

September 1, 2023

TO THE MAYOR AND MEMBERS OF COUNCIL:

A special meeting of Council will be held on **Tuesday, September 5, 2023, at 2:45 p.m.**, in **Room 139, 350 City Hall Square**. Council will at the special meeting adopt a resolution to authorize Council to meet in closed session, and the resolution shall contain the general nature of the matters to be considered in the closed session. The resolution must be adopted by a majority of Council present during the open special meeting before the meeting may be closed. An agenda for this meeting is enclosed under separate cover.

The **regular meeting** of Council will be held on **Tuesday, September 5, 2023 at 4:00 o'clock p.m., in the Council Chambers, 350 City Hall Square.**

BY ORDER OF THE MAYOR.

Yours very truly,



Steve Vlachodimos

City Clerk

/bm

c.c. Chief Administrative Officer

Consolidated City Council Meeting Agenda

Date: Tuesday, September 5, 2023

Time: 4:00 o'clock p.m.

Location: Council Chambers, 1st Floor, Windsor City Hall

All members will have the option of participating in person in Council Chambers or electronically and will be counted towards quorum in accordance with Procedure By-law 98-2011 as amended, which allows for electronic meetings. The minutes will reflect this accordingly. Any delegations have the option to participate in person or electronically.

MEMBERS:

Mayor Drew Dilkens

Ward 1 – Councillor Fred Francis

Ward 2 – Councillor Fabio Costante

Ward 3 – Councillor Renaldo Agostino

Ward 4 – Councillor Mark McKenzie

Ward 5 – Councillor Ed Sleiman

Ward 6 – Councillor Jo-Anne Gignac

Ward 7 – Councillor Angelo Marignani

Ward 8 – Councillor Gary Kaschak

Ward 9 – Councillor Kieran McKenzie

Ward 10 - Councillor Jim Morrison

ORDER OF BUSINESS

Item #	Item Description
--------	------------------

1.	ORDER OF BUSINESS
----	--------------------------

2.	CALL TO ORDER - Playing of the National Anthem
----	---

READING OF LAND ACKNOWLEDGEMENT

We [I] would like to begin by acknowledging that the land on which we gather is the traditional territory of the Three Fires Confederacy of First Nations, which includes the Ojibwa, the Odawa, and the Potawatomi. The City of Windsor honours all First Nations, Inuit and Métis peoples and their valuable past and present contributions to this land.

3.	DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF
----	--

4.	ADOPTION OF THE MINUTES
----	--------------------------------

4.1	Adoption of the Special Meeting of Council meeting minutes held August 3, 2023 (SCM 234/2023) (attached)
-----	--

4.2	Adoption of the Windsor City Council meeting minutes held August 8, 2023 (SCM 235/2023) (attached)
-----	--

5.	NOTICE OF PROCLAMATIONS
----	--------------------------------

Proclamations

“Suicide Awareness Month” – September 2023

Flag Raising Ceremony

“Independence of Mexico” – September 14, 2023 – September 19, 2023

Illumination

“World Suicide Awareness Day” – September 18, 2023 – September 22, 2023

“Independence of Mexico” – September 26, 2023 – September 27, 2023

“Prostate Cancer Awareness Month” – September 8, 2023 – September 15, 2023

6. **COMMITTEE OF THE WHOLE**

7. **COMMUNICATIONS INFORMATION PACKAGE** (This includes both Correspondence and Communication Reports)

7.1 Correspondence 7.1.1 through 7.1.7 (CMC 11/2023) **(attached)**

7.2. 2024 Budget Process Update - City Wide **(C 124/2023)**

7.3. Your Quick Gateway (Windsor) Inc. (YQG) - 2022 Financial Statements (Q2, Q3, Q4) and 2023 Financial Statements (Q1) - City Wide **(C 126/2023)**

8. **CONSENT AGENDA**

8.1. Municipal Capital Facility at 4000 County Road 42, Windsor – Ward 9 **(C 127/2023)**

8.2. Your Quick Gateway (Windsor) Inc. – Annual General Meeting of Shareholder – City Wide **(C 129/2023)**

CONSENT COMMITTEE REPORTS

8.5. Minutes of the Essex-Windsor Solid Waste Authority Regular Board Meeting held Tuesday, May 2, 2023 **(SCM 209/2023) & (SCM 200/2023)**

8.6. Essex Windsor Solid Waste Authority (EWSWA) Annual Report - Essex-Windsor Residential Waste Diversion 2022 **(SCM 210/2023) & (SCM 201/2023)**

8.7. Test Pilot of Garbage Relocation in Ward 3 - City Wide **(SCM 211/2023) & (S 82/2023)** and Move Residential Alley Garbage Collection to Curbside - City Wide **(C 69/2023)**
Clerk's Note: Administration provides an Additional Information Memo re: S 82/2023 Test Pilot of Garbage Relocation in Ward 3 - City Wide and C 69/2023 Move Residential Alley Collection to Curbside- City Wide **(AI 12/2023)**

8.8. Response to CQ27-2021 - All-Way Stop Warrant - City Wide **(SCM 212/2023) & (S 70/2023)**

8.9. Alley Maintenance Standards - City Wide **(SCM 213/2023) & (C 106/2023)**

8.10. Temporary Traffic Calming Measures For Class I Collector Roadways (CQ16-2023) - City Wide **(SCM 214/2023) & (S 83/2023)**

8.11. Update: Amendment to Sign By-law 250-04 related to Billboards and Electronic Billboards - City Wide **(SCM 216/2023) & (CM 7/2023)**

- 8.12. 546 and 548-550 Devonshire Road, Semi-Detached Houses - Heritage Permits & Community Heritage Fund Requests (Ward 4) **(SCM 217/2023) & (S 86/2023)**
- 8.13. 160 Askin Avenue – Request for Partial Demolition of a Heritage Listed Property (Ward 2) **(SCM 218/2013) & (S 87/2023)**
- 8.14. Windsor Municipal Heritage Register: Strategies in Response to Provincial Bill 23 (City-wide) **(SCM 219/2023) & (S 88/2023)**
- 8.15. 1646 Alexis Road, Former Gordon McGregor School – Heritage Designation Report **(SCM 220/2023) & (S 89/2023)**
- 8.16. Zoning By-law Amendment Application for the property at 3841 -3847 Howard Avenue; Applicant: Dior Homes; File No. Z-040/2022, ZNG/6903; Ward 9 **(SCM 221/2023) & (S 91/2023)**
- 8.17. Rezoning – 5050542 Ontario Inc. – 3623, 3631 & 3637 Howard Avenue – Z-003/23 ZNG/6949 - Ward 9 **(SCM 222/2023) & (S 92/2023)**
- 8.19. Closure of north/south alley located between Alexandra Avenue and Labelle Street, Ward 10 **(SCM 224/2023) & (S 81/2023)**
- 8.20. Closure of north/south alley located between Algonquin Street and 1429 Randolph Avenue, Ward 10 **(SCM 225/2023) & (S 57/2023)**
- 8.21. Closure of north/south alley located between Laforet Street and 3217 Baby Street, Ward 2 **(SCM 226/2023) & (S 71/2023)**
- 8.22. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by Habitat for Humanity Windsor-Essex for 1067 Henry Ford Centre Drive (Ward 5) **(SCM 227/2023) & (S 84/2023)**
- 8.23. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by Investrade Developments (Ontario) Limited for 240 Albert Road (Ward 5) **(SCM 228/2023) & (S 85/2023)**
- 8.24. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by 2821383 Ontario Inc, for 75 Mill Street (Ward 2) **(SCM 229/2023) & (S 80/2023)**
9. **REQUEST FOR DEFERRALS, REFERRALS AND/OR WITHDRAWALS**

10. **PRESENTATIONS AND DELEGATIONS**

PRESENTATION (5-minutes)

- 10.1. Windsor Symphony Orchestra
Robert Franz, WSO Music Director and Maestro, and Deborah Severs, Board of Directors President, providing details on the WSO's upcoming season

DELEGATIONS (5-minutes)

- 8.4. Frequency of Garbage Collection - City Wide **(C 120/2023)**
a) Caroline Taylor, Ward 2 resident (in person)
- 8.3. Traffic Modifications - Traffic By-law 9148 –One Way Street- St. Rose Avenue from Wyandotte St. E to Riverside Dr. E North-bound Ward: 6 **(C 121/2023)**
Clerk's Note: P &C Memo for Mayor & Members of Council only **(previously distributed)**
a) Manjinder Kooner, area business owner (in person)
- 8.18. Zoning By-law Amendment Application for 0 & 1466 St. Patrick Avenue, Z-037/22 [ZNG-6899], Ward 10 **(SCM 223/2023) & (S 56/2023)**
Clerk's Note: Administration provides the Additional Information Memo **(AI 10/2023)** that was provided at the August 1, 2023 Development & Heritage Standing Committee meeting **(attached)**
Clerk's Note: Bruce & Cathy Sheardown, area residents, submits the **attached** email received August 31, 2023 as a written submission.
a) Cynthia Summer, area resident (in person)
b) Jacky Ng, Applicant /Architectural Designer, Avant Group (via Zoom)
c) Bruce Sheardown, area resident (in person)
d) Lee Ann Robertson, area resident (in person)
e) Justine Nakigozi, area resident (in person)
f) Gabe Singh, area resident (via Zoom)
g) Theodore Kahiya, area resident (via Zoom)
h) Mike Chen, area resident (in person)

11. **REGULAR BUSINESS ITEMS** (Non-Consent Items)

- 11.1. Declaration of a Vacant Parcel of Land Municipally Known as 542 Dougall Avenue Surplus and Authority to Offer Same for Sale – Ward 3 **(C 125/2023)**
- 11.2. Renovation and Addition to the Administration Building of the Little River Pollution Control Plant- CITY WIDE **(C 109/2023)**
- 11.3. A By-law to authorize special charges being imposed on lots abutting the local improvement work completed under By-law 71-2021 on Randolph Avenue from Cleary Street to Northwood Street - Ward 10 **(C 103/2023)**

- 11.4. A By-law to authorize special charges being imposed on lots abutting the local improvement work completed under By-law 68-2021 on Mark Avenue from Campbell Avenue to Algonquin Street - Ward 10 **(C 104/2023)**
- 11.5. A By-law to authorize special charges being imposed on lots abutting the local improvement work completed under By-law 44-2023 on Curry Avenue from Norfolk Street to Richardie Boulevard - Ward 1 **(C 105/2023)**
- 11.6. Disaster Mitigation & Adaptation Fund Program Update & St. Paul Pumping Station Upgrades Tender Award - City Wide **(C 128/2023) (attached)**
12. **CONSIDERATION OF COMMITTEE REPORTS**
- 12.1. (i) Report of the Special In-Camera meeting or other Committee as may be held prior to Council (if scheduled)
13. **BY-LAWS (First and Second Reading) (attached)**
- 13.1. **By-law 107-2023** A BY-LAW TO APPOINT DEPUTY TREASURERS FOR THE CORPORATION OF THE CITY OF WINDSOR. Authorized by CR339/2023 dated August 8, 2023
- 13.2. **By-Law 108-2023** A BY-LAW TO AUTHORIZE THE CONSTRUCTION OF CURB AND GUTTER AND BOULEVARD RESTORATION ON CLEMENCEAU BOULEVARD FROM NORTH SERVICE ROAD EAST TO THE CANADIAN NATIONAL RAILWAY TRACKS, IN THE CITY OF WINDSOR, AS A LOCAL IMPROVEMENT. Authorized by CR185/2023 dated April 24, 2023
- 13.3. **By-law 109-2023** A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS DOMINION BOULEVARD IN THE CITY OF WINDSOR. Authorized by CR76/2011 dated February 28, 2011
- 13.4. **By-law 110-2023** A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE "CITY OF WINDSOR ZONING BY-LAW". Authorized by CR325/2023 dated August 8, 2023
- 13.5. **By-law 111-2023** A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE "CITY OF WINDSOR ZONING BY-LAW". Authorized by CR324/2023 dated August 8, 2023
- 13.6. **By-law 112-2023** A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS MCROBBIE ROAD IN THE CITY OF WINDSOR. Authorized by CR76/2011 dated February 28, 2011

- 13.7. **By-law 113-2023** A BY-LAW TO REGULATE OPEN AIR BURNING IN THE CITY OF WINDSOR. Authorized by CR316/2023 dated August 8, 2023
- 13.8. **By-law 114-2023** A BY-LAW TO AMEND BY-LAW NUMBER 392-2002, BEING A BY-LAW TO ESTABLISH AND REQUIRE PAYMENT OF FEES AND CHARGES. Authorized by CR316/2023 dated August 8, 2023
- 13.9. **By-law 115-2023** A BY-LAW TO AMEND BY-LAW 16-2022, BEING A BYLAW TO CLOSE, STOP UP AND CONVEY THE 3.66 METRE WIDE NORTH/SOUTH ALLEY LOCATED BETWEEN TECUMSEH ROAD WEST AND LEDUC STREET, EAST OF CAMPBELL AVENUE, CITY OF WINDSOR. Authorized by CAO166/2023, approved August 1, 2023
- 13.10. **By-law 116-2023** A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 4.57 METRE NORTH/SOUTH ALLEY SOUTH OF SPRING GARDEN ROAD, NORTH OF YORKTOWN AVENUE AND EAST OF MALDEN ROAD, CITY OF WINDSOR. Authorized by CR319/2022, approved July 25, 2022
- 13.11. **By-law 117-2023** A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 4.57 METRE NORTH/SOUTH ALLEY SOUTH OF SPRING GARDEN ROAD, NORTH OF YORKTOWN AVENUE AND EAST OF MALDEN ROAD, CITY OF WINDSOR. Authorized by CR319/2022, approved July 25, 2022
- 13.12. **By-law 118-2023** A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE "CITY OF WINDSOR ZONING BYLAW". Authorized by CR 491/2022, November 28, 2022
- 13.13. **By-law 119-2023** A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 2.25 METRE EAST/WEST ALLEY, EAST OF OAK STREET AND NORTH OF TECUMSEH BOULEVARD WEST, CITY OF WINDSOR. Authorized by CR 610/2020, December 7, 2020
- 13.14. **By-law 120-2023** A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 2.25 METRE EAST/WEST ALLEY EAST OF OAK STREET AND NORTH OF TECUMSEH BOULEVARD WEST, CITY OF WINDSOR. Authorized by CR 610/2020, December 7, 2020
- 13.15. **By-law 121-2023** A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS MEIGHEN ROAD IN THE CITY OF WINDSOR. Authorized by CR 76/2011, February 28, 2011
- 13.16. **By-law 122-2023** A BY-LAW TO APPOINT A DEPUTY CLERK FOR THE CORPORATION OF THE CITY OF WINDSOR. Authorized by By-law 98-2011, June 7, 2011

13.17 **By-law 123-2023** A BY-LAW TO CONFIRM PROCEEDINGS OF THE COUNCIL OF THE CORPORATION OF THE CITY OF WINDSOR AT ITS MEETING HELD ON THE 5th day of SEPTEMBER, 2023

14. **MOVE BACK INTO FORMAL SESSION**

15. **NOTICES OF MOTION**

16. **THIRD AND FINAL READING OF THE BY-LAWS**

By-laws 107-2023 through 123-2023 (inclusive)

17. **PETITIONS**

18. **QUESTION PERIOD**

18.1 Summary of Outstanding Council Questions as of August 17, 2023 (**SCM 231/2023**)
(attached)

19. **STATEMENTS BY MEMBERS**

20. **UPCOMING MEETINGS**

Community Services Standing Committee
Wednesday, September 6, 2023
9:00 a.m., Council Chambers

Committee of Management for Huron Lodge
Monday, September 11, 2023
9:00 a.m., Huron Lodge Board Room

Development & Heritage Standing Committee
Monday, September 11, 2023
4:30 p.m., Council Chambers

City Council Meeting
Monday, September 18, 2023

4:00 p.m., Council Chambers

21. **ADJOURNMENT**

Item No. 4.1



Committee Matters: SCM 234/2023

Subject: Minutes of the August 3, 2023 Special Meeting of Council Strategic Planning Session

Special Meeting of Council Strategic Planning Session

Thursday August 3, 2023
9:00 o'clock a.m.
Room 204-350 City Hall Square West
Windsor City Hall

Members Present:

Mayor

Mayor Dilkens

Councillors

Ward 1 - Councillor Fred Francis
Ward 2 - Councillor Fabio Costante
Ward 3 - Councillor Renaldo Agostino
Ward 4 - Councillor Mark McKenzie
Ward 5 - Councillor Ed Sleiman
Ward 6 - Councillor Jo-Anne Gignac
Ward 7 - Councillor Angelo Marignani
Ward 8 - Councillor Gary Kaschak
Ward 10 - Councillor Jim Morrison

Clerk's Note: Ward 9 - Councillor Kieran McKenzie participates via Zoom Video Conferencing.

ALSO PARTICIPATING ARE THE FOLLOWING FROM ADMINISTRATION

Joe Mancina, Chief Administrative Officer
Andrew Daher, Commissioner, Human & Health Services
Janice Guthrie, Commissioner, Corporate Services CFO/City Treasurer
Chris Nepszy, Commissioner, Infrastructure Services
Ray Mensour, Commissioner, Community Services
Shelby Askin Hager, Commissioner, Legal & Legislative Services
John Revell, Acting Commissioner, Economic Development & Innovation
Steve Vlachodimos, City Clerk
Anna Ciacelli, Deputy City Clerk
Sandra Gebauer, Council Assistant
Karen Kadour, Committee Coordinator

2. CALL TO ORDER

The Mayor calls the meeting to order at 9:07 o'clock a.m.

3. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None disclosed.

6. COMMITTEE OF THE WHOLE

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

That Council do now rise and move into Committee of the Whole with the Mayor presiding for the purpose of dealing with:

- a) hearing requests for deferrals, referrals and/or withdrawals of any items of business;
- b) hearing presentations and delegations;
- c) consideration of business items;
- d) consideration of Committee reports;
- e) consideration of by-law 92-2023

Carried.

9. REQUESTS FOR DEFERRALS, REFFERALS OR WITHDRAWALS

None requested.

11. REGULAR BUSINESS ITEMS

11.1 Council discussion to set committee priorities and determine which committees will be established for the Council term.

Steve Vlachodimos, City Clerk appears before the Special Meeting of Council-Strategic Planning Session and provides a brief overview and historical information related to the structure of advisory committees including the following: overview of the Council Report that was considered in public session in June 2023; Council unanimously approved Option #2 which saw a restructuring of the current advisory committees; The Committees would automatically cease and be dissolved at the conclusion of each Council term; At the beginning of each Council term, Council shall meet and set which committees will be

Minutes

Special Meeting of City Council

August 3, 2023

established for the term as well as their mandates; Any committees with Council representation, shall be chaired by a member of Council; and, Council may establish going forward four types of committees of Council:

Advisory Committee – to provide citizen and organization expertise on matters relevant to the Committee’s mandate; to provide information, receive or provide feedback and to participate in the development of solutions.

Mr. Vlachodimos indicates that the role of the members must be clear – they are not advocacy committees and not decision makers; they help to inform Council’s decision making process.

Task Force – to provide citizen and organizational expertise on a specific set of defined topics/issues for a set time period; to consider information, receive and provide feedback;

Mr. Vlachodimos provides information related to the term for advisory committees, which is a long commitment for the citizens as well as for the Councillors. The task force provides for a set period of time which ceases at the end of their mandate.

Working Group – to provide citizen or organizational expertise or oversight on the development/delivery of project/program; assist in the delivery of an approved plan or strategy.

Mr. Vlachodimos indicates that the working group will not have a member of Council on it unless directed by Council and would be chaired by a member of Administration.

Experts Panel – provide expert opinion of topics or issues within defined mandates.

Mr. Vlachodimos advises that the expert panel could be chaired by a member of the committee or a staff member. Mr. Vlachodimos provides an overview of the Boards/Commissions/Committees that Council Members belong to currently and advises that the number of entities varies for each member of Council. Mr. Vlachodimos provides details related to the consultant’s report (during the Council Compensation Review) related to the number of committees that Council Members sit on which is above average compared to similar sized municipalities.

Anna Ciacelli, Deputy Clerk, provides information related to the advertising campaign that was undertaken in October of 2022 entitled “Are you on Board” including collaboration, the communications department, Social Media/Windsor Star and City website advertisements as well as flyers circulated with the Communications Department which also involved Social Media, the Windsor Star and the City’s website. Ms. Ciacelli indicates that a diverse application process was developed in order to solicit qualified applicants which was geared to each Board or Commission. Ms. Ciacelli adds that administration provided questions geared specifically to the respective committees and an application

form was created. The application was then posted to the Google Forms platform to allow for easy access for the public to complete and submit their application in addition to attaching their resume if they chose to. The applications were compiled and provided to Council Members for their review, and the committees were struck during a Striking Committee meeting. Ms. Ciacelli indicates that the Clerk's office would proceed with recruiting for these entities using the same methods and that this would take place in the near future.

Mr. Vlachodimos requests Council to consider approving the use of an exit interview or survey whereby administration would determine feedback of departing committee members to allow for continuous improvement to the process. Mr. Vlachodimos concludes by noting that as of June 2023, the following committees no longer exist – Community Public Art Advisory Committee, Seniors Advisory Committee, Town and Gown Committee, Windsor BIA Advisory Committee, Housing & Homelessness Advisory Committee, Windsor Bicycling Committee, Transit Windsor Advisory Committee, Windsor Essex County Environment Committee and the Diversity Committee.

Mayor Dilkens indicates that the Clerk's Office has undertaken an extensive review of attendance and recommendations for each of the committees and requests that the Clerk reviews their findings.

Community Public Art Advisory Committee

Christopher Menard, Supervisor of Community Programming, Recreation and Culture and Jen Knights, Executive Director Recreation and Culture appear before Council and provide a brief overview of the existing Community Public Arts Advisory Committee including: the composition of the committee; their role as advisors and to review applications as they are received; Provide feedback to the groups noting the path they are to take from conception to the unveiling of an art installation. Ms. Knights adds that they are proposing to shift from the role of an Advisory Committee to a Working Group so the role of the members shifts from providing advice directly to Council to liaising with City Administration to have their feedback filter through Council Reports: information related to public projects and the departments involved in approvals; the working group would still report to the Community Services Standing Committee and City Council; deliverables for the working group will include reviewing the applications that come through, review the implementation of a maintenance plan, to ensure a proper maintenance program and conservation efforts for the current collection and to work with the Cultural Development Coordinator that focuses on public art; the proposed name will be the Community Public Art Working Group.

Councillor Fred Francis suggests a 2 year term instead of a 4 year term; he adds that instead of having Boards/Commissions, he proposes that each Councillor undertake a portfolio similar to the cabinet in Ontario; there would still be advisory committees, but without a Councillor, however if a Councillor wishes to take on a portfolio that Councillor

Minutes

Special Meeting of City Council

August 3, 2023

Page 5 of 14

could be charged with overseeing a particular committee and then they would come back to the Council table with a presentation. Councillor Fred Francis inquires whether there may be an opportunity to empower the elected officials to move forward in areas of interest and expertise.

Mayor Drew Dilkens inquires how this plan would be different from the Standing Committee structure as you have a portfolio for Community Services and all of these items flow through there before it gets to Council.

Councillor Kieran McKenzie indicates that he believes the problems lie with the engagement piece, the training component and finding the people whose skill set can be matched up with our committee structure including problems with achieving quorum for a meeting.

Moved by: Councillor Jo-Anne Gignac
Seconded by: Councillor Ed Sleiman

Decision Number: CR300/2023

That the Community Public Art Advisory Committee that was dissolved in accordance with CR249/2023 **BE RESTABLISHED** as the Community Public Art Working Group for the term expiring 2026.

Carried.

Seniors Advisory Committee

Nada Tremblay, Manager Community Programming and Development appears before Council and provides a brief overview regarding their proposed future committee including that there is a dedicated position within Recreation and Culture in a Coordinator role and are proposing through the Working Group concept that this position liaise directly along with a representative from Parks in order for them to be responsive, collaborative and to move ideas and projects forward; change the name to Age Friendly Windsor Working Group which aligns with the World Health Organization Age Friendly Cities concept; There will be no Councillor on the Working Group; The term will be commensurate with the term of Council; The deliverables will include the Age Friendly Communities and Cities Project including projects across the city, infrastructure and accessibility in parks; The Working Group will consist of six community members along with two staff members.

Moved by: Councillor Fred Francis
Seconded by: Councillor Mark McKenzie

Decision Number: CR301/2023

That the Seniors Advisory Committee that was dissolved in accordance with CR249/2023 **BE RESTABLISHED** as the Age Friendly Windsor Working Group for the term expiring 2026.

Carried.

Town and Gown Committee

Rob Vani, Deputy Chief Building Official/Inspections appears before Council and provides a brief overview of the current committee structure and guidelines; There is no legislative requirement for a Town and Gown Committee; The Committee was struck to address neighbourhood issues around the college and university; The Committee was not effective and primarily dealt with issues by area residents that could have been handled by the 311 Call Centre.

Mr. Vlachodimos indicates that in 2022 Administration established an internal committee, the Compliance and Enforcement Committee for synergy purposes comprised of representatives from By-law Enforcement, Public Works, the Fire Department, Building, Police, 311, Customer Service and Council Secretariat. He adds that if issues arise regarding the University of Windsor or St. Clair College, these matters could be referred to this administrative committee for discussion.

Councillor Fabio Costante indicates that in speaking with some residents in Ward 2, that the residents want to communicate with the College and the University of Windsor in advance of events like FROSH week, Welcome Week where there will be parties. He asks if a mechanism will be in place for that free flow of communication and information.

Councillor Jo-Anne Gignac inquires whether that would be the responsibility of the College and the University. Councillor Fabio Costante responds historically it has not flowed that way and was not a priority. The Town and Gown Committee was used as a medium for that conversation.

Moved by: Councillor Angelo Marignani
Seconded by: Councillor Mark McKenzie

Decision Number: CR302/2023

That the Town and Gown Committee **BE DISSOLVED**, and further,

That if an issue arises pertaining to the University of Windsor or St. Clair College, that representatives from their schools **BE INVITED** to attend a meeting of the internal Compliance and Enforcement Administrative Committee to discuss that matter.

Carried.

Windsor BIA Advisory Committee

Mr. Vlachodimos proposes that this Committee meet once or twice a year, i.e. information sharing/providing guidance to the various BIA's to ensure all are on the same page in terms of the governance model.

Minutes

Special Meeting of City Council

August 3, 2023

Greg Atkinson, Manager Development/Deputy City Planner appears before Council and indicates that he believes the Committee is not necessary.

Councillor Jo-Anne Gignac inquires about what other means will be available to help identify problems or issues that the BIA's have. Mr. Vlachodimos indicates that the BIA's will continue to have a dedicated e-mail contact to the City of Windsor, and if necessary a meeting will be called administratively to discuss the matters and to educate all of the representatives from the BIA's.

Joe Mancina, Chief Administrative Officer adds that during the BIA governance process, the information session approach worked quite well, so having information sessions perhaps annually/semi-annually with the BIA's is also being contemplated.

Councillor Fabio Costante asks if templates and resources can be provided to the BIA's. Mr. Vlachodimos reiterates the direct e-mail as being an important tool for the BIA's to utilize.

Councillor Mark McKenzie expresses concern that there may be pushback from some of the BIA's and asks how to mitigate that possibility. Mr. Vlachodimos indicates that if the BIA's require assistance from Administration, those meetings will be arranged.

Councillor Kieran McKenzie states that he is opposed to this recommendation and proposes strengthening WBIAAC. The BIA's have common issues and need a forum where they can regularly communicate those issues whether they relate to security, governance, or the financial structure. He suggests maintaining the current structure, and to help the BIA's to be more focused on those common issues.

Mr. Vlachodimos requests that Council perhaps consider turning this Committee into a Working Group, with no Council representation as Chair. Councillor Jo-Anne Gignac agrees that is a good option as the BIA's want timely answers to their questions. She concurs that if two meetings are held annually it will allow the BIA's to come together, and to share when their events will be held. Mr. Vlachodimos suggests they could have a common dashboard where they can type in requests which builds on the e-mail and administrative contact information.

Moved by: Councillor Mark McKenzie
Seconded by: Councillor Jo-Anne Gignac

Decision Number: CR303/2023

That the Windsor BIA Advisory Committee that was dissolved in accordance with CR249/2023 **BE RESTABLISHED** as the Windsor BIA Working Group for the term expiring 2026.

Carried.

Councillor Kieran McKenzie voting nay.

Housing and Homelessness Advisory Committee (HHAC)

Kirk Whittal, Executive Director, Housing and Children’s Services appears before Council and provides the following overview related to this committee, indicating that Council is constantly being updated in terms of housing issues, initiatives and Federal Programs which do not necessarily go through HHAC and are somewhat repetitive; The Housing Department receives federal dollars for the homelessness “Reaching Home” program and as part of this under federal rule, is to have a Community Advisory Board (CAB). Mr. Whittal adds that there will be a number of initiatives in the next year that will require a large amount of consultation with both the City and the County, i.e. Regional Affordable Housing Strategy and an update of the Housing & Homelessness Master Plan. Mr. Whittal indicates that The City of Windsor is a Service Manager and as such they have a responsibility and accountability to deliver housing and homelessness programs in the region. Mr. Whittal suggests that possibly a Working Group or Expert Panel would be more effective. Andrew Daher, Commissioner, Human and Health Services advises that the 10 Year Housing and Homelessness Master Plan will be an annual review and provides an update to the Community Advisory Board. Mayor Drew Dilkens summarizes that the recommendation is to create Task Force that are brought together to deal with a review of the updates of the 10 Year Housing & Homelessness Master Plan and the Regional Affordable Housing Strategy.

Councillor Kieran McKenzie states that the problem with HHAC is the number of members along with the interaction between the Chair and Administration which translates to attending a meeting to hear reports. The Councillor suggests that HHAC is underperforming in terms of what it could potentially do and if what Administration is proposing will help to fix that, better decisions will be made.

Moved by Councillor Fabio Costante
Seconded by: Councillor Fred Francis

Decision Number: CR304/2023

WHEREAS, the goal of the Community Advisory Board is to ensure Windsor Essex is a community that is knowledgeable, compassionate and actively working to end homelessness; and,

WHEREAS, through advocacy and education, the Community Advisory Board aims to inspire policy and service delivery changes that prioritizes housing and support for our neighbours experiencing homelessness; and,

WHEREAS, the Community Advisory Board reports to the City of Windsor who is the Community Entity for Reaching Home: Canada’s Homelessness Strategy; and,

WHEREAS, the Community Advisory Board reviews and recommends funding for initiatives that are consistent with the guidelines of Reaching Home: Canada's Homelessness Strategy (RH), the RH community plan developed the Community Advisory Board, and the 10 Year Housing and Homelessness Master Plan; and,

WHEREAS, the Community Advisory Board is not a committee of Council, however is a federal requirement under the Reaching Home: Canada's Homelessness Strategy directives and funding agreement with the City of Windsor as the Community Entity,

THEREFORE BE IT RESOLVED, that the Housing and Homelessness Advisory Committee **BE DISSOLVED** as its mandate overlaps with the existing Community Advisory Board who is able to provide more flexible and responsive guidance on the complex and rapidly changing housing and homelessness needs in Windsor Essex County.

Carried.

Councillor Kieran McKenzie voting nay.

Windsor Bicycling Committee (WBC)

Shawna Boakes, Director of Operations appears before Council and provides a brief overview of the WBC indicating the current structure of the Windsor Bicycling Committee is focused on bicycling and advocacy for cycling throughout the city. Ms. Boakes indicates that the Active Transportation Master Plan was passed which is a lot more multi-modal than just bicycling. Ms. Boakes proposes that the existing committee be replaced with an Expert Panel which would allow Administration more flexibility in being able to work with the community. Ms. Boakes indicates that administration is investigating a brand new design and concept entitled "cross rides" where there are pedestrians and bicyclists in the crossing and signalized together. Ms. Boakes adds that they want to see more variety on the Expert Panel – people who are family oriented, people who rollerblade, use scooters, and cyclists which would be less formal.

Councillor Kieran McKenzie agrees with altering the Mandate to include the Active Transportation Master Plan. He asks if the Expert Panel will be convened on an ad hoc and how often would this consultation occur. Ms. Boakes indicates that the Expert Panel would meet two to three times a year. Mr. Vlachodimos adds that an Expert Panel can meet anytime as there is flexibility in the number of meetings that are held.

Councillor Kieran McKenzie expresses concern that the Expert Panel will be administratively driven which would take away the input from the community on what is needed in the city to address or improve the active transportation network.

Councillor Jim Morrison inquires about the name change. Mr. Vlachodimos indicates that the committee will be called the Active Transportation Expert Panel.

Minutes

Special Meeting of City Council

August 3, 2023

Page 10 of 14

Councillor Renaldo Agostino inquires whether runners are included in this discussion. Ms. Boakes indicates that running is a mode of transportation and would be included.

Mayor Drew Dilkens advises that there is not any attempt to thwart public participation; this is all about streamlining and getting participation. The intent is to broaden the scope of memberships; to get to the people that are not just riding their bike to work but the broad section of the community who use bicycles.

Councillor Fred Francis proposes that public meetings should be streamed to allow people to log on and to be able to ask questions in the comments section. Mr. Vlachodimos indicates that the Expert Panels could be held virtually.

Councillor Kieran McKenzie inquires about the current operating budget for the committee and what will happen to it. Janice Guthrie indicates that if there are budget dollars available for 2023, Administration will review and report back.

Moved by: Councillor Jo-Anne Gignac
Seconded by: Councillor Ed Sleiman

Decision Number: CR305/2023

That the Windsor Bicycling Committee that was dissolved in accordance with CR249/2023 **BE RESTABLISHED** as the Active Transportation Expert Panel for the term expiring 2026.

Carried.

Councillor Kieran McKenzie voting nay.

Transit Windsor Advisory Committee

Tyson Cragg, Executive Director Transit Windsor appears before Council and provides a brief overview of the current committee structure and indicates some of the issues that are problematic include difficulty in getting quorum, public participation at the meetings was limited, Transit Windsor reports to a Board, (Environment, Transportation and Public Safety Standing Committee) and also Council so it is like reporting to a third committee in terms of litigating budgets, or other matters. Mr. Cragg adds that there is value in having a committee as it is important to have public feedback and suggests a Task Force or a Working Group or even an Expert Panel which would include a group of users, i.e. University of Windsor and St. Clair College Students Association, seniors groups, etc.

Councillor Fabio Costante inquires how information is generated from these groups. Mr. Cragg indicates that the information would be provided via the meeting minutes which would be forwarded to the Standing Committee and Council.

Minutes

Special Meeting of City Council

August 3, 2023

Page 11 of 14

Moved by: Councillor Gary Kaschak
Seconded by: Councillor Fabio Costante

Decision Number: CR306/2023

That the Transit Windsor Advisory Committee that was dissolved in accordance with CR249/2023 **BE REESTABLISHED** as the Transit Windsor Working Group for the term expiring 2026.

Carried.

Windsor Essex County Environment Committee (WECEC)

Mr. Vlachodimos, provides a brief overview of the current structure of the Windsor Essex County Environment Committee and indicates that this is a joint city/county committee and was last established in its current form in 2003; The County provides \$20,000 a year for the WECEC Coordinator position along with an additional \$4,000 towards the budget and WECEC activities; The issues are somewhat different in terms of environmental issues for the City and for the County. Mr. Vlachodimos proposes that the City of Windsor have its own environment committee and if needed, can meet with the County periodically and suggests that it be formed as an Expert Panel; and to engage high school students to do some environmental initiatives.

Natasha Gabbana, Senior Manager of Asset Planning and Averil Parent, Asset Coordinator (formerly WECEC Coordinator) appear before Council and recommend the Advisory Committee structure with a meeting frequency of six times a year to allow the committee to be more proactive in addressing issues; and suggest a city only committee which will allow for a more streamlined approach and to focus on the concerns and issues of the City of Windsor as identified in the Environmental Master Plan and the Corporate Energy Plan.

Councillor Fred Francis suggests a name change to Environment and Climate Change Advisory Committee.

Councillor Angelo Marignani agrees with youth involvement.

Councillor Jo-Anne Gignac inquires why an advisory committee rather than look at a Task Force or a Working Group which would be more focused in terms of ensuring the Environmental Master Plan continues to move forward. Ms. Gabbana indicates that there are opportunities to create Task Forces, for example The Community Energy Plan, there is a Task Force and there are working groups that are brought together for various issues.

Mayor Dilkens inquires whether it is right to have an Expert Panel to deal with the issues related to the Environmental Master Plan's specific topics and asks if a Working Group or a Task Force can be layered in. He proposes a group or a representative from every high

Minutes

Special Meeting of City Council

August 3, 2023

Page 12 of 14

school and also the University of Windsor and St. Clair College pull together and develop a plan to get them involved in the environment part of this conversation. Mr. Vlachodimos states that if there is an Expert Panel, and an urgent environmental application is received, it can be forwarded to the Expert Panel to review in an expedient manner.

Councillor Kieran McKenzie reports that the biggest issue with WECEC was the divergent interests of County and City. Both the County and the City should be focused on dealing with climate change. WECEC was the originator of the Climate Change Emergency Declaration elicited by and from the City of Windsor, the County of Essex and endorsed by the Essex Region Conservation Authority.

Moved by: Councillor Fred Francis
Seconded by: Councillor Ed Sleiman

Decision Number: CR307/2023

That the Windsor Essex County Environment Committee that was dissolved in accordance with CR249/2023 **BE RESTABLISHED** as the Environment/Climate Change Advisory Committee for the City of Windsor for the term expiring 2026.
Carried.

Diversity Committee

Mr. Vlachodimos provides a brief overview of the Diversity Committee and indicates that this Committee was established in 1987 and expresses concern with the framework. He adds that a Made in Windsor solution is required and proposes that two City Councillors sit on this committee going forward. The Chair should not be a Councillor or an Administrator, rather a third party facilitator should Chair the meetings. He suggests having a recurring agenda item where a positive diversity effort is highlighted in this community or another community which can be used as a learning tool.

Janice Guthrie, Commissioner Corporate Services and Shelby Askin-Hager, Commissioner Legal and Legislative Services appear before Council and indicate that administration needs to take a moment to rethink this committee and to put it on hold for a period of time. They add that there is a renewed Request for Proposal as it relates to Anti-Racism and Anti-Discrimination and to allow this process to unfold and then align this committee.

Councillor Francis proposes a name change to the Equity, Diversity and Inclusion Committee and should include the high schools, school boards, the University of Windsor and St. Clair College. Ms. Askin-Hager advises that there are a number of different streams to this; inclusion is different from anti-racism and is different from reconciliation. A more complex structure will be developed in order to recognize that people bring different things to the table.

Moved by: Councillor Fred Francis
Seconded by: Councillor Jo-Anne Gignac

Decision Number: CR308/2023

That the meeting model of the future Diversity Committee **BE REFERRED** back to Administration to be determined following the completion of the Request for Proposal process relating to Anti-Racism; and further,

That Administration **BE DIRECTED** to provide options regarding a future meeting model for Council's consideration.

Carried.

Exit Survey

Moved by: Councillor Mark McKenzie
Seconded by: Councillor Fred Francis

Decision Number: CR309/2023

That the City Clerk's Office **BE AUTHORIZED** to develop and implement an Exit Survey at the conclusion of the committee term, or in the event a member resigns from a committee.

Carried.

13. BY-LAW (First and Second Reading)

Moved by: Councillor Fred Francis
Seconded by: Councillor Jo-Anne Gignac

That the following By-law No. 92-2023 be introduced and read a first and second time:

By-law 92-2023 A BY-LAW TO CONFIRM PROCEEDINGS OF THE COUNCIL OF THE CORPORATION OF THE CITY OF WINDSOR AT ITS SPECIAL MEETING HELD ON THE 3rd DAY OF AUGUST, 2023

Carried.

14. MOVE BACK INTO FORMAL SESSION

Moved by: Councillor Gary Kaschak
Seconded by: Councillor Angelo Marignani

That the Committee of the Whole does now rise and report to Council respecting the business items considered by the Committee:

- 1) Consideration of Regular Business Items
 - 2) By-law given first and second readings as presented
- Carried.

16. THIRD AND FINAL READING OF THE BY-LAWS

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

That By-law No. 92-2023 having been read a first and second time be now read a third time and finally passed and that the Mayor and Clerk **BE AUTHORIZED** to sign and seal the same notwithstanding any contrary provision of the Council.
Carried.

21. ADJOURNMENT

There being no further business, the meeting is adjourned at 11:53 o'clock a.m.

Mayor

City Clerk

Item No. 4.2



Committee Matters: SCM 235/2023

Subject: Minutes of the August 8, 2023 City Council Meeting

City Council Meeting

Date: Tuesday, August 8, 2023

Time: 4:00 o'clock p.m.

Members Present:

Mayor

Mayor Dilkens

Councillors

Ward 1 – Councillor Fred Francis

Ward 3 - Councillor Renaldo Agostino

Ward 4 – Councillor Mark McKenzie

Ward 5 - Councillor Ed Sleiman

Ward 6 - Councillor Jo-Anne Gignac

Ward 7 – Councillor Angelo Marignani

Ward 8 - Councillor Gary Kaschak

Ward 9 - Councillor Kieran McKenzie

Ward 10 - Councillor Jim Morrison

Councillor's Regrets

Ward 2 - Councillor Fabio Costante

1. ORDER OF BUSINESS

2. CALL TO ORDER - Playing of the National Anthem

Following the playing of the Canadian National Anthem and reading of the Land Acknowledgement, the Mayor calls the meeting to order at 4:00 o'clock p.m.

3. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

Councillor Fred Francis discloses an interest and abstains from voting on Item 7.1.5 being "Letter regarding Access to Primary Care", as the PropserUs Program relates to his employer.

Councillor Fred Francis discloses an interest and abstains from voting on Item 11.6 being "2022 Annual Investment Compliance Report", as the recommendation relates to the employer of a family member.

4. ADOPTION OF THE MINUTES

4.1. Adoption of the Windsor City Council meeting minutes held July 10, 2023

Moved by: Councillor Renaldo Agostino

Seconded by: Councillor Jim Morrison

That the minutes of the meeting of Council held July 4, 2023 **BE ADOPTED** as presented.
Carried.

