



**WEST HANTS REGIONAL MUNICIPALITY  
Windsor Area Advisory Committee (WAAC) Agenda  
October 1, 2020 – 6:00p.m.  
Virtual Meeting (Zoom)**

- 1.0 Call to Order**
- 2.0 Approval of Agenda and Additions**
- 3.0 Approval of Minutes**
- 4.0 Business Arising from the Minutes**
- 5.0 Building and Development Activity Report**
- 6.0 New Business**
  - 6.1 Restructured Windsor Land Use By-law (Madelyn LeMay)
  - 6.2 File # 20-17 O'Brien Street, Windsor Rezoning (Sara Poirier)
- 7.0 Notices from Adjacent Municipal Units**
- 8.0 Questions and Comments from Public**
- 9.0 Adjournment**



**WEST HANTS REGIONAL MUNICIPALITY  
RECOMMENDATION REPORT**

**To:** Members of Windsor Area Advisory Committee (WAAC)

**Submitted by:** \_\_\_\_\_  
Madelyn LeMay, Director, Planning and Development

**Date:** October 1, 2020

**Subject:** Restructured Town of Windsor Land Use By-Law

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**1.0 LEGISLATIVE AUTHORITY**

n/a

**2.0 RECOMMENDATION**

If WAAC wishes to forward a positive recommendation the following motion would be in order:

WAAC recommends that PAC/HAC accept the restructured Windsor Land Use By-law attached as Appendix A to the report entitled "Restructured Town of Windsor Land Use By-law" dated October 1, 2020 as an accurate representation of the contents of the September 21, 2005 LUB and as suitable for use in preparation of the Regional Land Use By-law.

**3.0 BACKGROUND and DISCUSSION**

As preparation for creating one set of Regional planning documents, each of the existing documents is being re-structured into one standard format.

In February and March 2020, the re-formatted, or re-structured Hantsport Municipal Planning Strategy (MPS) and Land Use By-law (LUB) were accepted by the Hantsport Area Advisory Committee as accurately representing the contents of the May 20, 2010 documents.

In March 2020, the re-structured Windsor MPS was accepted by the Windsor PAC as accurately representing the contents of the May 20, 2010 Windsor MPS.

The purpose of this document is to informally “translate” the September 21, 2005 Windsor LUB into a format similar to the one which will be used for review of the document and for incorporating the Windsor LUB into a LUB for the Region as a community plan.

As noted above, no change in content is intended. The existing Windsor LUB will remain as the official document – this is for working purposes only.

#### **4.0 FINANCIAL IMPLICATIONS**

There are no financial implications for the Region associated with acceptance of this document.

#### **5.0 ALTERNATIVES**

Should WAAC not wish to recommend acceptance of this document to PAC/HAC, WAAC may:

- provide alternative direction, such as requesting further information on a specific topic, or indicating specific changes to the document.

#### **ATTACHMENTS**

**Attachment A** Restructured Windsor Land Use By-law

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

Madelyn LeMay, Director, Planning and Development

## ATTACHMENT A

### RESTRUCTURED WINDSOR LUB WITH NO CHANGE IN CONTENT INTENDED

The purpose of this document is to informally “translate” the Windsor LUB into a format similar to the one which will be used for review of the document and for incorporating the Windsor LUB into an LUB for the Region as a community plan.

As noted above, no change in content is intended. The existing Windsor LUB will remain as the official document – this is for working purposes only.

NOTE: Material in **red in brackets** is a cross reference to numbering within the existing LUB.

Material in **bold purple** remains to be cross referenced with the reformatted MPS & LUB

**Version: August 27, 2020**

Based on LUB amended to February, 2020



**PART 1            TITLE AND PURPOSE (Part 1)**

**1.1    Title**

This By-law shall be known and may be cited as the Land Use By-law of the community of Windsor.

**1.2    Purpose**

The purpose of this By-law is:

- (a) to carry out the land use development policies found in the Municipal Planning Strategy of the community of Windsor; and
- (b) to establish a fair and systematic means of development control for the community of Windsor.

## **PART 2        ADMINISTRATION (Part 2)**

### **2.1     Development Officer**

This By-law shall be administered by the Development Officer appointed by Council.

### **2.2     Inspection**

The Council, by any duly authorized officer or servant, shall have the right to enter at all reasonable times into or upon any property within the community of Windsor for the purpose of an inspection necessary in connection with the administration of this By-law.

### **2.3     Development Permit Required**

- (a) Unless otherwise stated in this By-law, no development shall be undertaken in the area to which this Land Use By-law applies unless a development permit has been granted by the Development Officer.
- (b) The Development Officer shall issue a development permit only in conformance with this By-law or an approved development agreement.
- (c) Any development permit shall expire within 12 months from the date issued if the development has not commenced.
- (d) A development permit may be revoked by the Development Officer where information provided on the application is found to be inaccurate.

### **2.4     Development Permit Application (2.6)**

- (a) The application shall be signed by the owner of the lot or by the owner's duly authorized agent (2.7) and shall set forth in detail the present and proposed use of the lot and each building or structure, or part of each building or structure, together with all information necessary to determine whether or not every such proposed use of land, building or structure conforms with the requirements of this By-law.
- (b) Every application for a development permit shall be on an approved form and be accompanied by a sketch or plan drawn to an appropriate scale and showing:
  - (i) the shape and dimensions of the lot to be used including the distance from the lot boundaries and size of every building or structure already erected on the lot;
  - (ii) the proposed location, distance from the lot boundaries, dimensions and height of the building or structure for which the permit is applied; and

(iii) the proposed location and dimensions of any parking space, loading space, driveway, and landscaped area.

(c) Where the Development Officer is unable to determine whether the proposed development conforms to this By-law and other regulations which affect the proposed development, the Development Officer may require that the plans submitted under Section 2.4 (b) be based upon a current survey by a Nova Scotia Land Surveyor.

## **2.5 Development Permit Not Required (2.5)**

Notwithstanding Section 2.3 and except where required by the Architectural Design Manual, no development permit shall be required for:

(a) a development that involves the interior or exterior renovation of a building that will not change the footprint, increase volume and/or floor area, add dwelling units, or involve a change in use;

(b) certain types of signs as specified in Section 6.3;

(c) a temporary use as specified in Sections 4.31 and 13.2 (b); or

(d) fences less than 6 ft (1.83 m) in height in non-residential zones.

## **2.6 Advertising and Notification Costs (2.8)**

(a) An applicant for a development agreement, an amendment to a development agreement, a discharge of a development agreement, an amendment to the Land Use By-law, a site plan, a variance, or a zoning confirmation shall pay the fees for advertising and notification as prescribed by Council by policy.

(b) If the amount paid under Section 2.6 (a) is not sufficient to cover the actual costs incurred, the applicant shall pay the additional amount required within 30 days of remittance of an invoice. If the amount paid exceeds the actual costs incurred, the applicant shall be refunded the excess amount.

## **2.7 Notice to Property Owners (2.9)**

(a) When an application has been received to amend this By-law for a site specific purpose, enter into a development agreement, or amend a development agreement, all assessed property owners within 300 ft (91.44 m) of the subject lot shall be notified of the application by the Regional Municipality.

(b) The notification set out in subsection (a) shall be in addition to the advertisement for public hearing required under the *Municipal Government Act*.

**2.8 Licenses, Permits and Compliance with Other By-laws (2.3)**

(a) Nothing in this By-law shall exempt any person from complying with the requirements of any other By-law of the Regional Municipality or from obtaining any license, permission, permit, authority, or approval required by any other By-law of the Regional Municipality or any act or regulation of the Province of Nova Scotia or the Government of Canada.

(b) Where the provisions of this By-law conflict with those of any other By-law of the Regional Municipality or any act or regulation of the Province or the Government of Canada, the higher or more stringent provision shall prevail.

**2.9 Effective Date (2.10)**

(a) This By-law shall take effect upon the date of publication of the notice advertising the new By-law.

(b) The adoption of this By-law repeals any previous Land Use By-law adopted by Council.

**PART 3 ZONES and INTERPRETATION (Part 3 & 4)**

**3.1 All Land to be Zoned (4.5)**

All lands within the community of Windsor shall be zoned.

**3.2 Zones (3.2)**

For the purposes of this By-law, Windsor is divided into the following zones, the boundaries of which are shown on the attached Schedule 'A'. Such zones may be referred to by the following symbols.

<b>Zones</b>	<b>Symbol</b>
Single Unit Residential	R-1
Two Unit Residential	R-2
Medium Density Residential	R-3
High Density Residential	R-4
College Road Comprehensive Development Area	CR-CDA
Town Centre	TC
Pesaquid Comprehensive Development Area	P-CDA
Waterfront Development	WD
Local Commercial	LC
General Commercial	GC
Highway Commercial	HC
Shopping Centre	SC
Commercial Transitional	CT
Wentworth Road Gateway Area	WR-GA
Wentworth Road Commercial	WR-C
Light Industrial	LI-1
Joint Industrial Type Two	LI-2
Joint Industrial Type Three	LI-3
Fairground	FG
Institutional	I
Open Space	OS
Agriculture	AG
<b>Special Overlay Zones</b>	
Environmental Constraints Area	ECA
Note: Architectural Design area is missing	

### 3.3 Schedules (3.1 & 4.6)

The following schedules form a part of this By-law:

(Amendment WLUB 09-02 Effective November 22, 2018)

Schedule 'A'	Zoning Map with Environmental Constraints
Schedule 'B'	Wentworth Road Gateway Area
Schedule 'C'	Architectural Control Districts
Schedule 'D'	Architectural Design Manual

### 3.4 Zoning Boundaries (4.2)

- (a) The extent and boundaries of zones are shown on the Zoning Map and the appropriate provisions of this By-law shall apply to all zones.
- (b) Boundaries between zones shall be determined as follows:
- (i) where a zone boundary is indicated as following a street the boundary shall be the centre line of the street unless otherwise indicated;
  - (ii) where the zone boundary is indicated as approximately following lot lines the boundary shall follow the lot lines;
  - (iii) where a railway right-of-way, electric transmission line right-of-way or a watercourse shown on the Zoning Map serves as a zone boundary, the centre line of the right-of-way or watercourse shall be considered the boundary between the zones unless otherwise indicated; and
  - (iv) where none of the above applies, and where appropriate, the zone boundary shall be scaled from the Zoning Map.

### 3.5 Zones Not on the Map (3.3)

The Zoning Map may be amended, in conformance with the Municipal Planning Strategy, to any zone in this By-law.

### 3.6 Permitted Uses (4.4)

- (a) In this By-law, any use not listed as a permitted use in a zone is prohibited in that zone unless otherwise indicated.

(b) Where a permitted use within any zone is defined in this By-law, the uses permitted in the zone include any similar uses that satisfy such definition except where a definition specifically excludes any similar use.

### **3.7 Words (4.3)**

In this By-law, words used in the present tense include the future, words in the singular number include the plural, words in the plural include the single number, the word “used” includes “arranged to be used”, “designed to be used” and “intended to be used”, and the word “shall” is mandatory.

**PART 4 GENERAL PROVISIONS FOR ALL ZONES (Part 5)**

**4.1 Accessory Buildings and Structures (5.1)**

- (a) An accessory building or structure is permitted in any zone, but shall not:
- (i) be constructed prior to the construction of the main building or establishment of the main use of the lot where no building is to be constructed; **(5.1 (c))**
  - (ii) be used as a dwelling unit except where a dwelling is a permitted accessory use;
  - (iii) be built in the front yard of any lot;
  - (iv) be built within 6 ft (1.83 m) of the main building;
  - (v) be built closer to the front and side lot lines than the setback required in the zone for the main building;
  - (vi) be built closer than 4 ft (1.22 m) to any lot line, except:
    - in the Agriculture (AG) Zone where accessory buildings shall be a minimum of 10 ft (3.05 m) from any lot line;
    - common garages for semi-detached dwellings which may be centred on a mutual side lot line;
    - boat houses and docks which may be built to the lot line where the lot line corresponds to the water's edge;
  - (vii) be located in the rear or side yard which is adjacent to the street when built on a corner lot.
- (b) Notwithstanding anything else in this By-law, awnings, clothesline poles, flag poles, garden trellises, retaining walls, ornamental fountains, statues, monuments, ramps, and fences shall be exempt from any requirement under Section 4.1 (a).

**4.2 Automobile Service Stations (5.2)**

Where automobile service stations are permitted, the following special provisions shall apply:

- (a) minimum lot frontage shall be 150 ft (45.72 m);
- (b) no portion of any pump island (the raised concrete pad on which the gas pumps are situated) shall be located closer than 20 ft (6.10 m) from the street;

- (c) the minimum angle of intersection of a driveway to a street line shall be forty-five (45) degrees and the maximum angle of intersection shall be ninety (90) degrees;
- (d) the minimum distance between driveways on the lot shall be 30 ft (9.14 m);
- (e) the minimum distance from any driveway to a street intersection shall be 100 ft (30.48 m); and
- (f) the width of the driveway shall not be less than 25 ft (7.62 m).

**4.3 Building to be Erected on Single Lot (5.3)**

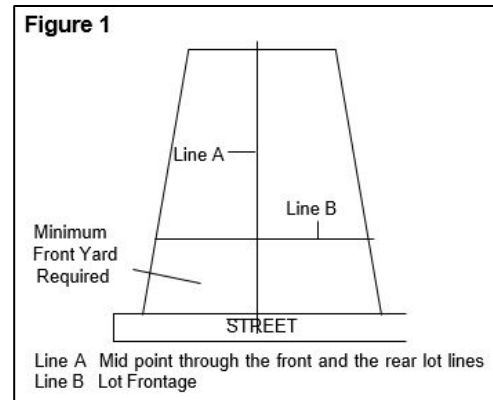
No building shall be erected or used unless it is erected on a single lot.

**4.4 Building to be Moved (5.4)**

No building shall be moved to a lot within the community of Windsor without the owner first obtaining a development permit to locate the building.

**4.5 Calculation of Lot Frontage (5.5)**

- (a) Lot frontage for a lot with a regular shape shall be measured as the distance between the side lot lines where they meet the front lot line.
- (b) Lot frontage for a lot with an irregular shape shall be the distance between the side lot lines measured perpendicular to a line joining the middle of the front lot line with either the middle of the rear lot line or the apex of the triangle formed by the side lot lines, at a point equal to the minimum required front yard (see Figure 1).



**4.6 Conformity with Existing Yards (5.6)**

Notwithstanding anything else in this By-law, in any residential zone, structures between existing buildings within 200 ft (60.96 m) on the same block may be built with a setback equal to the average setback of the adjacent buildings, but this depth shall not be less than 10 ft (3.05 m) from the front lot line and need be no greater than setback regulations prescribed in the zone in which it is situated.

**4.7 Development by the Regional Municipality (5.7)**

- (a) Municipal buildings and facilities shall be permitted in any zone.
- (b) Section 2.6 of the Municipal Planning Strategy shall apply where such development:

- (i) involves the construction of a new main building with a gross floor area greater than 2,000 ft<sup>2</sup> (185.80 m<sup>2</sup>); and
- (ii) would require a development agreement or rezoning if the development were undertaken by a private landowner rather than by the Regional Municipality.

#### **4.8 Driveway Access (5.8)**

- (a) Driveway access for a through lot may be provided to either or both streets but in no case shall a driveway continue from one street to the other.
- (b) The minimum distance between a driveway and a street intersection, except for automobile service stations as provided in Section 4.2, shall be:
  - (i) 50 ft (15.24 m) where the driveway access is to a local street;
  - (ii) 80 ft (24.38 m) where the driveway access is to a collector street; and
  - (iii) 100 ft (30.48 m) where the driveway access is to an arterial street.
- (c) A lot in a residential, institutional or agricultural zone shall be limited to two driveways for the first 100 ft (30.48 m) of street frontage plus one driveway for each additional 100 ft (30.48 m) of street frontage.
- (d) A driveway access for:
  - (i) a dwelling with not more than three (3) units shall have a minimum width of 10 ft (3.05 m) and a maximum width of 20 ft (6.10 m);
  - (ii) any other use shall have a minimum unobstructed width of 20 ft (6.10 m) where two way traffic is permitted and 10 ft (3.05 m) where only one-way direction of traffic flow is permitted and a maximum width of 35 ft (10.67 m). The direction of traffic flow shall be clearly indicated by signs, pavement markings, or both.
- (e) The minimum angle of intersection between a driveway and a street line shall be 60 degrees.
- (f) Where a two-way driveway is divided into two (2) one-way driveways by means of a curb, an area of landscaped open space or any other obstruction, such driveways shall, for the purposes of Section 4.8, be considered a single driveway.

#### **4.9 Drive-Through Business (5.9)**

- (a) Businesses providing drive-through services shall provide stacking spaces for vehicle queuing in accordance with the following requirements:

Use	Required Stacking Spaces
Restaurants	Ten (10) in-bound spaces approaching each service window; and One (1) out-bound space after each service window
Banks, Automated tellers	Five (5) in-bound spaces approaching each service window
Automatic car washes and other automotive uses	Three (3) in-bound spaces approaching the wash or service bay; and One (1) out-bound space after the wash or service bay
Other uses	Two (2) in-bound spaces approaching each service window

(b) A stacking space required under Section 4.9 (a) shall be a minimum of 10 ft (3.05 m) in width by 20 ft (6.10 m) in length.

#### 4.10 Encroachments Permitted (5.10)

The following portions of structures may project into a yard required by this By-law to the limit of the specified distance:

Structure or Feature	Distance
Architectural adornments including, but not limited to, sills, chimneys, cornices, eaves gutters, pilasters and canopies	2 ft (0.61 m)
Bay windows, oil tanks and propane tanks	3 ft (0.91 m)
Balconies, verandas, sun decks, uncovered terraces, porches and exterior staircases providing access between finished grade and either the basement or the first storey - front, rear or flanking yards only	5 ft (1.52 m)
Fire escapes - rear and side yards only	5 ft (1.52 m)
Wheelchair ramps	to the lot line

#### 4.11 Existing Buildings (5.11 and 5.12)

(a) Where an existing building is on a lot having less than the minimum frontage, area or yards required by this By-law, the building may be enlarged, reconstructed, repaired or renovated provided that:

- (i) the enlargement, reconstruction, repair or renovation does not further reduce the yards that do not conform to this By-law; and
- (ii) all other applicable provisions of this By-law are satisfied. (5.11)

- (b) The use of an existing building may be changed to another use permitted in the zone where the lot area, frontage, or yards, or all of these, is less than the requirements of the zone, provided that all other provisions of this By-law are satisfied. (Amendment WLUB 07-02 Effective September 21, 2007) **(5.12)**

#### **4.12 Existing Undersized Lots (5.13)**

- (a) Notwithstanding anything else in this By-law, an existing vacant lot having less than the minimum frontage or area required by this By-law may be used for a purpose permitted in the zone, and a building may be erected on the lot, provided all other applicable provisions of this By-law are satisfied.
- (b) An existing undersized lot which is increased in area or frontage or both, but remains undersized, is still considered an existing undersized lot for the purposes of Section 4.12 (a).

#### **4.13 Fences in Residential Zones (5.14)**

Fences shall be permitted in any residential zone provided that:

- (a) opaque fences within a required front yard shall not exceed a height of 3 ft (0.91 m);
- (b) no fence in a rear or side yard shall exceed a height of 8 ft (2.44 m);
- (c) a fence located on a corner lot must conform to Section 4.36; and
- (d) no permanent fence, or part thereof, shall be constructed of sheet metal, corrugated fibreglass or metal panels, chicken wire, snow fencing or rubber tires.

#### **4.14 Frontage on a Street (5.15)**

No development permit shall be issued for a new main building on a lot created after January 27, 1976 unless the lot or parcel of land intended to be used or upon which the building or structure is to be erected abuts and fronts upon a street.

#### **4.15 Height Regulation Exemption (5.16)**

Any maximum height requirement set out in this By-law shall not apply to a church spire, lightning rod, water tank, monument, flag pole, silo, barn, television or radio antenna, telecommunications tower, ventilator, skylight, drive-in theatre screen, chimney, clock tower, solar collector, power transmission tower or roof top cupola.

#### **4.16 Home-based Business (5.17)**

- (a) Any dwelling or building accessory thereto may be used for a home-based business provided that:
  - (i) the dwelling is occupied as the principal residence of the operator of the home-based business;
  - (ii) the external appearance of the dwelling is not changed by the home-based business;
  - (iii) there are no more than two employees who are not residents of the dwelling;
  - (iv) not more than 25 percent of the total floor area of the dwelling and accessory building is devoted to the home-based business to a maximum of 500 ft<sup>2</sup> (46.45 m<sup>2</sup>);
  - (v) one (1) off-street parking space, other than that required by the dwelling, is provided for every 200 ft<sup>2</sup> (18.58 m<sup>2</sup>) of floor space occupied by the home-based business;
  - (vi) no signage shall be permitted except a non-illuminated business identification sign no larger than 5 ft<sup>2</sup> (0.46 m<sup>2</sup>) in area;
  - (vii) no mechanical equipment is used except what is reasonably consistent with the use of a dwelling; and
  - (viii) no open storage or outdoor display shall be permitted.
- (b) A home-based business may include the following types of uses:
  - (i) offices;
  - (ii) arts and crafts studios;
  - (iii) dressmaking and tailoring shops;
  - (iv) repair shops for garden and household ornaments, personal effects or toys;
  - (v) catering establishments;
  - (vi) hairdressing salons and barbershops;
  - (vii) photographic and picture framing studios;
  - (viii) non-licensed day care centres;
  - (ix) bed and breakfast establishments;
  - (x) private schools with fewer than six (6) students; or
  - (xi) instruction in music, dance or arts and crafts.
- (c) A home-based business shall not include the following types of uses:

- (i) convenience stores;
  - (ii) grocery stores;
  - (iii) snack bars;
  - (iv) service shops;
  - (v) auto body or automobile repair shops;
  - (vi) veterinary clinics;
  - (vii) restaurants;
  - (viii) transport depots;
  - (ix) salvage yards; or
  - (x) retail sales of any products which cannot fall within the activities in Section 4.16 (b);
- (d) The following special provisions shall apply to bed and breakfast establishments:
- (i) bed and breakfast establishments shall not be subject to the size restrictions specified in Section 4.16 (a) (iv);
  - (ii) in addition to the sign permitted in 4.16 (a) (vi), one (1) ground sign not exceeding 12 ft<sup>2</sup> (1.11 m<sup>2</sup>) in area and 5 ft (1.52 m) in height shall be permitted; and
  - (iii) in addition to the parking requirements for the dwelling, one (1) parking space shall be provided for each bedroom used for rental purposes.

**4.17 Illumination (5.18)**

No person shall erect a sign with lights external to the sign itself or illuminate an area outside any building or structure unless the illumination is directed away from adjoining properties and any adjacent street.

**4.18 Landscaping (5.19)**

Landscaped open space shall be provided in accordance with the zone provisions set out herein and the following general provisions:

- (a) Any part of a lot which is not occupied by buildings, structures, parking areas, loading spaces, driveways, excavations, agricultural uses, or permitted outdoor storage areas shall be used as landscaped open space.
- (b) Except as otherwise specifically provided herein, no part of any required front yard or required flanking yard shall be used for any purpose other than landscaped open space.

- (c) Where landscaped open space of any kind, including a planting strip, is required adjacent to any lot line or elsewhere on a lot, nothing in this By-law shall apply to prevent such landscaped open space from being traversed by pedestrian walkways or permitted driveways.
- (d) No part of any driveway, parking area, loading space, roof-top terrace, balcony, swimming pool, or space enclosed within a building shall be considered part of the landscaped open space on a lot.

#### **4.19 Loading Space Requirements (5.20)**

- (a) For commercial, industrial or institutional uses involving the frequent shipping, loading or unloading of persons, animals, or goods, one loading space shall be provided for every 30,000 ft<sup>2</sup> (2,787.00 m<sup>2</sup>), or fraction thereof, of floor space to a maximum of six (6) loading spaces.
- (b) A loading space is not required for any building less than 2,000 ft<sup>2</sup> (185.80 m<sup>2</sup>) in floor area.
- (c) A loading space shall:
  - (i) be a minimum of 12 ft (3.66 m) by 40 ft (12.19 m) with a minimum of 14 ft (4.27 m) height clearance;
  - (ii) not be located within any required front yard or be located within any yard which abuts a residential zone; and
  - (iii) have access to the street by means of a minimum 20 ft (6.10 m) wide driveway.

#### **4.20 Lots near a Watercourse (5.21)**

Notwithstanding anything else in this By-law, an unserviced lot, any part of which is within 75 ft (22.86 m) of a watercourse, shall have a minimum area of 40,000 ft<sup>2</sup> (3,716.00 m<sup>2</sup>).

#### **4.21 Multiple Uses (5.22)**

In any zone, where any land or building is used for more than one purpose, all provisions of the By-law relating to each use shall be satisfied. Where there is a conflict, such as in the case of lot area or frontage, the standards that apply to the most dominant use shall prevail.

#### **4.22 Non-Conforming Uses (5.23)**

- (a) Any use of land, or building or structure constructed, or being constructed, on or before the effective date of this By-law, that does not conform to the requirements of this By-law shall be subject to the provisions of the *Municipal Government Act* respecting nonconforming uses and structures.
- (b) Notwithstanding Section 4.22 (a):
  - (i) a minor extension or enlargement, not exceeding 100 ft<sup>2</sup> (9.29 m<sup>2</sup>) in area, of a structure containing a non-conforming use shall be permitted to allow for an addition of an accessory nature such as an entryway, porch or small storage space;
  - (ii) a non-conforming use of land or a structure shall not be recommenced if it has been discontinued for a continuous period of 12 months, and in such an event the land or structure shall not thereafter be used except in conformity with the requirements of this By-law;
  - (iii) a non-conforming industrial use shall be permitted to change to an industrial use less obnoxious or less intensive in terms of traffic generated, hours of operation, outdoor storage, noise or fumes.

