public Works

Carlee Rochon, Dir. Financial Services

Saira Shah, Planner

Shelleena Thornton, Administrative
Supervisor

Rhonda Brown, Municipal Clerk

Madelyn LeMay, Dir. Planning &
Development

Sara Poirier, Planner

Regrets:

Jeff Hartt, Councillor, District 4

Members of the public watched the meeting using Facebook Live.

2. Introduction

Mayor Zebian stated Public Hearings for amendments to planning documents and development agreements are required by Part 8 of the Municipal Government Act. This virtual public hearing is hosted by Council. The Public Hearing for this application began on November 24th and resumed tonight to allow the Planner to bring forward any comments received from the public.

When the Public Hearing is complete, the Council meeting will resume, and members of Council may then ask questions and make comments. Councillors were reminded that in order to be able to vote on this matter, Councillors must have been present at both parts of the hearing – November 24th and tonight.

3. Presentation by Planner

Planner Poirier reviewed the presentation (attached) summarizing the proposed rezoning at 543 O'Brien Street. Clerk Brown read letters from residents Adam and Sally-Jo Myles, Denise Forand and Douglas Orman regarding the rezoning (attached). Planner Poirier then summarized and addressed the comments from the residents.

Mayor Zebian declared the Public Hearing closed.

The meeting ended at 7:07 pm.

Abraham Zebian, Mayor

Rhonda Brown, Municipal Clerk

The logo consists of the letters 'WWH' in a bold, sans-serif font. The first 'W' is dark blue, the second 'W' is a lighter blue, and the 'H' is dark blue. The letter 'V' is integrated into the second 'W'.

WINDSOR / WEST HANTS

TOGETHER



543 O'Brien Street, Windsor
Land Use By-law Amendment
Public Hearing Continuation
January 26, 2021

Application

- ▶ On June 3, Clark Wilkins applied for an amendment to rezone his property from General Commercial (GC) to Highway Commercial (HC) to permit an automobile service station and a drive-through restaurant
- ▶ The subject lot is currently vacant but was once the site of the Co-op Atlantic store and gas bar

Questions & Comments

- ▶ 2 emails (one with 2 letters attached), 1 letter
 - ▶ Adam Myles (515 O'Brien Street) email & two letters
(First letter dated August 27, 2020 was read at PIM in Sept; Second letter dated December 2020)
 - ▶ Denise Forand (Windsor resident) email
 - ▶ Douglas Orman (381 King Street) letter

Questions & Comments Cont.

- ▶ Adam Myles (515 O'Brien Street)
 - ▶ Strongly opposed to the rezoning
 - ▶ Concerns regarding resale value of his property if adjacent to a gas station
 - ▶ Concerns about increased noise, traffic, damage to property, increased difficulty entering and exiting their property / driveway
 - ▶ Potential health and environmental impacts of living next to a gas station
 - ▶ Already existing service stations in Windsor

Questions & Comments Cont.

- ▶ Responses to Mr. Myles (515 O'Brien Street) letter
 - ▶ Property values: Potential impact on assessed values is not part of the criteria of Council to be considered for applications
 - ▶ Noise: Noise disturbances will be mitigated through the amendments to the abutting use and planting strip requirements
 - ▶ Potential health and environmental impacts of a gas station: The Department of Environment, through the Environment Act, regulates the handling, storage and sale of motive fuels in the Province. The property owner would be required to gain approval (annually) from the Department of Environment to sell fuels as part of the automobile service station.

Questions & Comments Cont.

- ▶ Responses to Mr. Myles (515 O'Brien Street) letter cont.
 - ▶ Traffic: Since the lot is currently vacant, any new uses, whether permitted in the underlying General Commercial (GC) zone or permitted through rezoning to Highway Commercial (HC), will generate traffic to the property.

The Municipal Traffic Authority stated they had no concerns in regard to traffic impact or the ability to provide safe and efficient roadway access to the lot

Specific requirements in the WLUB (Section 5.2) for automotive service stations to avoid traffic issues and ensure safe product delivery

Questions & Comments Cont.

- ▶ Responses to Mr. Myles (515 O'Brien Street) letter cont.
 - ▶ Existing service stations and potential other uses: Staff do not evaluate the application based on the business plan or viability of the business in the proposed location, only what is being requested by the property owner against the criteria of the policies.

Questions & Comments Cont.

- ▶ Denise Forand (Windsor resident) email
 - ▶ Against the rezoning
 - ▶ Develop affordable housing instead of another gas station

Questions & Comments Cont.

- ▶ Douglas Orman (381 King Street) letter
 - ▶ Environmental concerns were also discussed during the 411 King Street application in May 2020

Questions & Comments Cont.