Report Number: SCM 203/2023

5. NOTICE OF PROCLAMATIONS

Proclamations

"Childhood Cancer Awareness Month" – September 2023

Flag Raising Ceremony

"Go Gold Initiative – Childhood Cancer Awareness Month" – September 1, 2023

Illumination

"Childhood Cancer Awareness Month" – September 1 – September 7, 2023

6. COMMITTEE OF THE WHOLE

Moved by: Councillor Fred Francis
Seconded by: Councillor Jo-Anne Gignac

That Council do now rise and move into Committee of the Whole with the Mayor presiding for the purpose of dealing with:

- (a) communication items;
- (b) consent agenda;
- (c) hearing requests for deferrals, referrals and/or withdrawals of any items of business;
- (d) hearing presentations and delegations;
- (e) consideration of business items;
- (f) consideration of Committee reports:
- (g) Report of Special In-Camera Meeting or other Committee as may be held prior to Council (if scheduled); and
- (h) consideration of by-laws 93-2023 through 106-2023 (inclusive)

7. COMMUNICATIONS INFORMATION PACKAGE (This includes both Correspondence and Communication Reports)

7.1. Correspondence August 8, 2023

Moved by: Councillor Gary Kaschak
Seconded by: Councillor Angelo Marignani

Decision Number: CR310/2023

That the following Communication Items 7.1.2, through 7.1.4, 7.1.6. and 7.1.7 be set forth in the Council Agenda **BE REFERRED** as noted; and that Item 7.1.1, and 7.1.5 be dealt with as follows:

7.1.5 Administrative Memo providing Council with information related to Primary Care and Letter regarding Access to Primary Care

Moved by: Councillor Gary Kaschak
Seconded by: Councillor Jo-Anne Gignac

Decision Number: CR311/2023

That the administrative memo from the Commissioner of Human and Health Services dated August 8, 2023 regarding background information related to the ProsperUS letter, and the letter received from ProsperUS dated August 2, 2023 regarding Access to Primary Care **BE RECEIVED** for information; and,

That Administration **BE REQUESTED** to send a letter to the Ministry of Health and Long Term Care for their consideration and/or action.

Carried.

Councillor Fred Francis discloses an interest and abstains from voting on this matter.

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Renaldo Agostino

Decision Number: CR312/2023

That Administration **BE REQUESTED** to invite the ProsperUs group to make a presentation at a future meeting of the Community Services Standing Committee to outline their issues and provide details related to their concerns.

Carried.

Councillor Fred Francis discloses an interest and abstains from voting on this matter.

Report Number: CMC 10/2023

Clerk's File:MH2023

7.1.1 Request for Federation of Canadian Municipalities (FCM) to endorse the Disaster Mitigation and Adaptation Fund (DMAF) Funding resolution

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Jo-Anne Gignac

Decision Number: CR313/2023

That Windsor City Council **ENDORSE** the following and that it **BE FORWARDED** to the Federation of Canadian Municipalities (FCM):

EISD-2023-05 Federal Mechanism to address inflationary costs through DMAF

WHEREAS, municipal infrastructure across Canada is being increasingly impacted by the effects of climate change, leading to urgent and escalating needs for mitigation and adaptation projects; and,

WHEREAS, the Disaster Mitigation and Adaptation Fund (DMAF) is a critical federal program providing essential funding for municipal climate adaptation and mitigation projects; and,

WHEREAS, the federal government has committed to covering up to 40% of project costs through the DMAF program, and since the program's inception in 2018, Canada has experienced a higher-than-expected inflation rate which has significantly increased total project costs; and,

WHEREAS, due to inflation, the funds committed through DMAF no longer cover 40% of project costs placing a greater financial burden on municipalities; therefore be it

Minutes
City Council
August 8, 2023

RESOLVED, That the FCM **CALL ON** the federal government to work with municipalities to develop a funding mechanism to address inflationary cost escalation as it relates to the Disaster Mitigation and Adaptation Fund (DMAF) program.
 Carried.

No.	Sender	Subject
7.1.1	Mayor's Office	Request for Federation of Canadian Municipalities (FCM) to endorse the Disaster Mitigation and Adaptation Fund (DMAF) Funding resolution City Treasurer SW/13822 Council Direction Requested, otherwise Note & File
7.1.2	Legal Assistance of Windsor	Letter regarding Encampments and Affordable Housing Crisis Commissioner, Human & Health Services SS2023 Council Direction Requested, otherwise Note & File
7.1.3	Enbridge Gas Inc. - Technical Manager, Regulatory Applications	2022 Utility Earnings and Disposition of Deferral and Variance Account Balances Application and Evidence MU 2023 Note & File
7.1.4	Dillon Consulting & Manager, Environmental Quality	Response to Notice of Intention to Apply Non-Potable Groundwater Site Condition Standards Record of Site Condition – 1067 Henry Ford Centre Drive, Windsor Commissioner, Infrastructure Services Manager, Environmental Quality EI/11165 Note & File
7.1.5	ProsperUs and Commissioner, Human and Health Services	Letter regarding Access to Primary Care; and Administrative Memo providing Council with information related to Primary Care Commissioner, Human & Health Services MH 2023 Council Direction Requested, otherwise Note & File

Minutes
City Council
August 8, 2023

7.1.6	Manager of Urban Design	<p>Recent Site Plan Control applications received:</p> <p>Progressive Architects, Ltd (Saad Khalaf) 677 St. Luke, one Storey Warehouse</p> <p>U-Haul Co, (Canada)Ltd., (David Anstett) 9082 Tecumseh E, Warehouse Building</p> <p>Cornerstone Architecture Incorporated (Alison Hannay), 1100 Northwood, one Story/ 8 Classroom Addition to an Existing Elementary School.</p> <p>Walker Bess 4 Limited Partnership (Jonathan Cheszes), 3940 North Service, Developing 3 x 4.75 MW Battery Storage Projects</p> <p>The Middle Eastern Bible Fellowship in Windsor (Philippe Yaacoub), 3385 Forest Glade, New Addition of a Christian Educational Hall to Existing Church Building</p> <p>Architectural Design Associates Inc. Architect (Shaun Parent) 1247 Riverside E, Proposed 5-Storey Residential Development</p> <p style="text-align: right;">Z2023 Note & File</p>
7.1.7	Committee of Adjustment Agenda	<p>Applications heard by the Committee of Adjustment/Consent Authority, Thursday July 27, 2023.</p> <p style="text-align: right;">Z 2023 Note & File</p>

Carried.

Report No. CMC 10/2023

7.2. Windsor Canada Utilities Ltd. 1st Quarter 2023 Financial Statements - City Wide

Moved by: Councillor Gary Kaschak
Seconded by: Councillor Angelo Marignani

Decision Number: CR314/2023
That City Council **RECEIVE** for information, the Windsor Canada Utilities Ltd. 1st Quarter 2023 Financial Statements.
Carried.

Report Number: C 113/2023
Clerk's File: MU2023

8. CONSENT AGENDA

8.1. Performance Appraisal Report (for period of January - December 2022) - City Wide

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR315/2023
That the report by the Executive Director of Human Resources regarding Performance Appraisals for the period January to December 2022 **BE RECEIVED FOR INFORMATION**, and;

That City Council **DELEGATE** to the CAO the Review and Approval of this report on an annual basis.
Carried.

Report Number: CM 6/2023
Clerk's File: AS2023

8.3. RFP 81-23 Field Services Survey Equipment - City Wide

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR317/2023

- I. That City Council **AWARD** RFP 81-23 Field Services Survey Equipment, to Cansel Survey Equipment Inc.; and
- II. That the Purchasing Manager **BE AUTHORIZED** to issue a Contract Purchase Order to Cansel Survey Equipment Inc. for the provision of Field Services Survey Equipment, in the amount of \$231,832.39 (excluding HST), satisfactory in financial content to the

Commissioner, Corporate Services CFO/City Treasurer, and in technical content to the
Commissioner, Infrastructure Services.

Carried.

Report Number: C 108/2023
Clerk's File: SW/14630

8.5. 2023 Second Quarter Operating Budget Variance - City Wide

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR319/2023

That City Council **RECEIVE FOR INFORMATION** the 2023 2nd Quarter Operating Budget
Variance Report as presented by the Chief Financial Officer & City Treasurer; and,

That the Chief Administrative Officer and the Chief Financial Officer & City Treasurer **BE
DIRECTED** to continue to monitor the 2023 Operating Budget's projected variance.
Carried.

Report Number: C 110/2023
Clerk's File: AF/14372 & AF/14508

8.6. 2022 City of Windsor Consolidated Financial Statements

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR320/2023

That City Council **RECEIVE AND ACCEPT** the 2022 City of Windsor Annual Report, which
contains the Audited Consolidated Financial Statements for the year ended December 31, 2022,
including the City of Windsor Trust Fund Statements.

Carried.

Report Number: C 112/2023
Clerk's File: AF/14372 & AF/14508

8.7. 1148 Victoria Avenue, Kathleen Henderson House - Heritage Permit & Community Heritage Fund Request (Ward 3)

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR321/2023 DHSC 522

- I. That a Heritage Permit at 1148 Victoria Ave, Kathleen Henderson House, **BE GRANTED** for
reconstruction of the front porch.

-
- II. That the City Planner or designate **BE DELEGATED** the authority to approve any further proposed changes associated with the restoration.

 - III. That a total grant of an upset amount of \$5,000 from the Community Heritage Fund (Reserve Fund 157) for the cost of the reconstruction of the front porch, **BE GRANTED** to the Owner of the Kathleen Henderson House (Gail Hargreaves), at 1148 Victoria Ave, subject to:
 - a. Submission of drawings, conservation details, technical details and samples, to the satisfaction of the City Planner or designate prior to work start;
 - b. Determination by the City Planner that the work is completed to heritage conservation standards and the City Building Official for building code compliance;
 - c. Owner's submission of paid receipts for work completed;
 - d. That the Community Heritage Fund (Reserve Fund 157), grants approved shall lapse if the applicant has not completed the work and fulfilled the conditions within 2 years of the approval date.

Carried.

Report Number: SCM 187/2023 & S 76/2023
Clerk's File: MU/4881

8.8. 1982 Norman Road, St Jules School – Heritage Evaluation Report (Ward 8)

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR322/2023 DHSC 523

- I. That the City Clerk **BE AUTHORIZED** to publish a Notice of Intention to Designate the St Jules School, at 1982 Norman Road, in accordance with Part IV of the *Ontario Heritage Act* for the reasons attached in Appendix 'A'; and,

- II. That City Legal staff **PREPARE** the By-law for Council to designate the property.

Carried.

Report Number: SCM 188/2023 & S 37/2023
Clerk's File: MBA/14604

8.9. Draft Plan of Condominium with Exemption under Section 9(3) of the Condominium Act –CDM 005-23 [CDM-7029] 2481939 Ontario Inc. 3817 Howard Ave Ward 9

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR323/2023 DHSC 519

That the application of 2481939 Ontario Inc. for an exemption under Section 9(3) of the *Condominium Act* for approval of a plan of condominium (Standard Condominium), comprised of a total of 78 dwelling units and 6 commercial unit and 14 parking units, as shown on the attached Map No. CDM-005/23-1 and CDM-005/23-2 on a parcel legally described as; Part of Lot 85, Concession 3, Lot 28 and Part of Lot 29, Plan 1431; Part 2, 12R-29025 located at 3817 Howard Ave **BE APPROVED** for a period of three (3) years.

Carried.

Report Number: SCM 189/2023 & S 72/2023

Clerk's File: Z/14590

8.10. Zoning By-law Amendment Application for the property at the southwest corner of Tecumseh Road West and Mark Avenue; Applicant: 2832765 Ontario Inc.; File No. Z-036/2022, ZNG/6897; Ward 10

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Mark McKenzie

Decision Number: CR324/2023 DHSC 520

- I. That Zoning By-law 8600 **BE AMENDED** by changing the zoning of the land located on the southwest corner of Tecumseh Road West and Mark Avenue, described as Lots 131 and 132, Registered Plan 1342 [PIN 01208-0145 LT], from CD2.1 to CD2.2, subject to the following site-specific zoning provisions:

“474 SOUTHWEST CORNER OF TECUMSEH ROAD WEST AND MARK AVENUE

For the land comprising Lots 131 and 132, Registered Plan 1342 [PIN 01208-0145 LT], a *Multiple Dwelling with 11 or more dwelling units* shall be an additional permitted use and the following shall apply:

1. The provisions in section 15.2.5, save and except for sections 15.2.5.10 and 15.2.5.15
2. Building setback from an exterior lot line abutting Tecumseh Road West – minimum 5.0 m
3. Parking Area separation from the south lot line – minimum 1.2 m (to be maintained as a *landscaped open space*)
4. Parking - per Dwelling Unit – minimum 1 parking space per unit
5. Parking is prohibited in any front yard [ZDM 4; ZNG/6897]”

- II. That the Site Plan Approval Officer **BE DIRECTED** to incorporate the following, as required, in the Site Plan Approval and the Site Plan Agreement for the proposed development on the subject land:

- a) Sanitary Sampling Manhole;

- b) Corner Cut-Off - 4.6 m x 4.6 m (15' x 15') corner cut-off required at the intersection of Tecumseh Road West and Mark Avenue per City of Windsor Standard;
- c) Land Conveyance – convey approximately 3.5 metres along the entire Tecumseh Road West frontage of the subject land for road widening;
- d) Sanitary Servicing Study - retain a Consulting Engineer to provide a detailed servicing study report;
- e) Curbs and Gutters – construct new concrete curb and gutter along the entire Mark Avenue frontage of the subject land;
- f) Parkland dedication of 5% (cash-in-lieu) of the subject vacant parcel;
- g) Tree Survey to determine appropriate tree preservation for the site
- h) Noise mitigation measures as recommended in a Noise Impact Study that will be submitted at the time of Site Plan Control application;
- i) Railway Warning clause (s. 4.7.1.9 (d), South Cameron Planning Area, OP Vol. II);
- j) Enbridge Gas minimum separation requirements;
- k) Adequate clearance from existing ENWIN's pole lines and power lines;
- l) Canada Post multi-unit policy; and
- m) Record of Site Condition.

Carried.

Report Number: SCM 190/2023 & S 73/2023
Clerk's File: Z/14571

8.11. Z 015-22 [ZNG-6738] 2356976 Ontario Inc 0 & 845 Riverside E and 856 & 864 Chatham E

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Mark McKenzie

Decision Number: CR325/2023 DHSC 521

- I. That Zoning By-law 8600 **BE AMENDED** by changing the zoning on the lands of Plan 140 W PT lot 7, Plan 143 E PT lot 1, Plan 140 W PT Lot 7, Plan 143 E PT lot 12 (Roll No: 3739-030-050-00200-0000, 3739-030-050-00100-0000, 3739-030-040-09400-0000, 3739-030-050-01400-0000, 3739-030-040-08800-0000), situated on the north side of Chatham Street east, west of Parent Avenue and known municipally as 0 & 845 Riverside Drive East, and 856, & 864 Chatham Street East by adding a site specific exception to Section 20(1) as follows:

X. SOUTH SIDE OF RIVERSIDE DRIVE EAST, NORTH OF CHATHAM STREET EAST, BETWEEN PARENT AVENUE AND MARENTETTE AVENUE

For the lands comprising of Plan 140 W PT lot 7, Plan 143 E PT lot 1, Plan 140 W PT Lot 7, Plan 143 E PT lot 12; a *multiple dwelling* shall be an additional permitted use subject to the following provisions apply:

.1 Lot Area – minimum

- a) for the first 19 dwelling units – 1825.0 square metres
- b) for each additional dwelling unit- 45.0 square metres per unit

.2 Lot Frontage – minimum- 45.0 m

.3 Lot Coverage – maximum - 35.0 %

.4 Landscape Open Space Yard – minimum - 35% of the *lot area*

.5 Main Building Height – maximum – 20.0 m

.6 Building Setback:

- a) *front yard depth*- from most northerly front lot line – minimum - 6.0m
- b) *rear yard depth* - north limit of Chatham Street east right of way- minimum- 7.5 m
- c) *side yard width*: minimum - 4.5 m

7. Parking:

- a) *Parking spaces* – minimum - 1.1 per unit
- b) A *parking space* is prohibited in any *front yard*
- c) *Parking spaces* shall be setback a minimum of 6.0 m from the most northerly front lot line abutting the Riverside Drive East right-of-way, and shall be screened from Riverside Drive East
- d) Vehicular *access* from Riverside Drive East is prohibited
- e) Indoor ground floor *amenity space* – minimum – 4.0 square metres per unit

II. That the Site Plan Approval Officer **BE DIRECTED** to incorporate the following, as required, in the site plan approval and site plan agreement:

- a) Provide an Energy Strategy as per the terms of reference from the Environmental and Sustainability Coordinator;
- b) Provide a Tree Preservation and Landscaping Plan as per the comments of the Landscape Architect;
- c) Noise warning clause(s) and other noise abatement measures identified in the Acoustical Study dated August 12, 2021;
- d) Provide a design brief in accordance with the urban design chapter of the City of Windsor Official Plan as part of site plan control (pedestrian connectivity, enclosure of front facade); and,
- e) The requirements and recommendations of municipal departments and agencies as noted in this report and detailed in Appendix F attached.

Carried.

Report Number: SCM 191/2023 & S 74/2023
Clerk's File: Z/14430

8.12. Closure of east/west alley between Rockwell Avenue and Closed Woodland Avenue; east/west alley between Closed Woodland Avenue and Granada Avenue West, Ward 1

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR326/2023 DHSC 526

- I. That the 4.27-metre-wide east/west alley located between Rockwell Avenue and Closed Woodland Avenue, and shown on Drawing No. CC-1825 (*attached* hereto as Appendix “A”), and hereinafter referred to as the “subject west alley”, **BE ASSUMED** for subsequent closure;
- II. That the subject west alley **BE CLOSED AND CONVEYED** to the abutting property owners and as necessary, in a manner deemed appropriate by the City Planner, subject to the following:
 - a. 3.0-metre-wide easement (measured 1.50 metres from either side of utility infrastructure), subject to there being accepted in the City’s standard form and in accordance with the City’s standard practice, be granted to:
 - i. Bell Canada to accommodate existing aerial facilities;
 - ii. ENWIN Utilities Ltd. to accommodate existing overhead 120/240V hydro pole distribution with guy and anchor; and
 - iii. MNSi to accommodate existing aerial facilities.
- III. That the 4.88-metre-wide east/west alley located between Closed Woodland Avenue and Granada Avenue West, and shown on Drawing No. CC-1825 (*attached* hereto as Appendix “A”), and hereinafter referred to as the “subject east alley”, **BE ASSUMED** for subsequent closure;
- IV. That the subject east alley **BE CLOSED AND CONVEYED** to the abutting property owners and as necessary, in a manner deemed appropriate by the City Planner, subject to the following:
 - a. 3.0-metre-wide easement (measured 1.50 metres from either side of utility infrastructure), subject to there being accepted in the City’s standard form and in accordance with the City’s standard practice, be granted to:
 - i. Bell Canada to accommodate existing aerial facilities;
 - ii. ENWIN Utilities Ltd. to accommodate existing overhead 120/240V hydro pole distribution with guy and anchor; and
 - iii. MNSi to accommodate existing aerial facilities.
 - b. Ontario Land Surveyor be directed to use existing encroachments for determining the boundaries of the lands to be conveyed to each abutting property owner.

- V. That Conveyance Cost **BE SET** as follows:
- c. For alley conveyed to abutting lands zoned RD1.4, \$1.00 plus HST (if applicable), deed preparation fee and proportionate share of the survey costs as invoiced to The Corporation of the City of Windsor by an Ontario Land Surveyor.
- VI. That The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1825, *attached* hereto as Appendix "A".
- VII. That The City Solicitor **BE REQUESTED** to prepare the necessary by-law(s).
- VIII. That The Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary documents approved as to form and content satisfactory to the City Solicitor.
- Carried.

Report Number: SCM 192/2023 & S 69/2023
Clerk's File: SAA2023

8.13. Main Street CIP/Ford City CIP Application, 1000 Drouillard Road, Owner: SPOTVIN INC. (C/O: Shane Potvin)

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR327/2023 DHSC 528

- I. That the request for incentives through the *Main Streets Community Improvement Plan (CIP), Building Facade Improvement Program* made by Spotvin Inc. (c/o: Shane Potvin), owner of the property located at 1000 Drouillard Road **BE APPROVED** for grants totalling +/- \$5,367.50 in principle for the supply and installation of a projecting wall sign (see Appendix 'B') subject to completion and review satisfactory to the City Planner, Chief Building Official, and Manager of Right-of-Way;
- II. That request for incentives under the *Ford City Community Improvement Plan (CIP), Municipal Development Fees Grant Program* made by Spotvin Inc., (c/o Shane Potvin), owner of the property located at 1000 Drouillard Road **BE APPROVED**, for grants totalling +/- \$3,247.85 for costs related to the installation of the a projecting wall sign, subject to completion and review satisfactory to the City Planner, Chief Building Official, and Manager of Right-of-Way;
- III. That funds in the amount of +/- \$5,367.50 under the *Main Streets CIP* **BE TRANSFERRED** from the CIP Reserve Fund to the *Main Streets CIP* Fund (Project #7219018) upon completion of the work;
- IV. That funds in the amount of +/- \$3,247.85 for the *Municipal Development Fees Grant Program* **BE TRANSFERRED** from the CIP Reserve Fund to the *Ford City CIP* Fund (Project #7181046) upon completion of the work;

- V. That grants **BE PAID** to Spotvin Inc., (c/o Shane Potvin), upon completion and installation of a projecting sign located at 1000 Drouillard Road from the *Main Streets CIP* Fund (Project #7219018) and *Ford City CIP* Fund (Project #7181046) to the satisfaction of the City Planner, Chief Building Official and Manager of Right-of-Way;
- VI. That the annual Encroachment Fee of \$25.00 and Annual Inspection Fee of \$68.00 identified in Encroachment Policy M67-2015 **BE WAIVED** for the projecting wall sign located at the corner of 1000 Drouillard Road; and
- VII. That grants approved **SHALL LAPSE** and be **UNCOMMITTED** if the applicant has not completed the work and fulfilled the conditions within 2 years of the approval date. Extensions **SHALL BE** given at the discretion of the City Planner.

Carried.

Report Number: SCM 193/2023 & S 77/2023
Clerk's File: Z/13002

8.14. Riverside Drive Streetscape Standards Manual, Spans Wards 2 through 7

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR328/2023 DHSC 527

- I. That the Riverside Drive Streetscape Standards Manual identified in Appendix 'A' **BE ADOPTED** as the minimum design standard to consistently implement the *Riverside Drive Vista Improvement Streetscape Guidelines* identified through the Riverside Drive Vista Improvement Project Environmental Assessment (E.A.) and future phases of the Riverside Drive Vista Improvements.

Carried.

Report Number: SCM 194/2023 & S 67/2023
Clerk's File: SR2023

8.15. Municipal Sewer Servicing Charges for Residential Properties - Septic System Changeover - City Wide

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR329/2023 DHSC 524

- I. That Council **APPROVE** the extension of the local improvement charges flat rate, private drain connection flat rate and local improvement payment terms for the construction of sanitary sewers and private drain connections to those properties that:
- A. Are zoned residential for single unit, duplex or semi-detached dwellings only; and,

-
- B. Contain an existing dwelling currently on private septic system and not connected to a municipal sanitary sewer; and,
- C. Have a municipal mainline sanitary sewer within 30m of any property abutting a municipal right-of-way; and,
- II. That Council **APPROVE** the extension of local improvement charges flat rate, private drain connection flat rate and local improvement payment terms for the construction of storm sewers and private drain connections for those properties that qualify under Recommendation I above, when the property owner connects to the municipal storm sewer if one is available plus interest at a rate deemed appropriate by administration applied from the date the storm mainline sewer was substantially completed; and,
- III. That property owners qualifying under Recommendation I above with permits issued by the City for septic systems less than 10 years old **BE GRANTED** either three (3) years to connect to the available sanitary sewer system once it is made available or the difference between the age of their septic system and ten (10) years, whichever is greater; and,
- IV. That Council **APPROVE** the use of the private local improvement process in Part III of O. Reg. 586/06 under the *Municipal Act*, for property owners qualifying under Recommendation I above for the cost of the work related to the decommissioning of septic systems and construction of sanitary private drain connections on private property, and that the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign agreements, with property owners that consent to their lots being specially charged to raise which agreement shall be satisfactory in form to the City Solicitor, in technical content to the City Engineer and in financial content to the City Treasurer; and,
- V. That for property owners qualifying under Recommendation I above, Council **PASS** by-laws as required for the decommissioning of septic systems and construction of sanitary private drain connections on private property as a local improvement in accordance with Part III of O. Reg. 586/06 under the *Municipal Act*, for a period of up to 20 years and at an interest rate deemed appropriate by Administration; and,
- VI. That Administration **BE DIRECTED** to prepare the appropriate by-laws and policies to effect the recommendations above.
- Carried.

Report Number: CM 195/2023 S 78/2023
Clerk's File: SL2023

8.16. Closure of east/west alley between closed Fifth Street R.O.W. and E. C. Row Expressway westbound onramp; Closure of Hudson Avenue R.O.W. between 4505 Fourth Street and E. C. Row Expressway westbound onramp; Amend Alley Closing By-law 10354, Ward 2

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR330/2023 DHSC 525

- I. That the 4.57-metre-wide east/west alley located between the closed Fifth Street right-of-way and E. C. Row Expressway westbound onramp at Huron Church Road, shown on Drawing No. CC-1831 (*attached* hereto as Appendix "A"), and hereinafter referred to as the "subject alley", **BE ASSUMED** for subsequent closure;
- II. That the subject alley **BE CLOSED AND CONVEYED** to the owner of the property known municipally as 0 Hudson Avenue (legally described as Lots 94 & 95, Plan 1154) and as necessary, in a manner deemed appropriate by the City Planner, subject to the following:
 - a. Location survey to determine if existing City of Windsor underground street light conductor is situated within the subject alley; and
 - b. Relocation of City of Windsor underground street light conductor from the subject alley if deemed necessary by EnWin Utilities Ltd.
- III. That the 20.12-metre-wide Hudson Avenue right-of-way located between the property known municipally as 4505 Fourth Street (P.I.N. No. 01262-1533) and E. C. Row Expressway westbound onramp at Huron Church Road, shown on Drawing No. CC-1831 (*attached* hereto as Appendix "A"), and hereinafter referred to as the "subject right-of-way", **BE ASSUMED** for subsequent closure;
- IV. That the subject right-of-way **BE CLOSED AND CONVEYED** to the owner of the property known municipally as 0 Hudson Avenue (legally described as Lots 94 & 95, Plan 1154) and as necessary, in a manner deemed appropriate by the City Planner;
- V. That Conveyance Cost **BE SET** as follows:
 - a. For right-of-way and alley abutting lands zoned MD1.4, \$7.00 per square foot without easements plus HST (if applicable), and \$3.50 per square foot with easements plus HST (if applicable). Survey cost and deed preparation cost included.
- VI. That Alley Closing By-law 10354, adopted on July 16, 1990, and registered on title on July 24, 1990 as Registration No. R1135300 **BE AMENDED** as follows:

By **DELETING** the following wording under section 2. to the By-law:

That each of the owners whose lands abut upon lands described herein shall have the right to purchase, at a price of \$1.00 per square foot, that part thereof upon which his land abuts to the middle line of such closed up and stopped up part; provided, however, that any such owner shall notify the Clerk of The Corporation of the City of Windsor, in writing, of his intention to exercise his right to purchase by not later than July 27, 1990, provided that, if such owner does not exercise his right to purchase on or before such date, the Council may sell the part that he has the right to purchase to any other person at the same or a greater price, as the Council shall see fit.

And **INSERTING:**

That Conveyance Cost **BE SET** as follows:

- a. For alley abutting lands zoned MD1.4, \$7.00 per square foot without easements plus HST (if applicable), and \$3.50 per square foot with easements plus HST (if applicable). Survey cost and deed preparation cost included.

VII. That The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1831, *attached* hereto as Appendix "A".

VIII. That The City Solicitor **BE REQUESTED** to prepare the necessary by-law(s).

IX. That The Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign all necessary documents approved as to form and content satisfactory to the City Solicitor.

Carried.

Report Number: SCM 196/2023 & S 66/2023
Clerk's File: SAA2023

8.17. Minutes of the Property Standards Committee of its meeting held May 2, 2023

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR331/2023 DHSC 529

That the minutes of the Property Standards Committee of its meeting held May 2, 2023 **BE ADOPTED** as presented.

Carried.

Report Number SCM 197/2023 & SCM 161/2023
Clerk's File:MB2023

8.18. Minutes of the International Relations Committee of its meeting held May 10, 2023

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR332/2023 DHSC 530

That the minutes of the International Relations Committee (IRC) of its meeting held May 10, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 198/2023 & SCM 169/2023
Clerk's File:MB2023

11.1. Snow Angels Volunteer Acknowledgements 2022-2023 Season - City Wide

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR333/2023

- I) That the Report entitled Snow Angels Volunteer Acknowledgements **BE RECEIVED** for information.
- II) That City Council **RECOGNIZE** the Volunteers and winners of prizes for the Snow Angels Program;
- III) That City Council **DIRECTS** staff to explore opportunities to refresh this program to help meet the unmet need and take advantage of other opportunities that may have arisen since its inception.

Carried.

Report Number: C 99/2023
Clerk's File: SW/12756

11.2. Declaration of a Vacant Parcel of Land Municipally Known as 0 Hudson Avenue Surplus and Authority to Offer Same for Sale – Ward 2

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR334/2023

- I. That the following City of Windsor (the "**City**") vacant parcel of land **BE DECLARED** surplus:
 - Municipal address: **0 Hudson Avenue** – vacant land situate on the south side of Continental Avenue and west side of Second Street.
 - Legal Description: Part of Lots 275 to 286, inclusive, on Registered Plan 972 Sandwich West, being Part 12 on Plan 12R-4051, Windsor
 - Approximate Lot size: 116.37 feet (35.5 m) x 412.13 feet (125.62 m) x 410.71 feet (125.18 m)
 - Approximate Lot area: 24,756.97 sq ft (2,300 m²) (the "**Subject Parcel**"); and
- II. That the Manager of Real Estate Services **BE AUTHORIZED** to offer the Subject Parcel for sale to the abutting property owner to the north at 0 Malden Road at a price to be determined by the Manager of Real Estate Services commensurate with an independent appraisal.

Carried.

Report Number: C 111/2023
Clerk's File: APM2023

11.3. North Neighbourhood Development, Phase 7 - 1027458 Ontario Ltd. - Cost Sharing for Sanitary Sewer Oversizing - Ward 7

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR335/2023

- I. That Council **APPROVE** a cost sharing payment to 1027458 Ontario Inc. estimated at \$73,438, excluding HST (final payment to be based on actual construction costs), for sidewalk construction costs on the west side of Florence Ave from Jerome Street to Beverly Glen Street to satisfy the need for a sidewalk on both sides of a collector road, shown on Appendix 'A' (C-3742) as part of the North Neighbourhood Development, Phase 7-3, to be funded from Project ID #7035119 – New Infrastructure Development and payable upon acceptance of the sidewalk onto maintenance by the City; and further,
- II. That Council **APPROVE** a cost sharing payment to 1027458 Ontario Inc. estimated at \$25,335, excluding HST (final payment to be based on actual construction costs), for the extension of Elinor Street south of the existing paved road, shown on Appendix 'A' (C-3742) as part of the North Neighbourhood Development, Phase 7-5, to be funded from Project ID #7035119 – New Infrastructure Development and payable upon acceptance of the works onto maintenance by the City; and further,
- III. That Council **APPROVE** a cost sharing payment to 1027458 Ontario Inc. estimated at \$129,000, excluding HST (final payment to be based on actual construction costs), for sanitary sewer oversizing to service the undeveloped land along Florence Ave, south of Wyandotte St E, shown on Appendix 'A' (C-3742) as part of the North Neighbourhood Development, Phase 7-5, to be funded from Project ID #7035119 – New Infrastructure Development and payable upon acceptance of the sanitary sewer onto maintenance by the City; and further,
- IV. That the application of section 78 of Bylaw 93-2012 (the Purchasing Bylaw) **BE WAIVED** with respect to the cost sharing related to the above recommendations, for the North Neighbourhood Development, Phases 7-3 & 7-5, to be funded from Project ID #7035119 – New Infrastructure Development, to allow a cost sharing agreement value greater than \$100,000.00 without the issuance of an RFT; and further,
- V. That Administration **BE DIRECTED** to recover the costs noted in III above from the lands identified as Future Developable Lands on Appendix 'A' (C-3742) prior to the issuance of building permits for those lands, plus an annual interest rate applied from the date the services constructed are deemed substantially complete and accepted onto maintenance by the Corporation based on the Infrastructure Ontario Construction Loan rate at the time that payment is made (currently 6.26%), plus 1%; and further,
- VI. That CR140/2023 which approved the subdivisions at east of Florence Avenue and north of Beverly Glen Street be amended by adding Recommendations I, II and III thereto.

Carried.

Report Number: C 114/2023
Clerk's File: SW/14627

11.6. 2022 Annual Investment Compliance Report - City Wide

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

Decision Number: CR338/2023

That the 2022 Annual Investment Compliance Report for the year ending December 31, 2022 **BE RECEIVED** for information; and further,

As it relates to funding for the Windsor-Essex Hospital Plan as identified within capital project number CAO-002-18:

That City Council **SUPPORT** an amount of \$27.6 million, previously approved in principle within the 2023 10-Year Capital Budget, to be made available for investment in order to capitalize on current investment yields; and further,

That City Council **SUPPORT** an additional amount of up to \$6.2 million be made available for investment when the amount becomes available in the 5-year funding window; and further,

That the CFO/City Treasurer **BE DIRECTED** to consider the amounts noted above as being precommitted for purposes of the 2024 capital budget development and balancing.

To align with the City's Investment Policy, THAT City Council **APPROVE** changing the signing authorities on the bank accounts established for purposes of investment related transactions listed in Appendix E to be that of the CFO/City Treasurer PLUS any one of the three Deputy Treasurers; and,

To facilitate diversification of certain Trust Funds and to maximize investment yields, THAT City Council **APPROVE** the opening of two new accounts for investments in the name of JJF Capital Maintenance Trust with WFCU Credit Union and in the name of Willistead Endowment Fund with CIBC with the signing authorities being the CFO/City Treasurer PLUS any one of the three Deputy Treasurers.

That the CAO and City Clerk **BE AUTHORIZED** to execute any banking related agreement to effect the opening of the new bank accounts and change in signing authority subject to review as to form by the City Solicitor, and to technical and financial content by the CFO/City Treasurer; and further,

That City Council **DELEGATE** authority to the CAO to approve Administrative requests associated with establishing new investment related bank accounts where the signing authorities will be the CFO/City Treasurer PLUS any one of three Deputy Treasurers.

Carried.

Councillor Fred Francis discloses and interest and abstains from voting on this matter.

Report Number: C 91/2023
Clerk's File: AF/14372 & AF/14508

10. PRESENTATIONS AND DELEGATIONS

11.4. Maguire Subdivision Phase 3 - Extension of Oakridge and Farrow - Wonsch Construction - Cost Sharing - Ward 9

Karl Tanner and Stefano Forest, Dillon Consulting Ltd.

Karl Tanner and Stefano Forest, Dillon Consulting Ltd., appear before Council and are available for questions regarding the Maguire Subdivision Phase 3 – Extension of Oakridge and Farrow – Wonsch Construction – Cost Sharing.

Ali Fayaz, Alite Construction Inc.

Ali Fayaz, Alite Construction Inc. appears before Council and is available for questions regarding the Maguire Subdivision Phase 3 – Extension of Oakridge and Farrow – Wonsch Construction – Cost Sharing.

Aynish Korkmaz, area resident

Aynish Korkmaz, area resident appears before Council and is available for questions regarding the Maguire Subdivision Phase 3 – Extension of Oakridge and Farrow – Wonsch Construction – Cost Sharing.

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: CR336/2023

- I. That Council **APPROVE** a cost sharing payment to 1903269 Ontario Ltd. (Wonsch Construction Company Limited) payment estimated at \$343,523 excluding HST (final payment to be based on actual construction costs), representing the proportionate share (83.2%) of infrastructure improvements relating to the extension of Oakridge and Farrow Avenues north of Maguire Street attributable to the future privately owned development lands to the north shown on Appendix A (Benefiting Properties), to be paid upon substantial completion of said infrastructure improvements, to be funded from Project ID #7035119 – New Infrastructure Development; and further,

- II. That Administration **BE DIRECTED** to recover the costs noted in I. above from the Benefiting Properties prior to the issuance of building permits for those lands, plus an annual interest rate applied from the date the services constructed are accepted onto maintenance by the Corporation based on the Infrastructure Ontario Construction Loan rate at the time that payment is made and the project is deemed substantially performed and accepted onto maintenance (currently 6.26%), plus 1%; and,
- III. That the CAO and City Clerk **BE AUTHORIZED** to amend the Subdivision Agreement approved by CR236/2022, satisfactory in form to the Commissioner of Legal & Legislative Services and in content to the Commissioner of Infrastructure Services to add the following terms:
- a. The Owners agree to obtain a permit from Infrastructure Services to extend full municipal services on Oakwood Avenue and Farrow Avenue northerly from Maguire Street to the satisfaction of the City Engineer including all of the general servicing requirements as detailed by CR233/98.
 - b. Cost Sharing - The Corporation agrees to pay to the Owner THREE HUNDRED FORTY THREE THOUSAND FIVE HUNDRED TWENTY THREE DOLLARS (\$343,523) excluding HST, based on estimated construction costs, final payment to be based on actual progress certificate payment, representing the proportionate share (83.2%) of infrastructure improvements relating to the extension of Oakridge and Farrow Avenues north of Maguire Street attributable to the future privately owned development lands to the north, to be paid upon substantial completion of said infrastructure improvements.

Carried.

Report Number: C 115/2023
Clerk's File: Z/14266

8.4. Avondale Avenue (West Grand to Norfolk), Beals Avenue (Dougall to Huntington) and Academy Drive (Northwood Street to North Service Road West) Traffic Calming - Wards 1, 9 & 10

Danica McPhee, representative of the Windsor Accessibility Advisory Committee

Danica McPhee, representative of the Windsor Accessibility Advisory Committee, appears before Council regarding Avondale Avenue (West Grand to Norfolk), Beals Avenue (Dougall to Huntington) and Academy Drive (Northwood Street to North Service Road West) Traffic Calming and requests that Council refer the administrative report back to Council at a future meeting to allow the Windsor Accessibility Advisory Committee to provide information regarding alternate measures for streets without sidewalks to prevent barriers for persons with accessibility issues.

Peter Best, Windsor Accessibility Advisory Committee

Peter Best, Windsor Accessibility Advisory Committee, appears before Council and is available for questions regarding Avondale Avenue (West Grand to Norfolk), Beals Avenue (Dougall to Huntington) and Academy Drive (Northwood Street to North Service Road West) Traffic Calming

Moved by: Councillor Fred Francis

Seconded by: Councillor Kieran McKenzie

Decision Number: CR318/2023

1. That Administration **BE DIRECTED** to install speed humps on Avondale Avenue between West Grand Boulevard and Norfolk Street; and,
2. That Administration **BE DIRECTED** to install speed humps on Beals Street East and Beals Street West between Dougall Avenue and Huntington Avenue; and,
3. That Administration **BE DIRECTED** to install speed humps on Academy Drive between Northwood Street and North Service Road West; and,
4. That funding from each of the above noted installations come from Traffic Calming capital budget project 7069022; and,
5. That a budget issue with regards to annual maintenance of \$5,420 be presented as part of the 2024 operating budget development process and be considered a priority item based upon approval for the installations; and further,
6. That Administration **BE DIRECTED** to continue, on a trial basis collecting data and getting the required feedback moving forward; and that this information **BE REVIEWED** and if warranted used to determine next steps with traffic calming initiatives on similar streets.

Carried.

Report Number: C 118/2023
Clerk's File:ST/13863

11.5. Roseland Golf and Curling Club - Future of Curling - Ward 1

Robert Cunningham, Curler

Robert Cunningham, Curler appears before Council and expresses concern with the recommendation in the administrative report entitled "Roseland Golf and Curling Club-Future of Curling –Ward 1" and requests that Council refer the report back to a future Council meeting to allow for the users to provide more information regarding the importance and significance that the current facility has on the community.

Jim Demers, Ward 1 resident

Jim Demers, Ward 1 resident appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and request that the report be referred back to a future meeting of Council to allow them to provide more information related to the positive impact of the Curling club for seniors.

Terry Fink and Benjamin Iannetta, Future of Curling in Windsor-Essex Committee Members

Terry Fink and Benjamin Iannetta, Future of Curling in Windsor-Essex Committee Members appear before Council and express concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and request that the report be referred back to Council at the end of November, 2023 to allow them more time to provide input on the relocation of the rink.

Johanna Young, Riverside Skating Club member

Johanna Young, Riverside Skating Club member appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and requests that the report be referred back to a future meeting of Council to allow administration to provide information related to the availability of ice time during prime time, to adjust programming in order to accommodate the demand; and concludes citing safety concerns associated with overcrowding on limited available rinks.

Francine Stadler, President, Sun Parlour Female Hockey Association

Francine Stadler, President, Sun Parlour Female Hockey Association appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and requests that the report be referred back to a future meeting of Council to allow administration to provide their group with information related to moving the rink and its effect on availability of ice time during prime time when youth are able to attend.

Angela Barraco, President, Windsor Figure Skating Club

Angela Barraco, President, Windsor Figure Skating Club appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and requests that the report be referred back to a future meeting of Council and for administration to address mental health implications to youth that may arise, due to limited availability of programming and demand and limited availability of appropriate rinks.

Kipp Van Kuren, President, Windsor Minor Hockey Association

Kipp Van Kuren, President, Windsor Minor Hockey Association appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and requests that the report be referred back to a future meeting of Council to allow administration to provide more information related to potential impacts with the associated costs of relocation the history and significance of the current location and what effects a potential relocation might have.