**4.23 One Main Building on a Lot (5.24)**

No person shall erect more than one main building on a lot except:

- (a) in the Light Industrial (LI-1) Zone;
- (b) in the Joint Industrial Type Two (LI-2) Zone;
- (c) in the Shopping Centre (SC) Zone;
- (d) in the Fairground (FG) Zone;
- (e) for agricultural uses in the Agriculture (AG) Zone;
- (f) for grouped dwellings in the High Density Residential (R-4) Zone; and
- (g) in the Wentworth Road Commercial (WR-C) Zone. (Amendment effective August 23, 2012)

**4.24 Parking Requirements (5.25, 5.26, 5.27, 5.28 and 5.29)**

- (a) For every building or structure to be erected or enlarged, off-street parking shall be provided within the same lot as the use, in accordance with the following:

Type of Building	Parking Spaces Required
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A dwelling containing fewer than three (3) dwelling units	One (1) parking space for each dwelling unit
All other dwellings	1.5 parking spaces for each dwelling unit
Boarding and rooming houses	One (1) parking space for the dwelling unit plus one (1) parking space for every room available for rent
Churches, halls, auditoria, restaurants, theatres, arenas, stadiums, private clubs and other places of assembly	Where there are fixed seats: One (1) parking space for every five (5) seats, or 10 ft (3.05 m) of bench space; Where there are no fixed seats: One (1) parking space for every 100 ft <sup>2</sup> (9.29 m <sup>2</sup> ) of floor area
Hospitals and nursing homes	One (1) parking space for every two (2) beds or 400 ft <sup>2</sup> (37.16 m <sup>2</sup> ) of floor area, whichever is greater
Senior citizen housing	One (1) parking space for every two (2) dwelling units
Hotels, motels, country inns and other tourist accommodations	One (1) parking space for every suite or rental unit plus one (1) parking space for every 50 ft <sup>2</sup> (4.64 m <sup>2</sup> ) of floor space devoted to public use exclusive of lobbies or halls
Offices and financial institutions	One (1) parking space for every 300 ft <sup>2</sup> (27.87 m <sup>2</sup> ) of floor area
Regional shopping centres	Five (5) parking spaces for every 1,000 ft <sup>2</sup> (92.90 m <sup>2</sup> ) of commercial floor area
Funeral homes	One (1) parking space for every 5 seat capacity of the chapel with a minimum of ten (10) parking spaces
Bowling alleys and curling rinks	Four (4) parking spaces for each bowling lane or curling sheet plus one (1) parking space for every 100 ft <sup>2</sup> (9.29 m <sup>2</sup> ) of other public floor space
Drive-through or take-out restaurants	Four (4) parking spaces up to first 200 ft <sup>2</sup> (18.58 m <sup>2</sup> ) of useable floor area plus one (1) parking space for each additional

	200 ft <sup>2</sup> (18.58 m <sup>2</sup> ) of useable floor area
All other commercial uses	One (1) parking space for every 300 ft <sup>2</sup> (27.87 m <sup>2</sup> ) of commercial floor area
Elementary schools	1.5 parking spaces for each classroom
Secondary schools	Four (4) parking spaces for each classroom
Wholesale industries and manufacturing	One (1) parking space for every 1,000 ft <sup>2</sup> (92.90 m <sup>2</sup> ) of warehouse space and one (1) parking space for every 700 ft <sup>2</sup> (65.03 m <sup>2</sup> ) of manufacturing space

- (b) A parking space shall measure 10 ft by 20 ft (3.05 m by 6.10 m) exclusive of driveways and manoeuvring aisles.
- (c) Notwithstanding the above parking requirements Council may, within the Town Centre (TC) Zone, accept cash in lieu of the owner providing on-site parking. The cash-in-lieu contribution shall be calculated according to the following formula:

$$X (N \times S) + Y (N \times S)$$

Where:

X = current assessed value per square foot of land within the Town Centre (TC) Zone

Y = cost per square foot of grading and surfacing parking area

N = number of parking spaces required by this By-law

S = area of one parking space measuring 10 ft x 20 ft (3.05 m by 6.10 m). **(5.26)**

- (d) Where a part of a parking space is required, such part shall be considered one (1) parking space for the purpose of calculating the total parking requirements. **(5.27)**
- (e) Where a building or lot accommodates more than one type of use as set out in this By-law, the total parking space requirement for such building or lot shall be the sum of the requirements for the separate uses thereof. **(5.28)**
- (f) Required parking spaces shall not include any parking spaces used or intended to be used primarily for the storage or parking of vehicles for hire or gain, display or sale. **(5.29)**

#### 4.25 Parking for People with Disabilities **(5.30)**

- (a) In addition to the parking requirements found in Section 4.24 (a), where off-street parking is to be provided on the same lot as the building, one (1) space dedicated to people with disabilities shall be provided for every 100 spaces provided, or part thereof.
- (b) Such parking spaces shall be 12 ft by 20 ft (3.66 m by 6.10 m) and be no more than 160 ft (48.77 m) away from the entrance designed for use by people with disabilities.

**4.26 Parks and Playgrounds (5.31)**

Parks and playgrounds shall be permitted in any zone provided:

- (a) any maintenance or storage building accessory to the park or playground does not exceed 200 ft<sup>2</sup> (18.58 m<sup>2</sup>) in floor area; and
- (b) any signage conforms to Part 6.

**4.27 Reduced Lot Requirements (5.32)**

Notwithstanding anything else in this By-law, a lot which has been approved in accordance with the Subdivision By-law and has less than the minimum frontage or area required in the zone may be used for a purpose permitted in the zone in which it is located and a building may be erected provided all other applicable provisions of this By-law are satisfied.

**4.28 Restoration to a Safe Condition (5.33)**

Nothing in this By-law shall prevent strengthening or restoring any building or structure to a safe condition.

**4.29 Setback for Flanking Yard (5.34)**

- (a) Notwithstanding anything else in this By-law, on a corner lot in any residential zone, the minimum yard requirement for the flanking yard shall be 25 ft (7.62 m).
- (b) No accessory building or structure shall be permitted within the required flanking yard.

**4.30 Side Yard Waiver (5.35)**

Notwithstanding anything else in this By-law, where buildings on adjacent lots share a common wall, the applicable side yard requirement will be zero along the common lot line.

**4.31 Temporary Uses, Buildings and Structures Permitted (5.36)**

- (a) Nothing in this By-law shall prevent the temporary use of land, buildings or structures incidental to a construction project provided that a development permit has been issued for the construction project and the temporary use is discontinued and removed within 30 days of the completion of the construction project.
- (b) A building or structure may be erected, or an area of land used, for a special occasion or holiday provided that no such building or structure shall remain in place for more than 14 consecutive days after the close of the event.
- (c) No development permit shall be required for a temporary use, except as specified in Section 4.31(a).

**4.32 Through Lots (5.37)**

Notwithstanding anything else in this By-law, on a through lot, a building may be erected facing either street.

**4.33 Truck, Bus and Coach Bodies (5.38)**

No truck, bus, coach or structure of any kind other than a dwelling unit erected and used in accordance with this and all other By-laws of the Regional Municipality shall be used for human habitation in excess of 30 days within the community of Windsor, whether or not same is mounted on wheels.

**4.34 Utilities (5.39)**

Notwithstanding anything else in this By-law, public and private utilities less than 100 ft<sup>2</sup> (9.29 m<sup>2</sup>) in floor area shall be permitted in any zone and no yard requirements shall apply.

**4.35 Variance (5.40)**

- (a) Notwithstanding the general requirements set out for each zone in this By-law, the Development Officer may grant a variance from one or more of the following subject to the requirements of the Municipal Government Act:
  - (i) minimum lot area and frontage;
  - (ii) minimum yard dimensions;
  - (iii) percentage of land that may be built upon;
  - (iv) number of parking and loading spaces required;
  - (v) height of a structure;

(vi) floor area occupied by a home-based business; and

(vii) height and area of a sign.

(b) The Development Officer may also grant a variance from the requirements of a development agreement for the items specified in Section 4.35(a).

(c) The Development Officer may also grant a variance in a site plan in the Waterfront Development (WD) Zone for the items specified in Part 14. **(15A.14)**

(d) Where a variance is granted or refused, the appeal and the notice provisions of the *Municipal Government Act* shall be complied with and the applicant shall pay to the Regional Municipality the cost of notifying affected land owners.

#### **4.36 Visibility at Street Intersections (5.41)**

On a corner lot, within a triangular area 20 ft (6.10 m) back from the intersecting corner lot lines, no building, structure or vegetation of any kind shall be erected or permitted to grow to a height greater than 2 ft (0.61 m) above the grade of the abutting streets.

#### **4.37 Watercourse Separation Distance (5.42)**

With the exception of marine uses, water and sewage treatment uses, and accessory buildings permitted in Section 4.1, no structure shall be located closer than 50 ft (15.24 m) to a watercourse.

#### **4.38 Yard Requirements and Natural Hazards (5.43)**

Where a front, rear, or side yard is required by this By-law and part of the lot is:

(a) usually covered by water or marsh;

(b) beyond the rim of a river bank or watercourse; or

(c) between the top and toe of a cliff or embankment having a slope of 15 percent or more from the horizontal;

the required yard shall be measured from the nearest main wall of the main building or structure on the lot to the edge of the area covered by water or marsh, or to the rim of the riverbank or watercourse, or to the top of the cliff if such edge, rim or top of cliff is closer than the lot line.

#### **4.39 Urban Agricultural Uses (5.44)**

- (a) In all residential zones and the Town Centre (TC) Zone, up to four (4) chicken laying hens shall be permitted on a property where the primary use is a single or two unit dwelling. For lots smaller than 465 m<sup>2</sup> (5000 ft<sup>2</sup>), one (1) chicken laying hen shall be permitted per 92 m<sup>2</sup> (1000 ft<sup>2</sup>) of lot area. The following regulations are applicable to the keeping of chickens:
- (i) Chicken laying hens must be contained on the property and kept in a secure coop, constructed to ensure adequate shelter is provided for the animals;
  - (ii) Setbacks for any structure (laying hen coop or run) shall be pursuant to the accessory building requirements outlined in Section 4.1;
  - (iii) Feed for the laying hens shall be properly stored in an enclosed vessel(s), and areas or enclosures intended for the keeping of the laying hens must be properly cleaned and maintained to prevent odours from emanating onto abutting properties;
  - (iv) The keeping of roosters and/or the slaughtering of animals is prohibited;
  - (v) In the case of fractional numbers when calculating animal units, the number of animal units permitted will be rounded down to the nearest whole number.
- (b) Beekeeping is permitted on properties in all residential zones or the Town Centre (TC) Zone where the property is at least 465 m<sup>2</sup> (5000 ft<sup>2</sup>) in lot area and the primary use of the property is a single or two unit dwelling. One (1) beehive per 2000 ft<sup>2</sup> of lot area is permitted. It shall be the responsibility of beekeepers to:
- (i) Obtain a valid Beekeeper & Apiary Registration from the Nova Scotia Department of Agriculture, and conform to all policies pursuant to the Nova Scotia Bee Industry Act;
  - (ii) Adhere to good management practices and maintain bees in a condition that will reasonably prevent swarming and aggressive behaviour, especially in providing adequate water to prevent bees from seeking water on abutting properties;
  - (iii) Requeen bees when necessary to prevent undue swarming or aggressive behavior;
  - (iv) Collect and relocate bee swarms originating from a managed hive to a parcel of land outside of the community;
  - (v) Ensure the appropriate height of bee flight paths by situating beehives a minimum of 2.15 m (7 ft) above grade; or placing a solid fence that is 2 m (6 ft) in

height along any section of abutting property line (s), within 9 m (29.5 ft) of any bee hive;

- (vi) Beehive entrances are situated away from neighbouring properties, and the beehives are a minimum of 3 m (10 ft) from any and all property lines.

## **PART 5 DEVELOPMENT AGREEMENTS and SITE PLAN APPROVALS (6.0)**

### **5.1 Developments Considered by Development Agreement**

The following developments may be considered only by development agreement in all designations and zones:

- (a) parking on a separate lot in accordance with Policy 2.20 of the Municipal Planning Strategy; **(11.7)**
- (b) Local Commercial (LC) uses in any designation in accordance with Policy 5.42 of the Municipal Planning Strategy;
- (c) new light industrial uses outside the designated industrial parks in accordance with Policy 6.13 of the Municipal Planning Strategy;
- (d) new institutional uses in any designation in accordance with Policy 7.9 of the Municipal Planning Strategy;
- (e) new Recreation Commercial uses in any designation in accordance with Policy 7.10 of the Municipal Planning Strategy;
- (f) non-conforming uses or structures in accordance with Policy 12.14 of the Municipal Planning Strategy;

### **5.2 Developments Considered by Site Plan Approval**

#### **5.2.1 Site Plan Approval**

##### **Application Requirements (15A.3)**

All applications for site plan approval shall be accompanied by:

- (a) A survey by a Nova Scotia Land Surveyor which includes all topographic elements.
- (b) A site plan drawn to an appropriate scale by a registered Landscape Architect showing the following:
  - (i) the items required to be shown in the application for a building permit under the Building Code Act By-law;
  - (ii) a Construction Mitigation Plan demonstrating how any new structures will minimize negative impacts on the surrounding properties including noise, dust, fumes, lighting, shadows, stormwater and erosion control, or other nuisances or inconveniences during and after construction; and

- (iii) any additional information related to the site, buildings, or adjoining properties as may be required by the Development Officer.
- (c) Architectural plans prepared by a registered Architect, indicating compliance with the specific design requirements of the By-law and:
  - (i) Streetwall height and setbacks pursuant to Section 14.2;
  - (ii) Streetwall material quality and detail pursuant to Section 14.2;
  - (iii) Building articulation pursuant to Section 14.2;
  - (iv) The siting of building utilities, vehicle access, parking, lighting and signage.
- (d) A servicing schematic prepared by a registered Civil Engineer to demonstrate that every building can be properly serviced.
- (e) A Traffic Impact Statement (TIS) prepared by a registered Transportation Engineer to demonstrate that every building can be properly serviced.

### **5.2.3 Variance Through Site Plan Approval (15A.14)**

One or more of the following requirements may be varied by site plan approval in the Waterfront Development (WD) Zone where the relaxation is consistent with the Development Officer's interpretation of a variance:

- streetwall heights;
- maximum building length;
- parking requirements;
- stepbacks and setbacks;
- frontage requirements; and
- the percentage of use which must be commercial.

### **5.2.4 Notification (28.3 (d))**

Where a site plan is approved or refused, the process and notification procedures and the rights of appeal provisions of the *Municipal Government Act* shall be complied with, except that the notice in writing of the approval of a site plan shall be given to every assessed owner within 300 ft (91.44 m) of the applicants property. The applicant shall pay to the Regional Municipality the cost of notifying affected land owners.

## **PART 6 SIGNS (7.0)**

### **6.1 General (7.1 and 7.2)**

- (a) No person shall erect a sign without first obtaining a permit from the Development Officer;
- (b) An indoor sign shall not be considered a sign for the purposes of this By-law unless it is intended to be viewed from outside of the building. **(7.1)**
- (c) For the purposes of Section 6.1, a sign structure with two or more faces shall count as one sign. The total area of such a sign shall be calculated based on the area of one sign face. **(7.2)**

### **6.2 Maintenance (7.4)**

- (a) Every sign shall be kept in good repair and working order.
- (b) If the business, service or other enterprise for which a sign is erected is no longer in operation, the sign shall be removed by the owner within 30 days of the date the operations cease. Removal of a sign includes the support structure or apparatus to which it is attached.
- (d) Section 6.2 (b) shall not apply to a seasonal enterprise that normally closes during part of the year or a temporary closure for repairs or renovations.

### **6.3 Signs Permitted in all Zones (7.5)**

The following signs shall be permitted in all zones and no development permit shall be required:

- (a) signs not more than 2 ft<sup>2</sup> (0.18 m<sup>2</sup>) in area identifying the name and address of a resident;
- (b) signs not more than 2 ft<sup>2</sup> (0.18 m<sup>2</sup>) in area regulating the use of a property such as "NO TRESPASSING";
- (c) non-illuminated real estate signs advertising the sale, rental or lease of the premises;
- (d) on-premise directional or traffic control signs not more than 5 ft<sup>2</sup> (0.46 m<sup>2</sup>) in area;
- (e) signs erected by a government body or under the direction of a government body and bearing no commercial advertising;
- (f) memorial or commemorative signs or tablets not more than 5 ft<sup>2</sup> (0.46 m<sup>2</sup>) in area;

- (g) plaques or signs identifying donors of structures, trees or other landscaping not more than 1 ft<sup>2</sup> (0.09 m<sup>2</sup>) in area;
- (h) the flag, pennant or insignia of any government, religious (including churches), charitable, or fraternal organization, not more than 40 ft<sup>2</sup> (3.72 m<sup>2</sup>) in area;
- (i) temporary election signs; and
- (j) one temporary sign not more than 50 ft<sup>2</sup> (4.64 m<sup>2</sup>) in area incidental to a construction project taking place on the property.

#### **6.4 Signs Prohibited in all Zones (7.6)**

The following signs are not permitted in any zone:

- (a) signs that incorporate flashing illumination or moving parts;
- (b) roof signs, except those permitted in Section 6.15;
- (c) any signs or sign structures that are or could be a safety hazard;
- (d) any signs that obstruct or detract from the visibility or effectiveness of any traffic sign or control device;
- (e) any signs that obstruct free egress from any fire exit door, window, or other required exit way;
- (f) signs not erected by a public authority that make use of words such as 'STOP', 'LOOK', 'ONE WAY', 'DANGER', 'YIELD', or any similar word, phrase, symbol, light, or character in such a manner as to mislead or confuse the traffic along a street;
- (g) any signs erected upon a public property or a public right-of-way unless erected by a public authority or authorized by a public authority; and
- (h) commercial signs painted on, attached to or supported by a tree, stone, cliff or other natural object.

#### **6.5 Facia Signs (7.7)**

Facia signs shall not extend above or beyond the extremities of the wall upon which they are attached.

#### **6.6 Projecting Signs (7.8)**

Projecting signs shall not:

- (a) project further than 6 ft (1.83 m) from the wall to which they are affixed;
- (b) project above the eaves, parapet or roof line of the wall to which they are affixed;

- (c) swing freely on their supports; and
- (d) be erected lower than 10 ft (3.05 m) and higher than 15 ft (4.57 m) above the ground.

**6.7 Ground Signs (7.9 and 7.10)**

- (a) Ground signs shall be set back a minimum of 5 ft (1.52 m) from any street line, common lot boundary, driveway, aisle or parking area, with the exception of 40 Water Street where a ground sign footing that existed prior to 2005 may be used. (Amendment WLUB 17-01 Effective March 6, 2018). **(7.9)**
- (b) Where a property in the Shopping Centre (SC), Highway Commercial (HC), Wentworth Road Commercial (WR-C), Fairground (FG), Light Industrial (LI-1), Joint Industrial Type Two (LI-2) or Joint Industrial Type Three (LI-3) zones is occupied by more than one business, one ground sign permitted under Section 6.15 advertising the different businesses located on the property may exceed the maximum sign area requirements up to a maximum sign area of 125 ft<sup>2</sup> (11.61 m<sup>2</sup>). (Amendment WLUB 07-02 Effective September 21, 2007 and WLUB 09-02 Effective September 3, 2009) **(7.10)**

**6.8 Roof Signs (7.11)**

Roof signs shall not:

- (a) extend more than 6 ft (1.83 m) above the highest part of the roof; or
- (b) extend beyond the extremities of the walls to which the roof connects.

**6.9 Canopies or Awnings (7.12)**

In addition to the signs permitted in Section 6.15, signs incorporated in a canopy or awning shall be permitted in commercial and industrial zones provided:

- (a) the canopy or awning does not project more than 4 ft (1.22 m) over a public sidewalk; and
- (b) there is a minimum clearance of 9 ft (2.74 m) between the sidewalk or grade and the lowest edge of the canopy.

**6.10 Sandwich Board Signs (7.13)**

In addition to the signs permitted in Section 6.15, one sandwich board sign shall be permitted per lot in commercial zones provided it:

- (a) has a maximum sign area of not more than 8 ft<sup>2</sup> (0.74 m<sup>2</sup>);

- (b) does not obstruct pedestrian or vehicular traffic along any publicly owned land such as a sidewalk or street right-of-way; and
- (c) is authorized by the Regional Municipality if located on land owned by the Region.

**6.11 Mobile Sign (7.14)**

Mobile signs shall be considered ground signs and all provisions of this By-law related to ground signs shall apply except that:

- (a) no mobile signs shall be permitted in the Town Centre (TC), Pesaquid Comprehensive Development Area (P-CDA) or Local Commercial (LC) Zones; and
- (b) no mobile sign shall exceed 25 ft<sup>2</sup> (2.32 m<sup>2</sup>) in area.

**6.12 Signs in Sports Fields and Outdoor Arenas (7.15)**

Notwithstanding the number limitation in Section 6.15, any number of sponsorship signs may be erected in a sports field or outdoor arena and no permit shall be required provided the signs are intended for view from within the sports field or outdoor arena.

**6.13 Existing Signs – Institutional (I) Zone (7.16) move to Institutional Zone?? Maybe not...**

Nothing in this By-law shall prohibit the repair, reconstruction or continued use of the existing permanent changeable copy sign located at (Janet) for advertising community and commercial events in the Institutional (I) Zone which existed on or before the effective date of this By-law.

**6.14 Automobile Service Station Signs (7.17)**

One ground sign for an automobile service station located in the Highway Commercial (HC), Wentworth Road Commercial (WR-C), Light Industrial (LI-1), Joint Industrial Type Two (LI-2) or Joint Industrial Type Three (LI-3) zones may exceed the maximum sign area requirement set out in Section 6.15 up to a maximum of 120 ft<sup>2</sup> (11.15 m<sup>2</sup>), provided such sign is set back at least 15 ft (4.57 m) from any property line. (Amendment WLUB 09-02 Effective September 3, 2009)

**6.15 Sign Restrictions by Zone (7.18)**

No development permit shall be issued except in conformity with the following:

	(i) Town Centre (TC) and Pesaquid Comprehensive Development Area (P-CDA)	(ii) Local Commercial (LC)	(iii) General Commercial (GC), Wentworth Road Commercial (WR-C), Highway Commercial (HC) and Shopping	(iv) Fairground (FG), Light Industrial (LI-1), Joint Industrial Type Two (LI-2) and Joint Industrial	(v) Institutional (I) and Open Space (OS)
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			Centre (SC)	Type Three (LI-3)	
<b>(a) Maximum Number / Area of Signs</b>	Two (2) signs per business premises with additional by development agreement, excepting businesses with no street frontage at 40 Water Street which are permitted to share a single ground sign (Amendment WLUB 17-01 Effective March 6, 2018)	One (1) non-illuminated fascia sign; or One (1) projecting sign per business premises	Combined area of all signs shall not exceed 3 ft <sup>2</sup> (0.28 m <sup>2</sup> ) for every 1 ft (0.30 m) of lot frontage	Combined area of all signs shall not exceed 3 ft <sup>2</sup> (0.28 m <sup>2</sup> ) for every 1 ft (0.30 m) of lot frontage	One (1) identification sign not more than 3 ft <sup>2</sup> (0.28 m <sup>2</sup> ) in area; one (1) other sign; and unlimited interpretive signage. On any sign, commercial advertising or sponsorship shall not exceed 1 ft <sup>2</sup> (0.09 m <sup>2</sup> ).
<b><u>Facia Wall Signs</u></b>					
<b>(b) Maximum Number</b>	One (1) sign per business premises	See Section 6.15 (a)(ii)	See Section 6.15 (a)(iii)	See Section 6.15 (a)(iv)	See Section 6.15 (a)(v)
<b>(c) Maximum Sign Area</b>	15% of the area of the wall to which it is attached	15% of the area of the wall to which it is attached up to 20ft <sup>2</sup> (1.86 m <sup>2</sup> )	15% of the area of the wall to which it is attached	15% of the area of the wall to which it is attached	20 ft <sup>2</sup> (1.86 m <sup>2</sup> ), excluding interpretive signage
<b><u>Roof Signs</u></b>					
<b>(d) Maximum Number</b>	N/A	N/A	N/A	One (1) sign per business	N/A
<b>(e) Maximum Sign Area</b>	N/A	N/A	N/A	1 ft <sup>2</sup> (0.09 m <sup>2</sup> ) for every 1 ft 90.3 m) of roof length up to 100 ft <sup>2</sup> (9.29 m <sup>2</sup> )	N/A
<b><u>Projecting Signs</u></b>					
<b>(f) Maximum Number</b>	One (1) sign per business	See Section 6.15 (a)(ii)	See Section 6.15 (a)(iii)	See Section 6.15 (a)(iv)	See Section 6.15 (a)(v)
<b>(g) Maximum Sign Area</b>	30 ft <sup>2</sup> (2.79m <sup>2</sup> )	20 ft <sup>2</sup> (1.89 m <sup>2</sup> )	30 ft <sup>2</sup> (2.79 m <sup>2</sup> )	30 ft <sup>2</sup> (2.79 m <sup>2</sup> )	30 ft <sup>2</sup> (2.79 m <sup>2</sup> )
<b><u>Ground Signs</u></b>					
<b>(h) Maximum Number</b>	A single ground sign for businesses without street frontage at 40 Water Street. Additional ground signs may be considered by development	N/A	One (1) sign for every 50 ft (15.24m) of road frontage up to 3 signs	One (1) sign for every 50 ft (15.24 m) of road frontage up to 3 signs	See Section 6.15 (a)(v)

	agreement as per section 6.1 (e) or (g) (Amendment WLUB 17-01 Effective March 6, 2018)				
<b>(i) Maximum Height</b>	17 ft (5.18m) for businesses without street frontage at 40 Water Street	N/A	35 ft (10.67 m)	35 ft (10.67 m)	10 ft (3.05 m)
<b>(j) Maximum Sign Area</b>	40 ft2 (3,70m2) for businesses without street frontage at 40 Water Street (Amendment WLUB 17-01 Effective March 6, 2018)	N/A	50 ft2 (4.64 m2)	50 ft2 (4.64 m2)	25 ft2 (2.32 m2), excluding interpretive signage

**PART X GENERAL PROVISIONS FOR RESIDENTIAL DESIGNATIONS AND ZONES (new)**

**x.1 Developments Considered by Development Agreement**

- (a) multiple unit residential development consisting of three (3) or more units in a Residential designation in accordance with Policy 3.11 of the Municipal Planning Strategy; and
- (b) mixed use multiple residential/commercial uses in the Residential designation in accordance with Policy 3.12 of the Municipal Planning Strategy;

## **PART 7 SINGLE UNIT RESIDENTIAL (R-1) Zone (8.0)**

### **7.1 Permitted Developments**

(a) Developments permitted subject to the Single Unit Residential (R-1) Zone requirements (section 7.2):

- Single unit dwellings

(b) Developments permitted subject to other requirements:

(i) *Accessory Apartments*

In addition to all other regulations of this By-law, the following provisions shall apply to accessory apartments:

- (a) not more than one (1) accessory apartment shall be permitted per lot;
- (b) the accessory apartment shall be contained within or attached to the main dwelling;
- (c) no alterations shall change the roof line or increase the height of the existing dwelling except for the addition of dormers or structures necessary for public safety;
- (d) no new entrances shall be created on the front façade of the existing main dwelling;
- (e) additions shall be limited to the rear yard of the main dwelling;
- (f) the accessory apartment shall not exceed 25 percent of the total floor area of the structure;
- (g) lot coverage of the entire structure shall be limited to 50 percent; and
- (h) parking shall be provided as required in Section 4.24 in the side or rear yard of the lot.

