

WEST HANTS REGIONAL MUNICIPALITY

Council Meeting Agenda **AMENDED**

October 24, 2023 - 6:00 p.m.

Sanford Council Chambers, 76 Morison Dr, Windsor, NS

Virtual via Zoom (also FB Livestream)

Agenda is subject to change due to additions that may not be able to be reflected until after the meeting.



West Hants
something inspiring awaits

1. Call to Order
2. Attendance
3. Announcements
4. Approval of the Agenda, including additions or deletions
 - a) Dashboard Action Items – Information Log
 - b) Dashboard Action Items – Dangerous or Unsightly Premises
5. Declaration(s) of Conflict of Interest
6. Approval of Previous Meeting Minutes
 - a) 2023-09-11 Special Council Meeting Minutes
 - b) 2023-09-26 Council Meeting Minutes
 - c) 2023-09-26 Public Hearing Minutes 35 William Street, Hantsport PID 45044419
 - d) 2023-09-26 Public Hearing Minutes Pemberton Avenue, Garlands Crossing PID45003563
7. Presentations
 - a) Short Term Rentals – Susan Sanford
8. Public Hearings
 - a) 8 Upper Water St., Windsor – Planner Dunphy
 - b) 65 Fort Edward St. (Municipal Lands), Windsor Rezoning – Planner Dunphy
 - c) Cole Dr., Windsor PID 45366432 – Planner Dunphy
 - d) 187 Payzant Dr., Windsor – Senior Planner Fredericks
9. Second Readings
 - a) 8 Upper Water St., Windsor – Planner Dunphy
 - b) 65 Fort Edward St. (Municipal Lands), Windsor Rezoning – Planner Dunphy
 - c) Cole Dr., Windsor PID 45366432 – Planner Dunphy
 - d) 187 Payzant Dr., Windsor – Senior Planner Fredericks
10. Unfinished Business/Postponed Motions
 - a) Public Participation Program Amendment Recommendation Report – Councillor Ivey

11. Mayor's Report
12. Committee(s) of Council Excerpts/Recommendations
 - a) Committee of the Whole Excerpts (October 10th, 2023)
 - i. 2022-23 HMCC Financial Statements
 - ii. Carpool Parking Lot
 - iii. Fire Apparatus Consultant Tender Award
 - iv. Fire Apparatus Pre-approval
 - v. Fresh Water Resource – Explore Pond Ownership
 - vi. Purchase of an AWD Electric SUV (WHRMPD23-03)
 - vii. Sewer Odours
 - viii. Road Construction- Communication Policy Supporting Businesses
 - b) Planning and Heritage Advisory Excerpts (October 12th, 2023)
 - i. 411 King Street, Windsor – Planner Dunphy
 - ii. MacLeod Court, Three Mile Plains PID 45006947 and 45415668 – Senior Planner Fredericks
 - c) Audit Committee Excerpts (October 16, 2023)
 - i. West Hants Regional Municipality's Audited Consolidated Financial Statements ending March 31, 2023
13. Councillor Municipal Business/Activity Reports
 - a) Councillor Ivey, District 11 Activity Report
14. Correspondence
 - a) Information
 1. Avon Causeway Activity Log
 2. Correspondence Received Activity Log
 - i. Peter Moore Re Municipality of West Hants A Study or Plan, and why it matters.
 - ii. 2023-10-11 NS Public Works Response to Reimagine Windsor and Falmouth waterfront area.
 - iii. 2023-10-11 Letter to NSFM Re Cellphone Coverage (WHRM copied)
 - iv. 2023-10-13 Glen LeBlanc, Vice Chair Bell Atlantic Canada Re Poor Cellular Service (WHRM Letter sent)
 - v. 2023-10-16 Letter Mailed to WHRM
 - vi. 2023-10-17 Response from Maria Medioli Re King's Meadows (WHRM copied)
 - vii. 2023-10-20 Service Exchange Letter from DMAH to NSFM
 - viii. 2023-10-22 Letter from Minister Lohr - Mun-Prov MOU and Bill 340
 3. Fort Edward Activity Log – None

- b) Requests - None
 - c) Outgoing Correspondence Log - None
15. New Business
- a) Affordable Housing/ More Housing Discussion – Mayor Zebian
 - b) PACHAC Member Appointment
 - c) **Bramber New Horizons Motion Amendment Proposal**
16. In-Camera
- a) Legal Matter MGA 22(2)(a)
 - b) **Land Matter MGA 22(2)(a)**
 - c) Personnel Matter MGA 22(2)(a)
17. Next Meeting Date / Adjournment – November 8th, 2023 Committee of the Whole Meeting 6 p.m.

WEST HANTS REGIONAL MUNICIPALITY

Public Hearing Minutes – 8 Upper Water Street, Windsor PID 45333291

Tuesday, October 24, 2023 – 6:38 pm

In-person Sanford Council Chambers and virtually via ZOOM
(also Facebook Livestreamed)



1. Call to Order

The Public Hearing was called to order at 6:38 pm.

2. Council:

Abraham Zebian, Mayor
Rupert Jannasch, Councillor, District 1
Scott McLean, Councillor, District 2
Mark McLean, Councillor, District 3
Jeff Hartt, Councillor, District 4
Debbie Francis, Councillor, District 5

Bob Morton Councillor District 6
Ed Sherman, Councillor, District 7
John A. Smith, Councillor, District 9
Laurie Murley, Councillor, District 10
Jim Ivey, Councillor, District 11

Regrets:

Paul Morton, Deputy Mayor, District 8

Staff and Guests:

Mark Phillips, Chief Administrative Officer
Sara Poirier, Dir. Planning & Development
Todd Richard, Dir. Public Works
Mark Fredericks, Senior Planner

Alex Dunphy, Planner
Shelleena Thornton, Municipal Ops Super.
Carlee Rochon, Dir. Financial Services

Regrets:

Deanna Snair, Municipal Clerk/Exec. Assistant
Kathy Kehoe, Dir. Community Development

Presenters & Guests:

Susan Sanford, Presenter
Shriley Pineo, Presenter
17 residents in the Gallery

3. Public Hearings – All public hearings and presentations are available on the Municipal website.

8 Upper Water Street, Windsor PID 45333291 (Development Agreement)

Planner Dunphy reviewed the report highlighting that on May 30 14, 2023 a completed application was received from Justin Brown of Halyard Developments Ltd. to permit a six-storey mixed use apartment building by development agreement.

The property currently has a single-storey building located on the corner of King and Upper Water Street as well as a parking lot and undeveloped land fronting Cobbett Street. The property abuts a number of residential uses and is located across the street from a parking lot and commercial uses such as service shops and a drive through restaurant.

The proposed building would be six storeys with five (5) commercial units facing King and Upper Water Street, 95 apartment units with 86 parking spaces and 10 bicycle spaces.

The main portion (six stories) was fronted on King and Upper Water Street. The secondary portion (three stories) was fronted on Cobbett Street.

The current designation and zoning are Town Centre; which permits a wide variety of uses; and limited residential uses.

Planner Dunphy reviewed the Enabling policies: Policy 7.2.1 enables Council to consider new main buildings in the Town Centre (TC) zone by development agreement, Policy 7.2.2 provides the criteria under policy 7.2.1 for Council to review, Policy 7.4.2 enables Council to consider new multiple unit residential development containing more than three units by development agreement, Policy 7.4.3 provides the criteria under policy 7.4.2 for Council to review and Policy 16.3.1 states general criteria for development agreements.

Planner Dunphy reviewed the Specific Criteria for the DA: Policy 7.2.2 and 7.4.3 establish specific criteria to be considered by Council, noting the criteria had been met.

Planner Dunphy reviewed the General Criteria Policy 16.3.1 states general criteria to be considered by Council, noting that the criteria had been met.

Development Agreement details included: Permits: residential apartment building (maximum height of 6 storeys) with up to 95 apartment units, and up to 4,165 sq. ft. (386.9 sq. m.) of commercial floor area on the ground floor fronting onto Upper Water Street and King Street. No setback requirement for front (Upper Water Street) and flanking (King Street) yards. Driveway access from Upper Water Street, King Street, and Cobbett Street and 86 vehicle parking spaces with an additional 10 bicycle parking spaces.