- ▶ The conclusions were:
 - ▶ from recollection, we can confirm that the Town did look into the issue of water drainage in this area within the time period specified in the Department of Environment letters;
 - ▶ we do not have any documentation of the Town permitting the property owners at 411 King Street to excavate a pond;
 - ▶ the reference to the culvert and catch basins in the Dept of Environment letters (2011 and 2013) are private infrastructure and not owned or maintained by the Municipality;
 - ▶ the Municipality would deem these concerns as a civil issue as the infrastructure and concerns raised involve private land and privately owned infrastructure and it is between the property owners to resolve.

Process

All statutory requirements have been met





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Recommendation

...that Council gives Second Reading to and approves amending the zoning map of the Windsor Land Use By-law to enable the lot located at 543 O'Brien Street, Windsor, PID 45055928 to be rezoned from the General Commercial (GC) Zone to the Highway Commercial (HC) Zone, as shown on Figure 2 and amending the text of the Windsor Land Use By-law to ensure adequate separation and buffering is provided for residential uses abutting commercial uses in commercial zones, in a manner substantively the same as Attachment A, all as attached to the Windsor Area Advisory Committee report #20-17 dated October 1, 2020.

From: [Adam Myles](#)
To: [Sara Poirier](#)
Subject: 543 O'Brien Street Re-Zoning Follow up
Date: Thursday, December 17, 2020 5:42:44 PM
Attachments: [543 O'Brien Street Re-Zone Response.pdf](#)
[543 Obrien Street Re-Zone response 2.pdf](#)

Caution

This email comes from an outside sender. Verify the sender and use caution with any requests, links or attachments.

Hello Sara,

We are once again writing to you, and the council, as a landowner within 500 feet of the proposed re-zoning and development at 543 O'Brien Street.

Please find attached our initial letter, once again, as we wish to ensure that council has had the opportunity to read it. As well I have attached our second response letter, which addresses more items.

Thank you for your time,
Adam & Sally-Jo "Mick" Myles
515 O'Brien Street, Windsor

Adam & Sally-Jo "Mick" Myles

August 27, 2020

██████████ 515 O'Brien Street
Windsor, NS B0N2T0

To Sara Poirier,

**RE: Public Information Meeting
543 O'Brien Street, Windsor (PID 45055928)**

We are writing this letter to you, and the municipality, in strong opposition to the re-zoning and proposed land use of the aforementioned property, located directly adjacent our own home and property.

The re-zoning, and its proposed use, came as quite a surprise to us as we read through the letter recently received. Due to the proposed use of the property, pending re-zoning, there are quite a few serious concerns that we require the municipality of Windsor / West Hants to understand.

First and foremost please understand the personal situation we face with this proposal. It is well documented and discussed in the Real Estate Market that housing which surrounds and or connects with Gas Stations / Automobile Service Stations, do not hold as much market value as they would otherwise. It is one situation if someone purchases or rents property surrounding a service station, knowing quite well that this is the case, however being forced into a change of property and new construction that creates this problem after settling into a home is hurtful towards those who have invested in their family home.

We did not purchase the property and home beside any form of existing or functioning Service Station, and would not have done so if one had already existed. We are also well aware of the history of the property, as we received a written guarantee that the damage and polluting of the soil on the property in question did not in any way shape or form contaminate the property of 515 O'Brien Street before our purchase.

The decrease in property value will most definitely hurt any potential future sale of our home, however the simple existence of the Service Station alone is not all that we must be concerned of. With the construction comes a myriad of further issues we must contend with, both in the short and long term, such as construction noise, and traffic hold ups.

With an increase of vehicular traffic around our property, and on our road specifically, both during construction and when the property is "open for business", we are guaranteed to experience increased Noise, increased odors & smells (ozone issues and potential health risks), damage to property as well as increased difficulty entering and exiting our own property / driveway. This development will also increase foot traffic surrounding our property and home causing a further increase of noise and chances of crime and or damage to our property & home. All of this forced upon us by an unwanted development.

Despite all the modern health and safety guidelines they must follow, automobile service stations can still pose significant hazards to neighbors, especially children. Some of the major issues include ground-level ozone caused in part by gasoline fumes, groundwater hazards from petroleum products leaking into the

ground, and exposure hazards from other chemicals that might be used at the station if it's also a repair shop.