(c) Developments Considered by Development Agreement:

- (i) dwellings in excess of three storeys in a residential zone in accordance with Policy 3.13 of the Municipal Planning Strategy;

### **7.2 Single Unit Residential (R-1) Zone Requirements**

**7.2.1** (Amendment WLUB 10-01 Effective July 16, 2010)

		<b>with Municipal services</b>	<b>with on-site services</b>
<b>Minimum lot area</b>		6,000 ft <sup>2</sup> (557.40 m <sup>2</sup> ) 7,000 ft <sup>2</sup> (650.30 m <sup>2</sup> ) for corner lots	30,000 ft <sup>2</sup> (2,787.00 m <sup>2</sup> )*
<b>Minimum lot frontage</b>		60 ft (18.29 m)	120 ft (36.58 m)
<b>Minimum front yard</b>		25 ft (7.62 m)	
<b>Minimum rear yard</b>		25 ft (7.62 m)	
<b>Minimum side yard</b>	<b>one side</b>	4 ft (1.22 m) for the first storey plus 2 ft (0.61 m) for each additional storey	
	<b>other side</b>	10 ft (3.05 m)	
<b>Maximum height of main building</b>		35 ft (10.67 m)	
<b>Maximum height of accessory building</b>		15 ft (4.57 m)	

\* subject to Nova Scotia Department of Environment & Labour requirements

**7.2.2** *PID 45336773* - Notwithstanding Section 7.2.1, the minimum side yard requirement for an approximately 13.6 acre parcel of land owned by Brison Developments Limited, Payzant Drive (PID 45336773) shall be:

- one side: 4 ft (1.22 m) for the first storey plus 2 ft (0.61 m) for each additional storey; and
- other side: 8 ft (2.44 m).

## **PART 8 TWO UNIT RESIDENTIAL (R-2) Zone (9.0)**

### **8.1 Permitted Developments**

- (a) Developments permitted subject to the Two Unit Residential (R-2) Zone requirements (section 8.2):
- Two unit dwellings serviced with Municipal water and sewer
- (b) Developments permitted subject to other requirements:
- (i) uses permitted in the Single Unit Residential (R-1) Zone subject to the Single Unit Residential (R-1) Zone requirements.
- (ii) dwellings with more than 2 units serviced with Municipal water and sewer.
- (iii) Converted dwellings to a maximum of two dwelling units:
- In addition to all other regulations, the following provisions shall apply to converted dwellings in the Two Unit Residential (R-2) Zone:
- (a) all conversions shall be limited to one (1) additional dwelling unit;
- (b) no alterations shall change the roof line or increase the height of the existing dwelling except for the addition of dormers or structures necessary for public safety;
- (c) no alteration shall be undertaken which will extend into the front or side yard of the lot;
- (d) lot coverage of the entire structure shall be limited to 50 percent; and
- (e) parking shall be provided as required in Section 4.24 in the side or rear yard of the lot.
- (c) Developments Considered by Development Agreement:
- (i) dwellings in excess of three storeys (in a residential zone) in accordance with Policy 3.13 of the Municipal Planning Strategy;

### **8.2 Two Unit Residential (R-2) Zone Requirements** *(Amendment WLUB 10-01 Effective July 16, 2010)*

#### **8.2.1**

<b>Minimum lot area</b>	3,500 ft <sup>2</sup> / unit (325.15 m <sup>2</sup> / unit)
<b>Minimum lot frontage</b>	35 ft / unit (10.67 m / unit)
<b>Minimum front yard</b>	25 ft (7.62 m)
<b>Minimum rear yard</b>	25 ft (7.62 m)
<b>Minimum side yard</b>	10 ft (3.05 m)
<b>Maximum height of main building</b>	35 ft (10.67 m)
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

8.2.2 *PID 45336773* - Notwithstanding Section 8.2.1 the minimum side yard requirement for an approximately 13.6 acre parcel of land owned by Brison Developments Limited, Payzant Drive (PID 45336773) shall be 8 ft (2.44 m).

8.2.3 Subdivision of Semi-Detached Units

Semi-detached dwelling units located on an approved water and sewer serviced lot may be subdivided into lots provided each dwelling unit has separate service connections and provided all applicable provisions of the Windsor Subdivision By-law and this By-law are met. No side yard shall be required along the common lot boundary dividing a semi-detached dwelling.

**PART 9 MEDIUM DENSITY RESIDENTIAL (R-3) Zone (10.0)**

**9.1 Permitted Developments**

- (a) Developments permitted subject to the Medium Density Residential (R-3) Zone requirements (section 9.):
  - Dwellings with more than two (2) units but not more than six (6) units serviced with Municipal water and sewer
- (b) Developments permitted subject to other requirements:
  - (i) uses permitted in the Single Unit Residential (R-1) Zone subject to the Single Unit Residential (R-1) Zone requirements
  - (ii) Uses permitted in the Two Unit Residential (R-2) Zone subject to the Two Unit Residential (R-2) Zone requirements
  - (iii) (10.5) Notwithstanding anything else in this By-law, no development permit shall be issued for a dwelling with three or more units unless useable space for recreational uses is provided on the same lot according to the following schedule:
    - (a) Bachelor unit - 150 ft<sup>2</sup> (13.94 m<sup>2</sup>) per unit
    - (b) One (1) bedroom unit - 200 ft<sup>2</sup> (18.58 m<sup>2</sup>) per unit
    - (c) Two (2) bedroom unit - 250 ft<sup>2</sup> (23.22 m<sup>2</sup>) per unit
    - (d) Three (3) bedroom unit - 270 ft<sup>2</sup> (25.08 m<sup>2</sup>) per unit
    - (e) Four (4) bedroom unit - 400 ft<sup>2</sup> (37.16 m<sup>2</sup>) per unit
- (c) Developments Considered by Development Agreement:
  - (i) dwellings in excess of three storeys in a residential zone in accordance with Policy 3.13 of the Municipal Planning Strategy;

**9.2 Medium Density Residential (R-3) Zone Requirements**

9.2.1

<b>Minimum lot area</b>	3,000 ft <sup>2</sup> (278.70 m <sup>2</sup> ) per dwelling unit
<b>Minimum lot frontage</b>	20 ft (6.10 m) per dwelling unit
<b>Minimum front yard</b>	25 ft (7.62 m)

<b>Minimum rear yard</b>	35 ft (10.67 m)
<b>Minimum side yard</b>	15 ft (4.57 m)
<b>Maximum height of main building</b>	35 ft (10.67 m)
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

9.2.2 Subdivision of Townhouse Units (10.4)

Townhouse dwelling units located on an approved water and sewer serviced lot may be subdivided into lots provided each dwelling unit has separate service connections and provided all applicable provisions of the Windsor Subdivision By-law and this By-law are met. No side yard shall be required along the common lot boundary dividing a townhouse dwelling.

## **PART 10 HIGH DENSITY RESIDENTIAL (R-4) Zone (11.0)**

### **10.1 Permitted Developments**

- (a) Developments permitted subject to the High Density Residential (R-4) Zone requirements (section 10.2):
- Dwellings with more than six (6) units serviced with Municipal water and sewer
  - Boarding and rooming houses
  - Residential care facilities providing care for five (5) or fewer persons
- (b) Developments permitted subject to other requirements:
- (i) Uses permitted in the Single Unit Residential (R-1) Zone subject to the Single Unit Residential (R-1) Zone requirements
- (ii) Uses permitted in the Two Unit Residential (R-2) Zone subject to the Two Unit Residential (R-2) Zone requirements
- (iii) Uses permitted in the Medium Density Residential (R-3) Zone subject to the Medium Density Residential (R-3) Zone requirements
- (iv) **(11.6)** A development permit shall not be issued for a new dwelling of two or more units where the proposed development is not serviced with Municipal water and sewer.
- (v) **(11.4)** In addition to the requirements of Section 10.2, the following provisions shall apply to grouped dwellings:
- (a) the minimum distance between grouped dwellings shall be 20 ft (6.10 m) or  $\frac{1}{2}$  the height of the higher of any two (2) adjacent buildings, whichever is greater; and
- (b) the maximum number of units in an attached grouped dwelling shall be eight (8).
- (vi) **(11.5)** Recreational space shall be provided as required in **Section 9.5 (not yet found)**
- (vii) **(11.3)** outdoor parking and service areas for grouped dwellings and buildings with three (3) or more units shall be screened from the street and adjacent residential properties through the use of landscaping or opaque fencing.
- (c) Developments Considered by Development Agreement:

- (i) dwellings in excess of three storeys in a residential zone in accordance with Policy 3.13 of the Municipal Planning Strategy

## 10.2 High Density Residential (R-4) Zone Requirements

### 10.2.1

	<b>Dwellings with more than 6 units, Boarding Houses, Residential Care Facilities</b>	<b>Grouped Dwellings</b>
<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> ) for the first 4 dwelling units <b>plus</b> 1,500 ft <sup>2</sup> (139.35 m <sup>2</sup> ) for each additional unit	3,000 ft <sup>2</sup> (278.70 m <sup>2</sup> ) for each dwelling unit
<b>Minimum lot frontage</b>	100 ft (30.48 m)	100 ft (30.48 m)
<b>Minimum front yard</b>	35 ft (10.67 m)	
<b>Minimum rear yard</b>	35 ft (10.67 m)	
<b>Minimum side yard</b>	<b>one side</b>	15 ft (4.57 m) or ½ the height of the main building, whichever is greater
	<b>other side</b>	5 ft (1.52 m)
<b>Maximum height of main building</b>	3 storeys	
<b>Maximum height of accessory building</b>	15 ft (4.57 m)	

**PART XX COLLEGE ROAD COMPREHENSIVE DEVELOPMENT AREA (CR-CDA) (12.0)**

**XX.1 Permitted Developments**

- (a) Developments permitted subject to the High Density Residential (R-4) Zone requirements (section 10.2):  
(None)
- (b) Developments permitted subject to other requirements:  
(None)
- (c) Developments Considered by Development Agreement
  - (i) residential, institutional or recreational development with or without convenience and specialty stores, medical offices, personal service shops, and other similar limited services and uses in support of the primary development in the College Road Comprehensive Development Area (CR-CDA) in accordance with Policy 3.14 of the Municipal Planning Strategy; **(6.0 (d) and 12.1 (a))**

## **PART 11 GENERAL PROVISIONS FOR COMMERCIAL ZONES (13.0)**

### **11.1 Lots Abutting Residential and Institutional Zones (13.1)**

Except in the Local Commercial (LC) Zone, where the yard of a lot located in a commercial zone abuts a lot in a residential or Institutional (I) Zone, the following standards apply:

- (a) the minimum side yard requirement for the commercial use from the abutting lot line shall be 20 ft (6.10 m); and
- (b) no open storage or outdoor display shall be permitted in the abutting yard of the commercial use.

### **11.2 Planting Strip (13.2)**

Where a commercial use in a commercial zone abuts a residential zone, the part of the lot directly adjoining the residential zone shall be used for no purpose other than a planting strip having a minimum width of 5 ft (1.52 m) measured perpendicular to said lot line.

### **11.3 Screening of Refuse Containers (13.3)**

In any commercial zone, where refuse and recycling containers are located outside the building, they shall be screened from the adjacent property and the street through the use of landscaping or opaque fencing.

### **11.4 Developments Considered by Development Agreement**

- (i) Commercial Breweries, Commercial Distilleries and Commercial Wineries in any commercial zone (Amendment WLUB 18-01 Effective January 29, 2019);
- (ii) mixed use development in the Commercial designation or the Industrial designation outside the industrial parks in accordance with Policy 5.44 of the Municipal Planning Strategy; (Amendment WLUB 06-02 Effective September 7, 2006)

## **PART 12 TOWN CENTRE (TC) Zone (14.0)**

### **12.1 Permitted Developments**

(a) Developments permitted subject to the Town Centre (TC) Zone requirements (section 12.3):

- Arts and crafts studios including photography
- Banks and financial institutions
- Clubs and community organizations
- Commercial schools
- Day care centres, licensed and non-licensed
- Emergency service facilities (i.e., police, ambulance and fire stations)
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Existing dry cleaning and laundry establishments listed in s. 32.1
- Existing residential uses listed in s. 32.1
- Farm markets
- Funeral homes
- Garden and nursery sales and supplies
- Hotels, motels and other tourist accommodations
- Licensed liquor establishments
- Local shopping centres
- Microbrewery, Microdistillery and Winery (Amended WLUB 18-01 Effective January 29, 2019)
- Museums, art galleries and libraries
- Offices
- Parking structures
- Repair and rental establishments
- Residential uses (not on the ground floor, except for the area bounded by King Street, Stannus Street, Gray Street and Victoria Street) (Amended WLUB 15-02 Effective August 8, 2016)
- Restaurants
- Retail stores
- Service and personal service shops
- Taxi, train and bus stations
- Veterinary clinics and animal hospitals

(b) Developments permitted subject to other requirements:

(None)

(c) Developments Considered by Development Agreement

- (i) development proposals in the Town Centre (TC) Zone in accordance with Section 5.38 of the Municipal Planning Strategy for: signs in addition to those outlined in Section 6.15 of the Land Use By-law (Amendment WLUB 17-01 Effective March 6, 2018); new main buildings; additions in excess of 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) floor area to the front facade of an existing building; or parcels exceeding one acre (0.4 ha);
- (ii) new residential buildings with three or more units or an increase in the number of dwelling units in an existing residential building in the Town Centre (TC) Zone in accordance with Section 5.39 of the Municipal Planning Strategy;

**12.2 Prohibited Uses**

Developments prohibited in the Town Centre (TC) Zone include:

- Open storage **(14.3)**

**12.3 Town Centre (TC) Zone Requirements**

<b>Minimum lot area</b>	4,000 ft <sup>2</sup> (371.60 m <sup>2</sup> )
<b>Minimum lot frontage</b>	40 ft (12.19 m)
<b>Minimum rear yard</b>	20 ft (6.10 m)
<b>Minimum side yard</b>	7 ft (2.13 m)*
<b>Maximum height of main building</b>	3 storeys
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

\*When fire resistant walls are constructed, yard requirements may be reduced to zero.

**PART 13 PESAQUID COMPREHENSIVE DEVELOPMENT AREA (P-CDA) OVERLAY (15.0)**

**13.1 Permitted Developments**

- (a) Developments permitted subject to the Pesaquid Comprehensive Development Area (P-CDA) Zone requirements (there are no zone requirements):
- Change in use in an existing building, to any use permitted in the Town Centre (TC) Zone
- (b) Developments permitted subject to other requirements:
- (i) Additions not exceeding 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) in floor area, alterations, repairs and renovations to existing buildings, subject to Town Centre (TC) Zone requirements
- (ii) Accessory structures not exceeding 500 ft<sup>2</sup> (46.45 m<sup>2</sup>) in floor area, subject to Town Centre (TC) Zone requirements
- (ii) Temporary retail sales and food service kiosks
- (a) The following special requirements shall apply to the development of temporary retail sales and food service kiosks:
- (i) kiosks shall be permitted only on land owned by the Regional Municipality, provided that no kiosk shall be located on any public street or sidewalk;
- (ii) the applicant has entered into a lease or other written agreement with the Regional Municipality authorizing the use of the Municipal owned property;
- (iii) the total gross floor area of the kiosk shall not exceed 100 ft<sup>2</sup> (9.29 m<sup>2</sup>);
- (iv) no kiosk shall remain in place for more than six (6) months;
- (v) retail sales shall be limited to gifts, arts and crafts, souvenirs, farm produce and other similar items;
- (vi) signage shall be limited to one facia wall sign not exceeding 5 ft<sup>2</sup> (0.46 m<sup>2</sup>) in sign area; and
- (vii) notwithstanding the parking requirement for commercial uses in Section 4.24, off-street parking shall not be required for temporary retail sales and food service kiosks. **(15.2)**
- (b) Temporary retail sales and food service kiosks, mobile canteens, and similar uses erected for a special occasion or holiday and removed within 14 days after the close of the event shall be exempt from the requirements of Section 13.1(b) and

shall be developed in accordance with Section 4.31 (b). Such uses shall not require a development permit. **(15.3)**

(c) Developments Considered by Development Agreement

- (i) development proposals in the Pesaquid Comprehensive Development Area (P-CDA) in accordance with Section 5.4 of the Municipal Planning Strategy for: signs in addition to those outlined in Section 6.15 of the Land Use By-law (Amendment WLUB 17-01 Effective March 6, 2018), new main buildings, additions in excess of 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) floor area, accessory structures in excess of 500 ft<sup>2</sup> (46.45 m<sup>2</sup>) floor area, or a change in use in an existing building to a use not permitted in the Town Centre (TC) Zone; **(6.0 (g) and 15.4(a))**

**PART 14 WATERFRONT DEVELOPMENT (WD) Zone** (Amendment October 1, 2019) **(15A.0)**

**14.1 Permitted Developments**

- (a) Developments permitted subject to the Waterfront Development (WD) Zone requirements (section ?) and the Built Form Requirements (section 14.2):
- Change in use in an existing building to any use permitted in the Town Centre (TC) Zone
  - Accessory structures not exceeding 500 ft<sup>2</sup> (46.45 m<sup>2</sup>) in floor area
- (b) Developments permitted subject to other requirements
- (i) Additions not exceeding 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) in floor area, subject to Town Centre (TC) Zone requirements
- (ii) **(15A.2.2)** Residential uses on the remaining ground floor area are permitted provided that each unit facing the street has a grade connected entrance to the street.
- Twenty percent (20%) of the total number of dwelling units, rounded up to the nearest full number, in a building used as a multiple unit dwelling shall be required to include two (2) or more bedrooms.
- (iii) **(15A.2)** Notwithstanding Section 14.1 (a), ground-floor uses for buildings that front on Upper Water Street and the King Street Extension must include commercial uses that meet the minimum commercial floor area ratios shown on Figure 5.
- (iv) **(15A.8)** The ground floor of a building, excluding a parking garage, that has access at the streetline and has a retail use shall have a floor-to-floor height of no less than 4 m (13 ft).
- (c) Developments Considered by Development Agreement
- (i) items including but not limited to public art, sustainable building design (LEED) or open space investment that are seen to have a public benefit for the bonus height for developments in the Waterfront Development (WD) Zone. (Amendment WMPS-WLUB-19-01)
- (ii) new developments in the Waterfront Development (WD) Zone that do not conform to the Waterfront Development (WD) Zone requirements; and (Amendment WMPS-WLUB-19-01); and
- (d) Developments to be Considered by Site Plan Approval

- (i) development proposals in the Waterfront Development (WD) Zone in accordance with **Section (not found)** of the Municipal Planning Strategy for: commercial uses permitted in the Town Centre (TC) Zone, cultural uses, uses permitted in the Institutional (I) Zone, uses permitted in the Open Space (OS) Zone, residential uses as per **Section 14.3 (15A.2)**

#### **14.1 Prohibited Uses**

Developments prohibited in the Waterfront Development (WD) Zone include:

- New drive-throughs **(15A.7)**

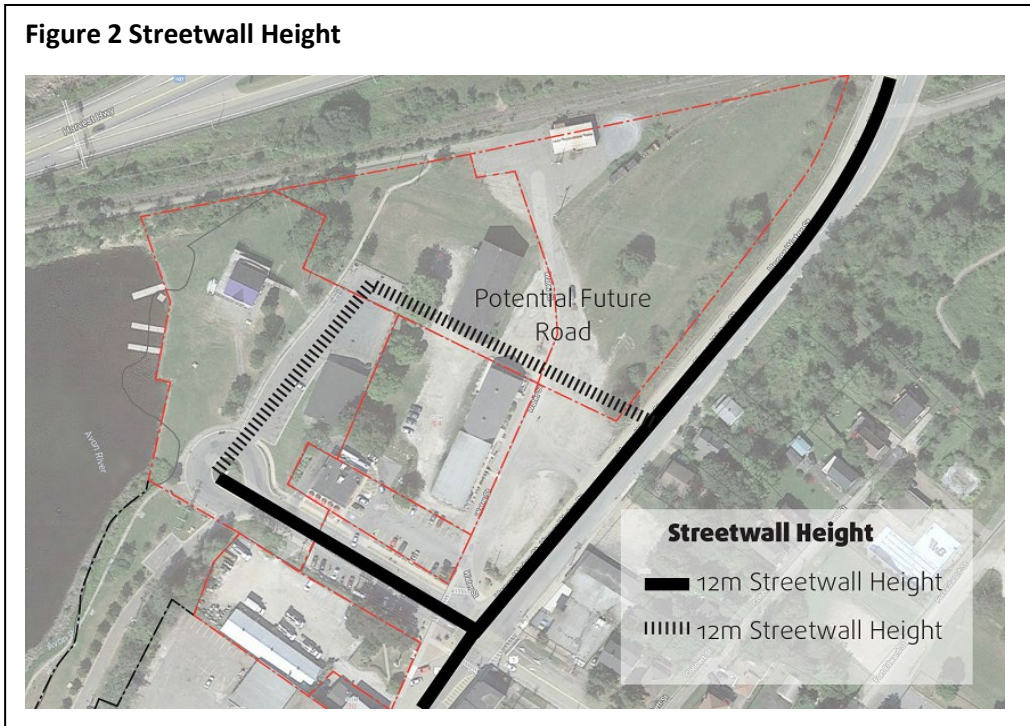
#### **14.2 Built Form Requirements**

##### **14.2.1 Building and Streetwall Height (15A.4)**

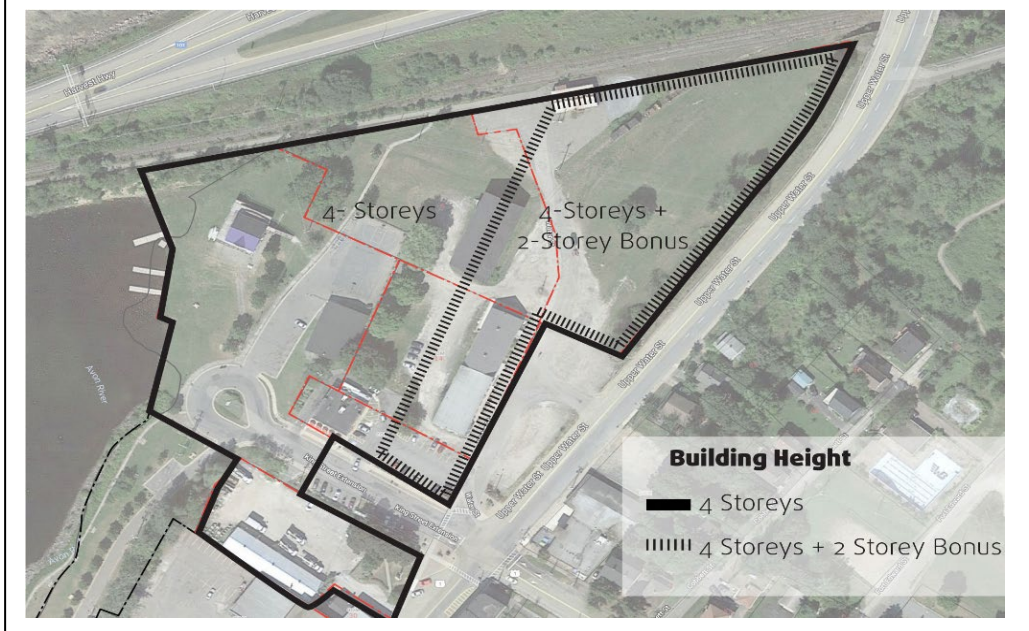
- (a) No building shall be erected, constructed, altered, reconstructed, or located so that it exceeds the maximum heights specified on Figure 3.
- (b) The height requirements shall not apply to a church spire, lightning rod, elevator enclosure, an elevator enclosure above a structure required for elevator access to rooftop amenity space, flag pole, antenna, heating ventilation, air conditioning equipment or enclosure of such equipment, skylight, chimney, landscape vegetation, clock tower, solar collector, roof top cupola, parapet, cornices, eaves, penthouses or other similar features, provided that the total of all such features, shall occupy less than 30% of the area of the roof of the building on which they are located.
- (c) Features referenced in Section 14.2.1 (b) shall be setback no less than 3 m (9.84 ft) from the outer most edge of the roof on which they are located. No setback is required for clock towers, parapets, cornices and similar architectural features.
- (d) The maximum streetwall height shall be as specified on Figure 2 but shall not exceed 3 storeys.
- (e) Streetwall height should be measured from average grade to the top of the roof slab excluding parapet, railings, or other building features designed for architectural articulation of the façade which do not add to the habitable space.
- (f) Where the adjacent street grades exceed 5%, the streetwall is permitted to exceed the maximum streetwall height by 3 m (9.84 ft) for a frontage length not exceeding 20 m (65.61 ft) as long as no additional floors are created.
- (g) The minimum building height shall be 3 storeys except for existing buildings.

