

City Council Meeting

**Date:** Monday, January 30, 2023

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

**Location:** Council Chambers, 1<sup>st</sup> 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
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1.	<b>ORDER OF BUSINESS</b>
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2.	<b>CALL TO ORDER</b> - Playing of the National Anthem
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**INDIGENOUS LAND ACKNOWLEDGEMENT STATEMENT**

We [ ] 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 Potawatomie. The City of Windsor honours all First Nations, Inuit and Métis peoples and their valuable past and present contributions to this land.

3.	<b>DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF</b>
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4.	<b>ADOPTION OF THE MINUTES</b>
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5.	<b>NOTICE OF PROCLAMATIONS</b>
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**Proclamations**

“Eating Disorders Awareness Week” – February 1, 2023-February 7, 2023

“World Thinking Day” – February 22, 2023

**Illumination**

“Eating Disorders Awareness Week” – February 1, 2023-February 7, 2023

“World Thinking Day” – February 22, 2023

6.	<b>COMMITTEE OF THE WHOLE</b>
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7.	<b>COMMUNICATIONS INFORMATION PACKAGE</b> (This includes both Correspondence and Communication Reports)
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- 7.2. Response to CQ 11-2022 Regarding the Feasibility of Establishing a By-law that Prohibits Panhandling - City Wide **(C 10/2023)**
- 7.3. Provincial Statute Amendments and “Strong Mayor Powers” - City Wide **(C 11/2023)**
- 7.4. Response to CQ 20-2022: Process for Acquiring Former Abars Property - Ward 6 **(C 12/2023)**  
**Clerk’s Note:** P&C memo provided for Mayor & Council only

8. **CONSENT AGENDA**

- 8.1. Payment Card Industry Compliance Update - City Wide **(C 9/2023)**
- 8.2. Appointment of a Drainage Engineer - Delegation of Authority - City Wide **(C 6/2023)**

CONSENT COMMITTEE REPORTS

- 8.3. Zoning By-law Amendment Application for property known as 1247 -1271 Riverside Dr. E., at the S/W corner of Hall and Riverside Dr. E; Applicant: St. Clair Rhodes Development Corporation; File No. Z-044/21, ZNG/6633; Ward 4.**(SCM 12/2022) & (S 116/2023)**
- 8.4. Zoning Bylaw Amendment –Z 022-22 [ZNG-6787] & OPA 161 [OPA-6788] Passa Assoc 3821 King St - Ward 2 **(SCM 13/2023) & (S 124/2022)**
- 8.5. Request for Heritage Permit – Art Windsor-Essex temporary public artwork, various Sandwich Heritage Conservation District locations (Ward 2) **(SCM 11/2023) & (S 146/2022)**
- 8.6. Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by 731 Goyeau Ltd. and 785 Goyeau Ltd. for property located at 0 and 785 Goyeau Street (Ward 3) **(SCM14/2023) & (S 141/2022)**
- 8.7. Economic Revitalization Community Improvement Plan (CIP) application submitted by DS C&K Inc. for a Manufacturing Facility located at 3475 Wheelton Drive (Ward 9) **(SCM 15/2023) & (S 144/2023)**
- 8.8. Main Street CIP/Ford City CIP Application for 1367 Drouillard Rd. Owner: HEIMAT LTD (C/O Ryan Stiller) – Ward 5 **(SCM 18/2023 & S 148/2022)**
- 8.9. Closure of N/S Alley b/w Melbourne Road & Closed E/W Alley and Part of N/S Alley b/w Melbourne Road & 3605 Matchett Road, Ward 2, SAA-5925 **(SCM 19/2023) & (S 125/2022)**
- 8.10. Closure of north/south alley between Guy Street & 1980 Meldrum Road; east/west alley between north/south alley & Larkin Road, Ward 5, SAA-6689 **(SCM 17/2023) & (S 135/2023)**

- 8.11. Amendment to CR305/2021 for closure of part of n/s alley b/w north limit of 1216 Tourangeau Rd & closed part of said n/s alley; e/w alley west of Rossini Blvd & south of Via Rail corridor; and e/w alley b/w Rossini Blvd & said n/s alley, Ward 9, SAA-6317 **(SCM 20/2023) & (S 137/2023)**
- 8.12. Closure of portion of north/south alley between Seneca Street & Essex Terminal Railway corridor, and all of east/west alley between Lincoln Road & north/south alley, Ward 4, SAA-6740 **(SCM 16/2023) & (S 142/2022)**

9. **REQUEST FOR DEFERRALS, REFERRALS AND/OR WITHDRAWALS**

10. **PRESENTATIONS AND DELEGATIONS**

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

- 11.1. Streamlining Right-of-Way Division Approvals to Enable Rapid Execution of Council's Vision and Incorporating Heritage Features into the Encroachment Policy - City Wide **(C 204/2022)**
- 11.2. Response to CQ 13-2022 – Process to allow Memorial Signs within the right-of-way and the feasibility of allowing the placement of mulch in the right-of-way without a permit - City Wide **(C 205/2022)**
- 11.3. Little River Pollution Control Plant (LRPCP) Bypass Improvements at Pontiac Pumping Station- Schedule C Municipal Class Environmental Assessment- Filing the Notice of Study Completion- CITY WIDE **(C 228/2022)**
- 11.4. Exemption to Noise By-law 6716 for Nighttime Construction Work – Lauzon Parkway from Cantelon Drive to Forest Glade Drive - Ward: **8 (C 1/2023)**

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)**

14. **MOVE BACK INTO FORMAL SESSION**

15. **NOTICES OF MOTION**

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

17. **PETITIONS**

18. **QUESTION PERIOD**

19. **STATEMENTS BY MEMBERS**

20. **UPCOMING MEETINGS**

Community Services Standing Committee  
Wednesday, February 1, 2023  
9:00 a.m.

Development & Heritage Standing Committee  
Monday, February 6, 2023  
4:30 p.m.

21. **ADJOURNMENT**

**Subject: Response to CQ 11-2022 Regarding the Feasibility of Establishing a By-law that Prohibits Panhandling - City Wide**

**Reference:**

Date to Council: January 30, 2023  
Author: Shelby Askin Hager  
City Solicitor/Commissioner, Legal and Real Estate Services  
shager@citywindsor.ca  
519-255-6100 ext 6424  
Legal Services, Real Estate & Risk Management  
Report Date: January 13, 2023  
Clerk's File #: ACL2023

**To:** Mayor and Members of City Council

**Recommendation:**

That Council **RECEIVE** the response to CQ 11-2022 for information.

**Executive Summary:**

n/a

**Background:**

At the Council meeting of July 11 2022, Councillor Francis asked the following question:

CQ 11-2022

**Assigned to Commissioner of Legal and Legislative Services:**

That Administration report back to City Council regarding the feasibility of establishing a by-law that prohibits panhandling in residential, business, and tourism districts within the City of Windsor, including boulevards and pedestrian refuges.

**Discussion:**

**Historical Treatment**

The issue of addressing panhandling activity by way of by-law has been before Council on two prior occasions; those reports are attached for Council's reference and provide a broad legal overview of the regulation of panhandling.

As described in the attached reports, the Courts have found that peaceful and non-obstructive panhandling is considered to be a form of expression, and as such is protected by the *Charter of Rights and Freedoms*. A by-law that acts to limit this right based solely on geographic location would likely not survive a Charter challenge.

Instead, a focus on limitations based on the use of the sidewalk by the person being solicited and the behaviour of the person engaging in solicitation is more in keeping with the balancing of rights under the Charter and is more likely to be successfully upheld if challenged. The primary purpose of sidewalks and roads are the safe and unimpeded movement of travellers on foot or by vehicle. Any desired regulation should therefore be aimed at the manner in which the panhandling is undertaken rather than the act of doing so in the first place.

## **Regulatory Options**

A by-law would supplement and, for the most part, mirror the provisions of the existing Ontario *Safe Streets Act*, 1999, S.O., c. 8. This legislation is very similar to a Vancouver panhandling by-law which withstood judicial scrutiny. The Act balances the right to panhandle peacefully with the rights of others to use the sidewalks and roadways by prohibiting “solicitation in an aggressive manner”— this is defined as “request[ing], in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means...[in] a manner that is likely to cause a reasonable person to be concerned for his or her safety or security”.

Behaviours deemed to be aggressive solicitation under the *Safe Streets Act* include threatening (by word or otherwise), blocking or obstructing the path of someone being solicited, using abusive language, following or otherwise proceeding with the person being solicited, soliciting while intoxicated, and continuing to solicit after being turned down.

The *Safe Streets Act* also prescribes specific locations where solicitation cannot occur:

- automated teller machines;
- pay telephones or a public toilet facilities;
- taxi stand or a public transit stop;
- in or on a public transit vehicle;
- soliciting a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot;
- on a roadway, soliciting a person who is in or on a stopped, standing or parked vehicle.

In addition to the to the above, the Vancouver by-law also addresses sitting or lying in the street in a manner that obstructs or impedes the convenient passage of pedestrian traffic as well as physically approaching and soliciting a pedestrian as a member of a group of three or more persons.

Regulations of this sort – aimed at specifically addressing problematic behaviours without restricting the right to panhandle – are the most viable regulatory options for Council in the event that a by-law is desired. It is noted, however, that these would be largely duplicating existing legislation that is enforced with Windsor Police Services resources rather than City resources. Attempting to expand the scope of the existing legislation by by-law to prohibit all panhandling in specific areas is very unlikely to withstand a legal challenge, given the existing precedent.

**Risk Analysis:**

While there is a risk that a by-law regulating panhandling activities would be challenged, the likelihood of the by-law being successfully upheld is increased by restricting the regulation to the types of matters addressed in the *Safe Streets Act*, representing a balancing of the right to use of the sidewalk with the right to panhandle.

**Climate Change Risks**

**Climate Change Mitigation:**

n/a

**Climate Change Adaptation:**

n/a

**Financial Matters:**

There are no financial implications to the receipt of this report. As noted in prior reports, the extent of the effort needed to address this type of infraction is largely speculative at this point, but will not result in a need for additional staffing resources.

**Consultations:**

None.

**Conclusion:**

Prohibiting panhandling in specific geographic locations within the City by by-law is likely to fail a legal challenge. It is noted, however, that those behaviours concerning solicitation of people in vehicles through any means, including by standing on boulevards and pedestrian refuges, are prohibited under the *Safe Streets Act* and can be actioned immediately by Windsor Police Services.

**Approvals:**

Name	Title
Shelby Askin Hager	City Solicitor/Commissioner, Legal and Legislative Services



Name	Title
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address	Email

**Appendices:**

- 1 Report 17293 – Response to CQ12-2014 – how to pass a by-law to create a no panhandling area in the downtown core
- 2 Report 17393 – Response to M298-2014 – further information on development of a no panhandling by-law

**THE CORPORATION OF THE CITY OF WINDSOR**  
**Office of the City Solicitor - Legal Services Division**



**MISSION STATEMENT:**

*“Our City is built on relationships – between citizens and their government, business and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together.”*

<b>LiveLink REPORT #:</b>	<b>Report Date: May 23, 2014</b>
<b>Author’s Name: Susan Hirota, Legal Counsel</b>	<b>Date to Council: July 21, 2014</b>
<b>Author’s Phone: 519 255-610 ext. 6493</b>	<b>Classification #:</b>
<b>Author’s E-mail: shirota@city.windsor.on.ca</b>	

**To: Mayor and Members of City Council**

**Subject: Response to CQ12-2014 – how to pass a by-law to create a no panhandling area in the downtown core.**

**1. RECOMMENDATION: City Wide: X Ward(s): \_\_\_\_\_**

That this report from Legal Counsel regarding a response to CQ12-2014 **BE RECEIVED** for information.

**EXECUTIVE SUMMARY:**

N/A

**2. BACKGROUND:**

At the April 7, 2014 meeting of Council, Councillor Dilkens asked the following Council Question: CQ12-2014: Asks for Administration to come back with a report on how City Council could pass a by-law creating a “no panhandling” area in the downtown core.

**3. DISCUSSION:**

**Authority**

Council has the authority to pass by-laws respecting the health, safety and well-being of persons<sup>1</sup>; and for the protection of persons and property<sup>2</sup>. Such by-laws may regulate or

<sup>1</sup> *Municipal Act, 2001*, S.O. 2001, c. 25, s. 10(2)(6)

<sup>2</sup> *Municipal Act, 2001*, S.O. 2001, c. 25, s. 10(2)(8)

prohibit respecting a particular matter<sup>3</sup>. Council could pass a by-law prohibiting panhandling in the downtown core but such a by-law would be vulnerable to constitutional challenge<sup>4</sup>.

## **Municipal By-laws**

Municipal by-laws that have been upheld by the courts do not impose an outright ban on panhandling but instead create reasonable limits on panhandling activities.

The British Columbia Supreme Court<sup>5</sup> concluded that Vancouver's by-law did not violate constitutionally protected rights (freedom of expression; life, liberty and security of the person; equal protection and equal benefit of the law without discrimination) because it entrenched upon those rights as minimally as possible by only prohibiting "obstructive" panhandling that was limited to five activities:

- (1) sitting or lying in the street in a manner that obstructs or impedes the convenient passage of pedestrian traffic, in the course of solicitation;
- (2) continuing to solicit or otherwise harass a pedestrian after the person has made a negative initial response to the solicitation or has otherwise indicated a refusal;
- (3) physically approaching and soliciting a pedestrian as a member of a group of three or more persons;
- (4) soliciting within ten meters of an entrance to a bank, credit union, or trust company or automated teller machine; and
- (5) soliciting an occupant of a motor vehicle in a manner that obstructs or impedes the convenient passage of vehicular traffic in the street.

The British Columbia Supreme Court commented that Vancouver's by-law "does not proscribe location nor the act of panhandling [but] rather it proscribes particular conduct that affects the use of the streets by others".

Additionally, the court noted that the prohibition on panhandling within ten meters of an ATM, bank or trust company entrance was "a limited geographic area" and that "the vast majority of sidewalk areas are still available for panhandling".

## **Provincial Legislation**

In Ontario, the *Safe Streets Act*, 1999, S.O., c. 8, strikes a similar balance. Soliciting in an aggressive manner is prohibited. "Aggressive manner" is defined as "a manner that is likely to cause a reasonable person to be concerned for his or her safety or security". "Solicit" means "to request, in person, the immediate provision of money or another

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<sup>3</sup> *Municipal Act, 2001*, S.O. 2001, c. 25, s. 8(3)(a)

<sup>4</sup> *Canadian Charter of Rights and Freedoms*, s. 2(b) Freedom of Expression; s. 7 Life, Liberty and Security of the Person; s. 15 Equal Protection and Equal Benefit of the Law Without Discrimination

<sup>5</sup> *Federated Anti-Poverty Groups of British Columbia v. Vancouver (City)*, 2002CarswellBC 607

thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means”.

The *Safe Street Streets Act* deems the following acts to be soliciting in an aggressive manner:

- (1) threatening the person solicited with physical harm, by word, gesture or other means, during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (2) obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (3) using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (4) proceeding behind, alongside or ahead of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (5) soliciting while intoxicated by alcohol or drugs; and
- (6) continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation.

In addition, the *Safe Streets Act* prohibits solicitation at certain locations:

- (1) soliciting a person who is using, waiting to use, or departing from an automated teller machine;
- (2) soliciting a person who is using or waiting to use a pay telephone or a public toilet facility;
- (3) soliciting a person who is waiting at a taxi stand or a public transit stop;
- (4) soliciting a person who is in or on a public transit vehicle;
- (5) soliciting a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot; or
- (6) while on a roadway, soliciting a person who is in or on a stopped, standing or parked vehicle.

Under the *Safe Streets Act*, police officers are authorized to arrest contraveners if, before the alleged contravention, the police officer directed the contravener not to engage in the activity or if the arrest is necessary to prevent the person from continuing or repeating the contravention.

Persons who are convicted under the *Act* are liable to a maximum fine of five hundred dollars on a first offence, and one thousand dollars and/or imprisonment of not more than six months on subsequent convictions.

## **Windsor Police Service Initiative**

The Windsor Police Service, in concert with the Community Outreach And Support Team (COAST), is developing a program that will seek to address some of the social factors related to panhandling in the downtown core.

The plan is to have police officers who are assigned to the downtown core regularly engage those individuals who are panhandling. The officers will attempt to gain insight into the reasons why these individuals are panhandling. COAST members will assist these individuals to put social support mechanisms in place to minimize the panhandling activity.

### **4. RISK ANALYSIS:**

Passing a by-law that outright bans panhandling in the downtown core is vulnerable to constitutional challenge. A by-law similar to Vancouver's is likely to be upheld by the courts as a reasonable limit on constitutionally protected rights.

In addition, or alternatively, resort can be had to the *Safe Streets Act* which prohibits the most aggressive and egregious types of panhandling. A *Charter* challenge to the *Safe Streets Act* was unsuccessful<sup>6</sup>.

The current complement of one Prosecutor, twelve By-law Enforcement Officers and one By-law Clerk will not be increased. The enforcement and prosecution of offences under a new panhandling by-law will be in addition to increasing workloads and will result in other matters (e.g. 311 complaints) being displaced as prioritization occurs.

### **5. FINANCIAL MATTERS:**

If a panhandling by-law is passed, it would be enforced by the Corporation's By-law Enforcement Officers and the Windsor Police Service and prosecuted by the Office of the City Solicitor.

It is difficult to estimate the financial impact of a new panhandling by-law as it is unknown how many charges would be laid. It is also difficult to predict how many hours the Corporation's employees would spend on enforcement and prosecution activities.

The Manager of By-law Enforcement estimates that enforcement time could be in the area of eight hours per charge based upon a first attendance to issue a warning and educate the panhandler on the by-law, a second attendance to investigate and document the offence and issue a ticket, and a third attendance in court if the matter proceeds to trial. The estimated staff cost of a By-Law Enforcement Officer from an initial warning to issuing a ticket and going to Court is currently \$332.34 per incident.

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<sup>6</sup> *R. v. Banks*, 2007 CarswellOnt 5670 (Supreme Court of Canada)

Estimating the amount of prosecution time involved is more difficult because it is greatly influenced by whether the person pleads guilty or requests a trial. If the person pleads guilty, the prosecution time could be as little as an hour or less. If the person requests a trial, the prosecution time could increase to eight hours or more for: reviewing the charge; processing disclosure; serving Evidence Act notices; ordering certified copies of trial documents; preparing witnesses; trial preparation; and time waiting in court for the matter to be reached on the court docket.

Given the financial circumstances of the panhandlers, it is unlikely that any fines imposed could be collected but additional costs would be incurred for collection activities undertaken on outstanding fines.

## **6. CONSULTATIONS:**

Inspector Geoff Dunmore, Windsor Police Service/Patrol Response  
Chantelle Anson, Financial Planning Administrator (Legal and Fire & Rescue)  
Ann Kalinowski, Manager of By-law Enforcement

## **7. CONCLUSION:**

A by-law that prohibits all panhandling in the downtown core is vulnerable to constitutional challenge. If Council wishes to pass a by-law to supplement the *Safe Streets Act* it is advisable to prohibit specific activities that impede or obstruct the movement of pedestrians and traffic or create other safety concerns.

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**Susan Hirota**  
**Legal Counsel**

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**Shelby Askin Hager**  
**City Solicitor**

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**Lee Anne Doyle**  
**Executive Director of Building/Chief**  
**Building Official**

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**Helga Reidel**  
**Chief Administrative Officer**

<b>APPENDICES:</b>
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n/a
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<b>DEPARTMENTS/OTHERS CONSULTED:</b>
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<b>Name:</b>
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<b>Phone #: 519</b> <b>ext.</b>
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<b>NOTIFICATION :</b>				
Name	Address	Email Address	Telephone	FAX
Marion Overholt Legal Assistance of Windsor	85 Pitt Street East Windsor, ON N9A 2V3	<a href="mailto:OverholM@lao.on.ca">OverholM@lao.on.ca</a>	519-256-7831 Ext. 214	519-256-1387

**THE CORPORATION OF THE CITY OF WINDSOR**  
**Office of the City Solicitor - Legal Services Division**



**MISSION STATEMENT:**

*"Our City is built on relationships – between citizens and their government, business and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together."*

<b>LiveLink REPORT #:</b>	<b>Report Date: August 1, 2014</b>
<b>Author's Name: Susan Hirota, Legal Counsel</b>	<b>Date to Council: January 5, 2015</b>
<b>Author's Phone: 519 255-610 ext. 6493</b>	<b>Classification #:</b>
<b>Author's E-mail: shirota@city.windsor.on.ca</b>	

**To: Mayor and Members of City Council**

**Subject: Response to M298-2014 – further information on development of a no panhandling by-law.**

**1. RECOMMENDATION: City Wide: X Ward(s): \_\_\_\_\_**

That this report from Legal Counsel regarding a response to M298-2014 **BE RECEIVED** for information.

**EXECUTIVE SUMMARY:**

N/A

**2. BACKGROUND:**

At the July 21, 2014 meeting of Council, a report (Livelink #17283 attached as Appendix A) in response to CQ12-2014 (how to pass a by-law to create a no panhandling area in the downtown core) was received and referred back to Administration for further information on the development of a no panhandling by-law including research on time of day restrictions and restrictions to other areas of the City.

**3. DISCUSSION:**

Time Of Day Restrictions

An attempt to limit panhandling to certain hours of the day is vulnerable to *Charter* challenge.



The courts have recognized that panhandling has expressive value that is protected under the *Charter* unless it is obstructive or inconsistent with the function of the place (i.e. interferes with the safe and efficient movement of pedestrians on the sidewalk).

Non-obstructive panhandling is protected expression and a by-law setting reasonable limits on panhandling will be upheld if the panhandler is able to move to an alternate location (i.e. away from an ATM machine) or change the mode of panhandling so that it does not interfere in an obstructive manner with the dominant purpose of the sidewalk.

In one case, the British Columbia Supreme Court commented that Vancouver's City Manager recognized that a previous City of Vancouver by-law that set geographic and timing restrictions on panhandling "simply went too far in terms of restricting panhandling".<sup>1</sup>

The court went on to comment "[t]he panhandler is no different from the tourist who stops another person to ask for information. Neither person is restricted; neither person impedes street movement."

The court also noted that "apart from the spatial restriction in reference to ATM and financial institution locations, there are no other geographic or time restrictions placed upon those who would panhandle. In those locations, I find there is a reasonable inference that panhandling would cause interference with the dominant purpose of the streets. Thus, it [the by-law] does not proscribe location nor the act of panhandling. Rather, it proscribes particular conduct that affects the use of the streets by others."

A by-law that restricts panhandling to certain hours of the day (and thereby prohibits panhandling during the remaining hours of the day) will not be viewed as a reasonable limit on panhandling activities.

#### Restrictions To Other Areas Of The City

The reasons for passing a panhandling by-law (safe and efficient passage of pedestrians on sidewalks, prohibition of panhandling within ten meters of a financial institution) have equal application to all areas of the City and not just the downtown core. Any proposed panhandling by-law should be made applicable to the entire City.

#### **4. RISK ANALYSIS:**

A by-law that places time restrictions on panhandling is unlikely to survive a *Charter* challenge.

#### **5. FINANCIAL MATTERS:**

N/A

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<sup>1</sup> *Federated Anti-Poverty Groups of British Columbia v. Vancouver (City)*, 2002 CarswellBC 607 (S.C.)

**6. CONSULTATIONS:**

N/A

**7. CONCLUSION:**

A panhandling by-law should attempt to balance the interests of all who use the streets and sidewalks. The courts have recognized that non-obstructive panhandling has expressive value protected by the *Charter*. Time restrictions on panhandling are unlikely to survive a *Charter* challenge.

A panhandling by-law should have equal application to all areas of the City and not just the downtown core.

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**Susan Hirota**  
**Legal Counsel**

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**Shelby Askin Hager**  
**City Solicitor**

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**Helga Reidel**  
**Chief Administrative Officer**

**APPENDICES: - Appendix A - Livelink Report 17283**

**DEPARTMENTS/OTHERS CONSULTED:**

**Name:**

**Phone #: 519            ext.**

**NOTIFICATION :**

Name	Address	Email Address	Telephone	FAX

AB2014

CITY OF WINDSOR  
COUNCIL SERVICES

JUL 09 2014

Item No.

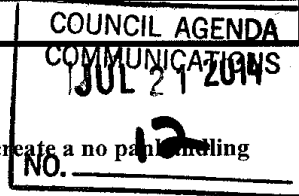
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LiveLink REPORT #: 17283	Report Date: May 23, 2014
Author's Name: Susan Hirota, Legal Counsel	Date to Council: July 21, 2014
Author's Phone: 519 255-610 ext. 6493	Classification #:
Author's E-mail: shirota@city.windsor.on.ca	



To: Mayor and Members of City Council

Subject: Response to CQ12-2014 – how to pass a by-law to create a no panhandling area in the downtown core.

1. **RECOMMENDATION:** City Wide:  X  Ward(s): \_\_\_\_\_

That this report from Legal Counsel regarding a response to CQ12-2014 BE RECEIVED for information.

**EXECUTIVE SUMMARY:**

N/A

2. **BACKGROUND:**

At the April 7, 2014 meeting of Council, Councillor Dilkens asked the following Council Question: CQ12-2014: Asks for Administration to come back with a report on how City Council could pass a by-law creating a “no panhandling” area in the downtown core.

3. **DISCUSSION:**

**Authority**

Council has the authority to pass by-laws respecting the health, safety and well-being of persons<sup>1</sup>; and for the protection of persons and property<sup>2</sup>. Such by-laws may regulate or

<sup>1</sup> Municipal Act, 2001, S.O. 2001, c. 25, s. 10(2)(6)

<sup>2</sup> Municipal Act, 2001, S.O. 2001, c. 25, s. 10(2)(8)

prohibit respecting a particular matter<sup>3</sup>. Council could pass a by-law prohibiting panhandling in the downtown core but such a by-law would be vulnerable to constitutional challenge<sup>4</sup>.