Giovanni Abati, Windsor resident

Giovanni Abati, Windsor resident appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and provides information related to the potential of the current Curling Club has for the residents of the City of Windsor and concludes by suggesting potential cost savings for renovation of Club instead of relocation.

Doug Rivard, Board Member, Riverside Minor Hockey

Doug Rivard, Board Member, Riverside Minor Hockey appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and provides information regarding the negative effect that eliminating one rink at the WFCU Centre would have on their organization and the users, as this would result in limited availability of programming for youth with disabilities and recreational skaters.

Matt Bunn, Board Member, Riverside Minor Hockey

Matt Bunn, Riverside Minor Hockey appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and provides information related to the lack of youth sports scheduling during prime time and the negative effect on local youth the relocation might have, as well as the profitability of the Roseland centre.

Matthew D'Asti, Vice-President of Riverside Skating Club

Matthew D'Asti, Vice-President of Riverside Skating Club appears before Council and expresses concern with the recommendation in the administrative report entitled “Roseland Golf and Curling Club-Future of Curling –Ward 1” and provides information in regards to the importance of the Curling Club within the community, the uncertainty of availability of ice time at WFCU and likely displacement or the possible end of the Riverside Skating Club as it currently exists.

Minutes

City Council

August 8, 2023

Moved by: Councillor Kieran McKenzie

Seconded by: Councillor Angelo Marignani

Decision Number: CR337/2023

- I. That City Council **RECEIVE** the results of the public consultation regarding curling amenities in our community (attached as Appendix A); and further,
- II. That City Council **APPROVE** a budget of up to \$20,000 to be funded from 7184003 Roseland/Little River Golf Courses Asset Replacement/Improvements; and **DIRECT** Administration to undertake the development of conceptual drawings with public consultation and report back with options for Council's consideration regarding the redevelopment of the Roseland clubhouse and site; and further,
- III. That City Council **PRE-APPROVE** and **AWARD** any procurement(s) necessary that are related to the above noted project, provided that the procurement(s) are within approved budget amounts, pursuant to the Purchasing By-Law 93-2012 and amendments thereto; satisfactory in legal content to the Commissioner of Legal & Legislative Services, in financial content to the Chief Financial Officer/City Treasurer, and in technical content to the Executive Director of Recreation and Culture and the Commissioner of Infrastructure Services; and further,
- IV. That the Purchasing Manager **BE AUTHORIZED** to issue Purchase Orders as may be required to effect the recommendations noted above, pursuant to the Purchasing By-Law 93-2012 and amendments thereto, subject to all specifications being satisfactory in financial content to the Chief Financial Officer/City Treasurer, and in technical content to the Executive Director of Recreation and Culture and the Commissioner of Infrastructure Services, and further;
- V. That Administration **BE AUTHORIZED** to take any other steps as may be required to bring effect to these resolutions, and that the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to execute any required documentation/agreement(s) for that purpose, subject to legal approval by the Commissioner of Legal & Legislative Services, financial approval by the Chief Financial Officer/City Treasurer, and technical approval by the Executive Director of Recreation and Culture and the Commissioner of Infrastructure Services, and further;
- VI. That Administration **BE AUTHORIZED** to use available funds within the project budget for any amendment(s) or change requirement(s)/directive(s) and additional documents relating to executed agreement(s), pursuant to the Purchasing By-Law 93-2012 and amendments thereto, satisfactory in legal form to the Commissioner, Legal & Legislative Services, in financial content to the Commissioner of Corporate Services Chief Financial Officer/City Treasurer, and in technical content to the Executive Director of Recreation and Culture and the Commissioner of Infrastructure Services.

- VII. That administration **BE DIRECTED** to bring forward more information to a future meeting of City Council regarding the future location of curling, after further consultation with community groups has taken place for Councils consideration; and further,
- VIII. That administration **BE DIRECTED** to investigate options related to a private enterprise that would be interested in offering curling in the City of Windsor.
- Carried.

At the request of Councillor Francis, a recorded vote is taken:

Aye votes: Councillors Renaldo Agostino, Mark McKenzie, Ed Sleiman, Jo-Ann Gignac, Angelo Marignani, Gary Kaschak, Kieran McKenzie and Mayor Drew Dilkens

Nay votes: Councillors Fred Francis and Jim Morrison

Absent: Councillor Fabio Costante

Report Number: C 116/2023
Clerk's File:SR/14629

11. REGULAR BUSINESS ITEMS (Non-Consent Items)

8.2. Open Air Burning By-law - City Wide

Moved by: Councillor Renaldo Agostino

Seconded by: Councillor Gary Kaschak

Decision Number: CR316/2023

That Council **RECEIVE** the report of the Deputy Fire Chief – Support Services, dated July 7, 2023 entitled “Open Air Burning By-law”; and,

That Council **PASS** a By-law to regulate open air burning (Appendix A) within the City of Windsor; and,

That in the event a By-law is passed, Council **PASS** a By-law to Amend By-law 392-2022 “Fees and Charges Bylaw” (Appendix B) to provide for an open air burning permit application fee; and,

That administration **BE REQUESTED** to report back with statistics related to open air burning.

Carried.

Report Number: C 107/2023
Clerk's File: AB2023

12. CONSIDERATION OF COMMITTEE REPORTS

12.1. (i) Report of the Special In-Camera meeting held August 8, 2023

Moved by: Councillor Renaldo Agostino

Seconded by: Councillor Jim Morrison

Decision Number: CR339/2023

That the report of the Special In-Camera meeting held August 8, 2023 **BE ADOPTED** as presented.
Carried.

Clerk's File: ACO2023

12.2. Report of the Striking Committee of its meeting held July 10, 2023

Moved by: Councillor Renaldo Agostino
Seconded by: Councillor Jim Morrison

Decision Number: CR340/2023

That the report of the Striking Committee of its meeting held July 10, 2023 **BE ADOPTED** as presented.
Carried.

Report Number: SCM 205/2023
Clerk's File: MB2023

12.3. Report No. 118 of the Board of Directors Willistead Manor Inc. of its meeting held May 11, 2023

Moved by: Councillor Renaldo Agostino
Seconded by: Councillor Jim Morrison

Decision Number: CR341/2023

That Report No. 118 Willistead Manor **BE ADOPTED** as presented.
Carried.

Report Number: SCM 166/2023
Clerk's File: MB2023

12.4. Minutes of the meetings of the Executive Committee and Board of Directors, Willistead Manor Inc. held May 11, 2023

Moved by: Councillor Renaldo Agostino
Seconded by: Councillor Jim Morrison

Decision Number: CR342/2023

That the minutes of the Executive Committee and Board of Directors, Willistead Manor Inc. held May 11, 2023 **BE ADOPTED** as presented.
Carried.

Report Number: SCM 167/2023
Clerk's File: MB2023

12.5. Minutes of the Meetings of the Executive Committee and Board of Directors, Willistead Manor Inc., held June 8, 2023

Moved by: Councillor Renaldo Agostino
Seconded by: Councillor Jim Morrison

Decision Number: CR343/2023

That the minutes of the Executive Committee and Board of Directors, Willistead Manor Inc. held June 8, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 202/2023

Clerk's File: MB2023

12.6. Minutes of the Windsor Accessibility Advisory Committee of its meeting held May 25, 2023

Moved by: Councillor Renaldo Agostino
Seconded by: Councillor Jim Morrison

Decision Number: CR344/2023

That the minutes of the Windsor Accessibility Advisory Committee held May 25, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 183/2023

Clerk's File: MB2023

12.7. Report of the Environment, Transportation & Public Safety Standing Committee meeting as the Transit Windsor Board of Directors, of its in-camera meeting held Wednesday, July 26, 2023

Moved by: Councillor Renaldo Agostino
Seconded by: Councillor Jim Morrison

Decision Number: CR345/2023

That the report of the Environment, Transportation & Public Safety Standing Committee meeting as the Transit Windsor Board of Directors of its in-camera meeting held on July 26, 2023 **BE ADOPTED** as presented.

Carried.

Report Number: SCM 206/2023

13. BY-LAWS (First and Second Reading)

Moved by: Councillor Fred Francis
Seconded by: Councillor Jo-Anne Gignac

That the following By-laws No. 93-2023 through 106-2023 be introduced and read a first and second time:

By-law 93-2023 A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS McROBBIE ROAD IN THE CITY OF WINDSOR. Authorized by CR76/2011 dated February 28, 2011.

By-law 94-2023 A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 4.30 METRE EAST/WEST PORTION OF NORTH TERMINAL STREET, EAST OF CHARL AVENUE, CITY OF WINDSOR. Authorized by CR609/2020 dated December 7, 2020.

By-law 95-2023 A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 4.30 METRE EAST/WEST PORTION OF NORTH TERMINAL STREET, EAST OF CHARL AVENUE, CITY OF WINDSOR. Authorized by CR609/2020 dated December 7, 2020.

By-law 96-2023 A BY-LAW TO ADOPT AMENDMENT NO. 172 TO THE OFFICIAL PLAN OF THE CITY OF WINDSOR. Authorized by CR280/2023 dated July 10, 2023.

By-law 97-2023 A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE "CITY OF WINDSOR ZONING BY-LAW". Authorized by CR280/2023 dated July 10, 2023.

By-law 98-2023 A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 85-18 CITED AS THE "CITY OF WINDSOR ZONING BY-LAW". Authorized by CR280/2023 dated July 10, 2023.

By-law 99-2023 A BY-LAW TO ADOPT AMENDMENT NO. 168 TO THE OFFICIAL PLAN OF THE CITY OF WINDSOR. Authorized by CR282/2023 dated July 10, 2023.

By-law 100-2023 A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE "CITY OF WINDSOR ZONING BY-LAW". Authorized by CR282/2023 dated July 10, 2023.

By-law 101-2023 A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 3.66 METRE EAST/WEST ALLEY EAST OF FORD BOULEVARD, SOUTH OF WYANDOTTE STREET EAST, ABUTTING 5355 WYANDOTTE STREET EAST, CITY OF WINDSOR. Authorized by CR418/2022 dated September 26, 2022.

By-law 102-2023 A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 3.66 METRE EAST/WEST ALLEY EAST OF FORD BOULEVARD, SOUTH OF WYANDOTTE STREET EAST, ABUTTING 5355 WYANDOTTE STREET EAST, CITY OF WINDSOR. Authorized by CR418/2022 dated September 26, 2022.

By-law 103-2023 A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 4.27 METRE NORTH/SOUTH ALLEY AND THE 5.60 METRE EAST/WEST ALLEY BETWEEN MELDRUM ROAD AND LARKIN ROAD, SOUTH OF GUY STREET AND NORTH OF TECUMSEH ROAD EAST, CITY OF WINDSOR. Authorized by CR48/2023 dated January 30, 2023.

By-law 104-2023 A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 4.27 METRE NORTH/SOUTH ALLEY AND THE 5.60 METRE EAST/WEST ALLEY BETWEEN MELDRUM ROAD AND LARKIN ROAD, SOUTH OF GUY STREET AND NORTH OF TECUMSEH ROAD EAST, CITY OF WINDSOR. Authorized by CR48/2023 dated January 30, 2023.

By-law 105-2023 A BY-LAW TO AMEND BY-LAW NUMBER 15-2010 BEING A BY-LAW TO APPOINT CHIEF BUILDING OFFICIAL, DEPUTY CHIEF BUILDING OFFICIALS AND INSPECTORS TO ENFORCE THE BUILDING CODE ACT AND REGULATIONS IN WINDSOR. Authorized by By-law 392-2002 dated December 16, 2002.

By-law 106-2023 A BY-LAW TO CONFIRM PROCEEDINGS OF THE COUNCIL OF THE CORPORATION OF THE CITY OF WINDSOR AT ITS MEETING HELD ON THE 8th day of August, 2023.

14. MOVE BACK INTO FORMAL SESSION

Moved by: Councillor Gary Kaschak
Seconded by: Councillor Angelo Marignani

That the Committee of the Whole does now rise and report to Council respecting the business items considered by the Committee:

- 1) Communication Items (as amended)
 - 2) Consent Agenda (as amended)
 - 3) Items Deferred
Items Referred
 - 4) Consideration of the Balance of Business Items (as amended)
 - 5) Committee Reports as presented
 - 6) By-laws given first and second readings as presented
- Carried.

15. NOTICES OF MOTION

None presented.

16. THIRD AND FINAL READING OF THE BY-LAWS

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Mark McKenzie

That the By-laws No. 93-2023 through 106-2023 having been read a first and second time be now read a third time and finally passed and that the Mayor and Clerk **BE AUTHORIZED** to sign and seal the same notwithstanding any contrary provision of the Council.

Carried.

17. PETITIONS

None received.

18. QUESTION PERIOD

18.1. CQ 23-2023

Moved by: Councillor Renaldo Agostino

Seconded by: Councillor Angelo Marignani

Decision Number: CR346/2023

That the following Council Question by Councillor Angelo Marignani **BE APPROVED**, and that Administration **BE DIRECTED** to proceed with the necessary actions to respond to the Council Question in the form of a written report, consistent with Council's instructions, and in accordance with Section 17.1 of the Procedure By-law 98-2011:

CQ 23-2023:

Assigned to: Deputy Licence Commissioner

Asks that administration report back to city council regarding the rise in popularity of smoker barbecues and the nuisance that it causes in the community with air pollution and concerns from neighbors who no longer can enjoy their outdoors as a result of smoke.

Carried.

Clerk's File: ACOQ2023 & ACO2023

18.2. CQ-24-2023

Moved by: Councillor Renaldo Agostino

Seconded by: Councillor Angelo Marignani

Decision Number: CR347/2023

That the following Council Question by Councillor Mark McKenzie **BE APPROVED**, and that Administration **BE DIRECTED** to proceed with the necessary actions to respond to the Council Question in the form of a written report, consistent with Council's instructions, and in accordance with Section 17.1 of the Procedure By-law 98-2011:

CQ 24-2023:

Assigned to: Commissioner, Infrastructure Services

Asks that administration provide a report to Council regarding construction projects, specific to road repair, sewer infrastructure and road rehab, including policies and procedures, minimum standards and vendor warranties for review.

Carried.

Report Number:
Clerk's File: ACOQ2023 & ACO2023

21. ADJOURNMENT

Moved by: Councillor Fred Francis

Seconded by: Councillor Jo-Anne Gignac

That this Council meeting stand adjourned until the next regular meeting of Council or at the call of the Mayor

Carried.

Accordingly, the meeting is adjourned at 7:21 o'clock p.m.

Mayor

City Clerk

SPECIAL MEETING OF COUNCIL – IN CAMERA
August 8, 2023

Meeting called to order at: 2:30 p.m.

Members in Attendance:

Mayor Drew Dilkens
Councillor Renaldo Agostino
Councillor Fred Francis
Councillor Jo-Anne Gignac
Councillor Gary Kaschak
Councillor Angelo Marignani
Councillor Kieran McKenzie
Councillor Mark McKenzie
Councillor Jim Morrison
Councillor Ed Sleiman

Members Absent:

Councillor Fabio Costante

Also in attendance:

Joe Mancina, Chief Administrative Officer
Andrew Daher, Commissioner, Human and Health Services
Chris Nepsy, Commissioner, Infrastructure Services
Janice Guthrie, Commissioner, Corporate Services CFO/City Treasurer
Shelby Askin-Hager, Commissioner, Legal and Legislative Services
Ray Mensour, Commissioner, Community Services
Jelena Payne, Commissioner Economic Development and Innovation
Steve Vlachodimos, City Clerk
Abe Taqtaq, Mayor's Chief of Staff
Marc Di Domenico, Project Administrator (Item 8)
Colleen Middaugh, Manager of Corporate Projects (Item 8)
Tony Ardovini, Deputy Treasurer Financial Planning (Item 8)
Dana Paladino, Acting Chief Executive Officer, Windsor Public Library
(Item 8)

Verbal Motion is presented by Councillor Fred Francis, seconded by Councillor Renaldo Agostino, to move in Camera for discussion of the following item(s):

Item No.	Subject & Section - Pursuant to <i>Municipal Act, 2001</i>, as amended
1	Property matter – lease amendment, Section 239(2)(c) – disposition of land
2	Property matter – lease amendment, Section 239(2)(c) – disposition of land
3	Property matter – lease, Section 239(2)(c) – disposition of land
4	Property matter – licence agreement, Section 239(2)(c)
5	Personal matter – about identifiable individuals – appointment, Section 239(2)(b)
6	Personal matter – labour negotiations, Section 239(2)(d)

NOTE: SEE ALSO REPORT OF THE ENVIRONMENT, TRANSPORTATION AND PUBLIC SAFETY STANDING COMMITTEE, SITTING AS TRANSIT WINDSOR BOARD OF DIRECTORS – IN-CAMERA of its meeting held July 26, 2023 ON THE OPEN

AGENDA

- 7 **Personal matter – about an identifiable individual – appointment, Section 239(2)(b)**

- 8 **Property matter – project update – disposition of land, Section 239(2)(c)**

Motion Carried.

Declarations of Pecuniary Interest:

Councillor Fred Francis declares and interest and abstains from voting on Item 4 as it relates to a family member’s employer.

Discussion on the items of business.

Verbal Motion is presented by Councillor Ed Sleiman, seconded by Councillor Jo-Anne Gignac, to move back into public session.

Motion Carried.

Moved by Councillor Mark McKenzie, seconded by Councillor Renaldo Agostino, THAT the Clerk BE DIRECTED to transmit the recommendation(s) contained in the report(s) discussed at the In-Camera Council Meeting held August 8, 2023 directly to Council for consideration at the next Regular Meeting.

1. That the recommendation contained in the in-camera report from the Manager of Real Estate Services, Commissioner, Legal and Legislative Services, Executive Director of Parks and Facilities, Commissioner, Community Services and Commissioner, Corporate Services CFO/City Treasurer respecting a property matter – lease amendment – disposition of land **BE APPROVED.**

2. That the recommendation contained in the in-camera report from the Manager of Real Estate Services, Senior Legal Counsel, Commissioner, Legal and Legislative Services, Executive Director of Recreation and Culture, Executive Director of Parks and Facilities, Commissioner, Community Services and Commissioner, Corporate Services CFO/City Treasurer respecting a property matter – lease amendment – disposition of land **BE APPROVED.**

3. That the recommendation contained in the in-camera report from the Manager of Real Estate Services, Commissioner, Legal and Legislative Services and Commissioner, Corporate Services CFO/City Treasurer respecting a property matter – lease – disposition of land **BE APPROVED**.

4. That the recommendation contained in the in-camera report from the Manager of Real Estate Services, Executive Director of Transit Windsor, Financial Manager of Asset Planning, Commissioner, Infrastructure Services, Commissioner, Legal and Legislative Services, and Commissioner, Corporate Services CFO/City Treasurer respecting a property matter – licence agreement **BE APPROVED**.

Councillor Fred Francis declares an interest and abstains from voting on this item.

5. That the recommendation contained in the in-camera report from the Supervisor of Community Programming – Cultural Affairs, Manger of Culture and Events, Manager of Development Revenue and Financial Administration, Executive Director of Recreation and Culture, Commissioner, Community Services and Commissioner, Corporate Services CFO/City Treasurer respecting a personal matter – about identifiable individuals – appointment **BE APPROVED**.

6. That the confidential report from the Executive Director of Transit Windsor, Commissioner, Infrastructure Services, Executive Director of Human Resources and Commissioner, Corporate Services CFO/City Treasurer respecting a personal matter – labour negotiations update **BE RECEIVED** and that the in-camera recommendation of the Environment, Transportation and Public Safety Standing Committee, sitting as the Transit Windsor Board of Directors, of its meeting held July 26, 2020 **BE APPROVED**.

7. That the recommendation contained in the in-camera report from the Executive Director of Human Resources and Commissioner, Corporate Services CFO/City Treasurer respecting a personal matter – about an identifiable individual – appointment **BE APPROVED**.

8. That the recommendation contained in the in-camera report from the Manager of Corporate Projects, Executive Director of Engineering/Deputy City Engineer, Commissioner, Infrastructure Services, Commissioner, Community Services, Commissioner, Corporate Services CFO/City Treasurer, Commissioner, Legal and Legislative Services and Commissioner, Economic Development and Innovation respecting a property matter – project update – disposition of land **BE APPROVED**.

Motion Carried.

Moved by Councillor Jo-Anne Gignac, seconded by Councillor Kieran McKenzie,
That the special meeting of council held August 8, 2023 BE ADJOURNED.
(Time: 2:54 p.m.)

Motion Carried.



Correspondence Report: CMC 11/2023

Subject: Correspondence for September 5, 2023

No.	Sender	Subject
7.1.1	Ontario Land Tribunal	<p>Proceeding commenced under subsection 26(1) of the <i>Expropriations Act</i>, Part of Lots 119 and 120, Concession 3, Case Number OLT-21-001159</p> <p style="text-align: right;">Commissioner, Legal & Legislative Services City Planner Chief Building Official Deputy City Solicitor Senior Legal Counsel APM2023 Note & File</p>
7.1.2	Ontario Land Tribunal	<p>Proceeding commenced under subsection 34(19) of the <i>Planning Act</i> regarding By-law 67-2022 to permit a 4 storey multiple dwelling at 1913, 1925 & 1949 Devonshire Court Case Number: OLT-22-003819 and Memorandum of Oral Decision and Scheduling a hearing.</p> <p style="text-align: right;">Commissioner, Legal & Legislative Services Commissioner, Economic Development & Innovation City Planner Chief Building Official Deputy City Solicitor Senior Legal Counsel Development Applications Clerk ZB/14241 Note & File</p>
7.1.3	Ministry of the Environment, Conservation and Parks - Environmental Assessment Modernization Branch	<p>Letter and Notice of Amendments to modernize Ontario's environmental assessment (EA) program by moving to a Project List approach under the <i>Environmental Assessment Act</i> from the current framework</p> <p style="text-align: right;">Commissioner, Infrastructure Services Commissioner, Economic Development & Innovation Commissioner, Community Services GP2023 Note & File</p>

No.	Sender	Subject
7.1.4	Ministry of Infrastructure – Infrastructure Programs and Projects Division	<p>Letter regarding update to Red Tape Reduction for Designated Broadband Projects and the <i>Less Red Tape, Stronger Economy Act, 2023</i></p> <p>Commissioner, Infrastructure Services Commissioner, Legal & Legislative Services Commissioner, Economic Development & Innovation Commissioner, Community Services CFO / City Treasurer Chief Building Official GP2023 Note & File</p>
7.1.5	Municipality of Chatham-Kent	<p>Letter to Ontario’s Big City Mayors Regarding Infrastructure Funding from the federal government</p> <p>Commissioner, Infrastructure Services Commissioner, Economic Development & Innovation Commissioner, Corporate Services GM2023 Note & File</p>
7.1.6	MPAC – Municipal Property Assessment Corporation	<p>Letter to CFO regarding the extension of the current assessment cycle</p> <p>Commissioner, Corporate Services CFO/City Treasurer GM2023</p>
7.1.7	Committee of Adjustment Agenda	<p>Applications heard by the Committee of Adjustment/Consent Authority, Thursday August 24, 2023.</p> <p>Z2023 Note & File</p>

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 8, 2023

CASE NO(S): OLT-21-001159

PROCEEDING COMMENCED UNDER subsection 26(1) of the *Expropriations Act*, R.S.O. 1990, c. E.26, as amended

Claimants:	Edward and Dorothy Janisse
Respondent:	Corporation of the City of Windsor
Subject:	Land Compensation
Property Address/Description:	Part of Lots 119 and 120, Concession 3
Municipality:	City of Windsor
OLT Case No.:	OLT-21-001159
OLT Lead Case No.:	OLT-21-001159
OLT Case Name:	Edward and Dorothy Janisse v. City of Windsor

Heard: February 22-24, 2023 (by video) and
April 5, 2023 and July 10, 2023 (in writing)

APPEARANCES:

Parties

Counsel

Edward and Dorothy Janisse
("Claimants")

Dante D. Gatti

The Corporation of the City of
Windsor ("City")

Patrick Brode
Wira H.D. Vendrasco

**DECISION DELIVERED BY ROBERT G. ACKERMAN AND ORDER OF THE
TRIBUNAL**

[Link to Final Order](#)

[1] On March 31, 2016, the Corporation of the City of Windsor (the “Respondent”) caused a Plan of Expropriation to be registered in the Land Registry Office for the Land Titles Division for Essex, at Windsor (No. 12) as Instrument No. CE706334, which had the effect of taking all of the fee simple interest in the property municipally known as 6424 County Road 42, Windsor (the “Subject Property”). The taking was required for the purpose of consolidation of the Subject Property into the Windsor Airport Lands as part of the Economic Revitalization provisions of the Community Improvement Plan of the Respondent.

[2] The Owners of the Subject Property were Edward Janisse and Dorothy Janisse (“the Claimants”). The Subject Property had an area of 3.04 acres and was improved with a one and one-half-storey residential building, constructed in 1942, having a ground floor area of 780 square feet (“ft²”) and a second-floor dormer with an area of approximately 468 ft² for a total of 1,240 ft² (115 square metres [“m²”). The residential building had been tenanted but was vacant at the time of the taking. There was also a wooden shed or garage on the property which appeared dilapidated in photographs and to have reached the end of its economic life.

[3] The Parties attended before the Board of Negotiation on May 11, 2017, with no resolution being reached. The Respondent delivered a Notice of Arbitration on February 13, 2018. The Claimants did not respond to the Notice of Arbitration or to Tribunal’s requests for information. As a result of inaction on the part of the Claimants, the Tribunal ordered the Arbitration dismissed on June 3, 2020.

[4] Thereafter, the Claimants, through their counsel, caused a Notice of Arbitration and Statement of Claim, dated June 15, 2021, to be delivered, which the Tribunal accepted. The first Case Management Conference (“CMC”) was convened by the Tribunal on June 9, 2022. Although Notice had been properly served, counsel for the Claimants did not attend the CMC. The CMC proceeded without counsel for the Claimants. At this CMC, the Hearing of this Arbitration was scheduled for three days beginning on February 22, 2023, a Procedural Order (“PO”) was granted, and a Status

Hearing was directed to be scheduled on December 9, 2022, by Telephone Conference Call (“TCC”). The purpose of the Status Hearing was to review and approve a Hearing Plan and to address any other outstanding matters relating to the Hearing.

[5] This Member conducted at the Status Hearing on December 9, 2022. Counsel for the Claimants and counsel for the Respondent attended. The draft Hearing Plan for the scheduled three-day Hearing had been submitted prior to the Status Hearing by counsel for the Respondent. The Tribunal reviewed the draft Hearing Plan and, when asked, both counsel for the Claimants and counsel for the Respondent advised the Tribunal that they were content with the draft Hearing Plan which was accordingly approved. The Tribunal ordered and directed that the Hearing proceed in accordance with the Hearing Plan, which was attached as Schedule “A” to the Tribunal’s Order issued on January 6, 2023. During the Status Hearing, in response to the Tribunal’s inquiry, both counsel advised the Tribunal that there were no other outstanding issues which they wished the Tribunal to address, and confirmed that the Parties would be ready to proceed with the three-day Hearing commencing on Wednesday, February 22, 2023.

MOTION REQUESTING ADJOURNMENT

[6] On February 21, 2023, the day before the scheduled commencement of this Hearing, Mr. Brode, counsel for the Respondent, sent the Tribunal’s Case Coordinator a string of emails between himself and Mr. Gatti, counsel for the Claimants, in which Mr. Gatti was seeking the consent of the Respondent to the adjournment of this Hearing. The emails indicated that Mr. Brode, on behalf of the Respondent, refused to consent to the adjournment. This Member reviewed the email correspondence and instructed the Case Coordinator to communicate to both counsel that the Tribunal required that they attend as scheduled for the Hearing, and that the Tribunal would be prepared to hear a Motion on short-notice for the adjournment of the Hearing. Both counsel were instructed to review and have regard for the provisions of Rule 17 of the Tribunal’s Rules of Practice and Procedure (“the Tribunal’s Rules”) and to paragraph 23 of the PO.

Counsel were also instructed to have their witnesses in attendance and to be prepared to proceed with the Hearing as scheduled, and that counsel for the Respondent must ensure that a Court Reporter is in attendance.

[7] Late in the afternoon of February 21, the Tribunal received a letter by email from Mr. Gatti, which advised:

Within the last 7 days however, there has been an irreversible breakdown in the solicitor/client relationship between the Claimants and myself. Based upon the rules and ethics of the legal profession in Ontario, it is impossible for me to continue [to] act for the Claimants. The Claimants wish to obtain new counsel, and as a result, I will be advising the Tribunal member tomorrow that I cannot continue and that the Claimants are seeking an adjournment.

[8] The Tribunal did not receive a Motion Record nor a Notice of Motion seeking an adjournment from Mr. Gatti nor from anyone on behalf of the Claimants. The Tribunal did however, on February 21, 2023, receive a Motion Record from the Respondent opposing an adjournment. The Responding Record contained copies of emails between Mr. Brode and Mr. Gatti respecting the adjournment request and a copy of the letter from Mr. Gatti to the Tribunal dated February 21, 2023, referred to above.

[9] Counsel did attend before the Tribunal on February 22, 2023, and Mr. Gatti as a preliminary matter, requested that the Hearing be adjourned. No Motion materials had been filed, so the Tribunal treated the request as an oral Motion. The Claimants were not in attendance. Mr. Gatti advised the Tribunal that the sole ground for the adjournment was that there had been a breakdown in the solicitor-client relationship, of which he first became aware on Friday, February 17, 2023. Mr. Gatti advised the Tribunal that he believes that his clients wish to retain new counsel and that they do not wish him to continue to represent them. He advised the Tribunal that the Claimants were fully informed and aware of the provisions in the PO respecting adjournments and the fact that the Hearing was scheduled to commence this date, and that they nevertheless wished to retain new counsel.

[10] Mr. Brode stated the Respondent's position that an adjournment should not be granted and that the Hearing should proceed as scheduled. He stated that he had spent considerable professional time preparing for the Hearing, had his expert witness in attendance, and that if the Hearing was adjourned, that the Respondent would be prejudiced both by the further delay of this long-running matter and by the expenditure of Hearing preparation costs throw away, which Mr. Brode stated would be in the range of \$30,000. He referred to the protracted seven-year history of this matter which he attributed to various previous delays by the Claimants. Mr. Brode submitted that the granting of an adjournment, just prior to the commencement of the Hearing, would be contrary to principles of fairness, contrary to the Tribunal's Rules, contrary to the specific provision regarding adjournments contained in the PO, and would cause severe prejudice and hardship to the Respondent, and would constitute an abuse of process.

Analysis Regarding Claimants' Request for an Adjournment

[11] The Tribunal notes firstly that Mr. Gatti continues to represent the Claimants. Mr. Gatti has not brought a motion on notice seeking an adjournment as required by the Tribunal's Rules. The Hearing date was set by the Procedural Order made by Vice-Chair Lanthier on June 9, 2022. Mr. Gatti confirmed the Hearing date at the CMC on December 9, 2022, and that he would be ready to proceed. Mr. Gatti advised the Tribunal that his clients are aware of both the PO and its terms, and that the Hearing is scheduled to commence this date. Nevertheless, they are not in attendance.

[12] Under Rule 17.1 of the Tribunal's Rules, hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Rule 17.2 makes provision for the situation where an adjournment is on consent of the Parties. Rule 17.3 deals with requests for an adjournment which are opposed and provides that the party requesting the adjournment must bring a motion on notice at least 15 days before the hearing event. If the reason prompting an adjournment request arises within 15 days of the Hearing, the party seeking the adjournment must give immediate notice to the Tribunal and the other parties and serve its Motion materials as soon as possible. Rule 17.4

makes limited provision for the granting of last minute adjournments and provides that such adjournments will only be granted in situations of unavoidable emergencies, such as illness.

[13] Paragraph 23 of the PO specifically provides that “no adjournments or delays will be granted before or during the Hearing except for serious hardship or illness”.

[14] In these circumstances the Tribunal finds that:

- a. The Respondent does not consent to the adjournment request;
- b. The required motion on notice requesting an adjournment has not been brought by the Claimants;
- c. Mr. Gatti states that there has been a breakdown in the solicitor-client relationship but he continues to represent that Claimants as he is not seeking an Order that he be removed from the Record;
- d. The Tribunal notes the history of this matter and finds that the conduct of the Claimants has caused previous delays in advancing this Arbitration and costs to be unnecessarily incurred by the Respondent:
 - Expropriation Plan CE706334 was registered on March 31, 2016;
 - the Parties met at the Board of Negotiation on May 11, 2017;
 - Thereafter, Claimants did not proceed with the Arbitration of their claim under the *Expropriations Act* (“the Act”).
 - The Respondent therefore was required to initiate Arbitration proceedings by delivery of a Notice of Arbitration dated February 13, 2018;
 - contrary to the provisions of the Act and the Tribunal’s Rules, the Claimants failed to file their Statement of Claim. As a result, on June

- 3, 2020, Vice-Chair Sills of the Tribunal administratively dismissed the Notice of Arbitration;
- subsequently a Statement of Claim was delivered by Claimants' counsel, Mr. Gatti, on June 15, 2021, which was more than five years after the Expropriation;
 - on June 9, 2022, the first CMC was conducted before Vice-Chair Lanthier to establish the terms of a PO and to set a Hearing date. Counsel for the Claimants did not attend. The CMC proceeded in his absence;
 - the PO proposed by the Respondent was ordered and a three-day Hearing on the Merits was scheduled to begin on February 22, 2023, at 10:00 am;
 - the Claimants are fully aware of the Hearing date and the provisions of the PO;
 - the PO specifically provides in paragraph 23 that no adjournments will be granted before or during the Hearing except for serious hardship or illness;
 - pursuant to the PO, the Respondent delivered its Witness List on August 26, 2022;
 - the PO required the Parties to deliver a preliminary Hearing Plan by November 1, 2022;
 - The PO also ordered that the Parties attend a Final Status Hearing on December 9, 2022;
 - the Status Hearing came before this Member on December 9, 2022, and both Mr. Gatti and Mr. Brode attended. Both counsel advised the Tribunal that there are no further issues and that the Parties were content with the draft Hearing Plan, which was confirmed as was the commencement of the Hearing on February 22, 2023;
 - the Hearing Plan indicates that Mr. Gatti intends to call only one witness, who is a real estate appraiser;

- when questioned by the Tribunal Mr. Gatti stated the sole issue to be determined in the Hearing is the Market Value of the Subject Property, and that he could proceed with the Hearing in the absence of his clients.

Ruling on Request for Adjournment

[15] This Adjournment request was brought by Claimants' counsel at the eleventh hour, and the Tribunal finds that the Respondent would clearly suffer prejudice if the adjournment is granted. The Hearing date was fixed by the PO and counsel for the Parties had assured the Tribunal that they would be ready to proceed. The Respondent is in attendance with its expert witness, Mr. Bower, and is ready for the Hearing. Mr. Gatti is also present with Mr. Carter, the Claimants' expert and sole witness. Having carefully considered all of the foregoing, the provisions of Rule 17, the provisions of the PO and the submissions of counsel, the Tribunal finds that the adjournment request does not qualify as an unavoidable emergency under either Rule 17.4 or under paragraph 23 of the PO. The adjournment request was therefore denied.

MID-HEARING MOTION BY COUNSEL TO BE REMOVED FROM THE RECORD

[16] The Hearing commenced late in the morning of February 22, 2023, with the evidence in chief of the Claimants' appraiser. At 12:00 noon on February 23, 2023, which was the second day of this Hearing, counsel for the Claimants, Mr. Gatti, caused a Notice of Motion returnable that date to be filed with the Tribunal's Case Coordinator. The Motion was for an Order that Mr. Gatti be permitted to remove himself as solicitor of record for the Claimants. The Notice of Motion was contained in a Motion Record which also contained an Affidavit sworn by Mr. Gatti.

[17] The Notice of Motion indicated, and Mr. Gatti confirmed, that it had been served only upon the Respondent. The Claimants had not been served and were not present. Mr. Gatti's Affidavit alleged that on February 17, 18 and 21, 2023, he had

communications with the Claimants “which amounted to a breakdown of the solicitor and client relationship”. He deposed that “I also made a recommendation to them [concerning a settlement] which they were considering”. Counsel for the Respondent, Mr. Brode, opposed the Motion on the grounds that if it was granted, then the Respondent would suffer prejudice as a result of the further delay of this long running matter in addition to costs throw away of approximately \$30,000. Mr. Gatti produced no authorities in support of his Motion. The Tribunal stood down to consider and rule upon the Motion.

[18] In its Decision in *Baradaran v. Alexanian*, 2020 ONSC 4759, the Superior Court reviewed the case law, the Rules of Professional Conduct of the Law Society of Ontario (“LSO Rules”) and the principles to be considered on a motion by counsel of record to be removed from the record. A lawyer is required to have “good cause”, or “justifiable cause”, to withdraw from the representation of a party in the midst of litigation. Rule 3.7-1 of the LSO Rules provides:

Although the client has the right to terminate the lawyer-client relationship at will, the lawyer does not enjoy the same freedom of action. Having undertaken the representation of a client, the lawyer should complete the task as ably as possible unless there is justifiable cause for terminating the relationship.

In considering such a motion, the Court stated that it will consider whether it is feasible for the client to represent himself or herself, whether counsel gave a reasonable amount of notice to the client, the impact which the delay caused by the removal of counsel will have on the client and on the other parties to the proceeding. The Court emphasized that prejudice to the client will always be a significant factor in the consideration of such a Motion. In the event that counsel’s withdrawal will cause serious prejudice to be suffered by the client, the Motion should not be granted.

Ruling on Mr. Gatti’s Motion for an Order that he be Removed from the Record

[19] Mr. Gatti’s Motion was brought mid-way through his clients’ case during the Hearing on the Merits of this Arbitration. Whether it is feasible for the Claimants to

assume representation of themselves is unknown as they were not served with the Motion and are not before the Tribunal. In the circumstances, the Tribunal can only conclude that permitting Mr. Gatti's withdrawal will cause serious prejudice to the Claimants, and in addition would cause serious prejudice to the Respondent and harm to the administration of justice. The Motion was accordingly denied.

HEARING ON THE MERITS

THE EVIDENCE

[20] The Tribunal heard from two witnesses, both of whom are real estate appraisers. The witness called on behalf of the Claimants was John S. Carter, AACI. The witness called on behalf of the Respondent was Ray Bower, AACI.

[21] A total of seven Exhibits were produced and marked. Three of the Exhibits were produced by counsel for the Respondent, Mr. Brode, during his Cross-Examination of the Claimants' Appraiser, Mr. Carter. These three documents were provisionally marked for identification purposes only as Exhibits A, B and C, and were subsequently marked as Exhibits 5, 6 and 7 when identified during the direct evidence of the Respondent's Appraiser, Mr. Bower.

EXHIBIT NO.	FILED BY (PARTY NAME)	NAME/DESCRIPTION OF EXHIBIT
1	Joint	Joint Document Book
2	Claimants	Acknowledgement of Expert's Duty – John S. Carter dated Feb 16/23
3	Respondent	Affidavit of Service of Additional Documents of Natalie Armaleo, sworn Feb 23/23

A	Respondent	Extract from City of Windsor Sewer Atlas, Sheet R11, revised July 2011
B	Respondent	Transfer between Michael O’Keefe Farms Inc and Windsor Regional Hospital registered on October 15, 202, as Instrument No. CE969081
C	Respondent	Geowarehouse Report for 4365 County Road 42, Windsor
4	Respondent	Acknowledgement of Expert’s Duty of Ray Bower dated Feb 16/23
5	Respondent	Extract from City of Windsor Sewer Atlas, Sheet R11, revised July 2011
6	Respondent	Transfer between Michael O’Keefe Farms Inc and Windsor Regional Hospital registered on October 15, 202, as Instrument No. CE969081
7	Respondent	Geowarehouse Report for 4365 County Road 42, Windsor

[22] Written Submissions and Supplementary Written Submissions were requested by the Tribunal and filed by both counsel as follows:

- Claimants’ Written Submissions – March 16, 2023;
- Respondent’s Written Submissions – March 24, 2023;
- Claimants’ Reply Submissions – April 3, 2023;
- Claimants’ Supplementary Written Submissions – June 30, 2023;
- Respondent’s Further Written Submissions – July 10, 2023.

[23] The Joint Document Book having been produced and marked as **Exhibit 1**, Mr. Brode attended to the filings required by Rule 26.24 of the Tribunal’s Rules. The Tribunal was referred to the Plan of Expropriation, registered on March 31, 2016, as Instrument No. CE706334, which was filed as Tab 1 to Exhibit 1. The Tribunal was also

directed to the Certificate of Approval of the Council of the Corporation of the City of Windsor dated February 2016, filed as Tab 4 to Exhibit 1.

Evidence for the Claimants

[24] Mr. Carter was called on behalf of the Claimants and qualified by the Tribunal to give opinion evidence on matters concerning the appraisal of real estate generally, and on the valuation issues in this Proceeding in particular. Mr. Carter had produced an Appraisal Report which was filed as Tab 15 of Exhibit 1 (the "Carter Report"). The Carter Report is dated September 15, 2016, and has a stated effective date of April 11, 2016, and is therefore a Retrospective Appraisal Report. The Tribunal notes that the Carter Report contains ambiguities which were not raised by counsel for the Respondent. The letter of transmittal indicates that Mr. Carter had appraised the Subject Property for the purpose of estimating its "current market value" in accordance with Section 14 of the Act. This is a misstatement, as the date of the Carter Report is approximately five months subsequent to the stated effective date of April 11, 2016. The reference to Section 14 of the Act is also at variance with the statement in the Executive Summary that the function of the Appraisal is "to assist the client establish market value as of the date of the Expropriation under Section 25(2)" of the Act. This is clearly a misstatement, as Section 25(2) provides the requirement that Expropriating Authorities base Section 25 Offers of Compensation upon a report appraising the market value of lands taken and any damages for injurious affection.

[25] As no evidence was provided respecting the effective date for the determination of compensation, the Tribunal requested that both counsel address this issue by way of Supplementary Written Submissions. Counsel for the Claimants submitted that his clients' Form 8 Notice of Election, elected to have compensation determined as at the date on which his clients were served with the Notice of Expropriation, which was April 8, 2016. Ms. Vendrasco, now Counsel for the Respondent, replied that the Notice of Expropriation was sent to the Claimants on April 8, 2016, but was deemed to be served two days later pursuant to Section 1(2)(a) of the Act. As this date fell on a non-judicial

day, the valuation day was deemed to be the following day, being April 11, 2016. The Tribunal concurs and determines that pursuant to Section 10(2)(c) of the Act, the date at which compensation is to be assessed is April 11, 2016.