##### **14.2.2 Bonus Height (15A.4.1)**

Two additional storeys to a maximum of 800 m2 (8611 ft2) per floor of bonus height may be permitted in the area indicated on Figure 3 by site plan approval if the developer partners with an affordable housing agency (i.e. CMHC, Housing NS, or other approved agency) to create at least 50% of the additional post-bonus floor area as affordable housing units.



**Figure 3 Building Height**



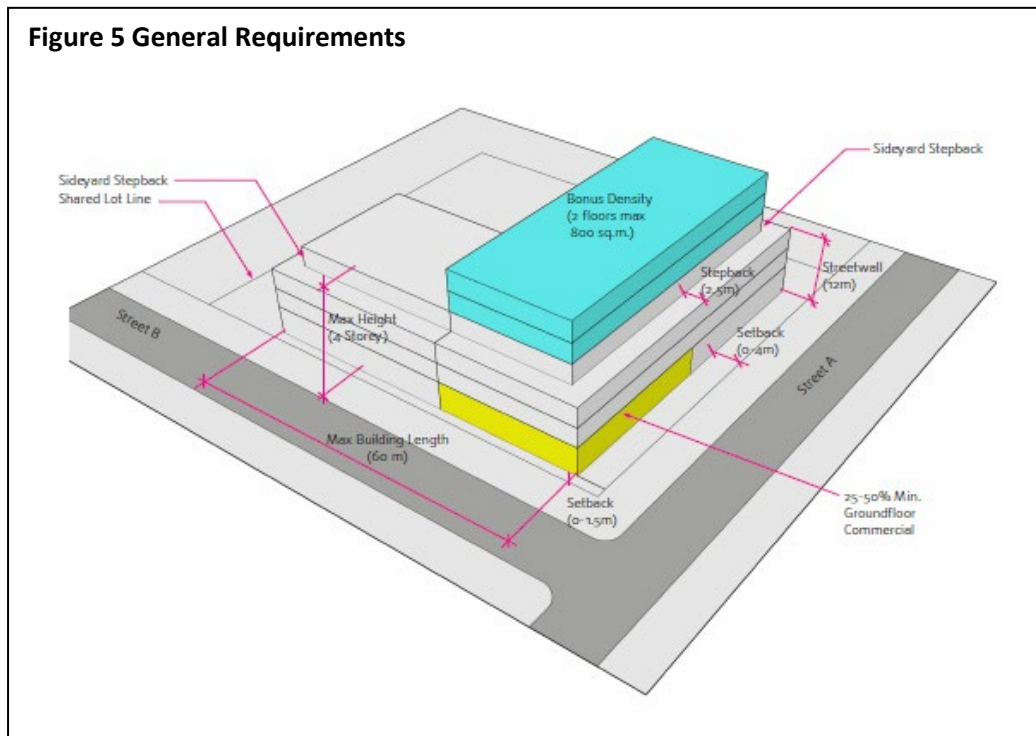
**14.2.3 Building and Streetwall Length, Setbacks and Stepbacks (15A.5)**

- (a) Streetwalls shall have a streetline setback as specified on Figure 4.
- (b) No setback is required from an interior lot line for a streetwall portion of a building.
- (c) With the exception of required streetwall setbacks, a low-rise building or the low-rise portion of a building is permitted to cover 100% of the lot upon which it is situated.
- (d) Above the streetwall, the mid-rise portion of a building shall be setback from interior lot lines no less than 10% of the lot width or 5.5 m (18 ft), whichever is less. Where a lot has more than one streetline, the greater lot width shall apply.
- (e) The minimum stepback above the streetwall is 2.5 m (8.2 ft) from any street. Stepbacks are not required for rear or side yards.
- (f) A streetwall shall not extend any longer than 60 m (196.85 ft) abutting the streetline for any portion of the building.

**Figure 4 Streetwall Setbacks**



**Figure 5 General Requirements**

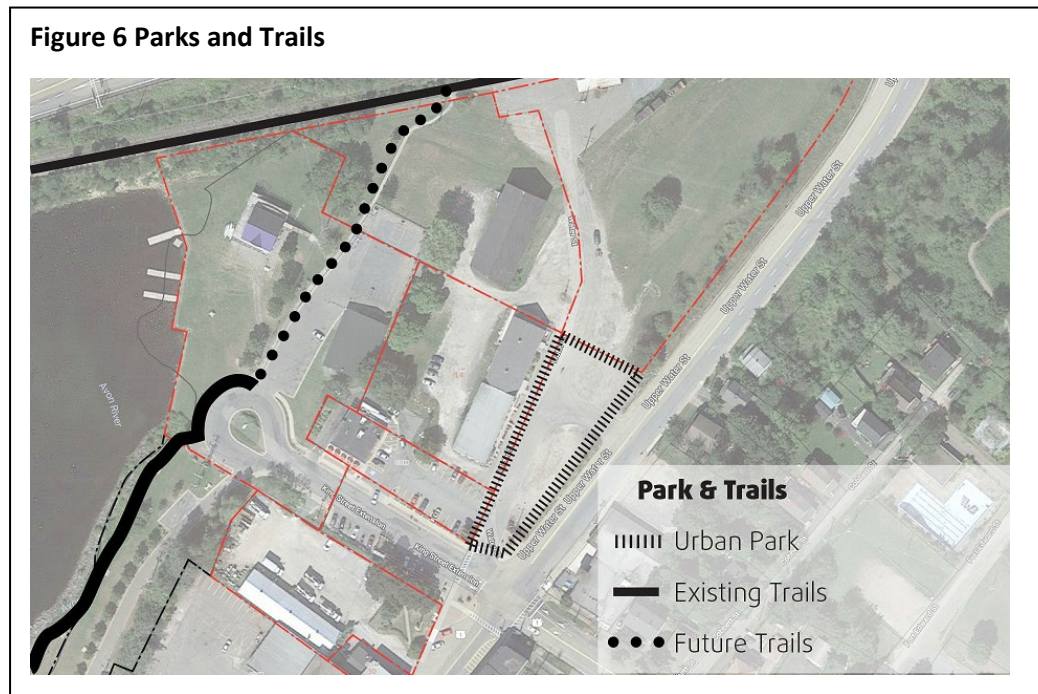


14.2.4 Connectivity **(15A.6)**

- (a) Any new streets must provide a minimum 6 m (19.69 ft) public easement and pedestrian connection to the waterfront.
- (b) Paved pedestrian walkways/sidewalks shall link parking areas to entrances of all primary buildings.

14.2.5 Open Space and Trails **(15A.9)**

- (a) A minimum of 5 m<sup>2</sup> (53.82 ft<sup>2</sup>) of landscaped open space shall be provided for each dwelling unit in a building. Flat building rooftops and parking podiums will be considered for this requirement if they are fully accessible by building residents and landscaped. Private decks will also be considered for open space.
- (b) The triangular lands at the corner of Upper Water Street and the King Street Extension (Figure 6) shall be reserved for an urban park and plaza. This plaza shall provide the necessary road frontage on Lower Water Street for the adjacent properties.
- (c) The waterfront trail around Lake Pesaquid shall be preserved as a 2 m (6.56 ft) minimum wide walking trail connecting the trail at the end of the King Street



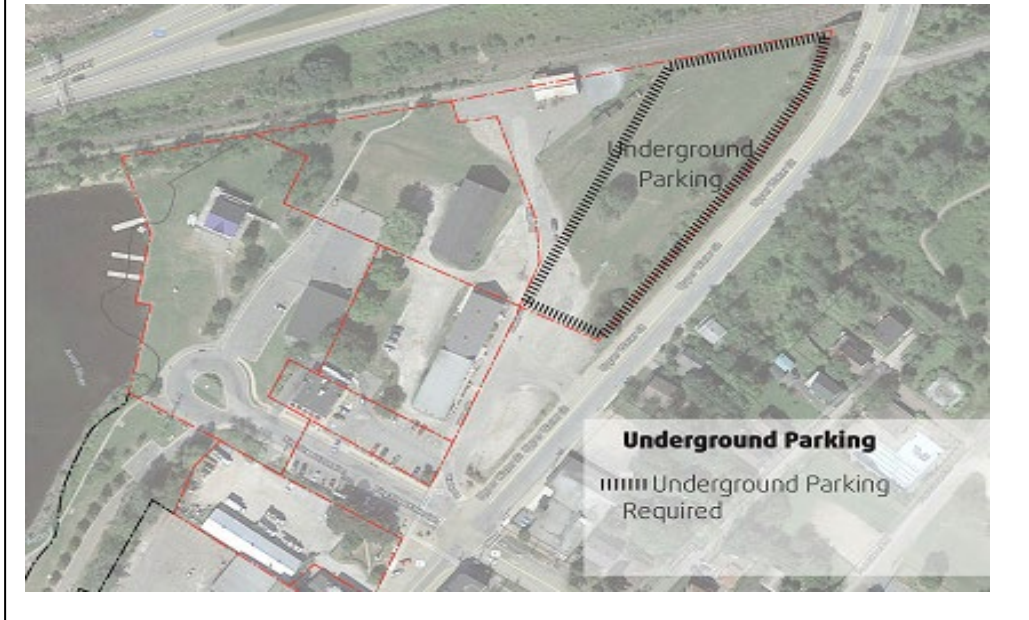
Extension to the rail side trail to the north of the Waterfront Development (WD) Zone.

#### 14.2.6 Parking (5A.10)

Parking requirements in the Waterfront Development (WD) Zone override the general parking requirements in this By-law only for the items specified below.

- (a) There are no minimum commercial or residential parking requirements in the Waterfront Development (WD) Zone except for on-street parking.
- (b) On-street parking must be provided on all streets that front the development where parking is shown by the Traffic Impact Statement to be practical and safe.
- (c) Access to parking garages should be screened from any street entrances wherever possible in favour of access from the rear.
- (d) Parking garages should not create blank walls on any street front in the development for more than 12 m (39.37 ft) of the building frontage. Any at grade parking garage entry/exit onto the street shall not exceed 12 m (39.4 ft) of frontage on the street and must be designed to not present a blank wall along the street. These areas, if present, should be treated as part of the building architecture and shall be designed for visual interest. **(5A.10 and 15A.8)**
- (e) Parking garages that front on to the waterfront or other public spaces should be landscaped or designed to provide visual interest from the waterfront.
- (f) No more than 60% of any property may be covered in surface parking.
- (g) Surface parking lots must include one 60mm caliper tree for every 12 surface parking spaces to be planted in end isle islands if present.
- (h) Commercial use storage, delivery bays and garbage receptacles shall be contained within the building unless they can be located on the site so as to minimize visibility using high quality fencing and landscaping.

**Figure 7 Underground Parking**



**14.2.7 Solid Waste (15A.13)**

The location of facilities for the storage of solid waste which provides for maximum separation from residential development and public areas. Outdoor facilities must be fenced and gated for multi-unit developments and commercial developments.

**14.2.8 Permitted Encroachments (15A.11)**

- (a) Eaves, gutters, down spouts, cornices and other similar features shall be permitted encroachments into a required setback, stepback or separation distance to a maximum of 0.6 m (1.97 ft).
- (b) Balconies shall be permitted encroachments into a setback, stepback or separation distance, at or above the level of the second storey of a building, provided that the protrusion of the balcony is no greater than 2 m (6.56 ft) from the building face and the aggregate length of such balconies does not exceed 50% of the horizontal width of that building face.

**14.2.9 Prohibited External Cladding Materials (15A.12)**

The following external cladding materials shall be prohibited:

- Vinyl
- Plastic

- Plywood
- Concrete block
- Exterior insulation and finish systems where stucco is applied to rigid insulation
- Metal siding utilizing exposed fasteners
- Darkly tinted or mirrored glass

**PART 15 LOCAL COMMERCIAL (LC) Zone (16.0)**

**15.1 Permitted Developments**

(a) Developments permitted subject to the Local Commercial (LC) Zone requirements (section 15.3):

(i) Developments less than 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) in commercial floor area:

- Arts, crafts, gifts and antique shops
- Convenience stores
- Country inns with fewer than ten (10) rooms
- Existing funeral homes listed in s. 32.2
- Florists
- Licensed day care centres
- Offices
- One (1) dwelling unit, located within the commercial use building
- Personal service shops
- Restaurants, excluding drive-through restaurants
- Uses permitted in the Single Unit Residential (R-1) Zone

(ii) Developments which may exceed 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) in commercial floor area:

**15.2 Prohibited Uses**

Developments prohibited in the Local Commercial (LC) Zone include:

- Open storage
- Outdoor display (16.4)

**15.3 Local Commercial (LC) Zone Requirements**

<b>Minimum lot area</b>		7,000 ft <sup>2</sup> (650.30 m <sup>2</sup> )
<b>Minimum lot frontage</b>		60 ft (18.29 m)
<b>Minimum front yard</b>		25 ft (7.62 m)
<b>Minimum rear yard</b>		25 ft (7.62 m)
<b>Minimum side yard</b>	<b>one side</b>	4 ft (1.22 m) for the first storey plus 2 ft (0.61 m) for each additional storey
	<b>other side</b>	10 ft (3.05 m)
<b>Maximum height of main building</b>		35 ft (10.67 m)
<b>Maximum height of accessory building</b>		15 ft (4.57 m)

## **PART 16      GENERAL COMMERCIAL (GC) Zone (17.0)**

### **16.1 Permitted Developments**

- (a) Developments permitted subject to the General Commercial (GC) Zone requirements (section 16.3):
- Arts and crafts studios including photography
  - Banks and financial institutions
  - Clubs and community organizations
  - Commercial schools
  - Country inns
  - Day care centres, licensed and non-licensed
  - Entertainment, recreation and assembly uses within a wholly enclosed building
  - Existing residential uses listed in s. 32.3
  - Garden and nursery sales and supplies
  - Licensed liquor establishments
  - Local shopping centres containing uses permitted in the GC zone
  - Microbrewery, Microdistillery, Winery (*Amended WLUB 18-01 Effective January 29, 2019*)
  - Offices
  - Parking structures
  - Repair and rental establishments
  - Residential uses (not on the ground floor)
  - Restaurants, excluding drive-through restaurants
  - Retail stores
  - Service and personal service shops
  - Taxi, train and bus stations
  - Veterinary clinics and animal hospitals
- (b) Developments permitted subject to other requirements:
- (i) Residential uses as part of the same building as a commercial use are permitted provided the total floor area of the residential use does not exceed two-thirds (66 percent) of the total floor area of the building.

### **16.2 Prohibited Uses**

Developments prohibited in the General Commercial (GC) Zone include:

- Open storage **(17.3)**

### 16.3 General Commercial (GC) Zone Requirements

#### 16.3.1

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	25 ft (7.62 m)
<b>Minimum rear yard</b>	25 ft (7.62 m)
<b>Minimum side yard</b>	15 ft (4.57 m)
<b>Maximum height of main building</b>	35 ft (10.67 m)
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

#### 16.3.2 Access

Entrance to and exit from properties shall be restricted to not more than two (2) driveways on any street or road. On a corner lot, access shall be restricted to not more than three (3) driveways to the lot.

## **PART 17 HIGHWAY COMMERCIAL (HC) Zone (18.0)**

### **17.1 Permitted Developments**

Developments permitted subject to the Highway Commercial (HC) Zone requirements (section 17.2):

- Arts and crafts studios including photography
- Automobile service stations, car washes and repair centres
- Automobile, truck and motorcycle sales, service, or rental establishments
- Building supply establishments
- Day care centres, licensed and non-licensed
- Dry cleaning and laundry establishments
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Existing residential uses listed in s. 32.4
- Farm equipment sales and service
- Farm markets
- Funeral homes
- Garden and nursery sales and supplies
- Hotels and motels
- Kennels
- Licensed liquor establishments
- Manufactured home sales
- Microbrewery, Microdistillery, Winery (Amended WLUB 18-01 Effective January 29, 2019)
- Offices (not on the ground floor)
- Recreational vehicle sales, service and rental establishments
- Recycling depots
- Repair and rental establishments
- Residential uses (not on the ground floor)
- Restaurants, including drive-through and take-out establishments
- Retail stores
- Self storage operations (Amendment WLUB 10-02 Effective February 25, 2011)
- Service shops
- Taxi, train and bus stations
- Veterinary clinics and animal hospitals
- Wholesaling and wholesale sales

(b) Developments permitted subject to other requirements

- (i) Residential uses as part of the same building as a commercial use are permitted provided the total floor area of the residential use does not exceed two-thirds (66 percent) of the total floor area of the building.

**17.2 Highway Commercial (HC) Zone Requirements**

17.2.1

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	40 ft (12.19 m)
<b>Minimum rear yard</b>	25 ft (7.62 m)
<b>Minimum side yard</b>	15 ft (4.57 m)
<b>Maximum height of main building</b>	3 storeys
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

17.2.2 Open Storage and Outdoor Display

Open storage and outdoor display shall:

- (a) be located at least 10 ft (3.05 m) from any lot line;
- (b) be accessory to a permitted commercial use; and
- (c) not be located in any required parking spaces or loading spaces.

**17.2.3 Access**

Access shall be limited in accordance with Section 16.3.2.

**PART 18 SHOPPING CENTRE (SC) Zone (19.0)**

**18.1 Permitted Developments**

Developments permitted subject to the Shopping Centre (SC) Zone requirements (section 18.2):

- Arts and crafts studios including photography
- Automobile service stations, car washes and repair centres
- Automobile, truck and motorcycle sales, service or rental establishments
- Banks and financial institutions
- Building supply establishments
- Clubs and community organizations
- Day care centres, licensed and non-licensed
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Farm markets
- Garden and nursery sales and supplies
- Hotels and motels
- Licensed liquor establishments
- Microbrewery, Microdistillery, Winery (Amended WLUB 18-01 Effective January 29, 2019)
- Offices
- Parking structures
- Personal service shops
- Recreational vehicle sales, service and rental establishments
- Regional shopping centres containing uses permitted in the Shopping Centre (SC) Zone
- Restaurants, including drive-through and take-out establishments
- Retail stores, including large format retail stores

**18.2 Shopping Centre (SC) Zone Requirements**

18.2.1 (a) (Amendment WLUB 13-01 Effective May 17, 2013)

<b>Minimum lot area</b>	43,460 ft <sup>2</sup> (4,037.43 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	30 ft (9.14 m)
<b>Minimum rear yard</b>	30 ft (9.14 m)
<b>Minimum side yard</b>	15 ft (4.57 m)
<b>Minimum distance between buildings or</b>	15 ft (4.57 m)*

<b>structures</b>	
<b>Maximum height of main building</b>	35 ft (10.67 m)
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

\*When fire resistant walls are constructed, distance requirements may be reduced to zero.

#### 18.2.2 Open Storage and Outdoor Display

In the Shopping Centre (SC) Zone, open storage and outdoor display shall:

- (a) be located at least 10 ft (3.05 m) from any lot line;
- (b) be accessory to a permitted commercial use;
- (c) not be located in any yard abutting a residential or institutional use; and
- (d) not be located in any required parking spaces or loading spaces.

#### 18.2.3 Access

Access shall be limited in accordance with Section 16.3.2.

**PART 19 COMMERCIAL TRANSITION (CT) Zone (17.A.0)**

**19.1 Permitted Developments**

- (a) Developments permitted subject to Commercial Transition (CT) Zone requirements  
(None)
- (b) Developments permitted subject to other requirements:
  - (i) Uses permitted in the Single Unit Residential (R-1) Zone subject to the Single Unit Residential (R-1) Zone requirements
- (c) Developments Considered by Development Agreement
  - (ii) uses permitted in the General Commercial (GC) in the Commercial Transition (CT) Zone in accordance with Policy 5.28 and 5.47 of the Municipal Planning Strategy; **(17.A.1)**
  - (ii) mixed residential/commercial uses in the Commercial Transition (CT) Zone in accordance with Section 5.47 and 5.47 of the Municipal Planning Strategy; **(17.A.1)**

**PART 20 WENTWORTH ROAD GATEWAY AREA (WR-GA) Overlay (29.0)**

- (a) Developments permitted subject to the Wentworth Gateway Area Overlay Requirements

(None)

- (b) Developments Permitted Subject to Other Requirements

- (i) New Main Buildings and Additions

For any lot in the Wentworth Road Gateway Area in addition to the requirements of the underlying zone, the provisions in Section 20 (ii) and (iii) shall apply to:

- (a) any development involving the construction of a new main building, except where the new main building is an agricultural building; and
- (b) any addition in excess of 1,000 ft<sup>2</sup> (92.90 m<sup>2</sup>) or 25 percent of the existing structure, whichever is greater, involving a change in use.

- (ii) Landscaping

- (a) There shall be a landscaped area at least 15 ft (4.57 m) deep that runs the length of and directly abuts the front lot line along Wentworth Road, excluding driveway openings and walkways. Where a lot is a corner lot, the landscaped area shall be required along the lot line abutting the street intersecting with Wentworth Road in addition to the lot line abutting Wentworth Road.
- (b) The landscaped area shall be grassed, or other appropriate vegetative ground cover used, and trees shall be planted at intervals no greater than 50 ft (15.24 m) on centre. New trees shall have a minimum caliper of 2 in (5.08 cm) and a minimum height of 5 ft (1.52 m). Shrubs with a minimum height of 1.5 ft (0.46 m) shall be planted in clusters of three plants or more at a minimum rate of one cluster per 50 ft (15.24 m) of frontage. Where possible, existing trees and shrubs may be retained and included in the calculation of plantings required.
- (c) Where parking areas, travel lanes or stacking lanes are adjacent to the landscaped area, additional shrubs, or low walls in combination with shrubs, shall be required in the landscaped area to screen cars from view while still allowing eye-level visibility into the site from the street. Shrubs and walls shall be maintained at 2-3 ft (0.61- 0.91 m) in height and shall be placed in continuous fashion to provide a low hedge or screen.

(d) For parking lots containing 24 or more spaces, landscaped islands with a minimum permeable surface area of 100 ft<sup>2</sup> (9.29 m<sup>2</sup>) shall be provided within the parking lot at a rate of one island per 20 parking spaces. Islands may be located at the end of banks of parking stalls or separating banks of parking stalls. Landscaped islands may include shrubs, perennials, annuals or ground cover and shall include at least one tree, having a minimum caliper of 2 in (5.08 cm) and a minimum height of 5 ft (1.52 m), per island.

(iii) Pedestrian Access

An unobstructed pedestrian walkway, having a minimum width of 5 ft (1.52 m), and constructed of concrete, asphalt, brick or other hard surface paver, shall be provided between the public sidewalk and the building entrance.

(c) Developments Considered by Development Agreement

(i) development proposals in the Wentworth Road Gateway Area in accordance with Policy 5.45 of the Municipal Planning Strategy for: large format retail stores exceeding 50,000 ft<sup>2</sup> (4,645 m<sup>2</sup>) in commercial floor area; regional shopping centres; institutional uses; mixed use; multiple unit residential; or light industrial development; (Amendment WLUB 09-02 Effective September 3, 2009)

## **PART 21      WENTWORTH ROAD COMMERCIAL (WR-C) Zone (28.0)**

(Amendment WLUB 09-02 Effective September 3, 2009)

### **21.1 Permitted Developments**

(a) Developments permitted subject to the Wentworth Road Commercial (WR-C) Zone requirements (section 21.2):

- Arts and crafts studios including photography
- Automobile service stations, car washes and repair centres
- Automobile, truck and motorcycle sales, service, or rental establishments
- Banks and financial institutions
- Building supply establishments
- Clubs and community organizations
- Commercial schools
- Country inns
- Day care centres, licensed and non-licensed
- Dry cleaning and laundry establishments
- Emergency service facilities (i.e., police, ambulance and fire stations)
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Existing residential uses
- Farm markets
- Funeral homes
- Garden and nursery sales and supplies
- Hotels and motels
- Licensed liquor establishments
- Local shopping centres containing uses permitted in the WRC zone
- Offices
- Parking structures
- Repair and rental establishments
- Residential uses (not on the ground floor)
- Restaurants, including drive-through and take-out establishments
- Retail stores
- Service and personal service shops
- Taxi, train and bus stations
- Veterinary clinics and animal hospitals

(b) Developments permitted subject to other requirements:

- (i) Residential uses as part of the same building as a commercial use are permitted provided the total floor area of the residential use does not exceed two-thirds (66 percent) of the total floor area of the building.
- (c) Developments to be Considered by Site Plan Approval
- (A) development proposals in the Wentworth Road Commercial (WR-C) Zone in accordance with Policy 5.35 of the Municipal Planning Strategy for large format retail stores with a commercial floor area not exceeding 50,000 ft<sup>2</sup> (4,645 m<sup>2</sup>) providing the following matters have been addressed: **(28.3)**
    - (i) a landscaped area, including trees, shrubs, grass and other vegetative ground cover, is provided along the front property line to act as a buffer between the development and the public street. Where parking spaces, travel lanes or stacking lanes are adjacent to the landscaped area, additional low-level screening in the form of shrubs or low walls in combination with shrubs shall be placed in continuous fashion to help screen cars from view while still allowing eye-level visibility into the site;
    - (ii) landscaped islands are provided within parking lots containing 24 or more spaces to avoid the appearance of large, unbroken expanses of asphalt. Islands may be located at the end of banks of parking stalls or separating banks of stalls;
    - (iii) the landscaping provisions of Section 20(ii) may be used as a guide in determining whether a site plan adequately addresses the criteria of Section A (i) and (ii); **(28.3 (b))**
    - (iv) safe, continuous and clearly defined pedestrian walkways are provided from the street to the primary building entrance. The walkways may be a combination of crosswalks, sidewalks and trails;
    - (v) the location, number and width of driveway accesses adequately address any traffic problems identified by the Traffic Authority for the Regional Municipality;
    - (vi) parking and loading facilities are located so as to minimize congestion within the parking lot and prevent conflicts between pedestrians or passenger vehicles and transport trucks;
    - (vii) easements required for services or access are suitably identified on the plan;
    - (viii) site grading and storm water management plans adequately address the disposal of surface water on the site. The use of raingardens, permeable

- paving and other measures to slow, store and filter stormwater is encouraged;
- (ix) facilities for the storage of solid waste shall be located so as to minimize impacts on adjacent properties and the view from the street, or shall be screened from view through landscaping or fencing, and shall comply with the Solid Waste By-law provisions;
  - (x) gas bars or other structures accessory to the large format retail store may be located in the front yard provided the landscaped area referred to in Section A (i) is maintained as a buffer between the structure and the public street;
  - (xi) the type and location of outdoor lighting provides safety and security for the structure, driveways and any pedestrian access, but is designed to ensure there is no light spilling, glare or light cast over adjacent uses and the street;
  - (xii) the location, number and size of signs is appropriate to the scale of the development, contributes to an attractive and pedestrian-friendly environment and does not create visual clutter. Ground signs shall not be located so as to interfere with safe traffic movement or visibility near driveway entrances or intersections; and
  - (xiii) the above-listed items are adequately maintained.