### **Municipal By-laws**

Municipal by-laws that have been upheld by the courts do not impose an outright ban on panhandling but instead create reasonable limits on panhandling activities.

The British Columbia Supreme Court<sup>5</sup> concluded that Vancouver's by-law did not violate constitutionally protected rights (freedom of expression; life, liberty and security of the person; equal protection and equal benefit of the law without discrimination) because it entrenched upon those rights as minimally as possible by only prohibiting "obstructive" panhandling that was limited to five activities:

- (1) sitting or lying in the street in a manner that obstructs or impedes the convenient passage of pedestrian traffic, in the course of solicitation;
- (2) continuing to solicit or otherwise harass a pedestrian after the person has made a negative initial response to the solicitation or has otherwise indicated a refusal;
- (3) physically approaching and soliciting a pedestrian as a member of a group of three or more persons;
- (4) soliciting within ten meters of an entrance to a bank, credit union, or trust company or automated teller machine; and
- (5) soliciting an occupant of a motor vehicle in a manner that obstructs or impedes the convenient passage of vehicular traffic in the street.

The British Columbia Supreme Court commented that Vancouver's by-law "does not proscribe location nor the act of panhandling [but] rather it proscribes particular conduct that affects the use of the streets by others".

Additionally, the court noted that the prohibition on panhandling within ten meters of an ATM, bank or trust company entrance was "a limited geographic area" and that "the vast majority of sidewalk areas are still available for panhandling".

### **Provincial Legislation**

In Ontario, the *Safe Streets Act*, 1999, S.O., c. 8, strikes a similar balance. Soliciting in an aggressive manner is prohibited. "Aggressive manner" is defined as "a manner that is likely to cause a reasonable person to be concerned for his or her safety or security". "Solicit" means "to request, in person, the immediate provision of money or another

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<sup>3</sup> *Municipal Act, 2001*, S.O. 2001, c. 25, s. 8(3)(a)

<sup>4</sup> *Canadian Charter of Rights and Freedoms*, s. 2(b) Freedom of Expression; s. 7 Life, Liberty and Security of the Person; s. 15 Equal Protection and Equal Benefit of the Law Without Discrimination

<sup>5</sup> *Federated Anti-Poverty Groups of British Columbia v. Vancouver (City)*, 2002 CarswellBC 607

thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means”.

The *Safe Street Streets Act* deems the following acts to be soliciting in an aggressive manner:

- (1) threatening the person solicited with physical harm, by word, gesture or other means, during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (2) obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (3) using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (4) proceeding behind, alongside or ahead of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation;
- (5) soliciting while intoxicated by alcohol or drugs; and
- (6) continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation.

In addition, the *Safe Streets Act* prohibits solicitation at certain locations:

- (1) soliciting a person who is using, waiting to use, or departing from an automated teller machine;
- (2) soliciting a person who is using or waiting to use a pay telephone or a public toilet facility;
- (3) soliciting a person who is waiting at a taxi stand or a public transit stop;
- (4) soliciting a person who is in or on a public transit vehicle;
- (5) soliciting a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot; or
- (6) while on a roadway, soliciting a person who is in or on a stopped, standing or parked vehicle.

Under the *Safe Streets Act*, police officers are authorized to arrest contraveners if, before the alleged contravention, the police officer directed the contravener not to engage in the activity or if the arrest is necessary to prevent the person from continuing or repeating the contravention.

Persons who are convicted under the *Act* are liable to a maximum fine of five hundred dollars on a first offence, and one thousand dollars and/or imprisonment of not more than six months on subsequent convictions.

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### **Windsor Police Service Initiative**

The Windsor Police Service, in concert with the Community Outreach And Support Team (COAST), is developing a program that will seek to address some of the social factors related to panhandling in the downtown core.

The plan is to have police officers who are assigned to the downtown core regularly engage those individuals who are panhandling. The officers will attempt to gain insight into the reasons why these individuals are panhandling. COAST members will assist these individuals to put social support mechanisms in place to minimize the panhandling activity.

#### **4. RISK ANALYSIS:**

Passing a by-law that outright bans panhandling in the downtown core is vulnerable to constitutional challenge. A by-law similar to Vancouver's is likely to be upheld by the courts as a reasonable limit on constitutionally protected rights.

In addition, or alternatively, resort can be had to the *Safe Streets Act* which prohibits the most aggressive and egregious types of panhandling. A *Charter* challenge to the *Safe Streets Act* was unsuccessful<sup>6</sup>.

The current complement of one Prosecutor, twelve By-law Enforcement Officers and one By-law Clerk will not be increased. The enforcement and prosecution of offences under a new panhandling by-law will be in addition to increasing workloads and will result in other matters (e.g. 311 complaints) being displaced as prioritization occurs.

#### **5. FINANCIAL MATTERS:**

If a panhandling by-law is passed, it would be enforced by the Corporation's By-law Enforcement Officers and the Windsor Police Service and prosecuted by the Office of the City Solicitor.

It is difficult to estimate the financial impact of a new panhandling by-law as it is unknown how many charges would be laid. It is also difficult to predict how many hours the Corporation's employees would spend on enforcement and prosecution activities.

The Manager of By-law Enforcement estimates that enforcement time could be in the area of eight hours per charge based upon a first attendance to issue a warning and educate the panhandler on the by-law, a second attendance to investigate and document the offence and issue a ticket, and a third attendance in court if the matter proceeds to trial. The estimated staff cost of a By-Law Enforcement Officer from an initial warning to issuing a ticket and going to Court is currently \$332.34 per incident.

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<sup>6</sup> *R. v. Banks*, 2007 CarswellOnt 5670 (Supreme Court of Canada)

Estimating the amount of prosecution time involved is more difficult because it is greatly influenced by whether the person pleads guilty or requests a trial. If the person pleads guilty, the prosecution time could be as little as an hour or less. If the person requests a trial, the prosecution time could increase to eight hours or more for: reviewing the charge; processing disclosure; serving Evidence Act notices; ordering certified copies of trial documents; preparing witnesses; trial preparation; and time waiting in court for the matter to be reached on the court docket.


Given the financial circumstances of the panhandlers, it is unlikely that any fines imposed could be collected but additional costs would be incurred for collection activities undertaken on outstanding fines.

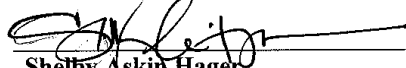
**6. CONSULTATIONS:**

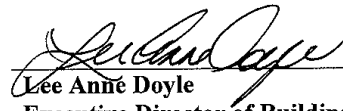
Inspector Geoff Dunmore, Windsor Police Service/Patrol Response  
Chantelle Anson, Financial Planning Administrator (Legal and Fire & Rescue)  
Ann Kalinowski, Manager of By-law Enforcement

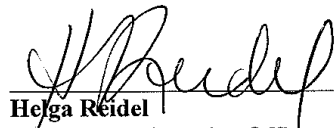
**7. CONCLUSION:**

A by-law that prohibits all panhandling in the downtown core is vulnerable to constitutional challenge. If Council wishes to pass a by-law to supplement the *Safe Streets Act* it is advisable to prohibit specific activities that impede or obstruct the movement of pedestrians and traffic or create other safety concerns.

  
\_\_\_\_\_  
**Susan Hirota**  
Legal Counsel

  
\_\_\_\_\_  
**Shelby Askin Hager**  
City Solicitor

  
\_\_\_\_\_  
**Lee Anne Doyle**  
Executive Director of Building/Chief  
Building Official

  
\_\_\_\_\_  
**Helga Reidel**  
Chief Administrative Officer

**APPENDICES:**  
n/a

**DEPARTMENTS/OTHERS CONSULTED:**  
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Colleen Higgins

chiggins3@  
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**Subject: Provincial Statute Amendments and “Strong Mayor Powers” - City Wide**

**Reference:**

Date to Council: January 30, 2023  
Author: Shelby Askin Hager  
Commissioner, Legal and Legislative Services  
519-255-6100 ext 6424  
shager@citywindsor.ca  
Legal Services, Real Estate & Risk Management  
Report Date: January 16, 2023  
Clerk’s File #: GM2023

**To:** Mayor and Members of City Council

**Recommendation:**

That Council **RECEIVE** this report as requested by CR 430/2022 for information.

**Executive Summary:**

n/a

**Background:**

On 10 August 2022, the Ontario Government, through the Minister of Municipal Affairs and Housing, introduced Bill 3, being *An Act to Amend Various Statutes With Respect to Special Powers and Duties of Heads of Council*. The Act received Royal Assent and was proclaimed on 23 November 2022. In addition to Bill 3, the Ontario Government also introduced Bill 39, being the *Better Municipal Governance Act*. This Act received Royal Assent and was proclaimed on 8 December 2022. Both these Acts contain authorities commonly referred to as “strong mayor powers.”

By CR 430/2022, Council directed Administration to provide a report on Bill 3. However, given the relationship to the powers contained in Bill 39, this report addresses the implications of the “strong mayor powers” contained in both new Acts.

Information on the broad impacts of the changes and pressures brought by other bills introduced during this period, such as Bills 109 and 23, will be brought forward in later reports.

## **Discussion:**

Over the last half of 2022, several significant pieces of legislation affecting municipalities were rapidly introduced and passed, in most cases with limited to no consultation. Many of these changes were centred on tools intended to support increased housing supply in Ontario through amendments made to various different statutes. Companion reports will be brought forward addressing the broad impacts of the changes and pressures brought by Bills 109 and 23, but this report centres on the specific question of the “strong mayor powers”.

### **1. What are “strong mayor powers”?**

Simply put, strong mayor powers allow the Head of Council – the Mayor – to have a stronger voice in Council decision-making. Traditionally, Ontario municipalities have functioned under a “weak mayor” system, meaning that despite being the Head of Council elected by all voters in a municipality, a mayor’s vote carried equal weight to that of each councillor. The introduction of strong mayor powers with the stated goal of advancing provincial priorities changes this dynamic.

### **2. What does Bill 3 do?**

Bill 3 is a wide-ranging Act that amends several sections of the *Municipal Act* (as well as the *City of Toronto Act*). Bill 3 introduces new powers to the Head of Council which were previously required to be exercised by the whole of Council or by administration, discussed below.

#### ***a) Direction to staff***

The Head of Council is empowered to direct City staff, in writing, to undertake research, provide advice, as well as to implement any decisions made by the Head of Council.

#### ***b) Staffing and employment matters***

The Head of Council is empowered to determine the organisational structure of the municipality and is given the power to hire, fire, or exercise any other employment-related power with respect to department or division heads of any part of the organizational structure. This power does not extend to any statutory officer, including the Clerk or Deputy Clerk, Treasurer or Deputy Treasurer, Integrity Commissioner, Auditor General, Chief Building Official, Fire Chief, or anyone else required to be appointed by statute.

#### ***c) Local boards and committees***

The Head of Council is empowered to appoint the Chairs and Vice-Chairs of local boards and is also empowered to establish or dissolve committees, determine their functions, and appoint committee chairs and vice-chairs. The appointment of the remainder of the members would be in accordance with the existing established practice in the municipality

#### **d) Budget**

The Head of Council is responsible to bring forward a proposed annual budget, which may be approved or amended by Council. Greater clarity regarding the parameters for this process may eventually be provided by regulation.

#### **e) Veto powers**

The Province intends to establish “prescribed provincial priorities” by regulation. In the event that the Head of Council is of the opinion that a by-law being passed under the *Municipal Act* or the *Planning Act* (or any other prescribed legislation) could potentially interfere with such a priority, he or she may give notice of an intent to consider vetoing that by-law within prescribed time periods.

The veto itself is exercised through the provision of a written veto document to the Clerk on the day of the veto, which must include the reasons for the veto. The Clerk shall provide the veto document to the members of Council, who may override the veto with a two-thirds majority vote. The legislation notes that the Head of Council is included in this vote, meaning eight votes in favour of overriding the veto would be required if this power was extended to the City of Windsor. The legislation also provides that whether or not a veto was reasonable is not subject to review by a Court.

### **3. What does Bill 39 do?**

Bill 39 is a more focused amendment to the *Municipal Act*. It specifically addresses the introduction of by-laws by the Head of Council to advance provincial priorities and establishes the support required to pass them. It gives the Head of Council the power to introduce any by-law advancing provincial priorities, which can be passed with the support of one-third of the Council (four votes, in Windsor’s case).

Bill 39 also affects the ability of three upper-tier regional governments to select their heads of council, although this is not relevant to Windsor.

### **4. What is the impact on Windsor?**

While the more focused powers granted by Bill 39 can currently be exercised in the City of Windsor, the powers granted by Bill 3 are currently only applicable to Ottawa and Toronto. Additional regulations would be required to extend these powers to Windsor. There is no date indicated as to if or when these powers would be extended.

**Risk Analysis:**

There are no risks associated with the receipt of this report.

**Climate Change Risks**

**Climate Change Mitigation:**

n/a

**Climate Change Adaptation:**

n/a

**Financial Matters:**

There are no financial implications with respect to the receipt of this report.

**Consultations:**

Mitchell Witteveen, Student-at-law

**Conclusion:**

This report summarises the impacts of Bills 3 and 39 on municipalities generally and on the City of Windsor as a whole.

**Approvals:**

Name	Title
Shelby Askin Hager	City Solicitor/Commissioner, Legal and Legislative Services
Steve Vlachodimos	City Clerk
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address	Email

**Appendices:**

1 Bill 3 - an Act to amend various statutes with respect to special powers and duties of heads of council

2 Bill 39 - an Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001 and to enact the Duffins Rouge Agricultural Preserve Repeal Act, 2022

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO  
71 ELIZABETH II, 2022

## Bill 3

*(Chapter 18 of the Statutes of Ontario, 2022)*

### **An Act to amend various statutes with respect to special powers and duties of heads of council**

**The Hon. S. Clark**

Minister of Municipal Affairs and Housing

1st Reading	August 10, 2022
2nd Reading	August 18, 2022
3rd Reading	September 8, 2022
Royal Assent	September 8, 2022



## EXPLANATORY NOTE

### **SCHEDULE 1 CITY OF TORONTO ACT, 2006**

The Schedule amends the *City of Toronto Act, 2006* by adding a new Part V1.1 which sets out the special powers and duties of the head of council. The following powers and duties are assigned to the head of council under this Part:

1. Powers respecting the chief administrative officer, as described in section 226.3.
2. Powers respecting the organizational structure of the City and employment matters, as described in section 226.4.
3. Powers respecting local boards, as described in section 226.5.
4. Powers respecting committees, as described in section 226.6.
5. Powers respecting meetings, as described in section 226.8.
6. Veto powers, as described in section 226.9.
7. Duties and powers respecting budgets, as described in section 226.14.

The new Part contains various other related provisions, including rules respecting delegation, immunity and transition. Authority is provided to the Lieutenant Governor in Council to prescribe provincial priorities and to the Minister to make other regulations.

### **SCHEDULE 2 MUNICIPAL ACT, 2001**

The Schedule amends the *Municipal Act, 2001* by adding a new Part V1.1 which sets out the special powers and duties of the head of council in designated municipalities. In those designated municipalities, the following powers and duties are assigned to the head of council:

1. Powers respecting the chief administrative officer, as described in section 284.5.
2. Powers respecting the organizational structure of the municipality and employment matters, as described in section 284.6.
3. Powers respecting local boards, as described in section 284.7.
4. Powers respecting committees, as described in section 284.8.
5. Powers respecting meetings, as described in section 284.10.
6. Veto powers, as described in section 284.11.
7. Duties and powers respecting budgets, as described in section 284.16.

The new Part contains various other related provisions, including rules respecting delegation, immunity and transition. Authority is provided to the Lieutenant Governor in Council to prescribe provincial priorities and to the Minister to make other regulations.

### **SCHEDULE 3 MUNICIPAL CONFLICT OF INTEREST ACT**

The Schedule amends the *Municipal Conflict of Interest Act*. New section 5.3 sets out the duties of the head of council when they have a pecuniary interest in a matter and a power or duty under Part VI.1 of the *City of Toronto Act, 2006* or Part VI.1 of the *Municipal Act, 2001* respecting that matter. Various other consequential amendments are made.

**An Act to amend various statutes with respect to special powers and duties of heads of council**

**CONTENTS**

1.	Contents of this Act
2.	Commencement
3.	Short title
Schedule 1	City of Toronto Act, 2006
Schedule 2	Municipal Act, 2001
Schedule 3	Municipal Conflict of Interest Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**Contents of this Act**

**1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.**

**Commencement**

**2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.**

**(2) The Schedules to this Act come into force as provided in each Schedule.**

**(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.**

**Short title**

**3 The short title of this Act is the *Strong Mayors, Building Homes Act, 2022*.**

**SCHEDULE 1  
CITY OF TORONTO ACT, 2006**

**1 Section 140 of the *City of Toronto Act, 2006* is repealed.**

**2 The Act is amended by adding the following Part:**

**PART VI.1  
SPECIAL POWERS AND DUTIES OF THE HEAD OF COUNCIL**

**Directions to city employees**

**226.1** For the purposes of exercising powers or performing duties under this Part, the head of council may, in writing, exercise the powers of the City to direct city employees to,

- (a) undertake research and provide advice to the head of council and city council on policies and programs of the City or of the head of council as they relate to the powers and duties under this Part; and
- (b) carry out duties related to the exercise of the power or performance of the duty, including implementing any decisions made by the head of council under this Part.

**In writing**

**226.2** (1) If the head of council exercises a power or performs a duty under this Part, the head of council shall do so in writing and in accordance with the regulations, if any.

**Making information available**

(2) The head of council shall, in accordance with the regulations, make any prescribed information and documents available to the public and to any other prescribed persons or classes of persons.

**Powers re chief administrative officer**

**226.3** The head of council may appoint a chief administrative officer who shall be responsible for,

- (a) exercising general control and management of the affairs of the City for the purpose of ensuring the efficient and effective operation of the City; and
- (b) performing such other duties as are assigned by the head of council.

**Powers re organizational structure**

**226.4** (1) Subject to subsection (3), the powers of the City with respect to determining the organizational structure of the City are assigned to the head of council.

**Employment matters**

(2) Subject to subsection (3) and the regulations, subsection (1) includes the power to hire, dismiss or exercise any other prescribed employment powers with respect to the head of any division or the head of any other part of the organizational structure.

**Limitation**

(3) The powers assigned under subsection (1) do not include the power to hire, dismiss or exercise any other prescribed employment powers with respect to any of the following persons:

1. The clerk or deputy clerk.
2. A treasurer or deputy treasurer.
3. An Integrity Commissioner.
4. An Ombudsman.
5. An Auditor General.
6. A registrar, as described in section 168.
7. A chief building official, as defined in the *Building Code Act, 1992*.
8. A chief of police, as defined in the *Police Services Act*.
9. A fire chief, as defined in the *Fire Protection and Prevention Act, 1997*.
10. A medical officer of health, as defined in the *Health Protection and Promotion Act*.
11. Other officers or heads of divisions required to be appointed under this or any other Act.
12. Any other prescribed persons.



**Transition**

(4) Any organizational structure in place in the City immediately before the day section 2 of Schedule 1 to the *Strong Mayors, Building Homes Act, 2022* came into force shall continue unless the organizational structure is changed by the head of council under subsection (1) of this section.

**Same**

(5) The head of any division or of any other part of the organizational structure who held that position immediately before the day section 2 of Schedule 1 to the *Strong Mayors, Building Homes Act, 2022* came into force shall continue in that position unless they are dismissed by the head of council under subsection (2) of this section.

**Same**

(6) The head of council may exercise a power under subsection (2) with respect to a person regardless of when that person started their employment.

**Powers re local boards**

**226.5** The power of the City to appoint the chairs and vice-chairs of local boards is assigned to the head of council for any prescribed local board, or local board within a prescribed class of local boards.

**Powers re committees**

**226.6** Subject to the regulations, if any, the following powers of the City with respect to prescribed committees, or committees within a prescribed class of committees, are assigned to the head of council:

1. The power to establish or dissolve committees.
2. The power to appoint the chairs and vice-chairs of committees.
3. The power to assign functions to committees.

**Provincial priorities**

**226.7** (1) The Lieutenant Governor in Council may, by regulation, prescribe provincial priorities for the purposes of sections 226.8 and 226.9.

**Same**

(2) For greater certainty, sections 226.8 and 226.9 only apply if the Lieutenant Governor in Council prescribes provincial priorities.

**Powers re meetings**

**226.8** (1) Despite any procedure by-law passed by the City under subsection 189 (2), if the head of council is of the opinion that considering a particular matter could potentially advance a prescribed provincial priority, the head of council may require city council to consider the matter at a meeting.

**Interpretation**

(2) In this section,

“meeting” has the same meaning as in subsection 189 (1).

**Veto powers****Application**

**226.9** (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

**By-law for consideration**

(2) Despite any procedure by-law passed by the City under subsection 189 (2) and subject to subsection (3) of this section, if the head of council is of the opinion that all or part of a by-law that is subject to this section could potentially interfere with a prescribed provincial priority, the head of council may provide written notice to city council of the intent to consider vetoing the by-law.

**Same, timing**

(3) If the head of council intends to consider vetoing the by-law, the head of council shall provide the written notice described in subsection (2) on or before the earlier of two days after the day city council voted in favour of the by-law or the prescribed deadline, if any.

**By-law commencement**

- (4) Despite any other Act, a by-law that is subject to this section shall be deemed not to have been passed by city council until,
- (a) if notice has not been given under subsection (3), the earlier of,
    - (i) the day written approval of the by-law is given by the head of council to the City, and
    - (ii) two days after the day city council voted in favour of the by-law or the prescribed deadline, as the case may be; or
  - (b) if notice has been given under subsection (3), the earlier of,
    - (i) the day written approval of the by-law is given by the head of council to the City, and
    - (ii) 14 days, or such other prescribed time period, after the day city council voted in favour of the by-law.

**Veto powers**

(5) Subject to subsection (6), if the head of council is of the opinion that all or part of the by-law could potentially interfere with a prescribed provincial priority, the head of council may veto the by-law by providing to the clerk, on the day of the veto, a written veto document that includes the veto and the reasons for the veto.

**Same, timing**

(6) The head of council shall not veto a by-law after giving approval under subclause (4) (b) (i) or after the expiry of the time period described in subclause (4) (b) (ii), as the case may be.

**Duties of clerk**

- (7) If the head of council vetoes a by-law the clerk shall,
- (a) by the next business day after the clerk receives the written veto document under subsection (5), provide each member of city council, other than the head of council, a copy of the written veto document; and
  - (b) make the written veto document available to the public in accordance with the regulations, if any.

**Effect of veto**

(8) If the head of council vetoes a by-law, clause (4) (b) does not apply and the by-law shall be deemed not to have been passed by city council.

**Override of veto**

(9) Within 21 days, or such other prescribed time period, after the day the clerk provides the written veto document to the members of city council under clause (7) (a), city council may override the head of council's veto if two-thirds of the members of council vote to override the veto.

**Head of council may vote**

(10) For greater certainty, the head of council may vote as a member of city council in a vote to override a veto.

**Effect of override**

(11) If city council overrides the veto, subsection (8) does not apply and the by law shall be deemed to have passed on the day city council votes to override the veto.

**No notice**

(12) The head of council shall not give notice under subsection (3) after giving approval under subclause (4) (a) (i).

**Vacancy, head of council**

**226.10** (1) Despite section 208, if a vacancy occurs in the office of head of council, the City shall, subject to subsection (3) and in accordance with the regulations, if any, require a by-election to be held, in accordance with the *Municipal Elections Act, 1996*, to fill the vacancy.

**Rules applying to filling vacancies**

(2) Subject to subsection (3) and the regulations, if any, the following rules apply to filling vacancies in the office of head of council:

1. Within 60 days after the day a declaration of vacancy is made under section 207 with respect to the vacancy, the City shall pass a by-law requiring a by-election to be held to fill the vacancy.
2. Despite paragraph 1, if a court declares the office of head of council to be vacant, the City shall act under subsection (1) within 60 days after the court makes its declaration.
3. Despite subsection (1), if a vacancy occurs within 90 days before voting day of a regular election, the City is not required to fill the vacancy.

### **Vacancy after March 31 in the year of a regular election**

(3) Subject to the regulations, if any, if a vacancy in the office of head of council occurs after March 31 in the year of a regular election,

- (a) within 60 days after the day a declaration of vacancy is made under section 207 with respect to the vacancy, the City shall fill the vacancy by appointing a person who has consented to accept the office if appointed; and
- (b) for the remainder of the term of the head of council appointed under clause (a),
  - (i) the head of council appointed under clause (a) shall not exercise the powers or perform the duties in this Part, and
  - (ii) the prescribed powers and duties of the head of council in this Part are assigned to the City.

### **Delegation**

**226.11** (1) Subject to the prescribed limitations, if any, the head of council may delegate their powers and duties under the following sections:

1. Section 226.3 (chief administrative officer).
2. Section 226.4 (organizational structure).
3. Section 226.5 (local boards).
4. Section 226.6 (committees).

### **Same**

(2) The rules in subsection 20 (2) apply with necessary modifications to a delegation under subsection (1).

### **Immunity**

**226.12** A decision made, or a veto power or other power exercised, legally and in good faith under this part shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the decision or exercise of the veto power or other power.

### **Transition**

**226.13** (1) A person who held one of the following positions immediately before the day section 2 of Schedule 1 to the *Strong Mayors, Building Homes Act, 2022* came into force shall continue in that position unless they are dismissed or their appointment is revoked, as the case may be, by the head of council:

1. Chief administrative officer.
2. Chair or vice-chair of a local board.
3. Chair or vice-chair of a committee.

### **Same**

(2) The head of council may dismiss or revoke the appointment of a person set out in subsection (1) regardless of when that person started in their position.

### **Powers and duties re budget**

**226.14** (1) In accordance with this section and subject to the regulations, the powers and duties of the City with respect to proposing and adopting a budget are assigned to the head of council.

### **Proposed budget**

(2) The head of council shall, in accordance with the regulations, prepare a proposed budget for the City and provide the proposed budget to city council for city council's consideration.

### **City council may adopt or amend budget**

(3) After receiving the proposed budget, city council may, in accordance with the regulations, pass a resolution making an amendment to the proposed budget.