[26] In his evidence Mr. Carter related that the Claimants had purchased the Subject Property in 1972 as an investment and that it had been tenanted continuously until just prior to the Expropriation. He stated that the Subject Property had an overall site area of approximately 3.04 acres with 317.45 feet of frontage onto County Road 42, which is an arterial road. The Subject Property was rectangular in shape and level, with two accesses onto County Road 42. Improvements consisted of a one and one-half storey single-family residential dwelling built in 1942, having a gross building area of 1,240 ft². Services at the Subject Property included municipal water, electrical supply and natural gas service. Although on a septic system, Mr. Carter stated that a sanitary sewer connection was available at the County Road 42 frontage.

[27] The Subject Property was within the block which includes the Windsor Airport and was directly across County Road 42 from the site announced as the location of the new "Windsor Mega-Hospital". Mr. Carter described, and the Executive Summary in his Report states, that he considers the Subject Property to be "Redevelopment Land".

[28] Land use controls included an Agricultural Zoning according to the City of Windsor Zoning By-Law and an Official Plan ("OP") designation as Future Employment Area. Mr. Carter stated that the Future Employment Area designation is intended to accommodate future Industrial and Business Park designations. He stated that redesignation or development of Future Employment Areas will require the completion of Secondary Plans and other appropriate studies relating to municipal physical servicing, transportation, Class Environmental Assessment and others, as required by the OP.

[29] Mr. Carter stated that the entirety of the Subject Property lies within an area designated for regulation by the Essex County Conservation Authority ("ECCA") as it is

located in a flood prone area. He stated that the Claimants advised him that, although they were aware that the Subject Property was located in a flood prone area, as documented by the ECCA, they have never experienced a problem with flooding throughout the period of their ownership.

[30] Mr. Carter stated that his analysis of the Subject Property's characteristics and improvements in the area indicate the Subject Property could adequately support municipal physical service development. The Property has good visibility and access. Based on his investigations with the Respondent's Planning Department, Mr. Carter stated that the site size of 3.04 acres is sufficient to allow for redevelopment and that the Subject Property's physical aspects do not impose limitations on development for the legally permissible uses under the Business Park designation.

[31] Mr. Carter emphasized that on July 16, 2015, there had been a public announcement that the southeast corner of County Road 42 and Concession Road 9, which is directly opposite to the Subject Property, would be the future site of the "Windsor Mega Hospital". He stated that the location of the Subject Property across County Road 42 from the Hospital site, its access to services and its location on an arterial road, meant that the Subject Property had excellent redevelopment potential for a commercial use such as a convenience store, gas station, restaurant, financial institution or hotel, all of which are permitted uses under the Business Park designation.

[32] Mr. Carter determined the Highest and Best use of the Subject Property, as though vacant, to be its "interim agricultural use with its ultimate development with a commercial use when market forces dictate". As improved, he determined the Highest and Best use of the Subject Property, to be continuation of the existing single-family use and ultimately redevelopment with a commercial use when market forces dictate.

[33] Mr. Carter employed the comparable sales method of valuation in his Report and he selected five comparable sales. All of Mr. Carter's comparable sales were located

within the County Road 42 corridor. The particulars of these were set out in a table on Page 44 of the Carter Report which is reproduced below:

COMPARABLE PROPERTIES							
#	Address	Sale Date	Sale Price	Size (Acres)	Price/acre	Zoning	Official Plan
1	4035 Concession Road 9 Windsor	1-Jul-17	\$6,100,000	60.42	\$100,960	Agricultural: A	Future Employment Area
2	5855 County Road 42 Windsor	23-Oct-15	\$580,000	5.04	\$115,079	Agricultural: A	Future Employment Area
3	4100 Concession Road 7 Tecumseh	22-Dec-15	\$360,000	3.10	\$116,129	Hamlet Commercial: CH	Business Park
4	2415 Division Road Windsor	19-Jan-16	\$2,750,000	16.20	\$169,753	Manufacturing District (MD1.2) Zone	Part Commercial Corridor and part Industrial
5	12059 County Road 42 Tecumseh	30-Jul-15	\$390,000	1.40	\$278,571	Commercial: C3	Neighbourhood Commercial
Range-Low			\$360,000	1.40	\$100,960		
Range-High			\$6,100,000	60.42	\$278,571		
Averages			\$2,036,000	17.23	\$156,098		

[34] Comparable No. 1 was the sale of the future site of the Windsor Mega-Hospital on the corner of County Road 42 and Concession Road 9 having a municipal address of 4035 Concession Road 9, Windsor. It was a 60.42 acre parcel which was designated as Future Employment Area in the OP and zoned Agricultural (the same as the Subject Property) and was unimproved. The sale price provided for a unit price of \$100,960 per acre with a “sale date” (closing date) of July 1, 2017.

[35] Comparable No. 2 was the sale of a 5.04 acre property which was located on the opposite side of County Road 42 west of the Subject Property. It was designated as Future Employment Area in the OP and zoned Agricultural (the same as the Subject Property) and was improved with a single family residence and barn. The sale price

provided for a unit value of \$115,079 per acre, with a sale date of October 23, 2015. In describing Comparable 2, Mr. Carter referred to the fact that the purchaser had been a well-known real estate investor in the Windsor area, who purchased the property shortly after the Windsor Hospital announcement.

[36] Comparable No. 3 was the sale of a 3.10 acre parcel having an OP designation of Business Park which was zoned Hamlet Commercial. The sale price provided for a unit price of \$116,129 per acre, with a sale date of December 22, 2015. The property was on rural services.

[37] Comparable No. 4 was the sale of a 16.20 acre parcel having a split OP designation of Commercial Corridor and Industrial, which was zoned Manufacturing District MD1.2 Zone. The sale price provided for a unit price of \$169,753 per acre, with a sale date of January 19, 2016. The property had access to full services.

[38] Comparable No. 5 was the sale of a 1.40 acre parcel having an OP designation of C3 Commercial which was zoned Neighbourhood Commercial. The sale price provided for a unit price of \$278,571 per acre, with a sale date of July 30, 2015. The property had access to full services.

[39] Mr. Carter's Comparable Sales provided for a range in unit values per acre from \$100,960 to \$278,571 with an average of \$156,098 per acre. After adjustments, he determined the range to be \$140,000 to \$160,000 per acre, and Mr. Carter concluded with an adjusted unit value of \$150,000 per acre for the Subject Property.

[40] On this basis Mr. Carter estimated the Market Value of the 3.04 acre Subject Property to be \$456,000 as at April 11, 2016.

[41] In Cross-Examination, counsel for the Respondent challenged Mr. Carter's assertion that a sanitary sewer connection was available at the Subject Property. Mr. Brode produced an extract identified as Sheet 11 from the Sewer Atlas for the City of

Windsor, revised July 2011, which was provisionally marked as Exhibit A for identification purposes, and subsequently marked as Exhibit 5 when identified by the Respondent's witness, Mr. Bower. The extract from the Sewer Atlas showed the Subject Property and surrounding area. It indicated the presence of only a Trunk Sanitary Sewer running beside the Subject Property's County Road 42 frontage. There was a notation on either side of the Subject Property which reads "No New Connection to Trunk Sanitary Sewer."

[42] Also in Cross-Examination, Mr. Brode produced to Mr. Carter a Report from GeoWarehouse respecting the property municipally known as 4365 County Road 42. This document was provisionally marked as Exhibit C for identification purposes, and subsequently marked as Exhibit 7 once it was identified by Mr. Bower. Mr. Carter acknowledged that the Report shows that the property which is the subject of the GeoWarehouse Report abuts his Comparable No. 2, and that it was purchased by the same Buyer as Comparable No. 2 from the same Vendor with the same closing date. The Report showed that the property was an unimproved 13.17 acre parcel which sold for the sum of \$570,000. Mr. Brode suggested to Mr. Carter that if Comparable No. 2 and 4365 County Road 42 are considered as a single transaction, the resulting unit price for Comparable No. 2 is \$43,280 per acre, and not \$115,079 per acre as opined by Mr. Carter.

Evidence for the Respondent

[43] Mr. Bower was called on behalf of the Respondent and qualified by the Tribunal to give opinion evidence on matters concerning the appraisal of real estate generally, and on the valuation issues in this Proceeding in particular. Mr. Bower had produced a Retrospective Appraisal Report which was filed as Tab 14 of Exhibit 1 (the "Bower Report"). The Bower Report is dated July 16, 2016, with an effective date of April 11, 2016. The stated purpose of the Bower Report is to provide an estimate of Market Value to assist in the determination of the amount of "fair compensation" payable to the Claimants. Mr. Bower concurred with Mr. Carter regarding the OP designation of the

Subject Property as Future Employment Lands and the Zoning as Agricultural. It was Mr. Bower's opinion that the Highest and Best use of the Subject Property as at the effective date was for the continuation of the existing use as a single-family residence until such time as it is both physically possible and economically feasible to re-develop the site in accordance with legally permitted uses and as market demand would dictate.

[44] However Mr. Bower expressed a very different view from that of Mr. Carter respecting the timing of the redevelopment prospects for the Subject Property, stating that while redevelopment was possible, as indicated by the Future Employment Lands designation, as at the valuation date it would not have been seen as probable within the foreseeable future, and that accordingly the Future Employment Lands designation had no impact on the Market Value of the Subject Property as at the Valuation Date. Mr. Bower attributed this to:

- the announcement of the new hospital location had not generated market demand for properties in its vicinity, with the exception of the sale listed by Mr. Carter as Comparable No. 2. At the Valuation Date the transaction for the purchase of the Hospital lands (Mr. Carter's Comparable No. 1) had not closed, and did not close until more than one year after the effective date of April 11, 2016. Mr. Bower stated his opinion that this was due to the market uncertainty created by well-publicized public objections to the proposed hospital location and litigation which had been commenced to overturn the decision. In addition, as at the date of this Hearing, construction of the hospital had not begun, seven years after the announcement.
- Mr. Bower stated that the area designated "Future Employment Area" by the Windsor Airport is large, being about 600 acres and, as no secondary plans or redevelopment proposals have been initiated since 2016 for any of the 600 acres comprising the Future Employment Area lands, there is no demonstrated demand for expansion.

- given the 3.04 acre size of the Subject Property, any future development would likely occur only in conjunction with the simultaneous development of surrounding properties.

[45] It was therefore Mr. Bower's opinion that, as the timing for any redevelopment of the Subject Property as at the Valuation Date was shrouded in uncertainty, the fact that it carried the designation as Future Employment Lands would have had no effect on its Market Value. He concluded that comparable properties for valuation purposes are residential and that comparable sales are therefore residential sales. Mr. Bower conducted an analysis of vacant residential land sales to establish an unimproved value for the Subject Property, followed by an analysis of improved residential sales, from which he extracted a residual house value on a per square foot basis, which he employed to estimate the value of the improvements on the Subject Property.

[46] Mr. Bower's vacant residential land sales analysis used eight sales with dates ranging from September 2012 to February 2016. As a result, six of the sales carried a time adjustment of 20% or more, one had an adjustment of 13% and the most recent had an adjustment of 4%. The average price per acre extracted from these sales was \$108,259. Mr. Bower's time-adjusted comparable sales chart is at page 43 of his Report and is reproduced below:

	Location	Sale	Date	Time Adjustment	Time Adjusted Price	Size (Acres)	Price Per Acre
A	86 County Rd 42	\$125,000	Sep-12	27%	\$158,823	0.91	\$174,531
B	1152 Belle River Rd	\$120,000	Jan-14	21%	\$144,878	1.99	\$72,803
C	925 County Rd 27	\$85,000	Feb-14	21%	\$102,491	1.22	\$84,009
D	484 Elmstead	\$110,500	Apr-14	20%	\$132,794	1.19	\$111,591
E	7375 Broderick	\$190,000	Apr-14	20%	\$228,333	2.33	\$97,997
F	County Rd 27	\$90,000	Jun-14	20%	\$107,796	1.01	\$106,728
G	8025 Matchette	\$210,000	Aug-15	13%	\$236,575	1.34	\$176,549
H	148 North Talbot	\$141,000	Feb-16	4%	\$146,527	3.50	\$41,865
Average					\$157,277	1.7	\$108,259
Median					\$145,703	1.3	\$102,363

[47] Mr. Bower stated that Comparable Sale A, best represents the Subject Property in terms of location on County Road 42, as it is located between the Subject Property and Manning Road, and is 2 km east of the Subject Property. However, it is the oldest sale, dating from September 2012, and therefore required an upward time adjustment of 27%. The site is the smallest of the comparable sales examined at 0.91 acre. Sale A has a time adjusted price of \$158,823, which equates to \$174,531 per acre.

[48] Mr. Bower selected Comparable Sale B (Belle River Rd. - 1.99 acres), Comparable Sale E (Broderick Rd. - 2.33 acres) and Comparable Sale H (North Talbot Rd. - 3.5 acres) being the three largest sites, for his estimation of the Market Value of the Subject Property on a per acre basis. Mr. Bower time adjusted the sale prices to \$144,878, \$228,333 and \$146,527 respectively. He stated that these three properties have an adjusted average unit sale price of \$70,888 per acre. Mr. Bower stated that applying this average to the Subject Property's site area of 3.04 acres results in an indicated site value 'as though vacant' of (3.04 x \$70,888) \$215,499, which he rounded to \$215,500.

[49] Mr. Bower's next step in his approach to valuation was an analysis of improved residential sales, from which he extracted a residual house price on a per square foot basis to estimate the value of the residential building on the Subject Property. In his

comparable sales analysis Mr. Bower employed the direct comparison approach to valuation and referred to six improved residential sales. These sales are summarized on the chart below, taken from page 58 of the Bower Report:

Subject		#1	#2	#3
6424 County Rd. 42 10 km	Distance to City Centre	6655 Malden Rd. 11 km	6038 Malden Rd. 17 km	6611 Manning Rd. 19 km
		Sale Price \$175,000	\$158,000	\$155,000
	Sale Date	Sep-13	Sep-13	Nov-13
	Time Adjusted price	22% \$213,816	22% \$193,045	21% \$187,883
Site Size		1.71 acres	1.0 acre	1.26 acres
Estimated Site Value		<u>\$150,000</u>	<u>\$125,000</u>	<u>\$135,000</u>
Residual Bldg. Value		\$63,816	\$68,045	\$52,883
House Size (sq.ft.)	1240	1130	941	1765
	Residual House Price/sf	\$56.47	\$72.31	\$29.96
House Age	74 years Full	51 years	91 years	116 years
Basement	Unfinished	Full Unfinished	Full Unfinished	Part Unfinished
Heat	GFA	GFA	GFA	GFA
Cooling	Central AC	Central AC	Central AC	None
Condition	Average	Average	Good	Good
Garage/Shed	No Value	2 Car	2 Car with Loft	2 Car

Subject		#4	#5	#6
6424 County Rd. 42 10 km	Distance to City Centre	3675 Howard Ave. 7 km	2324 Lesperance Rd. 13 km	3630 Howard Ave. 7 km
		Sale Price \$185,000	\$136,900	\$170,000
	Sale Date	May-14	Nov-14	Sep-15
	Time Adjusted price	20% \$221,580	19% \$162,316	12% \$192,986
Site Size		1.17 acres	1.04 acres	1.66 acres
Estimated Site Value		<u>\$135,000</u>	<u>\$125,000</u>	<u>\$150,000</u>
Residual Bldg. Value		\$86,580	\$37,316	\$42,986
House Size (sq.ft.)	1240	1661	1132	896
	Residual House Price/sf	\$52.13	\$32.96	\$47.98
House Age	74 years Full	63 years	68 years	61 years
Basement	Unfinished	Part Unfinished	Crawl Space	Crawl Space
Heat	GFA	GFA	GFA	GFA
Cooling	Central AC	Central AC	Central AC	Central AC
Condition	Average	Good	Good	Average
Garage/Shed	No Value	None	Garage	Garage
Other		Fireplace		Fireplace

[50] Based upon his analysis, Mr. Bower calculated that the residual building value for the residential improvement to the Subject Property was between \$62,000 and \$68,200 as at the effective date (1,240 ft² at \$50.00 to \$55.00). He settled upon the mid-point of \$65,110 as his opinion of the value of the residence.

[51] It is therefore Mr. Bower's opinion, as stated in the Bower Report and in his evidence, that the Market Value of the Subject Property as at the effective date was \$280,600, being comprised of \$215,500 in land value and \$65,100 for the value of the residential building.

ANALYSIS

Highest and Best Use

[52] The determination of the Market Value of the Subject Property as at the valuation date of April 11, 2016, first requires the determination of its Highest and Best Use ("HBU") as at that date. In its Decision in *Farlinger Developments Ltd. v. East York* [1973], 5 L.C.R. 95 at p.127, the Ontario Land Compensation Board, as it then was, observed that the determination of an expropriated property's HBU is a condition precedent to the determination of its market value as at the effective date for compensation purposes.

[53] The 2016 version of the Canadian Uniform Standards of Professional Appraisal Practice ("CUSPAP") sets out the following definition of HBU in Article 2.33: "The reasonably probable use of Real Property, that is physically possible, legally permissible, financially feasible and maximally productive that results in the highest value."

[54] What the Tribunal will consider as "reasonably probable" for purposes of the CUSPAP definition is "something higher than a 50% possibility". *Clarke v. Nepean (City)*

[2001], 73 L.C.R. 256 (O.M.B.D.) at 277, and *Farlinger Developments Ltd. v. East York* (1975) 8 L.C.R. 112 (O.C.A.) at 123-124.

[55] Mr. Carter concluded that the HBU for the Subject Property as vacant as at the effective date, was its “interim agricultural use with its ultimate development with a commercial use when market forces dictate”. It was apparent from Mr. Carter’s evidence and his selection of Comparable Sales, that he based his conclusion primarily upon the OP designation of the Subject Property as Future Employment Lands, which he considered to mean a Business Park designation.

[56] Mr. Bower concurred with Mr. Carter to the extent that the OP designates land use for the immediate area as Future Employment Area and that this suggests either Business Park or Industrial Park development. However, it was Mr. Bower’s opinion that Mr. Carter’s analysis only partially addressed the legally permissible requirement, which is also but one leg of the four-legged stool upon which HBU must be established. Mr. Bower stated that Mr. Carter did not appear to have thoroughly considered the other three legs of the stool; namely, that the use must also be shown, on a balance of probabilities, to be physically possible, financially feasible and maximally productive. It was Mr. Bower’s opinion that these criteria were not adequately addressed by Mr. Carter and that, as a result, his conclusion with respect to the HBU of the Subject Property was fatally flawed. The Tribunal agrees.

[57] While the OP designation for the Subject Property is Future Employment Area, Business Park is a separate and discrete OP designation as provided under Section 6.4.4 of the Windsor OP. Business Park was not the OP designation for the Subject Property as at the Valuation Date and an Official Plan Amendment (“OPA”) would be required to designate the Subject Property as Business Park. Mr. Carter did not investigate the availability of such an OPA.

[58] The Future Employment Land designation is provided in Section 6.13 of the OP which is entitled Future Growth Areas. The provisions of Section 6.4.4, in addition to

describing the permitted uses and ancillary uses in a Business Park, which were referred to by Mr. Carter as uses available to the Subject Property, provides for extensive Locational and Evaluation Criteria which must be satisfied on an Application to re-designate Future Employment Lands as Business Park. Mr. Bower pointed out in his evidence that the stipulation in Section 6.4.4.3 (c) is of particular importance, as it directs that Business Park development shall only be located where full municipal physical services can be provided. Mr. Bower referred to Exhibit 5, the extract from the Sewer Atlas, stating that full services were not available at the Subject Property due to the “unavailability of a sanitary sewer connection”. The Tribunal agrees and finds that there was no existing sanitary sewer connection available to the Subject property as at the effective date, and that no sanitary sewer connection would be available to the Subject Property for the foreseeable future.

[59] Section 6.13 of the OP is titled “Future Growth Areas” and creates two designations: Future Urban Area and Future Employment Area. The preamble of Section 6.13 provides:

These designations have been established based on a comprehensive review of future population, household and employment projections and are intended to identify the general locations and area requirements set aside **to accommodate growth over the twenty year planning horizon.**

Future Urban Area and Future Employment Area designations primarily apply to large, generally undeveloped and unserved areas that are expected to be developed within twenty years. Although it is recognized that these areas are intended for development, **it is important that more detailed planning relating to the specific configuration and location of various land uses, road systems and servicing infrastructure be undertaken prior to proceeding with development.**
(Emphasis added)

[60] The only uses permitted on lands under the “Future Employment” designation are ‘existing uses’, until such time that the lands are redesignated by way of an OPA. In the case of the Subject Property the existing use is the residential use. It is also clear from the Preamble of Section 6.13 that the OP would not permit development of the Subject Property in isolation from its neighbouring properties.

[61] In the Court of Appeal Decision in *Re Farlinger Developments v East York*, cited above, the Court ruled as follows respecting the evidentiary threshold to be met in order to establish the HBU of a property in a case where a change in zoning would be required:

it would seem to be established that the highest and best use must be based on something more than a possibility of rezoning. There must be a probability or a reasonable expectation that such rezoning will take place. It is not enough that the lands have the capability of rezoning. In my opinion probability connotes something higher than a 50% possibility.

[62] The Tribunal therefore finds that, as at the effective date, the prospect of any redevelopment of the Subject Property would have been on the twenty-year planning horizon, or beyond, and would require as a prerequisite that detailed planning studies regarding permitted land uses, road systems and servicing infrastructure be completed, and that a sanitary sewer connection be available. The evidence was that no such studies, plans, applications or proposals had been undertaken. In these circumstances the Tribunal prefers the opinion of Mr. Bower and finds that the HBU of the Subject Property as at the Valuation Date was long-term holding for future redevelopment with continuation of the existing residential use, until OP redesignation is possible and market conditions make it financially feasible to redevelop the Subject Property.

Is a sale to an Expropriating Authority a valid comparable sale?

[63] Mr. Carter, the Claimants' appraiser, and their counsel in his written submissions, relied heavily upon Mr. Carter's Comparable No. 1, which was the sale of the 60 acre site to Windsor Regional Hospital. The Respondent has argued that Comparable No. 1 is not a valid comparable sale because the purchaser is an Expropriating Authority, pursuant to Section 11 of the *Public Hospitals Act*, RSO 1990, c. P.40.

[64] The definition of Market Value for land expropriated is stated in Section 14(1) of the Act as "the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer." It is argued that there are a number of reasons why a sale to an Expropriating Authority should not be considered to be a

transaction in the open market between a willing buyer and seller. Section 30 of the Act provides for a process whereby an owner, on a without prejudice basis, can consent to an acquisition by an Expropriating Authority. Such a transaction proceeds as, and is recorded as a sale. The amount of the consideration for such a “sale” will be determined by the Expropriating Authority, and will be payable on closing, and will be treated as a payment under Section 25 of the Act, and will be without prejudice to the property owner’s right to make application to this Tribunal claiming that the amount of the compensation paid on closing should be increased. Section 30 provides that such a sale transaction will be treated as though it were an Expropriation for compensation purposes. In other situations, recognizing the inevitability of a requirement by an Expropriating Authority and of a pending expropriation, an owner may be prompted to negotiate a sale to the Expropriating Authority, thereby avoiding formal expropriation proceedings and subsequent litigation altogether. For reasons such as these, a sale to an Expropriating Authority is presumed to not be free and voluntary, because the owner in such a situation cannot satisfy the Section 14(1) requirement of a willing seller acting in an open market. There is accordingly a presumption in the caselaw that such a sale is not free and voluntary and cannot be considered as a valid comparable sale. However, the presumption is rebuttable through the production of evidence concerning the surrounding circumstances of the sale and that the sale was in fact free and voluntary.

[65] In its Decision in *Nowell v. Ontario (Minister of Environment)* [1984], 30 L.C.R. 255 (O.M.B.), the Ontario Municipal Board, as it then was, stated at p.259 that a pre-expropriation sale to an Expropriating Authority is admissible as a comparable sale, but that such a sale is presumed to have not been free and voluntary. The party seeking to rely upon the impugned sale bears the onus of rebutting that presumption through evidence of the circumstances surrounding the transaction.

[66] In its Decision in *Windsor (City) v. 789881 Ontario Inc.* (2002), 79 L.C.R. 30, the Ontario Municipal Board found that a pre-expropriation sale of a property to the City, which it required for intersection improvements, and upon which the Claimant’s

appraiser placed heavy emphasis, would be accorded no weight, as the Claimants had not produced any evidence that the sale was voluntary. In fact, at p.50 of the Decision, the Board found that the lack of any evidence concerning the surrounding circumstances of the sale, fully distinguished the sale from the subject property in that case.

[67] The Claimants did not tender any evidence concerning the surrounding circumstances of the sale referred to as Comparable No. 1 to the Windsor Regional Hospital to establish that the sale was in fact free and voluntary. Therefore, the Tribunal will accord it no weight.

Market Value

[68] Mr. Carter's Comparable Sales Nos. 3, 4 and 5 were properties with different OP designations than the Subject Property, being Business Park, Commercial Corridor/Neighbourhood Commercial, and different zoning designations: Hamlet Commercial, Manufacturing District and Commercial, and are therefore fully distinguishable from the Subject Property.

[69] Mr. Carter's Comparable No. 3 had full municipal services available, was already zoned commercial and designated Business Park under the OP.

[70] Mr. Carter's Comparable No. 4 was a 16 acre site with full services and was zoned manufacturing in an area designated under the OP as Commercial Corridor.

[71] Mr. Carter's Comparable No. 5 had full municipal services available immediately and was zoned commercial with an OP designation of Commercial.

[72] Mr. Carter's Comparable No. 2, at 5855 County Road 42, was a 5.04 acre property which was located very near to the Subject Property, having the same OP designation and zoning, and many other characteristics similar to the Subject Property.

This sale yielded a unit sale price of \$115,079 per acre. Counsel for the Respondent argues that the Tribunal should not accord any weight to Comparable 2 as the sale was not a transaction on the open market. Rather than being offered for sale on the open market, it would appear to have been a case of one speculator approaching the owner. Mr. Bower stated that he could not find an MLS listing for this property. Other than the fact that Mr. Carter did not provide an MLS listing, no evidence was presented regarding the surrounding circumstances of the transaction.

[73] Mr. Bower also opined, and counsel for the Respondent has argued, that another difficulty with Comparable No. 2 is that the Carter Report may not have included the entirety of the transaction. Mr. Bower referred to the document marked as Exhibit C for identification purposes during the Cross-Examination of Mr. Carter, subsequently marked as Exhibit 7, which is the GeoWarehouse Report concerning the 13.16 acre property adjacent to Comparable No. 2, municipally known as 4365 County Road 42. Exhibit 7 shows that this property was purchased by the Buyer of the Comparable No. 2 property, from the same Vendor, and that the sale closed on the same date. Mr. Carter had testified in Cross-Examination that the Buyer had advised him that he had wished to “make an allocation” when purchasing the two properties and that for this reason he did not include this sale in his comparable sales. Counsel for the Respondent argues that if the two transactions are treated as a single sale, the unit price per acre is \$63,152, as compared to \$115,079 per acre if the sale of Comparable No. 2 is considered alone. However, no further evidence was presented regarding the surrounding circumstances of the two transactions, or of the allocation, in support of either the price paid on the sale of Comparable No. 2, or to support the position that the two sales were actually a single transaction.

Can a property Sold Under Power of Sale be a Valid Comparable Sale?

[74] As stated above, it is Mr. Bower’s opinion that the HBU for the Subject Property as at the effective date was the continuation of its existing residential use. Accordingly, all of Mr. Bower’s comparable sales were residential sales. Mr. Bower stated that he

relied upon his Comparable B, E and H to arrive at his unit price per acre of \$70,888 and unimproved Market Value opinion of \$215,500.

[75] Comparable H sold for a unit price of \$41,865 per acre, which stands out among Mr. Bower's Comparable Sales as it is markedly lower than the unit price paid for any of the other seven Comparable Sales. On a review of the unit prices shown on Mr. Bower's Comparable Sales Chart reproduced at paragraph 46 above, Comparable H immediately appears to be an outlier. As noted by Mr. Bower on page 41 of his Report, Comparable H was a sale by a Mortgagee under its Power of Sale. Counsel for the Claimants did not direct the Tribunal's attention to this in either his Cross-Examination of Mr. Bower or in his Written Submissions.

[76] The Tribunal therefore stated the following issues to both counsel and directed that they file Supplementary Written Submissions addressing the following issues:

Mr. Bower used his Comparable Sales B, E and H to conclude a unit value of \$70,888 per acre for the Subject Property. The evidence was that Comparable H had been on the market for about 2 years and was sold by the Mortgagee under its Power of Sale. The unit price per acre for Comparable H shown in Mr. Bower's Comparable Sales Chart is significantly lower than any of Mr. Bower's other Comparable Sales. Please address the following:

- a) Whether the sale required an adjustment in addition to the 4% time adjustment to reflect that fact that the sale was made under Power of Sale?
- b) Whether CUSPAP (2016-2022 versions) requires Comparable H to be considered as a forced sale of a distressed property?

- c) Whether the Comparable H sale price satisfies the CUSPAP definition of Market Value?
- d) Whether Comparable H can satisfy the requirement in Section 14(1) of the *Expropriations Act* of a willing seller acting in an open market?

Whether the Sale required an adjustment in addition to the 4% time adjustment to reflect that fact that the sale was made under Power of Sale?

[77] In the Respondent's Supplementary Written Submissions, Ms. Vendrasco submits that it is the 2016 version of the CUSPAP Rules which are applicable. The Tribunal agrees. The Tribunal observes that Article 2.31 provides that the terms "power of sale", "distress sale" and "liquidation value" are synonymous with the terms "forced sale", stated in the following terms:

FORCED SALE VALUE: A term synonymous with "liquidation value", "distress sale" or "power of sale" implying a reduced selling period and compulsion to sell. Forced sale value is not a concept separate from market value but is a form of marketing conditions less favourable to the seller than those set out in the definition of market value. [see 16.14]
 Note: Some valuation standards do not allow the use of the term "Forced Sale Value" or similar; in these instances, the higher minimum Standard prevails.

[78] Ms. Vendrasco submits that a Forced Sale Value occurs in a situation where: the seller is under compulsion to sell, and may therefore be an unwilling seller; there is consummation of the sale within a short period of time; and normal Marketing Time is not possible due to a brief Exposure Time. She acknowledges that the term "forced sale" describes the situation in which a sale takes place resulting in a value that does not fully meet the definition of Market Value.

[79] Ms. Vendrasco also acknowledges in her Submissions that properties that sell under Power of Sale may sell for a price less than Market Value. Reasons for this can include that a mortgagee in possession of a property generally has little use for the property itself, and being faced with additional carrying costs such as taxes, insurance,

interest, may opt for a quick sale. In this case however, she argues that Comparable Sale H was exposed to the market for more than a reasonable length of time, being 15 months. Ms. Vendrasco submits that Comparable H is therefore a valid comparable sale and did not require any further adjustment in addition to the 4% adjustment for time.

[80] Ms. Vendrasco also submits that the CUSPAP Forced Sale Value definition “generally applies” to the appraising of property to be sold under Power of Sale and not when such a sale is used as a Comparable Sale, and that CUSPAP does not require quantitative adjustments for such a Comparable Sale. However, as noted above, Ms. Vendrasco concedes that a forced sale results in a value that does not meet the definition of Market Value and that a sale under power of sale may result in a selling price which is below Market Value.

[81] Mr. Gatti submits that the definition of Forced Sale Value states that a power of sale results in less favourable marketing conditions to the Seller and that Comparable Sale H therefore required an adjustment to account for the fact that it was a sale under power of sale.

[82] The Tribunal has carefully considered the Supplementary Written Submissions filed by both counsel and the arguments presented therein. The Tribunal has carefully the circumstances the Comparable H sale and the fact that it was a sale under power of sale, at a unit price markedly lower than any of Mr. Bower’s other Comparable Sales. The Tribunal finds that inclusion of Comparable H in Mr. Bower’s analysis required either evidence of the circumstances surrounding the sale which demonstrate that the sale price represents Market Value, or an upward adjustment to reflect the fact that, it was a sale under power of sale, at a unit price which was markedly less than any of Mr. Bower’s other Comparable Sales. Absent such evidence and/or adjustment it is reasonable for the Tribunal to conclude that the property sold for a price that was below Market Value.

Whether CUSPAP (2016-2022 versions) requires Comparable H to be considered as a forced sale of a distressed property?

[83] Mr. Gati submits that CUSPAP considers a “power of sale” to be synonymous with a “Distress sale” and that the sale is therefore the forced sale of a distressed property. Ms. Vendrasco submits that the elements of the CUSPAP Forced Sale Value definitions are i) a “reduced selling period”, ii) “consummation of the sale is within a short period of time” and iii) “normal marketing time is not possible due to a brief exposure time”. None of these elements applied to Comparable Sale H. Since Comparable Sale H does not fall within the definition of Forced Sale Value it cannot be considered to be a forced sale of a distressed property.

[84] The Tribunal does not agree with Ms. Vendrasco’s submission. The Tribunal observes that in the Appraisal Institute of Canada (“AIC”) publication, *Canadian Property Valuation Magazine*, David Babineau of the AIC wrote in an article titled “The Valuation of Distressed Properties”, that a definition of a “distressed property”, is a “property that is under a foreclosure order or is advertised for sale by its mortgagee. Distressed property usually fetches a price that is much below its market value.” (Babineau, D., “The Valuation of Distressed Properties”, *Canadian Property Valuation Magazine*, 2015-Volume 59-Book 2).

[85] The Tribunal also observes that Iain Hyslop of the AIC, wrote in an article titled “Forced Sale Valuation”, which was also published in *Canadian Property Valuation Magazine*, that:

The term ‘forced sale value’ is not a concept separate from market value, but it simply implies a form of marketing conditions that are less favourable to the seller than those set out in the definition of market value and usually requiring hypothetical conditions and extraordinary assumptions. Further to this premise, in circumstances involving financial distress, the party being forced to sell may be an unwilling seller, hence creating circumstances where the seller is in a disadvantaged bargaining position contrary to the willing buyer/willing seller concept.

[86] The Tribunal has carefully considered the Supplementary Written Submissions filed by both counsel and the arguments presented therein and finds that, in all the circumstances, Comparable H must be considered as a Forced Sale of a Distressed Property.

Whether the Comparable H sale price satisfies the CUSPAP definition of Market Value?

[87] Both counsel referred to the CUSPAP definition of Forced Sale Value, referred to above, which provides in part that Forced Sale Value is not a concept separate from Market Value but is a form of marketing conditions less favourable to the seller than those set out in the definition of Market Value.

[88] Mr. Gatti referred to CUSPAP Article 2.69 which defines Value as:

The monetary relationship between properties and those who buy, sell or use those properties. [see 5.13.1.iii, 6.1.1, 6.2.3, 6.2.5, 6.2.14, 6.2.16, 6.2.17, 6.2.19, 6.2.20, 6.2.22, 6.2.23, 6.2.24, 7.4.2, 7.15.8.iii, 7.17, 7.18.1, 7.19.2, 7.22, 16.14]. The Member must provide the basis for the value, that being a statement of the fundamental measurement assumptions of a valuation¹ as well as the timeframe of the value opinion. **[see 7.6].**

[89] Neither counsel referred to the note to Article 2.69, which the Tribunal considers to be of particular importance in the consideration of Comparable H as it provides direction respecting the meaning of “Value”, and distinguishes, *inter alia*, between Market Value and Liquidation Value:

Note: Value expresses an economic concept. As such, it is never a fact, but always an opinion of the worth of a property at a given time in accordance with a specific definition of value. In appraisal practice, value must always be qualified, e.g., **market value [see 16.15], liquidation value**, investment value, rental value, or other. (emphasis added)

[90] The note to Article 2.69 directs that the appraiser’s opinion of value of a property must be in accordance with “a specific definition of value”. In these proceedings that

specific definition of value is that OF Market Value as found in Section 14(1) of the Act, and Article 2.69 directs that the opinion of value be in accordance with that definition.

Whether Comparable H can satisfy the requirement in Section 14(1) of the Expropriations Act of a willing seller acting in an open market?

[91] The *Expropriations Act* is a remedial statute enacted for the specific purpose of adequately compensating those whose lands are taken to serve the public interest. As a remedial statute, the *Expropriations Act* must be given a broad and liberal interpretation that is consistent with its purpose, which is to provide adequate compensation to those whose land has been expropriated. The application of these principles has resulted in the presumption that whenever land is expropriated, compensation will be paid.

[92] The Act provides a complete code for the determination of compensation. Section 13 sets out, in broad strokes, the categories of compensation assessable under the Act:

13 (1) Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act. R.S.O. 1990, c. E.26, s. 13 (1).

Idem

(2) Where the land of an owner is expropriated, the compensation payable to the owner shall be based upon,

- (a) the market value of the land;
- (b) the damages attributable to disturbance;
- (c) damages for injurious affection; and
- (d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause (b) for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use. R.S.O. 1990, c. E.26, s. 13 (2).

[93] This claim engages only Section 13(2)(a), being the determination of the amount of the compensation payable to the Claimants for the Market Value of the land taken.

[94] Section 14 of the Act prescribes the criteria and rules to be followed when determining Market Value under the Act. Subsection 14(1) provides the cardinal principle, that “the market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.”

[95] In defence of Mr. Bower’s reliance on Comparable H, Ms. Vendrasco submits that the CUSPAP Forced Sale Value definition “generally applies” to the appraising of property to be sold under Power of Sale and not when such a sale is being relied on as a Comparable Sale. The Tribunal disagrees. In these proceedings the specific definition of value is that found in Section 14(1) of the Act and Article 2.69 of CUSPAP directs that the opinion of value be in accordance with that definition. In its recent Decision in *1353837 Ontario Incorporated v Stratford (City)* (2021), 19 L.C.R. (2d) 1 at 27-28 (OLT), the Tribunal provided direction to appraisers relying upon the Direct Comparison Approach to valuation when providing a Market Value opinion under Section 14(1):

Appraisers rely on definitions of market value that elaborate on s. 14 of the Act, including from the Canadian Uniform Standards of Professional Appraisal Practice (“CUSPAP”) and International Valuation Standards. CUSPAP refers to a prudent and knowledgeable buyer and seller:

The most probable price which a property should bring in a competitive and open market as of the specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

The International Valuation Standards’ definition is similar and refers to an arms-length transaction:

Market value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.

In other words, in land compensation proceedings under the Act, the Section 14(1) definition of Market Value is paramount, and the definitions in CUSPAP are intended to elaborate upon that statutory definition. It necessarily follows that, under the Direct Comparison Approach to valuation, each comparable sale must satisfy the Section 14(1) definition of Market Value.

[96] As noted above, the Tribunal observes that, in the case of Comparable Sale H, the resulting unit price per acre of \$41,865 is so markedly lower than the unit price per acre resulting from any of Mr. Bower's seven other Comparable Sales. As shown on Mr. Bower's Comparable Sales chart, the unit values per acre resulting from the adjusted sale prices for the seven other comparable sales range from a low of \$72,803 to a high of \$176,549. The average unit value per acre of the other seven comparable sales is \$117,744. As Comparable H was a sale made under power of sale, at a far lower price per acre than any of the other Comparable Sales and at a unit value which is slightly more than one-third of the average of those sales, the Tribunal determines that further evidence regarding the surrounding circumstances of the Comparable H sale is required in order to establish that it satisfies the Market Value criteria in Section 14(1). It was open for the Respondent to produce such evidence that the sale price represents Market Value within the meaning of Section 14(1), but no such evidence was presented. In the absence of such evidence, the Tribunal determines that Comparable Sale H does not satisfy the requirements of Section 14(1). As in the case of Mr. Carter's Comparable Sale No. 1, which was a sale to an Expropriating Authority, Mr. Bower's Comparable H, being a sale under power of sale at a unit price markedly below that of all other comparable sales, and for the further reasons set out above, cannot be accepted as a valid comparable sale without evidence of the surrounding circumstances of the transaction. There was no attempt by Mr. Bower to adjust the sale price to reflect the fact that the sale was under power of sale and no attempt by the Respondent to produce evidence of the surrounding circumstances of the sale to establish that it satisfies the Section 14(1) requirements.

[97] The Tribunal therefore finds that the transaction represented by Comparable Sale H cannot satisfy the Market Value definition in Section 14(1) of the Act, that the sale be a transaction in the open market between a willing seller and a willing buyer, and that Mr. Bower's Comparable H is therefore not a valid comparable sale, and the Tribunal will accord it no weight.

Conclusion

[98] Having carefully considered the evidence of Mr. Carter and Mr. Bower, and their respective Appraisal Reports, the Tribunal prefers the HBU analysis and conclusion of Mr. Bower. As a result, the Tribunal also prefers Mr. Bower's residential comparable sales analysis. However, the Tribunal does not agree with Mr. Bower's conclusion regarding the Market Value of the Subject Property as unimproved, since his opinion regarding the unimproved Market Value of the Subject Property was based in part on the inclusion of Comparable H in his analysis, without any evidence of the circumstances surrounding the sale to establish that it was a sale at Market Value within the meaning of Section 14(1) of the Act.

[99] The Tribunal finds that Mr. Bower's Comparable A, being a sale dated September 2012, and therefore requiring a substantial upwards adjustment for time in the order of 27%, should also be excluded from consideration. The Tribunal prefers the average of the adjusted unit price per acre of Mr. Bower's remaining six Comparable Sales, being Sales B, C, D, E, F and G. Averaged, these six Comparable Sales yield an adjusted unit value of \$108,280 per acre (rounded), and the Tribunal so finds this amount to be the per acre unit value of the Subject Property as unimproved as at the Valuation Date. The Tribunal therefore finds that the 3.04 acre Subject Property had a Market Value, as if vacant, of \$329,172 (rounded) as at the effective date of April 11, 2016.

[100] The Claimants presented no evidence respecting the estimated value of the residential component of the Subject Property and the Tribunal therefore accepts the evidence and opinion of Mr. Bower that the Market Value of the residential building on the Subject Property was \$65,100 as at the effective date, and so finds.