Ozone pollution is caused by a mixture of volatile organic compounds, some of which are found in gasoline vapors, and others, like carbon monoxide, that come from car exhaust. Most gas pumps today must have government-regulated vapor-recovery boots on their nozzles, which limit the release of gas vapors while you're refueling your car. A similar system is used by the station when a tanker arrives to refill the underground tanks. But if those boots aren't working properly, the nearly odorless hydrocarbon fumes, which contain harmful chemicals like benzene, can be released into the air. According to a 2004 study, published by the Globe and Mail, exposure to the chemical Benzene has previously been linked to leukemia in adults, but the link has now been made to children.

While the developer may provide what some consider a good rebuttal against the environmental hazards alone discussed within this letter, there is no absolute guarantee that this situation will be problem and health risk free for anyone. We once again repeat that we did not openly purchase our property and home beside an existing Automobile Service Station, and would not have done so.

It is also interesting to note that there currently exists 5 operational Automobile Service Stations, most of which contain a form of food sales, within a 5 minute driving distance of the property in question. If this location is being considered to potentially load balance the traffic, then we implore the town to consider opposition to the re-zoning and allowing of such an establishment. We would also like to make clear that we are not in opposition of development occurring, as long as the proposed use of the land makes sense, and does not create or cause complications for established residents. Many times throughout the past few years there have been multiple "rumors" as to land use opportunities, which included items such as apartments / condos, etc. And for the most part we have not felt such a strong opposition to the development moving forward, if the rumors were in fact true, as that form of land use could potentially be beneficial to the location. The same feelings occurred when we were made aware of the re-zoning for the old Windsor United Baptist Church, on King Street. The proposed re-zoning and land use made sense, caused no alarms and we did not voice any form of concern.

We close this letter with a final reiteration of the fact that we are in entire opposition to the currently proposed re-zoning and use of land. We are not, in any way shape or form, looking to entertain the idea of owning property, and living, adjacent to an automobile service station.

Sincerely,

Adam & Sally-Jo "Mick" Myles

Sources:

<https://www.scientificamerican.com/article/is-it-safe-to-live-near-gas-station/>

<https://www.theglobeandmail.com/life/leukemia-rates-high-for-kids-living-near-gas-stations/article20434890/>

<https://www.lowestrates.ca/blog/homes/cemeteries-highways-gas-stations-can-decrease-property-value>

Adam & Sally-Jo "Mick" Myles

██████████ 515 O'Brien Street
Windsor, NS B0N2T0

To Sara Poirier & Council,

**RE: 543 O'Brien Street, Windsor (PID 45055948)
Re-Zoning & Proposed Land Use**

We are writing this letter as a follow up to our previous correspondence, remaining in strong opposition to the re-zoning and proposed land use of the aforementioned property, located directly adjacent our own home and property. Please ensure that our previous correspondence has been read and noted by council.

To re-iterate the main points of our prior correspondence:

- We have a personal stake in this scenario as it will in fact directly affect us in a few ways:
 - We did not buy a house with the expectations of having such a business in close proximity. Yes, there may have been one on the property in the past, but it was a closed and removed business by the time we invested in our house and property.
 - An automobile service station will cause the market value of our house and property to decline, as this is well documented in the Real Estate Market and Industry.
 - Even if the market value decline is minimal, the close proximity to such a business will affect any form of sale as it is not ideal, nor appealing.
- There are Health concerns regarding the chemicals and environmental hazards for those close to the business.
- It will increase unnecessary traffic & noise to the area, with the added issue of accessing our own property.
- The high potential for crime and damage to our property due to being so close to the business.
- There are a large amount of service stations in close vicinity already.

To provide a rebuttal for council regarding increased traffic. It was noted during one of the meetings that the traffic would be no worse than it had been when the CO-OP and its gas bar were open previously. Since the CO-OP and its gas bar had closed, the traffic continued to increase to the point where the town deemed it necessary to spend the funds to install traffic lights at the intersection of O'Brien Street and Wentworth Road. This was done in the hopes that it would ease congestion and create a safer thoroughfare. Since then they have even found it necessary to change the traffic flow of King Street between Stannus Street and Wentworth Road from a one way to a two way road, to further easing congestion. Traffic to this day continues to increase, and regular damage the traffic lights themselves at the intersection create the need for repairs and replacement.

December 2020

Traffic detours which create further congestion along this stretch of O'Brien Street are common as well, whether it is caused by Road Repairs, accidents, or any other number of incidents. This creates a large bottleneck and problems for the local traffic, which has the potential to increase significantly with the addition of the service station.

It has also been brought to our attention that the land is currently still unable to be developed, as the remediation of the soil, which occurred over a couple of years, did not clean the land to where it is environmentally approved for development. I would hope the council considers this fact before the decision has been made to move forward with not just re-zoning, but also development.