### **Veto power**

(4) The head of council may, in accordance with the regulations, veto a resolution passed under subsection (3).

### **Override of veto**

(5) City council may, in accordance with the regulations, override the head of council's veto under subsection (4) if two-thirds of the members of city council vote to override the veto.

### **Adoption of budget**

(6) The budget for the City shall be adopted in accordance with the regulations.

**Same**

(7) For greater certainty, the regulations may provide for the circumstances in which the budget is deemed to be adopted.

**Regulations**

**226.15** (1) The Minister may make regulations for the purposes of this Part, including,

- (a) requiring the head of council to make information and documents available to city council, the public and other persons or classes of persons and prescribing the information and documents to be made available;
- (b) respecting the form, manner and timing in which information and documents are to be made available to city council, the public or other persons or classes of persons;
- (c) respecting procedures and rules the head of council is required to follow in exercising a power or performing a duty under this Part;
- (d) respecting the powers assigned to the head of council in connection with committees, for the purposes of section 226.6;
- (e) governing by-elections with respect to the office of head of council for the purposes of section 226.10;
- (f) respecting procedures, rules and other matters in connection with filling a vacancy in the office of the head of council;
- (g) providing for such transitional matters as the Minister considers necessary or advisable in connection with the implementation of this Part;
- (h) defining, for the purposes of this Part and any regulations under this Part, any word or expression not defined in section 3 of this Act, and in so doing may define a word or expression differently for different provisions;
- (i) respecting the use of powers and performance of duties under this Part, including respecting conditions and limits with respect to their use or performance;
- (j) providing that the head of council cannot use a power or perform a duty, assigning those powers and duties to city council and prescribing procedures, rules and other matters in connection with such circumstances;
- (k) prescribing provisions of the Act or any other Act that apply or do not apply for the purposes of this Part and providing for such modifications to those provisions as the Minister considers appropriate;
- (l) prescribing deadlines, dates and time periods for the purposes of this Part.

**Same**

(2) Subject to subsection 226.7 (1), the Minister may make regulations prescribing anything that, under this Part, may or must be prescribed.

**Regulations, budget**

(3) The Minister may, for the purposes of section 226.14, make regulations,

- (a) respecting the powers and duties of the head of council and of city council in connection with preparing and adopting a budget;
- (b) respecting procedures, rules and other matters in connection with preparing and adopting a budget; and
- (c) providing for the circumstances in which the budget is deemed to be adopted.

**Retroactive**

(4) A regulation under this section may be retroactive to a date not earlier than six months before the date the regulation was made.

**Commencement**

**3 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 2  
MUNICIPAL ACT, 2001**

**1 The *Municipal Act, 2001* is amended by adding the following Part:**

**PART VI.1  
SPECIAL POWERS AND DUTIES OF THE HEAD OF COUNCIL**

**Application**

**284.2** The Minister may, by regulation, designate municipalities to which this Part applies.

**Directions to municipal employees**

**284.3** For the purposes of exercising powers or performing duties under this Part, the head of council may, in writing, exercise the powers of the municipality to direct municipal employees to,

- (a) undertake research and provide advice to the head of council and the municipality on policies and programs of the municipality or of the head of council as they relate to the powers and duties under this Part; and
- (b) carry out duties related to the exercise of the power or performance of the duty, including implementing any decisions made by the head of council under this Part.

**In writing**

**284.4** (1) If the head of council exercises a power or performs a duty under this Part, the head of council shall do so in writing and in accordance with the regulations, if any.

**Making information available**

(2) The head of council shall, in accordance with the regulations, make any prescribed information and documents available to the public and to any other prescribed persons or classes of persons.

**Powers re chief administrative officer**

**284.5** The powers of a municipality under section 229, with respect to the chief administrative officer, are assigned to the head of council.

**Powers re organizational structure**

**284.6** (1) Subject to subsection (3), the powers of the municipality with respect to determining the organizational structure of the municipality are assigned to the head of council.

**Employment matters**

(2) Subject to subsection (3) and the regulations, subsection (1) includes the power to hire, dismiss or exercise any other prescribed employment powers with respect to the head of any division or the head of any other part of the organizational structure.

**Limitation**

(3) The powers assigned under subsection (1) do not include the power to hire, dismiss or exercise any other prescribed employment powers with respect to any of the following persons:

1. The clerk or deputy clerk.
2. A treasurer or deputy treasurer.
3. An Integrity Commissioner.
4. An Ombudsman.
5. An Auditor General.
6. A registrar, as described in section 223.11.
7. A chief building official, as defined in the *Building Code Act, 1992*.
8. A chief of police, as defined in the *Police Services Act*.
9. A fire chief, as defined in the *Fire Protection and Prevention Act, 1997*.
10. A medical officer of health, as defined in the *Health Protection and Promotion Act*.
11. Other officers or heads of divisions required to be appointed under this or any other Act.
12. Any other prescribed persons.

**Transition**

(4) Any organizational structure in place in a municipality immediately before being designated under this Part shall continue unless the organizational structure is changed by the head of council under subsection (1).

**Same**

(5) The head of any division or of any other part of the organizational structure who held that position immediately before the municipality was designated under this Part shall continue in that position unless they are dismissed by the head of council under subsection (2).

**Same**

(6) A head of council may exercise a power under subsection (2) with respect to a person regardless of when that person started their employment.

**Powers re local boards**

**284.7** The power of the municipality to appoint chairs and vice-chairs of local boards is assigned to the head of council for any prescribed local board or local board within a prescribed class of local boards.

**Powers re committees**

**284.8** Subject to the regulations, if any, the following powers of the municipality with respect to prescribed committees, or committees within a prescribed class of committees, are assigned to the head of council:

1. The power to establish or dissolve committees.
2. The power to appoint chairs and vice-chairs of committees.
3. The power to assign functions to committees.

**Provincial priorities**

**284.9** (1) The Lieutenant Governor in Council may, by regulation, prescribe provincial priorities for the purposes of sections 284.10 and 284.11.

**Same**

(2) For greater certainty, sections 284.10 and 284.11 only apply if the Lieutenant Governor in Council prescribes provincial priorities.

**Powers re meetings**

**284.10** (1) Despite any procedure by-law passed by the municipality under subsection 238 (2), if the head of council is of the opinion that considering a particular matter could potentially advance a prescribed provincial priority, the head of council may require the council to consider the matter at a meeting.

**Interpretation**

(2) In this section,

“meeting” has the same meaning as in subsection 238 (1).

**Veto powers****Application**

**284.11** (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

**By-law for consideration**

(2) Despite any procedure by-law passed by the municipality under subsection 238 (2) and subject to subsection (3) of this section, if the head of council is of the opinion that all or part of a by-law that is subject to this section could potentially interfere with a prescribed provincial priority, the head of council may provide written notice to the council of the intent to consider vetoing the by-law.

**Same, timing**

(3) If the head of council intends to consider vetoing the by-law, the head of council shall provide the written notice described in subsection (2) on or before the earlier of two days after the day council voted in favour of the by-law or the prescribed deadline, if any.

**By-law commencement**

- (4) Despite any other Act, a by-law that is subject to this section shall be deemed not to have been passed by council until,
- (a) if notice has not been given under subsection (3), the earlier of,
    - (i) the day written approval of the by-law is given by the head of council to the municipality, and
    - (ii) two days after the day council voted in favour of the by-law or the prescribed deadline, as the case may be; or
  - (b) if notice has been given under subsection (3), the earlier of,
    - (i) the day written approval of the by-law is given by the head of council to the municipality, and
    - (ii) 14 days, or such other prescribed time period, after the day the council voted in favour of the by-law.

**Veto powers**

(5) Subject to subsection (6), if the head of council is of the opinion that all or part of the by-law could potentially interfere with a prescribed provincial priority, the head of council may veto the by-law by providing to the clerk, on the day of the veto, a written veto document that includes the veto and the reasons for the veto.

**Same, timing**

(6) The head of council shall not veto a by-law after giving approval under subclause (4) (b) (i) or after the expiry of the time period described in subclause (4) (b) (ii), as the case may be.

**Duties of clerk**

- (7) If the head of council vetoes a by-law the clerk shall,
- (a) by the next business day after the clerk receives the written veto document under subsection (5), provide each member of council, other than the head of council, a copy of the written veto document; and
  - (b) make the written veto document available to the public in accordance with the regulations, if any.

**Effect of veto**

(8) If the head of council vetoes a by-law, clause (4) (b) does not apply and the by-law shall be deemed not to have been passed by council .

**Override of veto**

(9) Within 21 days, or such other prescribed time period, after the day the clerk provides the written veto document to the members of council under clause (7) (a), council may override the head of council's veto if two-thirds of the members of council vote to override the veto.

**Head of council may vote**

(10) For greater certainty, the head of council may vote as a member of council in a vote to override a veto.

**Effect of override**

(11) If the council overrides the veto, subsection (8) does not apply and the by law shall be deemed to have passed on the day the council votes to override the veto.

**No notice**

(12) The head of council shall not give notice under subsection (3) after giving approval under subclause (4) (a) (i).

**Vacancy, head of council**

**284.12** (1) Despite section 263, if a vacancy occurs in the office of the head of council, the municipality shall, subject to subsection (3) and in accordance with the regulations, if any, require a by-election to be held, in accordance with the *Municipal Elections Act, 1996*, to fill the vacancy.

**Rules applying to filling vacancy**

- (2) Subject to subsection (3) and the regulations, if any, the following rules apply to filling a vacancy in the office of head of council:
1. Within 60 days after the day a declaration of vacancy is made under section 262 with respect to the vacancy, the municipality shall pass a by-law requiring a by-election be held to fill the vacancy.
  2. Despite paragraph 1, if a court declares the office of head of council to be vacant, the council shall act under subsection (1) within 60 days after the court makes its declaration.
  3. Despite subsection (1), if the vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy.

### **Vacancy after March 31 in the year of a regular election**

(3) Subject to the regulations, if any, if a vacancy in the office of head of council occurs after March 31 in the year of a regular election,

- (a) within 60 days after the day a declaration of vacancy is made under section 262 with respect to the vacancy, the municipality shall fill the vacancy by appointing a person who has consented to accept the office if appointed; and
- (b) the municipality is deemed not to be prescribed for the purposes of this Part for the remainder of the term of the head of council appointed under clause (a).

### **Vacancy — upper-tier municipalities**

(4) The Minister may, by regulation, prescribe the procedures, rules and other matters pertaining to vacancies in upper-tier municipalities that will apply despite anything in this section.

### **Delegation**

**284.13** (1) Subject to the prescribed limitations, if any, the head of council may delegate their powers and duties under the following sections:

- 1. Section 284.5 (chief administrative officer).
- 2. Section 284.6 (organizational structure).
- 3. Section 284.7 (local boards).
- 4. Section 284.8 (committees).

### **Same**

(2) The rules in subsection 23.1 (2) apply with necessary modifications to a delegation under subsection (1).

### **Immunity**

**284.14** A decision made, or a veto power or other power exercised, legally and in good faith under this part shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the decision or exercise of the veto power or other power.

### **Transition**

**284.15** (1) A person who held one of the following positions immediately before the municipality was designated under this Part shall continue in that position unless they are dismissed or their appointment is revoked, as the case may be, by a head of council:

- 1. Chief administrative officer.
- 2. Chair or vice-chair of a local board.
- 3. Chair or vice-chair of a committee.

### **Same**

(2) A head of council may dismiss or revoke the appointment of a person set out in subsection (1) regardless of when that person started in their position.

### **Powers and duties re. budget**

**284.16** (1) In accordance with this section and subject to the regulations, the powers and duties of a municipality with respect to proposing and adopting a budget are assigned to the head of council of the municipality.

### **Proposed budget**

(2) The head of council shall, in accordance with the regulations, prepare a proposed budget for the municipality and provide the proposed budget to the council for the council's consideration.

### **Council may adopt or amend budget**

(3) After receiving the proposed budget, council may, in accordance with the regulations, pass a resolution making an amendment to the proposed budget.

### **Veto power**

(4) The head of council may, in accordance with the regulations, veto a resolution passed under subsection (3).

### **Override of veto**

(5) Council may, in accordance with the regulations, override the head of council's veto under subsection (4) if two-thirds of the members of council vote to override the veto.



**Adoption of budget**

(6) The budget for the municipality shall be adopted in accordance with the regulations.

**Same**

(7) For greater certainty, the regulations may provide for the circumstances in which the budget is deemed to be adopted.

**Regulations**

**284.17** (1) The Minister may make regulations for the purposes of this Part, including,

- (a) designating municipalities for the purposes of section 284.2;
- (b) requiring a head of council to make information and documents available to the council, the public and other persons or classes of persons and prescribing the information and documents to be made available;
- (c) respecting the form, manner and timing in which information and documents are to be made available to the council, the public or other persons or classes of persons;
- (d) respecting procedures and rules a head of council is required to follow in exercising a power or performing a duty under this Part;
- (e) respecting the powers assigned to the head of council in connection with committees, for the purposes of section 284.8;
- (f) governing by-elections with respect to the office of head of council for the purposes of section 284.12;
- (g) respecting procedures, rules and other matters in connection with filling a vacancy in the office of head of council;
- (h) providing for such transitional matters as the Minister considers necessary or advisable in connection with the implementation of this Part;
- (i) defining, for the purposes of this Part and any regulations under this Part, any word or expression not defined in section 1 of this Act, and in so doing may define a word or expression differently for different provisions;
- (j) respecting the use of powers and performance of duties under this Part, including respecting conditions and limits with respect to their use or performance;
- (k) providing that a head of council cannot use a power or perform a duty, assigning those powers and duties to a council and prescribing procedures, rules and other matters in connection with such circumstances;
- (l) prescribing provisions of the Act or any other Act that apply or do not apply for the purposes of this Part and providing for such modifications to those provisions as the Minister considers appropriate;
- (m) prescribing deadlines, dates and time periods for the purposes of this Part.

**Same**

(2) Subject to subsection 284.9 (1), the Minister may make regulations prescribing anything that, under this Part, may or must be prescribed.

**Regulations, budget**

(3) The Minister may, for the purposes of section 284.16, make regulations,

- (a) respecting the powers and duties of the head of council and of the council in connection with preparing and adopting a budget in a municipality;
- (b) respecting procedures, rules and other matters in connection with preparing and adopting a budget in a municipality; and
- (c) providing for the circumstances in which a budget is deemed to be adopted.

**Retroactive**

(4) A regulation under this section may be retroactive to a date not earlier than six months before the date the regulation was made.

**Commencement**

**2 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 3  
MUNICIPAL CONFLICT OF INTEREST ACT**

**1 Section 4 of the *Municipal Conflict of Interest Act* is amended by striking out “Sections 5 and 5.2” at the beginning of the portion before clause (a) and substituting “Sections 5, 5.2 and 5.3”.**

**2 The Act is amended by adding the following section immediately before the heading “Record of Disclosure”:**

**Head of council**

**5.3** (1) Where a head of council of a municipality either on their own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter of the municipality and has a power or duty listed in subsection (2) with respect to the matter, the head of council,

- (a) shall, upon becoming aware of the interest in the matter, disclose the interest by filing a written statement of the interest and its general nature with the clerk of the municipality;
- (b) shall not use the power or exercise the duty with respect to the matter; and
- (c) shall not use their office in any way to attempt to influence any decision or recommendation of the municipality that results from consideration of the matter.

**Same**

(2) For the purposes of subsection (1), the powers and duties are the powers and duties of a head of council in Part VI.1 of the *Municipal Act, 2001* and Part VI.1 of the *City of Toronto Act, 2006* but do not include the power to delegate in section 284.13 of the *Municipal Act, 2001* and section 226.11 of the *City of Toronto Act, 2006*.

**3 Clause 6.1 (1) (a) is amended by striking out “section 5.1” and substituting “section 5.1 or 5.3”.**

**4 Subsections 8 (1) and (7), 9 (1), 12 (1), (2) and (3) and 14 (1) of the Act are amended by striking out “section 5, 5.1 or 5.2” wherever it appears and substituting in each case “section 5, 5.1, 5.2 or 5.3”.**

**Commencement**

**5 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO  
1 CHARLES III, 2022

# Bill 39

*(Chapter 24 of the Statutes of Ontario, 2022)*

## **An Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001 and to enact the Duffins Rouge Agricultural Preserve Repeal Act, 2022**

**The Hon. S. Clark**

Minister of Municipal Affairs and Housing

1st Reading	November 16, 2022
2nd Reading	November 23, 2022
3rd Reading	December 8, 2022
Royal Assent	December 8, 2022



## EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 39 and does not form part of the law.  
Bill 39 has been enacted as Chapter 24 of the Statutes of Ontario, 2022.*

### **SCHEDULE 1 CITY OF TORONTO ACT, 2006**

The Schedule amends the *City of Toronto Act, 2006* by adding section 226.9.1. Section 226.9.1 provides that if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law and require city council to consider and vote on the proposed by-law at a meeting. The by-law is passed if more than one third of the members of city council vote in favour of the by-law.

### **SCHEDULE 2 DUFFINS ROUGE AGRICULTURAL PRESERVE REPEAL ACT, 2022**

The Schedule enacts the new *Duffins Rouge Agricultural Preserve Repeal Act, 2022*, which repeals the older *Duffins Rouge Agricultural Preserve Act, 2005*. The new Act provides that the easements and covenants that were described in the repealed Act are deemed to have the legal effect they would have had if the repealed Act had never been in effect. The new Act also provides for the interaction of those covenants and easements with certain provisions of the *Conservation Land Act*. Related causes of actions and proceedings are prohibited.

### **SCHEDULE 3 MUNICIPAL ACT, 2001**

The Schedule amends the *Municipal Act, 2001* by adding section 218.3, which authorizes the Minister of Municipal Affairs and Housing to appoint, by order, for the term of office beginning in 2022, the head of council of The Regional Municipality of Niagara, The Regional Municipality of Peel and The Regional Municipality of York. A new section 218.4 requires the Minister to give notice of such order and a new section 218.5 authorizes the Minister to make regulations relating to the appointment of a head of council under section 218.3.

A new section 284.11.1 of the Act provides that if a head of council of a designated municipality is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law and require the council to consider and vote on the proposed by-law at a meeting. The by-law is passed if more than one third of the members of council vote in favour of the by-law.

**An Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001  
and to enact the Duffins Rouge Agricultural Preserve Repeal Act, 2022**

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Schedule 3	Municipal Act, 2001

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**Contents of this Act**

**1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.**

**Commencement**

**2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.**

**(2) The Schedules to this Act come into force as provided in each Schedule.**

**(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.**

**Short title**

**3 The short title of this Act is the *Better Municipal Governance Act, 2022*.**

**SCHEDULE 1  
CITY OF TORONTO ACT, 2006**

**1 Paragraph 3 of subsection 159 (1) of the *City of Toronto Act, 2006* is amended by striking out “sections 5, 5.1 and 5.2” and substituting “sections 5, 5.1, 5.2 and 5.3”.**

**2 Section 160.1 of the Act is amended by striking out “section 5, 5.1 or 5.2” wherever it appears and substituting in each case “section 5, 5.1, 5.2 or 5.3”.**

**3 Section 226.7 of the Act is amended by striking out “sections 226.8 and 226.9” wherever it appears and substituting in each case “sections 226.8, 226.9 and 226.9.1”.**

**4 The French version of subsection 226.8 (1) of the Act is amended by striking out “pourrait” and substituting “pourrait potentiellement”.**

**5 The French version of section 226.9 of the Act is amended by striking out “pourrait” wherever it appears and substituting in each case “pourrait potentiellement”.**

**6 The Act is amended by adding the following section:**

**Powers re by-laws**

**226.9.1** (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than under any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

**Procedure**

(2) Despite any procedure by-law passed by the City under subsection 189 (2) and subject to any prescribed requirements, if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law to city council and require city council to consider and vote on the proposed by-law at a meeting.

**Same**

(3) The head of council shall, in accordance with the regulations, provide to the clerk and to each member of city council,

- (a) a copy of any by-law proposed under subsection (2); and
- (b) the head of council’s reasons for the proposal.

**More than one-third vote required**

(4) Despite any procedure by-law passed by the City under subsection 189 (2) and despite subsection 194 (3), a by-law described in subsection (2) is passed if more than one third of the members of council vote in favour of the by-law.

**Head of council may vote**

(5) For greater certainty, the head of council may vote as a member of city council in a vote to pass a by-law described in subsection (2).

**7 Clause 226.15 (1) (c) of the Act is amended by striking out “the head of council is required to follow in exercising a power or performing a duty under” and substituting “the head of council, city council and the clerk are required to follow in connection with”.**

**Commencement**

**8 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**SCHEDULE 2  
DUFFINS ROUGE AGRICULTURAL PRESERVE REPEAL ACT, 2022**

**Definition**

**1** In this Act,

“DRAPA easement or covenant” means an easement or covenant that is described in subsection 2 (1) of the *Duffins Rouge Agricultural Preserve Act, 2005*, as it read immediately before its repeal.

**Effect of repeal on DRAPA easement or covenant**

**2** Every DRAPA easement or covenant is deemed to have the legal effect it would have had if subsection 2 (1) of the *Duffins Rouge Agricultural Preserve Act, 2005* had never been in effect.

**Interaction with Conservation Land Act**

**3** (1) Subsections 3 (4.2), (4.3) and (4.4) of the *Conservation Land Act* do not apply to a DRAPA easement or covenant.

**Notices**

(2) Any notice that was registered under the *Conservation Land Act* in accordance with subsection 2 (2) of the *Duffins Rouge Agricultural Preserve Act, 2005*, before the day the *Duffins Rouge Agricultural Preserve Act, 2005* was repealed, against land affected by a DRAPA easement or covenant is of no effect as of the day this section comes into force.

**No cause of action**

**4** (1) No cause of action arises as a direct or indirect result of,

- (a) the enactment, amendment or repeal of any provision of this Act or of the *Duffins Rouge Agricultural Preserve Act, 2005*;
- (b) the making, amending or revoking of any provision of a regulation under this Act; or
- (c) anything done or not done in accordance with,
  - (i) any provision of this Act or of the *Duffins Rouge Agricultural Preserve Act, 2005*, or
  - (ii) any provision of a regulation made under this Act.

**Proceedings barred**

(2) No proceeding, including but not limited to any proceeding for a remedy in contract, restitution, tort, misfeasance, bad faith, trust or fiduciary obligation, and any remedy under any statute, that is based on a cause of action described in subsection (1) may be brought or maintained against any person, including,

- (a) the Crown and its current and former employees, officers and agents;
- (b) current and former members of the Executive Council;
- (c) conservation bodies as defined in subsection 3 (1) of the *Conservation Land Act* and their current and former employees, officers and agents.

**Application of subs. (2)**

(3) Subject to subsection (6), subsection (2) applies to any proceeding, including any court, administrative or arbitral proceeding, claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages or any other remedy or relief, and includes a proceeding to enforce a judgment or order made by a court or tribunal outside of Canada.

**Temporal application**

(4) Subsections (1) and (2) apply regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the day this section comes into force.

**Proceedings set aside**

(5) Any proceeding referred to in subsection (2) that was commenced before the day this section comes into force shall be deemed to have been dismissed, without costs, on the day this section comes into force.

**Exception — judicial review**

(6) Subsections (1) and (2) do not apply to prevent an application for judicial review.

**No expropriation or injurious affection**

(7) Nothing referred to in subsection (1) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

**Not entitled to be compensated**

(8) Despite any other Act or law, no person is entitled to compensation for any loss or damages, including loss of revenues, loss of profit or loss of expected earnings or denial or reduction of compensation that would otherwise have been payable to any person, arising from anything referred to in subsection (1).

**Regulations**

**5** The Lieutenant Governor in Council may make regulations governing any transitional matters that may arise in connection with the enactment of this Act or the repeal of the *Duffins Rouge Agricultural Preserve Act, 2005*, which may include the impact of the enactment or repeal on a DRAPA easement or covenant.

**6** The *Duffins Rouge Agricultural Preserve Act, 2005* is repealed.

**Commencement**

**7** The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

**Short title**

**8** The short title of the Act set out in this Schedule is the *Duffins Rouge Agricultural Preserve Repeal Act, 2022*.



**SCHEDULE 3  
MUNICIPAL ACT, 2001**

**1 The *Municipal Act, 2001* is amended by adding the following sections:**

**Head of council, appointment by Minister**

**218.3** (1) For the term of office beginning in 2022, the Minister may, by order, appoint and fix the duration of the term of the head of council of the following municipalities:

1. The Regional Municipality of Niagara.
2. The Regional Municipality of Peel.
3. The Regional Municipality of York.

**Effect of order**

(2) An order made under subsection (1) takes effect on the date and at the time specified in the order.

**Previous appointment ceases to have effect**

(3) If the Minister makes an order appointing a head of council under subsection (1) and, on the day the order takes effect, a head of council has been appointed by the members of council, the appointment by the members of the council ceases to have effect as of that day.

**Deemed to be member of council**

(4) A person appointed by the Minister under subsection (1) to be the head of council is deemed to also be a member of council.

**Notice of order**

**218.4** If the Minister makes an order under subsection 218.3 (1), the Minister shall,

- (a) publish the order in *The Ontario Gazette*; and
- (b) as soon as possible after the order is made, provide a copy of the order to the municipality to which it relates.

**Regulations**

**218.5** (1) The Minister may make regulations,

- (a) governing the appointment of a head of council under subsection 218.3 (1), including,
  - (i) prescribing rules to facilitate the transition of the head of council appointed under subsection 218.3 (1);
  - (ii) prescribing powers and duties of the head of council appointed under subsection 218.3 (1);
- (b) providing for modifications to this Act, the *Municipal Conflict of Interest Act* or the *Municipal Elections Act, 1996*, or the regulations made under any of those Acts, as are necessary for the implementation of section 218.3 of this Act or any regulations made under clause (a) of this subsection.

**Retroactivity**

(2) A regulation made under subsection (1) is, if it so provides, effective with reference to a period before it was filed, but not earlier than six months before the date the regulation was made.