ORDER

[101] **THE TRIBUNAL THEREFORE ORDERS** that the Respondent, the Corporation of the City of Windsor, pay to the Claimants, Edward Janisse and Dorothy Janisse, the sum of \$394,272 as the total compensation for their expropriated interests in the Subject Property, inclusive the amount of the Section 25 payment, and exclusive of statutory interest and costs.

INTEREST AND COSTS

[102] **THE TRIBUNAL ORDERS** that counsel for the Parties are to deliver Written Submissions respecting Section 33 statutory interest and Section 32 costs on the following timetable:

- i. Claimants' Submissions within 30 days;
- ii. Respondent's Submissions within a further 15 days;
- iii. Claimant's Reply Submissions within a further 7 days.

[103] This Member shall remain seized and, following receipt of the Written Submissions referred to above, may rule upon the issues of interest and costs, or may determine that further submissions are required or that a further hearing event is required to determine interest and costs.

“Robert G. Ackerman”

ROBERT G. ACKERMAN
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Ontario Land Tribunal
 Tribunal ontarien de l'aménagement
 du territoire



ISSUE DATE: August 17, 2023

CASE NO(S).:

OLT-22-003819

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant:	Antonio Buttice et al
Subject:	By-law No. 67-2022
Description:	To permit a 4 Storey multiple dwelling
Reference Number:	BL 67-2022
Property Address:	1913, 1925 & 1949 Devonshire Court
Municipality/UT:	City of Windsor
OLT Lead Case No.:	OLT-22-003819
OLT Case No.:	OLT-22-003819
OLT Case Name	Buttice v. Windsor (City)

Heard: July 25, 2023 by Video Hearing

APPEARANCES:

Parties

Counsel

2811035 Ontario Inc.	Analee Baroudi
City of Windsor	Wira Vendrasco
Antonio Buttice	Raymond Colautti
Rod and Paula Rankin	Raymond Colautti
Roger and Jen Bastiaan	Raymond Colautti
Dr. Norman and Beverly Marshall	Raymond Colautti

Cherie and Brian Laughton	Raymond Colautti
Charlotte Colautti	Raymond Colautti
Patricia McConville	Raymond Colautti

MEMORANDUM OF ORAL DECISION DELIVERED ON JULY 25, 2023, BY S. DEBOER AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This Decision results for the continuance of the first Case Management Conference (“CMC”) conducted in respect to the Appeal from Antonio Buttice *et al.* pursuant to s. 34 (19) of the *Planning Act* against the City of Windsor’s (the “City”) decision to approve the Zoning By-law Amendment (the “ZBA”) application to the City of Windsor Zoning By-law 8600.

[2] The Tribunal marked the Affidavit of Service of the Notice of the CMC by Anna Ciacelli sworn on September 8, 2022 as Exhibit No. 1 to the Hearing.

[3] The nature of the appeal is that the proposed amendments to Zoning By-Law 8600 are not consistent with the Provincial Policy Statement, 2020, and do not conform to the policy direction of the City of Windsor Official Plan, in general, and the Heritage Conservation policies specifically.

BACKGROUND

[4] The municipal addresses of the Subject Properties are 1913, 1925 and 1949 Devonshire Court, Windsor.

[5] The Applicant is requesting an amendment to Zoning By-law 8600 to allow a multiple dwelling as an additional permitted use subject to additional provisions. The Applicant proposes to construct a multiple dwelling with a maximum building height of

15 metres, containing 23 dwelling units over a total of four storeys. A total of 30 parking spaces, including two accessible parking spaces, 21 bicycle spaces and one loading space are a part of the proposal.

[6] The Subject Properties are on the location of a former Heritage Register property – the former St. George’s Church. The church was demolished in 2016 under the Approval of the City of Windsor Council. The Subject Properties are located within the Walkerville Heritage Area in the City’s Official Plan.

REQUESTS FOR STATUS

[7] At this CMC, there were no further requests for Party Status nor Participant Status.

OPPORTUNITIES FOR RESOLUTION

[8] The Parties agreed that a resolution to this matter cannot be reached and that a hearing of the merits is being requested by the Parties.

ISSUES LIST AND PROCEDURAL ORDER

[9] Prior to the commencement of the CMC, the Tribunal had received a proposed Procedural Order (“PO”) and received separate Issue Lists (“IL”) from the Parties. After discussion between the Parties and the Tribunal, the Tribunal ruled that the IL as presented by the Applicant and the City are the appropriate issues to be argued during the hearing of the merits.

SCHEDULING OF A HEARING

[10] The Parties agreed that the amount of time needed to hear the issues would be 3 to 4 days. As such, the Tribunal secured hearing dates of **Tuesday October 17 to Friday October 20, 2023**, at **10 a.m.** by video for a hearing of the merits.

[11] Parties and Participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections.

GoTo Meeting: <https://global.gotomeeting.com/join/692665589>

Access code: 692-665-589

[14] Parties and Participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available:

<https://app.gotomeeting.com/home.html>

[15] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line.: **(Toll Free): 1-888-299-1889 or +1 (647) 497-9373**. The access code is as indicated above

[16] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Co-Ordinator having carriage of this case.

ORDER

[17] **THE TRIBUNAL ORDERS** that a hearing of the merits will commence on **Tuesday, October 17, 2023, at 10 a.m. for a period of 4 days ending Friday, October 20, 2023.**

[18] The attached Procedural Order will govern the hearing of the merits.

“S. deBoer”

S. DEBOER
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.



Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

Tel: 416-212-6349 | 1-866-448-2248

Web Site: olt.gov.on.ca

CASE NO(S): OLT-22-003819

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Appellant(s):	Antonio Buttice et al
Applicant:	2811035 Ontario Inc.
Subject:	By-law No. 8600
Property Address:	1913, 1925, and 1949 Devonshire Court
Municipality:	City of Windsor
OLT Case No.:	OLT-22-003819
OLT File No.:	OLT-22-003819
OLT Case Name:	Buttice v. Windsor (City)

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will commence on Tuesday October 17, 2023 at 10:00 am for a period of 4 days ending Friday, October 20, 2023.
3. The parties' initial estimation for the length of the hearing is four (4) days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties and participants identified at the case management conference are set out in Attachment 1.

5. The issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
6. The order of evidence shall be as set out in Attachment 3 to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's [Video Hearing Guide](#), available on the Tribunal's website.

Requirements Before the Hearing

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before August 11, 2023 and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
10. Expert witnesses in the same field shall have a meeting on or before September 1, 2023 and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the OLT Case Co-Ordinator on or before September 8, 2023.
11. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at

the hearing. Copies of this must be provided as in paragraph 13 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.

- 12.** Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph 13 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 13 below.
- 13.** On or before September 15, 2023, the parties shall provide copies of their witness and expert witness statements to the other parties and to the OLT Case Co-Ordinator and in accordance with paragraph 22 below.
- 14.** On or before September 15, 2023, a participant shall provide copies of their written participant statement to all parties in accordance with paragraph 22 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
- 15.** On or before September 12, 2023 the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
- 16.** On or before September 29, 2023, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
- 17.** Parties may provide to all other parties and the OLT Case Co-Ordinator a written response to any written evidence on or before September 22, 2023 and in accordance with paragraph 22 below.
- 18.** The parties shall cooperate to prepare a joint document book which shall be shared with the OLT Case Co-Ordinator on or before October 6, 2023. The Parties agree that the Joint Document Book will be marked as an Exhibit at the hearing, will include the following two documents, and that the Appellant is not required to call the authors of these reports as witnesses in order to authenticate the documents:

- a. Heritage Impact Study dated October 23, 2015 prepared by the City of Windsor staff Heritage Planner John Calhoun.
- b. Report S64/2022 dated May 10, 2022 to Council for June 6, 2022 prepared by Laura Strahl MCIP, RPP, together with Appendix A being a Report dated January 30, 2022 by the Altus Group; Appendix B thereto, being a Report dated April 20, 2022 by The Planning Partnership, Municipal Planning Consultants entitled "Multi-Residential Interim Control Bylaw Study Background Report; and Appendix C thereto being a report dated April, 2022 entitled City of Windsor Intensification Guidelines" by the Planning Partnership.

- 19.** A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
- 20.** A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
- 21.** The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before October 6, 2023 with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.
- 22.** All filings shall be submitted electronically and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule 7*.

23. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

24. Attachment 4 is a Table of Deadlines summarizing the dates in this Procedural Order.

So orders the Tribunal.

Attachment 1**Parties and Participants****Parties**

1. Antonio Buttice (Appellant)
2. Rod and Paula Rankin (Appellant)
3. Roger and Jen Bastiaan (Appellant)
4. Dr. Norman and Beverly Marshall (Appellant)
5. Cherie and Brian Laughton (Appellant)
6. Charlotte Colautti (Appellant)
7. 2811035 Ontario Inc. (Applicant)
8. The Corporation of the City of Windsor

Attachment 2

Issues List

Heritage Issues

1. Will the proposed ZBA result in development that is of compatible height, massing, scale, setback and architectural style, as required by section 9.3.5(ii) of the City of Windsor Official Plan?
2. Will the proposed ZBA result in development that has regard for the following factors, as required by section 9.3.7.1(e) of the City of Windsor Official Plan?
 - (i) Respecting the massing, profile and character of adjacent buildings;
 - (ii) Approximating the width and established setback pattern of nearby heritage buildings;
 - (iii) Respecting the yards, gardens, trees and landscaped grounds associated with the heritage properties and districts which contribute to their integrity, identity, and setting;
 - (iv) Maintaining, enhancing or creating views and vistas of heritage resources; and
 - (v) Minimizing the impact of shadowing on adjacent heritage properties, particularly on landscaped open spaces and outdoor amenity areas.
3. Has a Built Heritage Impact Study been submitted to the satisfaction of the City Planner, as required by section 9.3.7.1.(i) of the City of Windsor Official Plan?
4. Is the prior Heritage Impact Study dated October 23, 2015 done by the City of Windsor Staff Heritage Planner relevant to the determination of whether the ZBA should be approved?

Planning Issues

5. Will the proposed development be compatible with the surrounding neighbourhood with respect to height, massing and setbacks?
6. Is the proposed parking for the development sufficient?

Attachment 3**Order of Evidence**

1. Antonio Buttice (Appellant)
2. 2811035 Ontario Inc. (Applicant)
3. The Corporation of the City of Windsor

Attachment 4**Table of Deadlines**

Action	Deadline
Exchange and file Witness Lists and Expert Witness CVs	August 11, 2023
Meeting of Experts	September 1, 2023
File Agreed Statement of Facts	September 8, 2023
Advise Tribunal if all four days of hearing time is still required	September 12, 2023
Exchange and file Witness Statements and Participant Statements	September 15, 2023
Exchange and file Reply Statements	September 22, 2023
Exchange and file Visual Evidence	September 29, 2023
File Joint Document Brief and Hearing Plan	October 6, 2023

Ministry of the Environment,
Conservation and Parks

Environmental Assessment
Modernization Branch

135 St. Clair Avenue West
4th Floor
Toronto ON M4V 1P5

Ministère de l'Environnement, de
la Protection de la nature et des Parcs

Direction de la modernisation des processus
d'évaluation environnementale

135, avenue St. Clair Ouest
4^e étage
Toronto ON M4V 1P5



August 9, 2023

Greetings,

Today, I am writing to provide you with an update on recent decisions made by the province to modernize Ontario's environmental assessment (EA) program.

Moving to a Project List under the *Environmental Assessment Act*

A key element of the EA modernization initiative is identifying projects that should be subject to EA requirements in a regulation. The move to a project list approach is a shift from the current framework where environmental assessment requirements are based mainly on who is undertaking the project.

In November 2021, the ministry began consultation on a proposal for the projects that would require a comprehensive EA and related actions, and the ministry is now proceeding with certain policy elements from the 2021 proposal. Specifically, the ministry has made amendments to three regulations and updated two related guides, as further described below. The changes will simplify processes and provide new exemptions. The remaining elements of comprehensive EA projects regulation proposal and related actions are under consideration.

In March 2023, the ministry updated the Moving to a Project List Environmental Registry posting with a revised proposal. The revisions to the proposal do not relate to the policy elements discussed within this update.

Amendments to Certain Regulations under the *Environmental Assessment Act*

Amendments to three regulations under the *Environmental Assessment Act* have been approved, and related actions have been taken, implementing certain policy elements of the proposal [Moving to a project list approach under the Environmental Assessment Act](#):

- The Waste Management Projects Regulation (Ontario Regulation 101/07) was amended to change the environmental assessment requirements for certain landfill expansion projects and to make the minister the decision-maker for a request to elevate a waste management project following the streamlined environmental assessment process to an individual environmental assessment

- The Transit Projects and Metrolinx Undertakings (Ontario Regulation 231/08) was amended to authorize the minister to amend or revoke conditions previously imposed in a notice given by the minister to allow the proponent to proceed with a transit project.
- The General Regulation (Ontario Regulation 334) was amended to expand the current exemption for Crown undertakings (activities) related to land claim settlements to include those Crown undertakings related to any settlement of the Algonquins of Ontario Land Claim.
 - The Algonquin Land Claim Declaration Order was also amended to align with the exemption in the regulation.

Updated Guide to Environmental Assessment Requirements for Waste Management Projects

The Guide to Environmental Assessment Requirements for Waste Management Projects ([Waste Guide](#)) has been updated to reflect amendments to the environmental assessment requirements set out in Ontario Regulation 101/07, and to make other administrative updates. The changes include:

- Updating the EA requirements for certain landfill expansion projects.
- Making the minister the decision-maker in relation to elevation requests.
- Updating the regulatory terminology and description of EA requirements in light of recent amendments to the Regulation related to thermal treatment, to include advanced recycling and the resulting recovery of materials, and identifying information to be included when undertaking the Environmental Screening Process for an advanced recycling (thermal treatment) project.
- Administrative updates recognizing the Guide was last updated in 2007.

Updated Guide to Environmental Assessment Requirements for Electricity Projects

The Guide to Environmental Assessment Requirements for Electricity Projects ([Electricity Guide](#)) has been updated to change the decision-making authority for elevation requests for electricity projects and make other administrative updates to reflect changes since the guide was last updated. The changes include:

- Adding information to Section A.6.2.3 (Consultation with Indigenous Communities) of the guide to align with the Waste Guide, including in relation to the Crown's duty to consult, contacting the ministry for a list of Indigenous communities for consultation, and documenting the consultation process.
- Updating the ministry's name to "Ministry of the Environment, Conservation and Parks".
- Updating the thresholds for transmission line projects that determine the type of environmental assessment process required.

The regulations were filed and came into force on August 8, 2023 and the updated guides are in effect (posted to the Environmental Registry website on August 8, 2023).

Further details of the amendments to the three regulations and related actions and copies of the updated guides are available on the Environmental Registry of Ontario ([ERO 019-4219](#)). Details about the regulatory amendments made with respect to advanced recycling are available here ([ERO 019-4867](#)). More information on our other efforts to modernize the EA program can also be found at: [Modernizing Ontario's environmental assessment program](#).

Please do not hesitate to contact my team at EAModernization.mecp@ontario.ca if you have any comments or questions.

Sincerely,

A handwritten signature in black ink that reads "A. Cross". The signature is written in a cursive, slightly slanted style.

Annamaria Cross
Director, Environmental Assessment Modernization
Ministry of the Environment, Conservation and Parks

Ministry of Infrastructure

Infrastructure Programs and Projects
Division

777 Bay Street, 4th Floor, Suite 425
Toronto, Ontario M5G 2E5

Ministère de l'Infrastructure

Division des programmes et des projets
d'infrastructure

777, rue Bay, 4 étage, Suite 425
Toronto (Ontario) M5G 2E5



MEMORANDUM TO: Municipal CAOs

FROM: Jill Vienneau
Assistant Deputy Minister
Infrastructure Program and Projects Division

DATE: August 14, 2023

SUBJECT: Red Tape Reduction for Designated Broadband Projects

I am pleased to write to you today to provide an update on our efforts to expand high-speed internet access across the province.

In Spring 2023, Ontario introduced the *Less Red Tape, Stronger Economy Act, 2023* to help build on the government's efforts to reduce burden for businesses, not-for-profit organizations, municipalities and other provincially regulated entities. The Ministry of Infrastructure would like to highlight two measures related to this initiative:

1. Amendments to the *Building Broadband Faster Act, 2021* (BBFA) to address barriers to timely municipal permit approvals and efficient infrastructure data collection.
2. Updated guidance to broadband stakeholders through a new version of the *Building Broadband Faster in Ontario Guideline*.

BBFA Amendments

The *Less Red Tape, Stronger Economy Act, 2023* (formerly Bill 91) received Royal Assent on June 8, 2023, amending the *Building Broadband Faster Act, 2021* (BBFA) to remove further barriers or delays to designated broadband project construction and to support a streamlined approach to the deployment of high-speed internet infrastructure in the province.

The amendments to the BBFA provided the Minister of Infrastructure with authority to set out certain new regulatory requirements related to infrastructure data collection and conditions for municipal permitting. Effective July 1, 2023, O. Reg. 436/22 Definitions

and Prescribed Provisions under the BBFA was amended, by way of a Minister's amending regulation, to set out the following:

1. **For infrastructure data collection under s. 20.1 of the BBFA:** Upon request from the Minister of Infrastructure, certain persons or entities who own or operate utility infrastructure within 100 metres of a designated broadband project must submit the requested data in the form required by the Minister within 15 business days of receiving the request.
2. **For municipal permitting under s. 10.1 of the BBFA:** Municipalities may not require proponents to execute a legal agreement in advance of providing access to municipal rights-of-way under s. 10.1 of the BBFA. However, municipalities may require internet service providers (ISPs) to agree in writing to take steps to negotiate such agreements in good faith as soon as reasonably possible as a condition for providing access to their rights-of-way.

These changes are intended to advance broadband projects and ensure mechanisms are in place to protect the interests of municipalities. The Ministry of Infrastructure is developing resources to support municipalities with cost recovery related to designated broadband projects and will ensure that appropriate measures are in place to protect data that is shared.

Building Broadband Faster in Ontario Guideline (Version 3.0)

The Ministry of Infrastructure and Infrastructure Ontario has also updated the Building Broadband Faster in Ontario Guideline (Version 3.0). This Guideline was first released in April 2021 with input from municipalities, ministries, and other partners as a tool to expedite the delivery of designated high-speed internet projects. It was updated in August 2022 as well as in August 2023, to reflect new regulatory requirements that came into effect after its original release.

Guideline 3.0 provides additional clarity and best practices for completing work for designated broadband projects in compliance with legislative and regulatory requirements under the BBFA, the *Ontario Underground Infrastructure Notification System Act, 2012* (One Call Act) and the *Ontario Energy Board Act, 1998* (OEBA).

Key updates to the Guideline include:

- Information on new regulatory measures, including those under the BBFA mentioned above in addition to amendments to the OEBA and One Call Act regulations.

- A new process to help resolve disputes between parties and work with sectors to ensure that they comply with the laws and regulations that are helping to build broadband faster.
- Clarity on the Ministry of Transportation's efforts to speed up their permit process for provincially funded broadband projects.
- Additional guidance on cost sharing for using electric infrastructure to build these projects.

To review the updated Guideline, please visit [Building Broadband Faster in Ontario](#).

Support Tools

Infrastructure Ontario has tools in place that will provide assistance to municipalities, proponents of designated broadband projects and other stakeholders related to new requirements under the legislation and the overall implementation of these projects across the province. These include the Technical Assistance Team (TAT) and the use of an online platform called the Broadband One Window (BOW). The TAT plays a key role in supporting permit applications and facilitating resolutions between stakeholders if disputes arise. BOW will help stakeholders work collaboratively to review and approve permitting applications, share data, and provide progress updates on project milestones.

To get in touch with TAT for assistance, you can e-mail TAT@infrastructureontario.ca, or submit a TAT support request through the BOW platform. I also welcome you to contact broadband@ontario.ca if you have general questions about the government's work and wish to speak with a ministry official.

Next Steps

In the coming weeks, the Ministry of Infrastructure will engage the Association of Municipalities of Ontario to co-develop resources intended to support municipalities with timely permit approvals while ensuring they can appropriately control access to their rights-of-way. There is still considerable work underway to bring access to high-speed internet to every community in Ontario by the end of 2025. We appreciate your continued partnership in helping us achieve this important goal.



Municipality of Chatham-Kent
 Corporate Services
 Municipal Governance
 315 King Street West, P.O. Box 640
 Chatham ON N7M 5K8

August 15, 2023

Ontario's Big City Mayors (OBCM)

Via Email: info@obcm.ca

Re: OBCM Letter to Minister Leblanc Re: Infrastructure Funding

Please be advised the Council of the Municipality of Chatham-Kent at its regular meeting held on August 14, 2023 passed the motion that the municipality send a letter in support of Minister Surma's call to encourage the federal government to support the sustainability and growth of critical infrastructure in Ontario through a new round of flexible federal-provincial infrastructure funding through:

- Protecting communities: Continuing investments in critical underground infrastructure,
- including drinking water distribution systems, sewage and wastewater pipelines, along with stormwater management systems, to ensure the safety of our cities, protect from flooding and also support the growth of new development.
- Supporting communities: The cost of previously approved projects in Ontario continue to escalate and municipalities do not have the funds to complete these necessary projects, let alone to invest in new ones. To get these projects done, Ontario communities need continued support in the face of rising costs.
- Building communities: Critical infrastructure investments to address the housing supply crisis, including truly affordable housing.

If you have any questions or comments, please contact Judy Smith at ckclerk@chatham-kent.ca

Sincerely,

Judy Smith

Digitally signed by
 Judy Smith
 Date: 2023.08.16
 10:33:39 -04'00'

Judy Smith, CMO
 Director Municipal Governance/Clerk

c.

Hon. Premier Doug Ford
Hon. Minister Steve Clark
Hon. Minister Kinga Surma
Hon. Minister Victor Fedeli
Federation of Canadian Municipalities (FCM)
Association of Municipalities of Ontario (AMO)
Rural Ontario Municipal Association (ROMA)
Local MPs & MPPs
Ontario Zone 1 municipalities



MUNICIPAL
PROPERTY
ASSESSMENT
CORPORATION

Good afternoon Janice,

On August 16, the Ontario government filed Regulation 261/23 under the *Assessment Act* to extend the current assessment cycle, and the valuation date of January 1, 2016, through to the end of the 2024 taxation year.

This means that property taxes for the 2024 taxation year will continue to be based on the January 1, 2016 valuation date. Property assessments will remain the same as they were for the 2023 tax year, unless there have been changes to the property.

In addition to the recent Regulation, the government will conduct a review of Ontario's property assessment and taxation system.

MPAC shares the government's interest in ensuring the accuracy, transparency, and fairness of property assessments and we are committed to the continuous improvement of the property assessment and taxation system for the benefit of all Ontarians. While MPAC is not responsible for setting tax rates or collecting property taxes, we welcome the opportunity to work with the Province to ensure the property assessment process is optimal for both property owners and municipalities.

If you have any questions, please reach out to your [local MPAC Account Manager](#).

Sincerely,

Carmelo Lipsi
Vice President, Valuation & Customer Relations
Chief Operating Officer

mpac.ca

Municipal Property Assessment Corporation
1340 Pickering Parkway, Suite 101 L1V 0C4

Item No. 7.1.7

COMMITTEE OF ADJUSTMENT/CONSENT AUTHORITY AGENDA RECORD

PLEASE BE ADVISED THIS MEETING WILL BE CONDUCTED ELECTRONICALLY.

The following applications are scheduled to be heard by the Committee of Adjustment/Consent Authority on Thursday August 24, 2023, 3:30 PM, in the order stated below.

Persons wishing to provide comments to the Committee of Adjustment on the item contained herein are strongly encouraged to submit their comments in writing, by email to Jessica Watson, Secretary-Treasurer via email - COAdjustment@citywindsor.ca no later than July 25, 2023.

If you would like to Register to attend the public hearing please register on our website at this link- [Committee of Adjustment Deadline Dates and Meeting Schedule \(citywindsor.ca\)](#)

ITEM	TIME	ROLL #	FILE #	APPLICANT	LOCATION	REQUEST
1	3:30 PM	3739070110092000000	A-048/23	FOUAD BADOUR	991 MORAND ST	RELIEF: The creation of 2 new Lots (Lots B & C), with reduced minimum Lot width (Lot C only) and reduced side yard widths for retained and severed Lots.
2	3:30 PM	3739070110092000000	B-033/23	FOUAD BADOUR	991 MORAND ST	CONSENT: Create a new Lot
3	3:30 PM	3739070110092000000	B-034/23	FOUAD BADOUR	991 MORAND ST	CONSENT: Create a New Lot.
4	3:30 PM	3739040160040000000	A-041/23	2729884 ONTARIO INC	1044-1052 WYANDOTTE ST W	RELIEF: Creation of a combined use building and parking area with 12 spaces with minimum required parking, required loading spaces and separation of parking area from a habitable room window
5	3:30 PM	3739060260141000000	A-049/23	ADRIAN LEO MARENTETTE	7995 CLAIRVIEW AVE	RELIEF: Proposed addition to an existing Single Unit Dwelling with reduced minimum rear yard depth.
6	3:30 PM	3739070230225500000	A-050/23	OLA HIJAZI HOLDING CORP., MOHAMAD AL-MAAZ	3203 WALKER RD	RELIEF: Creation of a medical office in an existing commercial plaza with reduced parking rate.
7	3:30 PM	3739050370027020000	A-051/23	AGBABA HOLDINGS CORPORATION	1026 CALIFORNIA AVE	RELIEF: Creation of a single unit dwelling with reduced minimum Lot width, Lot area and rear yard depth.
8	3:30 PM	3739050370027010000	A-052/23	MARKO AGBABA, SANJA AGBABA	1028 CALIFORNIA AVE	RELIEF: Creation of a single unit dwelling with reduced minimum lot width, lot area and rear yard depth.

9	3:30 PM	3739080090105000000	B-035/23	ROBERT ARNOLD BAREI, LISA BAREI	4135 DOUGALL AVE	CONSENT: Create a new Lot
10	3:30 PM	3739070890042000000	B-036/23	RICHARD JOHN LEBLANC, BRENDA ROSE LEBLANC	3150 ROBINET RD	CONSENT: Create a new Lot
11	3:30 PM	3739040070052000000	A-053/23	OMAR ALBARAHMEH, SANDRA RAMDIAL, REX RAMDIAL	547 DOUGALL AVE	RELIEF: Creation of a new 4-unit multiple dwelling with reduced minimum lot width and lot area.
12	3:30 PM	3739030470120010000	A-054/23	THMC WINDSOR INC	600-718 TECUMSEH RD E	RELIEF: The creation of a new Lot at the rear of an existing major Commercial Centre with reduced minimum required parking spaces.
13	3:30 PM	3739030470120010000	B-037/23	THMC WINDSOR INC	600-718 TECUMSEH RD E	CONSENT: Create a new Lot with easements for servicing.
14	3:30 PM	3739010050003010000	A-055/23	VITO MAGGIO, MICHELLE MAGGIO	3422 RIVERSIDE DR E	RELIEF: Construction of detached garage in front of an existing SUD with reduced minimum front yard depth, east side yard width and maximum accessory building height.
15	3:30 PM	3739040510048000000	A-056/23	JAWID QADER KHAN	0 DUFFERIN PL (VACANT LOT NORTH OF 1284 DUFFERIN PL)	RELIEF: Construction of a Single Unit Dwelling with reduced minimum Lot area and parking rate.
16	3:30 PM	3739020070051000000	B-038/23	AMANDA SANTIA	871-877 WINDERMERE RD	CONSENT: Create a new Lot
17	3:30 PM	3739080650112100000	A-057/23	MOHAMED TABIB	1843-1896 NORTHWAY AVE (EXCLUDING 1867/1869 & 1873/1875)	RELIEF: Construction of a semi-detached dwelling exceeding maximum front yard paving and maximum gross floor area of main building.
18	3:30 PM	3739070720001920000	A-058/23	FARHI HOLDINGS CORPORATION	1530 & 1624 LAUZON RD	RELIEF: A newly created lot with reduced minimum front yard depth (severed parcel) and lot area (retained parcel).
19	3:30 PM	3739070720001920000	B-039/23	FARHI HOLDINGS CORPORATION	1530 & 1624 LAUZON RD	CONSENT: Creation of a new lot and to create easements for access, parking, servicing and maintenance.

If a person or public body that files an appeal of a decision of the Committee of Adjustment in respect of the proposed consent does not make written submissions to the Committee of Adjustment before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal. In addition, if you wish to be notified of the decision of the Committee of Adjustment in respect of the proposed applications, you must make a written request to the Committee of Adjustment at the address shown below.

NOTE: To access the Agenda Record, Comments for the upcoming meeting, and past Committee of Adjustment Minutes, please visit our website at: [Committee of Adjustment Meeting Agenda \(citywindsor.ca\)](https://www.citywindsor.ca/committees/adjustment)



Subject: Disaster Mitigation & Adaptation Fund Program Update & St. Paul Pumping Station Upgrades Tender Award - City Wide

Reference:

Date to Council: September 5, 2023

Author: Marc Di Domenico
Project Administrator, Corporate Projects
(519) 255-6100 ext. 6452
mdidomenico@citywindsor.ca

and,

Ed Valdez
Manager of Process Engineering & Maintenance, Pollution Control
(519) 253-7111 ext. 3366
evaldez@citywindsor.ca

Engineering
Report Date: August 18, 2023
Clerk's File #: SW/13822 & GFG/12912 & SW/14642

To: Mayor and Members of City Council

Recommendation:

- I. THAT City Council **RECEIVE** for information this report as an overall status update on the progress of the Disaster Mitigation & Adaptation Fund (DMAF) 1 Program; and,
- II. THAT subject to the funding strategy outlined under Recommendation III (b), the following tender be **ACCEPTED** for the St. Paul Pumping Station Upgrades project:

TENDERER: North American Construction (1993) Ltd.
21 Queen Street, Morriston, ON, N0B 2C0

TENDER NO: 95-23

TOTAL TENDER PRICE: \$26,188,887.00, excluding HST; and,

THAT the Chief Administrative Officer and City Clerk **EXECUTE** an Agreement with the tenderer, satisfactory in form to the Commissioner, Legal & Legislative Services, in technical content to the Commissioner of Infrastructure Services, and financial content to the Commissioner Corporate Services/CFO; and,

III. THAT with respect to the DMAF 1 Program:

- a. THAT Administration **BE AUTHORIZED** to formally submit an amendment request to Infrastructure Canada (INFC) regarding the original DMAF 1 Agreement to explore the reduced scope option as identified herein, satisfactory in form to the Commissioner, Legal & Legislative Services, in financial content to the Commissioner, Corporate Services / Chief Financial Officer / City Treasurer, and in technical content to the Commissioner of Infrastructure Services; and,
- b. THAT City Council **SUPPORT** the allocation, extension, and pre-commitment of \$4,000,000 annually for the incremental allocation to the Sewer Master Plan (SMP) approved as part of the 2023 Sewer Surcharge Budget in order to sufficiently address the funding required to support a reduced scope for the DMAF 1 Program such that:
 - i. \$4,000,000 from previously approved funding in 2023 Sewer Surcharge Budget allocated to the Sewer Master Plan be directed to the DMAF 1 Program; and,
 - ii. \$4,000,000 in annual funding from 2024-2027 be pre-committed so that these funds are available for immediate use within DMAF 1 Program; and,
 - iii. Placeholder funding of \$4,000,000 each year from 2028 to 2035 be approved and that once funding for each year is within 5 years it be deemed pre-committed and available for immediate use within the DMAF 1 Program; and,
- c. THAT the CFO/City Treasurer **BE DIRECTED** to affect the above noted changes in the applicable 2024 - 2035 Budgets so that funds are available for immediate use; and,
- d. THAT should an agreement on scope change from Infrastructure Canada (INFC) be received with no financial impact beyond that noted above, that Council **AUTHORIZE** the City Clerk and CAO to sign an amended DMAF 1 Agreement satisfactory in form to the Commissioner, Legal & Legislative Services, in financial content to the Commissioner, Corporate Services / Chief Financial Officer / City Treasurer, and in technical content to the Commissioner of Infrastructure Services; and,

IV. THAT with respect to DMAF 4 Program:

- a. THAT City Council **APPROVE** the capital works required for the construction of the DMAF #4 – Large Scale Stream – RTB; and,

- b. THAT City Council **AUTHORIZE** the creation of a new capital account titled “DMAF 4 – Large Scale Stream - RTB” be used to track and record capital expenditures related to the proposed project; and,
 - c. THAT City Council **AUTHORIZE** the use of debt as a funding alternative to address any additional municipal funding requirements for purposes of securing the long-term funding associated with the DMAF 4 Program, with principal and interest payments to be incorporated as a first charge against future Sewer Surcharge Budgets; and,
 - d. THAT the CFO/City Treasurer **BE DIRECTED** to report back to City Council with updated information, along with any additional funding requirements, needed to allow for the full implementation of the proposed funding strategy for DMAF 4 prior to use of debt; and,
 - e. THAT subject to the proposed financing strategy being supported by Council that Administration **BE AUTHORIZED TO ADVISE** Infrastructure Canada (INFC) that discussions with respect to the development of a Contribution Agreement for the award of funding under DMAF 4 can be restarted; and,
 - f. THAT, if required, the CAO and City Clerk **BE AUTHORIZED** to execute any agreements and or applications which are deemed necessary to commence the capital works for the DMAF 4 Program, satisfactory in form to the Commissioner, Legal & Legislative Services, in financial content to the Commissioner, Corporate Services / Chief Financial Officer / City Treasurer, and in technical content to the Commissioner of Infrastructure Services; and,
- V. **THAT** Administration **BE AUTHORIZED** to issue any change order(s) for any project agreement and/or contracts for any DMAF Program projects as may be required, provided that the amendment(s) are within approved budget amounts, satisfactory in financial content to the Chief Financial Officer/City Treasurer, and in technical content to the Commissioner of Infrastructure Services.

Executive Summary:

The City has a responsibility to provide effective and reliable stormwater management infrastructure. The Canadian government’s DMAF program allows for federal funding related to new infrastructure aimed at mitigating harmful effects from climate change and increasing resiliency to handle the impacts of large storms. The DMAF 1 Program application was submitted in 2018 for a total project cost of \$89.8M, where the City and Windsor Utilities Commission (WUC) committed \$57.7M and the federal contribution from Infrastructure Canada (INFC) amounted to \$32.1M. Similarly, the DMAF 4 Program application was submitted in 2021 for a total project cost of \$88.5M, where the City will commit \$55.8M and the federal contribution from INFC amounts to \$32.7M. Significant cost escalations derived from the COVID-19 pandemic have impacted the City’s plan to implement all the infrastructure projects as originally intended in the original DMAF 1 Program Applications. Based on actual tender results, which have informed updated cost estimates, the DMAF 1 Program is now estimated to cost

\$186.4M. Similar cost increases could impact the DMAF 4 Program. Formal communication was sent to the Minister of Intergovernmental Affairs, Infrastructure and Communities asking for consideration to be given to maintaining the 40% federal contribution on eligible expenditures. Responses received to date have not been favourable and Administration has needed to look at various options to manage the project budget, while continuing to maintain the targets as set out in our original application.

At the last update to Council in February 2023, Administration recommended to hold awarding construction tenders for DMAF 1 projects and hold signing the DMAF 4 application while a funding strategy to implement projects under both DMAF programs was developed. Through the work performed since then, Administration recommends presenting a reduced scope option to INFC to work towards amending the existing DMAF 1 Agreement, which will allow the City to build the necessary stormwater infrastructure deemed priority while doing so in a fiscally responsible manner that addresses the funding deficit caused by recent cost escalations. As well, preliminary funding options for DMAF 4 are being presented for Council's consideration.

The St. Paul Pumping Station Upgrades project, included in the DMAF 1 project was identified as a priority project under the Sewer Master Plan (SMP) and will increase stormwater pumping capacity at this location. Upon receiving unexpectedly high bids when originally tendered in Fall 2022, the project was redesigned and tendered again in Spring 2023. Assessment of the bids from this recent tender has led Administration to make a recommendation to award this tender, subject to the approval of an approved financing strategy to address the DMAF 1 Program shortfall.

Background:

The DMAF program focuses on providing funding for infrastructure projects aimed at adapting to climate change impacts and extreme weather events, and building resiliency to current and future natural hazards.

DMAF 1

At its meeting of July 23, 2018, City Council approved application to the DMAF 1 Program by CR380/2018. Program update reports were received by City Council on July 27, 2020 (CR377/2020) and February 13, 2023 (CR70/2023, attached as Appendix A).

In March 2019, the DMAF 1 Agreement with Infrastructure Canada (INFC) was signed, where federal funding contributed to 40% of total eligible costs. Based on 2018 financial figures, this resulted in an anticipated federal contribution amount of \$32.1M, where the City would contribute \$55.3M to implement the stormwater infrastructure projects described in the Agreement, with an end date of March 31, 2028. The proposed budget amounts were based on program duration, standard inflation rates, standard financing rates, and appropriate contingencies. The City's suite of DMAF 1 projects are located in the north-east section of Windsor and includes studies, environmental assessments, sewer works, stormwater management works, pumping station works and road works to

this area of the City that is prone to flooding, drainage complications and overall storm sewer capacity issues.

In the February 13, 2023 Council update, Administration reported on the significant cost escalations that were being seen in the construction industry. At the time of application in 2018, the DMAF 1 projects could not have contemplated the higher-than-expected rate of inflation or a rise in construction costs that we are currently experiencing. These cost escalations far exceeded the budgeted amounts for most projects, where conventional contingency estimates for rate of inflation and financing were insufficient to cover the extreme price increases. The Federal funds provided through the DMAF 1 program (40% of 2018 eligible budgeted amounts) do not cover for cost escalations, placing a great financial burden on the City to find other funding sources to cover this unexpected shortfall.

Several projects saw tenders submitted much higher than expected; for example, the original tender for the St. Paul Pumping Station Upgrade project, a high priority project under the SMP, was cancelled in Fall 2022 due to bids coming in at over 100% increase from the estimated cost. As a result of the escalations and lack of funding to cover the deficit, Council directed Administration to continue only with the design portion of DMAF 1 projects currently underway at the time and put a hold on construction tenders. The collection trunk sewer, which delivers flow to the St. Paul Pumping Station, underwent a redesign, which allowed for the cost saving redesign of the Pumping Station project while maintaining the flow objectives of the SMP. The project was retendered in Spring 2023.

Additional details on the status of all the DMAF 1 projects and the anticipated timelines is included in Appendix B.

DMAF 1 – St. Paul Pumping Station Upgrades Tender

The St. Paul Stormwater Pumping Station is located on a 344-hectare site at 7730 Riverside Drive East. The St. Paul Stormwater Pumping Station receives storm water from the 2250mm diameter incoming storm sewer, servicing the northeastern section of the City. Stormwater flowing by gravity from the drainage area is lifted at the pumping station and discharged into the Detroit River.

The St. Paul Stormwater Pumping Station was originally constructed in the mid-1970s, and has been in operation since October 1976. The station has a firm capacity of 9.3 m³/s and a total capacity of 12.5 m³/s. The 2020 Sewer Master Plan study indicated that the maximum required firm capacity of the pumping station to handle the runoff from a 100-year storm is 18.5 m³/s. The proposed firm and total pumping station capacities are summarized in the Table below.

Table: 2020 SMP Design Basis Flows

Flow	Existing Pumping Station	Additional Required Capacity	Future Capacity
Firm Capacity, m ³ /s	9.3	9.2	18.5
Total Capacity, m ³ /s	12.5	9.2	21.7

Note: Firm capacity refers to the available capacity of the system with the largest pump out of service.

The expansion to the St. Paul Stormwater Pumping Station will increase the firm and total pumping capacity to 18.5 m³/s and 21.7 m³/s, respectively. Along with an expansion to the pumping capacity of this pumping station, and maintaining the objective of the disaster mitigation requirements of the DMAF Program, a number of upgrades and code compliance issues had to be addressed with the existing facility and site services, notably the following:

- The proposed system upgrades will impose an increased power demand on the existing ENWIN service above the rated capacity of the existing electrical service. The proposed pumping station service will provide power to both new and the existing pumping station with an upgraded transformer. ENWIN will own the infrastructure.
- Two standby diesel generators will provide 100% power requirements in the case of utility power failure. The generators will be housed in an individual, outdoor, sound-attenuated enclosure, each with a 24hr subbase fuel tank. The standby generators are sized to sequentially start three of the existing high flow duty storm pumps and four new duty storm pumps.
- Any modifications to the existing facility require upgrading to current fire and building codes.

The construction must be phased so that the existing facility operations are not affected.

DMAF 4 – Windsor West Retention Treatment Basin

As previously communicated to Council (report C138/2021), the City was successful in receiving funding for the DMAF 4 Program for the large-scale stream project – the Retention Treatment Basin (RTB) near the southeast corner of Ojibway Parkway and Sandwich Street. Similar inflationary pressure concerns when applied to this Program and updated projected cost indicate a value, which again may likely exceed the overall Program budget. Per CR 70/2023, the signing of the DMAF 4 Agreement has been placed on hold until a resolution for both the DMAF 1 & DMAF 4 Programs can be reached.

Discussion:

DMAF 1 – Municipal Outreach

Administration has reached out to municipalities within Ontario to understand whether they have experienced similar economic pressures on their projects. The municipalities that were contacted appear to be in different stages of executing their respective programs. For those that have gone through the construction phase, higher than

expected costs were experienced. Methods to handle the budget deficits varied, including: reallocate funds internally; postpone non-DMAF projects and reallocate those funds towards DMAF projects; raise sewer surcharge rates; and amend their original Agreement for changes to project scope, duration (Agreement end date), number of projects, and/or reduced project targets. Similarly, for those that are in early stages of design, there is an assumption that costs will come higher than originally budgeted but a final decision as to how to address any deficit is still under consideration. Administration will remain in contact with these municipalities to understand their challenges and communicate potential measures to overcome cost escalation.

DMAF 1 – Proposed Project Amendments

On June 5, 2023, the City received a letter from the Minister of Intergovernmental Affairs, Infrastructure and Communities which acknowledged that no current mechanisms are in place to assist with the cost escalations resulting from inflationary pressures and current economic conditions.