A Public Information Meeting (PIM) was held on July 5th and broadcasted live on the Municipal Facebook page. No members of the public attended the meeting, the deadline for comments was July 19th. Only one (1) phone call was received from the public with questions about the clearing of the property for construction.

Mayor Zebian opened the floor for public comments at 6:47 p.m.

Shirley Pineo was surprised there was no concerns from the Fire chief regarding the height of the building and needing to purchase additional fire apparatus to properly protect larger buildings. Chief Harvey responded that the ladder trucks were able to reach. Ms. Pineo voiced concern with respect to Fort Edward's view plane and imposing a three-storey height requirement in the downtown core area. The three-storey height restriction speaks to existing zoning requirements "as of right", the proposal. This proposal was for a Development Agreement (separate of the as-of-right requirement). Ms. Pineo questioned where the proposed roof plane would be in comparison to the height of homes on Cobbett Street. Planner Dunphy responded that the elevation change on Upper Water and King would

accommodate the majority of the 6-storey development. There was about a one-storey difference compared to the Cobbett Street side.

Cody Sanford, a person who was also building a few units in Hants County spoke in support of the proposal. Mr. Sanford spoke of supply and demand and felt the more housing available would create less of a demand resulting in lower rent prices. If lower rent prices were wanted, more rental units were needed.

The Public Hearing was advertised in the local paper on October 3rd and letters were sent to property owners within 300' of the subject lot in addition to the signage placed on the lot. Deadline for comments was Friday, October 20th, 2023 with no written correspondence received.

4. Adjournment

Mayor Zebian declared the Public Hearing concluded at 6:53 p.m.

Abraham Zebian, Mayor

Deanna Snair, Executive Assistant/Clerk



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: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____
Alex Dunphy, Planner

Date: October 24, 2023

Subject: Development Agreement: 8 Upper Water Street, Windsor (PID 45333291);
File # 23-14B

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

RECOMMENDATION

Should Council wish to approve the development agreement following the Public Hearing, the following motion would be in order:

...that Council gives Second Reading to and approves entering into a development agreement to permit a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water Street in Windsor which is substantively the same as the draft set out in Attachment B of the report File #23-14 to the Planning and Heritage Advisory Committee dated September 14, 2023.

...that Council requires that the development agreement with Justin Brown which permits a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water 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 Justin Brown of Halyard Developments Limited on May 30, 2023. The application is to consider permitting a six (6) storey, mixed-use apartment building by development agreement.

DISCUSSION

A Public Information Meeting was held on July 5, 2023.

On September 14, 2023, staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Appendix A). The Committee discussed unit availability as rentals or for purchase, allocation of parking, and water supply concerns. Staff explained that the application had received a ‘cautious approval’ from the Engineering Division of the Public Works Department. This was given as Public Works has many proposed developments in queue and there are capital water system improvements pending over the next few years which will increase capacity.

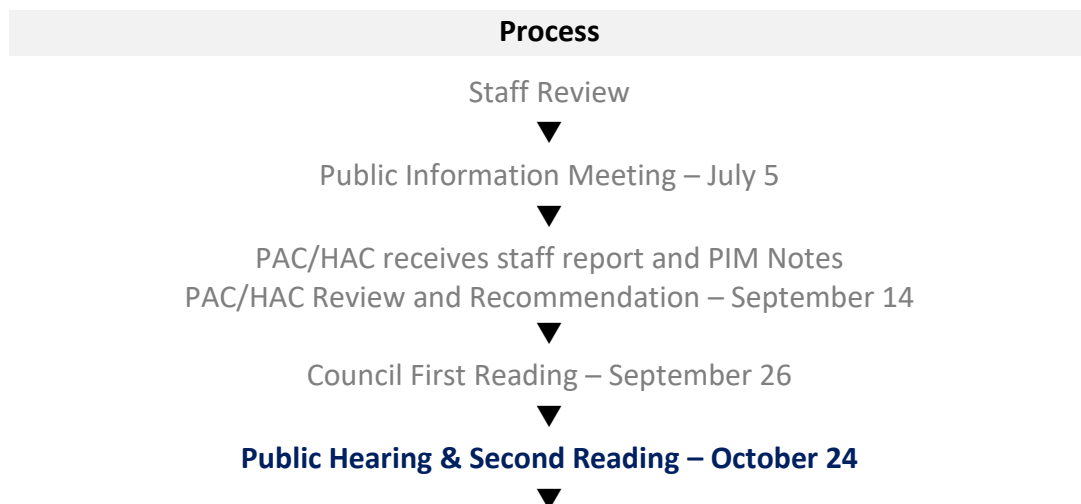
During the September 14 meeting, PAC/HAC recommended in favour of the application.

On September 26, 2023, staff presented the PAC/HAC recommendation to Council for First Reading. Council discussed matters of parking, view planes from Fort Edward, the setback requirements, stormwater management, and municipal service capacity.

During the September 26 meeting, Council recommended in favour of the application.

NEXT STEPS

The process for this application is as follows:



Notice of Approval in Local Paper



14-Day Appeal Period

*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 decide to:

- hold Second Reading and 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.

APPENDICIES

Appendix A 2023-09-26 Staff Report – Development Agreement: 8 Upper Water Street, Windsor (PID 45333291); File # 23-14A

CHIEF ADMINISTRATIVE OFFICER REVIEW

The development described in the report and Development Agreement drafted is in keeping with development anticipated in the growth centres of the WHRM and specifically the community of Windsor. The proposal has been reviewed in the public forum to-date through a PIM and pending public hearing.

I support the recommendation.

Report Prepared by: _____
Alex Dunphy, Planner

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

Report Approved by:  _____

Mark Phillips, Chief Administrative Officer

**Appendix A – 2023-09-26 Staff Report – Development Agreement: 8 Upper Water Street,
Windsor (PID 45333291); File # 23-14A**



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: Mayor Zebian and Members of West Hants Regional Municipality Council

Submitted by: _____
Alex Dunphy, Planner

Date: September 26, 2023

Subject: Development Agreement: 8 Upper Water Street, Windsor (PID 45333291);
File # 23-14A

LEGISLATIVE AUTHORITY

Municipal Government Act Section 230

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 allow a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water Street in Windsor which is substantively the same as the draft set out in Attachment B of the report File #23-14 to the Planning and Heritage Advisory Committee dated September 14, 2023.

... that Council requires that the development agreement with Justin Brown which permits a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water 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 Justin Brown of Halyard Developments Limited on May 30, 2023. The application is to consider permitting a six (6) storey, mixed-use apartment building by development agreement.

DISCUSSION

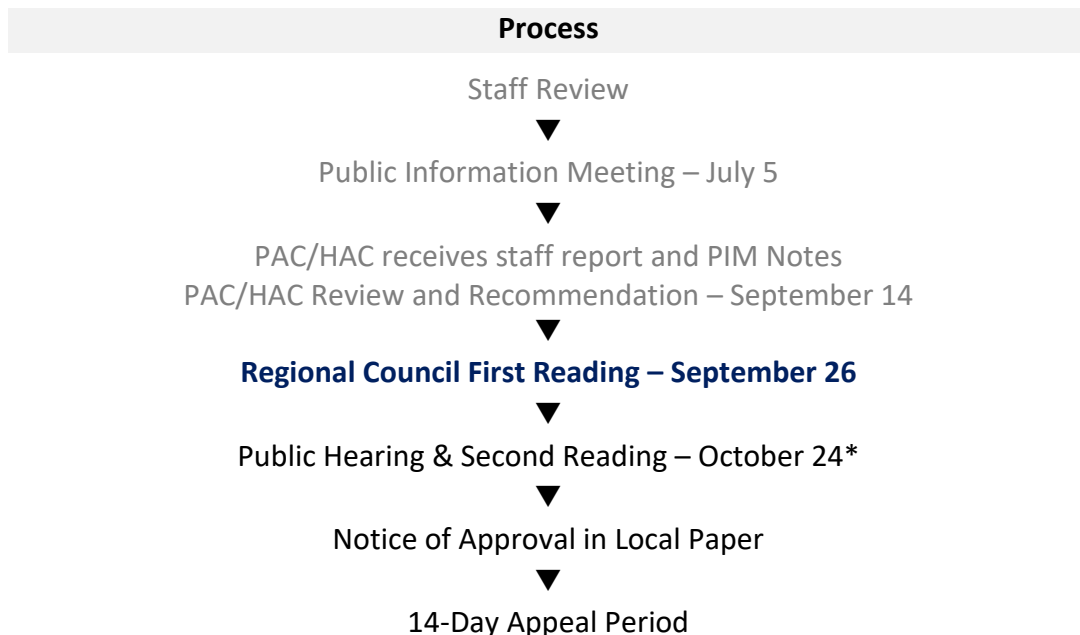
A Public Information Meeting was held on July 5, 2023.