**Conflict, regulation made under cl. (1) (b)**

(3) A regulation made under clause (1) (b) prevails to the extent of a conflict between a provision of the regulation and any provision of,

- (a) this Act or a regulation made under it; or
- (b) the *Municipal Conflict of Interest Act* or the *Municipal Elections Act, 1996* or of a regulation made under those Acts.

**Same**

(4) The conflict provision in subsection (3) prevails over any other conflict provision in the this Act, the *Municipal Conflict of Interest Act* or the *Municipal Elections Act, 1996*.

**Power to change method for selecting head of council**

**218.6** Nothing in section 218.3 limits the power of a municipality referred to in subsection 218.3 (1) to change the method of selecting its head of council under section 218 for any regular election after 2022.

**2 Subsection 221 (1) of the Act is amended by striking out “218.1 or 220” wherever it appears and substituting in each case “218.1, 218.3 or 220”.**

**3 Paragraph 3 of subsection 223.3 (1) of the Act is amended by striking out “sections 5, 5.1 and 5.2” and substituting “sections 5, 5.1, 5.2 and 5.3”.**

**4 Section 223.4.1 of the Act is amended by striking out “section 5, 5.1 or 5.2” wherever it appears and substituting in each case “section 5, 5.1, 5.2 or 5.3”.**

**5 (1) Subsection 284.9 (1) of the Act is amended by striking out “sections 284.10 and 284.11” at the end and substituting “sections 284.10, 284.11 and 284.11.1”.**

**(2) Subsection 284.9 (2) of the Act is amended by striking out “sections 284.10 and 284.11” and substituting “sections 284.10, 284.11 and 284.11.1”.**

**6 The French version of subsection 284.10 (1) of the Act is amended by striking out “pourrait” and substituting “pourrait potentiellement”.**

**7 The French version of section 284.11 of the Act is amended by striking out “pourrait” wherever it appears and substituting in each case “pourrait potentiellement”.**

**8 The Act is amended by adding the following section:**

**Powers re by-laws**

**284.11.1** (1) This section applies with respect to by-laws under,

- (a) this Act and the regulations, other than under any prescribed section;
- (b) the *Planning Act* and its regulations, other than under any prescribed section; and
- (c) any other prescribed Act or regulation or prescribed section of an Act or regulation.

**Procedure**

(2) Despite any procedure by-law passed by the municipality under subsection 238 (2) and subject to any prescribed requirements, if the head of council is of the opinion that a by-law could potentially advance a prescribed provincial priority, the head of council may propose the by-law to the council and require the council to consider and vote on the proposed by-law at a meeting.

**Same**

(3) The head of council shall, in accordance with the regulations, provide to the clerk and to each member of council,

- (a) a copy of any by-law proposed under subsection (2); and
- (b) the head of council’s reasons for the proposal.

**More than one-third vote required**

(4) Despite any procedure by-law passed by the municipality under subsection 238 (2) and despite section 245, a by-law described in subsection (2) is passed if more than one third of the members of council vote in favour of the by-law.

**Head of council may vote**

(5) For greater certainty, the head of council may vote as a member of council in a vote to pass a by-law described in subsection (2).

**9 Clause 284.17 (1) (d) of the Act is amended by striking out “a head of council is required to follow in exercising a power or performing a duty under” and substituting “a head of council, a council and the clerk are required to follow in connection with”.**

**Commencement**

**10 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.**



**Subject: Response to CQ 20-2022: Process for Acquiring Former Abars Property - Ward 6**

**Reference:**

Date to Council: January 30, 2023  
Author: Christopher Carpenter  
Coordinator of Real Estate Services  
519-255-6100 x6420  
ccarpenter@citywindsor.ca  
Legal Services, Real Estate & Risk Management  
Report Date: January 16, 2023  
Clerk's File #: APM2023

To: Mayor and Members of City Council

**Recommendation:**

That Council **RECEIVE** this report for information.

**Executive Summary:**

N/A

**Background:**

On September 26, 2022 Councillor Gignac asked the following Council Question:

**CQ 20-2022**

*Asks that Administration provide a report to Council as soon as possible on how best to move forward in acquiring the former Abars property.*

The vacant land on Riverside Drive East located at the foot of Lauzon Road is comprised of what was four separate properties as shown on Appendix A. The former Abars building was demolished in 2016 with the other structures to the east having been previously demolished. The property consisting of 7880 Riverside, 7910 Riverside and 7940 Riverside is owned by Central McKinlay International Ltd. The vacant land to the east, 8040 Riverside, is owned by 1552875 Ontario Inc.

Corporate Disclosure for Central McKinlay International Ltd.:

Peter Farah

Corporate Disclosure for 1552875 Ontario Inc.:

Peter Farah

**Discussion:**

Two options are available to City Council when property that serves a municipal use is identified. The City can pursue the acquisition of the property through negotiated purchase or through expropriation. Obviously, negotiated agreement is preferred, but failing that, the municipality is able to expropriate the land through a litigation process in order to provide parkland for the City.

The City does not have a policy that governs the acquisition of land by the City. However, there is a Waterfront Parkland Acquisition Policy, which establishes the requirements and processes for waterfront parkland acquisitions. This policy is intended to deal with waterfront property where there is a willing seller. Whether acquisition or expropriation is pursued, an independent appraisal will be required as part of the negotiating process. Real Estate Services has determined an approximate value for the former Abars property which is outlined in the P&C memo attached to this report. The City will attempt to acquire property through mutual negotiations with expropriation only being used if negotiations are unsuccessful.

**Risk Analysis:**

N/A

**Climate Change Risks**

**Climate Change Mitigation:**

N/A

**Climate Change Adaptation:**

N/A

**Financial Matters:**

The acquisition of property for parkland purposes is traditionally funded with funding from the Parkland Acquisition Reserve Fund 151. In addition to the land costs, significant costs can be incurred should expropriation be pursued. The estimated costs related to expropriation are addressed in the P&C Memo attached to this report.

The current balance of Fund 151, net of encumbrances, is \$575,249. At this time, there is no additional funding identified within the 10 year Capital Plan to address such acquisitions. Should Council wish to proceed with this property acquisition, a funding strategy to finance the purchase of this property would need to be developed and brought forward to Council for approval. Given the limited capital funding resources available for the 10 year Capital Plan, any funding alternatives would need to consider competing priorities and the impacts of potentially displacing other capital budget priorities within the 10 year plan.

**Consultations:**

Neil Robertson, Manager of Urban Design  
Greg Atkinson, Planner III – Economic Development  
Michael Dennis, Financial Manager – Asset Planning  
Patrick Brode, Senior Legal Counsel

**Conclusion:**

The City has the option to pursue the acquisition of the former Abars property through negotiated purchase or through expropriation with both requiring the need to negotiate compensation with the property owner.

**Approvals:**

Name	Title
Chris Carpenter	Coordinator of Real Estate Services
Frank Scarfone	Manager of Real Estate Services
Shelby Askin Hager	City Solicitor/Commissioner, Legal and Legislative Services
James Chacko	Executive Director of Parks and Facilities
Ray Mensour	Commissioner, Community Services
Joe Mancina	Commissioner, Corporate Services, CFO/ City Treasurer
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address	Email

**Appendices:**

- 1 Aerial image of former Abars property and abutting vacant lands
- 2 P&C Memo dated January 9, 2023 for Mayor and Members of Council only.

Appendix A



**Subject: Payment Card Industry Compliance Update - City Wide**

**Reference:**

Date to Council: January 30, 2023

Author: Marco Aquino

Executive Initiatives Coordinator

maquino@citywindsor.ca

(519) 255-6100 ext 6477

Taxation & Financial Projects

Report Date: January 11, 2023

Clerk's File #: AF/14307

**To:** Mayor and Members of City Council

**Recommendation:**

THAT the information contained in this report titled "Payment Card Industry Compliance Update" **BE RECEIVED** for information; and,

THAT the CAO and City Clerk **BE AUTHORIZED** to sign all applicable Payment Card Industry Data Security Standard (PCI DSS) Self Assessment Questionnaires and any other related documents, as required as a condition of initial and ongoing PCI DSS Compliance, satisfactory in technical content to the CIO/Executive Director of Information Technology, in financial content to the Commissioner of Corporate Services, CFO/City Treasurer, and in form to the Commissioner of Legal & Legislative Services.

**Executive Summary:**

N/A

**Background:**

The Payment Card Industry Security Standards Council, founded in 2006 by five major credit card brands (American Express, Discover, JCB International, MasterCard, and Visa Inc.), developed the Payment Card Industry Data Security Standards (PCI DSS). These are a set of security standards designed to ensure that all companies that accept, process, store or transmit credit card information, maintain a secure environment that will protect cardholder data. PCI DSS compliance is a requirement for any organization (including the City of Windsor), regardless of size or number of transactions.

In 2018, City Council authorized the retention of a Qualified Security Assessor to assist the City with obtaining compliance with these standards. MNP LLP (hereinafter referred to as MNP), a PCI Certified consultant, was subsequently contracted to aide in the certification process. Phase I of the engagement entailed a PCI scope review and process analysis of the City's credit card processing environment. Phase 2 covers all necessary work to validate the City's card processing environment for certification. MNP's initial review (Phase I) was completed in August 2019 in which they provided a report outlining the scope of the City's credit card environment, the Corporation's current level of PCI compliance, and the required remediation measures to achieve PCI certification.

### **Discussion:**

At present, the PCI Working Group, which consists of members of the Finance and Information Technology departments, continues to address the recommendations for PCI certification that were identified in the MNP report as well as completing the associated PCI Self Assessment Questionnaires. As part of the work done, this team has successfully implemented several enhancements which serve to mitigate any risks associated with the acceptance of credit card payments while at the same time provide improvements to customer service. A PCI Executive Committee provides oversight and direction to the PCI Working Group. This Executive Committee is comprised of representation (i.e. Department Head) from each operating department that accepts credit card payments and is within the City PCI scope. The use of this structure aided in the implementation of any required changes by ensuring the solutions were tailored to each department's unique business needs and service requirements.

PCI Compliance is a continuous process which, among other actions, includes completing annual PCI Self Assessment Questionnaires (SAQs). SAQs are validation tools for eligible merchants and service providers, such as the City of Windsor, to evaluate and report their PCI DSS compliance. There are a number of different SAQs available that are intended to define the payment card processing environments. Each applicable SAQ must be validated by a Qualified Security Assessor (QSA) by way of independent audit. Once completed, as part of the Phase 2 contract, MNP will review and validate these SAQs.

SAQs will need to be completed and validated annually to confirm PCI DSS Compliance for the City of Windsor.

### **Risk Analysis:**

Failure to be compliant with PCI DSS can result in investigations, penalties, increased credit card fees, decreased public confidence, and the loss of the ability to process credit card transactions.

To date, many changes have been implemented which serve to mitigate risks associated with the acceptance of credit cards as a payment method. While the risk of a credit card breach cannot be completely eliminated, annual PCI certification will provide a high degree of comfort that our credit card environment is secure.



## **Climate Change Risks**

N/A

## **Financial Matters:**

In 2018, City Council approved \$50,000 in funding (project id# 7181045) to support the hiring of a Qualified Security Assessor. Subsequently through the Request for Proposal (RFP) process, MNP was hired to complete a scoping and compliance assessment of the City's credit card environment (Phase 1) and included the review and validation of the initial set of applicable SAQs (Phase 2). Both Phase 1 and Phase 2 will be covered by the approved funding.

In addition, as part of the 2021 Capital Budget process, City Council approved a capital budget of \$280,000 (project id# 7211036) to be used as required to achieve PCI compliance. To date a limited amount of the budget has been expended as internal resources have been primarily utilized for the work undertaken to date.

PCI compliance is an annual process and while the work done to date was accomplished with internal resources, there may be the need for ongoing annual funding to ensure that ongoing processes and procedures are being maintained and in addition, that the City remains up to date with any customer service and technology improvements. Following initial certification, Administration will review the ongoing resource requirements and will bring forward those recommendations to City Council for further consideration.

## **Consultations:**

PCI Working Group

## **Conclusion:**

In order to continue to accept credit cards as payment option for various municipal services, the City of Windsor must be compliant with PCI DSS. The applicable SAQs will need to be assessed and certified annually to confirm the status of compliance for the City of Windsor.

## **Planning Act Matters:**

N/A

**Approvals:**

<b>Name</b>	<b>Title</b>
Marco Aquino	Executive Initiatives Coordinator
Norm Synnott	Chief Information Officer/Executive Director Information Technology
Janice Guthrie	Deputy Treasurer–Taxation, Treasury and Financial Projects
Joe Mancina	Commissioner Corporate Services, CFO/City Treasurer
Onorio Colucci	Acting Chief Administrative Officer

**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>

**Appendices:**

**Subject: Appointment of a Drainage Engineer - Delegation of Authority - City Wide**

**Reference:**

Date to Council: January 30, 2023

Author: Stacey McGuire

Manager of Development

519-255-6100 ext. 1726

[smcguire@citywindsor.ca](mailto:smcguire@citywindsor.ca)

Engineering

Report Date: January 9, 2023

Clerk's File #: SW2023

To: Mayor and Members of City Council

**Recommendation:**

- I. THAT City Council **DELEGATE** to the Chief Administrative Officer, in accordance with S.23.2(4) of the Municipal Act, the authority to approve the appointment of a Drainage Engineer pursuant to Section 8 of the Drainage Act, subject to the services proposal being below \$100,000 in value and satisfactory in technical content to the Commissioner of Infrastructure Services, and that the Delegation of Authority By-law 208-2008 **BE AMENDED** accordingly.

**Executive Summary:**

N/A

**Background:**

The following excerpt from the Drainage Act governs the process for appointing a drainage engineer to prepare a drainage report for the municipality.

***Appointment of engineer***

***8 (1) Where the council of the initiating municipality has decided to proceed with the drainage works described in a petition, the council shall by by-law or resolution appoint an engineer to make an examination of the area requiring drainage as described in the petition and to prepare a report which shall include,***

- (a) plans, profiles and specifications of the drainage works, including a description of the area requiring drainage;*
- (b) an estimate of the total cost thereof;*
- (c) an assessment of the amount or proportion of the cost of the works to be assessed against every parcel of land and road for benefit, outlet liability and injuring liability;*
- (d) allowances, if any, to be paid to the owners of land affected by the drainage works; and*
- (e) such other matters as are prescribed or provided for under this Act. R.S.O. 1990, c. D.17, s. 8 (1); 2020, c. 18, Sched. 4, s. 4.*

Historically, the appointment of a drainage engineer has been through a report to Council resulting in a Council Resolution appointing said engineer. Where a developer is required to undertake a drainage report for minor modifications to a municipal drain such as the addition of a driveway access culvert or new storm connection, the appointment of a drainage engineer by the municipality is required to initiate the process. Although the Drainage Act process can take several months to a year, the expeditious appointment of the drainage engineer can assist with shortening this time period.

## **Discussion:**

The appointment of an engineer by resolution or by-law pursuant to section 8 Drainage Act is a legislative act. Section 23.2(4) of the Municipal Act (excerpt below) permits the delegation of Council's legislative powers where in the opinion of Council the power being delegated is minor in nature.

### ***Municipal Act***

#### ***S. 23.2 Restriction re officers, employees, etc.***

*(4) No delegation of a legislative power shall be made to an individual described in clause (1) (c) unless, in the opinion of the council of the municipality, the power being delegated is of a minor nature and, in determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power.*

- (1) (c) an individual who is an officer, employee or agent of the municipality.*

It is Administration's opinion that delegation of the approval of the appointment of a drainage engineer would be minor in nature since Council still has to pass the by-law appointing the engineer and approve the drainage report and the drainage works. The appointed engineering firms would need to meet the technical qualifications required to complete the work and the appointment would have to comply with the Purchasing By-law.

**Risk Analysis:**

Delegating the approval authority will reduce the amount of time it takes to prepare a drainage report for a municipal drain under the Drainage Act. For minor development related Drainage Act matters, this may reduce the time to complete a drainage report by up to two months.

**Climate Change Risks:**

**Climate Change Mitigation:** The recommendation does not contribute to the mitigation of climate change.

**Climate Change Adaptation:** The recommendation does not contribute to the adaptation for climate change.

**Financial Matters:**

There are no financial implications with this information report. All drainage report proposals will follow the Purchasing By-law and will be contingent on availability of funds in the existing capital budget.

**Consultations:**

Tom Graziano, Drainage Superintendent

Wira Vendrasco, Deputy City Solicitor, Legal & Real Estate

**Conclusion:**

Administration recommends delegating authority to the Chief Administrative Officer to appoint drainage engineers under the Drainage Act to reduce the time required to prepare a drainage report.

**Approvals:**

Name	Title
Stacey McGuire	Manager of Development
France Isabelle-Tunks	Executive Director of Engineering/Deputy City Engineer

Name	Title
Chris Nepszy	Commissioner, Infrastructure Services
Shelby Askin Hager	Commissioner, Legal & Legislative Services
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address	Email

**Appendices:**



**Subject: Zoning By-law Amendment Application for property known as 1247 - 1271 Riverside Dr. E., at the S/W corner of Hall and Riverside Dr. E; Applicant: St. Clair Rhodes Development Corporation; File No. Z-044/21, ZNG/6633; Ward 4.**

Moved by: Councillor Jim Morrison  
Seconded by: Member Moore

Decision Number: **DHSC453 CR457 DHSC431**

- I. THAT Zoning By-law 8600 **BE AMENDED** for the lands located on the southwest corner of Riverside Drive East and Hall Avenue, described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], by amending the existing site specific provision s.20(1)310 to include a *“Multiple Dwelling with five or more dwelling units”* as an additional permitted use, subject to the provisions noted in Recommendation II below;
- II. THAT special provision **S.20(1)310** for the lands located on the southwest corner of Riverside Drive East and Hall Avenue, described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], **BE DELETED** and **BE REPLACED** with the following:

**“310. SOUTHWEST CORNER OF RIVERSIDE DRIVE EAST AND HALL AVENUE**

For the lands comprising part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], the following shall apply:

**ADDITIONAL PERMITTED USES:**

*Multiple Dwelling with five or more dwelling units* (New use)

*Business Office*

*Business Office* in a *Combined Use Building* with any of the uses permitted in Section 11.2.1, provided That all dwelling units, not including entrances thereto, are located entirely above a *business office*;

**ADDITIONAL PROVISIONS FOR BUSINESS OFFICE & BUSINESS OFFICE IN A COMBINED USE BUILDING:**

- .3 Lot Coverage - Total - maximum - 30.0%
- .4 Building Height – maximum - 14.0 m
- .8 Landscape Open Space Yard – minimum - 15% of lot area
- .20 Building Setback – minimum:
  - a) From the exterior lot line along Hall Avenue – 1.20 m; and 3.20 m

- for any part of the *building* above 8.0 m in height;
  - b) From the *exterior lot line* along Riverside Drive - 6.0 m; and 8.0 m for any part of the *building* above 8.0 m in height;
  - c) From an *interior lot line* – 15.0 m, for the area within 30.0 m from the Riverside Drive right-of-way; and 1.50 m for the remainder of the area;
  - d) From the *rear lot line* – 50.0 m;
- .50 *Parking spaces* shall be setback a minimum of 12.0 m from the south limit of Riverside Drive East right-of-way, and shall be screened from Riverside Drive East and adjacent dwellings.
- .55 The minimum parking area separation from the abutting north-south alley shall be 1.10 m.
- .90 A *parking space* is prohibited in any required *front* yard.
- .95 Vehicular access is prohibited along the Riverside Drive frontage and along the east-west alley abutting Hall Avenue situated at the most southerly limit of the subject land.

**ADDITIONAL PROVISIONS FOR *MULTIPLE DWELLING* WITH FIVE OR MORE *DWELLING UNITS*:** (New provisions)

1. The provisions in Section 20(1)310 That apply to a *Business Office* and a *Combined Use Building* shall also apply to a *multiple dwelling* with five or more *dwelling units*, save and except for s.20(1)310.3, s.20(1)310.4, s.20(1)310.8 and 20(1)310.20(d); and
2. The following additional provisions shall apply to a *multiple dwelling* with five or more *dwelling units*:
  - .2 Lot Area – minimum - 93.0 m<sup>2</sup> per unit
  - .3 Lot Coverage – maximum - 45%
  - .4 Main Building Height – maximum - 18.0 m
  - .8 Landscape Open Space Yard – minimum - 35% of *lot area*
  - .20 Building setback from rear lot line - minimum - 7.50 m
3. A scenery loft shall be an additional permitted facility on a *multiple dwelling* with five or more *dwelling units*, subject to the following:
  - a. The “*Exceptions To Maximum Building Height Provisions*” shall not apply to a scenery loft on the subject land; and
  - b. The Scenery Loft Provisions in section 5.35.5 of by-law 8600 shall not apply, save and except the requirement for a maximum height of 4.0 metres.

[ZDM 6; ZNG/4153; ZNG/5270; ZNG/6633]”

III. THAT the applicant’s request for site-specific provision to allow for a reduction in the required minimum building setback from 1.5m to 0.2m from an interior lot line, **BE DENIED**, for reasons noted in this report;



- IV. THAT the parcel described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], located on the southwest corner of Riverside Drive East and Hall Avenue, **BE EXEMPT** from the provisions of section 45(1.3) of the Planning Act, provided the subject exemption excludes minor variance application(s) with the intent to achieve any of the following:
- a. Reduction in the required minimum building setbacks; and
- V. THAT the Site Plan Approval Officer **BE DIRECTED** to incorporate the following requirements and other requirements found in Appendix B of this Report, in the Site Plan Approval process and the Site Plan Agreement for the proposed development on the subject land:
- 1) 4.6m x 4.6m corner cut-off at the corner of Hall Avenue and Riverside Dr. E.
  - 2) Storm Detention
  - 3) Sanitary Sampling Manhole
  - 4) Oil & Grit Separator
  - 5) Encroachment of existing concrete retaining wall (and footings) fronting Riverside Dr. E.
  - 6) Parkland dedication;
  - 7) A Record of Site Condition registered on file with the Ministry; and
  - 8) Canada Post requirements and guidelines for the proposed multi-unit development.

Carried.

Report Number: S 116/2022  
Clerk's File: Z/14294

**Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are **not** the same.
2. Please refer to Item 7.1 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to: <https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Zoning By-law Amendment Application for 1247 -1271  
Riverside Dr. E., at the S/W corner of Hall & Riverside Dr. E; Applicant:  
St. Clair Rhodes Development Corporation; File No. Z-044/21, ZNG/6633;  
Ward 4.**

**Reference:**

Date to Council: January 9, 2023  
Author: Justina Nwaesei, MCIP, RPP  
Senior Planner - Subdivisions  
519-255-6543, ext. 6165  
jnwaesei@citywindsor.ca

Planning & Building Services  
Report Date: September 15, 2022  
Clerk's File #: Z/14294

**To:** Mayor and Members of City Council

**Recommendation:**

- I. That Zoning By-law 8600 **BE AMENDED** for the lands located on the southwest corner of Riverside Drive East and Hall Avenue, described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], by amending the existing site specific provision s.20(1)310 to include a "*Multiple Dwelling* with five or more *dwelling units*" as an additional permitted use, subject to the provisions noted in Recommendation II below;
- II. That special provision **S.20(1)310** for the lands located on the southwest corner of Riverside Drive East and Hall Avenue, described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], **BE DELETED** and **BE REPLACED** with the following:

**"310. SOUTHWEST CORNER OF RIVERSIDE DRIVE EAST AND HALL AVENUE**

For the lands comprising part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], the following shall apply:

**ADDITIONAL PERMITTED USES:**

*Multiple Dwelling* with five or more *dwelling units* (New use)

*Business Office*

*Business Office* in a *Combined Use Building* with any of the uses permitted in Section 11.2.1, provided that all dwelling units, not including entrances thereto, are located entirely above a *business office*;

**ADDITIONAL PROVISIONS FOR *BUSINESS OFFICE* & *BUSINESS OFFICE* IN A *COMBINED USE BUILDING*:**

- .3 Lot Coverage - Total - maximum - 30.0%
- .4 Building Height – maximum - 14.0 m
- .8 Landscape Open Space Yard – minimum - 15% of *lot area*
- .20 Building Setback – minimum:
  - a) From the *exterior lot line* along Hall Avenue – 1.20 m; and 3.20 m for any part of the *building* above 8.0 m in height;
  - b) From the *exterior lot line* along Riverside Drive - 6.0 m; and 8.0 m for any part of the *building* above 8.0 m in height;
  - c) From an *interior lot line* – 15.0 m, for the area within 30.0 m from the Riverside Drive right-of-way; and 1.50 m for the remainder of the area;
  - d) From the *rear lot line* – 50.0 m;
- .50 *Parking spaces* shall be setback a minimum of 12.0 m from the south limit of Riverside Drive East right-of-way, and shall be screened from Riverside Drive East and adjacent dwellings.
- .55 The minimum parking area separation from the abutting north-south alley shall be 1.10 m.
- .90 A *parking space* is prohibited in any required *front yard*.
- .95 Vehicular access is prohibited along the Riverside Drive frontage and along the east-west alley abutting Hall Avenue situated at the most southerly limit of the subject land.

**ADDITIONAL PROVISIONS FOR *MULTIPLE DWELLING WITH FIVE OR MORE DWELLING UNITS*:** (New provisions)

1. The provisions in Section 20(1)310 that apply to a *Business Office* and a *Combined Use Building* shall also apply to a *multiple dwelling* with five or more *dwelling units*, save and except for s.20(1)310.3, s.20(1)310.4, s.20(1)310.8 and 20(1)310.20(d); and
2. The following additional provisions shall apply to a *multiple dwelling* with five or more *dwelling units*:
  - .2 Lot Area – minimum - 93.0 m<sup>2</sup> per unit
  - .3 Lot Coverage – maximum - 35%
  - .4 Main Building Height – maximum - 18.0 m
  - .8 Landscape Open Space Yard – minimum - 35% of *lot area*
  - .20 Building setback from rear lot line - minimum - 30.0 m
3. A scenery loft shall be an additional permitted facility on a *multiple dwelling* with five or more *dwelling units*, subject to the following:
  - a. The “*Exceptions To Maximum Building Height Provisions*” shall not apply to a scenery loft on the subject land; and
  - b. The Scenery Loft Provisions in section 5.35.5 of by-law 8600 shall not apply, save and except the requirement for a maximum height of 4.0 metres.