## 21.2 Wentworth Road Commercial (WR-C) Zone Requirements

### 21.2.1

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	25 ft (7.62 m)
<b>Minimum rear yard</b>	25 ft (7.62 m)
<b>Minimum side yard</b>	25 ft (7.62 m)
<b>Maximum height of main building</b>	3 storeys
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

### 21.2.2 Open Storage and Outdoor Display

Open storage and outdoor display shall:

- (a) be located at least 10 ft (3.05 m) from any lot line;
- (b) be accessory to a permitted commercial use; and

(c) not be located in any required parking spaces or loading spaces.

### 21.2.3 Access

Access shall be limited in accordance with Section 16.3.2.

## **PART 22 LIGHT INDUSTRIAL (LI-1) Zone (20.0)**

### **22.1 Permitted Developments**

Developments permitted subject to the Light Industrial (LI-1) Zone requirements (section 22.3):

- Any activity connected with the automotive trade other than an automotive scrap yard or automobile-related commercial recreational establishment
- Any manufacturing, industrial, assembly, or warehousing operation conducted and wholly contained within an enclosed building and which is not considered obnoxious by reason of sound, odour, dust, fumes, smoke, or other emission
- Breweries, distilleries, wineries, and accessory brewpubs and restaurants
- Building supply and equipment depots
- Bulk sales establishments
- Commercial uses conducted in the main building accessory to a permitted use
- Display courts
- Dry cleaning and laundry establishments
- Existing amusement rides listed in s. 32.5
- Farm supplies and equipment sales and service
- Fuel storage depots
- Garden and nursery sales and supplies
- Heavy equipment sales and service
- Industrial training facilities
- Manufactured home sales
- Moving and storage depots
- Municipal public works facilities
- Railway uses
- Recreation uses within a wholly enclosed building
- Recreational vehicle sales, service and rental establishments
- Recycling depots
- Research facilities
- Sales and service of manufacturing and processing machinery or equipment
- Sawmills
- Service industries
- Support services
- Transport depots

- Utility uses
- Wholesale establishments

(b) Developments permitted subject to other requirements:

(i) The following requirements shall apply to telecommunications towers in the Light Industrial (LI-1) Zone:

- (a) the tower and any accessory building shall meet the minimum yard requirements;
- (b) the tower base, accessory building and any guy wire anchors shall be enclosed by fencing;
- (c) the lot shall be landscaped to reduce the impact on adjacent uses; and

(d) where a tower exceeds 100 ft (30.48 m) in height, the setback for the tower base shall be the height of the tower plus 25 ft (7.62 m) from any lot line or any building.

### 22.3 Light Industrial (LI-1) Zone Requirements

#### 22.3.1

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	30 ft (9.14 m)
<b>Minimum rear yard</b>	30 ft (9.14 m)
<b>Minimum side yard</b>	10 ft (3.05 m)
<b>Minimum distance between buildings or structures</b>	15 ft (4.57 m)*
<b>Maximum building height</b>	40 ft (12.19 m)

\*When fire resistant walls are constructed, distance requirements may be reduced to zero.

#### 22.3.2 Lots Abutting a Non-Industrial Zone (20.3 and 20.4)

(a) Where a lot in the Light Industrial (LI-1) Zone abuts a residential or Institutional (I) Zone the following provisions shall apply:

- (i) the industrial use shall be set back from the abutting lot line a minimum of 20 ft (6.10 m);
- (ii) the property shall be landscaped to ensure that no unstable or exposed soils exist; and
- (iii) the part of the lot directly adjoining the residential or Institutional (I) Zone shall be used for no purpose other than a planting strip having a minimum width of 5 ft (1.52 m) measured perpendicular to said lot line.

(b) Where the yard of a lot within the Light Industrial (LI-1) Zone abuts a railway line, no setback shall be required from the abutting lot line.

### 22.3.3 Access

Access shall be limited in accordance with Section 16.3.2.

## **PART 23      JOINT INDUSTRIAL TYPE TWO (LI-2) Zone (21.0)**

### **23.1 Permitted Developments**

(a) Developments permitted subject to the Joint Industrial Type Two (LI-2) Zone requirements (section 23.3):

- Ambulance service
- Animal hospitals and veterinarian establishments
- Animal shelters
- Any manufacturing, industrial, assembly, or warehousing operation conducted and wholly contained within an enclosed building and which is not considered obnoxious by reason of sound, odour, dust, fumes, smoke, or other emission
- Any activity connected with the automotive trade other than an automotive scrap yard or automobile-related commercial recreational establishment
- Brewery – Commercial (Amended WLUB 18-01 Effective January 29, 2019)
- Building supply and equipment depots
- Business and professional offices excluding doctor, dentist and lawyer offices, financial institutions, real estate offices, and personal service office uses such as beauty consultants
- Chemical and chemical products
- Commercial uses accessory to a main use permitted which is conducted in the main building
- Courier services
- Display courts
- Distillery – Commercial (Amended WLUB 18-01 Effective January 29, 2019)
- Existing donut shop
- Farm implement sales, service and repair
- Fencing and fence erectors
- Fuel storage depots
- Garden and nursery sales and supplies
- Government establishments except retail outlets
- Indoor recreation establishments
- Industrial training facilities
- Laundry and dry cleaning establishments
- Manufacturing and processing machinery or equipment, sales and service
- Marine sales, service & repair
- Mircobrewery (Amended WLUB 18-01 Effective January 29, 2019)

- Microdistillery (Amended WLUB 18-01 Effective January 29, 2019)
- Mobile homes sales and service
- Moving and storage depots
- Railway uses
- Research facilities
- Recreation vehicles sales and service
- Recycling depots
- Service industries
- Support services
- Taxi and bus depots
- Transportation depots
- Utility facilities
- Winery – Commercial (Amended WLUB 18-01 Effective January 29, 2019)
- Winery (Amended WLUB 18-01 Effective January 29, 2019)
- Wholesaling and wholesale sales

(b) Developments permitted subject to other requirements:  
(None)

(c) Developments Considered by Development Agreement

(j) new large format retail stores in the Joint Industrial Type Three (LI-3) Zone in accordance with Policy 5.46 of the Municipal Planning Strategy; (Amendment WLUB 09-02 Effective September 3, 2009)

### 23.3 Joint Industrial Type Two (LI-2) Zone Requirements

#### 23.3.1

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	30 ft (9.14 m)
<b>Minimum rear yard</b>	30 ft (9.14 m)
<b>Minimum side yard</b>	10 ft (3.05 m)
<b>Minimum distance between buildings or structures</b>	15 ft (4.57 m)*
<b>Maximum building height</b>	40 ft (12.19 m)

\*When fire resistant walls are constructed, distance requirements may be reduced to zero.

#### 23.3.2 Lots Abutting a Non-Industrial Zone

Where a lot in the Joint Industrial Type Two (LI-2) Zone abuts a residential or institutional zone the provisions of Section 22.3.2 shall apply.

## **PART 24      JOINT INDUSTRIAL TYPE THREE (LI-3) Zone (22.0)**

### **24.1 Permitted Developments**

- (a) Developments permitted subject to the Joint Industrial Type Three (LI-3) Zone requirements (section 24.3):
- Animal hospitals and veterinarian establishments
  - Any activity connected with the automobile trade other than an automotive scrap yard, or automobile-related commercial recreational establishment
  - Brewery – Commercial (Amended WLUB 18-01 Effective January 29, 2019)
  - Banks and financial institutions
  - Building supply and equipment depots
  - Business and professional offices
  - Commercial uses accessory to a permitted main use which is conducted in the main building
  - Courier services
  - Display courts
  - Distillery – Commercial (Amended WLUB 18-01 Effective January 29, 2019)
  - Farm implement sales, service and repair
  - Fencing and fence erectors
  - Garden nursery sales and supplies
  - Government establishments
  - Grocery stores
  - Hardware stores
  - Hotels/motels
  - Indoor recreation establishments
  - Industrial training classroom facilities
  - Laundry and dry cleaning establishments
  - Manufacturing and processing machinery or equipment, sales and service
  - Marine sales, service and repair
  - Microbrewery (Amended WLUB 18-01 Effective January 29, 2019)
  - Microdistillery (Amended WLUB 18-01 Effective January 29, 2019)
  - Personal service shops
  - Recreation vehicles, sales and service
  - Restaurants, drive-in restaurants
  - Retail stores

- Service industries
- Service shops
- Support services
- Taxi and bus depots
- Wholesaling and wholesale sales
- Winery – Commercial (Amended WLUB 18-01 Effective January 29, 2019)
- Winery (Amended WLUB 18-01 Effective January 29, 2019)

### 24.3 Joint Industrial Type Three (LI-3) Zone Requirements 24.3.1

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	25 ft (7.62 m)
<b>Minimum rear yard</b>	25 ft (7.62 m)
<b>Minimum side yard</b>	15 ft (4.57 m)
<b>Minimum distance between buildings or structures</b>	15 ft (4.57 m)*
<b>Maximum height of main building</b>	35 ft (10.67 m)
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

\*When fire resistant walls are constructed, distance requirements may be reduced to zero.

#### 24.3.2 Lots Abutting a Non-Industrial Zone

Where a lot in the Joint Industrial Type Three (LI-3) Zone abuts a residential or institutional zone the provisions of [Section 22.3.2](#) shall apply.

In addition, in the Joint Industrial Type Three (LI-3) Zone no open storage shall be permitted in an abutting side yard.

#### 24.3.3 Access

Access shall be limited in accordance with [Section 16.3.2](#).

**PART 25 FAIRGROUND (FG) Zone (23.0)**

**25.1 Permitted Developments**

(a) Developments permitted subject to the Fairground (FG) Zone requirements (Section 25.2):

- Arenas
- Campgrounds
- Exhibition grounds
- Hotels and motels
- Livestock barns
- Recreation uses

(b) Developments permitted subject to other requirements:  
(None)

**25.2 Fairground (FG) Zone Requirements**

<b>Minimum lot area</b>	3 acres (1.21 ha)
<b>Minimum front yard</b>	30 ft (9.14 m)
<b>Minimum rear yard</b>	30 ft (9.14 m)
<b>Minimum side yard</b>	20 ft (6.10 m)
<b>Minimum distance between buildings or structures</b>	15 ft (4.57 m)*
<b>Maximum height of main building(s) or any structure(s)</b>	40 ft (12.19 m)

\*When fire resistant walls are constructed, distance requirements may be reduced to zero.

**PART 26 INSTITUTIONAL (I) Zone (24.0)**

**26.1 Permitted Developments**

(a) Developments permitted subject to the Institutional (I) Zone requirements (section 26.2):

- Any institutional use which is incorporated under the *Societies Act*
- Armouries
- Churches and associated halls
- Colleges, universities and schools, including school dormitories
- Community centres
- Community service clubs and organizations
- Courthouses
- Emergency services facilities (i.e. police, ambulance and fire stations)
- Government offices
- Homes for special care
- Hospitals and medical clinics
- Indoor and outdoor recreation uses
- Libraries, museums and art galleries
- Residences accessory to permitted uses
- Senior citizen housing
- Tourist bureaus

(b) Developments permitted subject to other requirements

(None)

**26.2 Institutional (I) Zone Requirements**

No development permit shall be issued except in conformity with the following:

<b>Minimum lot area</b>	24,000 ft <sup>2</sup> (2,229.60 m <sup>2</sup> )
<b>Minimum lot frontage</b>	120 ft (36.58 m)
<b>Minimum front yard</b>	30 ft (9.14 m)
<b>Minimum rear yard</b>	30 ft (9.14 m)
<b>Minimum side yard</b>	30 ft (9.14 m)
<b>Maximum height of main building</b>	3 storeys
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

**PART 27      OPEN SPACE (OS) Zone (25.0)**

**27.1    Permitted Developments**

(a)      Developments permitted in accordance with the Open Space (OS) Zone requirements (section 27.2):

- Cemeteries
- Historic sites and museums
- Outdoor recreation uses
- Parks and playgrounds
- Uses, buildings and structures necessary for the prevention of floods, soil erosion and other related activities

**27.2    Open Space (OS) Zone Requirements**

Where a lot in the Open Space (OS) Zone abuts any other zone, no building shall be erected within 4 ft (1.22 m) of the abutting side or rear lot line.

**PART 28      AGRICULTURE (AG) Zone (26.0)**

**28.1 Permitted Developments**

(a) Developments permitted in accordance with the Agriculture (AG) Zone Requirements:

- Agricultural uses and structures, except new intensive livestock operations
- Commercial riding stables
- Existing intensive livestock operations listed in s. 32.6
- Non-permanent facilities for sale of produce, as an accessory use
- Single unit dwelling accessory to an ongoing agricultural operation
- Telecommunications towers and accessory buildings

(b) Developments permitted subject to other requirements:

**(i) Intensive Livestock Operations (26.3, 26.4, 26.5, 26.6)**

- (a) No building or structure housing an intensive livestock operation, manure storage facility for an intensive livestock operation, or burial site or incinerator for the disposal of dead animals shall be located within:
- (b) 1,000 ft (304.80 m) of a non-agricultural residential, commercial or institutional building;
- (ii) 200 ft (60.96 m) of an adjacent property, other than another agricultural property containing an intensive or non-intensive livestock operation or another property that is part of the agricultural operation under consideration;
- (iii) 300 ft (91.44 m) from any water well or watercourse; and
- (iv) 40 ft (12.19 m) from any edge of property on which an intensive livestock operation is located.
- (c) Nothing in this By-law shall prevent the expansion of an existing intensive livestock operation, including the construction of new barns or manure storage facilities, provided the yard and separation distance requirements set out in Section 28.(b) (i) are met or such expansion does not further reduce any yards or separation distances that do not conform.
- (d) The separation distances set out in Section 28 (b) (i) may be waived to allow for the expansion of an existing intensive livestock operation,

including the construction of new barns and manure storage facilities, provided that:

- (i) the total number of livestock involved in the operation does not exceed the equivalent of 50 animal units;
  - (ii) the applicant has submitted an environmental site assessment and plans, signed and sealed by a qualified professional specializing in agricultural engineering in accordance with the *Engineering Profession Act*, which show there is no increased pollution risk associated with the project, manure management and storage capacity are adequate for the current and proposed size and type of operation, and contaminated runoff is eliminated or properly contained; and
  - (iii) following construction, the applicant provides a certificate from a professional engineer which shows that construction has been completed in accordance with the plans submitted under Section 28 (d) (ii).
- (d) No new dwelling in the Agriculture (AG) Zone shall be constructed within 500 ft (152.40 m) of an existing intensive livestock operation. This provision shall not apply to single unit dwellings accessory to an agricultural operation.
- (iii) **Non-Intensive Livestock Operations (26.7, 26.8 and 26.9)**
- (a) No building or structure housing a non-intensive livestock operation shall be located within:
    - (i) 40 ft (12.19 m) of an adjoining property; and
    - (ii) 100 ft (30.48 m) of a water well or watercourse.
  - (b) Manure storage for a non-intensive livestock operation shall be located a minimum of 100 ft (30.48 m) from an adjoining property unless contained in a concrete enclosure that is a minimum of 5 ft (1.52 m) in height, in which case manure storage shall be located a minimum of 50 ft (15.24 m) from an adjoining property. Manure storage shall not be located within 100 ft (30.48 m) of a water well or watercourse.
  - (c) For lots 10 acres (4.05 ha) or less in size in the Agriculture (AG) Zone, the maximum number of animal units permitted for a non-intensive livestock operation shall not exceed one (1) animal unit for the first full acre and

an additional one (1) animal unit for each additional full half acre thereafter, to a maximum of ten (10) animal units.

(iv) **Telecommunication Towers (26.11)**

The following requirements shall apply to telecommunications towers in the Agriculture (AG) Zone:

- (a) the tower and any accessory building shall meet the minimum yard requirements;
- (b) the tower base, accessory building and any guy wire anchors shall be enclosed by fencing;
- (c) the lot shall be landscaped to reduce the impact on adjacent uses; and
- (d) where a tower exceeds 100 ft (30.48 m) in height, the setback for the tower base shall be the height of the tower plus 25 ft (7.62 m) from any lot line or any building.

(v) **Dwellings Accessory to an Agricultural Operation (26.12)**

More than one (1) dwelling shall be permitted on a lot in the Agriculture (AG) Zone where such dwellings are accessory to an ongoing agricultural operation. Such dwellings shall be permitted only for the use of an employee, an owner of the property or a family member directly involved in the agricultural operation.

**28.2 Agriculture (AG) Zone Requirements**

28.2.1

	<b>Agricultural uses and riding stables</b>	<b>All other uses</b>
<b>Minimum lot area</b>	20 acres (8.09 ha)	5 acres (2.02 ha)
<b>Minimum lot frontage</b>	100 ft (30.48 m)	100 ft (30.48 m)
<b>Minimum front yard</b>	40 ft (12.19 m)	25 ft (7.62 m)
<b>Minimum rear yard</b>	40 ft (12.19 m)	25 ft (7.62 m)
<b>Minimum side yard</b>	40 ft (12.19 m)	10 ft (3.05 m)
<b>Maximum height of main building</b>	55 ft (16.76 m)	35 ft (10.67 m)
<b>Maximum height of accessory building</b>	55 ft (16.76 m)	15 ft (4.57 m)

**28.2.2 Topsoil Removal (26.10)**

The removal of topsoil shall be prohibited except where incidental to sod farming operations, plant nurseries and excavation associated with the construction of buildings or infrastructure.

## **PART 29 ENVIRONMENTAL CONSTRAINTS AREA (ECA) Overlay (27.0)**

### **29.1 Environmental Study**

In areas included in the Environmental Constraints Area (ECA) Overlay, no development permit shall be issued for any new main building, or any new accessory building larger than 800 ft<sup>2</sup> (74.32 m<sup>2</sup>) in total floor area, for a use permitted in the underlying zone until an environmental study as described in Policy 8.2 of the Municipal Planning Strategy has been completed and submitted to the Development Officer.

### **29.2 Dykeland**

Where a property is included in the Environmental Constraints Area (ECA) and is designated dykeland under the *Nova Scotia Agricultural Marshland Conservation Act*:

- (a) no development permit shall be issued unless such development is permitted under the *Nova Scotia Agricultural Marshland Conservation Act*;
- (b) no development permit shall be issued for:
  - (i) new residential institutions such as hospitals, senior citizen homes, homes for special care and similar facilities where flooding could pose a significant threat to the safety of residents if evacuation became necessary; and
  - (ii) any new use associated with the warehousing or the production of hazardous materials.
- (c) infilling, topsoil removal and alteration of topography shall not be permitted, except as necessary for:
  - (i) construction and maintenance of dykes, aboiteaux, ditches, drains, roads and other works necessary for the prevention of flooding and the protection of dykeland;
  - (ii) the maintenance, repair and expansion of public and private roads, highways, driveways and parking areas existing as of March 6, 2002;
  - (iii) the reasonable construction of new driveways, building sites and parking areas where the Development Officer has approved the issuance of a development permit in accordance with the requirements of Sections 29.1 or 29.4;
  - (iv) construction of sports fields, golf courses, boat launches, trails and other recreational uses which require a limited amount of infilling and alteration of topography, but do not require buildings;

- (v) the creation and maintenance of wetlands for the purposes of recreation and wildlife habitat enhancement;
  - (vi) farmland improvement including dykeland land forming carried out in accordance with generally accepted farming practices; or
  - (vii) the construction of new public streets shown on an approved subdivision plan.
- (d) no infilling, topsoil removal or alteration of topography carried out under **Section 29.2 (c)** herein shall impede drainage or flow of flood water or unnecessarily reduce flood water storage capacity.

### **29.3 Flood Proofing Measures**

Where a building has been constructed using flood proofing measures or other construction methods in accordance with an environmental study required under Section 29.1, any future alterations or additions shall also follow the construction methods set out in the environmental study.

### **29.4 Existing Buildings**

Where a building or structure was erected in an Environmental Constraints Area on or before March 6, 2002:

- (a) the building may be enlarged, reconstructed, repaired or renovated provided all other applicable requirements of this By-law are satisfied; and
- (b) the use of the building may be changed to a use permitted in the underlying zone, except where such use is:
  - (i) a residential institution such as a hospital, senior citizen home, home for special care or similar facility where flooding could pose a significant threat to the safety of residents if evacuation became necessary; or
  - (ii) any use associated with the warehousing or the production of hazardous materials.

**PART 30      ARCHITECTURAL CONTROL DISTRICTS Overlay (30.0)**

**30.1    Architectural Design Manual**

In areas included in the Architectural Control District, no development permit shall be issued except in compliance with the provisions of the *Windsor Architectural Design Manual* and all other applicable requirements of this By-law. Where there is a conflict, the provisions of the *Windsor Architectural Design Manual* shall take precedence.

**PART 31      DEFINITIONS (31.0)**

For the purpose of this By-law, all words shall carry their customary meaning except for those defined hereafter.

- Abattoir**                      means a building or structure, or part thereof, used for the slaughtering of animals;
  
- Accessory Apartment**      means a self-contained dwelling unit within or attached to a main dwelling in such a way as to maintain the appearance of the structure as a single unit dwelling;
  
- Accessory Building or Structure**  
  
   means a subordinate building or structure on the same lot as the main building, devoted exclusively to an accessory use, but does not include a building attached in any way to the main building, a building located completely underground or a motor vehicle, truck body, transport trailer or any part thereof;
  
- Accessory Use**                means the use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot (Amendment WLUB 18-01 Effective January 29, 2019);
  
- Agricultural Building or Structure**  
  
   means a building or structure devoted exclusively to an agricultural use, but shall not include an abattoir;
  
- Agricultural Use**              means the use of land, buildings or structures for raising crops, livestock or fowl for gain or reward. This definition does not apply to an “urban agricultural use” as defined herein (Amendment WLUB 16-01 Effective April 17, 2017);
  
- Amusement Arcade**         means a building, or part thereof, in which pinball machines, video games or other similar player-operated amusement devices are maintained;
  
- Amusement Rides**            means mechanically or electrically operated devices that carry or convey passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure or excitement;

**Animal Unit**

means one or more farm animals as specified in the following table:

Type of Livestock	Number Deemed Equal to One (1) Animal Unit
Dairy Cows	1.5
Dairy Heifers	2
Beef Cows	2
Beef Feeders (150 - 500 kg)	4
Veal Calves	25
Bulls	1
Horses	1
Sheep	10
Sows Breeding/Gestation	5
Sows (Farrow to Finish)	1
Sows (Farrow to Wean)	4
Weaners	50
Hogs (Feeders)	10
Laying Hens (whole year)	500
Broiler Chickens	1,000
Turkey Broilers (5 kg)	300
Mink (female including young)	200
Rabbits (female including young)	40
Llamas/Alpacas	8
Ostrich/Emus	5

**Arena**

means a building, location or premises in which to view or participate in sporting or entertainment events including, but not limited to, a rink, floor or ice surface, spectator seating areas, dressing rooms, washrooms, canteen facilities, lobbies and hallways;

**Arts and Crafts Studio**

means a building, or part thereof, used for the production of, or the production and sale of, works of art or crafts made by hand;

**Auto Body Repair Shop**

means a building used for the repair of body work, detailing and painting of automobile bodies;

**Automobile Sales Establishment**

means a building or part of a building or space on a lot used for retail sales or rental of motor vehicles and motor vehicle accessories, and includes a public garage and repair shop;

**Automobile Service Station**

means a building or a clearly defined space on a lot used for the sale of lubricating oils and gasoline and may include the sale of automobile accessories, space for the repair of automobiles, a car wash facility and a convenience store;

**Automobile Washing Establishment**

means a building or part thereof used for the operation of automobile washing equipment which is automatic or semi automatic;

**Average Grade**

means the average of the neighbouring street elevations on the street which the building fronts;

**Bed and Breakfast**

means a single unit dwelling in which the resident supplies, for compensation, not more than four rooms for the temporary accommodation of the travelling public;

**Block**

means the smallest unit of land which is bound entirely by public streets, rivers, railroads, public parks or any combination thereof;

**Boarding or Rooming House**

means a single unit dwelling in which the resident supplies, for compensation, either room or room and board in more than two rooms but not more five rooms, exclusive of those for the resident and family, and which is not open to the travelling public;

**Brewery – Commercial**

means a brewery or cidery engaged in the production of more than 15,000 hectolitres per year of beer or other related beverages where the primary business function is to sell packaged product to the Nova Scotia Liquor Commission and thence to the general public through retail liquor stores or for export (Amendment WLUB 18-01 Effective January 29, 2019);

**Building**

means any structure, whether temporary or permanent, used or built for the shelter, accommodation or enclosure of persons, animals, material or equipment. Any tent, awning, bin, bunker, platform,

vessel or vehicle used for any of the said purposes shall be deemed a building;

**Bulk Sales Establishment** means the use of land, a building or structure for the purpose of buying and selling lumber, wood, building materials, feed, fertilizer, ice and similar material;

**By-law** means this By-law which is the Windsor Land Use By-law;

**Catering Establishment** means an establishment primarily involved in the preparation and transfer of finished food products for immediate consumption upon delivery to off-premises destinations only;