On September 14, 2023, staff presented a recommendation report to the Planning and Heritage Advisory Committee (PAC/HAC) (Appendix A). The committee discussed unit availability as rentals or for purchase, allocation of parking, and water supply concerns. Staff explained that the application had received a 'cautious approval' from the Engineering Division of the Public Works Department. This was given as there are a large number of pre-approval capacity statements given to developments in queue and there are also water system capacity improvements pending over the next few years.

During the September 14 meeting, PAC/HAC recommended in favour of 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 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; or
- provide alternative direction such as requesting further information on a specific topic.

APPENDICIES

Appendix A 2023-09-14 Staff Report – Development Agreement: 8 Upper Water Street, Windsor (PID 45333291); File # 23-14

CHIEF ADMINISTRATIVE OFFICER REVIEW

To approve first reading and a public hearing will promote public feedback regarding the proposal and allow Council to thoroughly review not only the components of the DA application but public feedback. The proposal is a significant development for the downtown area changing the landscape. This type of potential change will likely initiate feedback from the community.

I support the recommendation.

Report Prepared by: _____
Alex Dunphy, Planner

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

Report Approved by:  _____
Mark Phillips, Chief Administrative Officer

**Appendix A – 2023-09-14 Staff Report – Development Agreement: 8 Upper Water Street,
Windsor (PID 45333291); File # 23-14**



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: September 14, 2023

Subject: Development Agreement: 8 Upper Water Street, Windsor (PID 45333291);
File # 23-14

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 six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water Street in Windsor which is substantively the same as the draft set out in Attachment B of the report File #23-14 to the Planning and Heritage Advisory Committee dated September 14, 2023.

...that PAC/HAC recommends that Council require that the development agreement with Justin Brown which permits a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water 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 Justin Brown of Halyard Developments Limited on May 30, 2023. The application is to consider permitting a six (6) storey, mixed-use apartment building by development agreement.

DISCUSSION

The subject lot is approximately 27,000 sq. ft. (2,500 sq. m.) in size. It is designated Town Centre on the Generalized Future Land Use Map (GFLUM) of the Windsor Municipal Planning Strategy (WMPS) (Figure 1). The subject lot is zoned Town Centre (TC) on Schedule A of the Windsor Land Use By-law (WLUB) (Figure 2).

The property currently has a single storey office building on the corner of Upper Water Street and King Street which hosts the Nova Scotia Tourism Bureau, as well as a parking lot and undeveloped land fronting on Cobbett Street.

Surrounding Context

Properties to the east of the subject lot are designated Residential and are zoned Two Unit Residential (R-2). Properties to the north and south are designated Town Centre and zoned Town Centre (TC). Lastly, properties to the west are designated Town Centre and zoned Waterfront Development District (WDD). North of the subject lot is the on-ramp to Highway 101. There are a number of residential uses surrounding the subject lot to the north and east and a variety of commercial uses across Upper Water Street to the west. Further northeast of the subject lot is the Fort Edward National Historic Site.

Municipal Planning Strategy Document Review

Policy 7.2.1 of the WMPS is the first enabling policy to be considered for this application. This policy provides Council with the ability to consider new main buildings in the Town Centre (TC) zone by development agreement subject to Policy 7.2.2. As the proposal is for a new main building, this policy is considered met.

Policy 7.2.2 of the WMPS provides Council with the criteria to review development proposals permitted to be considered by Policy 7.2.1. The full list of criteria is included in Attachment A. In summary, the proposal meets the criteria since:

- the proposed use is a permitted use in the Town Centre (TC) zone;
- the proposal incorporates windows and other elements in the street level façade;
- an adequate amount of parking is included in the proposal; and
- the planned greenspace is adequately landscaped.

Policy 7.4.2 of the WMPS is the second enabling policy to be considered for this application. This policy provides Council with the ability to consider the construction of a new residential buildings containing three or more dwelling units in the Town Centre (TC) zone by development agreement subject to Policy 7.4.3. As the proposal is for a new residential building containing three or more dwelling units, this policy is considered met.

Policy 7.4.3 of the WMPS provides Council with the criteria to review development proposals permitted to be considered by Policy 7.4.2. The full list of criteria is included in Attachment A. In summary, the proposal meets the criteria since:

- the architectural design and scale of the proposal is reasonably compatible with the surrounding area;
- the proposal is not included in the Architectural Control District;
- the proposal consists of commercial uses at the street level; and
- the Development Officer and Municipal Traffic Authority have no concerns which have not been otherwise addressed in this report.

Policy 16.3.1 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.

Additional Consideration

The proposal provides a total of 89 vehicle parking stalls for 95 dwelling units and 4165 sq. ft. (386.9 sq. m.) of commercial floor area. Generally, a parking ratio of 1 parking space per dwelling unit with additional parking spaces for the commercial use has been required in past development agreements. However, as this proposal is located in the core of Windsor, provides secure bicycle parking stalls, and there are plans to implement car sharing spaces, staff consider that the lowered parking ratio is justified.

The Public Works Engineering Division commented that there is an abundance of development requests that have not yet been built out. There are also pending water system capacity improvements to take place over the next few years which contribute to difficulty determining water capacity for future projects. At this time, a cautious pre-approval was given by the Public Works Engineering Division.

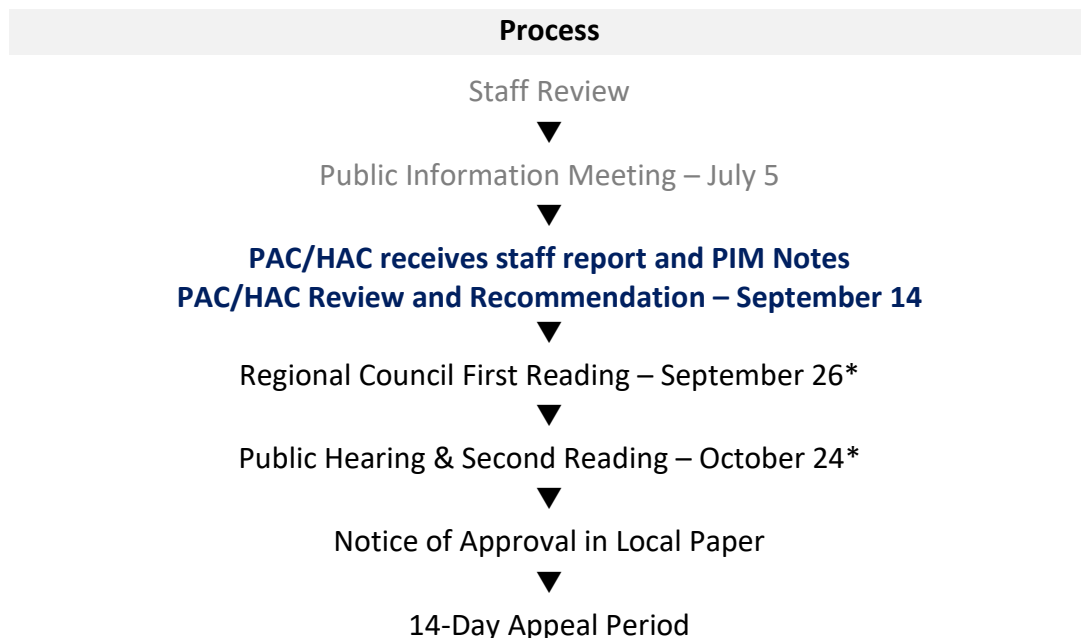
MUNICIPAL CLIMATE CHANGE ACTION PLAN

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.