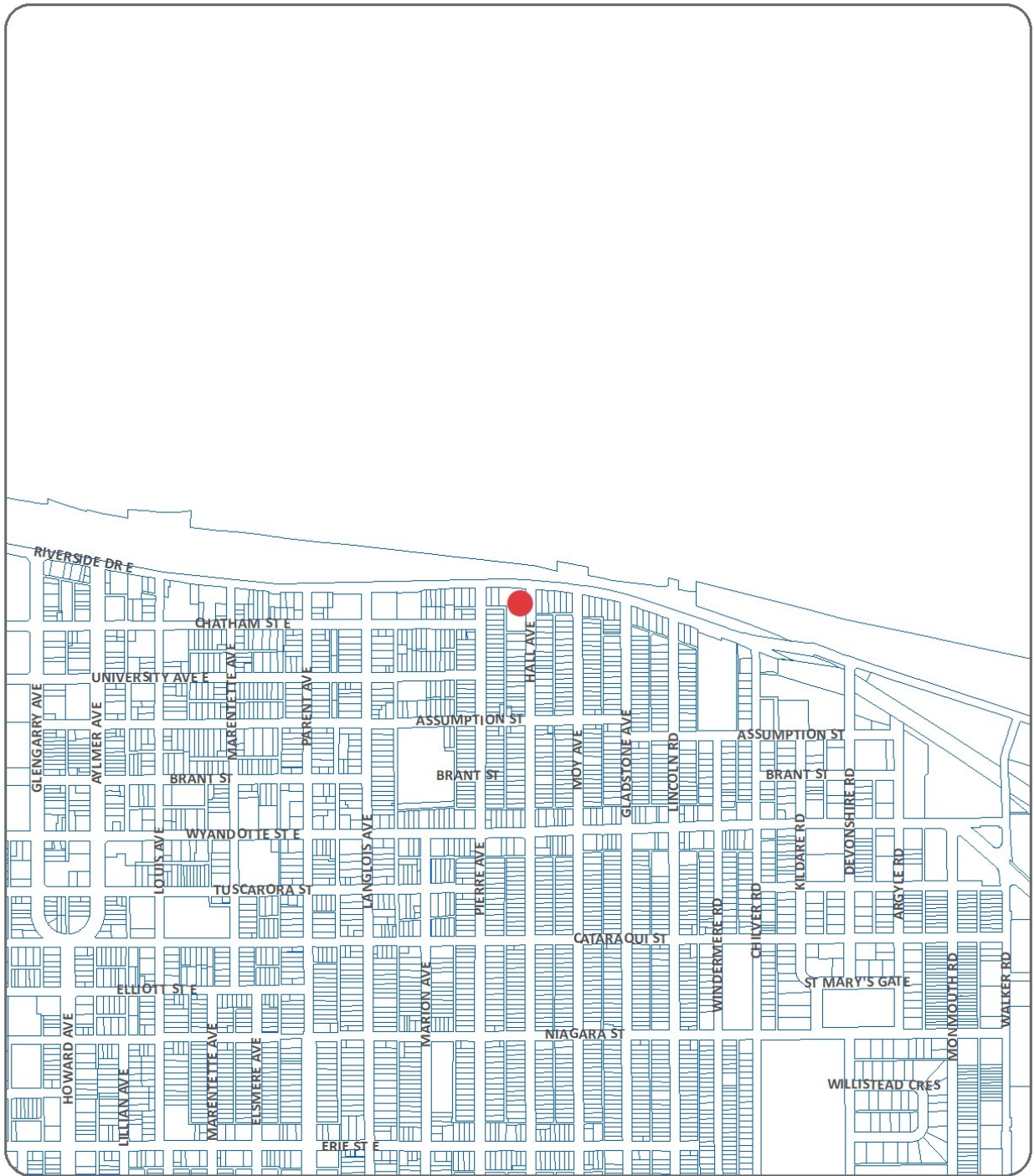
[ZDM 6; ZNG/4153; ZNG/5270; ZNG/6633]”

- III. That the applicant's request for site-specific provision to allow for a reduction in the required minimum building setback from 1.5m to 0.2m from an interior lot line, **BE DENIED**, for reasons noted in this report;
- III. THAT the parcel described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], located on the southwest corner of Riverside Drive East and Hall Avenue, **BE EXEMPT** from the provisions of section 45(1.3) of the Planning Act, provided the subject exemption excludes minor variance application(s) with the intent to achieve any of the following:
  - a. Reduction in the required minimum building setbacks; and,
- IV. THAT the Site Plan Approval Officer **BE DIRECTED** to incorporate the following requirements and other requirements found in Appendix B of this Report, in the Site Plan Approval process and the Site Plan Agreement for the proposed development on the subject land:
  - 1) 4.6m x 4.6m corner cut-off at the corner of Hall Avenue and Riverside Dr. E.
  - 2) Storm Detention
  - 3) Sanitary Sampling Manhole
  - 4) Oil & Grit Separator
  - 5) Encroachment of existing concrete retaining wall (and footings) fronting Riverside Dr. E.
  - 6) Parkland dedication;
  - 7) A Record of Site Condition registered on file with the Ministry; and
  - 8) Canada Post requirements and guidelines for the proposed multi-unit development.

**Executive Summary:** N/A

**Background:**

1. KEY MAP



## KEY MAP - Z-044/21, ZNG-6633



● SUBJECT LANDS

APPLICANT: ST. CLAIR RHODES DEVELOPMENT CORPORATION

ADDRESS: 1247 RIVERSIDE DRIVE EAST

## 2. APPLICATION INFORMATION

**LOCATION:** 1247 & 1271 Riverside Dr. E. [southwest corner of Riverside Dr. E. & Hall Ave.]

**APPLICANT:** ST. CLAIR RHODES DEVELOPMENT CORPORATION; c/o Dino Maggio.

**AGENT:** DILLON CONSTRUCTION LIMITED; c/o Karl Tanner

**REGISTERED OWNER:** SAME AS APPLICANT

**PROPOSAL:** The applicant is requesting an amendment to Zoning By-law 8600 for the lands municipally known as 1247 & 1271 Riverside Drive East. The subject land is designated Residential on the Land Use Schedule D of the Official Plan. The property is zoned Residential District 2.2 (RD2.2) by Zoning By-law 8600, with site-specific zoning provision S.20(1)310.

The RD2.2 zoning permits one *multiple dwelling* containing a maximum of four *dwelling units*. The applicant proposes a site-specific exemption to the zoning by-law, to permit one *multiple dwelling* with five or more *dwelling units* on the subject land.

The applicant is also requesting the following additional provisions:

- Lot coverage – maximum - 35%,
- Building height – maximum - 18m,
- Building setback - 0.2m for interior side yard in the area beyond 30m from the Riverside Drive right-of-way, and
- Building setback – minimum - 30m from the rear lot line.
- Relief from section 5.35.5 of by-law 8600.

The applicant proposes to develop a multi-storey, *multiple dwelling* with 42 *dwelling units* on the subject land. The applicant's revised Planning Justification Report dated September 13, 2022, prepared by Dillon Consulting, indicates the proposed building will have 5 storeys above grade and 1 storey below grade with 20 surface parking spaces and 49 below grade parking spaces. The fifth storey will contain amenity area (scenery loft).

### **SUBMISSIONS BY APPLICANT:**

- Zoning By-law Amendment Application form;
- Property Deed;
- Development Concept plan;
- Project Summary/Planning Justification Report dated October 2020, REVISED June 29, 2022, September 8, 2022 and September 13, 2022, prepared by Dillon Consulting;
- StormWater Management Report dated Nov. 23, 2021, prepared by Aleo Associates Inc.;
- Topographic Plan of Survey dated Jan. 31, 2014, prepared by Verhaegen/ Stubberfield/ Hartley/ Brewer/ Bezaire Inc.;
- Stage 1 Archaeological Assessment Report dated Oct. 2015, Revised Feb. 2016, prepared by Cultural Resource management Group Limited;
- Stage 2 Archaeological Assessment Report dated Sep. 2016, prepared by Cultural Resource Management Group Limited;
- Ministry of Tourism Culture and Sport (MTCS) Letter dated Oct. 28, 2016, RE: Review and Entry into the Ontario Public Register of Archaeological Reports;
- Urban Design Brief dated July 22, 2022, prepared by Dillon Consulting;
- Shadow Impact Analysis dated March 20, 2022, prepared by Dillon Consulting; and
- Energy Strategy dated March 2022, prepared by Dillon Consulting.

### 3. SITE INFORMATION

OFFICIAL PLAN	ZONING & ZDM	CURRENT USE(S)	PREVIOUS USE(S)
RESIDENTIAL [Land Use]	RESIDENTIAL DISTRICT 2.2 (RD2.2) & S.20(1)310;  ZDM6	Vacant land (since 2014)	1247 Riverside Dr. E.: <b>Residential</b> (Single unit dwelling)  1271 Riverside Dr. E.: <b>Commercial</b> (Danny's Tavern)
FRONTAGE	DEPTH	AREA	SHAPE
54.18m along Riverside 85.57m along Hall	irregular	3953.78m <sup>2</sup> (0.977acres)	irregular
<p>Note: (1) All measurements are based on the 2014 topographic plan of survey.            (2) House and Tavern were demolished in 2014)            (2) This site is within the limits of the Riverside Dr. Vista Improvement Environmental Assessment (EA).            (3) The EA does not identify any property requirements from the subject land.            (4) The subject site is not located within a regulated area that is under the jurisdiction of ERCA.</p>			

### 4. PREVIOUS AMENDMENTS RELATED TO SECTION 20(1)310:

**OPA 97:** October 6, 2014, Council enacted By-law 174-2014 for the adoption of OPA 97. The purpose of the amendment (OPA97) is as follows:

- (i) to provide a site specific policy permitting “a business office use” as additional permitted use on the subject land designated Residential in the land use Schedule of the Official Plan, and
- (ii) to also expand the site specific policy to allow for the development of a business office jointly with a residential use on the subject land designated residential.

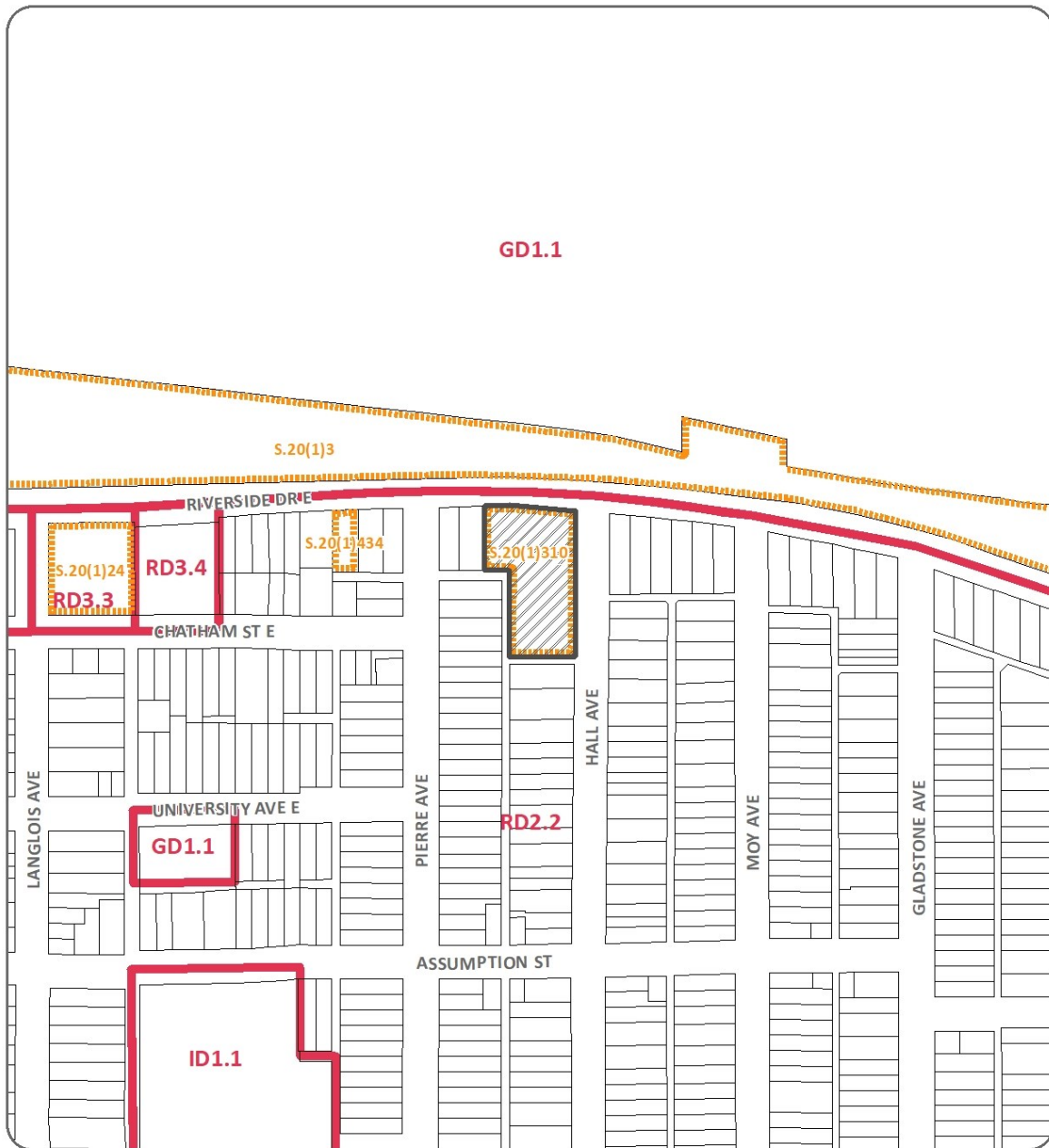
**Z-007/14, ZNG/4153:** October 6, 2014, Council also passed By-law 175-2014, which further amended By-law Number 8600 by adding section 20(1)310. By-law 175-2014 had the following purpose and effect:

- Permits the use of the subject land for “a business office” or “a business office in a combined use building with any one of the uses listed under Section 11(2)(a), provided that all dwelling units, not including entrances thereto, are located entirely above the office use”.
- By-law 175-2014 expands the permitted uses on the subject land through the addition of a site-specific provision to the Zoning By-law.

**Z-021/17, ZNG/5270:** November 6, 2017, Council adopted a resolution (CR677/2017) to approve a house-keeping amendment (File Z-021/17; ZNG/5270), which included some minor corrections to section 20(1)310. On the same November 6, 2017, Council also passed By-law 164-2017 to amend Zoning By-law 8600 as follows:

- Revise Section 5.10 Accessory Buildings by adding provisions for accessory buildings located in Institutional Districts.
- Replace Section 8, 9, 10, 11, 12 and 13 with new and updated Sections 8, 9, 10, 11, 12 and 13.
- Revise Section 20(1) Site Specific Exceptions to refer to new provisions in Sections 8, 9, 10, 11, 12 and 13.
- Minor corrections and revisions.

# 5. REZONING MAP

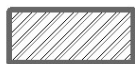


PART OF ZONING DISTRICT MAP 6

N.T.S.

## REZONING

Applicant: St. Clair Rhodes Development Corporation



SUBJECT LANDS

PLANNING & BUILDING DEPARTMENT



DATE : JUNE 2022  
FILE NO. : Z-044/21, ZNG-6633



## 6. NEIGHBOURHOOD CHARACTERISTICS



NEIGHBOURHOOD MAP - Z-044/21, ZNG-6633



SUBJECT LANDS

APPLICANT: ST. CLAIR RHODES DEVELOPMENT CORPORATION

ADDRESS: 1247 RIVERSIDE DRIVE EAST

The surrounding area is an established residential neighbourhood with small scale low profile residential uses mixed with a few medium and high profile developments. The medium and high profile residential developments are mainly along the south side of Riverside Dr. There are some open space/ recreational uses along the north side of Riverside Dr. The character of the neighbourhood shifts to a mixed use area with commercial, residential and institutional uses as you approach Wyandotte Street, south of the subject land as shown below.

#### **SURROUNDING LAND USE**

**North: Open Space uses** – Riverfront Trail, Memorial Garden, Flower Garden and, further north, the Detroit River.

**West (Along south side of Riverside Dr. from Hall Ave. to Langlois Ave.): Residential uses** - mostly small-scale low profile housing developments and two high profile residential buildings (10-storey apartment building known as Riverside Heights, at 1070 Chatham Street E. and a 12-storey apartment building known as Royal Towers, at 101 Langlois Ave.). Further west, on the Southeast corner of Parent Ave. and Riverside Dr. intersection, there is a 2-storey commercial building (Blondie Cleaners) at 909 Riverside Dr. E.

**East: (Along south side of Riverside Dr., from Hall Ave. to Gladstone Ave.): Residential uses** – small-scale low profile housing developments. Further east, at 1671 Riverside Dr. E., there is a high profile institutional building (Children’s Aid Society, Admin Building).

**South: (Along east & west sides of Hall Ave. to Wyandotte St. E.): Residential and Commercial uses** – mostly small-scale low profile housing developments on Hall Avenue frontage and commercial developments on Wyandotte Street intersection.

**Southeast: Residential uses** - low profile housing developments

#### **Southwest: Residential, Open Space, Institutional and Commercial uses**

- Low profile housing developments,
- University Park (at 1075 University Ave. E., east of Langlois Ave.),
- Place of Worship (Jesus Christ Tabernacle church at 381 Pierre St, N/W CNR of Pierre and Assumption),
- School (Frank W. Begley Public School at 1093 & 1105 Assumption St., between Langlois and Hall Avenues),
- Commercial uses (retail stores, restaurants, personal service shops, etc. along Wyandotte St. E.)

#### **MUNICIPAL INFRASTRUCTURE**

- The City’s records show that there are municipal storm and sanitary sewers within the abutting roadways, available to service the subject land.
- Municipal watermains, fire hydrants and LED streetlights are available in the subject area.
- There are concrete sidewalks, curbs and gutter along both sides of Hall Avenue and Riverside Drive East.
- There are Multi-Use Trails along the north side of Riverside Dr. E. and within the waterfront.
- Transit Windsor Bus routes (Walkerville 8 and Crosstown 2) are available to service the subject land and area. The closest existing transit route to this property is the Walkerville 8. Bus stop is located at the southwest corner of Riverside and Hall, in front of the subject property.
- Riverside Drive East is classified as a Scenic Drive in the Official Plan; while Hall Avenue is classified as a local Road.
- Nearby Class II Arterial Road – Wyandotte St. E. (approx. 400m south of the subject land)

- Nearby Class I Collector Roads – Gladstone and Lincoln Ave. (approx. 200m and 300m, respectively, east of the subject land).

## Discussion:

### PLANNING ANALYSIS:

#### 1. PROVINCIAL POLICY STATEMENT (PPS) 2020

Provincial Policy Statement 2020 was issued under section 3 of the Planning Act and came into effect May 1, 2020. It provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land in Ontario.

The recommended zoning by-law amendment promotes residential intensification, infill and redevelopment in an established residential neighbourhood that has a mix of commercial and institutional uses along nearby commercial corridor(s). The following policies of PPS 2020 are considered relevant in discussing provincial interests related to this amendment:

#### *1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns*

##### *1.1.1 Healthy, liveable and safe communities are sustained by:*

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;*
- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;*
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;*
- i) preparing for the regional and local impacts of a changing climate.*

With respect to 1.1.1(a) – This property has been vacant for 8 years following the demolition of the single unit dwelling and tavern on the subject land. This amendment will, therefore, facilitate an infill residential development / redevelopment of the subject land. The amendment will introduce a medium profile, higher density residential use on the subject land; thereby, resulting in an efficient use of land, municipal services and infrastructure. Consequently, the amendment will promote efficient development and land use pattern that will positively impact the financial well-being of the City of Windsor.

With respect to 1.1.1(b) - There are a few medium and high profile residential developments west of the subject land. As noted already in this report, the east and south sides of the subject land are mostly low profile residential developments. The north side is the Windsor Riverfront. The recommended amendment will bring about the accommodation of a new *multi-unit, multi-storey* housing type that will constitute an appropriate market-based range and mix of residential types.

With respect to 1.1.1(c) – There are no known environmental or public health & safety concerns.

With respect to 1.1.1(f) - Sidewalks improve *accessibility for persons with disabilities and older persons*. As noted already in this report, there are existing concrete sidewalks on abutting and nearby roadways. The concept plan shows proposed on-site sidewalks, which connect to city side walks on Hall Avenue; thereby, enhancing on-site and off-site connectivity and accessibility.

With respect to 1.1.1(g) – The subject land is in an area of the City that is built-up and serviced by necessary infrastructure and public utilities.

With respect to 1.1.1(i) – Regional and local impacts of climate change is best addressed at the time of site plan approval when the lot-grading provisions, stormwater management measures, servicing study, landscaping requirements and much more, can be discussed in details and incorporated in the site plan approval and site plan agreement. The subject site is serviced by public transit and there is a bus stop in front of the subject land, at the southwest corner of Riverside and Hall. Therefore, the proposed development with 42 dwelling units will support the use of public transit and help to reduce carbon foot-print, causing a positive impact on climate change.

In summary, the recommended zoning by-law amendment will facilitate an efficient development on the subject land and sustain a healthy, liveable and safe community. The recommended zoning by-law amendment is consistent with policy 1.1.1 of the PPS.

*1.1.3.1 Settlement areas shall be the focus of growth and development.*

*1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:*

- a) efficiently use land and resources;*
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;*
- c) minimize negative impacts to air quality and climate change, and promote energy efficiency;*
- d) prepare for the impacts of a changing climate;*
- e) support active transportation;*
- f) are transit-supportive, where transit is planned, exists or may be developed; and ...*

*Land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.*

*1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.*

This amendment creates opportunity for growth and development within the City of Windsor settlement area. This amendment will facilitate the development of a medium profile housing option, which is both an infill development and a redevelopment; hence, the recommended amendment promotes residential intensification. The amendment will facilitate a transit-supportive multi-unit residential development that will efficiently use land, resources, and existing infrastructure, including existing and planned active transportation options such as sidewalks. The subject amendment is consistent with policies 1.1.3.1 and 1.1.3.2 of the PPS.

## *1.4 Housing*

1.4.1 To provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area, planning authorities shall:

a) maintain at all times the ability to accommodate residential growth for a minimum of 15 years through residential intensification and redevelopment and, if necessary, lands which are designated and available for residential development;

1.4.3 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by:

b) permitting and facilitating:

1. all housing options required to meet the social, health, economic and well-being requirements of current and future residents, ...; and

2. all types of residential intensification, including additional residential units, and redevelopment in accordance with policy 1.1.3.3;

c) directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;

d) promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed;

This amendment is intended to:

- promote the redevelopment of the subject site at a much higher density than previously existed on the subject land;
- create an opportunity for a higher density and compact development in an established residential area containing mostly low-density developments;
- facilitate a net increase in residential units or accommodation;
- result in the intensification of the subject site and area;
- facilitate the municipality's ability to accommodate residential growth through intensification;
- provide a form of housing that is appropriate in terms of range and mix, and
- meet the social, health and well-being of current and future residents.

Appropriate level of infrastructure, active transportation and transit services are available or will be available in the subject area. This amendment is consistent with policy 1.4 of the PPS.

### *1.6 Infrastructure and Public Service Facilities*

1.6.6.2 *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. Within settlement areas with existing municipal sewage services and municipal water services, intensification and redevelopment shall be promoted wherever feasible to optimize the use of the services.*

The subject land is within an area that is serviced by municipal sewage services and municipal water services. The recommended zoning by-law amendment is consistent with policy 1.6.6.2 of the PPS.

1.6.6.7 *Planning for stormwater management shall:*

e) *maximize the extent and function of vegetative and pervious surfaces; and*

f) *promote stormwater management best practices, including stormwater attenuation and re-use, water conservation and efficiency, and low impact development.*

The applicant's site-specific relief from the zoning by-law with respect to reduction in interior side yard width amounts to minimizing the extent and function of vegetative landscape and pervious surface on the subject land, therefore, is not consistent with policy 1.6.6.7 (e) of the

PPS. Consequently, in order to help maximize the extent and function of vegetative and pervious surfaces on the subject site, the applicant's site-specific request for a reduction in interior side yard width is not being recommended. The recommended amendment eliminates the site-specific zoning provision regarding reduction in interior side yard width. The recommended amendment is consistent with policy 1.6.6.7 (e) of the PPS.

Applicant is advised that landscaped area should be maximized as much as possible to enhance stormwater attenuation. Applicant is encouraged to consider Low Impact Design in the Site Plan Review process to address quantity and quality of stormwater leaving the site.

The applicant submitted a Stormwater Management (SWM) Report dated November 23, 2021. The SWM report indicates that the proposed development will discharge entirely to the existing 18" diameter municipal storm sewer on Hall Avenue located east of the site. The SWM report also states that storage has been provided entirely underground in the depressed grass area and in oversized storm sewer pipe and structures. The recommended amendment is consistent with policy 1.6.6.7 (f) of the PPS.

### *1.7 Long-Term Economic Prosperity*

*1.7.1 Long-term economic prosperity should be supported by:*

- b) encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce;*
- c) optimizing the long-term availability and use of land, resources, infrastructure and public service facilities*

This amendment encourages residential intensification which provides additional housing supply to the City. This amendment, therefore, symbolizes an appropriate response to the housing needs in the City of Windsor. The proposed development of a 5-storey, 42-unit multiple dwelling will optimize the availability and use of land, infrastructure and public service facilities. The amendment is consistent with policy 1.7.1 of the PPS.