The City has negotiated and finalized an amendment to the DMAF 1 Agreement end date from March 2028 to December 2032, giving the City the flexibility to schedule projects and time the issuance of tenders in attempt to take advantage of more favourable economic periods. As it is unlikely the Federal contribution amount through the DMAF 1 program will increase to help offset the cost escalations resulting from increased inflation rates, Administration is working to develop a solution to try to maintain the intent of the DMAF 1 program while continuing to implement the projects outlined within the program.

Construction of new and/or improved flood mitigation infrastructure is critical to Windsor and its residents. Several projects, such as the St. Paul Pumping Station Upgrades project, improve conveyance outlet capacity and must occur before other projects in order to achieve the targeted goals of flood risk reduction. Proceeding with awarding the St. Paul Pumping Station Upgrades tender is inextricably linked with the current DMAF 1 funding plan. Approving this high priority project at today's escalated costs will fully exhaust the City's funding with respect to the DMAF 1 program funding plan as it is currently laid out; however, deferring the St. Paul Pumping Station Upgrades project should not be considered as this project is the foundation for a majority of the other storm sewer improvement projects planned for the Riverside area. Therefore, awarding the tender for St. Paul Pumping Station Upgrades is subject to the funding strategy laid out in the Financial Matters section.

As such, Administration has considered several strategies in an effort to implement the St. Paul Pumping Station Upgrades project and other high priority projects, while remaining within a fiscally responsible framework. Factors such as ability to improve flood resiliency, add stormwater storage and sewer conveyance capacity, phasing/sequencing with other projects, and cost, were examined to prioritize projects such that they still fit within the DMAF 1 structure in light of recent financial pressures.

Administration reviewed all DMAF 1 projects and undertook steps to explore various approaches to address the funding gap and reduce the increased cost burden on the City, including negotiating with contractors, exploring alternative value engineering

approaches and innovative design solutions, re-tendering work, and construction phasing timelines. Where possible and practical, these practices have been exercised.

The DMAF 1 projects were also analysed through a coupled sewer-surface drainage model to assess the relative potential for flood risk reduction improvement between the various sub-projects within the DMAF 1 program. The model outputs provided insight into the spatial extent of the service areas receiving benefit from the potential future projects. From this, Administration is proposing a reduced scope option (refer to table below) to allow continuation with implementing specific high priority projects such that DMAF 1 Agreement performance targets are still maintained while deferring the remaining projects and reprioritizing them outside of the DMAF 1 program, using other funding sources which will be explored through future Capital Budgets.

Even with the removal of these projects from the DMAF 1 Program, the proposed reduced scope option will still result in construction of infrastructure that reduces the flood risk in this service area, applying a funding strategy that allows for the completion of the higher priority projects. Administration recommends this option, and should Council endorse this reduced scope option, Administration will explore the suitability of reducing project scope with INFC and seek to amend the DMAF 1 Agreement. Preliminary informal discussions with INFC outlining such a plan have proved promising, particularly since the City is still achieving the performance targets indicated in the Agreement.

Should continued discussions prove successful, Administration will submit the necessary forms and proceed with the steps to amend the DMAF 1 Agreement, as per the stated Recommendations. However, if the overall funding contribution for the DMAF 1 Program is decreased by INFC, as a result of the reduced project scope being proposed, then Administration will report back to Council for additional direction. On a yearly basis, Administration will review all projects and the economic environment; should costs normalize to previously estimated levels then consideration will be brought back for decision as to whether to implement some of the deferred projects within the DMAF 1 program.

The alternative option is to remain status quo and proceed with the terms of the original DMAF 1 Agreement and perform all the projects but at the escalated costs, where substantial funding options will need to be identified to cover the funding shortfall. Financial figures are presented in Financial Matters section.

Table: DMAF 1 – Project Options

Option	Projects to continue under DMAF 1	Projects to be deferred
Reduced Scope	Riverside Vista; St. Paul Pumping Station Upgrades, Pontiac Pumping Station/LRPCP Overflow; East Marsh Pumping Station; Belleperche Trunk Sewer Phase 1 & 2A; Brumpton Park	Belleperche Trunk Sewer, Phase 2B & 3; East Marsh Drainage Redirection; Cedarview Relief Sewer
Status Quo	Riverside Vista; St. Paul Pumping Station Upgrades, Pontiac Pumping Station/LRPCP Overflow; East Marsh Pumping Station; Belleperche Trunk Sewer Phase 1,2A,2B,3;	None

	Brumpton Park; East Marsh Drainage Redirection; Cedarview Relief Sewer	
--	--	--

Note that the following projects under the DMAF 1 program have been completed, are close to completion, or are in maintenance: Greenhouse Gas Mitigation Assessment & Climate Change Study; Matthew Brady Blvd, Phases 2 & 3; Belle Isle View, Phases 1 & 2; Tranby Park Stormwater Management; Tranby Avenue; Eastlawn Blvd.

Regardless of the option chosen, Administration recommends awarding the St. Paul Pumping Station Upgrades tender, where further discussion of this project is provided below.

DMAF 1 – St. Paul Pumping Station Upgrades Tender

Tender 95-23 “St. Paul Stormwater Pumping Station Upgrades” was advertised on June 12, 2023 and closed on July 19, 2023. There were three bids submitted but two were deemed non-compliant by City Purchasing per the City of Windsor Purchasing By-laws and requested defined submittals at time of bid closing. Stantec Consultants Ltd. reviewed the bid and submitted a Tender review report recommending that the City of Windsor award the tender 95-23 to North American Construction Ltd.

Administration recommends selecting North American Construction (1993) Ltd. as the successful bidder for Tender 95-23 with a total tender price of \$26,188,887 plus HST.

DMAF 1 – Riverside Vista & St. Rose Pumping Station Update

The SMP identified vulnerabilities of Windsor’s sewer infrastructure system and proposed recommendations to reduce flooding in prone areas. Riverside Vista and the new St. Rose Pumping Station were identified as priority projects to increase flood resilience against heavy rain events. These intertwined projects will improve level of service for surface flooding mitigation by redirecting and improving sewers and other related Riverside Vista infrastructure with a new outlet to the proposed St. Rose Pumping Station.

The Riverside Vista project consists of advanced utility relocates, watermain, sewer and road reconstruction, complete with street lighting upgrades. This includes storm sewer relief storage, increased sanitary sewer capacity, and extension of the coastal flood protection barrier landform. Design is being finalized with the consultant. Site work commenced this summer with tree plantings and continues with tree trimming and removals to prepare for advanced utility work starting late summer/early fall 2023 and proceeding through 2024. This includes relocation of hydro poles, gas mains, and underground telecom work. Residents will be notified in advance of each of these steps via mail. Property disturbances will occur during these relocations and temporary restorations will be provided until the project is complete, at which time affected surfaces will be fully restored.

Following the noted utility relocations, work including watermain, sewer, street lighting and road construction will be phased and is anticipated to be complete by 2027. It

should be noted that the St. Rose Pumping Station must be complete before certain elements of Riverside Vista project can be installed.

DMAF 4 – Windsor West Retention Treatment Basin

The Windsor Riverfront West CSO Control Schedule C Environmental Assessment (EA) was completed in 2019 to identify means for controlling combined sewer overflows along the west Windsor waterfront between Caron Avenue and the Lou Romano Water Reclamation Plant (LRWRP) as well as wet weather control at the LRWRP. This EA identified an additional Retention Treatment Basin (RTB) at the end of the riverfront trunk sewer near the LRWRP as the preferred option. This size and scope of this RTB project is significant due to the number of homes in the drainage area (approximately 40,000 with basements) and the improvements to level of service under the 1:5 year, 1:100 year and climate change storm scenarios.

As per CR 70/2023, Administration has delayed the signing of DMAF 4 Agreement until resolution of the DMAF 1 and DMAF 4 funding strategies have been reached. Similar to DMAF 1, the DMAF 4 program provides a federal contribution of 40% of total eligible expenditures for projects that are substantially complete by December 2032. The City was successful in receiving preliminary funding approval for the DMAF 4 program for this RTB. This RTB is a high priority project within the SMP and remains an important recommendation of that study. Refer to the Financial Matters section for additional analysis regarding funding strategy options.

Risk Analysis:

DMAF 1 & DMAF 4 – Cost Escalations

The anticipated cost increases identified in this report are based on current pricing and anticipated inflationary increases for the future years of the DMAF Program and there is the potential that these increases could materially change should other unforeseen circumstances occur which result in additional cost or savings. Project estimates will likely need to be adjusted as the Program progresses. There is always a risk with projecting future project budgets, however Administration has accounted for the current levels of inflation in the increases noted in this report, therefore identifying the need for additional funds. As with all projects, Administration will continue to monitor and make the appropriate adjustments when needed.

Although the estimated costs for the remaining work within the program with the reduced scope and additional funding approval is expected to come in within current funding, as has been in the experience to date, there is a risk that tender costs come in above the estimated costs resulting in a need for additional funding which would be requested at a later date.

Defaulting on DMAF 1 Program

Based on the current DMAF 1 Agreement, in order to complete the DMAF 1 Program as originally proposed, the City will need to fund the additional project costs over and above the INFC contribution. This has required seeking alternative sources of funding. The program end date extension to 2032 will assist this undertaking by allowing extra time for the development of alternative financing strategies for Council's consideration;

however, this also introduces complexities in forecasting interest rates and the resulting financing impacts when looking ahead and trying to anticipate cash flow positions.

There is a risk with not completing the full Program, as set out in the Agreement with INFC, should an appropriate funding strategy not be developed and approved. INFC has communicated that if the intent of the Program is not met as originally agreed upon, whether performance targets are not met or projects are removed from the DMAF 1 Program, then any changes are subject to review and the Federal funding contribution may be reduced.

DMAF 4

There is a risk that placing any further hold on the finalization of the Contribution Agreement with INFC for the DMAF 4 program could result in the award of the funding for that work being rescinded. This will need to be further discussed with INFC as talks progress towards a solution to address the projected funding gaps under both Program funding envelopes.

St. Paul Pumping Station Upgrades Tender Award

This is the second tendering of this project, which is of large size and scope. Costs assumed by Bidders for the compilation of a bid of this magnitude are significant. If not awarded, qualified contractors may lose confidence in the City bidding process and reduce competitive bid efforts allowing less qualified contractors to submit lowest bid or inflate prices. This could lead to poor quality or increased costs. Additionally, delays in awarding the contract could further increase the tender price. There is a significant risk that future storm events will impact flooding should this work not proceed.

Climate Change Risks

Climate Change Mitigation

There is no significant climate change mitigation risk noted at this time.

Climate Change Adaptation

The Disaster Mitigation and Adaptation Fund Program is designed to assist municipalities accelerate actions to adapt to climate change. The projects outlined in the DMAF applications were put forward to address flood risk under current and future rainfall intensities. There is a risk that the work contemplated under DMAF 1 may not be able to proceed in an accelerated manner as contemplated with the DMAF funding contribution. Projects will be implemented at a slower rate as funding permits and therefore the climate change impacts will be addressed at a slower pace.

Financial Matters:

Award of St. Paul Pumping Station Upgrades Tender

The St. Paul Pumping Station Upgrades project costs have come in above what was originally estimated and is contributing to the overall increase in the program costs. The funding strategy for DMAF 1, as detailed below, includes full funding to be able to award the St. Paul Pumping Station Upgrades tender cost of \$26,188,887, excluding HST. It

should be noted that other works within the program have been put on hold until the overall estimated funding shortfall has been addressed. As such, the awarding of tender is subject to the approval of the financing strategy presented below.

Financials – DMAF 1 & DMAF 4 Status Quo

DMAF 1 is a program consisting of several projects aimed at flood mitigation. As Council had been previously made aware, through additional information provided via detailed design, increasing construction costs and higher than anticipated inflation, updated project estimates were developed and a program deficit was projected. Of the approved \$89.8M, approximately \$30M has been spent or committed to date. From this, several projects are well underway and the following have been completed: Greenhouse Gas Mitigation Assessment & Climate Change Study; Matthew Brady Blvd, Phases 2 & 3; Belle Isle View, Phases 1 & 2; Tranby Park Stormwater Management; Tranby Avenue; and Eastlawn Blvd.

Based on Council direction, formal communication was sent to the Minister of Intergovernmental Affairs, Infrastructure and Communities asking for consideration to be given to maintaining the 40% Federal Contribution on eligible expenditures. To date, the responses received have not been favourable and Administration has needed to look at various options to manage the project budget, while continuing to maintain the targets as set out in our original application.

In addition, the City was advised of our successful application to the DMAF 4 Program on August 15, 2022 and prior to signing the Contribution Agreement, undertook work to review both the proposed program targets and project cost. Updated project estimates have also identified a potential funding gap, primarily due to the same factors that have impacted the DMAF 1 Program. The Contribution Agreement for DMAF 4 remains unsigned, pending a proposed solution to the funding gaps identified under both funding amounts.

Administration has considered options should Council wish to proceed with all projects under the original scope of the DMAF 1 program. In that case, additional funding of approximately \$96.4M would be required, bringing the total cost of DMAF 1 Program to \$186.4M. Given the significant financial impact and the potential impacts to the operating levy, proceeding with the full project scope of the original DMAF 1 Program is not being recommended by Administration at this time.

Financial – DMAF 1

In regards to the DMAF 1 Program, an overall budget of \$89,784,560 has been approved. Of this total, a maximum of \$32,090,691 in DMAF funding is anticipated, which represents 40% of eligible original program costs. Should Council approve the reduction in capital projects as noted within this report, the DMAF 1 program is still expected to have a funding shortfall of approximately \$52M. Administration is recommending that City Council support the annual allotment of \$4,000,000 in the 2023 Sewer Surcharge Budget that was allocated to the Sewer Master Plan be directed to the DMAF 1 Program from 2023 to 2035 to cover the shortfall noted. In essence, Council

will be precommitting this funding for a period of up to 13 years and will result in additional internal financing charges, which have been estimated at \$13.5 million. However, through this strategy, Administration can control the timing for the expenditure spend to better align with the funding. Where possible internal financing charges will be managed and mitigated to ensure that all available projects can proceed as planned. The alternative would be to issue debt to cover the shortfall. This would provide the necessary funding in full however would result in external borrowing charges that would likely exceed what is currently being presented.

Should Council approve the project scope reduction and funding strategy as recommended, the DMAF 1 program will be sufficiently funded. The table below summarizes the original Program costs against the 2023 estimated costs with the additional funding source in place:

Table: DMAF 1 Estimate (Reduced Scope)

	2018 Estimate (in Millions)	2023 Estimate Reduced Scope (in Millions)
DMAF 1 Program Costs	\$89.8	\$128.5
Internal Financing Requirements	-	\$13.5
Total DMAF 1 Program Costs	\$89.8	\$142.0
Less: DMAF 1 Funding	(\$32.1)	(\$32.1)
Net DMAF 1 Program Costs	\$57.7	\$109.9
Less: City Funding approved through DMAF 1 Report (CR380/2018)	(\$55.3)	(\$55.3)
Less: Additional Sewer Surcharge (for SMP) 2023-2035	-	(\$52.0)
Less: WUC Recoveries	(\$2.4)	(\$2.6)
Estimated Additional Funding Required	\$0.0	\$0.0

Each individual project within the DMAF 1 Program has a separate dedicated budget allocation. Overall, project surpluses and deficits are managed by the DMAF Executive Committee to ensure sufficient funds are available to complete the work required by the full Program.

Financial – DMAF 4

In regards to the DMAF 4 Program, an overall budget of \$88,540,800 has been approved. Of this total, a maximum of \$32,740,800 in DMAF 4 funding is expected, which represents 40% of eligible original Program costs. Noting the challenges encountered with the DMAF 1 Program and the recent inflationary pressures, in an effort be prudent and consistent, Administration obtained an updated cost estimate for DMAF 4. It is important to note that the DMAF 4 Agreement has not been signed yet. Should actual results reflect updated information there is the potential for a shortfall in funding.

The establishment of a capital project and Council support for the related works, as well as the identification a potential funding source, are required to ensure that the necessary approvals are in place for purposes of the signing the DMAF 4 Contribution Agreement. It is important to note that some expenditures related to, but not limited to, design and project management time will need to occur before the additional funding will be finalized, using previously approved City funding currently available for DMAF 4.

At this time, Administration is recommending that any funding shortfall come from the renewal of existing debt. The existing LRWRP debt is on track to be fully repaid in 2028 & 2030, respectively. The current debt repayment could be maintained as budgeted line item and used to offset the payments required when issuing the new debt. The full amount of any debt issuance and annual debt charges related thereto would not be fully known until such time as final costs related to the full scope of work required for DMAF 4 is known and this would be subject to a further report to Council for final approval.

The recommendations with regards to the funding for DMAF 4 establishes a framework for the issuance of debt if required, and are needed in order to meet legislative requirements under the Municipal Act where debt financing is contemplated. Administration will continue to explore all funding options and opportunities that may be available as we move towards the commencement of the DMAF 4 project work. Prior to commencement, Administration will bring back to Council its recommendations that will ratify and confirm the full financing plan.

Consultations:

Mike Dennis – Asset Planning
Luigi Congi – Asset Planning
Mark Spizzirri – Financial Planning
Jake Renaud – Pollution Control
Fahd Mikhael – Engineering
Adam Mourad – Engineering
Ryan Langlois – Engineering
Ian Wilson – Engineering
Carrie McCrindle – Financial Planning
Mark DiPasquale – Financial Planning

Conclusion:

The City is committed to providing effective and reliable stormwater management infrastructure to overcome the harmful impacts of large storms. The DMAF program provides cost sharing for the implementation of these works, lessening the financial burden on the municipality. Recent cost escalations have created a funding shortfall that impacts the City's DMAF 1 project plan. While it is preferred to implement all projects, Administration has proposed a reduced scope option that operates responsibly within existing fiscal parameters. Funding strategy options are also presented to provide a strategy to proceed with advancing the DMAF 4 application, which would allow the City to undertake the RTB project.

Administration also recommends proceeding with awarding tender 95-23 St. Paul Pumping Station Upgrades, a high priority project identified through the SMP, to North American Construction (1993) Ltd. so that work towards supporting the construction activities can begin.

Approvals:

Name	Title
Colleen Middaugh	Manager of Corporate Projects
Natasha Gabbana	Senior Manager, Asset Planning
Alex Vucinic	Manager of Purchasing
Stacey McGuire	Executive Director of Engineering, Deputy City Engineer
Jake Renaud	Executive Director of Pollution Control, Deputy City Engineer
Shelby Askin Hager	Commissioner, Legal & Legislative Services
Chris Nepszy	Commissioner, Infrastructure Services
Janice Guthrie	Commissioner, Corporate Services
Joe Mancina	Chief Administrative Officer

Notifications:

Name	Address	Email
-------------	----------------	--------------

Appendices:

- 1 Appendix A - CR70/2023 (1 page)
- 2 Appendix B - DMAF 1 Project List (1 page)

Phone: (519)255-6211

**CITY HALL
WINDSOR, ONTARIO
N9A 6S1**

Fax: (519)255-6868

E-mail: clerks@citywindsor.ca

WEBSITE: www.citywindsor.ca

**City Council
Decision
Monday, February 13, 2023**

Moved by: Councillor Kieran McKenzie
Seconded by: Councillor Jo-Anne Gignac

Decision Number: CR 70/2023

- I. That City Council **RECEIVE** for information this report as an overall status update on the progress of the Disaster Mitigation & Adaptation Fund (DMAF) 1 Program, including an update on the challenges surrounding recent economic conditions and the resulting inflationary pressures; and,
- II. That Administration **BE DIRECTED** to hold DMAF 1 construction tenders as outlined in Appendix C, pending discussions with Infrastructure Canada (INFC) to further investigate and consider strategies to address the increasing impacts of inflationary pressures on the DMAF 1 Program; and,
- III. That Administration **BE DIRECTED** to request Infrastructure Canada (INFC) for an extension to the completion date for the DMAF 1 Program, from March 31, 2028 to March 31, 2032; and,
- IV. That Administration **BE DIRECTED** to advise Infrastructure Canada (INFC) that discussions with respect to the development of a Contribution Agreement for the award of funding under DMAF 4 will be placed on hold pending further review of the strategies developed to address DMAF 1 and our commitments under that Agreement; and,
- V. That Council **SEND** a letter to the Federal Government (Minister of Intergovernmental Affairs, Infrastructure and Communities) and to our local Federal Members of Parliament, as well as the Federation of Canadian Municipalities (FCM) to request that the federal government provide additional funding to avoid the downloading of inflation-adjusted construction costs to municipal ratepayers.

Carried.

Report Number: C 17/2023
Clerk's File: SW/13822 11.3



OFFICE OF THE CITY CLERK COUNCIL SERVICES

Phone: (519)255-6211

CITY HALL
WINDSOR, ONTARIO
N9A 6S1

Fax: (519)255-6868

E-mail: clerks@citywindsor.ca

WEBSITE: www.citywindsor.ca

Anna Ciacelli

Deputy City Clerk
March 17, 2023

Department Distribution

Janelle Coombs	Project Administrator
Colleen Middaugh	Manager of Corporate Projects
France Isabelle-Tunks	Executive Director of Engineering / Deputy City Engineer
Chris Nepszy	Commissioner, Infrastructure Services
Joe Mancina	Commissioner, Corporate Services
Shelby Askin Hager	Commissioner, Legal & Legislative Services
Thom Hunt	City Planner
Wira Vendrasco	Deputy City Solicitor – Legal & Real Estate
Onorio Colucci	Chief Administrative Officer
William Foot	Council Assistant
Natasha Gabbana	Senior Manager of Asset Planning

External Distribution

Appendix B - DMAF 1 Project List

	Project Name	Project Extents/ Address	Project Period (including maintenance)	September 2023 Status (Design & Construction)
1	Matthew Brady Blvd, Phase 2	Edgar To Tranby	2018 - 2020	Complete
2	Riverside/Vista Relief Storage, Phase 2A	Ford Blvd to St. Rose	2018 - 2027 (includes advance utility relocation)	Design/Expropriation phase Construction – Advanced Utility Relocation
3	Greenhouse Gas Mitigation Assessment & Climate Change Study	N/A	2019	Complete
4	Belle Isle View, Phase 1	Wyandotte to St Rose	2019 - 2021	Complete
5	Tranby Park Stormwater Management	Tranby Park	2019 - 2021	Complete
6	Tranby Avenue Reconstruction	Parkview to Isabelle	2019 - 2021	Complete
7	East Marsh Road Drainage Re-direction, (Multi-phased)	Menard St, John M St, Florence Ave, Clover St, Elinor St & Clairview Ave	2019 - 2031 (multi-phased)	Design phase Construction on hold
8	St Paul Pump Station Environmental Assessment (EA)	7730 Riverside Dr.	2020	Complete
9	East Marsh Pump Station Environmental Assessment (EA)	10864 Riverside Dr.	2020	Complete
10	Belle Isle View, Phase 2	St Rose to Edgar	2020 - 2021	Complete
11	Eastlawn Blvd	Wyandotte to Edgar	2020 - 2022	Complete
12	St. Paul Pumping Station Expansion	7730 Riverside Dr.	2020 - 2027	Design phase Construction pending tender award
13	Flow Monitoring Program	Various Locations	2020 - 2026	Monitoring ongoing
14	Matthew Brady Blvd, Phase 3	Wyandotte to St Rose	2021 - 2024	Construction phase
15	LRPCP Overflow at Pontiac Pumping Station Improvements	9400-9578 Little River	2021 - 2028	EA complete Design phase on hold
16	Belleperche Trunk Sewer (Multi-phased)	Ph 1: St. Paul Pumping Station to Clairview Ave through Kiwanis Park Ph 2A: Clairview Ave to Wyandotte through Clairview corridor Ph 2B: Wyandotte to St. Rose Ph 3: St. Rose to Tranby	2022 – 2029 (multi-phased)	Design phase Construction on hold
17	Cedarview Relief Sewer	Laporte to Isack	2024 - 2029	Planning on hold
18	Brumpton Park Storage	8890 Cedarview	2024 - 2027	Planning on hold
19	East Marsh Pumping Station Improvements	10864 Riverside Dr.	2024 - 2027	Design completed Construction on hold

Item No. 13.1

BY-LAW NUMBER 107-2023

A BY-LAW TO APPOINT DEPUTY TREASURERS FOR THE CORPORATION OF THE CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS section 286(2) of the *Municipal Act, 2001* as amended, provides that council may appoint deputy treasurers who shall have all the powers and duties of the treasurer under the Municipal Act and any other Act;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That Lorie Gregg is appointed as a Deputy Treasurer of The Corporation of the City of Windsor as of September 5th, 2023.
2. That By-law 175-2006 is hereby repealed.
3. Despite the provisions of section 2, Antonio Ardovini is appointed as a Deputy Treasurer of The Corporation of the City of Windsor as of September 5th, 2006.
4. That By-law 124-2016 is hereby repealed.
5. Despite the provisions of section 4, Daniel Seguin is appointed as a Deputy Treasurer of The Corporation of the City of Windsor as of August 2nd, 2016.
6. This by-law shall come into force and effect on the day of its final passing.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023

Second Reading - September 5, 2023

Third Reading - September 5, 2023

Item No. 13.2

BY-LAW NUMBER 108-2023

A BY-LAW TO AUTHORIZE THE CONSTRUCTION OF CURB AND GUTTER AND BOULEVARD RESTORATION ON CLEMENCEAU BOULEVARD FROM NORTH SERVICE ROAD EAST TO THE CANADIAN NATIONAL RAILWAY TRACKS, IN THE CITY OF WINDSOR, AS A LOCAL IMPROVEMENT

Passed the 5th day of September, 2023.

WHEREAS it is deemed desirable to construct curb and gutter and boulevard restoration on Clemenceau Boulevard from North Service Road East to the Canadian National Railway tracks, pursuant to the Ontario Regulation 586/06, made under Municipal Act 2001, at a cost of \$610,185.00, HST excluded;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the construction of curb and gutter and boulevard restoration on Clemenceau Boulevard from North Service Road East to the Canadian National Railway tracks, at a cost set out in Schedule "A" attached hereto and forming part of this by-law is hereby authorized as a local improvement under the provisions of the Ontario Regulation 586/06, Municipal Act 2001.
2. That the work shall be carried out and executed under the provisions and according to the directions and orders of the City Engineer.
3. That the Corporation's share of the cost of the said work shall be charged against all of the lands in the City of Windsor.
4. This by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

**SCHEDULE A
to By-law Number 108-2023**

**CONSTRUCTION OF A STORM SEWER, AND CURB AND GUTTER ON
CLEMENCEAU BOULEVARD FROM NORTH SERVICE ROAD EAST TO THE
CANADIAN NATIONAL RAILWAY TRACKS**

**LOCAL IMPROVEMENT CHARGES
Under Ontario Regulation 586/06,
Made Under Municipal Act 2001**

1. General Description of the Work:

Construction of a storm sewer, and curb and gutter on:

<i>Location</i>	<i>From</i>	<i>To</i>
<i>Clemenceau</i>	<i>North Service</i>	<i>Canadian National</i>
<i>Boulevard</i>	<i>Road East</i>	<i>Railway Tracks</i>

2. The lots liable to be specially charged with respect to the work are as follows:

<u>REGISTERED PLAN</u>	<u>LOTS</u>
1153	Lots 182 to 185 inclusive Lots 187 to 190 inclusive Lots 193 to 196 inclusive

The properties to be assessed are registered under Assessment Roll Numbers:

070-640-02002-0000	070-640-01040-0000
070-640-02001-0000	070-640-01020-0000
070-640-01901-0000	070-640-02800-0000
070-640-01900-0000	070-640-02700-0000
070-640-01800-0000	070-640-02600-0000
070-640-01700-0000	070-640-02505-0000
070-640-01600-0000	070-640-02500-0000
070-640-01500-0000	070-640-02405-0000
070-640-01400-0000	070-640-02400-0000
070-640-01300-0000	070-640-02305-0000
070-640-01200-0000	070-640-02300-0000
070-640-01201-0000	070-640-02301-0000
070-640-01100-0000	070-640-02302-0000
070-640-01101-0000	070-640-02200-0000
070-640-01060-0000	070-640-02100-0000

3. The total overall frontage is 619.56 meters from which 77.74 meters are being deducted for the road right-of-way and previously serviced properties, leaving a total abutting frontage of 541.82 meters, which is equal to the assessable frontage.
4. The estimated cost to the abutting landowners is \$97,385.00, calculated in accordance with the Local Improvement Policy consolidation approved by Council Resolution 185/2023. The single payment rate is \$179.74 per

meter of frontage for the storm sewer and curb and gutter construction; while the estimated annual special charges rate is \$24.33 per meter of frontage for ten years at an estimated interest rate of 5.92%.

5. The estimated total local improvement cost to the Corporation of the City of Windsor is \$610,185.00, HST excluded, which includes the City's share of the mainline sewer costs, road drainage, public right-of-way and City owned and/or assessed property frontage, in accordance with Council Resolution 185/2023.
6. The estimated lifetime of the completed work is not less than ten (10) years.

Item No. 13.3

BY-LAW NUMBER 109-2023

A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS
DOMINION BOULEVARD IN THE CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS the lands described in Schedule "A" annexed hereto and forming part of this by-law are vested in The Corporation of the City of Windsor.

AND WHEREAS it is deemed expedient to establish the said lands hereinafter described as a public highway.

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the lands described in said Schedule "A" annexed hereto are established as a public highway known as **DOMINION BOULEVARD**.
2. That this by-law shall come into force and take effect after the final passing thereof on the day on which it is electronically registered in the Land Registry Office of Essex (12).

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A"

To By-law 109-2023

LT 361 PL 557 SANDWICH WEST; LT 362 PL 557 SANDWICH WEST; LT 363 PL 557 SANDWICH WEST; DESIGNATED AS PART 3 ON 12R29436; WINDSOR

**Part of PIN 01555-5422 (LT)
Dominion Boulevard, Windsor**

Item No. 13.4

BY-LAW NUMBER 110-2023

A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE
"CITY OF WINDSOR ZONING BY-LAW"

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient to further amend By-law Number 8600 of the Council of The Corporation of the City of Windsor, cited as the "City of Windsor Zoning By-law" passed the 31st day of March, 1986, as heretofore amended:

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That subsection 1 of Section 20, of said by-law, is amended by adding the following clause:

488. SOUTH SIDE OF RIVERSIDE DRIVE EAST, NORTH OF CHATHAM STREET EAST, BETWEEN PARENT AVENUE AND MARENTETTE AVENUE

For the lands comprising of Plan 140 W PT lot 7, Plan 143 E PT lot 1, Plan 140 W PT Lot 7, Plan 143 E PT lot 12; a *multiple dwelling* shall be an additional permitted use subject to the following provisions apply:

- .1 Lot Area – minimum
 - a) for the first 19 dwelling units – 1825.0 m²
 - b) for each additional dwelling unit- 45.0 m² per unit
- .2 Lot Frontage – minimum- 45.0 m
- .3 Lot Coverage – maximum - 35.0 %
- .4 Landscape Open Space Yard – minimum - 35% of the *lot area*
- .5 Main Building Height – maximum – 20.0 m
- .6 Indoor ground floor amenity space – minimum – 4.0 m² per unit
- .7 Building Setback:
 - a) *front yard depth*- from most northerly front lot line - minimum - 6.0m
 - b) *rear yard depth* - north limit of Chatham Street east right of way - minimum- 7.5 m
 - c) *side yard width*: minimum - 4.5 m
- .8 Parking:
 - a) *Parking spaces* – minimum - 1.10 per unit
 - b) A *parking space* is prohibited in any *front yard*
 - c) *Parking spaces* shall be setback a minimum of 6.0 m from the most northerly front lot line abutting the Riverside Drive east right-of-way, and shall be screened from Riverside Drive East;
 - d) Vehicular *access* from Riverside Drive East is prohibited

[ZDM 6; ZNG/6738]

2 The said by-law is further amended by changing the Zoning District Maps or parts thereof referred to in Section 1, of said by-law and made part thereof, so that the lands described in Column 3 are delineated by a broken line and further identified by the zoning symbol shown in Column 5:

1.	2.	3.	4.	5.
Item Number	Zoning District Map Part	Lands Affected	Official Plan Amendment Number	Zoning Symbol

1	6	Plan 140 W PT lot 7, Plan 143 E PT lot 1, Plan 140 W PT Lot 7, Plan 143 E PT lot 12 (known municipally as 0 & 845 Riverside Drive East, and 856, & 864 Chatham Street East; (Roll No: 3739-030-050-00200-0000, 3739-030-050-00100-0000, 3739-030-040-09400-0000, 3739-030-050-01400-0000, 3739-030-040-08800-0000)).	N/A	S.20(1)488
---	---	---	-----	------------

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

Item No. 13.5

BY-LAW NUMBER 111-2023

A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE "CITY OF WINDSOR ZONING BY-LAW"

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient to further amend By-law Number 8600 of the Council of The Corporation of the City of Windsor, cited as the "City of Windsor Zoning By-law" passed the 31st day of March, 1986, as heretofore amended:

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. By-law Number 8600 is further amended by changing the Zoning District Maps or parts thereof referred to in Section 1, of the by-law and made part thereof, so that the zoning district symbol of the lands described in Column 3 shall be changed from that shown in Column 5 to that shown in Column 6:

1. Item Number	2. Zoning District Map Part	3. Lands Affected	4. Official Plan Amendme nt Number	5. Zoning Symbol	6. New Zoning Symbol
1	4	Lots 131 and 132, Registered Plan 1342 [PIN 01208-0145 LT], located on the southwest corner of Tecumseh Road West and Mark Avenue	-	CD2.1	CD2.2

2. That subsection 1 of Section 20, of said by-law, is amended by adding the following paragraph:

“474 SOUTHWEST CORNER OF TECUMSEH ROAD WEST AND MARK AVENUE

For the land comprising Lots 131 and 132, Registered Plan 1342 [PIN 01208-0145 LT], a *Multiple Dwelling with 11 or more dwelling units* shall be an additional permitted use and the following shall apply:

1. The provisions in section 15.2.5, save and except for sections 15.2.5.10 and 15.2.5.15
2. Building setback from an exterior lot line abutting Tecumseh Road West – minimum 5.0 m
3. Parking Area separation from the south lot line – minimum 1.2 m (to be maintained as a *landscaped open space*)
4. Parking - per Dwelling Unit – minimum 1 parking space per unit
5. Parking is prohibited in any front yard [ZDM 4; ZNG/6897]”

3. The said by-law is further amended by changing the Zoning District Maps or parts thereof referred to in Column 2, of said by-law and made part thereof, so that the lands described in Column 3 are delineated by a

broken line and further identified by the zoning symbol shown in Column 5:

1. Item Number	2. Zoning District Map Part	3. Lands Affected	4. Official Plan Amendment Number	5. Zoning Symbol
1	4	Lots 131 and 132, Registered Plan 1342 [PIN 01208-0145 LT], located on the southwest corner of Tecumseh Road West and Mark Avenue.	-	S.20(1)474

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

Item No. 13.6

BY-LAW NUMBER 112-2023

A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS
MCROBBIE ROAD IN THE CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS the lands described in Schedule "A" annexed hereto and forming part of this by-law are vested in The Corporation of the City of Windsor.

AND WHEREAS it is deemed expedient to establish the said lands hereinafter described as a public highway.

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the lands described in said Schedule "A" annexed hereto are established as a public highway known as **MCROBBIE ROAD**.
2. That this by-law shall come into force and take effect after the final passing thereof on the day on which it is electronically registered in the Land Registry Office of Essex (12).

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A"
To By-law 112-2023

BLOCK 155 (RESERVE), PLAN 12M533; WINDSOR

PIN No. 01566-0721 (LT)
McRobbie Road, Windsor

BLOCK 154 (RESERVE), PLAN 12M533; WINDSOR

PIN No. 01566-0720 (LT)
McRobbie Road, Windsor

Item No. 13.7

BY-LAW NUMBER 113-2023

A BY-LAW TO REGULATE OPEN AIR BURNING IN THE CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS Council of The Corporation of the City of Windsor (“Council”) is empowered under section 7.1(1) of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended, (the “FPPA”) to pass by-laws regulating fire prevention, including the prevention of the spreading of fires;

AND WHEREAS Council is empowered under section 7.1(1) of the FPPA to pass bylaws regulating the setting of open air fires, including establishing the times during which open air fires may be set;

AND WHEREAS Council is empowered under section 7.1(4) of the FPPA to appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether by-laws enacted in accordance with this section are being complied with;

AND WHEREAS Council is empowered under section 10 of the *Municipal Act, 2001*, c.25 to pass by-laws respecting the environmental well-being of the municipality, the health, safety, and well-being of persons, and the protection of persons and property;

AND WHEREAS Council is empowered under section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, to pass by-laws to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are, or could become or cause public nuisances;

AND WHEREAS Council considers excessive smoke, smell, airborne sparks or embers to be capable of causing or becoming public nuisances by creating negative health effects on neighbouring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighbouring properties and generating false fire alarms;

AND WHEREAS Council deems it advisable to enact a By-law to regulate open air burning within the City of Windsor;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

Part 1- Definitions

1. In this By-law,

“Burning Ban” means an order issued at sole discretion of the Fire Chief prohibiting all Open Air Burning.

“Campfire” means an open air fire where the size of the material burned is contained by non-combustible material form and the flame is no larger than 60cm X 60cm X 60cm.

“Campground” means an area of land owned or operated by a person that contains camp sites for the purpose of providing accommodation for tents, trailers or cabins in exchange for monetary payment.

“City” means The Corporation of the City of Windsor, inclusive of its boundaries.

“Clean Wood” means wood that is dry and free of paint or attached plastics, and untreated wood.

“Cooking” means grilling or cooking using charcoal, wood, wood pellets, propane or natural gas in, or on, cooking or grilling appliances including barbeques.

“Fire Chief” means the person appointed by City Council to act as Fire Chief for the City as defined in the FPPA, or designate.

“FPPA” means the *Fire Protection and Prevention Act, 1997*, S.O.1997, c.4, as amended, and the regulations enacted thereunder as amended from time to time, or any act or regulation enacted as a substitution.

“Ground Cover” includes but is not limited to, leaves, grasses, weeds, tree needles or wood chips on the ground.

“Nuisance” means excessive smoke, smell, fumes, airborne sparks, ash, particulate matter, or embers that is likely to disturb others.

“Officer” means the Fire Chief, any firefighter of Windsor Fire & Rescue Services, City by-law enforcement officers, and any member of the Windsor Police Service.

“Open Air Burning” means any fire or burning practice that is conducted outside a building and includes but is not limited to, small confined fires and large confined fires, fires in burn barrels, in air curtain incinerators, outdoor recreational fireplaces, prescribed burning, and construction site and demolition site fires, campfires, fire pits, fire bowls, sky lanterns, and the use of various types of Outdoor Fireplaces.

“Outdoor Fireplace” means a manufactured, non-combustible enclosed container designed to hold a small fire for decorative purposes (known as a ‘Chimnea’).

“Owner” means the registered owner or any person, firm or corporation having control over, or possession, of any portion of the building or property under consideration and includes the persons in the building or property.

“Permit” means a permit issued by the Fire Chief to carry out Open Air Burning for a specified period of time.

“Permit Holder” means a person to whom a Permit has been issued;

“Person” includes an individual or corporation.

“Prescribed Burning” means burning that is utilized as fire hazard abatement, forest management, agricultural soil conditioning, crop and pasture production, prevention or control of weeds and or control of insects or disease.

Part 2 – General Prohibition

2.1 Except as otherwise provided in this By-law, no person shall set, maintain or allow to be set or maintained, Open Air Burning within the City unless a Permit for the Open Air Burning has been issued by the Fire Chief.

Part 3 – Cooking Fires and Campfires

Cooking Fires

3.1 The prohibition in section 2.1 does not apply to fires used for Cooking provided the following conditions are met:

- a) all fires for the purpose of Cooking shall be commensurate with the type and quantity of the food being cooked;
- b) any appliance used is designed and manufactured for the solitary purpose of outdoor Cooking;
- c) any such appliance shall be assembled and utilized with strict adherence to the manufacturer's instructions and/or building permit specifications, as applicable;
- d) there is no combustible ground cover within five (5) metres of the Cooking fire;
- e) the Cooking fire shall not be set or maintained carried on any highway, public park, walkway, public land, or any other land owned by or operated under agreement with the City without written permission from the City;
- f) the Owner or person setting the Cooking fire shall maintain a constant watch and control over the Cooking fire from the time of the setting of the fire until all fire, hot coals, and smoldering material are completely extinguished;
- g) a suitable means of extinguishing the Cooking fire must be immediately available at all times;
- h) the Cooking fire complies with the FPPA; and
- i) the Cooking fire does not otherwise cause a Nuisance.

Campfires

3.2 The prohibition in section 2.1 does not apply to Campfires provided the following conditions are met:

- a) the Campfire takes place only in identified Campgrounds officially operating as Campground businesses and at the permission of the Campground owner or operator;
- b) there is a distance of at least 3m from any building, hedge, fence, overhead wiring, overhead vegetation, or a highway and at a distance greater than 10m from another open air burning;
- c) only Clean Wood/paper is utilized in the burning process and no refuse, plastics or treated wood shall be burned;
- d) no flammable liquids shall be utilized as a means to aid the ignition process for campfires;
- e) vegetation surrounding the individual campfire shall be maintained to a low height in a 30 cm circumference around the fire so as to prevent the spread of fire if it were to extend outside of the non-combustible form;
- f) a suitable means of extinguishing the campfire must be immediately available at all times;
- g) all Campfires shall be extinguished upon end of activity and in any event no later than 1:00 am;
- h) the person setting the Campfire shall maintain a constant watch and control over the Campfire from the time of the setting of the fire until all fire, hot coals, and smoldering material are completely extinguished;
- i) the Campfire complies with the FPPA; and

j) the Campfire does not otherwise cause a Nuisance.

3.3 Any fire at a Campground site exceeding the size of a defined Campfire requires a Permit.

Part 4 – Open Air Burning With Permit

4.1 A person may conduct an Open Air Burning where a Permit has been obtained, subject to the conditions set out in this By-law, and any conditions of the Permit.