**Church** means a building dedicated to any religious worship and includes an associated hall, auditorium, Sunday School, day nursery or residence operated by the church on the same lot or an adjacent lot;

**Clinic** means a building or part of a building used for the medical, dental, surgical or therapeutic treatment of human beings, but does not include a public or private hospital or a professional office of a doctor located in his/her residence;

**Commercial School** means an establishment which provides instruction for profit or gain including, but not limited to, secretarial schools, dance, music, drama, and arts and crafts schools, and business and trade schools;

**Convenience Store** means a retail store that serves the primary needs of the adjacent neighbourhood and includes the sale of magazines, confectionary items and grocery items and may include a snack bar, dry cleaning drop-off depot and video rentals;

**Commercial Use** means the use of a building for the purpose of buying and selling goods and supplying services;

**Council** means the Council of the Region of Windsor and West Hants Municipality;

**Country Inn** means a building with three or more rooms for the temporary accommodation of the travelling public for gain or profit and may include a public dining room and/or guest house;

<b>Cultural Use</b>	means the use of land or a building for natural, artistic, historic, educational, or cultural interest and may include archives, libraries, museums, galleries, theatres, studios and botanical gardens;
<b>Day Care Centre</b>	means a building where children are cared for on a daily basis, for compensation, without overnight accommodation, but does not include a school.  (a) <b>Non-Licensed Day Care Centre</b> serves fewer than six (6) children;  (b) <b>Licensed Day Care Centre</b> serves six (6) or more children and is licensed by the Province under the <i>Day Care Act</i> ;
<b>Depth</b>	means a specified distance along a horizontal plane towards the interior of a building or a lot from a streetline or lot line;
<b>Development</b>	includes the erection, construction, alteration, placement, location, replacement, or relocation of, or addition to a structure and a change or alteration in the use made of land or structures;
<b>Development Officer</b>	means the person or persons appointed by the Regional Municipality to administer this By-law;
<b>Display Court</b>	means a display of goods on a lot for the purpose of encouraging the purchase of the display items, or items similar to the display items, and without limiting the generality of the foregoing, such displays would include displays of cars, trucks, vans, motor homes, mobile homes, trailers, boats, snowmobiles, motorcycles, swimming pools, garden ornaments, and prefabricated cottages or homes;
<b>Distillery - Commercial</b>	means a facility in the production of more than 75,000 litres per year of liquor and spirits, other than wine or beer, where the product is blended or bottled for sale to the Nova Scotia Liquor Commission or for export (Amendment WLUB 18-01 Effective January 29, 2019);
<b>Driveway</b>	means a vehicle access provided between a street or lane and a parking area or a loading space, or between two parking areas, but does not include a parking aisle;
<b>Dwelling</b>	means a building, occupied or capable of being occupied as a home, residence, or sleeping place by one or more persons, containing one

(1) or more dwelling units, and shall not include a hotel, motel, apartment hotel, recreation vehicle, or travel trailer;

**Dwelling, Apartment** means a building or part thereof, other than a converted dwelling, consisting of three (3) or more dwelling units, which have a common entrance from the street level;

**Dwelling, Converted** means a building originally built and designed as a single unit dwelling which has been converted to two (2) or more dwelling units;

**Dwelling, Duplex** means a building that is divided horizontally into two (2) dwelling units each of which has an independent entrance directly or through a common vestibule;

**Dwellings, Grouped** means two or more dwelling units which are contained in two (2) or more buildings designed to be part of a group of dwellings clustered on a single lot;

**Dwelling, Semi Detached Duplex**

means a building that consists of two (2) duplexes attached to each other;

**Dwelling, Semi Detached**

means a building that is divided vertically into two (2) dwelling units each of which has an independent entrance;

**Dwelling, Single Unit** means a building consisting of one (1) dwelling unit which is constructed wholly on the site from basic materials or from components transported to the site, which is not intended or designed to be removed from the site, and is freestanding, separate and detached from other main buildings or structures;

**Dwelling, Townhouse** means a building that is divided vertically into three (3) or more dwelling units, each of which has independent entrances to a front and rear yard, immediately abutting the front and rear walls of each dwelling unit;

**Dwelling, Triplex** means a building that is divided horizontally into three (3) dwelling units, each of which has an independent entrance directly or through a common vestibule;

<b>Dwelling, Two Unit</b>	means a completely detached building containing only two (2) dwelling units;
<b>Dwelling Unit</b>	means one (1) or more habitable rooms designed or intended to be used by one (1) or more individuals as a separate and independent housekeeping place in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals, with a private entrance from outside of the building or from a common hallway or stairway inside the building;
<b>Erect</b>	means to build, construct, reconstruct, alter or relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, or structurally altering any existing building or structure by an addition, deletion, enlargement or extension;
<b>Exhibition Grounds</b>	means an area used for the temporary display, demonstration and sale of arts, crafts, livestock, commercial or industrial products, recreational vehicles or automobiles, and may include amusement rides, amusement arcades or recreation areas;
<b>Existing</b>	means legally existing on the effective date of this By-law;
<b>Farm Market</b>	means a building or part thereof in which farm produce comprises the major portion of goods offered or kept for sale directly to the public at retail value;
<b>Fill</b>	means natural earth or gravel material deposited on a lot to alter the land level and contour of the lot;
<b>Floor Area</b>	with reference to a dwelling means the maximum area contained within the outside walls excluding any private garage, porch, veranda, sunroom, unfinished attic, basement or cellar, or other room not habitable at all seasons of the year;
<b>Floor Area, Commercial</b>	means the total useable floor area within a building used for commercial purposes but excludes washrooms, utility and mechanical rooms, storage rooms and common malls between stores;

<b>Floor Area, Gross</b>	means the aggregate of the floor areas of a building above or below grade, measured between the exterior faces of the exterior walls of the building at each floor level but excluding car parking areas within the building; and for the purpose of this clause, the walls of an inner court shall be deemed to be exterior walls;
<b>Floor Area Ratio</b>	means the gross area of all floors in a building, measured from the outside of external walls, divided by the area of the lot.
<b>Fuel Storage Depot</b>	means the bulk storage of petroleum gasoline, fuel oil, gas or inflammable liquid or fluid legally and properly kept in a tank for storage;
<b>Guest House</b>	means a building without kitchen facilities on the same lot as a country inn which is used for the temporary accommodation of the travelling public;
<b>Hazardous Material</b>	means a material which, by reason of its properties, is a hazard to health or to the environment and which is explosive, gaseous, flammable, poisonous, radioactive, corrosive, oxidizing or leachable, or is designated as a hazardous material under federal or provincial legislation;
<b>Height</b>	<p>means the vertical distance on a building between the established grade and:</p> <p>(a) the highest point of the roof surface or the parapet, whichever is the greater, of a flat roof;</p> <p>(b) the deckline of a mansard roof; or</p> <p>(c) the mean level between eaves and ridges of a gabled hip, gambrel or other type of pitched roof;</p> <p>but shall not include any construction used as ornament or for the mechanical operation of the building, a mechanical penthouse, chimney, tower, cupola or steeple; (Amendment WLUB 07-02 Effective September 21, 2007)</p>
<b>Home-Based Business</b>	means the accessory use of a dwelling by any resident of that dwelling unit for gainful employment involving the production, sale, or provision of goods and services, on a small scale;

<b>Home for Special Care</b>	means a nursing home, a home for the aged, a home for the disabled or a residential care facility as defined in The Homes for Special Care Act;
<b>Hospital</b>	means an institution for the treatment of persons afflicted with or suffering from sickness, disease or injury;
<b>Hotel</b>	means a building with six or more units that are internally accessible with private bathrooms used to accommodate the travelling public, for gain or profit, by supplying them with sleeping accommodation with or without meals;
<b>Housing Affordability</b>	means all types of housing whereby the provincial government provides some form of subsidy or rent assistance, including public, non-profit and co-operative housing, as well as rent supplements for people living in private market housing;
<b>Institutional Use</b>	means the use of land, buildings or structures for a public or non-profit purpose and, without limiting the generality of the foregoing, may include such uses as schools, places of worship, public hospitals and government buildings, but shall not include a private club;
<b>Kennel</b>	means a lot, building or structure on or within which four or more domesticated animals are housed, groomed, bred, boarded, trained or sold for monetary gain and which may offer provisions for minor medical treatment;
<b>Kiosk</b>	means a small structure, open at one or more sides, used for the display and retail sale of goods, merchandise or farm produce, or for the limited preparation and sale of food or beverages, but shall not include a motor vehicle;
<b>Landscaped Open Space</b>	means the open space which is used for the growth and maintenance of grass, flowers, shrubbery and other landscaping including any surfaced walk, patio and similar area and not occupied by a building or used as a driveway or parking space;
<b>Landscaping</b>	means the use of any combination of horticultural elements, decorative stone work, paving, fencing or other architectural elements to enhance the visual quality of a property or to provide a visual barrier between one property and another;

### **Livestock Operation, Intensive**

means an agricultural use in which a minimum of 20 animal units are confined to a barn, feedlot or other facility for feeding, breeding, milking, holding for eventual sale, or egg production. Combinations of different types of livestock are allowed provided the maximum number of animal units is not exceeded;

### **Livestock Operation, Non-intensive**

means an agricultural use consisting of not more than 19 animal units. Combinations of different types of livestock are allowed provided the maximum number of animal units is not exceeded. This definition does not apply to an “urban agricultural use” as defined herein (Amendment WLUB 16-01 Effective April 17, 2017);

### **Loading Space**

means an unencumbered area of land provided and maintained upon the same lot or lots upon which the principal use is located and which area:

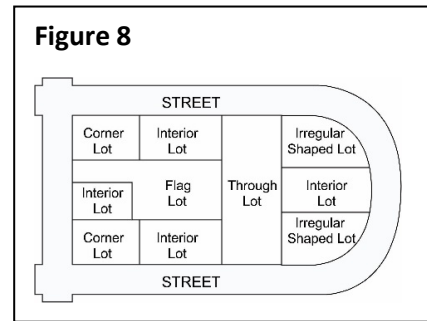
- (a) is suitable for the temporary parking of one commercial motor vehicle while merchandise or materials are being loaded or unloaded from such vehicle, and such parking shall not be for the purpose of sale or display;
- (b) is not upon or partly upon any street or highway; and
- (c) has adequate access to permit ingress and egress by means of driveways, aisles, manoeuvring area or similar areas, no part of which shall be used for the temporary parking or storage of one or more motor vehicles;

### **Local Commercial**

means a small scale commercial operation that serves a relatively small market area and is of a local nature and, without limiting the generality of the foregoing, may include convenience stores and art/craft/antique and personal service shops. For the purpose of this By-law, local commercial uses may include other uses which have traditionally been considered local commercial even though they may serve an extended market and which are compatible with residential areas such as licensed day care centres, country inns, small restaurants or cafes, offices and video stores;

**Lot** means a parcel of land described in a deed or as shown on a registered plan of subdivision (see **Figure 8**);

**Lot, Corner** means a lot situated at the intersecting corner of two or more streets. The shorter lot line shall be deemed the front line of the said lot;



**Lot, Interior** means a lot abutting only one street the full width of the lot;

**Lot, Through** means a lot that is not a corner lot that abuts two streets;

**Lot Area** means the total horizontal area within the lot lines of a lot;

**Lot Area, Minimum** means the smallest allowable area a lot can be created;

**Lot Coverage** means the percentage of the lot that is covered by buildings, also known as the building footprint; maximum lot coverage means the largest allowable area that can be covered by any building or buildings on a lot;

**Lot Frontage** means the length of a line between the two side lot lines measured at the front of the lot; minimum lot frontage means the shortest allowable distance lot frontage can be measure (**Section 4.5**);

**Lot Line** means a boundary line of a lot:

- (a) **Exterior** means a side lot line which abuts the street on a corner lot;
- (b) **Front** means the line dividing the lot from the street; in the case of a corner lot, the shorter boundary line abutting the street shall be deemed the front lot line and the longer boundary line abutting the street shall be deemed the side lot line and where such lot lines are of equal length, the front lot line shall be either of the lot lines. In the case of a through lot, any boundary dividing the lot from a street shall be deemed to be the front lot line;
- (c) **Rear** means the lot line furthest from or opposite to the front lot line;
- (d) **Side** means a lot line other than a front or rear lot line;

<b>Low-rise Building</b>	means a building or that portion of a building that is less than 11 m (36 ft) in height;
<b>Main Building</b>	means the building on a lot in which the principal use of the lot is carried out;
<b>Main Wall</b>	means the exterior front, side or rear wall of a building, and all structural members essential to the support of a fully or partially enclosed space or roof;
<b>Microbrewery</b>	means a craft brewery or cidery primarily engaged in the production and packaging of less than 15,000 hectolitres per year of specialty or craft beer, ale, cider or other related beverages. The facility may include accessory uses such as retail sale, wholesale, tours and events or hospitality room where beverages produced at the facility can be sampled (Amendment WLUB 18-01 Effective January 29, 2019);
<b>Microdistillery</b>	means a craft distillery primarily engaged in the production and packaging of less than 75,000 litres per year of liquor and spirits, other than wine or beer. The facility may include accessory uses such as retail sale, wholesale, tours and events or hospitality room where beverages produced at the facility can be sampled (Amendment WLUB 18-01 Effective January 29, 2019);
<b>Motel</b>	means a building or a group of buildings with three or more units, each with external access, and private bathrooms, used to accommodate the travelling public, for gain or profit, by supplying them with sleeping accommodation;
<b>Non-Conforming</b>	means a use, building or structure or part thereof which does not conform or comply with the permitted uses and regulations of this By-law as of the effective date;
<b>Obnoxious Use</b>	means a use which, from its nature or operation, creates a nuisance, pollution or is offensive by the creation of noise or vibration, or by reason of the emission of gas, fumes, dust, oil or objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material;
<b>Office (Business)</b>	means a building or part thereof in which one or more persons is employed in the management, direction or conducting of a public or

private agency, a business, a brokerage or a labour or fraternal organization including, but not so as to limit the generality of the foregoing, an office accessory to a permitted non-residential use, a bank or other financial institution, the premises of a real estate or insurance agency, a data processing establishment, a newspaper publisher or a radio or television broadcasting station and related studios or theatres, but does not include a retail store or a professional office;

- Office (Professional)** means a building or part thereof in which a legal, medical or other personal professional service is performed or consultation given including, but not necessarily restricted to, a clinic and the offices of a lawyer, an architect, surveyor, engineer or a chartered accountant, but does not include a personal service shop, a business office or a veterinary clinic;
- Open Space** means land that has been reserved for the purpose of formal and informal sport and recreation, leisure, preservation of natural environments, and the provision of green space;
- Open Storage** means the outdoor storage of merchandise, goods or inventory of any kind, materials, equipment or other items not intended for immediate sale;
- Outdoor Display** means the display of goods or merchandise in the open air which are available for sale to the general public from a retail store on the same lot;
- Park** means an area reserved for passive recreational uses with limited need for accessory buildings or structures;
- Parking Area** means an open area containing parking spaces, other than a street, for two or more motor vehicles, available for public use or as an accommodation for clients, customers or residents and which has adjacent access to permit ingress or egress of motor vehicles to a street or highway by means of driveways, aisles or manoeuvring areas where no parking or storage of motor vehicles is permitted;
- Parking Space** means a space, exclusive of driveways, ramps or aisles, to park one vehicle for purposes other than the display or offering of sale of commodities;

**Person** includes an individual, association, firm, partnership, corporation, organization or group and includes any person legally representing these;

**Personal Service Shop**

means a building or part of a building in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons, and without limiting the generality of the foregoing may include the premises of a barber, hairdresser, beautician, masseur, tailor, dressmaker and shoemaker, as well as a sun tanning shop, a formal rental shop and depots for collecting dry cleaning and laundry, but excludes any manufacturing or fabrication of goods for sale. The sale of merchandise shall be permitted only as an accessory use to the personal service provided;

**Pilaster** means a rectangular column that usually projects about a third of its width from the wall to which it is attached;

**Planting Strip** means an area of landscaped open space located immediately adjacent to a lot line or portion thereof and on which is situated one or more of the following:

- (a) a continuous row of trees;
- (b) a continuous hedge of evergreens or shrubs;
- (c) a berm;
- (d) a wall; or
- (e) an opaque fence;

arranged in such a way as to form a dense or opaque screen;

**Post Office** means a facility owned and operated by Canada Post Corporation for the purpose of providing postal retail sales and services including counter and delivery services and may include a sorting station.

**Postal Outlet** means an outlet owned and operated by an individual or corporation under a specific agreement with Canada Post Corporation, for the purpose of providing postal retail sales and services and, in some cases, limited delivery services to the general public.

- Public Use** means a use, building or structure of a public authority to provide a service to the public;
- Public Façade** means any façade that fronts a public street including the portion of the roof which is visible from a public street. In the case of a corner lot, both sides of the building that are visible from the public street are considered to be public façades;
- Public Authority** means any Ministry, Department, Authority, Board, Agency, Commission or Committee of the Regional Municipality established or exercising any power or authority under any general or specific statute of Canada and Nova Scotia with respect to any of the affairs or purposes of the community or a portion thereof and includes any committee or local authority established by the Regional Municipality and any public utility;
- Recreational Space** means a space provided in common and exclusively for the occupants of a building or part thereof in which or on which recreational uses are carried out;

**Recreation Uses, Indoor**

means a wholly enclosed building used for the provision of sports and recreation facilities including bowling alleys, curling rinks, climbing walls, fitness clubs, racquet courts, gymnasias, indoor swimming pools, indoor skating rinks and other similar recreational facilities and may include accessory uses such as pro shops, canteens and offices for fitness professionals;

**Recreation Uses, Outdoor**

means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, skating rinks, athletic fields, golf courses, driving ranges, picnic areas, swimming pools, day camps, and similar uses to the foregoing together with necessary and accessory buildings and structures but shall not include a track for the racing of animals or any form of motorized vehicles;

**Recreational Vehicle Sales and Service**

means a building or lot used for the display, service, sale and/or rental of motor homes, travel trailers, boats, snowmobiles, personal watercraft, all-terrain vehicles or other similar recreational vehicles;

**Recycling Depot** means a collection site for materials in a municipal recycling program but does not include a scrap or salvage yard;

**Repair and Rental Establishment**

means a premise engaged in maintaining, repairing, installing, and renting articles and equipment for household and personal use such as radio and television, refrigerator and air conditioning, appliances, watches, clocks, jewellery, and upholstery and furniture repairs;

**Residential Care Facility**

means a licensed residential institution where 24 hour supervisory care or personal care is provided for four or more persons, but does not include a nursing home, correctional facility or hospital;

**Restaurant** means a building or part thereof where food and drink is served to the public for consumption within the building or for take-out, but not for consumption in parking areas appurtenant to the building;

**Restaurant, Drive-through**

means an establishment where food is served to the public through a service window and may include an eat-in area;

**Retail Store** means a building or part thereof with a total commercial floor area of 20,000 ft<sup>2</sup> (1858.00 m<sup>2</sup>) or less in which goods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public at retail value.

**Retail Store, Large Format (Big Box Store)**

means a maximum of two retail commercial uses in a single structure with a total commercial floor area greater than 20,000 ft<sup>2</sup> (1858.00 m<sup>2</sup>).

**Retirement Home** means a residence providing accommodation primarily for retired persons or couples where each private bedroom or living unit has a separate private bathroom and separate entrance from a common hall and where common facilities for the preparation of and consumption of

food may be provided, and common lounges, recreation rooms and medical care facilities may also be provided;

**Self Storage Operation**

means a building or buildings consisting of small, self contained units that are leased or owned for the storage of business and household goods or contractors supplies (Amendment WLUB 10-02 Effective February 25, 2011);

**Scrap Yard**

means an area of land used for the storage, handling, processing and sale of scrap materials including, but not limited to, scrap metal, vehicles, tires, and car batteries, but shall not include hazardous waste materials;

**Senior Citizen Housing**

means a multiple unit dwelling designed for occupation by senior citizens and constructed and maintained by a public housing authority or non-profit organization;

**Service Industry**

means any industry involved in the processing of milk and dairy products, a bakery, a garage including engine and body repair shop, a printing establishment, a paint shop, plumbing shop, sheet metal shop and similar service shops;

**Service Shop**

means an establishment, other than an automotive use, that provides a non-personal service or craft to the public including, but not necessary restricted to, a printer's shop, a plumber's shop, a tinsmith's shop, a painter's shop, a carpenter's shop, an electrician's shop, a welding shop, a blacksmith shop, a farrier's shop, an upholstery shop, a bakery, a dairy, a catering establishment, a machine shop, or a monument engraving shop;

**Setback**

means the distance between the street line and the nearest main wall of any building or structure and extending the full width or length of the lot;

**Shopping Centre, Local**

means two or more predominantly retail commercial uses with a total commercial floor area of 20,000 ft<sup>2</sup> (1858.00 m<sup>2</sup>) or less that is designed, developed and managed as a unit with shared parking facilities and which may or may not have enclosed common walkways.

**Shopping Centre, Regional**

means a group of three or more predominantly retail commercial uses with a total commercial floor area greater than 20,000 ft<sup>2</sup> (1858.00 m<sup>2</sup>) that is designed, developed and managed as a unit with shared parking facilities and which may or may not have enclosed common walkways. Land uses that meet the definition of "large format retail store" are not deemed to be a "shopping centre" for the purposes of this By-law.

**Sign**

means any structure or device, whether illuminated or not, used to advertise or draw attention to any product, place, person, business, institution, organization, or event, including any directional or way finding purpose;

- (a) **Facia Wall Sign** means a sign that is painted on, attached to or erected against a wall of a building, with the face horizontally parallel to the building wall and with no space between the back of the sign face and the building wall;
- (b) **Ground Sign** means a sign supported by one or more posts, poles, or braces placed in or upon the ground;
- (c) **Mobile Sign** means a sign designed and intended to be moved from one site to another and not permanently affixed to the ground or a building, but shall not include a sandwich board sign or the side, body or trailer of a commercial motor vehicle;
- (d) **Projecting Sign** means a sign that projects from and is supported by the wall of a building;
- (e) **Sandwich Board Sign** means a self-supporting, two-sided, A-frame style sign that is not affixed to the ground;

**Sign Face**

means the area of a sign upon which the message is placed;

**Stacking Space**

means a portion of a parking area or a parking lot, other than a parking aisle or a parking space, which provides standing room for a vehicle in a queue and, without limiting the generality of the foregoing, this may include a queue for a drive-through business such as a drive-through restaurant, a drive-through bank or a drive-through car wash;

**Streetwall**

means the wall of a building or portion of a wall facing a streetline that is below the height of a specified setback or angular plane, which does not

include minor recesses for the elements such as doorways or intrusions such as bay windows

(a) **Streetwall Height** means the vertical distance between the top of the streetwall and the streetwall grade, extending across the width of the streetwall

(b) **Streetwall Setback** means the distance between the streetwall and streetline

**Storey** means that portion of a building between any floor and the floor, ceiling or roof next above, provided that any portion of a building partly below grade level shall not be deemed a storey unless its ceiling is at least 6 ft (1.83 m) above grade. Provided also that any portion of a storey exceeding 14 ft (4.27 m) in height shall be deemed an additional storey for each 14 ft (4.27 m) or fraction thereof of such excess;

**Strategy** means the Municipal Planning Strategy for the community of Windsor;

**Street Line** means the boundary line of a street;

**Street or Road** means the whole and entire right of way of every highway, road, or road allowance vested in the Province of Nova Scotia or the Town of Windsor;

(a) **Arterial Street or Road** means a street designed to move large volumes of vehicular traffic between major centres;

(b) **Collector Street or Road** means a street designed to move vehicular traffic from residential neighbourhoods to commercial and institutional areas and to arterial streets;

(c) **Local Street or Road** means a street designed to serve vehicular traffic in residential neighbourhoods;

**Stepback** means a specified horizontal recess from the top of a streetwall, which shall be unobstructed from the streetwall to the sky except as otherwise specified;

**Structure** means anything that is erected, built, or constructed or parts joined together or any such erection fixed to or supported by the soil or by any other structure. A structure shall include buildings, walls, signs and fences;

**Support Service** means a building or part of a building in which the primary function is to provide services to industry or to businesses located in an industrial park and, without limiting the generality of the foregoing, shall include copying, printing, and micro-filming establishments, the offices of an industry or of engineering, architectural, design and similar consultants, business management, marketing and similar firms and manufacturers' agents, and building, equipment and grounds maintenance companies;

~~**Town** means the incorporated Town of Windsor;~~

~~**Town Administrator** means the Chief Administrative Officer for the Town of Windsor;~~

**Transport Depot** means a premises used for the transfer of goods primarily involving loading and unloading of freight carrying vehicles, and secondarily, involving the storing, parking, servicing and dispatching of freight carrying vehicles;

#### **Urban Agriculture Use**

means the keeping of chickens (laying hens) and beekeeping on a residential property, subject to Section 5.44 of this by-law (Amendment WLUB 16-01 Effective April 17, 2017).

**Utility** means a water works or water supply system, sewage works, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, a transportation system or a telecommunications system, and includes any lands, buildings or equipment required for the administration or operation of any such system;

**Veterinary Clinic** means a building or part thereof with or without related structures, wherein animals of all kinds are treated or kept for treatment by a registered veterinarian;

**Warehouse** means a building where wares or goods are stored but does not include a retail store. Warehouse will also include self storage operations as defined elsewhere in this LUB (Amendment WLUB 10-02 Effective February 25, 2011);

#### **Wholesale Establishment**

means a building or part of a building used for the selling of goods in large bulk or quantity for delivery or from the premises to a person other than to the ultimate consumer but does not include a retail store;

**Winery**

means an establishment engaged in the production of wine less than 10,000 litres per year and includes facilities on the same lot where wine may be blended, mixed, stored or packaged and may include accessory uses such as retail sale, wholesale, tours and events or hospitality room where beverages produced at the facility can be sampled. (Amendment WLUB 18-01 Effective January 29, 2019);

**Winery - Commercial**

means a manufacturing plant to which a permit has been issued by the NSLC and where wine is manufactured or blended and bottled for sale to the NSLC or for export (Amendment WLUB 18-01 Effective January 29, 2019);

**Yard**

means an open, uncovered space on a lot appurtenant to a building (except a court) and unoccupied by buildings or structures except as specifically permitted elsewhere in this By-law. In determining yard measurements the minimum horizontal distance from the respective lot lines shall be used;

- (a) **Flanking Yard** means the side yard of a corner lot that abuts the street line;
- (b) **Front Yard** means a yard extending across the full width of a lot between the front lot line and the nearest wall of any building or structure on the lot; minimum front yard means the smallest allowable distance a front yard can be measured;
- (c) **Rear Yard** means a yard extending across the full width of a lot between the rearlot line and the nearest wall of any building or structure on the lot; minimum rear yard means the smallest allowable distance a rear yard can be measured;
- (d) **Side Yard** means a yard extending from the front yard to the rear yard of a lot between the side lot line and the nearest wall of any building or structure on the lot; minimum side yard means the smallest distance a side yard can be measured;

**Zone**

means a designated area of land shown on the zoning map for which specific development control regulations are applied.