### *1.8 Energy Conservation, Air Quality and Climate Change*

*1.8.1 Planning authorities shall support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions, and preparing for the impacts of a changing climate through land use and development patterns which:*

- a) promote compact form and a structure of nodes and corridors;*
- b) promote the use of active transportation and transit in and between residential, employment (including commercial and industrial) and institutional uses and other areas; and*
- g) maximize vegetation within settlement areas, where feasible.*

The amendment promotes a compact development, which is transit-supportive, in an area that promotes active transportation and connectivity through the existing and planned sidewalks and multi-use trails. The recommended amendment contains zoning provisions (building setbacks from exterior and interior lot lines) that will help to maximize vegetation within the subject site and enhance air quality and positively impact storm management design for the site. The developer should consider energy efficiency in the building design as recommended in the energy study submitted by the applicant. This may include, but not be limited to increased insulation, energy efficient appliances and fixtures, high efficiency windows and doors. It is also recommended that shade trees be provided for heat reduction as well as Green Infrastructure through Low Impact Design best practices to reduce and slow the flow of storm water to the proposed SWM area.

In summary, the above planning analysis demonstrate that the recommended zoning by-law amendment is consistent with the relevant Policies of PPS 2020.

## 2. OFFICIAL PLAN (OP)

A **safe, caring and diverse community** encourages a range of housing types to ensure that people have an opportunity to live in their neighbourhoods as they pass through the various stages of their lives. “As the city grows, more housing opportunities will mean less sprawl onto agricultural and natural lands.” S. 3.2.1.2 (Neighbourhood Housing variety), OP Vol. 1.

One of the **healthy and liveable city** objectives in the Official Plan is to encourage a mix of housing types to allow people to remain in their neighbourhoods as they age; s.4.2.1.5 (Aging in Place), OP Vol. 1

**Land Use Designation:** The site is designated “Residential” in Schedule D of City of Windsor Official Plan. The objectives and policies of the Residential land use designation establish the framework for development decisions in Residential areas within the City of Windsor.

The Official Plan’s objectives are to support a complementary range of housing forms, promote compact residential form for new developments and promote selective residential redevelopment, infill and intensification initiatives in the City of Windsor. See sections 6.3.1.1, 6.3.1.2 and 6.3.1.3 of OP Vol.1. These objectives of the OP are satisfied by the proposed development on the subject land. The amendment supports a complementary range of housing form in the subject neighbourhood. The amendment also provides opportunity for residential redevelopment, infill and intensification; thereby, promoting a compact neighbourhood.

**Permitted Uses:** “Uses permitted in the Residential land use designation identified on Schedule D: Land Use include Low, Medium and High Profile dwelling units.” s. 6.3.2, OP Vol. 1.

**Proposed Use:** The amendment will facilitate the development of a 5-storey, 42-unit Apartment, which is deemed a medium profile housing development per s. 6.2.1.2 of the OP. Therefore, the amendment is for a permitted use within the residential land use designation.

**Locational criteria**, s.6.3.2.4 of OP Vol. 1, are satisfied by the proposed residential development. The amendment is for a residential development located in a built-up area with access to a nearby Class II Arterial Road (Wyandotte St. – 400m south of the subject land) via Hall Ave. (a local Road). The subject development has access to nearby Class I Collector Roads (Gladstone Ave. and Lincoln Rd – 200m and 300m east of the subject land, respectively). The subject land can be serviced by full municipal physical services. Existing community services, open spaces and public transportation are available or planned for in the neighbourhood.

**Evaluation criteria for neighbourhood development pattern**, s.6.3.2.5 of OP Vol. 1. With respect to the proposed development on the subject land, the following evaluation criteria are applicable:

- s.6.3.2.5 (c) compatible with the surrounding area in terms of scale, massing, height, siting, orientation, setbacks, parking and amenity areas;
- (d) provided with adequate off street parking;
- (e) capable of being provided with full municipal physical services and emergency services; and
- (f) facilitating a gradual transition from Low Profile residential development to Medium and/or High profile development and vice versa, where appropriate.

The term “Compatible” means the proposed development needs to be able to coexist with existing land uses; it does not mean the proposed development needs to be identical or similar to existing development in an area. As noted already in this report, there is a mix of low, medium and high profile residential developments co-existing in the subject area.

This recommended by-law amendment utilizes site-specific zoning to guide the proposed development towards compatibility with surrounding low profile residential developments. By applying the recommended site specific zoning regulations to the subject land, the proposed multiple dwelling can be designed to achieve compatibility with existing developments in the neighbourhood.

*Massing and scale* of a development are influenced mostly by the lot size, lot coverage, building height and setback requirements, which have been incorporated in the recommended site-specific provisions.

The recommended main building height of 18m is acceptable, based on what exists in another zoning category (RD2.5 in By-law 8600), where compatibility between low and medium profile residential developments is guided by a main building height of 7m minimum to 18m maximum.

Where a building is sited, its orientation and setback on the subject land are determined by a number of factors such as the building envelope set out in the minimum building setback requirements that are contained in the applicable zoning district and in any site-specific provisions. The recommended amendment contains building setback requirements that are geared towards achieving compatibility with nearby existing low profile residential developments in the area.

For a multiple dwelling with 5 or more dwelling units, the requirement is 1.25 parking spaces per dwelling unit. The provision of adequate off-street parking spaces at the rear of the building with vehicular access from Hall Avenue demonstrates compatibility with uses in the immediate area.

Zoning By-law 8600 defines *Amenity Area* as a *landscaped open space yard* or a recreational facility as an accessory use to a dwelling or a dwelling unit **located on the same lot**. This amendment incorporates site-specific landscape open space requirements, which further helps to achieve compatibility with the existing dwellings in the subject area.

Implementation of the recommended site specific zoning provisions, along with applicable RD2.2 zoning provisions, will help achieve compatibility with surrounding low profile residential uses.

In terms of scale, massing, height, siting, orientation, setbacks, parking and amenity areas, it is my opinion that the recommended amendment can result in a design that is compatible with the surrounding area as required under s.6.3.2.5 (c) above.

Concept plan shows adequate off-street parking for the proposed development; s. 6.3.2.5 (d).

As noted already in this report, the subject land is within a built-up residential neighbourhood and municipal infrastructure and services are available in the area; therefore, the proposed infill residential development is capable of being provided with full municipal physical services and emergency services per s.6.3.2.5 (e).

The recommended amendment is for a medium profile residential development and, as such, gradual transition is necessary and has been considered in the recommended site-specific building setbacks. Therefore, this amendment satisfies s.6.3.2.5 (f).

***Energy Conservation, s.8.5.2.8 of OP Vol. 1:*** The proposed infill redevelopment is a compact, transit-oriented development with increased density, making transit service a viable investment for the City, per s.8.5.2.8(b), OP Vol. 1.



Reduction in landscaping is not desirable and should not be encouraged because landscaping can assist in reducing heating and cooling requirements. Hence the recommended amendment is structured to conform with s.8.5.2.8(c), OP Vol. 1.

**Infill Development, s.8.7.2.3 of OP Vol. 1:** The proposed infill residential development on the subject land is capable of being designed to function as an integral and complementary part of the existing residential development pattern. The requirements under s.8.7.2.3 can be more appropriately addressed at the time of Site Plan Approval. If Council approves the recommended zoning by-law amendment, the next step in the development process is for the proponent to submit an application for site plan review and approval, which will ensure that the proposed residential development is in keeping with the Official Plan built form policy for infill developments as in section 8.7.2.3, OP Vol. 1.

**Amendments Must Conform, s. 11.6.3.1 of OP Vol. 1:** “All amendments to the Zoning By-law(s) shall conform with this Plan”. Based on the analysis provided in this report, the recommended zoning by-law amendment maintains conformity with the Official Plan.

**Evaluation criteria for zoning by-law amendments, s.11.6.3.3 OP Vol. 1:**

- As noted already in this report, the amendment satisfies the evaluation criteria under s.6.3.2.5; therefore, 11.6.3.3(a) is satisfied;
- Relevant support studies were submitted as part of this application and were considered in the preparation of this planning report; therefore, 11.6.3.3(b) is satisfied;
- The requirements, comments and recommendations from municipal departments and circularized agencies have been considered, as noted in the CONSULTATION section of this report; therefore, 11.6.3.3(c) is satisfied;
- This amendment promotes opportunity for residential intensification, redevelopment and infill, which creates a compact form of neighbourhood and ensures continuation of an orderly development pattern in the subject area. The recommended zoning by-law amendment is consistent with the relevant policies of the PPS and conforms with, or can be designed to conform with, the applicable objectives and policies of OP Vol. 1. Therefore, 11.6.3.3(d) is satisfied; and
- The zoning by-law amendment will provide additional housing options and opportunities in the area. Potential adverse impacts on nearby residential properties can be mitigated with design elements and landscaping features and these will be further addressed at the time of site plan review. Therefore, 11.6.3.3(f) is satisfied.

The recommended amendment meets the evaluation criteria set out in s.11.6.3.3 of the OP.

### 3. ZONING

The subject land is zoned Residential District 2.2 (RD2.2) with special provision s.20(1)310, in the City of Windsor Zoning By-law 8600. **Appendix A**, attached to this report, contains relevant excerpts from Zoning By-law 8600. Permitted uses in the RD2.2 zoning district can be found in Appendix A. The proposed 5-storey, 42-unit multiple dwelling is not permitted in the R2.2 zoning nor by S.20(1)310.

The applicant's requests for site-specific zoning provisions in the revised PJR dated September 13, 2022, have all been considered and are supported in this report, save and except for the interior side yard reduction from 1.5m to 0.2m. The side yard reduction minimizes the extent and function of vegetative landscape and pervious surface on the subject land as discussed under 1.6.6.7(e) in this report. Secondly, the RD2.2 zoning requires a side yard width of 1.8m for a multiple dwelling containing a maximum of 4 dwelling units and 1.2m for a single unit dwelling. The 1.5m minimum interior side yard required in s.20(1)310 is already a reduction in the

required side yard for a 10m tall multiple dwelling in an RD2.2 zoning district. Thirdly, in another zoning district (RD2.5, By-law 8600) in which low and medium profile dwellings are planned to co-exist, a multiple dwelling with five or more dwelling units (and a maximum building height of 18m) is required to have a minimum side yard width of 2.5m. Lastly, in my opinion, it is not good planning to support a further reduction in the minimum required interior side yard width for the proposed 18m tall medium profile multiple dwelling abutting a low profile residential development.

The existing special section [s.20(1)310] on the subject land will have to be deleted and replaced with a new (revised) s.20(1)310 as shown in Recommendation II of this report.

With respect to parking requirements for the proposed 42 residential units, the by-law requires 1.25 spaces for each unit; therefore, the development requires a minimum of 52 parking spaces. The applicant proposes 69 off-street parking spaces (20 surface parking spaces and 49 below grade parking spaces). Since most of the parking is going to be located below grade, Planning Department has no issue with the 17 extra parking spaces being proposed.

**DRAFT BY-LAW:** A draft by-law is attached as **Appendix D**. The Planning Act, in subsection 24(1) requires that no by-law shall be passed for any purpose that does not conform with the Official Plan. As noted already under OFFICIAL PLAN section of this report, the recommended amendment conforms with the OP; therefore, the draft by-law can be passed at the appropriate time.

#### 4. SITE PLAN

The proposed amendment is a “development” as defined in section 41(1) of the Planning Act; therefore, the applicant is required to submit an application for Site Plan Approval. Execution of a Site Plan Agreement is required.

The following municipal department requirements and other relevant requirements found in Appendix B attached, shall be addressed through the Site Plan Review and Approval process for the proposed development on the subject land:

- a. 4.6m x 4.6m corner cut-off at the corner of Hall Avenue and Riverside Drive East
- b. Storm Detention
- c. Sanitary Sampling Manhole
- d. Oil & Grit Separator
- e. Encroachment of existing concrete retaining wall (and footings) fronting Riverside Dr.
- f. Parkland dedication;
- g. A Record of Site Condition registered on file with the Ministry; and
- h. Canada Post requirements and guidelines for the proposed multi-unit

#### 5. STORMWATER MANAGEMENT REPORT

The applicant’s consultant, Aleo Associates Inc., submitted stormwater management report dated November 23, 2021, for the proposed multi-storey residential development on the subject land. Aleo Associate’s storm management report summarizes as follows:

- a) That the property has a total area of 42,540 ft<sup>2</sup> (0.98 acres) and the southern portion of the property has a drainage area of 14,505 ft<sup>2</sup> (0.33 acres) and is tributary to the 18” diameter storm sewer on Hall Avenue with an allowable runoff coefficient 0.42; while the northern portion of the property has a drainage area of 28,035 ft<sup>2</sup> (0.64 acres) and is not assessed to a storm sewer;
- b) That the proposed development will discharge entirely to the existing 18” diameter municipal storm sewer on Hall Avenue located east of the site;

- c) That the allowable release rate will be based on a runoff coefficient of  $C=0.42$  and a drainage area of 14,505 ft<sup>2</sup> (0.33 acres); and
- d) That the developed runoff coefficient for the stormwater management boundary area is 0.76 for both the 1:5 year and 1:100 year storm events.

Aleo Consulting Inc. indicates, in their storm management report, that they had carried out storm detention design for a 1:5 year and 1:100 year frequency storm event, and the release rate from the site is being restricted to the 1:5 year allowable discharge rate which is 0.41 cfs (11.6 L/s). The applicant's engineering consultant also states that

- The development flow will be restricted by a Tempest "HF" (High Flow Rate) Inlet Control Device by Ipex (74 mm diameter ICD);
- Storage has been provided entirely underground in the depressed grass area and in oversized storm sewer pipe and structures;
- The 1:5 year and 1:100 year storage elevations are 591.75' and 592.75', respectively; and
- The 1:100 year storage elevation is 12" below the proposed floor elevation 593.75'.

### **Risk Analysis:**

**Mitigation:** The subject site is serviced by public transit and the proposed development is transit-supportive; therefore, this amendment will help in reducing carbon foot-print, thereby, positively impacting climate change. The proposed development will promote active transportation by utilizing existing and new sidewalks in the area, thereby, reducing carbon footprint.

**Adaptation:** As noted in this report under policy 1.1.1(i) of the PPS, impact of climate change is best addressed at the time of site plan approval when the lot-grading provisions, stormwater management measures, servicing study, landscaping requirements and much more, would be discussed in details and incorporated in the site plan approval and site plan agreement.

**Financial Matters:** N/A

### **Consultations:**

#### 1. DEPARTMENT AND AGENCIES

**Appendix B**, attached to this report, contains comments from municipal departments and external agencies that were consulted. There are no objections to the requested amendment. However, some municipal departments and external agencies have conditions/requirements for approval of the subject zoning amendment. See Appendix B hereto attached.

#### 2. PUBLIC NOTICE

The City advertised the official notice in the local Newspaper, the Windsor Star Newspaper, per the Planning Act.

The City will also mail courtesy notice to all properties within 120m (400 feet) of the subject parcel, prior to the Development & Heritage Standing Committee (DHSC) meeting.

### **Conclusion:**

Following my evaluation of materials submitted by the applicant, relevant policies of the Provincial Policy Statement 2020 and the Official Plan, comments from municipal departments and external agencies, it is my professional opinion that the recommended zoning amendment

is consistent with the Provincial Policy Statement 2020, maintains conformity with the Official Plan and constitutes good planning.

It is also my opinion that the requested reduction in interior side yard width should be denied for the reasons outlined in this report, under zoning discussion.

**Planning Act Matters:**

I concur with the above comments and opinion of the Registered Professional Planner.

**Michael Cooke, MCIP, RPP**

Manager, Planning Policy / Deputy City Planner

**Thom Hunt, MCIP, RPP**

City Planner

I am not a registered Planner and have reviewed as a Corporate Team Leader

**JP**, Commissioner of Economic Development & Innovation

**OC**, Chief Administrative Officer

**Approvals:**

<b>Name</b>	<b>Title</b>
Michael Cooke, MCIP, RPP	Manager of Planning Policy / Deputy City Planner
Thom Hunt, MCIP, RPP	City Planner
Wira Vendrasco	Deputy City Solicitor
Jelena Payne	Commissioner of Economic Development & Innovation
Jelena Payne	Chief Administrative Officer (Acting)

**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
Abutting property owners, tenants/occupants within 120 meter (400 feet) radius of the subject land		
Applicant & Owner: St. Clair Rhodes Development Corporation; c/o Dino Maggio	3235 Electricity Dr., Windsor ON N8W 5J1	dino@midsouth.ca
Agent: Dillon Consulting Limited c/o Karl Tanner	3200 Deziel Drive, Suite 608, Windsor, ON N8W 5K8	ktanner@dillon.ca
Councillor Chris Holt	350 City Hall Square West, Suite 220, Windsor, ON	cholt@citywindsor.ca

**Appendices:**

- 1 Appendix A - Excerpts from Zoning By-law 8600
- 2 Appendix B - Consultations Table
- 3 Appendix C - Concept plan
- 4 Appendix D - Draft By-law for Z-044-21
- 5 Appendix E - Planning Act Exemption Letter

# APPENDIX A- Excerpts from Zoning By-law 8600

## SECTION 3 – DEFINITIONS

**AMENITY AREA** means a *landscaped open space yard* or a recreational facility as an *accessory use* to a *dwelling* or a *dwelling unit* located on the same *lot*.

**BUILDING HEIGHT** means:

1. For any *building* with a flat roof, a roof having a slope of less than 20.0 degrees, or a roof with at least two contiguous slopes, where the lowest slope is greater than the uppermost slope, the vertical distance in metres between the *grade* and the highest point of the roof.

Where a *building height* provision is expressed in storeys, the *building height* in metres shall be the number of storeys permitted multiplied by 4.0 m.

Example: If the minimum building height is 2 storeys and the maximum building height is 3 storeys, multiplying 2 storeys by 4.0 m results in a minimum building height of 8.0 m and multiplying 3 storeys by 4.0 m results in a maximum building height of 12.0 m.

2. For a *main building* with a roof other than that described in clause 1 of this subsection, the vertical distance in metres between the *grade* and the mid-point between the lowest eaves and the highest point of the roof.

Where *building height* is expressed in storeys, the minimum *building height* in metres shall be the number of storeys required multiplied by 4.0 m, and the maximum *building height* in metres shall be the number of storeys permitted multiplied by 4.0 m plus an additional 2.0 m for the roof.

Example: If the maximum building height is 2 storeys, multiplying 2 storeys by 4.0 m plus 2.0 m for the roof, results in a maximum building height of 10.0 m.

Example: If the minimum building height is 2 storeys and the maximum building height is 3 storeys, multiplying 2 storeys by 4.0 m results in a minimum building height of 8.0 m and multiplying 3 storeys by 4.0 m plus 2.0 m for the roof results in a maximum building height of 14.0 m.

3. For an *accessory building* with a roof other than that described in clause 1 of this subsection, the vertical distance in metres between the *grade* and the highest point of the roof.

**BUILDING SETBACK** means the horizontal distance measured at right angles from a *lot line* to the closest wall of any *building* or *structure* on the same *lot*.

**DOUBLE DUPLEX DWELLING** means one *dwelling* divided into four *dwelling units* by vertically attaching two *duplex dwellings* with no direct internal connection between the *dwelling units*. A *multiple dwelling*, *semi-detached dwelling*, *stacked dwelling*, or *townhome dwelling* is not a *double duplex dwelling*.

**DUPLEX DWELLING** means one *dwelling* divided horizontally into two *dwelling units* with no direct internal connection between the *dwelling units*. A *single unit dwelling* with two *dwelling units* is not a *duplex dwelling*.

**DWELLING** means a *building* or *structure* that is occupied for the purpose of human habitation. A *correctional institution*, *hotel*, *motor home*, *recreational vehicle*, *tent*, *tent trailer*, or *travel trailer* is not a *dwelling*.

**DWELLING UNIT** means a unit that consists of a self-contained set of rooms located in a *building* or *structure*, that is used or intended for use as residential premises, and that contains kitchen and bathroom facilities that are intended for the use of the unit only.

**GRADE**

1. For the purpose of Section 5.10.9, means the average elevation of the finished surface of the ground adjacent to the *accessory building*.
2. For the remainder of the By-law, means the average elevation of the crown of that part of the *street* abutting the *front lot line*. Where the elevation of a point on a *building* located on the *lot* is equal to the *grade* elevation, that point is deemed to be "at grade".

**LANDSCAPED OPEN SPACE** means an area open to the sky and maintained with one or more of the following ground covers: bark; flowers; grass; mulch; ornamental stone, block or brick, excluding construction grade aggregate; shrubs; trees; water feature; wood chips; and may include outdoor recreational facilities accessory to a *dwelling* or *dwelling unit*.

**MULTIPLE DWELLING** means one *dwelling* containing a *minimum* of three *dwelling units*. A *double duplex dwelling*, *semi-detached dwelling*, *stacked dwelling*, or *townhome dwelling* is not a *multiple dwelling*.

**SCENERY LOFT** means an *amenity area* which occupies a fully enclosed room or group of rooms, is located above the uppermost *storey* of a *main building*, is fully and readily accessible to all residential occupants of the *building*, and is not used in whole or in part as a *dwelling unit*.

**SEMI-DETACHED DWELLING** means one *dwelling* divided vertically into two *dwelling units* by a common interior wall having a *minimum* area above *grade* of 10.0 sq. m., and may include, where permitted by Section 5.99.80, up to two additional *dwelling units*.

**SINGLE UNIT DWELLING** means one *dwelling* having one *dwelling unit* or, where permitted by Section 5.99.80, one *dwelling* having two *dwelling units*. A single family dwelling is a *single unit dwelling*. A *duplex dwelling*, *mobile home dwelling*, *semi-detached dwelling unit*, or *townhome dwelling unit*, is not a *single unit dwelling*.

**TOWNHOME DWELLING** means one *dwelling* vertically divided into a row of three or more *dwelling units* attached by common interior walls, each wall having a *minimum* area above *grade* of 10.0 sq. m., and may include, where permitted by Section 5.99.80, additional *dwelling units*. A *semi-detached dwelling* is not a *townhome dwelling*.

## SECTION 5 – GENERAL PROVISIONS

### 5.35 EXCEPTIONS TO MAXIMUM BUILDING HEIGHT PROVISIONS

5.35.1 **FIXTURES OR STRUCTURES** - The features or structures listed in Table 5.35.1 may extend above the permitted maximum *building height*, provided that such fixtures or structures are erected only to such height as is necessary to accomplish their purpose:

TABLE 5.35.1		
Antenna	HVAC Equipment	Skylight
Belfry	Mechanical Penthouse	Smokestack
Chimney	Protective Fencing	Solar Panel
Cupola	Satellite Dish	Spire
Fire Wall	Screening Fencing	Water Tank

5.35.5 **SCENERY LOFT** - A *scenery loft* shall be an additional permitted facility on a *multiple dwelling* or a *combined use building* provided that the *multiple dwelling* or *combined use building* has a minimum *building height* of 30.0 metres and the *scenery loft* shall have a maximum height of 4.0 metres and a maximum *gross floor area* of 100.0 square metres.