The Municipal Services Specifications Manual will require the developer to provide information to the Public Works Engineering Division to ensure pre- and post-development flows are met. 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 six (6) storey mixed-use apartment building on PID 45333291 at 8 Upper Water Street in Windsor by development agreement.



*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, the 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; 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

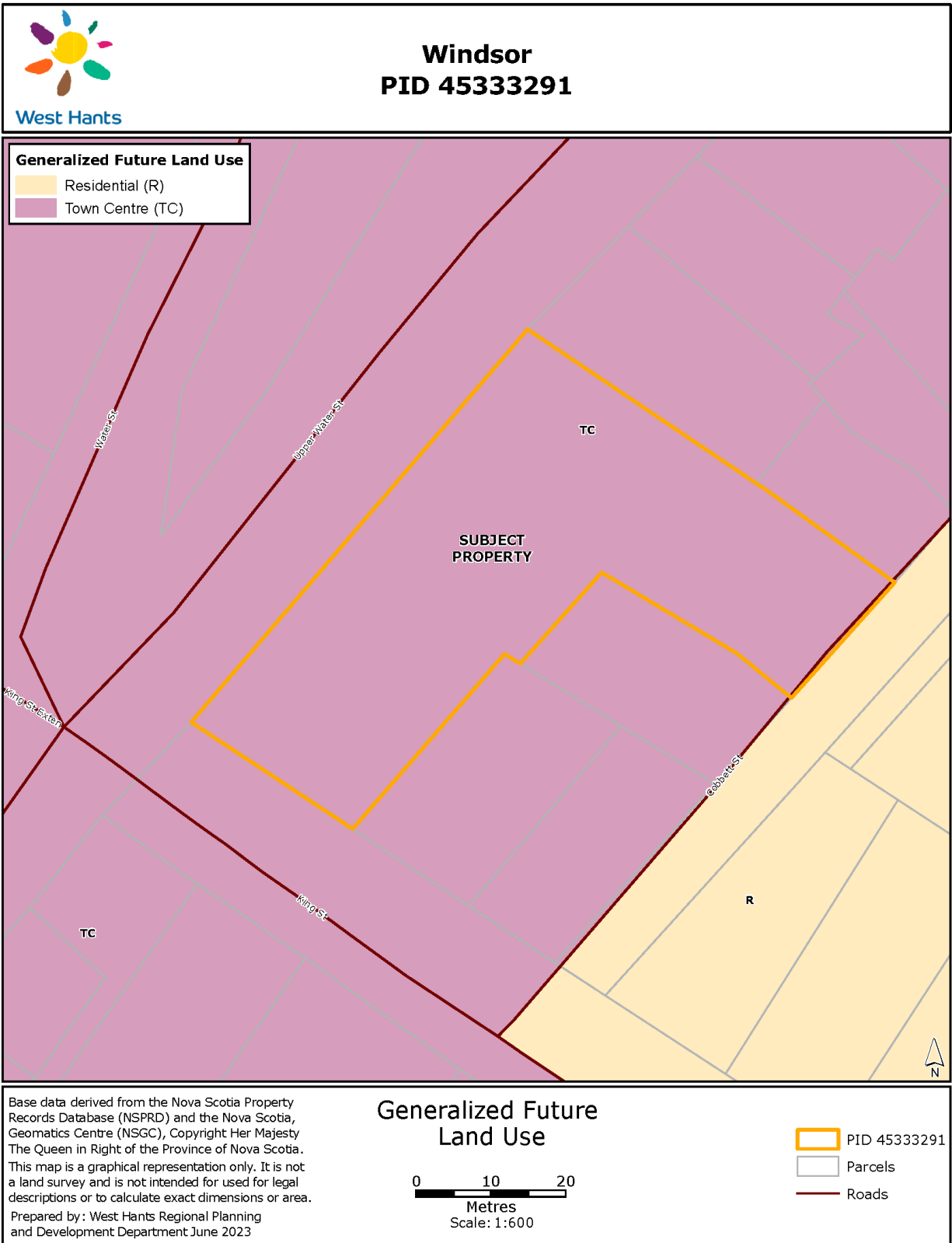
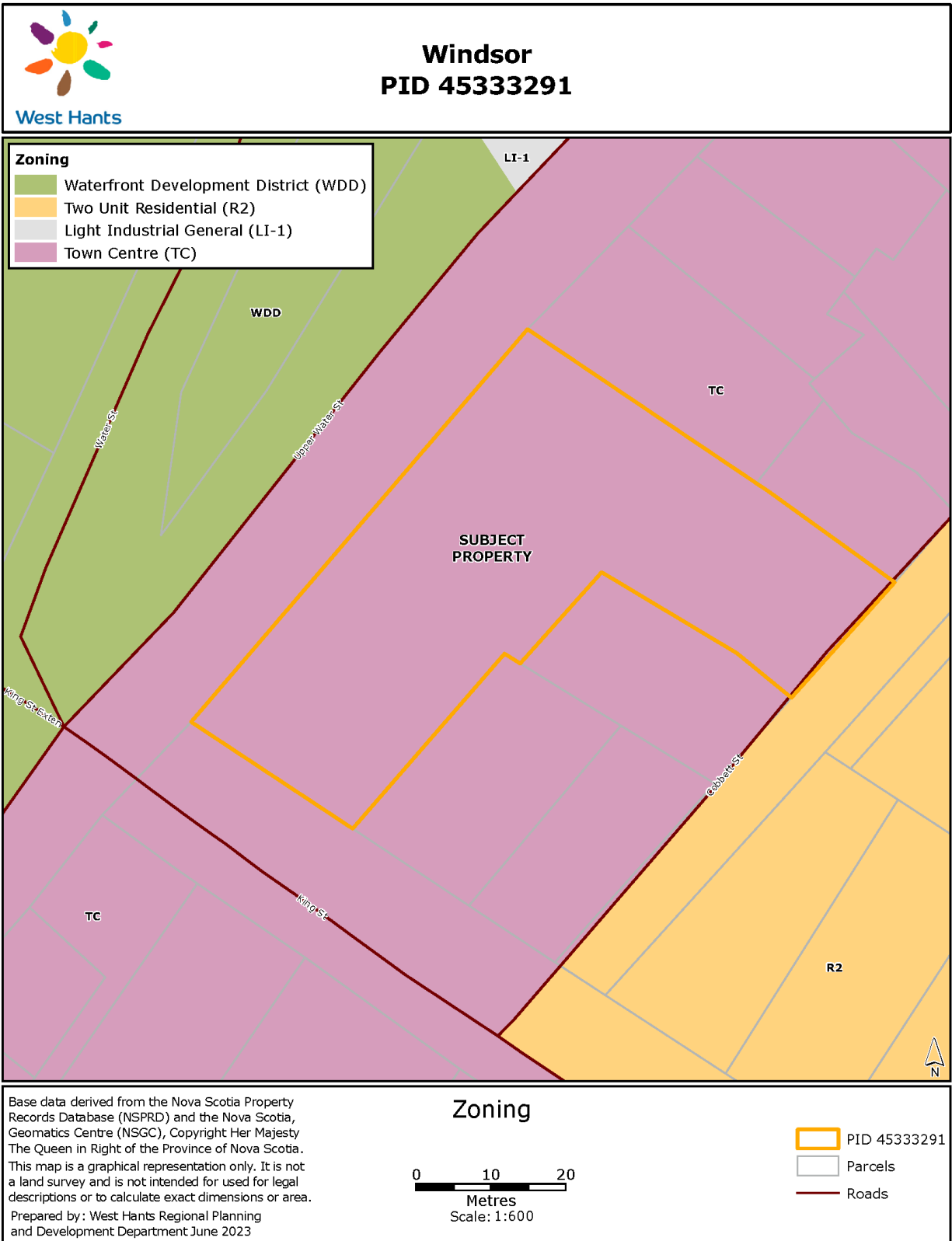