**PART 32 EXISTING USES (32.0)**

**32.1**

Use	Owner	Civic Address	PID
<b>Town Centre (TC) Zone</b>			
<b>Existing dry cleaning and laundry establishments</b>			
Laundromat	Hawboldt's Laundromat	69 Cedar Street	45049772
<b>Existing residential uses</b>			
Two Unit Dwelling	Forand, Mary C	32 Albert Street	45049830
Single Unit Dwelling	See, Leong & Nooi, Foong	39 Albert Street	45057361
Single Unit Dwelling	Hopper, Harold & Elsie	47 Albert Street	45057353
Single Unit Dwelling	Boyd, Gertrude	53 Albert Street	45057304
Single Unit Dwelling	Hurshman, Donald & Beverley	33 Cobbett Street	45056280
Single Unit Dwelling	Swinamer, Harley & Lois	51 Cobbett Street	45056256
Single Unit Dwelling	Brown, Hazel	53 Cobbett Street	45056272
Single Unit Dwelling	Smith, Guy & Florence	61 Cobbett Street	45056264
Single Unit Dwelling	Lynch, Cyril & Rhonda	91 Cobbett Street	45056249
Single Unit Dwelling	Fogarty, Michael & Gloria	103 Cobbett Street	45056231
Single Unit Dwellings	Newcombe, Wayne & Christine	1 and 3 Fox's Lane	45057346
Single Unit Dwelling	Newcombe, Wayne & Christine	2 Fox's Lane	45057395
Single Unit Dwelling	Toronto Dominion Bank	161 Gerrish Street	45200011
Single Unit Dwelling	Gould-Thorpe, James & Patricia	163 Gerrish Street	45057973
Single Unit Dwelling	Harvie, George & Karen	169 Gerrish Street	45057940
Single Unit Dwelling	Single Unit Dwelling	173 Gerrish Street	45057932
Single Unit Dwelling	Spence, Ricky & Atwell, Lorraine	183 Gerrish Street	45057924
Two Unit Dwelling	Regan, Natalie	203 Gerrish Street	45057908
Multiple Dwelling (3 units)	Hazel Holdings Ltd	206 Gerrish Street	45058047
Single Unit Dwelling	Stone, Reginald & Castillo, Danny	213 Gerrish Street	45057890
Two Unit Dwelling	MacVicar, James & Rhonda	223 and 225 Gerrish Street	45057882
Single Unit Dwelling	Cook, Robert & Kenley,	20 Gray Street	45057775

	Cynthia		
<b>Use</b>	<b>Owner</b>	<b>Civic Address</b>	<b>PID</b>
Multiple Dwelling (3 units)	Levy, Wayne & Janine	83 and 85 Gray Street 151 Stannus	45058120
Multiple Dwelling (3 units)	Pryde, Neil & Darlene	92 Gray Street 127 Stannus Street	45057544
Multiple Dwelling (12 units)	Winburn Holdings Ltd	111 Gray Street	45058476
Two Unit Dwelling	Lowthers, Irvin & Patricia	33 and 35 King Street	45056306
Single Unit Dwelling	Dunn, David & Lisa	47 King Street	45056298
Multiple Dwelling (5 units)	Sanford, Chester & Joan	140 King Street	45057767
Single Unit Dwelling	Galbraith, Barry	164 King Street	45057809
Two Unit Dwelling	Machel, Magdalena & Michal	208 King Street	45057841
Multiple Dwelling (3 units)	Pryde, Neil & Darlene	224 King Street 20 Victoria Street	45057858
Multiple Dwelling (4 units)	Rizzi-Lee, Teresa & Lee, William & Lee, Katrina & Lee, Martin	60 Stannus Street	45057106
Single Unit Dwelling	Zinck, William	84 Stannus Street	45057114
Single Unit Dwelling	Lake, Gabriella	105 Stannus Street	45057551
Two Unit Dwelling	Myles, Elizabeth	201 & 205 Stannus Street	45058104
Single Unit Dwelling	Cleveland, Harold & Dawn	207 Stannus Street	45058096
Single Unit Dwelling	Lyons, William & Joyce	215 Stannus Street	45058088
Two Unit Dwelling	McCall, Glendon	58 and 60 Upper Water Street	45056330
Single Unit Dwelling	MacCumber, Francis	72 Upper Water Street	45056348
Single Unit Dwelling	Parsons, Stella & Wentzell, Rosanne	82 Upper Water Street	45056355
Single Unit Dwelling	Cleveland, Kenneth & Smith, Marsha	24 Victoria Street	45057866
Single Unit Dwelling	Dimock, Mona, Melody, & Richard	30 Victoria Street	45057874
Single Unit Dwelling	Marcelli,Stanislao & Annunziata	80 Victoria Street	45058062
Multiple Dwelling (4 units)	Sanford, Eric	82, 84, 86, & 88 Victoria Street	45058070

Use	Owner	Civic Address	PID
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### 32.2

Local Commercial (LC) zone			
<b>Existing funeral homes</b>			
Funeral Home	Lohnes Funeral Services Ltd	419 Albert Street	45058955

### 32.3

General Commercial (GC) Zone			
<b>Existing residential uses</b>			
Single Unit Dwelling	Chater, Adam	261 Gerrish Street	45059425
Single Unit Dwelling	Chater, Adam	263 Gerrish Street	45059433
Single Unit Dwelling	Sweet, John & Christine	291 Gerrish Street	45059391
Two Unit Dwelling	MacVicar, James & Rhonda	302 and 304 Gerrish Street	45059144
Single Unit Dwelling	Munroe, Shannon	501 O'Brien Street	45055951
Single Unit Dwelling	Lavers, Marie	515 O'Brien Street	45055944
Multiple Dwelling (4 units)	Winburn Holdings Ltd	573 & 575 O'Brien Street	45055894
Single Unit Dwelling	Redden, William & Joyce	63 Wentworth Road	45055852
Single Unit Dwelling	Burgess, Mildred & Joanna	111 Wentworth Road	45055712
Single Unit Dwelling	Levy, Arnold & June	121 Wentworth Road	45278314

### 32.4

Highway Commercial (HC) Zone			
<b>Existing residential uses</b>			
Single Unit Dwelling	Menard, Serge & Trudy	5511 Highway 14	45166956
Single Unit Dwellings	Ross, Donzell, Lori, & Charles	5519 and 5521 Highway 14	45052008
Single Unit Dwelling	Sanford, Henry & Jean	5543 Highway 14	45051992
Single Unit Dwelling	Riley, Marilyn	5547 Highway 14	45051984

Single Unit Dwelling	Williams, Jean & Taylor, Gary	5551 Highway 14	4505197
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### 32.5

<b>Light Industrial (LI-1) Zone</b>			
<b>Existing amusement rides</b>			
Miniature Train Rides	Town of Windsor	133 Centennial Drive	45059698

### 32.6

<b>Agriculture (AG) Zone</b>			
<b>Existing intensive livestock operations</b>			
	McNeil, Watson & Fram, Ralph	876 College Road	45051604
	McNeil, Joseph	995 College Road	45051620
	Allison, James & Judith	5221 Highway 14	45052156
	Allison, Darren	5227 Highway 14	45052149
	Maxner, Barry	5239 and 5241 Highway 14	45052107
	McNeil, Watson & Fram, Ralph	876 College Road	45051604



**WEST HANTS REGIONAL MUNICIPALITY  
RECOMMENDATION REPORT**

**To:** Members of Windsor Area Advisory Committee

**Submitted by:** \_\_\_\_\_  
Sara Poirier, Planner

**Date:** 2020-10-01

**Subject:** Land Use By-law Map Amendment: 543 O'Brien Street,  
Windsor; PID 45055928

**File:** 20-17

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**LEGISLATIVE AUTHORITY**

Section 210 of the Municipal Government Act.

**RECOMMENDATION**

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

WAAC recommends that PAC recommend that Council give First Reading and hold a Public Hearing to consider 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.

## **BACKGROUND**

A completed application was received on June 3, 2020 from Clark Wilkins to rezone the property at 543 O'Brien Street, Windsor (PID 45055928) from General Commercial (GC) to Highway Commercial (HC) to permit an automobile service station and a drive-through restaurant. The property is owned by 3331814 Nova Scotia Limited; Mr. Wilkins is the Director.

This site was once the location of the Co-op Atlantic store and gas bar which were demolished in 2011 and 2009, respectively. A development agreement from 1992 permitted *"a retail gas bar for members of the developer only and all accessory uses normally associated with a retail gas bar, business and professional office, existing dwelling, garden centre, and grocery store"* and prohibited the development of uses permitted in the underlying zone. The current property owner requested this development agreement be discharged and the discharge was approved by Council on June 23, 2020 and recorded at the Land Registry Office on August 27, 2020.

## **DISCUSSION**

The lot is designated Commercial (C) on the Generalized Future Land Use Map of the Windsor Municipal Planning Strategy (WMPS). Part 8.0 of the WMPS contains the overall intention for properties designated Commercial (C) in Windsor.

The property is zoned General Commercial (GC) on the Zoning Map of the Windsor Land Use By-law (WLUB). Figure 1 shows the current zoning of the property. Automotive service stations and drive-through restaurants are not permitted in the General Commercial (GC) Zone.

The applicant requests that Council consider rezoning the property from General Commercial (GC) to Highway Commercial (HC) to permit the automobile service station and drive-through restaurant. If the application for rezoning is approved, any use permitted in the Highway Commercial (HC) Zone would be permitted on the lot as-of-right (Attachment B).

### ***Previous Uses***

The site is vacant but was once the site of the Co-op Atlantic store and gas bar. The gas bar was for members of the Co-op Atlantic only. The gas bar pump island and two associated underground storage tanks were decommissioned and removed in 2009 and the Co-op Atlantic building was demolished in 2011. The gas bar was permitted through a development agreement (1992) which has been discharged from the property.

### **Brownfield Development**

In 2003, the National Roundtable on the Environment and the Economy published a report called *"Cleaning up the Past, Building the Future - A National Brownfield Redevelopment Strategy for Canada"*. This paper (2003) defines Brownfields as *"An abandoned, vacant, derelict or underutilized commercial or industrial property where past actions have resulted in actual or perceived contamination and where there is an active potential for redevelopment."* The report outlines that brownfield sites are the remnants of industrialization and the sites can *"pose threats to human health and environmental quality"*. Once brownfield sites are remediated to an acceptable standard which is suitable for the proposed use, they can generate economic, environmental and often social benefits.

### **Potential Site Remediation**

Staff reviewed the existing file for the subject lot which was compiled by the previous Windsor Planning Department. The Planning Department's file includes a copy of a Remedial Action Plan from 2011 written by CBCL which details potential remediation to be completed on 543 O'Brien Street. This CBCL report specifies that *"in 1994 fuel oil was discovered leaking from an underground storage tank"*. The underground storage tank in question was removed from the property in 1994. The CBCL report discusses how the site should be remediated and the recommendations were accepted by the Nova Scotia Department of Environment in 2011. The letter from Department of Environment (2011) states that *"a final report must be prepared and submitted to the Department of Environment following the completion of the remedial program"*.

Upon review of this information, staff contacted an Inspector with the Department of Environment who advised that *"There are no entries following the receipt of the Remedial Action Plan. The file would not be considered closed, following a regulatory process."* The Inspector added that they were *"unable to tell if the remedial action plan was ever implemented, and/or whether remediation was successful in reducing contaminants to an acceptable level."*

The Inspector could not *"speak to any restrictions for the site"* as *"it will depend on the location and concentration of contaminants remaining on the site."* They stated that *"the next steps for the property owner would be to hire a site professional to determine if Notification under the Contaminated Sites Regulations is required. A site professional will have to determine if the work completed meets the current requirements."*

### **Contaminated Sites**

The Nova Scotia Department of Environment states that *"contamination normally refers to concentrations of chemicals in the soil, water and air that have been determined to exceed acceptable standards for the particular land use"*. In Nova

Scotia, a property owner assumes the responsibility to ensure any contamination is cleaned up in accordance with the Contaminated Sites Regulations (2013). The Regulations outline the process to remediate a contaminated site. The Regulations specify that only site professionals, who are either a geologist or engineer with experience in the management and remediation of contaminated sites, are qualified to manage the cleanup of contaminated sites. Once a site is remediated by a site professional in accordance with the Regulations, the Department of Environment would supply the property owner with closure documentation which could be in the form of a Certificate of Compliance, Record of Site Condition or Declaration of Property Condition.

Section 220 (5) of the *Municipal Government Act* specifies that

*"where a municipal planning strategy so provides, a land-use by-law may*  
*(p) prohibit development on land that*  
*(v) is known to be contaminated within the meaning of the*  
*Environment Act"*

The planning documents for the community of Windsor do not discuss or prohibit development of contaminated or brownfield sites.

The applicant, Mr. Wilkins, became the owner of the property in 2019. Mr. Wilkins is aware of the history of the site, the potential contaminants, and the Nova Scotia Department of Environment standards and process for remediation that would need to be followed. He is also aware that the Municipality would not be able to issue building permits for any development on the lot until there was confirmation from the Department of Environment that the site is remediated to a standard suitable for the proposed use. Mr. Wilkins is working with an environmental consultant through the process. Mr. Wilkins has stated that it was his *"understanding that 543 O'Brien was cleaned to commercial guidelines and the final piece was a summer and winter monitoring well inspection."*

Mr. Wilkins is also the owner of the abutting property 555 O'Brien Street where a development agreement was entered into by the Town of Windsor Council in 2010 for a mixed-use development consisting of dwelling units in addition to commercial space. The development agreement specifically requires the site be remediated and a Certificate of Compliance be provided to the Development Officer prior to the Municipality being able to issue development permits for the proposed uses. Regarding the current application for rezoning at 543 O'Brien Street, Mr. Wilkins has stated that *"if there is any further site cleanup, it will be done in conjunction with my residential build out on the neighbouring site."*

### **Proposed Uses**

O'Brien Street is an arterial road as shown on the Transportation Map (Map 2) of the WMPs and is a main thoroughfare to and from downtown Windsor. The subject lot is currently vacant and has been vacant for almost a decade. 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 regards to traffic impact or the ability to provide safe and efficient roadway access to the lot.

The applicant, Mr. Wilkins, would like to develop an automobile service station and a drive-through restaurant on the subject lot. Facilities where a petroleum product is sold or kept for sale require approval by the Nova Scotia Department of Environment. To avoid traffic problems and ensure safe product delivery, Council created specific requirements in the WLUB for automotive service stations (Section 5.2). There are also special requirements regarding stacking space for drive-through restaurants in Section 5.9 of the WLUB.

The permitted signage as outlined in Section 7.18 of the WLUB for the Highway Commercial (HC) zone is the same as that permitted in the General Commercial (GC) zone. Additionally, Section 7.17 of the WLUB states that automobile service stations are also permitted one ground sign exceeding the size permitted in Section 7.18 up to a maximum of 120 ft<sup>2</sup> (11.15 m<sup>2</sup>) provided the sign is setback at least 15 ft from any property line. Signs are permitted to be illuminated as per Section 5.18 of the WLUB as long as the illumination is directed away from adjoining properties and any adjacent street.

The Development Officer has commented that due to the size of the subject lot there should be no problem in meeting the parking and loading space requirements in the WLUB.

### **Surrounding Neighbourhood**

The subject lot directly abuts lots zoned General Commercial (GC) to the north, east and west, and lots zoned High Density Residential (R-4) to the south.

*Table 1: Use Abutting Subject Lot by Direction*

North	The former Windsor United Baptist Church which was recently rezoned to General Commercial (GC).
East	The lot directly abutting the subject lot to the east is owned by the applicant. It is currently vacant and has a development agreement (2010) for a mixed-use development consisting of dwelling units in addition to commercial space. The lot adjacent to that is the Lawtons Drugs and Medical Clinic.

South	The lots are zoned High Density Residential (R-4). Two of the buildings have four (4) dwelling units and the other building has two (2) dwelling units.
West	Two residential properties zoned General Commercial (GC) and the Baby Panda Chinese food restaurant.

Policy 8.2.2 allows Council to consider this request for rezoning to Highway Commercial based on specific criteria. Policy 8.2.2 (b) requires that the proposed use will not conflict with adjacent uses.

During the staff review, consideration was given to *Section 13 General Provisions for Commercial Zones* of the WLUB. Section 13 states that if a commercial use permitted in a commercial zone abuts a lot in a residential zone, the commercial use should provide a minimum 5 ft (1.52 m) planting strip along the part of the lot directly adjoining the residential zone. Additionally, if a commercial use permitted in the commercial zones abuts a lot in a residential or institutional zone, the commercial use must have a minimum 20 ft (6.10 m) side yard from the abutting lot line and no open storage or outdoor display is permitted in the abutting yard of the commercial use. These requirements decrease the potential for the commercial use to pose a conflict with the adjacent residential zones, however, do not currently benefit residential uses located outside of residential zones.

Staff recommend an amendment to the abutting zone and planting strip requirements to ensure they apply to commercial properties which abut any residential use as opposed to properties with residential zoning (Attachment A). This will ensure the application meets Policy 8.2.2 (b).

## **DOCUMENT REVIEW**

### **Municipal Planning Strategy**

For the lot to be used for the uses requested an amendment to the Zoning Map of the WLUB is required. Figure 2 shows the proposed changes to the Zoning Map.

Section 8.0 of the WMPS contains the commercial policies for Windsor. Policy 8.2.2 establishes Council’s intention to *“consider the creation of new Highway Commercial zones in the Commercial and Industrial designations, excluding the Wentworth Road Gateway District and the designated Industrial Parks, by amendment to the Land Use By-law”*. The subject lot is designated Commercial and is not within the Wentworth Road Gateway District or the Industrial Parks, therefore the rezoning to Highway Commercial (HC) can be considered under this policy.

### **WMPS Specific Criteria**

Policy 8.2.2 establishes Council’s intention to *“consider the creation of new Highway Commercial zones in the Commercial and Industrial designations, excluding the*

*Wentworth Road Gateway District and the designated Industrial Parks, by amendment to the Land Use By-law*” and establishes the criteria to be considered by Council. These criteria are examined in detail in Attachment C. In summary, the criteria are met since:

- the subject lot has direct access to an arterial road;
- the proposed uses will not conflict with adjacent existing uses; and
- the proposal meets the WMPS general criteria.

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

The proposal meets the general criteria for amendment set out in WMPS Policy 16.3.1. These criteria are examined in detail in Attachment D. In summary:

- the proposal is not premature or inappropriate for the area;
- no municipal costs related to the proposal are anticipated;
- the Fire Chief, Development Officer, Senior Building and Fire Official, Director of Public Works and Traffic Authority have no concerns.

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

#### ***Text Amendment***

The definitions of the WLUB, although not directly applicable to the WMPS, can be used as a guide to the intent of the WMPS. On the subject lot, the applicant proposes to develop an automobile service station and drive-through restaurant. Should the lot be amended from the General Commercial (GC) zone to the Highway Commercial (HC) zone, the proposed uses would be allowed “as-of-right”, as they are each listed as a permitted use in the Highway Commercial (HC) zone (Attachment B).

Staff are recommending that the text of Section 13 of the WLUB be amended as part of this application to ensure the abutting zone and planting strip requirements apply to commercial properties which abut any residential use as opposed to properties with residential zoning (Attachment A).

#### ***Map Amendment***

The proposed uses are not permitted in the General Commercial (GC) zone. There is a policy option to allow Council to consider rezoning the subject lot to the Highway Commercial (HC) zone. The proposed uses are permitted in the Highway Commercial (HC) zone. An amendment to the WLUB Zoning Map is required for this application. The proposed map amendment is shown in Figure 2.

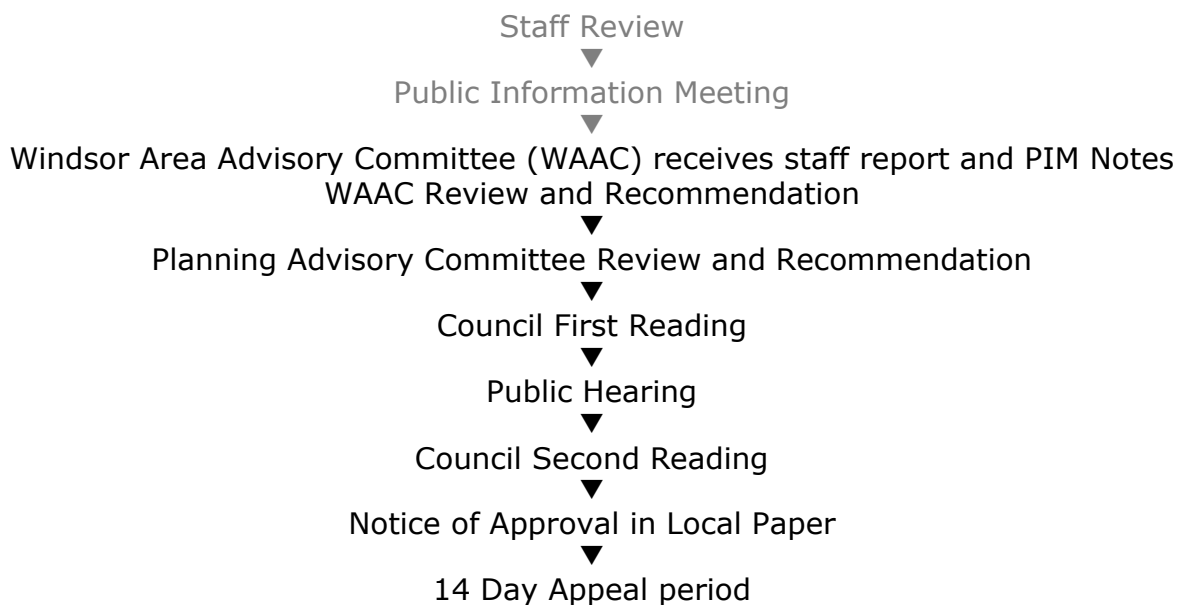
## **MCCAP**

This amendment has not been examined in relation to the Municipal Climate Change Action Plan (MCCAP).

## **NEXT STEPS**

As noted above, the proposed amendment has been considered within the context of both the specific and general policies of the WMPS and is consistent with the intent, objectives and policies of the WMPS. The amendment meets the specific and general criteria for amendment to the WLUB or WMPS. As a result, it is reasonable to amend the zoning of the lot located at 543 O'Brien Street, Windsor, PID 45055928 from the General Commercial (GC) Zone to the Highway Commercial (HC) Zone on the Zoning Map of the Windsor Land Use By-Law and the text of the WLUB to amend the abutting zone and planting strip requirements for the commercial zones.

### **Process**



## **FINANCIAL IMPLICATIONS**

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

## **ALTERNATIVES**

In response to the application, WAAC may recommend that PAC:

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

**ATTACHMENTS**

Attachment A	Draft Amendments to the Windsor Land Use By-law
Attachment B	Highway Commercial (HC) Zone
Attachment C	Specific Criteria for Amendment
Attachment D	General Criteria for Amendment
Figure 1	Windsor Zoning Map – Existing
Figure 2	Draft Windsor Zoning Map – Proposed Amendment

Report Prepared by: \_\_\_\_\_  
 Sara Poirier, Planner

Report Approved by: \_\_\_\_\_  
 Madelyn LeMay, Director of Planning and Development

**Attachment A**  
**Draft Amendments to the Windsor Land Use By-law**

Text amendments to the Windsor Land Use By-law to ensure the abutting zone and planting strip requirements in Section 13 *General Provisions for Commercial Zones* apply to abutting residential uses not solely abutting residential zones.

1. **Amend Section 13.1 *Lots Abutting Residential and Institutional Zones* in Part 13 of the Windsor Land Use By-law, *General Provisions for Commercial Zones*, by replacing:**
  - (a) the title “**Lots Abutting Residential and Institutional Zones**” with “**Lots Abutting Residential and Institutional Uses**”, and
  - (b) the phrase “**Except in the Local Commercial (LC) zone, where the yard of a lot located in a commercial zone abuts a lot in a residential or institutional zone, the following standards apply**” with “**Except in the Local Commercial (LC) zone, where the yard of a lot located in a commercial zone abuts a lot with residential uses or uses permitted in the Institutional (I) zone, the following standards apply**” so that it reads as follows:

13.0 GENERAL PROVISIONS FOR COMMERCIAL ZONES

**Lots Abutting Residential and Institutional Uses**

- 13.1 Except in the Local Commercial (LC) zone, where the yard of a lot located in a commercial zone abuts a lot with residential uses or uses permitted in the Institutional (I) zone, the following standards apply:
  - (a) the minimum side yard requirement for the commercial use from the abutting lot line shall be 20 ft (6.10 m); and
  - (b) no open storage or outdoor display shall be permitted in the abutting yard of the commercial use.
  