## SECTION 11 - RESIDENTIAL DISTRICTS 2. (RD2.)

### 11.2 RESIDENTIAL DISTRICT 2.2 (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 PROVISIONS

- .1 Duplex Dwelling
  - .1 Lot Width – minimum 12.0 m
  - .2 Lot Area – minimum 360.0 m<sup>2</sup>
  - .3 Lot Coverage – maximum 45.0%
  - .4 Main Building Height – maximum 10.0 m
  - .5 Front Yard Depth – minimum 6.0 m
  - .6 Rear Yard Depth – minimum 7.50 m
  - .7 Side Yard Width – minimum 1.20 m

.2	Semi-Detached Dwelling	
.1	Lot Width – minimum	15.0 m
.2	Lot Area – minimum	450.0 m <sup>2</sup>
.3	Lot Coverage – maximum	45.0%
.4	Main Building Height – maximum	10.0 m
.5	Front Yard Depth – minimum	6.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.20 m
.3	Single Unit Dwelling	
.1	Lot Width – minimum	9.0 m
.2	Lot Area – minimum	270.0 m <sup>2</sup>
.3	Lot Coverage – maximum	45.0%
.4	Main Building Height – maximum	10.0 m
.5	Front Yard Depth – minimum	6.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.20 m
.4	Double Duplex Dwelling or Multiple Dwelling	
.1	Lot Width – minimum	18.0 m
.2	Lot Area – minimum	540.0 m <sup>2</sup>
.3	Lot Coverage – maximum	45.0%
.4	Main Building Height – maximum	10.0 m
.5	Front Yard Depth – minimum	6.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.80 m
.5	Townhome Dwelling	
.1	Lot Width – minimum	20.0 m
.2	Lot Area – per <i>dwelling unit</i> – minimum	200.0 m <sup>2</sup>
.3	Lot Coverage – maximum	45.0%
.4	Main Building Height – maximum	10.0 m
.5	Front Yard Depth – minimum	6.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.50 m



## 11.5 RESIDENTIAL DISTRICT 2.5 (RD2.5)

### 11.5.1 PERMITTED USES

*Double Duplex Dwelling*

*Duplex Dwelling*

*Multiple Dwelling*

*Semi-Detached Dwelling*

*Single Unit Dwelling*

*Townhome Dwelling*

Any use accessory to the above uses

### 11.5.5 PROVISIONS

#### .1 Double Duplex Dwelling

.1	Lot Width – minimum / maximum	18.0 m / 24.0 m
.2	Lot Area – minimum / maximum	540.0 m <sup>2</sup> / 840.0 m <sup>2</sup>
.3	Lot Coverage – maximum	50.0%
.4	Main Building Height – minimum / maximum	7.0 m / 14.0 m
.5	Front Yard Depth – minimum / maximum	6.0 m / 7.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.20 m

#### .2 Duplex Dwelling

.1	Lot Width – minimum / maximum	12.0 m / 15.0 m
.2	Lot Area – minimum / maximum	360.0 m <sup>2</sup> / 525.0 m <sup>2</sup>
.3	Lot Coverage – maximum	50.0%
.4	Main Building Height – minimum / maximum	7.0 m / 14.0 m
.5	Front Yard Depth – minimum / maximum	
	<i>Detached garage or carport in rear yard</i>	3.0 m / 4.0 m
	<i>No detached garage/carport in rear yard</i>	6.0 m / 7.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.20 m

#### .3 Semi-Detached Dwelling

.1	Lot Width – minimum / maximum	15.0 m / 18.0 m
.2	Lot Area – minimum / maximum	450.0 m <sup>2</sup> / 630.0 m <sup>2</sup>
.3	Lot Coverage – maximum	50.0%
.4	Main Building Height – minimum / maximum	7.0 m / 14.0 m
.5	Front Yard Depth – minimum / maximum	
	<i>Detached garage or carport in rear yard</i>	3.0 m / 4.0 m
	<i>No detached garage/carport in rear yard</i>	6.0 m / 7.0 m
.6	Rear Yard Depth – minimum	7.50 m
.7	Side Yard Width – minimum	1.20 m

#### .4 Single Unit Dwelling

.1	Lot Width – minimum / maximum	9.0 m / 12.0 m
.2	Lot Area – minimum / maximum	270.0 m <sup>2</sup> / 420.0 m <sup>2</sup>
.3	Lot Coverage – maximum	45.0%
.4	Main Building Height – minimum / maximum	7.0 m / 14.0 m

- |     |  |   |
|-----|--|---|
| .5  | Front Yard Depth – minimum / maximum   |   |
|     | Detached <i>garage</i> or <i>carport</i> in <i>rear yard</i>   | 3.0 m / 4.0 m                               |
|     | No detached <i>garage/carport</i> in <i>rear yard</i>  | 6.0 m / 7.0 m                               |
| .6  | Rear Yard Depth – minimum  | 7.50 m                                      |
| .7  | Side Yard Width – minimum  | 1.20 m                                      |
| .5  | Multiple Dwelling with four <i>dwelling units</i> or less  |   |
| .1  | Lot Width – minimum / maximum  | 18.0 m / 24.0 m                             |
| .2  | Lot Area – minimum / maximum   | 540.0 m <sup>2</sup> / 840.0 m <sup>2</sup> |
| .3  | Lot Coverage – maximum   | 50.0%                                       |
| .4  | Main Building Height – minimum / maximum   | 7.0 m / 14.0 m                              |
| .5  | Front Yard Depth – minimum / maximum   | 6.0 m / 7.0 m                               |
| .6  | Rear Yard Depth – minimum  | 7.50 m                                      |
| .7  | Side Yard Width – minimum  | 1.20 m                                      |
| .6  | Multiple Dwelling with 5 or more <i>dwelling units</i>   |   |
| .1  | Lot Width – minimum  | 20.0 m                                      |
| .2  | Lot Area – per <i>dwelling unit</i> – minimum  | 166.0 m <sup>2</sup>                        |
| .3  | Lot Coverage – maximum   | 50.0%                                       |
| .4  | Main Building Height – minimum / maximum   | 7.0 m / 18.0 m                              |
| .5  | Front Yard Depth – minimum / maximum   | 6.0 m / 7.0 m                               |
| .6  | Rear Yard Depth – minimum  | 7.50 m                                      |
| .7  | Side Yard Width – minimum  | 2.50 m                                      |
| .7  | Townhome Dwelling  |   |
| .1  | Lot Width – minimum  | 20.0 m                                      |
| .2  | Lot Area – per <i>dwelling unit</i> – minimum  | 190.0 m <sup>2</sup>                        |
| .3  | Lot Coverage – maximum   | 50.0%                                       |
| .4  | Main Building Height – maximum   | 14.0 m                                      |
| .5  | Front Yard Depth – minimum / maximum   | 6.0 m / 7.0 m                               |
| .6  | Rear Yard Depth – minimum  | 7.50 m                                      |
| .7  | Side Yard Width – minimum  | 2.50 m                                      |
| .50 | Notwithstanding Section 24, for a <i>townhome dwelling</i> unit that fronts a <i>street</i> , the required number of <i>parking spaces</i> shall be one <i>parking space</i> for each <i>dwelling unit</i> . |   |
| .50 | For all <i>dwelling</i> s, except a <i>Multiple Dwelling</i> with five or more <i>dwelling units</i> , the exterior walls shall be entirely finished in brick.   |   |
| .60 | Where a <i>garage</i> forms part of the <i>main building</i> , no exterior wall enclosing the <i>garage</i> shall project more than 1.0 m beyond the front wall or side wall of the <i>dwelling</i> .        |   |

# APPENDIX B – Consultations Table

## **Anne Marie Albidone – Environmental Services**

Garbage collection occurs in the alley abutting this property. Therefore the alley must remain accessible at all times. Otherwise, there are no concerns from Environmental Services.

## **Jose Mejalli – Assessment Management Officer**

No objection to the zoning amendment to allow development of a 4-storey, *multiple dwelling* with 23 *units* in total and related parking.

## **Jennifer Nantais – Environmental & Sustainability Coordinator**

In response to the application for a zoning amendment there are no objections. Please also note the following comments for consideration:

### **Energy Conservation, Air Quality and Climate Change:**

Please note PPS 2020 energy conservation and efficiency policies as they relate to long-term economic prosperity (1.7.1 (j)), as well as improved air quality and reduced greenhouse gas emissions (1.8.1). In addition, the City of Windsor Community Energy Plan (approved July 17 2017) aims to improve energy efficiency; modifying land use planning; reducing energy consumption and greenhouse gas emissions; and fostering green energy solutions throughout Windsor, while supporting local economic development.

As per these policies the developer should consider energy efficiency in the building design as recommended in the requested energy study. This may include but not be limited to increased insulation, energy efficient appliances and fixtures, high efficiency windows and doors.

In addition, EV charging infrastructure should be included.

Opportunities to increase resiliency such as providing strategic back-up power capacity is warranted.

The large scale paving of natural space will increase the urban heat island effect in the area. It is recommended that the developer consider shade trees, white colour roofs or green roofs to mitigate this impact. For more suggestions please consult the following resources: LEED, Built Green Canada, and EnerGuide.

To promote the use of active transportation, bike racks should be included.

### **Stormwater Management:**

Consideration should be given, as per PPS 2020 Section 1.6.6.7 to maximize the extent and function of vegetative and pervious surfaces; and promote stormwater management best practices, including stormwater attenuation and reuse, water conservation and efficiency, and low impact development.

Please note that this area of Windsor has a high risk of basement flooding. The applicant should be aware of this risk and take additional measure to minimize the risk of flooding.

### Landscaping

Consideration for shade trees are recommended to minimize the urban heat island impacts. Consideration of native, drought resistant plants is encouraged to limit watering requirements and enhance natural habitat.

In addition we encourage the developer to consider community gardening space for residents. Local food production is very popular in Windsor and a space for community garden boxes could be beneficial.

The Environmental Sustainability & Climate Change team has also requested an Energy Study to be completed during the pre-submission stage this past summer.

### **Canada Post**

This development, as described, falls within our centralized mail policy.

I will specify the condition which I request to be added for Canada Post Corporation's purposes.

- a) Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

Should the description of the project change, I would appreciate an update in order to assess the impact of the change on mail service.

If you have any questions or concerns regarding these conditions, please contact me. I appreciate the opportunity to comment on this project.

### **Jason Scott – Transit Windsor**

Transit Windsor has no objections to this development. The closest existing transit route to this property is with the Walkerville 8. The closest existing bus stop to this property is located directly in front of this property on Riverside at Hall Southwest Corner providing excellent transit coverage to this development. This will be maintained with our Council approved Transit Master Plan. Transit Windsor has no plans or any intention to relocate this bus stop for this development. If the bus stop needs to temporarily be closed for construction on the property, Transit Windsor requires a minimum of 2 weeks notice.

### **ERCA**

The following is provided as a result of our review of Zoning By-Law Amendment Z-044-21 ZNG 6633. The applicant proposes a site-specific exemption to the zoning by-law, to permit one *multiple dwelling* on the subject land. Currently, one *multiple dwelling* containing a maximum of 4 *dwelling units* is permitted on the subject land. The applicant is also requesting for a maximum lot coverage of 30.9%, a maximum building height of 24m, minimum building setback of 0.2m for interior side yard in the area beyond 30m from the Riverside Drive right-of-way, and a minimum building setback of 31.9m from the rear lot line. The proposed development is a multi-storey, *multiple dwelling* with 23 *dwelling units* total. The proposed building will have 4 storeys above grade and 1 storey below grade with 50 above grade parking spaces and 20 below grade parking spaces.

#### DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS AND REGULATORY RESPONSIBILITIES ASSOCIATED WITH THE CONSERVATION AUTHORITIES ACT

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the *Planning Act* as well as our regulatory role as defined by Section 28 of the *Conservation Authorities Act*.

We have reviewed our floodline mapping for this area and it has been determined this site is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the *Conservation Authorities Act*). As a result, a permit is not required from ERCA for issues related to Section 28 of the *Conservation Authorities Act*, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the *Conservations Authorities Act*, (Ontario Regulation No. 158/06).

#### WATERSHED BASED RESOURCE MANAGEMENT AGENCY

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

#### SECTION 1.6.6.7 PPS, 2020 - Stormwater Management

If this property is subject to Site Plan Control and a site plan application submission in the future, we request to be included in the circulation of the Site Plan Control application. We reserve to comment further on stormwater management concerns, until we have had an opportunity to review the specific details of the proposal, through a complete and detailed site plan application submission.

#### PLANNING ADVISORY SERVICE TO PLANNING AUTHORITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

The following comments are provided from our perspective as an advisory service provider to the Planning Authority on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the Provincial Policy Statement of the *Planning Act*. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Planning Authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

#### FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no objection to the proposed Zoning By-law Amendment. However, we reserve to comment further on storm water management concerns, until we have had an opportunity to review the specific details of the proposal through the site plan approval stage.

### **Barbara Rusan – Building**

Comments from the City of Windsor Building Division relating to the subject line matter are as follows:

- The Building Code Act, Section 8.1(1) requires that a building permit be issued by the Chief Building Official for any construction or demolition of a building. It is strongly recommended that the owner and/or applicant contact the Building Division to determine building permit needs for the proposed project. The City of Windsor Building Divisions can be reached by phone at 519-255-6267 or through email at [buildingdept@citywindsor.ca](mailto:buildingdept@citywindsor.ca)
- A Record of Site Condition registered on file with the Ministry, is a pre-requisite to Building Permit issuance for the proposed residential use.

### **Sherif Barsom – Parks D&D**

Please note that there are no comments for this liaison from our Parks design and development dept..

### **Patrick Winters – Engineering & ROW**

The subject lands are located at 1247 Riverside Dr. E, designated as Residential on the Land Use Schedule D of the Official Plan. The property is zoned Residential District 2.2 (RD2.2) by Zoning By-law 8600, with site-specific zoning provision S.20(1)310. The applicant proposes a site-specific exemption to the zoning by-law, to permit one multiple dwelling on the subject land. Currently, one multiple dwelling containing a maximum of 4 dwelling units is permitted on the subject land. The applicant is also requesting for a maximum lot coverage of 30.9%, a maximum building height of 24m, minimum building setback of 0.2m for interior side yard in the area beyond 30m from the Riverside Drive right-of-way, and a minimum building setback of 31.9m from the rear lot line.

This site is within the limits of the Riverside Dr. Vista Improvement Environmental Assessment (EA). The EA does not identify any property requirements from this parcel. The current Riverside Drive right-of-way width is 17.4m. Similarly, Hall Ave. is designated as a local road requiring a 20.0m right-of-way. The current right-of-way width is 20.1m and therefore no land conveyance is required along the Hall Ave. frontage. Furthermore, a 4.6m x 4.6m corner cut-off conveyance will be required at the southwest corner of the Riverside Dr. E. and Hall Ave. intersection.

The existing concrete retaining wall fronting Riverside Dr. E is encroaching onto the right-of-way. The applicant shall have this wall removed, including footings, from City property and relocate it to private property if necessary.

The subject lands are serviced by an 825 mm diameter vitrified clay pipe sanitary sewer on Riverside Dr. E., a 450mm diameter reinforced concrete pipe sanitary sewer and a 450mm diameter reinforced concrete pipe storm sewer on Hall Ave. A stormwater management report is required to be completed for the subject lands; storm management facilities must be constructed on site and will ultimately outlet to the municipal sewer using an allowable release rate based on a runoff coefficient of  $C = 0.43$ . A sanitary sampling manhole will need to be installed on any new sanitary connection at the property line to the satisfaction of the City Engineer.

In summary, we have no objections to the proposed site plan control application, subject to the following requirements:

Site Plan Control Agreement – The applicant enter into an amended agreement with the City of Windsor for all requirements under the General Provisions of the Site Plan Control Agreement for the Engineering Department.

Storm Detention - Prior to the issuance of a Building Permit, the applicant(s) shall agree to retain a consulting engineer for the design and preparation of drawings, satisfactory to the City Engineer, for an internal stormwater detention scheme to service the subject lands. The purpose of this scheme will be to ensure that the storm drainage being directed to the Corporation's storm sewer or ditch, from the lands in their improved state, be restricted using an allowable release rate based on a runoff coefficient of  $C = 0.43$ . If these drawings are approved, the applicant(s) shall agree to construct this storm detention scheme, to the satisfaction of the City Engineer.

Sanitary Sampling Manhole – The owner agrees for all non-residential uses, to install a sanitary sampling manhole accessible at the property line of the subject lands to the City Engineer at all times. The determination of the requirement or interpretation if a sampling manhole exists or exceptions to such, will be to the satisfaction of the City Engineer.

Corner Cut-Off – The owner(s) agrees, prior to the issuance of a construction permit, to gratuitously convey a 4.6 m x 4.6 m (15' x 15') corner cut-off at the intersection of Riverside Dr. E. and Hall Ave. in accordance with City of Windsor Standard Drawing AS-230.

Oil & Grit Separator – The owner shall agree to install an approved oil & grit separator on site for the new development to control sediment into the storm water drainage system to the satisfaction of the City Engineer.

Encroachment – The owner agrees to remove the existing retaining wall encroachment into the Riverside Dr. E. right-of-way and the boulevard is to be restored to the satisfaction of the City Engineer.

### **Stefan Fediuk – Landscape Architect**

Pursuant to the application for a zoning amendment (Z 044/21) to permit a site-specific exemption to the zoning by-law, to permit one *multiple dwelling* on the subject, please note no objections.

Please also note the following comments:

### Zoning Provisions for Parking Setback:

There are no additional zoning requirements from a landscape architectural or urban design perspective.

### Urban Design:

This segment of Riverside Drive East is designated as a Civic Way in the Official Plan (Schedule G), and adjacent to the Greenway System (Schedule 'B') of Central Riverfront Lands. Development along Riverside Drive is to be complementary to those areas as identified in the Official Plan sections 8.11.12.12 and 8.11.12.13, which require the provision of enhanced landscape and urban design for the frontages of the development along Civic Ways. Enhancement of the proposed SWM area as vegetative will help to provide this enhancement.

In addition, substantial tree planting would help mediate between the scale of the proposed development and the scale of the surrounding residential properties.

Furthermore, fencing and/or hedge planting along the south property boundary may be required in order to provide privacy for the abutting.

### Climate Change:

Aside from Stormwater Management proposals for this application, the applicant has not addressed climate change requirements found in the PPS (see 1.1.3.2 c) & d). The project summary does site sections of the PPS that include climate change resilience through adaptation and mitigation (PPS 1.8 Energy Conservation, Air Quality and Climate Change) especially PPS1.8.1 which states:

- Planning authorities shall support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions, and preparing for the *impacts of a changing climate* through land use and development patterns which:
  - f) promote design and orientation which maximizes energy efficiency and conservation, and considers the mitigating effects of vegetation and *green infrastructure*; and
  - g) maximize vegetation within *settlement areas*, where feasible.The PPS defines Green Infrastructure as: "...natural and human-made elements that provide ecological and hydrological functions and processes. *Green infrastructure* can include components such as natural heritage features and systems, parklands, stormwater management systems, street trees, urban forests, natural channels, permeable surfaces, and green roofs."

Section 4.2.1 Healthy and Liveable City of the Official Plan also supports the PPS's climate change requirements in 4.2.1.4 which states: "To protect against climate change and its possible adverse effects on human health, the physical environment, economy and quality life."

However, the proposal as per the accompanying site plan is silent to those requirements. Climate change adaptation also needs to address to air quality and heat island effect reduction. Therefore, it is recommended that the development proposal provide measures for adaption through the provision of shade trees for heat reduction as well as Green Infrastructure through Low Impact Design best practices (i.e. trees and vegetative landscaped edges of the stormwater management area) to reduce and slow the flow of storm water to the proposed SWM area.



Tree Preservation:

N/A

Parkland Dedication:

All requirements will be determined at the time a Site Plan application is received

**Rania Toufeili – Transportation**

- Riverside Drive East is classified as a Scenic Drive per the Official Plan with a required right-of-way width of 24 meters. No conveyance is required per the Riverside Vista Improvement Environmental Assessment.
- Hall Avenue is classified as a local road per the Official Plan with a required right-of-way width of 20 meters. The current right-of-way width is sufficient and therefore no conveyance is required.
- A 4.6 meter corner cut-off is required at the corner of Hall Avenue and Riverside Drive East.
- All accesses shall conform to the TAC Geometric Design Guide for Canadian Roads and the City of Windsor Standard Engineering Drawings (AS-203 and AS-204).
- All new exterior paths of travel must meet the requirements of the Accessibility for Ontarians with Disabilities Act (AODA).

**Enwin**

**Hydro Engineering:** No Objections to the proposed Multiple Dwelling.

**Water Engineering:** Water Engineering Has No Objections to Rezoning

**Kristina Tang – Heritage Planner**

Archaeological Assessment Report Entitled, " Stage 2: Archaeological Assessment 1247-1271 Riverside Drive Lot 6 and Part of Lot 92, Concession 1 Geographic Township of Sandwich East City of Windsor Essex County, Ontario", Dated Sep 6, 2016, Filed with MTCS Toronto Office on Sep 13, 2016, MTCS Project Information Form Number P109-0053-2016, MTCS File Number 0003405, has been entered into the Ontario Public Register of Archaeological Reports. Although the report recommends that no further archaeological assessment of the property is recommended, the applicant is still to note the following archaeological precautions:

1. Should archaeological resources be found during grading, construction or soil removal activities, all work in the area must stop immediately and the City's Planning & Building Department, the City's Manager of Culture and Events, and the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries must be notified and confirm satisfaction of any archaeological requirements before work can recommence.
2. In the event that human remains are encountered during grading, construction or soil removal activities, all work in that area must be stopped immediately and the site

secured. The local police or coroner must be contacted to determine whether or not the skeletal remains are human, and whether the remains constitute a part of a crime scene. The Local police or coroner will then notify the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries and the Registrar at the Ministry of Government and Consumer Services if needed, and notification and satisfactory confirmation be given by the Ministry of Heritage, Sport, Tourism and Culture Industries.

Contacts:

Windsor Planning & Building Department:

519-255-6543 x6179, [ktang@citywindsor.ca](mailto:ktang@citywindsor.ca), [planningdept@citywindsor.ca](mailto:planningdept@citywindsor.ca)

Windsor Manager of Culture and Events:

Michelle Staadegaard, (O) 519-253-2300x2726, (C) 519-816-0711,  
[mstaadegaard@citywindsor.ca](mailto:mstaadegaard@citywindsor.ca)

Ontario Ministry of Heritage, Sport, Tourism and Culture Industries

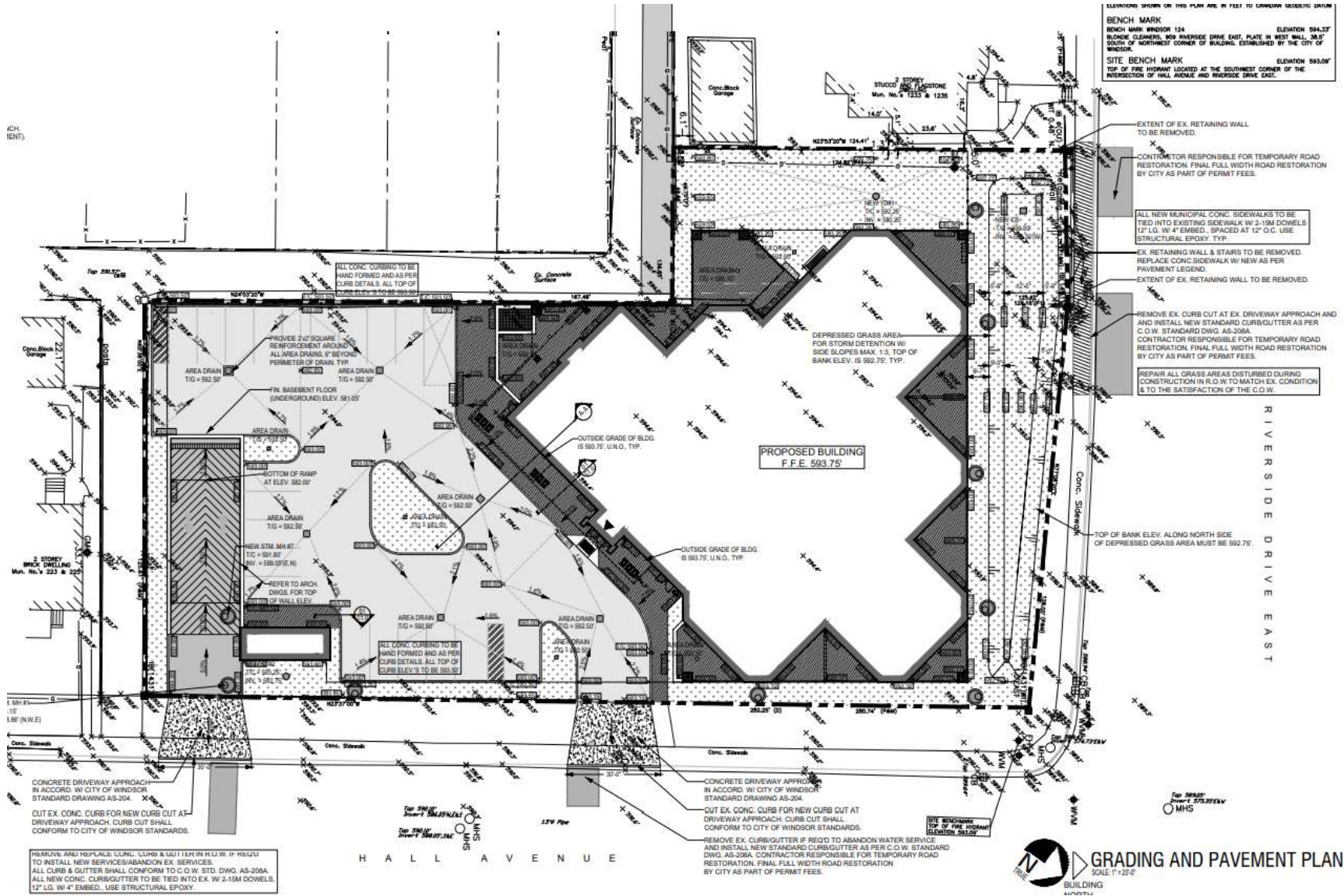
Archaeology Programs Unit, 1-416-212-8886, [Archaeology@ontario.ca](mailto:Archaeology@ontario.ca)

Windsor Police: 911

Ontario Ministry of Government & Consumer Services

A/Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures, 1-416-212-7499, [Crystal.Forrest@ontario.ca](mailto:Crystal.Forrest@ontario.ca)

# APPENDIX C – Concept Plan



ELEVATIONS SHOWN ON THIS PLAN ARE IN FEET TO UNADJUSTED MEAN SEA LEVEL

**BENCH MARK**  
BENCH MARK WINDSOR 124 ELEVATION 594.33  
BLONDE CLEANER, 1009 RIVERSIDE DRIVE EAST, PLATE IN WEST WALL, 30.0" SOUTH OF NORTHWEST CORNER OF BUILDING, ESTABLISHED BY THE CITY OF WINDSOR.

**SITE BENCHMARK**  
TOP OF FIRE HOSEMARK LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF HALL AVENUE AND RIVERSIDE DRIVE EAST. ELEVATION 933.04'

- EXTENT OF EX. RETAINING WALL TO BE REMOVED.
- CONTRACTOR RESPONSIBLE FOR TEMPORARY ROAD RESTORATION. FINAL FULL WIDTH ROAD RESTORATION BY CITY AS PART OF PERMIT FEES.
- ALL NEW MUNICIPAL CONC. SIDEWALKS TO BE TIED INTO EXISTING SIDEWALK W/ 2-15M DOWELS 12" LG. W/ 4" EMBED. SPACED AT 12" O.C. USE STRUCTURAL EPOXY TYP.
- EX. RETAINING WALL & STAIRS TO BE REMOVED. REPLACE CONC. SIDEWALK W/ NEW AS PER PAVEMENT LEGEND.
- EXTENT OF EX. RETAINING WALL TO BE REMOVED.
- REMOVE EX. CURB CUT AT EX. DRIVEWAY APPROACH AND INSTALL NEW STANDARD CURB/GUTTER AS PER C.O.W. STANDARD DWG. AS-208A. CONTRACTOR RESPONSIBLE FOR TEMPORARY ROAD RESTORATION. FINAL FULL WIDTH ROAD RESTORATION BY CITY AS PART OF PERMIT FEES.
- REPAIR ALL GRASS AREAS DISTURBED DURING CONSTRUCTION IN R.O.W. TO MATCH EX. CONDITION & TO THE SATISFACTION OF THE C.O.W.

RIVERSIDE DRIVE EAST

HALL AVENUE

**GRADING AND PAVEMENT PLAN**  
SCALE: 1" = 20'0"  
BUILDING

# APPENDIX D – DRAFT BY-LAW AMENDMENT

BY-LAW NUMBER -20212  
A BY-LAW TO FURTHER AMEND BY-LAW NUMBER 8600  
CITED AS THE "CITY OF WINDSOR ZONING BY-LAW"

Passed the            day of            , 2022.