Figure 2 – Windsor Zoning Map Extract



Attachment A – Policy Summary for Development Agreement

<p>Policy 7.2.1 <i>It shall be the policy of Council that the following categories of development proposals in the Town Centre zone will be considered by development agreement subject to Policy 7.2.2:</i></p>	
<p><i>(a) new main buildings;</i></p>	<p>The proposal to demolish the current building and reconstruct would be deemed a new main building.</p>
<p><i>(b) additions in excess of 1,000 ft² (92.9 m²) in floor area to the front façade of an existing building; or</i></p>	<p>N/A</p>
<p><i>(c) where the development will be located on a parcel of land exceeding one acre (0.4 hectare) in size;</i></p>	<p>N/A</p>
<p><i>(d) ground signs.</i></p>	<p>N/A</p>
<p>Policy 7.2.2 <i>It shall be the policy of Council that the review of development proposals under Policy 7.2.1 will have due regard to the following conditions:</i></p>	
<p><i>(a) the proposed use is a permitted use in the Town Centre zone;</i></p>	<p>The proposed use is a permitted use in the Town Centre (TC) zone.</p>
<p><i>(b) the architectural design of the development is reasonably consistent with the provisions of the Architectural Design Manual;</i></p>	<p>The subject lot is not within an Architectural Control District.</p>
<p><i>(c) the building design incorporates windows and other elements in the street level façade to avoid the appearance of solid blank walls;</i></p>	<p>The proposal includes a variety of windows and entrances on the ground level.</p>
<p><i>(d) adequate provision is made for parking or Policy 4.11.3 is applied;</i></p>	<p>The proposed development agreement requires 86 vehicle parking spaces, with one being a flexible car share space to service 95 dwelling units and 4165 sq. ft. (386.9 sq. m.) of commercial floor area. As the proposal is located in the core of Windsor, provides bicycle parking stalls, and there are plans to implement car sharing spaces, this criterion is considered met.</p>

	The Development Officer stated that they agreed with the reasoning to lower the standard parking ratio.
<i>(e) where possible, landscaping and pedestrian areas, such as courtyards, are provided;</i>	The proposal does not accommodate additional landscaped open space due to the lot size, but the required yard setbacks are landscaped.
<i>(f) any other matter which may be addressed in a development agreement; and</i>	All relevant matters have been addressed in this report.
<i>(g) the provisions of Policy 16.3.1.</i>	See below.

Policy 7.4.2 <i>To provide more control over new residential development and increases in the number of dwelling units in existing residential buildings, and recognizing that most existing lots and buildings cannot conform to current standards, it shall be the policy of Council that the following types of residential development shall be considered in the Town Centre zone by development agreement subject to Policy 7.4.3:</i>	
<i>(a) the construction of a new residential building containing three or more dwelling units; and</i>	The proposal is for a new mixed use residential building containing 95 units, so it may be considered under this policy.
<i>(b) an increase in the number of dwelling units in an existing residential building.</i>	N/A
Policy 7.4.3 <i>In considering development agreements specified under Policy 7.4.2, it shall be the policy of Council to have due regard to the following conditions:</i>	
<i>(a) the architectural design and scale of the proposed development is compatible with the surrounding area and is reasonably consistent with the provisions of the Architectural Design Manual;</i>	The subject lot is not within the Architectural Control District. The Development Officer commented that a step-back design for each story above the third story would be preferable to reduce the scale of the building for pedestrians, however there is no requirement in the WMPS for the design to incorporate step-backs. The provided design meets this criterion as it is reasonably compatible with the surrounding area. The subject lot is

	located in an area of Windsor that is intended for this density of development.
<i>(b) where the development involves the construction of a new residential building, commercial space shall be included at the street level, except in cases where commercial space is not appropriate because the development is proposed for a fringe area of the Town Centre which is still predominantly residential;</i>	The proposed development consists of commercial uses at street level and residential units above. The proposal therefore meets this policy criteria.
<i>(c) the location of the proposed development does not compromise the commercial integrity of the area or restrict existing commercial development patterns;</i>	The proposal includes commercial uses located at the street level of the subject lot. The inclusion of commercial space in the proposal conforms with the intended development pattern.
<i>(d) adequate provision is made for parking and for access to and from the site;</i>	The Municipal Traffic Authority stated that they did not have any issues with the access provided to the subject lot. As stated above, the Development Officer determined that the parking provided in the proposal is adequate.
<i>(e) adequate recreational open space is available either on site or in nearby public parks;</i>	The proposal provides greenspace and balconies as on-site recreational space. In addition, the Fort Edward Historic Site and surrounding park are located within walking distance of the proposal. The Development Officer stated that the available recreational space is adequate.
<i>(f) any other matter which may be addressed in a development agreement; and</i>	All relevant matters have been addressed in this report.
<i>(g) the provisions of Policy 16.3.1.</i>	See below.

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:

<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 provided a cautious pre-approval statement for capacity of water supply within the Windsor Utility. This is due to an abundance of development requests that have not yet been built out. There are also pending water system capacity improvements to take place over the next few years. There was stated to be no issue with sewer capacity.
<i>(ii) the adequacy of school facilities;</i>	The Director of Operations for the Annapolis Valley Regional Centre for Education has stated that projected capacity for student enrollment and student transportation appears sufficient to accommodate the proposed development.
<i>(iii) the adequacy of fire protection;</i>	The Manager of Building and Fire Inspection Services has no issues with fire protection but did mention that the building would require an adequate water supply for a sprinkler system. The local Fire Chief has stated that it is preferable to have 360 degree access to the building, but a suitable alternative is for rolling curbs and a restriction on overhead obstructions on all access routes.
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	The Traffic Authority has no concerns regarding the road networks adjacent or leading to the development.
<i>(v) the financial capacity of the Town to absorb any costs relating to the development.</i>	There are no anticipated costs to the Municipality regarding this development.
<i>(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	The Traffic Authority has no concerns regarding movement suitability on the subject lot.

<p><i>(c) the adequacy of the dimensions and shape of the lot for the intended use;</i></p>	<p>The Development Officer commented that 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 matches the intent of the Town Centre designation as it includes a mix of commercial and dense residential development. The Development Officer commented that a step-back design above the third storey would be preferable, but indicated no concerns regarding the pattern of development.</p>
<p><i>(e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, wetlands, and susceptibility of flooding;</i></p>	<p>The site appears to have a varied elevation throughout. There appears to be a near storey difference in elevation between the King/Upper Water Street side and the Cobbett Street side of the lot. The proposal does consider this elevation and lowers the height of the portion of the building on the Cobbett street side to three storeys. There are no watercourses or wetlands located on the property. No concerns were recorded during the site visit.</p>
<p><i>(f) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and</i></p>	<p>All Municipal, Provincial, and Federal regulations will have to be met.</p>
<p><i>(g) any other matter required by relevant policies of this Strategy.</i></p>	<p>All relevant matters have been addressed in this report.</p>

Attachment B – Draft Development Agreement



DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2023.

BETWEEN:

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

(Hereinafter referred to as the “Municipality”)

OF THE FIRST PART

- and -

HALYARD DEVELOPMENTS LIMITED a body corporate, with a head office at 84 Wickwire Avenue, Wolfville, in the County of Kings, Province of Nova Scotia,

(Hereinafter referred to as the “Owner”)

OF THE SECOND PART

WHEREAS the Owner is the registered Owner of parcel of land located at 8 Upper Water Street, PID 45333291, hereinafter referred to as the “Property”, which lands are more particularly described in Schedule A attached hereto; and

WHEREAS PID 45333291 is designated Town Centre on the Generalized Future Land Use Map of the Municipal Planning Strategy and zoned Town Centre (TC) 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 95 apartment units and up to 4165 sq. ft. (386.9 sq. m.) of commercial space within a six (6) storey apartment building on the Property (the “Development”); and

WHEREAS Policy 7.2.1 of the Municipal Planning Strategy and Section 6.1 (e) of the Land Use By-law enable Council to consider entering into a development agreement to allow new main buildings in the Town Centre (TC) zone, and Policy 7.4.2 of the Municipal Planning Strategy and Section 6.1 (f) of the Land Use By-law enable Council to consider entering into a development agreement to allow new multiple unit residential development containing more than three units; 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; and
- (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.