2. **Amend Section 13.2 *Planting Strip* in Part 13 of the Windsor Land Use By-law, *General Provisions for Commercial Zones*, by replacing: the phrase “**Where a commercial use in a commercial zone abuts a residential zone, the part of the lot directly adjoining the residential zone shall be used for no purpose other than a planting strip having a minimum width of 5 ft (1.52 m) measured perpendicular to said lot line.**” with “**Where a commercial use in a commercial zone abuts a residential use, the part of the lot directly adjoining the residential use shall be used for no purpose other than a planting strip having a****

**minimum width of 5 ft (1.52 m) measured perpendicular to said lot line.”**

### **Planting Strip**

- 13.2 Where a commercial use in a commercial zone abuts a residential use, the part of the lot directly adjoining the residential use shall be used for no purpose other than a planting strip having a minimum width of 5 ft (1.52 m) measured perpendicular to said lot line.

**Attachment B**  
**Highway Commercial (HC) Zone**

## 18.0 HIGHWAY COMMERCIAL (HC)

### Permitted Uses

18.1 The following uses shall be permitted in the Highway Commercial (HC) zone:

- Arts and crafts studios including photography
- Automobile service stations, car washes and repair centres
- Automobile, truck and motorcycle sales, service, or rental establishments
- Building supply establishments
- Day care centres, licensed and non-licensed
- Dry cleaning and laundry establishments
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Farm equipment sales and service
- Farm markets
- Funeral homes
- Garden and nursery sales and supplies
- Hotels and motels
- Kennels
- Licensed liquor establishments
- Manufactured home sales
- Microbrewery, Microdistillery, Winery (*Amended WLUB 18-01 Effective January 29, 2019*)
- Offices (not on the ground floor)
- Recreational vehicle sales, service and rental establishments
- Recycling depots
- Repair and rental establishments
- Residential uses (not on the ground floor)
- Restaurants, including drive-through and take-out establishments
- Retail stores
- Self storage operations (*Amendment WLUB 10-02 Effective February 25, 2011*)
- Service shops
- Taxi, train and bus stations
- Veterinary clinics and animal hospitals
- Wholesaling and wholesale sales
- Existing residential uses

### HC Zone General Requirements

18.2 In the HC zone, no development permit shall be issued except in conformity with the following:

<b>Minimum lot area</b>	10,000 ft <sup>2</sup> (929.00 m <sup>2</sup> )
<b>Minimum lot frontage</b>	100 ft (30.48 m)
<b>Minimum front yard</b>	40 ft (12.19 m)
<b>Minimum rear yard</b>	25 ft (7.62 m)
<b>Minimum side yard</b>	15 ft (4.57 m)
<b>Maximum height of main building</b>	3 storeys
<b>Maximum height of accessory building</b>	15 ft (4.57 m)

### **Open Storage and Outdoor Display**

18.3 In the HC zone, open storage and outdoor display shall:

- (a) be located at least 10 ft (3.05 m) from any lot line;
- (b) be accessory to a permitted commercial use; and
- (c) not be located in any required parking spaces or loading spaces.

### **Residential Uses**

18.4 Residential uses as part of the same building as a commercial use are permitted provided the total floor area of the residential use does not exceed two-thirds (66 percent) of the total floor area of the building.

### **Access**

18.5 Entrance to and exit from properties zoned HC shall be restricted to not more than two driveways on any street or road. On a corner lot, access shall be restricted to not more than three driveways to the lot.

**Attachment C**  
**Specific Criteria for Amendment**

**8.0 COMMERCIAL**

**8.2 Highway Commercial**

**Policy 8.2.2** *It shall be the policy of Council to consider the creation of new Highway Commercial zones in the Commercial and Industrial designations, excluding the Wentworth Road Gateway District and the designated Industrial Parks, by amendment to the Land Use By-law subject to the following criteria: (Amendment WMPS 09-02 Effective September 3, 2009)*

<b>CRITERIA</b>	<b>COMMENT</b>
<i>(a) the proposed use has direct access to an arterial road shown on the Transportation Map (Map 2);</i>	O'Brien Street is an arterial road as shown on the Transportation Map (Map 2) of the Windsor Municipal Planning Strategy.
<i>(b) the proposed use will not conflict with adjacent uses;</i>	The lot is currently vacant and was once the location of the Co-op Atlantic store and gas bar. 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. Council has specific requirements in the WLUB for automotive service stations (Section 5.2) to avoid traffic issues and ensure safe product delivery. There are also special requirements regarding stacking space for drive-through restaurants in Section 5.9 of the WLUB. The permitted signage as outlined in Section 7.18 of the WLUB for the Highway Commercial (HC) zone is the same as that permitted in the General Commercial (GC) zone. Section 7.17 states that automobile service stations are also permitted one ground sign

	<p>exceeding the size permitted in Section 7.18 up to a maximum of 120 ft<sup>2</sup> (11.15 m<sup>2</sup>) provided the sign is setback at least 15 ft from any property line. Signs are permitted to be illuminated as per Section 5.18 of the WLUB as long as the illumination is directed away from adjoining properties and any adjacent street.</p> <p>The Development Officer does not have any concerns regarding any of the uses permitted in the Highway Commercial zone being located at this location. The lot is approximately two (2) acres in size and would meet the requirements of the Highway Commercial (HC) Zone. A planting strip and increased minimum side yard are required if the commercial use abuts a lot in a residential zone. However, this does not apply to residential uses in the General Commercial (GC) zone. Staff are recommending an amendment to ensure these requirements benefit all residential uses adjacent to the property regardless of the zone (Attachment A).</p> <p>The adjacent uses include the former Windsor United Baptist Church to the north, the vacant lot and Lawtons Drugs and Medical Clinic to the east, four (4) unit and two (2) unit dwellings on the south side of O'Brien Street, and two residential properties and the Baby Panda Chinese food restaurant to the west.</p> <p>Following the regulations in the WLUB for Highway Commercial (HC) uses, specifically automobile service stations and drive through restaurants, and the proposed amendments for planting strip and increased minimum side yards,</p>
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	potential areas of conflict with adjacent uses would be prevented.
<i>(c) adequate parking and loading areas can be provided;</i>	<p>The Development Officer commented that this is a large lot of approximately two (2) acres and they do not anticipate any issues with regards to parking or a loading zone. They added that drive-through and take out restaurants require four (4) parking spaces for the first 200 sq. ft. of usable floor area plus one (1) parking space for each additional 200 sq. ft. of useable floor area and any other commercial use requires one (1) parking space for every 300 sq. ft. of commercial floor area.</p> <p>The Development Officer stated that a loading space is not required for any building less than 2,000 sq. ft. in floor area. Depending on the building size it may or may not require a loading space. If the commercial floor area is over 2,000 sq. ft. then one (1) loading space would be required of a minimum of 12' x 40' and minimum 14' height clearance. Loading spaces cannot be located in the required front yard or located within any yard which abuts a residential zone. Loading spaces must also have access to the street by means of a minimum 20' wide driveway.</p>
<i>(d) traffic flow and pedestrian safety will not be adversely affected;</i>	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.
<i>(e) limited access and exit points can be provided;</i>	<p>The provisions of the Highway Commercial (HC) zone restricts the entrance to and exit from the lot to a maximum of two (2) driveways on any street.</p> <p>Section 5.2 of the Windsor Land Use By-law stipulates the driveway requirements for automobile service stations. The requirements state that the lot should have a minimum of 150</p>

	<p>ft (45.72 m) of frontage and be a minimum distance of 100 ft (30.48 m) from a street intersection. The subject lot has approximately 200 ft of frontage and driveway entrances would be further than 100 ft from the O'Brien Street and King Street intersection and the O'Brien Street and Wentworth Road intersection. Section 5.2 also states that the minimum distance between driveways shall be 30 ft (9.14 m) and the width of the driveways shall not be less than 25 ft (7.62 m).</p> <p>The Municipal Traffic Authority confirmed that the existing driveway is suitable as a commercial access for the property.</p>
<p><i>(f) any other matter which may be addressed in a Land Use By-law; and</i></p>	<p>All other matters have been addressed elsewhere in this report.</p>
<p><i>(g) the provisions of Policy 16.3.1.</i></p>	<p>See Attachment D.</p>

**Attachment D**  
**General Criteria for Amendment**

**16.0 IMPLEMENTATION**

**16.3 Land Use By-law Amendments and Development Agreements**

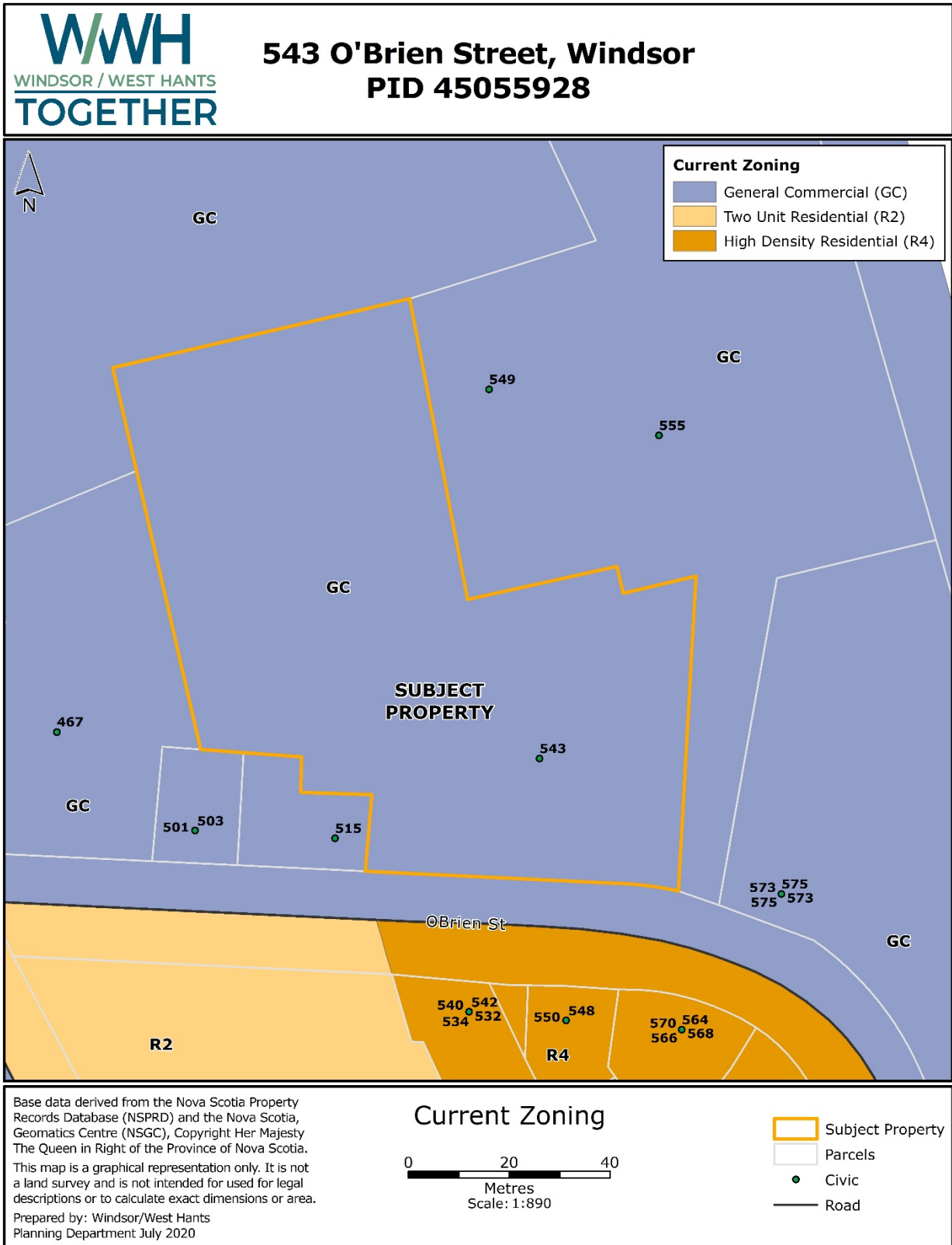
**Policy 16.3.1** *In considering development agreements and amendments to the Town of Windsor Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:*

<b>CRITERIA</b>	<b>COMMENT</b>
<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 Director of Public Works confirmed that the lot has access to water and sewer services. They added that they do not have concerns regarding either the supply of water to the uses permitted in the Highway Commercial (HC) zone or effluent which may be discharged into the sewer service as long as all the rules and regulations and/or by-laws are followed.
<i>(ii) the adequacy of school facilities;</i>	Not applicable.
<i>(iii) the adequacy of fire protection;</i>	The local Fire Chief had no concerns with the possible future uses of the site.  The Fire Chief mentioned that a site plan which takes into consideration items such as the location of bulk propane storage tanks and similar items, and apparatus access to the perimeter of the building(s) should be provided at the building permit stage to ensure any construction has adequate access for fire and emergency services.
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	O'Brien Street is an arterial road as shown on the Transportation Map (Map 2) of the Windsor Municipal Planning Strategy. The Traffic Authority had no concerns in regard to the adequacy of

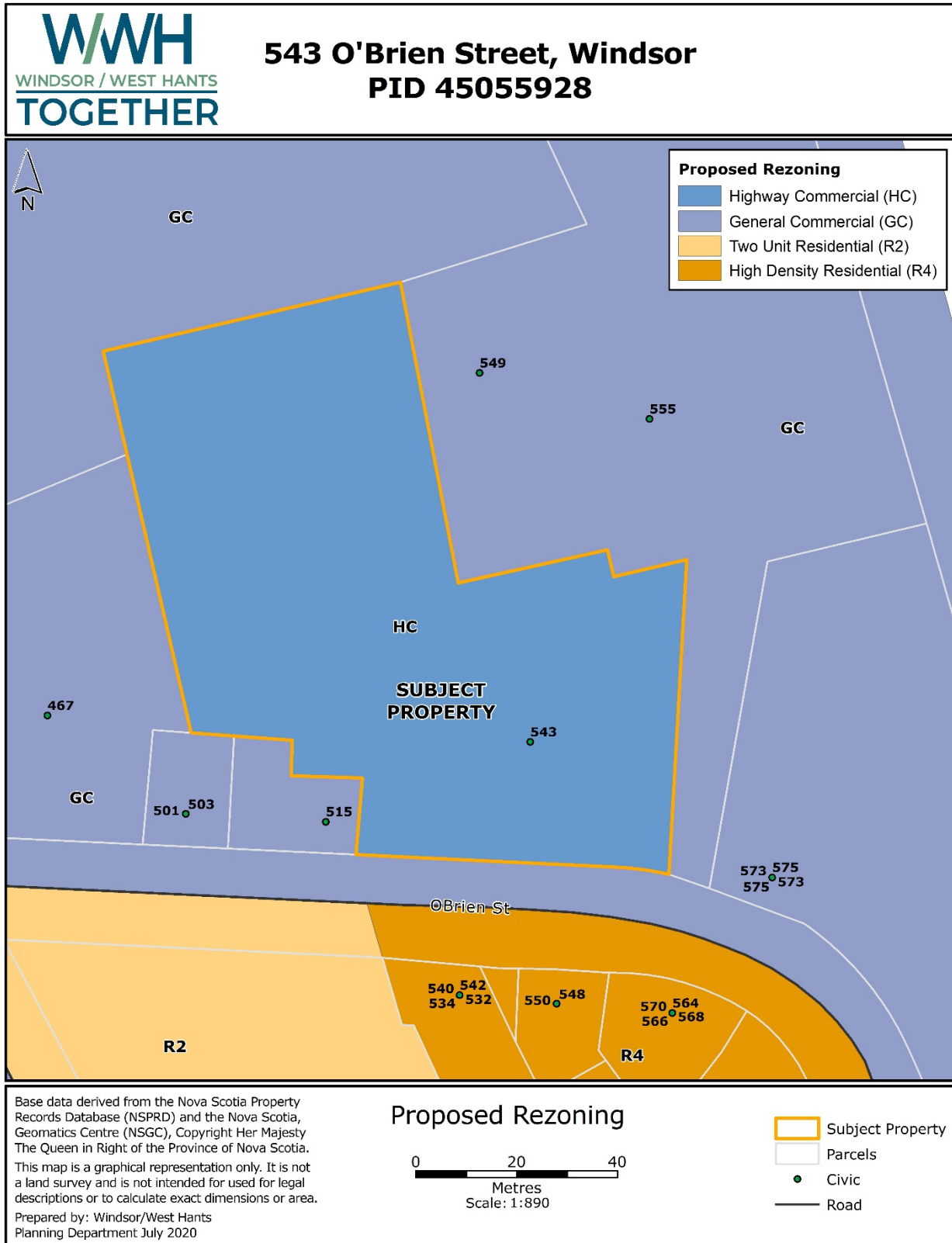
	road networks adjacent to, or leading to the development.
<i>(v) the financial capacity of the Town to absorb any costs relating to the development.</i>	There are no anticipated costs to the Municipality regarding this development.
<i>(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	The Traffic Authority has confirmed that the existing driveway is suitable as a commercial access and has no concerns. There is a sidewalk along O'Brien street which abuts the front of the subject lot for pedestrian traffic.  There is no rail transportation in this area.
<i>(c) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The Development Officer commented that the lot is currently approximately two (2) acres and should be adequate in meeting the general requirements for Highway Commercial zone. The lot exceeds the minimum lot area of 10,000 sq. ft. and minimum lot frontage required in the Highway Commercial (HC) zone. The Development Officer would ensure any development on the lot met the minimum front yard, rear yard and side yard of the Highway Commercial (HC) zone when the property owner applies for development and building permits.
<i>(d) the pattern of development which the proposal might create;</i>	The Development Officer has no concerns as to the pattern of development which the proposal might create.
<i>(e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, marshes or bogs and susceptibility of flooding;</i>	The subject lot is relatively flat and is already partially paved from the previous uses. There are no watercourses, marshes or bogs identified on the mapping for the site.

	<p>A small portion of the north side of the lot is within the Environmental Constraints area. Any new buildings proposed on that portion of the site would be required to meet Section 27.0 of the Windsor Land Use By-law.</p> <p>It is the responsibility of the property owner to ensure the site is suitable for the proposed uses.</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>The property owner is working with an environmental consultant to ensure the remediation of the site meets the Department of Environment’s requirements for the proposed uses. Facilities where a petroleum product is sold or kept for sale require approval by the Nova Scotia Department of Environment. The property owner will have to meet the Department of Environment’s requirements prior to building and development permits being issued.</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 other matters have been addressed elsewhere in this report.</p>

Figure 1  
Windsor Zoning Map – Existing



**Figure 2**  
**Draft Windsor Zoning Map – Proposed Amendment**



**Public Information Meeting Notes**  
**September 3, 2020**  
**File 20-17 A**  
**543 O'Brien Street, Windsor; PID 45055928**

<b>Meeting date and time</b>	A virtual Public Information Meeting was held on September 3, 2020 beginning at 6:00 p.m. The meeting was live broadcast on the Municipal Facebook page.
<b>Attending</b>	<p>In attendance:</p> <p>One (1) Councillor:</p> <ul style="list-style-type: none"> <li>• Councillor Murley</li> </ul> <p>Four (4) Windsor Area Advisory Committee members:</p> <ul style="list-style-type: none"> <li>• Shelley Bibby</li> <li>• Denise Forand</li> <li>• Jamie O'Hanlon</li> <li>• John Wilson</li> </ul> <p>Three (3) members of staff:</p> <ul style="list-style-type: none"> <li>• Director LeMay</li> <li>• Planner Poirier</li> <li>• Meeting Secretary, Vanessa Lake</li> </ul> <p>As this meeting was held virtually there were no members of the public present.</p>
<p><b>Applicant:</b>  <b>Clark Wilkins</b></p> <p><b>Site Location:</b>  <b>543 O'Brien Street,</b>  <b>Windsor; PID</b>  <b>45055928</b></p>	Planner Poirier outlined the request from Clark Wilkins to amend the Land Use By-law to rezone the property at 543 O'Brien Street from General Commercial (GC) to Highway Commercial (HC) to permit a proposed automobile service station and drive-through restaurant.
<b>Comments</b>	<p>Comments from the public were submitted to Planner Poirier by mail, e-mail and telephone between August 22 and September 23, 2020.</p> <p>Three (3) written comments were received and one (1) verbal comment was made by phone. The questions and comments from the public are summarized below. The full written comments are attached to this report. Staff responses are included in purple.</p>

Questions from the public included:

- Is this truly just a proposal, and we as a community have the ability to have our voices heard? Yes, the PIM is one of the first steps in the application process and is the first invitation to have residents' comment on the proposal. The comments received are considered by WAAC prior to a recommendation (in favour or against) being made.
- If we are not happy with the outcome of the meeting, will we have the opportunity to further discuss and follow up regarding the proposal? Yes, Council will host a Public Hearing prior to making their final decision.
- What assurance is the municipality and committee offering to ensure that the community are being taken seriously on this matter? As staff, we evaluate an application based on the criteria in the Municipal Planning Strategy policy. When we receive comments from residents, we also compare those to the criteria. All comments and questions from residents are provided to the Area Advisory Committee and Council to review, discuss and consider prior to any decision being made.
- What will the hours of operation be? Staff cannot restrict hours of operation through rezoning. The applicant commented that it would be normal gas bar / restaurant / coffee shop hours.
- Why a service station in that location? 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.
- How will this effect the tax base or the assessed value of my property? The assessed value of the subject lot will change if development occurs. The assessed values of surrounding properties should not change unless they are renovating, etc.

- Is the property owner / applicant also the developer or is a large retailer (Irving, Ultramar, etc.) going to be developing the proposed uses? The applicant responded that “all options are open, but as of now, I’m the owner and developer with no commitment or affiliation to any other company.”

Discussion points included:

- Resale value of property adjacent to a gas station
- Potential contamination on site from the previous uses
- Increased noise, odors, damage to property, increased traffic and commercial lighting, and quality of life of surrounding residents
- Potential health and environmental impacts of living next to a gas station
- The already existing service stations in Windsor
- Potential other uses that could be developed on the property instead (i.e. affordable housing)

The applicant responded to some of the discussion points and questions raised with the following:

- 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’s requirements for the proposed uses.

Additionally, 47 comments were received on the Municipal Facebook post. The responses are summarized below:

- Six (6) in favour of development of the lot
- Nine (9) opposed (either citing the amount of gas stations or drive-throughs already available, or emphasizing the need for affordable housing)
- Some listed alternative uses such as affordable housing / apartments, a competitive/cheaper grocery store, a Walmart, a Giant Tiger, a meat

	<p>market or possibly a craft brewery as more accepted uses</p> <ul style="list-style-type: none"><li>• A concern regarding traffic on the corner however another commented that the previous use (Co-op) did not have any issues</li></ul>
<b>Adjournment</b>	The meeting was adjourned at 6:23 p.m.

## Sara Poirier

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**From:** Adam Myles [REDACTED]  
**Sent:** Friday, August 28, 2020 9:09 AM  
**To:** Sara Poirier  
**Subject:** 543 O'Brien Street - RE-Zoning  
**Attachments:** 543 O'Brien Street Re-Zone Response.pdf

### Caution

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

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Hello Sara,

I am writing to you, as a land owner within 500 feet, regarding the proposed rezoning and land use of 543 O'Brien Street. My household is in full opposition of this situation based on the suggested land use.

Please find our official letter in opposition attached, for review and discussion amongst the municipality and advisory committee.

I will be in virtual attendance of the September 3rd meeting, and want to ensure that the municipality and committee have understood our letter and opposition.

My questions to you, after you have read this letter, are as follows:

- 1) Is this truly just a proposal, and we as a community have the ability to have our voices heard? or is this a scenario where it is simply the committee doing its due diligence and "offering" to accept/receive concerns/questions and comments? I wish to ensure that this has not progressed beyond the stated stage.
- 2) If we are not happy with the outcome of the meeting, will we have the opportunity to further discuss and follow up regarding the proposal?
- 3) What assurance is the municipality and committee offering to ensure that the community and local residents are in fact being taken seriously on this matter?

Thank you for your time,  
Adam 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>

## Sara Poirier

---

**From:** [REDACTED]  
**Sent:** Tuesday, September 1, 2020 9:07 PM  
**To:** Sara Poirier  
**Subject:** 543 O'Brien Street, Windsor Rezoning

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

### Caution

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

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Dear Ms Poirier  
Re 543 O'Brien Street, Windsor

We are the owners of 531 King Street, Windsor and wish to inform you we are against the rezoning of 546 OBrien Street Windsor to highway commercial.

The area currently has a number of residential properties and a service station/drive through restaurant would impact the quality of life with an increase in noise, traffic and commercial lighting. The addition of a service station/restaurant will further erode the character of the neighbourhood.

In the Windsor area there currently are 3 service stations on Wentworth Road. Nearby in Falmouth and Garlands Crossing there are 2 additional service stations. Windsor does not need a sixth service station when the trend is towards electric vehicles.

We also want to mention that to the best of our knowledge 543 OBrien Street, Windsor is contaminated from a fuel spill from the Coop gas bar. The environmental issues on the property have not been corrected - a full environmental cleanup is required on the site.

If you wish to speak with us, we can be contacted at [REDACTED]

Sincerely,

Greg and Alla Helpard

## Sara Poirier

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**From:** Rachael Smith [REDACTED]  
**Sent:** Thursday, September 3, 2020 10:27 AM  
**To:** Sara Poirier  
**Subject:** Former Co-OP site 543 O'Brien Street

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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Good morning Ms. Porrier,

I am writing to communicate my surprise at the proposed development at the former Co-OP site located at 543 O'Brien Street in Windsor. I do not believe we need another fast food restaurant and gas station in Windsor, especially at this near-central location.

I propose that the suggested plan be set aside in favor of affordable housing.

All through the province we are experiencing housing shortages as rental rates increase and need grows. I have been watching "For Rent" groups online for several years and people scramble and search to find adequate and affordable housing for themselves and/or their families for between 4 and 7 months, sometimes longer. Families are left with multiple people sharing bedrooms, members sleeping on couches in living rooms, having to "crash" with extended family and friends while putting belongings in storage or losing them completely. Single people on pensions who have no partner income to help support them are often left paying as much as 70% of their pension to have a roof over their heads. Medications and food at that point become neglected. Many single parent families are in the same situation.

I urge the Municipality to deny the application for development of the former Co-OP site and seek out a plan to provide housing options on the site instead.

Sincerely

Rachael Smith