We would like to once again state that we are in full opposition of the Re-zoning and proposed land use for 543 O'Brien Street, and would like to thank the council for their time in listening to our concerns, and taking them into consideration when moving forward with their decisions on the matter. Please feel free to contact us for any further discussion, if you so wish.

Sincerely,

Adam & Sally-Jo "Mick" Myles
515 O'brien Street, Windsor, NS.



From: [Denise](#)
To: [Sara Poirier](#)
Subject: O'Brien Street Gas Station proposal
Date: Wednesday, November 25, 2020 3:16:24 PM

Caution

This email comes from an outside sender. Verify the sender and use caution with any requests, links or attachments.

Dear Sara, I am writing as a concerned townie about the proposed gas station in down town limits. We have finally just gotten rid of all downtown gas stations. We had many on Water Street etc over the past many years and feel we are truly finally coming closer to having a vibrant walkable town centre core. We have gas stations all around us. 2 across the bridge and 3 the other direction. All within 1 mile. Please take us in the direction of better judgement for our needs to such a great central location. Just think of 55 plus housing or family apartments in that area, close to school, shopping and the new arena, pool. No car required, no gas required. Just make sure the land is clean for humans instead of allowing more contamination to gradually reoccur. The only benefit I see is people won't have to walk as far to get cigarettes as non are sold downtown.

Sincerely, Denise Forand

Sent from my iPad

RECEIVED

DEC 16 2020

December 10, 2020

Dear Sara Poirier,

I am writing in regard to the rezoning of 543 King Street.

My property at 381 King Street borders the above-mentioned property. There has been concerns with a wet land issue for the last seven years that is still unresolved. My property at 381 King Street has experienced flooding, which has resulted in my basement flooding, foundation cracks, trees being uprooted and all have been repaired at my cost.

In a letter I received April 16, 2013 from Steve Doucette (enclosed) states the "flooding concerns in the area may be attributed to undersized drainage culverts." It also states there was a Professional Engineer who submitted the report. I have requested to have a copy of the Engineer report and who authorized the culvert work. The former Town of Windsor had been no help with providing information and they were aware of these Flooding and Environmental issues at the time.

It is concerning this has been going on for eleven years and no one wants to take responsibility. The Windsor United Baptist Church on King Street had their down spouts rerouted underground to a pond on a property they do not own, and this has contributed to the problem. This area has been referred to as wet lands and how are they not protected by Government? There are no permits that anyone can find that would have allowed this to happen. Again, the former Town of Windsor allowed it to continue with out any concern for other residents in the area.

There seems to be no records with any level of government, the former Town of Windsor or the Province of Nova Scotia. It states in Appendix A from the previous Council Agenda dated November 24, 2020 that the applicant: "He is aware of the history of the property and is working with an environmental consultant to ensure the remediation of the site meets the Department of Environment requirements for the proposed uses." Does this also mean that the

Department of Environment will take into consideration the wet lands that are behind the said property?

My concern is the Church has been recently sold and now there is a potential development of a gas station/drive thru on a property nearby that connects to the wet lands behind my property. At what point does the Municipality or the Department of Environment Compliance protect the wet lands and the homeowners who have been compromised due to flooding.

I look forward to your response.

Respectfully submitted,

Douglas Orman

Resident 381 King Street



April 16, 2013

Doug Orman

██████████
381 King Street
Windsor NS
B0N 2T0

Re: Wetland Alteration and Flooding Concerns
Tregothic Marsh, Windsor NS. PID 45059755

Dear Mr. Orman,

Thank you for inquiring into the wetland alteration and flooding concerns on King Street in Windsor near the Windsor United Baptist Church in Windsor, Nova Scotia.

As the result of a Nova Scotia Environment request, a consulting report was provided from the Windsor United Baptist Church. This report indicated that the flooding concerns in the area may be attributed to undersized drainage culverts.

It was reported, that a 900 mm culvert is reduced to a 600 mm culvert leading to a catch basin. This catch basin also serves a small section of the mall parking lot. These contributing factors appear to be limiting the drainage of the Tregothic Marsh during high flow conditions.

The 900 mm culvert was observed during high flow conditions. It was reported that water was backed up to the top of the culvert. The catch basin and the 600 mm culvert were not able to handle the flows from the 900 mm culvert. This caused extensive flooding to the west of the railway. The Professional Engineer who submitted the report indicated that the above mentioned factors are the most probable cause of the flooding issues and not the removal of material near the Windsor United Baptist Church.

It is recommended that you contact your Municipality to express your development concerns. If you would like additional information, you may call Nova Scotia Environment at 424-7777.

Regards,



Steve Doucette
Inspector Specialist