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 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

- (a) The Parties agree that uses on the Property shall be limited to the following:
 - (i) those uses permitted by the underlying zoning in the Land Use By-law;
 - (ii) a six (6) storey apartment building containing up to 95 apartment units and up to 4165 sq. ft. (386.9 sq. m.) of Commercial Floor Area on the ground floor area fronting onto Upper Water Street and King Street, 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 and non-licensed
 - Entertainment, recreation and assembly uses within a wholly enclosed building
 - Licensed liquor establishments
 - Microbrewery, Microdistillery, Winery
 - Museums, art galleries and libraries
 - Offices
 - Parking structures
 - Repair and rental establishments
 - Restaurants
 - Retail stores
 - Service and personal service shops
 - Veterinary clinics and animal hospitals

- (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.
- (c) The apartment building shown on the Site Plan in Schedule B shall be limited to a maximum of 95 dwelling units and up to 4165 sq. ft. (386.9 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 (Upper Water St.)	0 ft. (0 m.)
Minimum Flanking Yard (King St.)	0 ft. (0 m.)
Minimum Rear Yard (Cobbett St.)	20 ft. (6.10 m.)
Minimum Side Yard	7 ft. (2.13 m.)
Maximum Storey of Main Building	6 storeys
Maximum Building Height	60 ft. (18.29 m.)*
Maximum Height of Accessory Building	15 ft. (4.57 m.)

*Maximum building height shall not include a mechanical penthouse 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.
- (b) The driveways shown on Schedule B shall be paved with a minimum paved surface width of 20 ft. (6.09 m.). The vehicular entrance and exit shall be clearly demarcated.

2.4 Parking

- (a) All parking spaces for vehicles using the Property shall be located on the lot and shall be generally located as shown on Schedule B.
- (b) A minimum of 86 parking spaces, with at least one space which may be used as a care share space, and a minimum of 10 bicycle parking spaces to accommodate the residential and commercial uses.
- (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 Buffering

Outdoor parking shall be screened from adjacent properties, through the use of:

- (a) a mix of local species of coniferous trees. At planting, each tree shall have a diameter of at least two (2) in. measured at four-and-one half (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 six (6) ft. in height at maturity; or

- (c) a wall or an opaque fence which is a minimum of five (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.

2.7 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 Property.

(c) Snow Plowing

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

2.8 Maintenance

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

2.9 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.

2.10 Hours of Operation

The hours of operation for the commercial uses within this Development shall be limited to between 6:00 a.m. and 11:00 p.m. daily, inclusive.

2.11 Variance

In accordance with Section 5.48 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 as required in Section 2.2 (c) of this Agreement; and
- (ii) number of parking spaces required.

PART 3 CHANGES AND DISCHARGE

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

3.3 The following matters are substantive matters:

- (a) the number of units permitted within the apartment building on the Property as listed in Section 2.1, *Use*;
- (b) maximum building height as listed in Section 2.2, *Development Location and Design*;

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 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 Property (other than the Land Use By-law to the extent varied by this Agreement) or any statute or regulation, the higher or more stringent requirements shall prevail.

5.2 Severability of Provisions

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

5.3 Interpretation

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

5.4 Municipal Responsibility

- (a) The Municipality does not make any representations to the Owner about the suitability of the Property for the Development proposed by this Agreement. The

Owner assumes all risks and must ensure that any proposed Development complies with this Agreement and all other laws pertaining to the Development.

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

5.5 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 have 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 Justin Brown at 84 Wickwire Avenue, Wolfville, B4P 1W2 , 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 replaces and discharges the development agreement dated July 22, 2013 between the Town of Windsor and Cedarwood Developments Limited recorded at the Land Registration Office in Hants County, Nova Scotia on August 20, 2013 as document #103626942, such that the sole development agreement applicable to the lands described in Schedule A attached hereto is this agreement.

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

)

)

)

) **HALYARD DEVELOPMENTS LIMITED**

)

)

)

Per: _____

Witness

) Aaron Ewer, 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, **Aaron Ewer**, 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, Aaron Ewer, Nova Scotia, make oath and say that:

1. I Justin Brown of **HALYARD DEVELOPMENTS 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

Aaron Ewer, President

Schedule A
Legal Description

PID 45333291

Place Name: Water Street, Windsor

Designation of Parcel on Plan: Lot DTR-1

Title of Plan: Plan of survey showing Lot DTR-1 a consolidation of land of Dragon Tan Restaurant and Lounge Limited, Water Street, Windsor, Hants County, Nova Scotia

Registration of District: Hants

Registration Reference of plan: 8494

Registration Date: April 11, 2001

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

Schedule B
Site Plan



KEYPLAN
LOCAL RECREATION AND OPEN SPACE:
- FORT EDWARD TRAILS
- HALIBURTON HOUSE PROPERTY
- PESQUID PATHWAYS
- FORMER DOMINION ATLANTIC RAILWAY TRAILS
- EXPANSION OF AVON RIVER WATERFRONT WALKING PATHWAYS AND CONNECTIVITY TRAILS
- HANTS AQUATIC CENTRE
- WEST HANTS SPORTS PLEX



PROPOSED MASSING MODEL
NTS - REFER TO SHEET A4 FOR ARCHITECTURAL ELEVATIONS

UPPER WATER STREET DEVELOPMENT

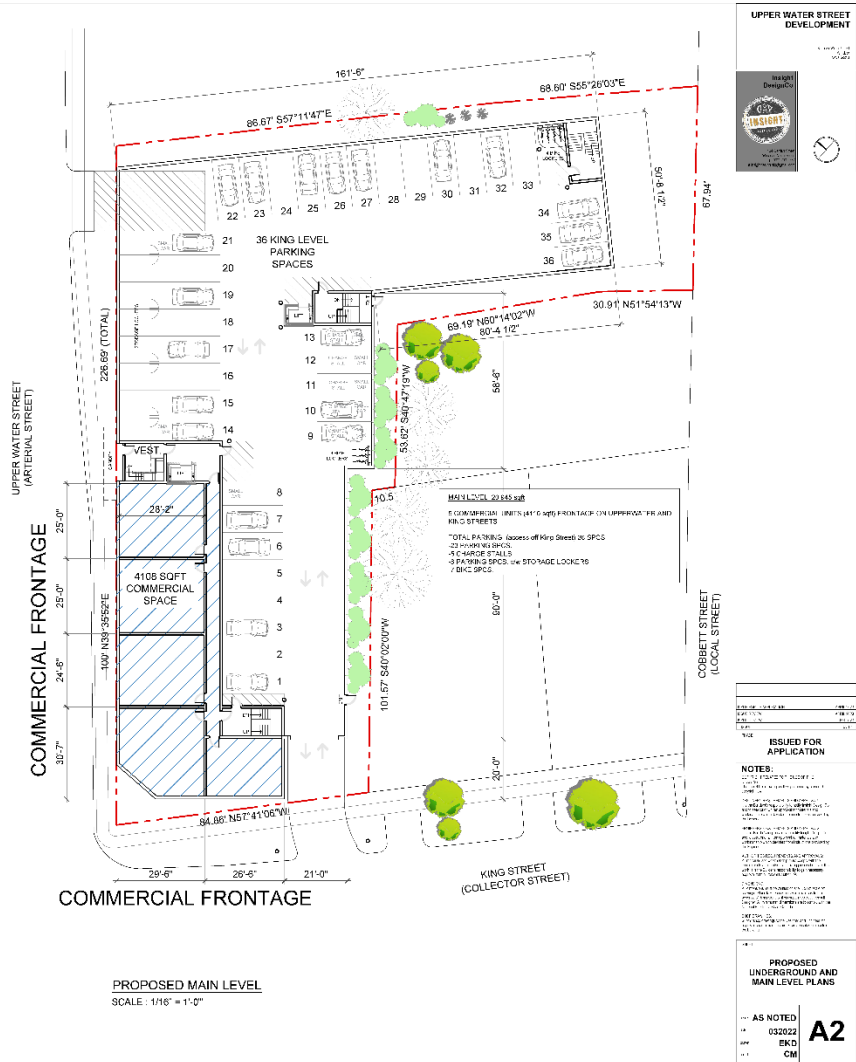
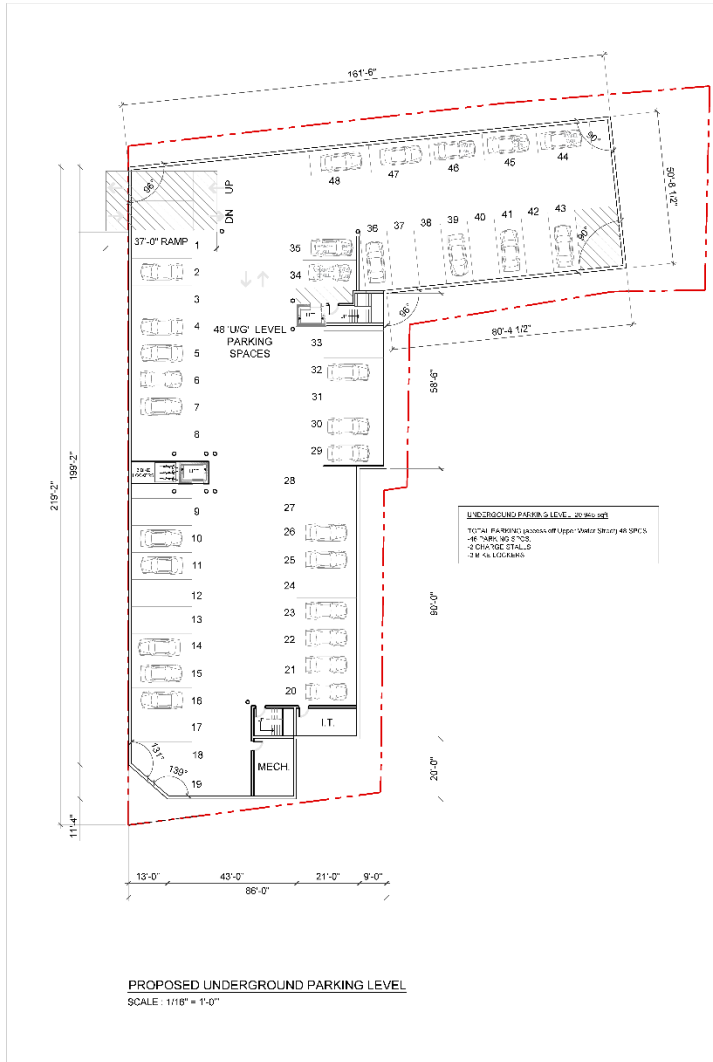
DATE: 03/20/2022
BY: [Signature]
SCALE: 1/16" = 1'-0"