Permit Applications

4.2 An application for a Permit must be completed on the forms prescribed by Windsor Fire & Rescue Services.

4.3 Each completed application for a Permit must be submitted to Windsor Fire & Rescue Services and accompanied by the appropriate fees as set out in the City's Fees and Charges By-law.

4.4 An application for a Permit may only be submitted by an Owner of the property where the Open Air Burning is proposed to take place, who is at least 18 years of age.

Permit Conditions

4.5 Except as otherwise explicitly provided in the Permit issued under this Part, each Permit shall be deemed to include the following conditions:

- a) The Open Air Burning shall only occur between sunrise and sunset and on the date(s) specified on the Permit;
- b) The Open Air Burning is not permitted where the wind velocity is greater than 24 kilometers per hour;
- c) The Permit Holder must maintain constant watch and control over the Open Air Burning from the time it is set until all fire, hot coals, and smolder material are totally extinguished;
- d) The Open Air Burning is not permitted within five (5) metres of any combustible ground cover;
- e) The Open Air Burning shall be at a distance of not less than twenty-five (25) meters from any building, structure, property line, tree, hedge, fence, roadway, overhead wire or other combustible article;
- f) A suitable means of extinguishment commensurate with the size of the fire must be immediately available at all times during the Open Air Burning;
- g) The Open Air Burning shall not exceed 1m x 1m in size and 1m in height;
- h) The Open Air Burning shall not be allowed cause a Nuisance;
- i) The Open Air Burning shall not contain any plastics, rubber, asphalt shingles, roofing tiles, hazardous substances, or treated wood;
- j) The Permit Holder shall comply with the provisions of the FPPA and the *Environmental Protection Act*, R.S.O. 1990, c.E.19;
- k) The Permit Holder shall keep the Permit immediately available during the Open Air Burning and produce the Permit on demand to any Officer conducting an inspection of the Open Air Burning; and

- l) The Permit Holder shall indemnify and save harmless the City and its employees from any and all claims, demands, causes of action, costs or damages that the City may suffer, incur or be liable for resulting from the Open Air Burning as set out in this by-law, whether with or without negligence on the part of the Permit Holder, the Permit Holder's employees, directors, contractors and agents.

4.6 In issuing the Permit, the Fire Chief may impose such additional requirements, conditions, or exemptions as the Fire Chief considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or to give effect to the objects of this by-law.

Refusal of Permits

4.7 The Fire Chief may refuse to issue a Permit where:

- a) the application is incomplete; or
- b) there are reasonable grounds to believe that the Open Air Burning may be adverse to public safety; or
- c) there are reasonable grounds to believe that the Open Air Burning will result in a breach of this by-law, the FPPA, or any other provincial or federal law or statute.

Revocation of Permits

4.8 A Permit issued to a Permit Holder under this by-law may be revoked by the Fire Chief if:

- a) in the opinion of the Fire Chief, a dangerous condition exists in or near the site of the open air fire; or
- b) the Open Air Burning does not comply with the requirements of the Permit or any other provisions of this by-law, the FPPA or any other provincial or federal statute.

Part 5 – Prescribed Burning

5.1 Prescribed Burning shall be permitted, subject to the conditions set out in this Part.

5.2 The person responsible for a Prescribed Burning, shall submit a 'Prescribed Burn Plan' to the Fire Chief for approval. Prescribed Burning may only be carried out in accordance with a Prescribed Burn Plan approved by the Fire Chief.

5.3 The 'Prescribed Burn Plan' shall consist of the following, to the satisfaction of the Fire Chief:

- a) the specific location and description of the area to be burned;
- b) subject vegetation types;
- c) an emergency telephone number;
- d) name and approval of the property owner;
- e) the agency/contractor conducting the burn;
- f) the burn prescription
- g) the number of hectares to be burned, the type of fuel, fuel loading estimates and the ignition technique to be used;
- h) a list of agencies and private parties involved;

- i) a map depicting prevailing winds and the potential impact of the smoke on occupied buildings and areas for up to one kilometer from the burn site;
- j) a discussion of the public notification procedures

5.4 In approving the Prescribed Burn Plan, the Fire Chief may impose such other terms and conditions as the Fire Chief considers necessary in the interest of public safety, or to minimize inconvenience to the general public, or advisable in the circumstances, or to give effect to the objects of this by-law.

Part 6 – Further Restrictions

Sensitive Receptors

6.1 Notwithstanding any other provision of this By-law, save and except for Cooking Fires which comply with Section 3.1, Open-Air Burning shall not be undertaken within 100 metres from a sensitive receptor. Sensitive receptors include:

- a) a health care facility;
- b) a senior citizens' residence or long-term care facility;
- c) a child care facility; and
- d) an educational facility;

6.2 Notwithstanding any other provision of this By-law, Open Air Burning shall not be undertaken in a place where the Open Air Burning or discharges of smoke may cause a risk to human health.

Burning Ban

6.3 The Fire Chief may issue a Burning Ban applicable to all or part(s) of the City.

6.4 When a Burning Ban is in effect, notwithstanding any other provision of this Bylaw or any Permits issued, all Open Air Burning is prohibited within the parts of the City to which the Burning Ban applies, save and except Cooking fires conducted within an appliance designed and manufactured for the solitary purpose of outdoor Cooking which Cooking fire otherwise complies with section 3.1 of this By-law.

Part 7 - Enforcement

7.1 A person is guilty of an offence if the person:

- a) furnishes false information in an application for a Permit under this Bylaw;
- b) sets, maintains or allows to be set or maintained, Open Air Burning without a Permit as required by this By-law;
- c) fails to comply with the conditions of Permit;
- d) fails to comply with a Burning Ban;
- e) fails to comply with an order, direction, or other requirement made under this By-law; or
- f) violates any provision of this By-law.

7.2 Every person who is convicted of an offence under this by-law is liable to a fine not exceeding the maximum fine from time to time prescribed by the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended, or any legislation passed in succession thereto.

7.3 In accordance with Part II 7.1(4) of the FPPA, the municipality may direct an Officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this by-law is being complied with.

7.4 For the purposes of an inspection an Officer may:

- a) require the production for inspection of documents or things relevant to the inspection;
- b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- c) require information from any person concerning a matter related to the inspection; and
- d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

7.5 An Officer may order an Open Air Burning to be extinguished immediately where:

- a) the Open Air Burning contravenes this By-law, the FPPA, or any other provincial or federal statute; or
- b) it is determined upon inspection by the Officer to constitute a safety hazard or concern.

Part 8 - Miscellaneous

Severability

8.1 Where a court of competent jurisdiction declares any section or part of a section of this by-law invalid, the remainder of this by-law shall continue in force unless the court makes an order to the contrary.

Short Title

8.2 This By-law may be referred to as the "Open Air Burning By-law."

Effective Date

8.3 This By-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023

Second Reading - September 5, 2023

Third Reading - September 5, 2023

Item No. 13.8

BY-LAW NUMBER 114-2023

A BY-LAW TO AMEND BY-LAW NUMBER 392-2002, BEING A BY-LAW TO ESTABLISH AND REQUIRE PAYMENT OF FEES AND CHARGES

Passed the 5th day of September, 2023.

WHEREAS By-law Number 392-2002 was passed by the Council of The Corporation of the City of Windsor on December 16, 2002;

AND WHEREAS By-law Number 392-2002 has previously been amended;

AND WHEREAS it is deemed expedient to further amend said By-law Number 392-2002 of The Corporation of the City of Windsor;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That By-law Number 392-2002 be further amended by adding the following to Page 12 of Schedule "A":

Ref #	Notes	Category/ Division	Sub- Category/ Sub-Division	Fee/Service	2023 Fee Excluding HST (Recommended)	
					Cost	Unit of Measure
32.1		Fire Prevention	Fire Prevention	Open Air Burning Permit Application	\$150.00	Per application

2. That this by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

Item No. 13.9

BY-LAW NUMBER 115-2023

A BY-LAW TO AMEND BY-LAW 16-2022, BEING A BYLAW TO CLOSE, STOP UP AND CONVEY THE 3.66 METRE WIDE NORTH/SOUTH ALLEY LOCATED BETWEEN TECUMSEH ROAD WEST AND LEDUC STREET, EAST OF CAMPBELL AVENUE, CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient to amend By-law 16-2022 adopted on the 17th day of January, 2022, and registered on title on February 16, 2022 as Instrument No. CE1062055;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. By **DELETING** Section 2 in its entirety and inserting the following:

“THAT the conveyance cost of the closed alley be calculated as follows:

- a) For alley conveyed to abutting lands zoned ID1.1: \$26.90 per square foot without easements and \$13.45 per square foot with easements.
- b) For alley conveyed to abutting lands zoned RD2.2: \$1.00 plus deed preparation and proportionate share of the survey cost as invoiced to The Corporation of the City of Windsor by an Ontario Land Surveyor.
- c) For alley conveyed to abutting lands zoned RD3.1: \$20.00 per square foot without easements and \$10.00 per square foot with easements.

2. This by-law shall come into force and take effect on the day upon which it is registered in the Land Registry Office for the County of Essex (No.12).

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A" to By-law 115-2023

Alley Plan 931, designated as Parts 1 to 10 on Plan 12R-28814; Windsor

Being all of PIN 01207-0226

City of Windsor
County of Essex

BY-LAW NUMBER 116-2023

A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 4.57 METRE NORTH/SOUTH ALLEY SOUTH OF SPRING GARDEN ROAD, NORTH OF YORKTOWN AVENUE AND EAST OF MALDEN ROAD, CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS the 4.57 metre north/south alley, south of Spring Garden Road, north of Yorktown Avenue and east of Malden Road, City of Windsor, more particularly described in Schedule "A" hereto annexed, is vested in The Corporation of the City of Windsor;

AND WHEREAS it is deemed expedient that the said lands be assumed for subsequent closure;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the 4.57 metre north/south alley, south of Spring Garden Road, north of Yorktown Avenue and east of Malden Road, City of Windsor, more particularly described in Schedule "A" hereto annexed and forming part of this by-law, be and the same is hereby assumed for subsequent closure.
2. That this by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A" to By-law 116-2023

ALLEY PL 1020, DESIGNATED AS PARTS 1 TO 3, INCLUSIVE, ON PLAN
12R29263, WINDSOR

Being all of PIN 01592-0532

City of Windsor
County of Essex

BY-LAW NUMBER 117-2023

A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 4.57 METRE NORTH/SOUTH ALLEY SOUTH OF SPRING GARDEN ROAD, NORTH OF YORKTOWN AVENUE AND EAST OF MALDEN ROAD, CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient to close, stop up and convey the 4.57 metre north/south alley south of Spring Garden Road, north of Yorktown Avenue, and east of Malden Road, City of Windsor, more particularly described in Schedule "A" attached hereto;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the 4.57 metre north/south alley south of Spring Garden Road, north of Yorktown Avenue, and east of Malden Road, more particularly described in Schedule "A" attached hereto and forming part of this by-law, be and the same is hereby closed and stopped up.
2. That any required easements pursuant to Council Resolution CR319/2022 be registered prior to conveyance.
3. That the closed alley be conveyed and the conveyance cost be set pursuant to Council Resolution CR319/2022.
4. That the Chief Administrative Officer and City Clerk be authorized and directed to execute on behalf of The Corporation of the City of Windsor and to seal with the seal thereof, any and all documents necessary to implement the foregoing; and that the transaction be completed electronically, for property where it is available, pursuant to By-law Number 366-2003, as amended from time to time.
5. This by-law shall come into force and take effect the day upon which it is registered in the Land Registry Office for the County of Essex (No. 12).

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A" to By-law 117-2023

ALLEY PL 1020, DESIGNATED AS PARTS 1 TO 3, INCLUSIVE, ON PLAN
12R29263, WINDSOR

Being all of PIN 01592-0532

City of Windsor
County of Essex

Item No. 13.12

BY-LAW NUMBER 118-2023

A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600 CITED AS THE
"CITY OF WINDSOR ZONING BY-LAW"

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient to further amend By-law Number 8600 of the Council of The Corporation of the City of Windsor, cited as the "City of Windsor Zoning By-law" passed the 31st day of March, 1986, as heretofore amended:

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. By-law Number 8600 is amended by changing subsection 1 of Section 20, of the by-law by adding the following paragraph:

489. Southwest corner of Riverside Drive West and Janette Avenue

For the lands comprising Part Lot 1, Block A, Plan 76 & Part of Lot 77 Concession 1 & Part of Closed Alley in the City of Windsor being Parts 1, 2, and 3 12R-9698, a Multiple Dwelling shall be an additional permitted use and shall be subject to the applicable provisions in Section 16.1.5, except for the following site specific regulations:

Building Height:	Maximum - 85.5 metres
Amenity Area:	Minimum - 1.59 m2 per unit

(ZDM 3; ZNG/6760)

2. The said by-law is further amended by changing the Zoning District Maps or parts thereof referred to in Section 1, of said by-law and made part thereof, so that the lands described in Column 3 are delineated by a broken line and further identified by the zoning symbol shown in Column 5:

1. Item Number	2. Zoning District Map Part	3. Lands Affected	4. Official Plan Amendme nt Number	5. Zoning Symbol
1	3	Part Lot 1, Block A, Plan 76 & Part of Lot 77 Concession 1 & Part of Closed Alley being Parts 1, 2 and 3 12R-9698 in the City of Windsor	--	S.20(1)489

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
 Second Reading - September 5, 2023
 Third Reading - September 5, 2023

BY-LAW NUMBER 119-2023

A BY-LAW TO ASSUME FOR SUBSEQUENT CLOSURE THE 2.25 METRE EAST/WEST ALLEY, EAST OF OAK STREET AND NORTH OF TECUMSEH BOULEVARD WEST, CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS the 2.25 metre east/west alley, east of Oak Street and north of Tecumseh Boulevard West, City of Windsor, more particularly described in Schedule "A" hereto annexed, is vested in The Corporation of the City of Windsor;

AND WHEREAS it is deemed expedient that the said lands be assumed for subsequent closure;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the 2.25 metre east/west alley, east of Oak Street and North of Tecumseh Road West, City of Windsor, more particularly described in Schedule "A" hereto annexed and forming part of this by-law, be and the same is hereby assumed for subsequent closure.
2. That this by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A" to By-law 119-2023

PART OF ALLEY, PL 453, AND PART OF LOT 228, PLAN 918, DESIGNATED AS PARTS 18 TO 36, PLAN 12R29404, WINDSOR

Being all of PIN 01199-0321

PART OF ALLEY, PLAN 453, DESIGNATED AS PARTS 37 TO 41, PLAN 12R29404, WINDSOR

Being all of PIN 01199-0264

City of Windsor
County of Essex

BY-LAW NUMBER 120-2023

A BY-LAW TO CLOSE, STOP UP AND CONVEY THE 2.25 METRE EAST/WEST ALLEY EAST OF OAK STREET AND NORTH OF TECUMSEH BOULEVARD WEST, CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient to close, stop up and convey the 2.25 metre east/west alley, east of Oak Street and north of Tecumseh Road, City of Windsor, more particularly described in Schedule "A" attached hereto;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. That the 2.25 metre east/west alley, east of Oak Street and north of Tecumseh Road, City of Windsor, more particularly described in Schedule "A" attached hereto and forming part of this by-law, be and the same is hereby closed and stopped up.
2. That any required easements pursuant to Council Resolution CR610/2020 be registered prior to conveyance.
3. That the closed alley be conveyed and the conveyance cost be set pursuant to Council Resolution CR610/2020.
4. That the Chief Administrative Officer and City Clerk be authorized and directed to execute on behalf of The Corporation of the City of Windsor and to seal with the seal thereof, any and all documents necessary to implement the foregoing; and that the transaction be completed electronically, for property where it is available, pursuant to By-law Number 366-2003, as amended from time to time.
5. This by-law shall come into force and take effect the day upon which it is registered in the Land Registry Office for the County of Essex (No. 12).

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A" to By-law 120-2023

PART OF ALLEY, PL 453, AND PART OF LOT 228, PLAN 918, DESIGNATED AS PARTS 18 TO 36, PLAN 12R29404, WINDSOR

Being all of PIN 01199-0321

PART OF ALLEY, PLAN 453, DESIGNATED AS PARTS 37 TO 41, PLAN 12R29404, WINDSOR

Being all of PIN 01199-0264

City of Windsor
County of Essex

Item No. 13.15

BY-LAW NUMBER 121-2023

A BY-LAW TO ESTABLISH LANDS AS A PUBLIC HIGHWAY KNOWN AS
MEIGHEN ROAD IN THE CITY OF WINDSOR

Passed the 5th day of September, 2023.

WHEREAS the lands described in Schedule "A" annexed hereto and forming part of this by-law are vested in The Corporation of the City of Windsor.

AND WHEREAS it is deemed expedient to establish the said lands hereinafter described as a public highway.

THEREFORE the Council of The Corporation of the City of Windsor enacts as follows:

1. That the lands described in said Schedule "A" annexed hereto are established as a public highway known as **MEIGHEN ROAD**.
2. That this by-law shall come into force and take effect after the final passing thereof on the day on which it is electronically registered in the Land Registry Office of Essex (12).

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

SCHEDULE "A" to By-law 121-2023

PT MEIGHEN RD PL 1098, BEING PT 1 PL 12R29068; WINDSOR

Part of PIN 01123-0938 (LT)
Meighen Road, Windsor

Item No. 13.16

BY-LAW NUMBER 122-2023

**A BY-LAW TO APPOINT A DEPUTY CLERK FOR THE CORPORATION OF
THE CITY OF WINDSOR**

Passed the 5th day of September, 2023.

WHEREAS section 228 (2) of the *Municipal Act, 2001* as amended, provides that council may appoint deputy clerks who shall have all the powers and duties of the clerk under the *Municipal Act, 2001* and any other Act;

THEREFORE the Council of The Corporation of the City of Windsor enacts as follows:

1. That By-law 117-2021 is hereby repealed.
2. Despite the provisions of section 1, Anna Ciacelli is appointed as a Deputy City Clerk of The Corporation of the City of Windsor as of July 5th, 2021.
3. That Anna Ciacelli shall have all the powers and duties of the Clerk under the *Municipal Act, 2001* as amended, and under every other Act, and in addition shall perform such other duties as may be assigned to her from time to time by by-law or direction of Council.
4. This by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

Item No. 13.17

BY-LAW NUMBER 123-2023

A BY-LAW TO CONFIRM PROCEEDINGS OF THE COUNCIL OF THE CORPORATION OF THE CITY OF WINDSOR AT ITS MEETING HELD ON THE 5th day of SEPTEMBER, 2023

Passed the 5th day of September, 2023.

WHEREAS it is deemed expedient that the proceedings of the Council of The Corporation of the City of Windsor at this meeting be confirmed and adopted by by-law;

THEREFORE the Council of the Corporation of the City of Windsor enacts as follows:

1. The action of the Council of The Corporation of the City of Windsor in respect to each recommendation contained in the Report/Reports of the Committees and the local Boards and Commissions and each motion and resolution passed and other action taken by the Council of The Corporation of The City of Windsor at this special meeting is hereby adopted and confirmed as if all such proceedings were expressly in this by-law.
2. The Mayor and the proper officials of The Corporation of the City of Windsor are hereby authorized and directed to do all things necessary to give effect to the action of the Council of The Corporation of the City of Windsor referred to in the preceding section hereof.
3. The Mayor and the City Clerk are authorized and directed to execute all documents necessary in that behalf and to affix thereto the seal of The Corporation of the City of Windsor.

This by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - September 5, 2023
Second Reading - September 5, 2023
Third Reading - September 5, 2023

Item No. 18.1



Council Questions: SCM 231/2023

Subject: Summary of Outstanding Council Questions as at August 17, 2023

OUTSTANDING COUNCIL QUESTIONS

Just a reminder that this is quoted from the 2004 Council report:

“overdue Council Questions (i.e., outstanding for 30 days or more) be responded to immediately.”

Outstanding:

- 2016 – 1
- 2017 – 1
- 2019 – 2
- 2020 – 5
- 2021 – 4
- 2022 – 6
- 2023 – 21

2016

Total Outstanding: 1

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Irek Kusmierczyk	Comm. Infrastructure Services	<p>CQ10-2016</p> <p>Asks that administration report back on best practices from other cities regarding metered on-street accessible parking AND to provide feasibility and cost of implementing free metered parking for residents with Accessible Parking Permits.</p> <p>ST2016 (February 22, 2016)</p>	<p>Type of Response Required</p> <p>-Written Report</p> <p>CR414/2019 ETPS691 Referred back to Accessibility Committee and New City Hall Project Steering Committee for consideration. (Aug 26, 2019)</p>

Total Outstanding: 1

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Irek Kusmierczyk	Chief Administrative Officer	<p>CQ36-2017</p> <p>Asks that Administration report back on the 100 resilient cities program which is funding the position of a Chief Resiliency Officer in 4 Canadian cities – and report back on cost and benefits of establishing the position of a Chief Resiliency Officer both in Windsor and regionally.</p> <p>AS/8286 (September 5, 2017)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Total Outstanding: 2

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Kieran McKenzie	Chief Administrative Officer	<p>CQ7-2019 Asks that in light of the recent announcement from FCA to eliminate the third shift at the Windsor Assembly Plant and understanding the gravity of the economic impact to our community where as many as 10,000 jobs may be lost or affected, that Administration develop a proposal for Council’s review that could incent FCA to consider the possibility of introducing a new product into the Windsor Assembly Plant Facility. In doing so Administration should consider how existing City of Windsor economic development programs could be applied or amended to create a proposal that can help to protect the jobs now at risk both at the Windsor Assembly Plant and across the community generally.</p> <p>SPL/10759 (April 15, 2019)</p>	<p>Type of Response Required -Written Report</p>
Jo-Anne Gignac	Comm. Community Services	<p>CQ16-2019 Asks that Administration prepare a maintenance plan for East Bank of Little River where resident delegations identified a noxious, invasive plant (weed) issue.</p> <p>SR2019 (July 8, 2019)</p>	<p>Type of Response Required -Written Report</p> <p>CR655/2020 Additional info requested.</p>

Total Outstanding: 5

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Kieran McKenzie	Comm. Human Health & Services and Comm. Economic Development & Innovation	<p>CQ4-2020 That Administration prepare a comparative analysis of the Affordable Housing frameworks and incentives that are in place in comparable municipalities. To the extent that the data is available the analysis should consider all forms of affordable housing and the composition of the affordable housing marketplace in the communities analyzed.</p> <p>SS2020 (February 3, 2020)</p>	<p>Type of Response Required -Written Report</p>
Gary Kaschak	Comm. Infrastructure Services	<p>CQ7-2020 Asks that if Council decides to move forward with reducing the speed limit to 40 km/h on all city residential streets, that administration advise of the timelines and cost to implement this across the city.</p> <p>ST2020 (March 2, 2020)</p>	<p>Type of Response Required -Written Report</p> <p>CR169/2021 Referred to Admin.</p>
Fred Francis	Chief Administrative Officer	<p>CQ8-2020 Asks Administration to prepare a report for Council's consideration regarding new initiatives, put in place to battle Covid19, that can remain in place to increase safety measures, efficiencies, environmental measures and cost savings moving forward. These measures might include paperless agendas and digital participation in meetings of council, among others.</p> <p>MH/13786 (April 27, 2020)</p>	<p>Type of Response Required -Written Report</p>
Fabio Costante	Executive Director Human Resources	<p>CQ17-2020 It is important that we recognize and acknowledge the historic and systemic nature of racism and discrimination in our country and our City. We understand that to move forward and promote equity and eliminate anti-racism requires reaching out to and hearing from the voices of those in our community and Corporation most impacted by discrimination and racism. In this pursuit, it is also essential that we work towards having a Corporation that is representative of the people it serves and that everyone is treated with respect. As such, I am seeking the input and recommendations of Administration and our Diversity Advisory</p>	<p>Type of Response Required -Written Report</p>

		<p>Committee on the viability of:</p> <p>1. Including community-led consultations on systemic racism, under Phase 2 of the City of Windsor Diversity and Inclusion Initiative.</p> <p>2. Seeking the input of those in our Corporation and related entities and our community most affected by racism and discrimination, regarding barriers to hiring and advancement in our Corporation and related entities as part of the Diversity and Inclusion Initiative.</p> <p>3. Including recommendations and input regarding providing historical information and educational materials for City owned statues, buildings and streets named with racist histories as part of the Diversity and Inclusion Initiative, and further developing a plan for inclusive street and property naming practices in the future.</p> <p>APM2020 (July 13, 2020)</p>	
McKenzie	Comm. Economic Development & Innovation	<p>CQ32-2020</p> <p>That Administration review and report back to Council on tree protection and replacement policies as it relates to the City of Windsor's land development bylaws. The review should include information pertaining to replacement ratios and the mechanisms by which trees are protected and required to be protected through the development process as well as the extent to which development is impacting the total tree count under our current framework along with options for Council to consider in terms of protecting trees and increasing tree cover through land development policy.</p> <p>SRT2020 (December 7, 2020)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Total Outstanding: 4

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Jo-Anne Gignac	Executive Director of Human Resources	<p>CQ7-2021 Asking Administration to provide a report to Council outlining the policy that regulates procedures after an accident involving City vehicles and any amendments they might propose to update it.</p> <p>ACD2021 & AL2021 18.2 (March 29, 2021)</p>	<p>Type of Response Required -Written Report</p>
Kieran McKenzie	Comm. Legal & Legislative Services	<p>CQ17-2021 Asks that, to promote greater public safety for all people, that Administration work to develop a by-law for Council consideration to provide the City of Windsor with additional tools within the licensing framework for enforcement agencies to address unsafe and illicit activity in hotels and motels across the community that create dangerous and undesirable situations for motel guests, neighbours, and community members alike. The bylaw development process should include consultation process with industry stakeholders and social service providers, social agencies and health providers from both within and external to the City of Windsor as well as any other stakeholder group deemed appropriate by Administration.</p> <p>AB2021 & MH2021 18.1 (July 26, 2021)</p>	<p>Type of Response Required -Written Report</p>
Jo-Anne Gignac	Comm. Economic Development & Innovation	<p>CQ26-2021 Asks that Administration research what municipal zoning bylaws may be in place in other municipalities in Ontario or across Canada that regulate Cannabis retail outlets/consumption areas.</p> <p>GP/13047 18.3 (November 1, 2021)</p>	<p>Type of Response Required -Written Report</p>
Fabio Costante	Comm. Infrastructure Services	<p>CQ27-2021 Asks that Administration report back on opportunities to amend the warrant matrix and incorporate additional factors when determining the installation of 4-way stops in our residential neighbourhoods. This may include certain factors in the warrant threshold be lowered or amended, and may also include other factors such as petitions and school zones to be incorporated in the overall matrix.</p> <p>ST2021 (November 15, 2021)</p>	<p>Type of Response Required -Written Report</p>

Total Outstanding: 6

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Kieran McKenzie	Comm. Community Services	<p>CQ12-2022 Asks that Administration report back on the impact and feasibility of adding solar lights to park trails across the City when trail remediation occurs and where appropriate, and further, to report back on the impact of adding solar lights to any new park trail system as a standard practice moving forward.</p> <p>ACOQ2022/ST2022 (July 25, 2022)</p>	<p>Type of Response Required -Written Report</p>
Fabio Costante	Comm. Community Services	<p>CQ14-2022 Asks that, as part of the Urban Forest Management Plan, Administration should include information about the following: How a tree is determined to be either public or privately owned. Reason(s) for potential change in ownership status. The impacts of change in ownership status for the municipality and the private property owner with respect to liability, maintenance and replacement costs.</p> <p>ACOQ2022 & SRT2022 (August 8, 2022)</p>	<p>Type of Response Required -Written Report</p>
Kieran McKenzie	Comm. Community Services	<p>CQ18-2022 Asks that Administration provide an update on the current status and condition of the Jackson Park Band shell and further comment on the viability of a Feasibility Study outlining the scope of work necessary to bring the band shell back into community access and usage within the Parks Department inventory of assets.</p> <p>ACOQ2022 & SR2022 (September 6, 2022)</p>	<p>Type of Response Required -Written Report</p>
Kieran McKenzie	Comm. Infrastructure Services	<p>CQ19-2022 Asks that Administration undertake a review of the use of artificial turf on the public right-of-way with a view to assess the impacts as it relates to climate change and bio diversity and to assess the on-going use of the material in terms of all potentially affected departments at the City of Windsor.</p> <p>ACOQ2022 & APM2022 (September 26, 2022)</p>	<p>Type of Response Required -Written Report</p>

Jim Morrison	Comm. Community Services	<p>CQ22-2022</p> <p>Asks that Administration develop a plan for Council consideration to install solar lights where feasible and appropriate on all existing parkland trails. The analysis should include full costing of a variety of phasing options as well as cost projections for the initial installation, full life cycle maintenance and replacement of the lights.</p> <p>ACOQ2022 & SR2022 (October 11, 2022)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Kieran McKenzie	Comm. Economic Development & Innovation	<p>CQ23-2022</p> <p>Asks that Administration report back to Council on ways in which the City of Windsor may regulate overnight RV Parking in private lots, particularly in instances where this specific and problematic land use impacts and creates nuisance for adjacent property owners. A review of how other municipalities in Ontario have handled this issue should be included.</p> <p>ACOQ2022 & ST2022 (November 9, 2022)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Total Outstanding: 19

COUNCIL MEMBER		QUESTION – ISSUES RAISED	
Kieran McKenzie	Comm. Economic Development & Innovation	<p>CQ1-2023</p> <p>Asks that given Council's declaration of a Climate Change Emergency informing the need to address climate change through municipal policy frameworks;</p> <p>And further, given the energy capacity challenges and opportunities faced by our community over the short, medium and long term;</p> <p>That Administration report back to Council with proposals for Council consideration to create a Green Energy Community Energy Plan (CIP) with the goal of creating a favourable energy investment climate for sustainable energy proposals.</p> <p>ACOQ2023 (January 16, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Gary Kaschak	Comm. Community Services	<p>CQ2-2023</p> <p>Asks if this City Council wanted to potentially relocate in 2024 or 2025 the Bright Lights event from Jackson Park to a Downtown location starting at an Intersection like University Ave and Ouellette Ave and then work its way East to the City Hall open lands and then proceed North along the open lands/esplanade towards Riverside Drive. I ask Administration to provide a report in regards to the infrastructure, logistics and safety requirements required and obviously the cost of potentially relocating this event for the December 2024 Holiday season or no later than the December 2025 Holiday season.</p> <p>ACOQ2023 (January 16, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Mark McKenzie	Comm. Infrastructure Services	<p>CQ4-2023</p> <p>That Administration develop a report and policy for Council on the feasibility of Electric Vehicle Charging Stations be installed to all current and future municipally owned parking lots and garages.</p> <p>ST2023 (February 13, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Kieran McKenzie	Comm. Economic Development & Innovation/City Planner	<p>CQ5-2023</p> <p>Given the significant housing crisis challenging municipalities across Canada, including the City of Windsor</p> <p>And noting, the objective stated by the Government of Ontario to add 1.5 Million home across the province over the next 10 years, including 13,000 in our Community.</p> <p>And Whereas, the City of Windsor has already recognized the benefits of adding housing capacity through Additional Dwelling Units (ADUs) by enacting Planning Act amendments thereby eliminating some barriers to investment.</p> <p>That Administration report back with further options for Council to consider that would include a range of financial tools including (but not necessarily limited to) a targeted Community Improvement Plan or Grant program that would address industry challenges to help promote greater uptake of the opportunity to augment housing stock through investments in ADUs.</p> <p>SS2023 (February 13, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Kieran McKenzie	Comm. Legal & Legislative Services/City Clerk	<p>CQ6-2023</p> <p>That, given the City of Windsor’s stated objective in Council’s approved Diversity and Inclusion Initiative to: continually take steps to learn and grow as a community and to recognize that “diversity adds to our strength and creates an important opportunity for fostering understanding, acceptance and innovation”, and,</p> <p>The City’s publicly articulated commitment to an Agency, Board and Committee (ABC) appointments process that is transparent, fair and consistent;</p> <p>That Administration undertake a review of the city’s appointment policy, including a comparison to processes and policies adopted in peer municipalities such as (but not limited to) London, Kitchener and Cambridge and report back with options for Council consideration in terms of best practices or improvements that can be made in the context of Equity, Diversity, Inclusion, Transparency and Accountability.</p> <p>ACO2023 (February 13, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Renaldo Agostino	Comm. Health & Human Services	<p>CQ8-2023</p> <p>That Administration to report back to City Council and provide more information regarding QR codes on city property to encourage digital donations in an effort to help those in need. Donation signs/programs similar to those found in the City of Greenville, South Carolina or Daytona Beach. Specifically, is there an opportunity to work with our homelessness/housing service provider partners to place QR coded signs in areas where aggressive behaviour currently could take place in our city so that people can become better educated to the services and supports in our community and can contribute to these organizations digitally? We are entering a cashless era. Could an idea such as this one work for everyone in our community.</p> <p>APR2023 (February 13, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Jo-Anne Gignac	Comm. Infrastructure Services	<p>CQ9-2023:</p> <p>Asks that Administration report back on feasibility of a crosswalk at Sunrise Assisted Living to Coventry/Reaume Park.</p> <p>SR2023 (February 27, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Angelo Marignani	Comm. Community Services	<p>CQ10-2023</p> <p>That Administration report back to City Council on a collaboration with Detroit City Council in creating a new International Freedom Festival. This world class civic event will promote international investment while improving the quality of life in our city. It will showcase our rich heritage and shared identity of our two cities. The focal point of this new annual festival will be the new Gordie Howe International Bridge, opening in 2024. There is more than a bridge that connects us and it is in our advantage to strengthen these connections.</p> <p>SR2023 (February 27, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Mark McKenzie	Comm. Community Services	<p>CQ12-2023</p> <p>Asks that Administration develop new policies and provide report back to tamp down on “frivolous, dangerous and unreasonable” behaviour at City Hall and other City owned facilities, similar to Essex County Council. Also, report back on feasibility of installing metal detectors at City Hall and WFCU Centre.</p> <p>ACO2023 (May 29, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Mark McKenzie	Comm. Infrastructure Services	CQ13-2023 Asks Administration re-examine the Driveway Requirement Policy regarding 2.2.1 which deals with not allowing front parking, as well as the Official Plan to allow front driveways with report back to Council. SB2023 & ACOQ2023 (May 29, 2023)	Type of Response Required -Written Report
Gary Kaschak	Comm. Infrastructure Services	CQ14-2023 Asks that Administration investigate the use of rumble strips in an urban environment within the City of Windsor through a pilot installation on Grand Marais Avenue between Plymouth and Pillette Road and that information as to their effectiveness be collected, analyzed and reported back to Council once sufficient data has been collected to determine both the benefits and concerns of their use in an urban setting and that the cost of the pilot be funded through the Expedited Temporary Traffic Calming Program. ST2023 & ACOQ2023 (May 29, 2023)	Type of Response Required -Written Report
Angelo Marignani	Comm. Community Services	CQ15-2023 Asks to have the city look into more auxiliary police being used on a regular schedule in our public parks and trails. A report back on costs and risks involved. SP2023 (May 29, 2023)	Type of Response Required -Written Report
Fabio Costante	Comm. Infrastructure Services	CQ16-2023 Asks Administration to report directly back to Council on the feasibility of adding Collector 1 roadways into the Expedited Traffic Calming process to allow for some tools, at the discretion of the Road Authority, to be installed on this type of road where there the road has significant residential frontages. ST2023 (May 29, 2023)	Type of Response Required -Written Report
Fabio Costante	Comm. Infrastructure Services	CQ17-2023 Asks Administration to investigate a method to implement Intelligent Transportation applications to improve transportation and traffic flow throughout the City. Including, but not limited to, an advanced warning system for trains for eastbound travel on Tecumseh Road West east of Crawford. MT2023 (May 29, 2023)	Type of Response Required -Written Report

Gary Kaschak	Comm. Infrastructure Services	<p>CQ18-2023</p> <p>Asks in order to achieve increased waste diversion targets & not fill up our Landfill as fast, I ask that Administration for a report to look into reversing the garbage day & recycle day schedules with recycling pickup day coming before garbage day. I believe this could in fact get more goods into the recycle stream if being picked up one day before garbage day. I look forward to a report from our Environmental Services group.</p> <p>EI2023 (June 12, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Angelo Marignani	Comm. Community Services	<p>CQ19-2023</p> <p>Asks that Administration look into reopening the concession stand at Sandpoint beach and report on the costs and risks concern. Look into programming with pop-up local restaurants featured on weekends.</p> <p>ACOQ2023 & SR2023 (June 12, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Renaldo Agostino	Comm. Human & Health Services	<p>CQ20-2023</p> <p>Asks that administration report back to city council regarding all municipal and community outreach programs currently available and research and analyze the feasibility of expanding operating hours and services including having one dedicated number (ie 311/211) related to outreach support in our community.</p> <p>ACO2023 (July 10, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Mark McKenzie	Comm. Economic Development & Innovation	<p>CQ21-2023</p> <p>Asks that administration be directed to provide council with a feasibility report on the elimination of the alley closure application fee of \$1505 (and other associated fees) to assist in the acceleration of closing residential alleys.</p> <p>ACOQ2023 & ACO2023 (July 10, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>
Mark McKenzie	Comm. Legal & Legislative Services	<p>CQ22-2023</p> <p>Asks that Administration be directed to provide options on targeted and pro-active enforcement in paved alleys to address garbage, vandalism, encampments, and land maintenance concerns up to and including any possible collaborative efforts that can be initiated with other City departments and resources.</p> <p>ACOQ2023 & ACO2023 (July 10, 2023)</p>	<p>Type of Response Required</p> <p>-Written Report</p>

Angelo Marignani	Comm. Legal & Legislative Services / Deputy Licence Commissioner	<p>CQ23-2023 Asks that administration report back to city council regarding the rise in popularity of smoker barbecues and the nuisance that it causes in the community with air pollution and concerns from neighbors who no longer can enjoy their outdoors as a result of smoke.</p> <p>ACO2023(August 8, 2023)</p>	<p>Type of Response Required -Written Report</p>
Mark McKenzie	Comm. Infrastructure Services	<p>CQ24-2023 Asks that administration provide a report to Council regarding construction projects, specific to road repair, sewer infrastructure and road rehab, including policies and procedures, minimum standards and vendor warranties for review.</p> <p>ACO2023 (August 8, 2023)</p>	<p>Type of Response Required -Written Report</p>

/sg
as of August 17, 2023



Additional Information: AI 10/2023
Originally submitted to the Development & Heritage
Standing Committee on August 1, 2023

Subject: Additional Information Memo to S56/2023, Ward 10

Reference:

Date to Council: August 1, 2023

Author: Brian Nagata, MCIP, RPP
Planner II - Development Review
(519) 255-6543 ext. 6181
Planning & Building Services

Author: Rob Perissinotti, P.Eng.
Development Engineer
(519) 255-6257 ext. 6615
Engineering

Report Date: July 13, 2023
Clerk's File #: Z/14541

To: Mayor and Members of City Council

Additional Information:

Additional Recommendations for Report # S56/2023:

- III. THAT Council **APPROVE** a servicing agreement which includes a cost sharing payment with Tian Yao Investment Ltd. for sanitary sewer oversizing costs for St. Patrick's Avenue required to provide service for privately owned lands on St. Patrick's Avenue (Benefitting Properties) shown on Appendix 'C' (C-3743) as part of the sanitary sewer extension to service 0 & 1466 St. Patrick's Avenue, estimated at up to \$236,000, excluding HST (final payment to be based on actual construction costs and final cost sharing agreement between the City and Tian Yao Investment Ltd.) to be funded from Project ID #7035119 – New Infrastructure Development and to be payable upon receipt by the City of the servicing cost payment from the Benefitting Properties; and that the Chief Administrative Officer and City Clerk **BE AUTHORIZED** to sign the agreement approved as to content satisfactory to the City Engineer and form satisfactory to the City Solicitor.

- IV. THAT Administration **BE DIRECTED** to recover sanitary servicing costs related to the extension of a sanitary sewer as shown in Appendix 'C' (C-3743) from the Benefitting Properties at a rate in accordance with current City policies and by-laws plus an annual interest rate based on the Infrastructure Ontario Construction Loan rate (currently 6.26%), plus 1%, applied from a date no earlier

than one year following substantial completion of the sanitary sewer construction, such date to be identified in a notice by the City Engineer.

Background:

The Development & Heritage Standing Committee (DHSC) considered report S56/2023 concerning the rezoning of 0 and 1466 St. Patrick's Avenue at their June 5, 2023 meeting. DHSC approved the following motion directing Administration to provide additional information on the costs to be incurred by the owners of those properties required to connect to the proposed sanitary sewer extension, as well as payment options; and on the issues related to costs associated with implementing residential permit parking.

*That the report of the Planner II - Development Review dated May 2, 2023 entitled "Zoning By-law Amendment Application for 0 & 1466 St. Patrick Avenue, Z-037/22 [ZNG-6899], Ward 10" **BE DEFERRED** to the August 1, 2023 Development & Heritage Standing Committee Meeting to allow for Administration to provide information related to costs for sewer infrastructure that will be required for the proposed development and the costing options that will be available for surrounding residents, as well as issues related to costing for permit parking if required.*

The additional information request stems from the following concerns raised by neighbouring residents through correspondence to the Planning Department and delegations to the DHSC.

- Mandatory connection to the proposed sanitary sewer extension, hereinafter referred to as the 'sanitary sewer'
- Costs to be incurred by owners of those properties required to connect to the sanitary sewer, hereinafter referred to as 'Benefitting Properties'
 - One (1) year deadline following construction of the sanitary sewer for connection and payment of all costs
 - Majority of the owners of Benefitting Properties are on fixed income and cannot endure such additional costs, thus obligating them to sell their homes and relocate
- Monopolization of on-street parking resulting from the increased density allowed through this Zoning By-law Amendment

Discussion:

Sanitary Sewer Payment Terms and Costs:

Members of the Engineering Department, Legal, Real Estate & Risk Management Department and Planning Department met on June 14, 2023 to discuss the directive of the DHSC pertaining to sanitary sewer payment terms and costs.