ISSUED FOR APPLICATION

NOTES:
1. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE MUNICIPAL ENGINEER AND THE MUNICIPAL CLERK.
2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE MUNICIPALITY AND THE PROVINCE.
3. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE MUNICIPALITY AND THE PROVINCE.
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10. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE MUNICIPALITY AND THE PROVINCE.

NO.	AS NOTED	
1	03/20/22	
2	ENCL	
3	CM	

A1





Attachment C – Public Information Meeting Notes

July 5 – July 19, 2023

Development Agreement: 8 Upper Water Street, Windsor (PID 45333291); File # 23-14

Meeting date and time	A Public Information Meeting was held on July 5, 2023 beginning at 6:20 p.m. The meeting was broadcast live on the Municipal Facebook page.
Attending	In attendance: One (1) Councillor: <ul style="list-style-type: none">• Councillor Ivey (Chair) Four (4) members of staff: <ul style="list-style-type: none">• Planner Fredricks• Planner Dunphy• Planning Assistant Lake• Director Poirier No members of the public were present for this meeting.
Applicant Justin Brown on behalf of Halyard Developments Limited Property 8 Upper Water Street (PID 45333291)	Planner Dunphy outlined the application to allow a proposed mixed-use six (6) storey apartment building by development agreement. The applicant did not attend.
Comments	Comments from the public could be submitted to Alex Dunphy by mail, e-mail and telephone between July 5 and July 19, 2023. One (1) phone call was received from the public with questions about the clearing of the property for construction.
Adjournment	The presentation portion of the public information meeting ended at approximately 6:23 p.m.



West Hants

Public Hearing Agenda

1. Intro by Mayor
2. Presentation by Planner (Alex Dunphy)
3. Presentation by Applicant (No presentation)
4. Comments or Questions from Public
5. Conclusion of Public Hearing



8 Upper Water Street, Windsor

Development Agreement

Public Hearing and Second Reading

October 24, 2023

something inspiring awaits



Application

- An application was received from Justin Brown of Halyard Developments Ltd. on May 30, 2023.
- The application is to allow a proposed development for a 6-storey mixed-use building by development agreement.



Development Agreements

- A development agreement is a legal contract between the Municipality and a property owner to permit a use that is not usually permitted in the underlying zone
- New main buildings are considered in the Town Centre (TC) zone only by development agreement only.

Orthophoto

- The property currently has a single-story building on the corner of King Street and Upper Water Street which hosts the Nova Scotia Tourism Bureau, as well as a parking lot and undeveloped land fronting on Cobbett Street
- Abuts a number of residential uses and is located across the street from a parking lot and commercial uses such as service shops and a drive through restaurant