As part of that review, Administration is recommending the sanitary sewer be extended northerly past 1466 St. Patrick's Avenue in order to service the remaining four (4) properties south of Tecumseh Road West. This would ensure the entire block has access to municipal sanitary sewers, provide potential development opportunities and

further reduce the environmental contamination risks associated with failing septic systems.

Payment Terms:

The Engineering Department brought a report before DHSC on July 4, 2023 recommending the extension of the local improvement charges flat rate, private drain connection (PDC) flat rate and local improvement payment terms for the construction of sanitary sewers and PDC's to those properties that are not included in a local improvement charges petition and satisfy the following criteria:

- Have a Residential zoning that permits a single unit dwelling, duplex dwelling or semi-detached dwelling;
- Contain an existing single unit dwelling, duplex dwelling or semi-detached dwelling on private septic system and not connected to a municipal sanitary sewer;
- Located within 30.0 metres of a municipal mainline sanitary sewer that becomes available for connection; and
- Abuts the municipal right-of-way (R.O.W.) in which the municipal mainline sanitary sewer is situated within.

The report also recommended amending Property Standards By-law 9-2019 to extend the timeline for connecting to a municipal mainline sanitary sewer once it is made available and decommissioning of the private septic system. The amendment would grant owners of qualifying properties, that have a **BUILDING PERMIT** issued for a private septic system that is less than 10 years old, three (3) years or the difference between the age of their private septic system and 10 years, whichever is greater, to connect to the available municipal mainline sanitary sewer and decommission their private septic system.

Property Standards By-law 9-2019 currently requires a property owner to connect to a municipal mainline sanitary sewer once it is made available and decommission the private septic system within one (1) year **OR SUCH OTHER TIME PERIOD AS MAY BE APPROVED BY COUNCIL BY COUNCIL RESOLUTION** from the date that a municipal sanitary sewer becomes available.

DHSC approved the recommendation, which is expected to be considered by City Council at its August 8, 2023 meeting.

There are **NO** records of any Building Permits being issued for a private septic system on any of the Benefitting Properties. This translates to there being **NO** information available on the age, capacity, condition, functionality, installation or type of private septic system serving each of the Benefitting Properties. **Consequently, Administration is recommending that the one (1) year deadline set forth under By-law 9-2019 be upheld.** This is consistent with the following policy direction of the 2020 Provincial Policy Statement.

- Policy 1.6.6.2 states that: *“Planning for sewage and water services shall:*

- *b) ensure that these systems are provided in a manner that:

 - 3. is feasible and financially viable over their lifecycle; and
 - 4. protects human health and safety, and the natural environment;*
- *d) integrate servicing and land use considerations at all stages of the planning process; and*
- *e) be in accordance with the servicing hierarchy outlined through policies 1.6.6.2, 1.6.6.3, 1.6.6.4 and 1.6.6.5. For clarity, where municipal sewage services and municipal water services are not available, planned or feasible, planning authorities have the ability to consider the use of the servicing options set out through policies 1.6.6.3, 1.6.6.4, and 1.6.6.5 provided that the specified conditions are met.”*
- Policy 1.6.6.2 states that: *“Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas to support protection of the environment and minimize potential risks to human health and safety”*

For work on private property, property owners have the option of using O. Reg. 586/06 Local Improvement on Private Property provisions. The local improvement payment terms will allow for the Benefitting Properties who elect to use this process to enter into an agreement with the City, consenting to their properties being incrementally charged for the cost of construction of the PDC on private property (including change over to the municipal sanitary sewer system within the dwelling), and decommissioning of the private septic system through property taxes for a period not to exceed 20 years at a rate deemed appropriate by administration.

A City wide by-law will be required to allow the costs of the mainline sanitary sewer and PDC connection to the property line (within the right-of-way) to be applied to the municipal taxes of the benefiting properties for a term not to exceed 20 years. Property owners can elect to pay in one lump sum for this works or elect to take advantage of the by-law payment option. The payments will commence no earlier than one year following the said works being completed and accepted by the Chief Building Official and/or Commissioner of Infrastructure Services in accordance with By-law 9-2019. Benefiting properties will be notified in writing by the City Engineer of payment options and interest terms.

Costs:

The costs associated with the sanitary sewer have been organized chronologically into the following categories:

1. Construction of sanitary sewer within the municipal R.O.W.
 - d.c. mccloskey engineering ltd. provided a construction cost estimate for the said works totalling \$236,000.00 plus HST, *attached* hereto as Appendix “A”. This estimate is preliminary, includes a section of sewer in front of currently serviced properties and will be refined based on final scope of work.

- The cost assessed to each Benefitting Property is based on a variety of different factors including but not limited to property frontage, driveway replacement, road replacement and boulevard restoration.
- Under the recommendations of the report from Engineering, the Benefitting Properties would be required to pay their share of the sanitary sewer at the Local Improvement Flat Rate - Sanitary Sewer of \$300,00 per linear metre of property frontage (refer to Table 1 below for the sanitary sewer cost assessed to each of the Benefitting Properties).

Table 1 - Breakdown of Sanitary Sewer Costs (mainline) for Benefitting Properties

Benefitting Properties	Local improvement Flat Rate	Construction Cost Estimate	Difference
1429 St. Patrick's Avenue	\$4,029.00	\$9,401.00	\$5,372.00
1435 St. Patrick's Avenue	\$2,760.00	\$6,440.00	\$3,680.00
1443 St. Patrick's Avenue	\$6,390.00	\$14,910.00	\$8,520.00
1450 St. Patrick's Avenue	\$10,980.00	\$25,620.00	\$14,640.00
1465 St. Patrick's Avenue	\$7,260.80	\$16,940.00	\$9,679.20
1466 St. Patrick's Avenue	\$8,250.00	\$19,250.00	\$11,000.00
1482 St. Patrick's Avenue	\$4,080.00	\$9,520.00	\$5,440.00
1483 St. Patrick's Avenue	\$8,310.00	\$19,390.00	\$11,080.00
1494 St. Patrick's Avenue	\$4,140.00	\$9,660.00	\$5,520.00
1498 St. Patrick's Avenue	\$5,460.00	\$12,740.00	\$7,280.00
1501 St. Patrick's Avenue	\$6,780.00	\$15,820.00	\$9,040.00
1515 St. Patrick's Avenue	≈\$4,140.00 (exact length of	N/A	N/A

	property frontage for that portion adjacent to the sanitary sewer can not be confirmed at this time)		
<p><i>The owner of 1515 St. Patrick's Avenue believes that they have a PDC to the 250.0 millimetre asbestos cement sanitary sewer pipe within the Askin Avenue R.O.W.</i></p> <p><i>The owner will be responsible for demonstrating that their property has a PDC to the aforesaid sanitary sewer or the sanitary sewer within the St. Patrick's Avenue R.O.W.</i></p>			
<p><i>Costs are subject to change based on subsequent Council approval of amendments to the City of Windsor User Fee Schedule</i></p>			

2. Construction of sanitary PDC within the municipal R.O.W.

- Owners of Benefitting Properties will be responsible for covering the costs associated with the construction of their sanitary PDC within the R.O.W, construction of which will be completed by the developer including a cleanout at the property line (refer to Table 2 below for breakdown of sanitary PDC costs for Benefitting Properties).

Table 2 - Breakdown of Sanitary PDC Costs for Benefitting Properties

Item	Cost
Sewer Connection Fee (includes \$3.00 Service Fee & HST)	\$239.56
Sewer Connection Indemnity (refundable)	\$1,000.00
Private Drain Connection Installation Flat Rate	\$3,453.00
Total Cost per Property	\$4,692.56
<p><i>Costs are subject to change based on subsequent Council approval of amendments to the City of Windsor User Fee Schedule</i></p>	

3. Decommissioning of private septic systems, including PDC and plumbing modifications on private property.

- Owners will be responsible to decommission their private septic system, including installation of a PDC on private property to connect to the

cleanout at the property line and plumbing modifications as required at their entire cost. The cost of this work varies greatly depending on the existing septic and plumbing system locations and layouts. It is difficult to estimate the cost of this work but it may range from \$5,000.00 to \$18,000.00, plus the \$350.00 Building Permit Fee (Building Permit fee subject to change based on subsequent Council approval of amendments to the City of Windsor User Fee Schedule).

It should be noted that if this sanitary sewer is not constructed and any private septic system fails, the property owner will be looking at incurring the following costs detailed in Table 3 for the replacement of the system. Replacement of the septic system in this scenario would not preclude the property from being ordered to connect to a sanitary sewer in the future if one is constructed and incurring the costs described above.

Table 3 - Breakdown of Costs for Replacement of Private Septic System

Item	Cost
Building Permit Fee	\$1,085.00
Conventional <u>in-ground</u> (if soils permit) gravity system for a 3-4 bedroom dwelling	\$15,000.00 to \$40,000.00
Conventional <u>fully raised</u> gravity system for a 3-4 bedroom dwelling	\$20,000.00 to \$40,000.00
An Advanced treatment system for a typical 3-4 bedroom dwelling plus yearly maintenance contract costs	\$25,000.00 to \$50,000.00
Total Cost (Approximate)	\$16,085.00 to \$51,085.00
<i>Building Permit Fee is subject to change based on subsequent Council approval of amendments to the City of Windsor User Fee Schedule</i>	

A comparison of the approximate costs to be incurred by owners of Benefitting Properties under each of the aforesaid two scenarios is detailed in Table 4 below.

Table 4 - Comparison of Costs to be Incurred by Benefitting Properties by Scenario

Scenario	Cost per Benefitting Property (Approximate)
Sanitary Sewer is constructed	\$16,854.00 to \$28,854.00
Sanitary Sewer is not constructed and private septic system fails	\$16,085.00 to \$51,085.00
<i>The second scenario is not eligible for any City loans</i>	

Residential Permit Parking Costs:

The Operations Department and Planning Department, via June 14, 2023 telephone conversation, discussed the directive of the DHSC pertaining to costs associated with establishing residential permit parking on the 1400 and 1500 block of St. Patrick's Avenue.

The establishment of residential permit parking is initiated by way of a petition proposed by a block resident in coordination with the Operations Department. The petition must obtain signatures from a member of a dwelling and/or business for at least 90% of the properties abutting the section of the municipal R.O.W. in question and those other properties deemed by the Operations Department to be directly impacted by the proposal in order for it to proceed. Residential permit parking allows a maximum of two (2) residential parking permits as well as one (1) visitor parking permit to be purchased per residence. Notwithstanding this fact, the Operations Department will determine the number and type of permits to be allotted to each residence.

Upon review, the Operations Department would support residents should they choose to petition for residential permit parking on the west side of St. Patrick's Avenue from Tecumseh Road West to Algonquin Street. A petition would include all of the properties abutting the municipal R.O.W, as well as 1604 and 1605 St. Patrick's Avenue situated on the south side of Algonquin Street. A petition would require signatures from a member of a dwelling or business for at least 23 of the 25 properties listed under the petition. 1604 and 1605 St. Patrick's Avenue have been included due to their proximity to the target area and the increased demand for on-street parking around their properties.

A petition can be made available if the residents of the 1400 and 1500 block of St. Patrick's Avenue wish to pursue establishing residential permit parking on their block.

The first year fees and subsequent annual fees for residential permit parking are included below in Tables 5 and 6 respectively.

Table 5 - First Year Residential Permit Fees

First Year Fees
\$50.00 for the first permit (for residents)
\$20.00 for the second permit (for residents)
\$50.00 for replacement permits
\$30.00 for visitors permits

Table 6 - Subsequent Annual Residential Permit Fees

Annual Fees
\$35.00 for the first permit (for residents)

\$20.00 for the second permit (for residents)
\$35.00 for replacement permits
\$35.00 for visitors permits

Conceptual Floor Plans:

The DHSC and delegates asked the applicant if they could provide floor plans for their review. The applicant submitted Conceptual Floor Plans to the Planning Department on June 20, 2023, *attached* hereto as Appendix “B”.

It should be noted that the *Planning Act* does not authorize a Zoning By-law to contain provisions for regulating the number of bedrooms within a dwelling or dwelling unit, or prohibiting Additional Dwelling Units within a single unit dwelling, semi-detached dwelling unit, or townhome dwelling unit.

Conclusion:

This memo responds to the questions asked by DHSC about report S56/2023. It provides a detailed breakdown of the costs to be incurred by the owners of the Benefitting Properties, as well as payment options; and on the issues related to costs associated with implementing residential permit parking. Administration is recommending that the Recommendations of this report be added to those in report S56/2023.

Planning Act Matters:

N/A

Approvals:

Name	Title
Greg Atkinson	Manager of Development/Deputy City Planner
Neil Robertson	Acting City Planner / Executive Director, Planning & Development Services
Stacey McGuire	Executive Director of Engineering/Deputy City Engineer
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Jelena Payne	Commissioner, Economic Development & Innovation
Joe Mancina	Chief Administration Officer

Notifications:

Name	Address	Email
Applicant & Authorized Agent: Avant Group Inc. c/o Mohammad Hanash	5980 Tecumseh Rd. E. Windsor, ON N8T 1E3	mohammad@avantgroupincorp.com
Owner: Tian Yao Investment Ltd. c/o Eric Yao Li	1638 St. Clair Ave. Windsor, ON N9B 3L1	tianyaoltd@gmail.com
Councillor Jim Morrison (Ward 10)	350 City Hall Square West, Suite 530 Windsor, ON N9A 6S1	jmorrison@citywindsor.ca
Abutting property owners, tenants/occupants within the 1400 and 1500 block of St. Patrick's Avenue		

Appendices:

- 1 Appendix A - Construction Cost Estimate
- 2 Appendix B - Conceptual Floor Plans
- 3 Appendix C - Drawing C-3743

**APPENDIX “A”
Construction Cost Estimate - Sanitary Sewer Extension**



d.c. mccloskey engineering ltd.

1466 St. Patrick's Avenue, Windsor
CONSTRUCTION COST ESTIMATE – SANITARY SEWER EXTENSION

Project No. M22-242

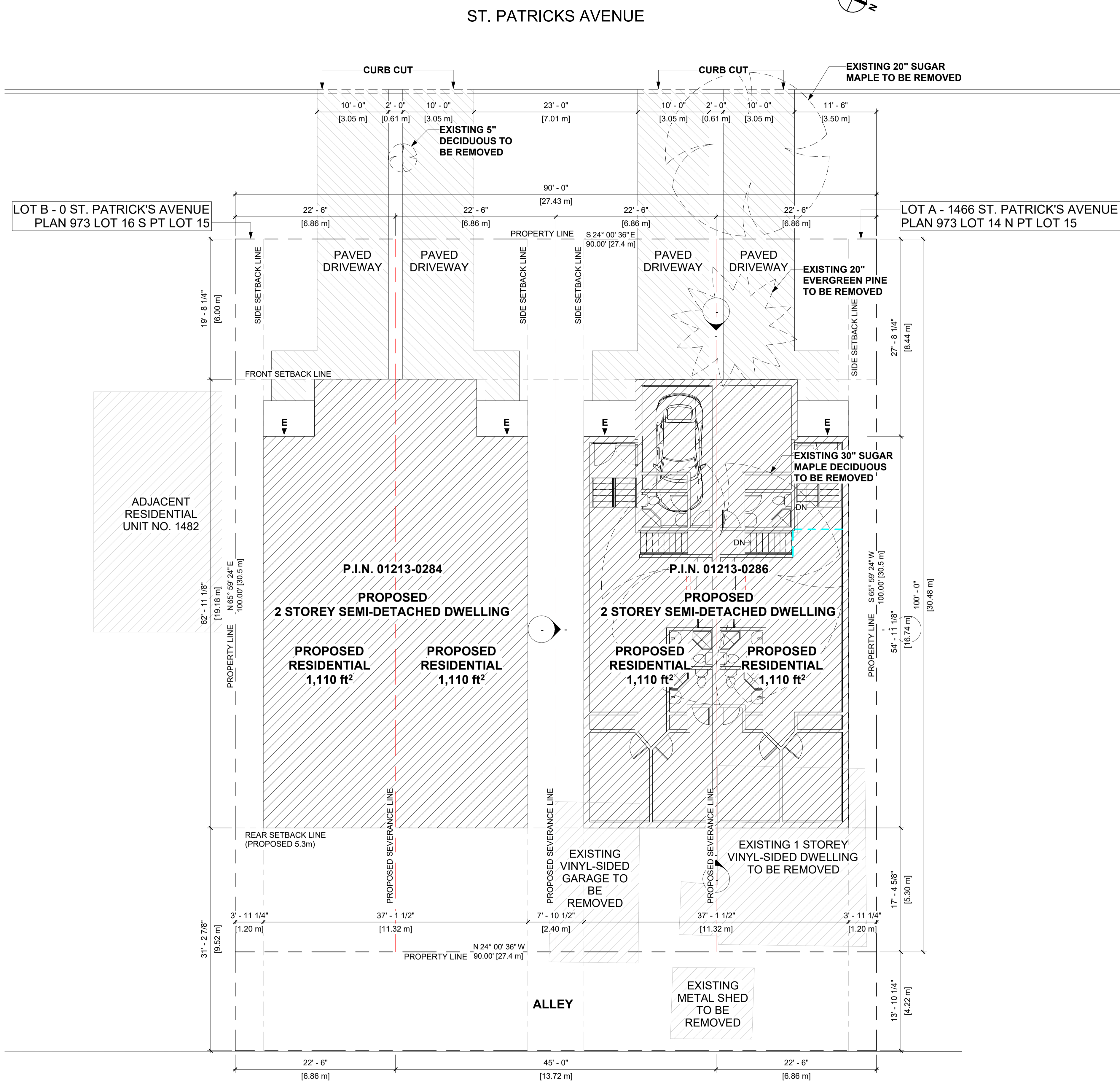
25-Jul-23

	DESCRIPTION	QUANTITY	UNIT OF MEASURE	COST PER UNIT	TOTAL COST
A	SITE WORKS				
1	1200mm manhole	2	each	\$ 7,000.00	\$ 14,000.00
2	200mm PVC sanitary sewer (incl. excavation and backfilling)	175	metre	\$ 500.00	\$ 87,500.00
3	Sanitary PDC (short service - directional bore)	9	each	\$ 2,500.00	\$ 22,500.00
4	Sanitary PDC (long service - directional bore)	7	each	\$ 4,500.00	\$ 31,500.00
5	Boulevard restoration	1	lump sum	\$ 18,000.00	\$ 18,000.00
6	Sawcutting of driveways	1	lump sum	\$ 5,000.00	\$ 5,000.00
7	Concrete driveway replacement	5	lump sum	\$ 2,500.00	\$ 12,500.00
8	Traffic Control	1	lump sum	\$ 5,000.00	\$ 5,000.00
9	General Conditions (safety, insurance, supervision)	1	lump sum	\$ 10,000.00	\$ 10,000.00
B	Engineering Design and Full-time Inspection	1	lump sum	\$ 25,000.00	\$ 25,000.00
C	Material Testing / Compaction	1	lump sum	\$ 5,000.00	\$ 5,000.00

ESTIMATED TOTAL PROJECT COST* \$236,000.00

*HST excluded

APPENDIX "B" Conceptual Floor Plans



1 Site Plan
1/8" = 1'-0"



2 Aerial View
NOT TO SCALE

CURRENT ZONING RD1.2
PROPOSED ZONING RD2.2

11.2.1 PERMITTED USES
 One Double Duplex Dwelling
 One Duplex Dwelling
 One Multiple Dwelling containing a maximum of four dwelling units
 One Semi-Detached Dwelling
 One Single Unit Dwelling
 Townhome Dwelling
 Any use accessory to any of the preceding uses

11.2.5.2 Semi-Detached Dwelling

	Required	Proposed
.1 Lot Width	Min. 15.0 m	13.7 m
.2 Lot Area	Min. 450.0 m ²	475.9 m ²
.3 Lot Coverage (ZBL 5.23.5.3)	Max. 50.0%	49.7%
.4 Main Building Height	Max. 9.0 m	7.6 m
.5 Front Yard Depth	Min. 6.0 m	6.0 m
.6 Rear Yard Depth	Min. 7.50 m	5.3 m
.7 Side Yard Width	Min. 1.20 m	1.20 m

Parking Space

	Required	Proposed
Semi-Detached	4	4

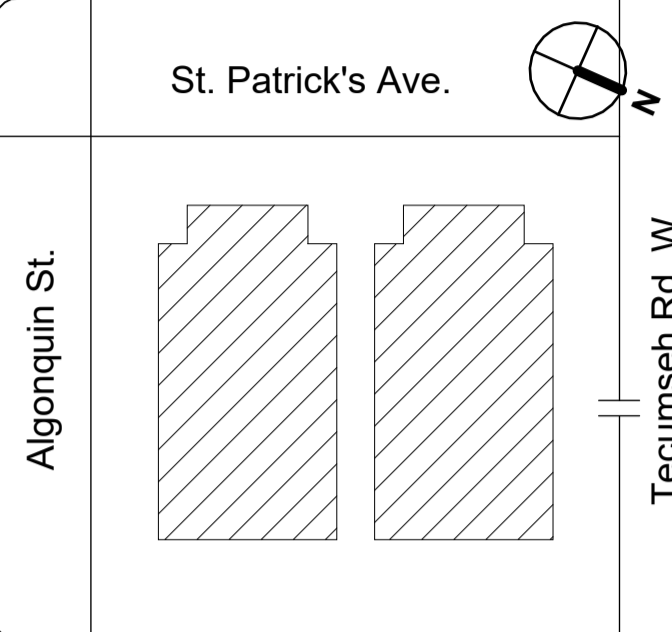
Paving Allowance

	Required	Proposed
Front Yard Paving	Max. 60%	49.8%

3 Data
NOT TO SCALE

AVANT GROUP INCORPORATION
 5980 Tecumseh Rd. East, Windsor, ON, N8T 1E3
 Phone: 519-919-2010 | 519 300-9838
 Email: info@avantgroupincorp.com
 Website: www.avantgroupincorp.com

PROPRIETARY AND CONFIDENTIAL
 THE PLAN AND DESIGN CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF AVANT GROUP INC. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF AVANT GROUP INC. IS PROHIBITED.



CLIENT
--

The Architect noted above has exercised responsible control with respect to design activities. The Architect's seal number is the Architect's BCIN.

PROJECT TITLE
 1466 ST. PATRICK'S AVE
 PROPOSED SEMI-DETACHED DWELLINGS W/ ADU'S IN BASEMENT

DRAWING TITLE
Site Plan

- NOTE**
- KEY PLAN**
- GENERAL NOTES:**
- DO NOT SCALE DRAWINGS
 - VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS AS REQUIRED PRIOR TO BIDDING AND COMMENCEMENT OF WORK.
 - COORDINATE ARCHITECTURAL, STRUCTURAL, MECHANICAL, AND ELECTRICAL DRAWINGS PRIOR TO COMMENCEMENT OF WORK.
 - SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE, NOTIFY THE ARCHITECT/ENGINEER IMMEDIATELY, IN WRITING PRIOR TO PROCEEDING WITH ANY WORK.
 - ALL WORK SHALL COMPLY OR EXCEED THE REQUIREMENTS OF THE ONTARIO BUILDING CODE, FIRE CODE, PLUMBING CODE, ELECTRICAL CODE, AND LOCAL BY-LAWS.

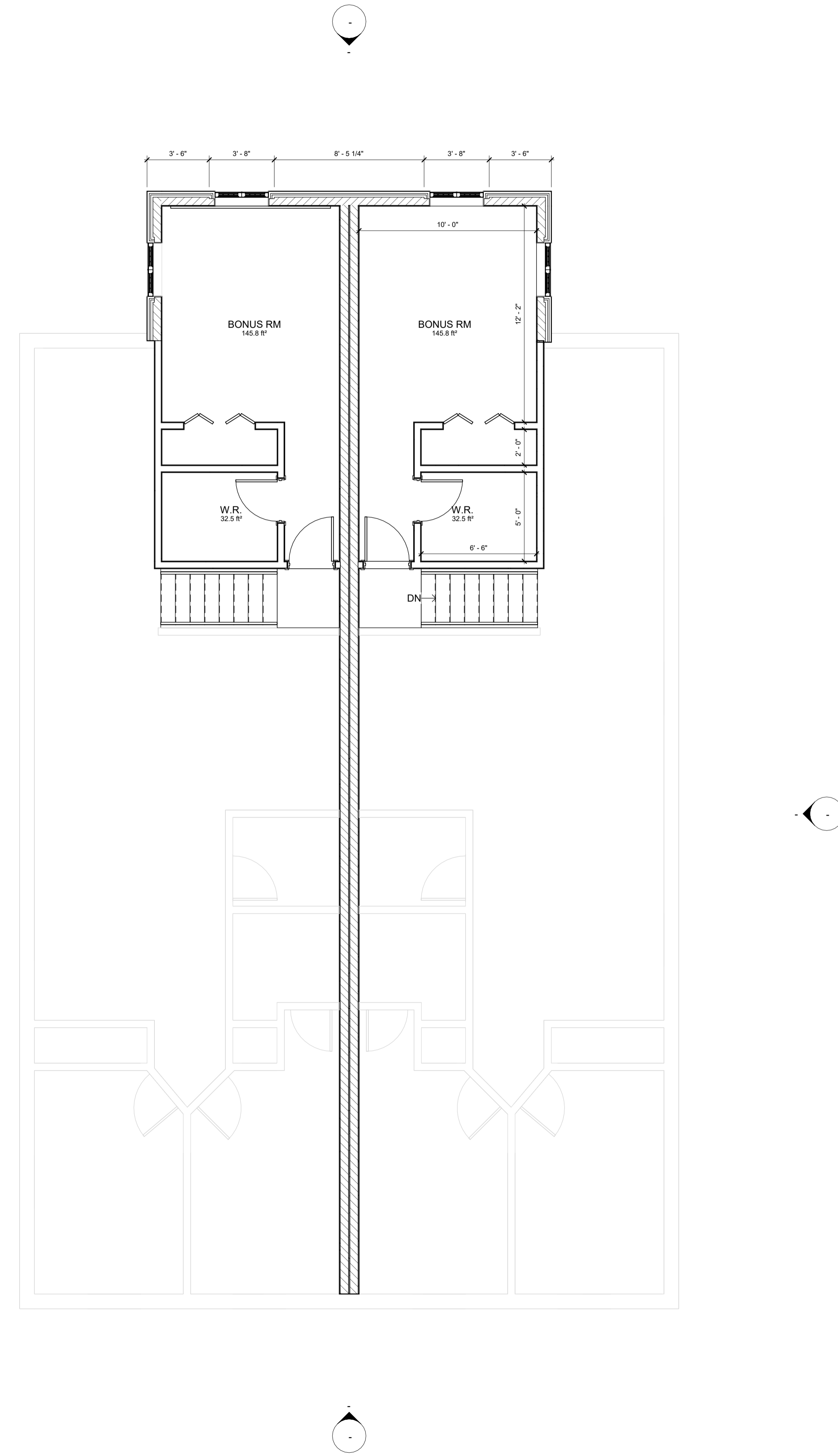
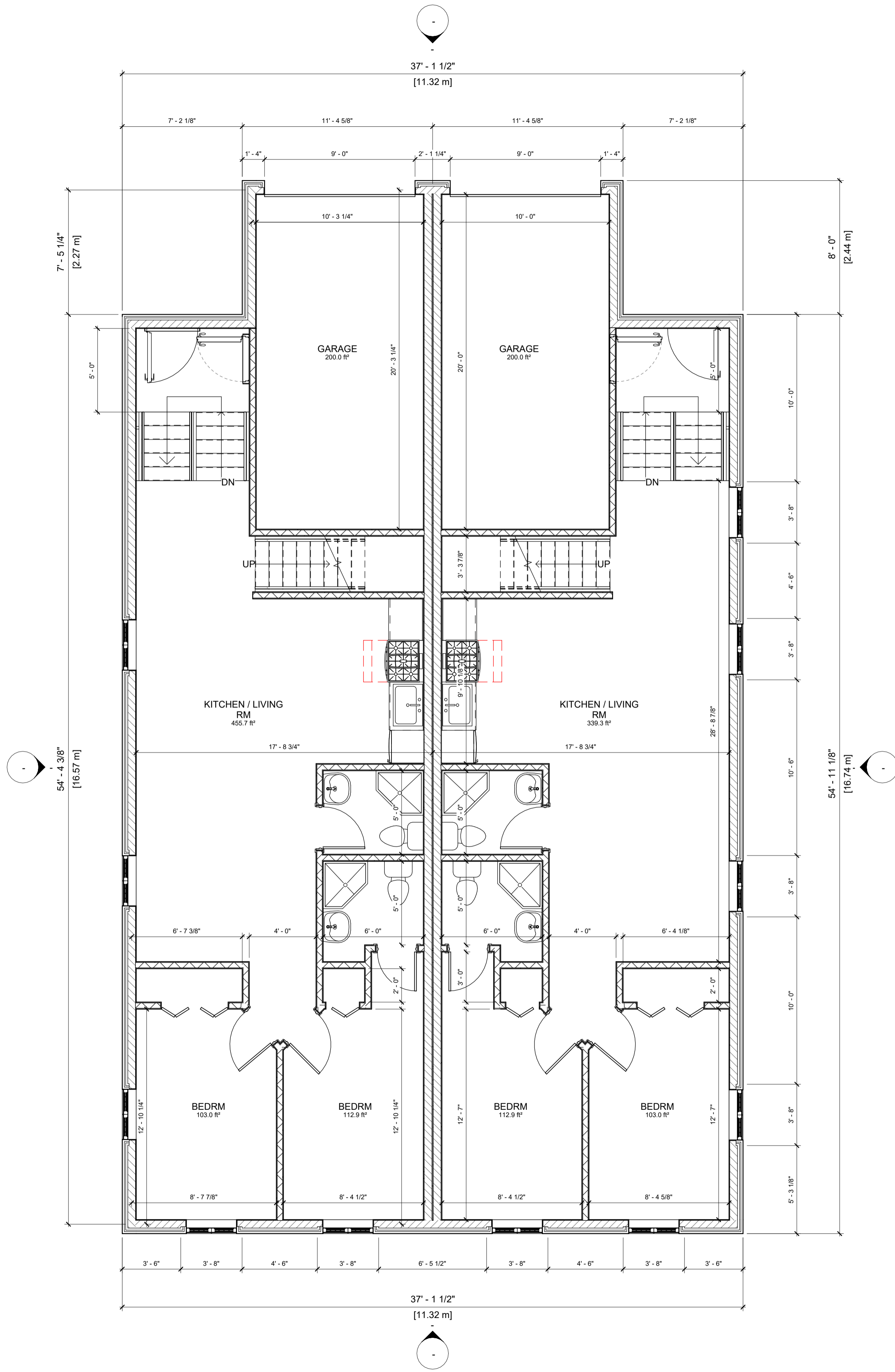
REVISION RECORD

No.	Description	Date

PROJECT NOTE

PROJECT NUMBER	Project Number
DATE	Issue Date
DRAWN BY	Author
CHECKED BY	Checker
APPROVED BY	Approver
SHEET SIZE	
ARCH D (24" x 36")	
SHEET NUMBER	REV NO.
A-0	
SCALE	AS NOTED

PROPRIETARY AND CONFIDENTIAL
THE PLAN AND DESIGN CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF AVANT GROUP INC. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF AVANT GROUP INC. IS PROHIBITED.



CLIENT

--

PROJECT TITLE

1466 ST. PATRICK'S AVE
PROPOSED SEMI-DETACHED
DWELLINGS W/ ADU'S IN
BASEMENT

DRAWING TITLE

Floor Plan - Main Floor & Bonus Rm

NOTE

- KEY PLAN**
- GENERAL NOTES:**
- DO NOT SCALE DRAWINGS
 - VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS AS REQUIRED PRIOR TO BIDDING AND COMMENCEMENT OF WORK.
 - COORDINATE ARCHITECTURAL, STRUCTURAL, MECHANICAL, AND ELECTRICAL DRAWINGS PRIOR TO COMMENCEMENT OF WORK.
 - SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE, NOTIFY THE ARCHITECT/ENGINEER IMMEDIATELY, IN WRITING PRIOR TO PROCEEDING WITH ANY WORK.
 - ALL WORK SHALL COMPLY OR EXCEED THE REQUIREMENTS OF THE ONTARIO BUILDING CODE, FIRE CODE, PLUMBING CODE, ELECTRICAL CODE, AND LOCAL BY-LAWS.

REVISION RECORD

No.	Description	Date

PROJECT NOTE

PROJECT NUMBER	Project Number
DATE	Issue Date
DRAWN BY	Author
CHECKED BY	Checker
APPROVED BY	Approver

SHEET SIZE ARCH D (24" x 36")	
SHEET NUMBER A-1	REV NO.
SCALE AS NOTED	

PROPRIETARY AND CONFIDENTIAL
THE PLAN AND DESIGN CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF AVANT GROUP INC. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF AVANT GROUP INC. IS PROHIBITED.

CLIENT

--

The Architect noted above has exercised responsible control with respect to design activities. The Architect's Seal Number is the Architect's BCIN.

PROJECT TITLE

1466 ST. PATRICK'S AVE
PROPOSED SEMI-DETACHED
DWELLINGS W/ ADU'S IN
BASEMENT

DRAWING TITLE

Basement

NOTE

- KEY PLAN
- GENERAL NOTES:
- DO NOT SCALE DRAWINGS
 - VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS AS REQUIRED PRIOR TO BIDDING AND COMMENCEMENT OF WORK.
 - COORDINATE ARCHITECTURAL, STRUCTURAL, MECHANICAL, AND ELECTRICAL DRAWINGS PRIOR TO COMMENCEMENT OF WORK.
 - SHOULD ANY CONFLICTS AND/OR DISCREPANCIES ARISE, NOTIFY THE ARCHITECT/ENGINEER IMMEDIATELY, IN WRITING PRIOR TO PROCEEDING WITH ANY WORK.
 - ALL WORK SHALL COMPLY OR EXCEED THE REQUIREMENTS OF THE ONTARIO BUILDING CODE, FIRE CODE, PLUMBING CODE, ELECTRICAL CODE, AND LOCAL BY-LAWS.

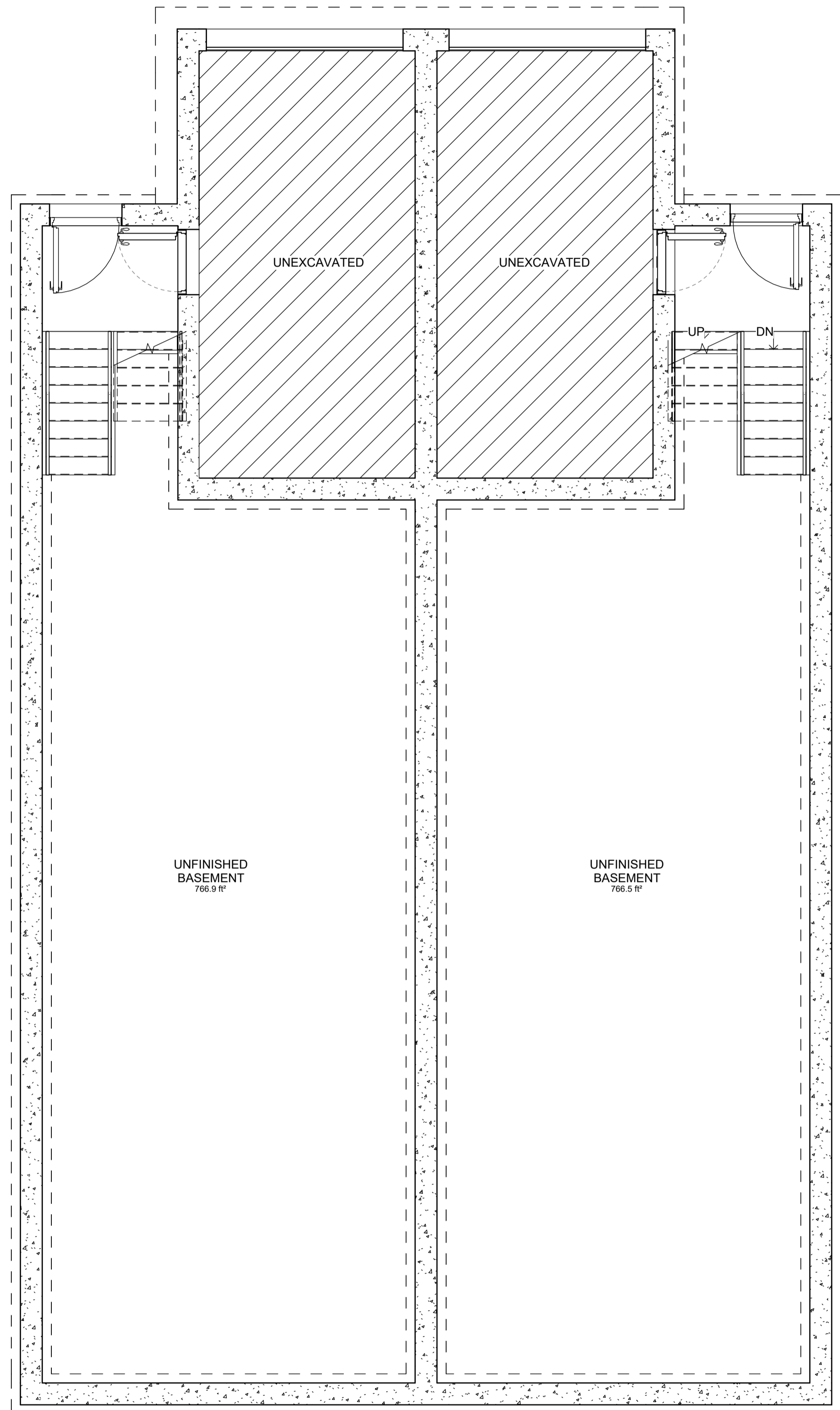
REVISION RECORD

No.	Description	Date

PROJECT NOTE

PROJECT NUMBER	Project Number
DATE	Issue Date
DRAWN BY	Author
CHECKED BY	Checker
APPROVED BY	Approver

SHEET SIZE ARCH D (24" x 36")	
SHEET NUMBER A-2	REV NO.
SCALE AS NOTED	



UNFINISHED
BASEMENT
766.9 SF

UNFINISHED
BASEMENT
766.9 SF

UNEXCAVATED

UNEXCAVATED

UP

DN



LEGEND

- BENEFITING PROPERTIES
- SUBJECT PROPERTIES



THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT
Proposed Sanitary Sewer Extension on St. Patrick's Avenue
South of Tecumseh Road West

[Signature]
 Consolidated City Council Agenda - Tuesday, September 5, 2023
 Kirk Tamm, Manager of Geomatics

SCALE: 1:1750	DATE: JULY 2023	REVISED: _	DWG. NO. C-3743
CHKD BY: PJU / RP	REVISION NO.: _		

From: Bruce Sheardown

Sent: Thursday, August 31, 2023 3:26 PM

To: mayoro <mayoro@citywindsor.ca>; Francis, Fred <ffrancis@citywindsor.ca>; Costante, Fabio <fcostante@citywindsor.ca>; Agostino, Renaldo <ragostino@citywindsor.ca>; McKenzie, Mark <mmckenzie@citywindsor.ca>; Sleiman, Ed <esleiman@citywindsor.ca>; Gignac, Jo-Anne (Councillor) <joagignac@citywindsor.ca>; Marignani, Angelo <amarignani@citywindsor.ca>; Mckenzie, Kieran <kmckenzie@citywindsor.ca>; Morrison, Jim <jmorrison@citywindsor.ca>

Subject: Council Meeting Sep 5, 2023 Item 8.13 Re-zoning 1466/0 St Patrick's Drive, Ward 10

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Evidently, this item has been removed from the Consent Agenda.

I wish to support the decision made by the Development Committee to deny this rezoning request for the reasons stated in the denial motion.

- Negative impact to surrounding neighborhood due to the financial implications of requiring sewer hook ups not initiated by the residents.

Background

A Developer purchased this property containing an existing single family home in a neighborhood of existing family homes. This is a 90 foot lot. The Developer proposed having this lot severed into 2 and building a duplex and 2 ADU on each lot (8 units).

The partial floor plan submitted by the Developer, indicates the possibility of 28 to 36 bedrooms in these units. Target Market per the Developer at the June Meeting is young professionals getting out of their parent's basements. **Think Frat house.** Most of the residents in this block are Seniors.

- Main Floor per layout 2 bedrooms plus Common area
- Second floor - repeat 2 bedrooms at rear, plus bonus room with closet over garage and 1/2 bedrooms over what is the Common Area on the 1st Floor - 4/5 Bedrooms on this level.
- Basement AD - mirrors 1st floor with 2 Bedrooms.

Parking will be an issue - Developer shows parking for 1 car in the 4 garages and surface parking for 1 car in front of the garage. Street permit parking was discussed but discarded since City

regulations allow each residence 2 designated permits and 1 Visitor. So this development get 24 permits (8 residences X 3). There is not that many spots on the the street.

Crime - In discussions with Barry Horwitz of Windsor Police in June, nearby California Ave between College and Tecumseh has the highest call rate in the City for Police. This development is 2 blocks over and is similar to the new construction that has occurred there in the past few years.

Sewer Hook up Costs - the existing residents did not initiate a Local Improvement Petition for the Sewers. The developer originally was going to pay for the sewer extension but this has gone away. To extend the sewer for this block each resident will be required to hook up the sanitary sewers. Costs were estimated by the city for each resident. For a 90 foot lot which most are the cost is 7260.80 for frontage and 4692.56 Sewer Connection fee. This can be added to taxes over 10/20 years but the cost to hook up from the house to the sewer is another cost estimated by the City at 18000 per residence. I did meet with a sewer installer and he confirmed this number would be close. Total over \$30000, so a developer can redevelop an existing house into something that is not like anything else in the neighbourhood.

As an FYI, in the June meeting the Developer said when complete they will further sever each duplex into single family units with an ADU and sell to Investors.

Getting young professionals out of their parent's basements is not solving the housing crisis - it only creates a bunch of empty basements.

We ask for your support to uphold the decision of the Development Committee and deny this rezoning.

I have petitions from over 60 residents in the surrounding area objecting to this intense development in our neighbourhoods.

If anyone wants to meet to review the property or the area feel free to contact me at [REDACTED]

Yours truly

Bruce and Cathy Sheardown

1484 Askin Ave

Windsor, On