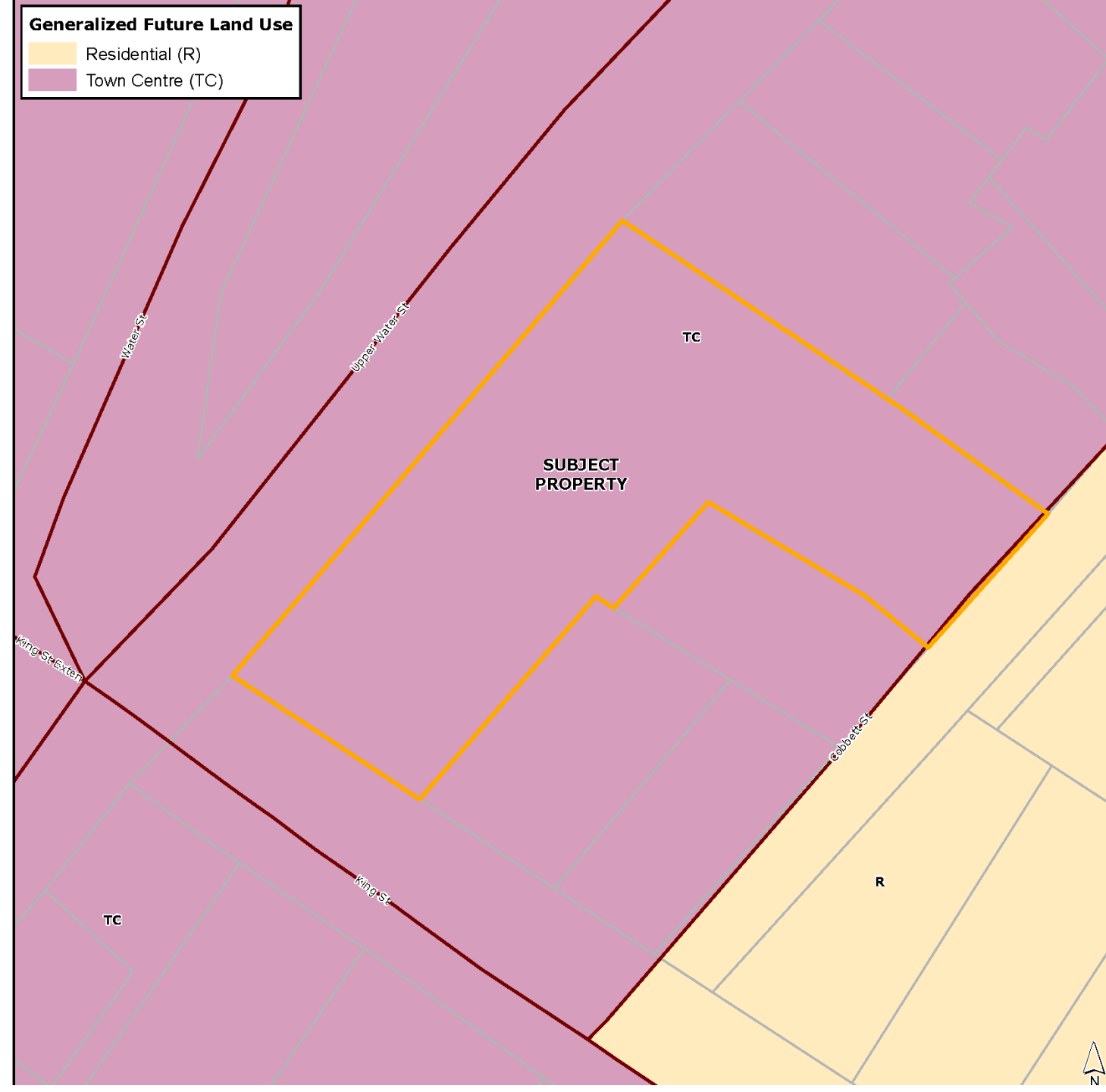


View of Subject Lot from Upper Water Street



Generalized Future Land Use

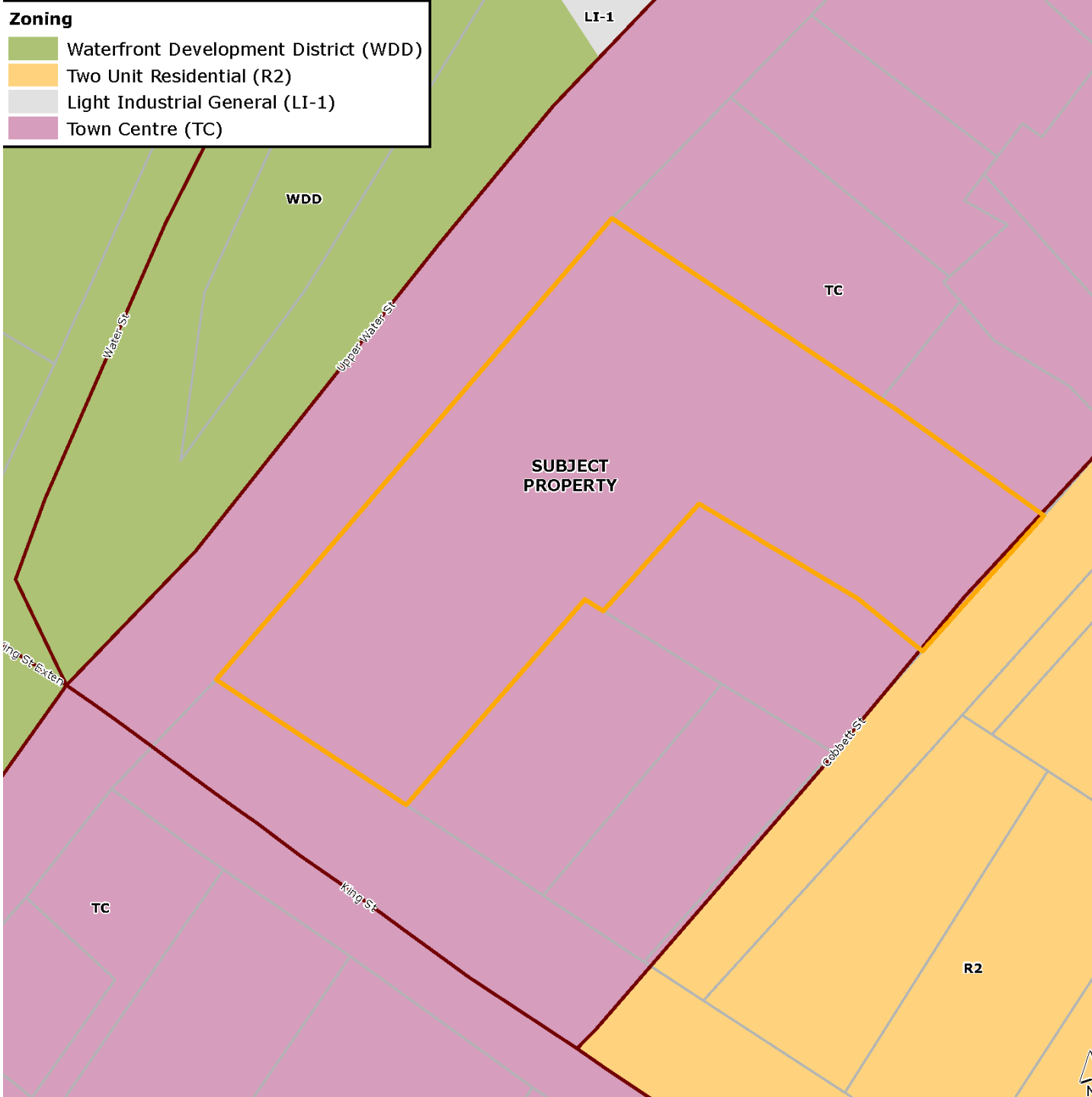
- Residential (R)
- Town Centre (TC)



GFLUM

- Town Centre Designation





Zoning

- Town Centre (TC) zone
- Permitted uses include:
- A wide variety of commercial uses;
and
 - Limited residential uses



Windsor Municipal Planning Strategy Policies

- **Policy 7.2.1** enables Council to consider new main buildings in the Town Centre (TC) zone by development agreement.
 - **Policy 7.2.2** provides the criteria under policy 7.2.1 for Council to review.
- **Policy 7.4.2** enables Council to consider new multiple unit residential development containing more than three units by development agreement.
 - **Policy 7.4.3** provides the criteria under policy 7.4.2 for Council to review.
- **Policy 16.3.1** states general criteria for development agreements.



Specific Criteria for DA

- **Policy 7.2.2** and **7.4.3** establish specific criteria to be considered by Council
- In summary, the criteria are met since:
 - ✓ the proposed use is a permitted use in the Town Centre (TC) zone;
 - ✓ the proposal incorporates windows and other elements in the street level façade;
 - ✓ an adequate amount of parking is included in the proposal;
 - ✓ the planned greenspace is adequately landscaped;
 - ✓ the architectural design and scale of the proposal is reasonably compatible with the surrounding area; and
 - ✓ the Development Officer and Municipal Traffic Authority have no concerns which have not been otherwise addressed in this report.



General Criteria for DA

- **Policy 16.3.1** states general criteria to be considered by Council
- In summary, the criteria are met since:
 - ✓ 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.



Development Agreement Details

Requirements

- Permits: residential apartment building with up to 95 apartment units, and up to 4,165 sq. ft. (386.9 sq. m.) of commercial floor area on the ground floor fronting onto Upper Water Street and King Street
- No setback requirement for front (Upper Water Street) and flanking (King Street) yards
- Maximum height: 6 storeys
- Driveway access from Upper Water Street, King Street, and Cobbett Street
- 86 vehicle parking spaces with an additional 10 bicycle parking spaces to be provided



Development Agreement Details

Substantive Matters

- the number of units permitted within the apartment building; and
- maximum building height of the building.



Public Information Meeting Notes

- A Public Information Meeting was held on July 5. The meeting was broadcast live on the Municipal Facebook page.
- No members of the public attended the Public Information Meeting
- The deadline for comments was July 19, 2023
- One (1) phone call was received from the public with questions about the clearing of the property for construction.



Public Information Meeting – July 5



Staff Review



PAC/HAC Review and Recommendation –
September 14



Council First Reading – September 26



Public Hearing & Second Reading – October 24



Notice of Approval



14 Day Appeal Period

Process

All statutory requirements have
now been met



Comments or Questions from Public



Public Hearing Comment Period

- The Public Hearing was advertised:
 - in the paper October 3 and 10;
 - letters were sent to property owners within 300 ft of the subject lot; and
 - a sign was posted on the lot.
- The deadline for comments was Friday, October 20.
- Staff received no written correspondence.



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Recommendations (1 of 2)

...that Council gives Second Reading to and approves entering into a development agreement **which replaces the original development agreement** to permit a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water Street in Windsor which is substantively the same as the draft set out in Attachment B of the report File #23-14 to the Planning and Heritage Advisory Committee dated September 14, 2023, **taking note that this development agreement will discharge and replace the development agreement recorded at the Registry of Deeds on August 20, 2013 as document 103626942.**



Recommendations (2 of 2)

...that Council requires that the development agreement with Justin Brown which permits a six storey, mixed-use apartment building on PID 45333291 at 8 Upper Water 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.





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