**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 amended paragraph:

**“310. SOUTHWEST CORNER OF RIVERSIDE DRIVE EAST AND HALL AVENUE**

For the lands comprising part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], the following shall apply:

**ADDITIONAL PERMITTED USES:**

*Multiple Dwelling* with five or more *dwelling units* <sup>(New use)</sup>

*Business Office*

*Business Office* in a *Combined Use Building* with any of the uses permitted in Section 11.2.1, provided that all dwelling units, not including entrances thereto, are located entirely above a *business office*;

**ADDITIONAL PROVISIONS FOR *BUSINESS OFFICE* & *BUSINESS OFFICE* IN A *COMBINED USE BUILDING*:**

- .3 Lot Coverage - Total - maximum 30.0%
- .4 Building Height – maximum 14.0 m
- .8 Landscape Open Space Yard – minimum 15% of *lot* area
- .20 Building Setback – minimum:
  - a) From the *exterior lot line* along Hall Avenue – 1.20 m; and 3.20 m for any part of the *building* above 8.0 m in height;
  - b) From the *exterior lot line* along Riverside Drive - 6.0 m; and 8.0 m for any part of the *building* above 8.0 m in height;
  - c) From an *interior lot line* – 15.0 m, for the area within 30.0 m from the Riverside Drive right-of-way; and 1.50 m for the remainder of the area;
  - d) From the *rear lot line* – 50.0 m;
- .50 *Parking spaces* shall be setback a minimum of 12.0 m from the south limit of Riverside Drive East right-of-way, and shall be screened from Riverside Drive East and adjacent dwellings.
- .55 The minimum parking area separation from the abutting north-south alley shall be 1.10 m.
- .90 A *parking space* is prohibited in any required *front* yard.
- .95 Vehicular access is prohibited along the Riverside Drive frontage and along the east-west alley abutting Hall Avenue situated at the most southerly limit of the subject land.

**ADDITIONAL PROVISIONS FOR *MULTIPLE DWELLING* WITH FIVE OR MORE *DWELLING UNITS*:** <sup>(New provisions)</sup>

- 1. The provisions in Section 20(1)310 that apply to a *Business Office* and a *Combined Use Building* shall also apply to a *multiple dwelling* with five or more *dwelling units*, save and except for s.20(1)310.3, s.20(1)310.4, s.20(1)310.8 and 20(1)310.20(d); and

2. The following additional provisions shall apply to a *multiple dwelling* with five or more *dwelling units*:

- .2 Lot Area – minimum - 93.0 m<sup>2</sup> per unit
- .3 Lot Coverage – maximum - 35%
- .4 Main Building Height – maximum - 18.0 m
- .8 Landscape Open Space Yard – minimum - 35% of *lot area*
- .20 Building setback from rear lot line - minimum - 30.0 m

3. A scenery loft shall be an additional permitted facility on a *multiple dwelling* with five or more *dwelling units*, subject to the following:

- a. The “*Exceptions To Maximum Building Height Provisions*” shall not apply to a scenery loft on the subject land; and
- b. The Scenery Loft Provisions in section 5.35.5 of by-law 8600 shall not apply, save and except the requirement for a 4.0 metres maximum height. [ZDM 6; ZNG/4153; ZNG/5270; ZNG/6633]”

2. 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	6	Part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT]	-	S.20(1)310

DREW DILKENS, MAYOR

CLERK

First Reading - , 2022  
 Second Reading - , 2022  
 Third Reading - , 2022

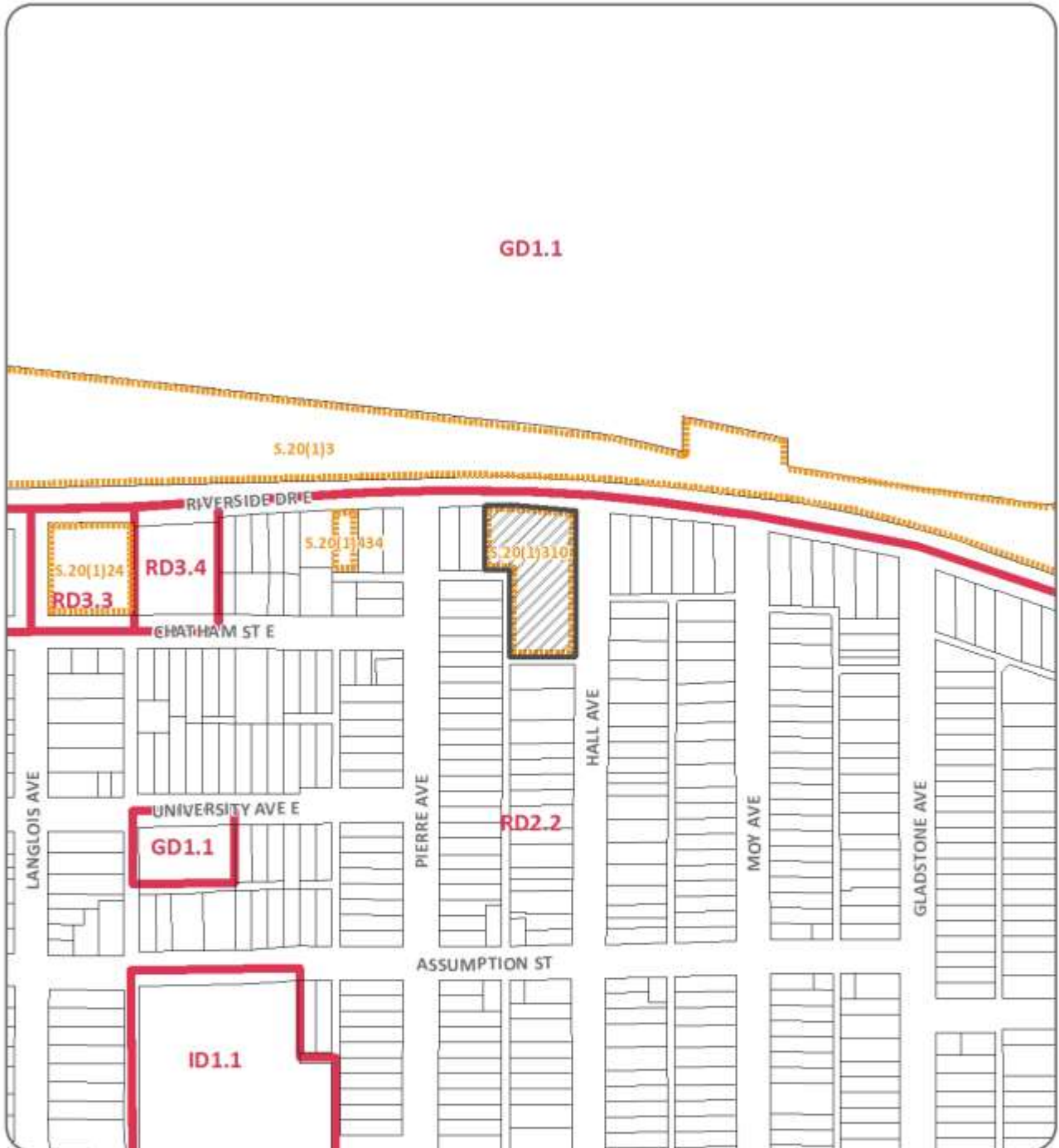
## SCHEDULE 2

1. By-law \_\_\_\_\_ has the following purpose and effect:

To amend the zoning of the lands located on the southwest corner of Riverside Drive East and Hall Avenue, described as part of Lot 92, Concession 1, [PIN 01150-0313 LT] and Lot 6, Registered Plan 433 [PIN 01150-0110 LT], so as to permit the development of a multiple dwelling with 5 or more units on the subject land.

The amending by-law maintains the RD2.2 zoning on the subject land, deletes an existing special section [s.20(1)310] on the subject land and replaces the special section with an expanded version that accommodates the proposed 5-storey, 42-unit multiple dwelling on the subject land.

2. Key map showing the location of the lands to which By-law \_\_\_\_\_ applies.



PART OF ZONING DISTRICT MAP 6

N.T.S.

## SCHEDULE 2

Applicant: St. Clair Rhodes Development Corporation



SUBJECT LANDS

PLANNING & BUILDING DEPARTMENT



DATE : JUNE 2022  
FILE NO. : Z-044/21, ZNG-6633



File No.: 21-2724

September 13, 2022

The Corporation of the City of Windsor  
Planning Department  
350 City Hall Square  
Windsor, ON  
N9A 6S1

Attention: Justina Nwaesei, MCIP RPP  
Senior Planner

Request for Relief from Section 45 (1.3)  
1247 Riverside Drive East  
City of Windsor

In light of the two-year moratorium on minor variances or zoning by-law amendments to amend site specific zoning by-law amendments, on behalf of St. Clair Rhodes Development Corporation, we respectfully request that Council pass a resolution to permit the Development and Heritage Standing Committee to grant relief from this provision to permit Minor Variance Applications for the above noted site should they become necessary in the next two years. The request is pre-emptive in nature as the final design has not been completed.

## Background

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The Planning Act provides the basis for the establishment of a Committee of Adjustment to evaluate requests for relief from regulations of a Zoning By-law.

In Section 45 (1) of the Act, the Committee of Adjustment may authorize the approval of minor variances from the provisions of the by-law, if in its opinion said variance is desirable for the appropriate development or use of the land, building or structure.

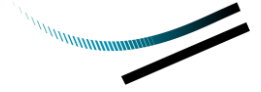
Section 45 (1.3) states that "Subject to subsection (1.4), no person shall apply for a minor variance from the provisions of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended."

The Act does, however, also provide Municipalities the ability, through Council resolution, to allow minor variance applications to proceed on a case-by-case basis, resolution to permit minor variance applications to proceed within the 2-year time frame (Section 45 (1.4) of the Planning Act).

In situations where a proposed minor variance upholds or otherwise does not offend the intent of the recent Zoning By-law Amendment, Council may approve a resolution permitting the application to proceed to the Committee of Adjustments.

3200 Deziel Drive  
Suite 608  
Windsor, Ontario  
Canada  
N8W 5K8  
Telephone  
519.948.5000  
Fax  
519.948.5054

Dillon Consulting  
Limited



## Conclusion

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As such, the applicant has made a request of City Council, by way of the City Solicitor and the Planning Department in accordance with Section 45 (1.4), to permit such a resolution to be passed.

We trust that the application can be processed at your earliest convenience.

### DILLON CONSULTING LIMITED

Karl Tanner MCIP, RPP  
Partner  
zcs:dt

cc: Dino Maggio – St. Clair Rhodes Development Corporation  
Jerry Kavanaugh – ADA Inc.  
Jason Thibert – ADA Inc.



**October 3, 2022**  
**Development & Heritage Standing Committee**  
**Item 7.3**  
**Written Submission**

**Subject:** FW: Residents Reply to File No: Z-044/21 ZNG/6633  
**Date:** Thursday, September 29, 2022 2:02:44 PM  
**Attachments:** [1247 Riverside Rezoning Residents Response.pdf](#)

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**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.

Hello-

I am submitting a letter outlining a response compiled collectively and collaboratively with dozens of residents of the Pierre, Hall, Moy, and Riverside neighbourhoods adjacent to the proposed development at 1247 Riverside Drive.

While we emphatically support development of this site *in principle*, at this time, and based on the plans presented in the Development & Heritage Standing Committee Agenda, **we collectively and firmly oppose the zoning exemptions** requested by the Development group, on the basis of concerns outlined in the letter. Several residents have expressed a desire to speak as delegates at the Committee meeting, and they will send in this request separately.

We do hope to work with the development group and the city to make improvements to the plan, for the benefit of both the neighbourhood and its future residents, and as such would like to request further community consultation and engagement on the plans for the development prior to granting any zoning amendments.

Thank you for forwarding this letter to all concerned parties, and we look forward to a robust conversation Monday afternoon.

Cheers,

Nicole

Nicole Baillargeon

Director, Mean Studio  
[www.meanstudio.ca](http://www.meanstudio.ca)

# Pierre-Hall-Moy Neighbourhood Residents Response to Application for Zoning Amendment for 1247 Riverside East, Windsor, ON

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In response to the Zoning Amendment Application before the City of Windsor's Development & Heritage Standing Committee (File No: Z-044/21 ZNG/6633) proposed zoning amendment and re-development of the properties at 1247 and 1271 Riverside Drive East (the "Site") and the related documents made available to the public via City of Windsor website, the residents representing Pierre-Hall-Moy Avenues and Riverside Drive whom are directly impacted by the proposed development have engaged in vigorous discussion and this letter is a product of that discussion. Some of the main concerns brought forward were height of the building and its monolithic massing, the disassociation with the character and history of the neighbourhood, parking, pedestrian and cyclist access to the riverfront and safety concerns regarding increased density and additional traffic.

## Introduction

Primarily, the residents would like to commend the development group, for their recognition of the potential of the land to be developed and for bringing this opportunity to our neighbourhood. We fully understand and value the capital investment that it will take to make this vision a reality and furthermore would like to partner in good faith with the development group and the City in extracting the most value from this opportunity for current and future residents, the developer, and the City, and to ensure the most successful, sustainable, long-view of development for our neighbourhood.

We would like to point out to the development group, Development & Heritage Standing Committee and City Council that our neighbourhood is very inclusive and diverse; we, as a group, very much value our neighbours and what every individual brings to the table. This neighbourhood includes residents from all walks of life, from construction workers, small business owners, retirees, artists, professors, landscape architects, urban planners, architects, engineers and community organisers. We have organised ourselves through the years around various issues via letter drops, in-person meetings, social media groups, and chats. With this being said, the development group should know that the concerns below have been assessed and articulated by a well-informed

group of concerned neighbours, many with professional qualifications and accreditations to support their assertions. Perhaps the most valuable aspect of the conversation is that we also have lived experience from all the residents of the neighbourhood regarding day-to-day conditions in the area.

## Neighbourhood Concerns

1. **PROPOSED HEIGHT OF THE NEW DEVELOPMENT** - the development team is asking for an increase in height from 14 metres (m) max to 24m with 'scenery loft' which would bring the total height to under 30m. This height, as illustrated in the supplementary documents (Urban Design Brief) appears to be problematic for a few reasons:

- a) The overall height as proposed in the current building form appears to have not considered the neighbourhood architectural fabric – there are no references to any of the existing street front datums. The current massing, in contrast with its adjacent, seemingly excessive expanse of concrete driveway/parking space, appears as an alien monolith placed, not integrated into the neighbourhood.
- b) Frontage along Hall Ave. does not appear to address the issues that arise from doubling the height of the building envelope. This is particularly problematic if “facilitating the pedestrian realm” (Urban Design Brief – 8.3, 8.7) is an objective of the development. Such jarring change in mass, height, and lack of facade interaction with the street would seem to achieve the opposite of “facilitate the pedestrian realm.” Similar conditions could be observed at the Walker Power, and the Children's Aid Society buildings (both listed as precedents in this project brief). These two buildings are a product of past development patterns and we believe should be considered very different from a newly-built residential building in a tightly-knit residential neighbourhood. The Walker Power Building is a fully commercial building, set in a former industrial landscape and so its context is very different. It has been successfully adapted for re-use, and its inclusion of commercial space on the main floor comprises a half-hearted and somewhat successful appeal to pedestrian traffic in relation to its context, which is very different than the neighbourhood surrounding the site in question. The CAS building, on the other hand, is an *institutional* building from a period of time when pedestrian infrastructure and contextual design were disregarded and

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- c) Unmitigated height and the monolithic approach to the way that the building height is reached is more problematic, potentially, than the total proposed height for the development. A multi-unit development being inserted into a neighbourhood comprised exclusively of single family and duplex residential would benefit from an architectural effort to break down a single mass, in order to present itself as a contextually sensitive and responsive development while still potentially achieving the developer's desires for a taller building accommodating more units. We would suggest as well, that a less monolithic building, more appropriately scaled and integrated with the neighbourhood might be a more comfortable and desirable living situation for many potential residents.

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troublesome that this arrangement is proposed, when one considers that the Hall-Moy neighbourhood is an active/functioning alley neighbourhood. We have services and garbage pickup in the alleyways and they provide access to the majority of our garages/parking spaces. It is disappointing that the proposed development is not willing to consider and follow neighbourhood form on this topic, as there is no foreseeable reason why all the vehicular access to the development could not be done from one of the three active alleys abutting the south end of the site.

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**4. PARKING** - The development plan includes approximately 1.65 parking spots per dwelling unit. This is an additional 16 spots (approximately 3500 sqft devoted to parking) above the city's prescribed minimum of 1.25 spots per unit. This approach is not in line with the province's urban planning principles of encouraging multimodal transport and reducing the over-reliance on the car. In general, the over-abundance of parking space created by parking minimums is known to reduce the viability of public and active transportation of all modes and contributes to cities' over-reliance on cars, pollution, and general blight.

At the same time, given that our city is not currently widely walkable or easily accessible via public transit, most homes do have at least one, and often multiple vehicles. Many homes in our older neighbourhood do not have a driveway, or only have room for one car in the alley. Our neighbourhood also includes multi-unit houses and buildings. As a result, many existing households rely on street parking and there is some concern that increased density would put additional stress on the demand for street parking.

The residents of the Pierre-Hall-Moy neighbourhood adjacent to the proposed development expressed both of these concerns and we collectively acknowledge that parking is a complicated problem when we face both the desires for safe walkable neighbourhoods and also the realities of daily life. These conflicting objectives intersect with many other issues and concerns both directly related to this development and more broadly, including alleyway safety/lighting, stormwater management, increased traffic/road safety, and promotion of active and public transportation. We would like to have more discussion on this issue with the development group and the city and to find a resolution that feels more comfortable for all. One solution might be to keep the proposed amount of parking but to reduce its prominence above grade via more inconspicuous location, reduction of auxiliary paved space, additional landscaping, and inclusion of permeable paving where possible.

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- a) Environmental Site Assessment - There was no information provided on the File No: Z-044/21 ZNG/6633 regarding previous Environmental Site Assessments (ESA) completed for the property. The property was previously utilised as a commercial property, under Ontario Regulation 153/04 (Records of Site Condition - Part XV.1 of the Act under Environmental Protection Act, R.S.O. 1990, c. E.19), which regulates brownfield redevelopment in the province, converting a less-sensitive land use, in this case commercial, to a more-sensitive land use, residential, requires filing for a Record of Site Condition with the Ministry of Environment, Conservation and Parks prior to redevelopment of a brownfield Site. Does the proponent intend to file for a record of Site



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## CLOSING

In light of the above-mentioned concerns presented by our neighbours, it would be beneficial for both sides to come to workable solutions directed at the mutual benefits present with this development opportunity. In order to find these mutually beneficial solutions, we would recommend that the development team consider the following:

- A robust neighbourhood engagement process to be initiated by the developer as would be expected of any project of this scale
- Development to take a more neighbourly approach:
  - Contextual design
  - Breaking down of scale and height (“human-scale” design)
  - Revising access strategy to be more in line with the neighbourhood (utilise existing alleyways and improve them to be vital access points)
  - Consider a more eco-friendly approach (less emphasis on cars, less impermeable surfaces, revised location and design of retention pond and water-management strategy, thoughtful landscaping)
  - Consider a more neighbourhood scaled approach along Hall Avenue (street address)
  - Consider researching the rich history of the neighbourhood, the site, and use it to enhance design and beautification of the site plan.

We, the residents of Moy-Hall neighbourhood, submit these concerns for your consideration and at this time, given the proposed plans made publicly available for review, we do not support the re-zoning or zoning exemptions proposed for 1247 Riverside Drive. We would like to see a more considered, and nuanced approach from the development team and a revised design for the site and building. We believe that for a piece of urban architecture to truly be successful, it is imperative to take into

consideration the concerns of residents, the sustainability of the program, and to take a more thoughtful and sensitive design approach. We hope that we can come to an agreement on a design which will truly enrich our neighbourhood, our city and our new neighbours at 1247 Riverside Drive for generations to come.

Warmest regards,

Sinisa Simic for Pierre-Moy-Hall and Riverside Neighbourhood Group.

City of Windsor File No: Z-044/21 ZNG/6633

# Pierre-Hall-Moy Neighbourhood Residents Response to Application for Zoning Amendment for 1247 Riverside East, Windsor, ON

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In response to the Zoning Amendment Application before the City of Windsor's Development & Heritage Standing Committee (File No: Z-044/21 ZNG/6633) proposed zoning amendment and re-development of the properties at 1247 and 1271 Riverside Drive East (the "Site") and the related documents made available to the public via City of Windsor website, the residents representing Pierre-Hall-Moy Avenues and Riverside Drive whom are directly impacted by the proposed development have engaged in vigorous discussion and this letter is a product of that discussion. Some of the main concerns brought forward were height of the building and its monolithic massing, the disassociation with the character and history of the neighbourhood, parking, pedestrian and cyclist access to the riverfront and safety concerns regarding increased density and additional traffic.

## Introduction

Primarily, the residents would like to commend the development group, for their recognition of the potential of the land to be developed and for bringing this opportunity to our neighbourhood. We fully understand and value the capital investment that it will take to make this vision a reality and furthermore would like to partner in good faith with the development group and the City in extracting the most value from this opportunity for current and future residents, the developer, and the City, and to ensure the most successful, sustainable, long-view of development for our neighbourhood.

We would like to point out to the development group, Development & Heritage Standing Committee and City Council that our neighbourhood is very inclusive and diverse; we, as a group, very much value our neighbours and what every individual brings to the table. This neighbourhood includes residents from all walks of life, from construction workers, small business owners, retirees, artists, professors, landscape architects, urban planners, architects, engineers and community organisers. We have organised ourselves through the years around various issues via letter drops, in-person meetings, social media groups, and chats. With this being said, the development group should know that the concerns below have been assessed and articulated by a well-informed

group of concerned neighbours, many with professional qualifications and accreditations to support their assertions. Perhaps the most valuable aspect of the conversation is that we also have lived experience from all the residents of the neighbourhood regarding day-to-day conditions in the area.

## Neighbourhood Concerns

1. **PROPOSED HEIGHT OF THE NEW DEVELOPMENT** - the development team is asking for an increase in height from 14 metres (m) max to 24m with 'scenery loft' which would bring the total height to under 30m. This height, as illustrated in the supplementary documents (Urban Design Brief) appears to be problematic for a few reasons:

- a) The overall height as proposed in the current building form appears to have not considered the neighbourhood architectural fabric – there are no references to any of the existing street front datums. The current massing, in contrast with its adjacent, seemingly excessive expanse of concrete driveway/parking space, appears as an alien monolith placed, not integrated into the neighbourhood.
- b) Frontage along Hall Ave. does not appear to address the issues that arise from doubling the height of the building envelope. This is particularly problematic if “facilitating the pedestrian realm” (Urban Design Brief – 8.3, 8.7) is an objective of the development. Such jarring change in mass, height, and lack of facade interaction with the street would seem to achieve the opposite of “facilitate the pedestrian realm.” Similar conditions could be observed at the Walker Power, and the Children's Aid Society buildings (both listed as precedents in this project brief). These two buildings are a product of past development patterns and we believe should be considered very different from a newly-built residential building in a tightly-knit residential neighbourhood. The Walker Power Building is a fully commercial building, set in a former industrial landscape and so its context is very different. It has been successfully adapted for re-use, and its inclusion of commercial space on the main floor comprises a half-hearted and somewhat successful appeal to pedestrian traffic in relation to its context, which is very different than the neighbourhood surrounding the site in question. The CAS building, on the other hand, is an *institutional* building from a period of time when pedestrian infrastructure and contextual design were disregarded and

de-emphasized. This building in particular is insensitive to its context and actually disregards, de-tracts and diminishes the pedestrian realm along Riverside Drive and perpendicular streets. Neither of these structures named as precedents were originally designed with any consideration for the way that the architecture interacts with surrounding urban fabric, human scale, or pedestrian infrastructure, and their uses and contexts are quite different from the site in question. Unfortunately, we do not believe these are appropriate or desirable precedents for the proposed development of 1247 Riverside.

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Applications” page should also be provided, to allow residents more than 10 days prior to the public meeting from when the Council Report is available to review, digest and discuss any publicly available documents supporting a proposed zoning amendment application. Allowing access and additional time for residents to read and understand this material is important to encourage discussion about changes in our community and to foster community engagement in this decision making process. The Reports provided to Council are particularly dense and many members of our community will require additional time to review and decide whether they choose to respond and engage in the Municipal process. There also seems to be some confusion as to whether the documents uploaded to the agenda package for this file are the most recent and up-to-date proposal for the site. We are only able to respond to the proposal we are given access to.

## CLOSING

In light of the above-mentioned concerns presented by our neighbours, it would be beneficial for both sides to come to workable solutions directed at the mutual benefits present with this development opportunity. In order to find these mutually beneficial solutions, we would recommend that the development team consider the following:

- A robust neighbourhood engagement process to be initiated by the developer as would be expected of any project of this scale
- Development to take a more neighbourly approach:
  - Contextual design
  - Breaking down of scale and height (“human-scale” design)
  - Revising access strategy to be more in line with the neighbourhood (utilise existing alleyways and improve them to be vital access points)
  - Consider a more eco-friendly approach (less emphasis on cars, less impermeable surfaces, revised location and design of retention pond and water-management strategy, thoughtful landscaping)
  - Consider a more neighbourhood scaled approach along Hall Avenue (street address)
  - Consider researching the rich history of the neighbourhood, the site, and use it to enhance design and beautification of the site plan.

We, the residents of Moy-Hall neighbourhood, submit these concerns for your consideration and at this time, given the proposed plans made publicly available for review, we do not support the re-zoning or zoning exemptions proposed for 1247 Riverside Drive. We would like to see a more considered, and nuanced approach from the development team and a revised design for the site and building. We believe that for a piece of urban architecture to truly be successful, it is imperative to take into

consideration the concerns of residents, the sustainability of the program, and to take a more thoughtful and sensitive design approach. We hope that we can come to an agreement on a design which will truly enrich our neighbourhood, our city and our new neighbours at 1247 Riverside Drive for generations to come.

Warmest regards,  
Pierre-Moy-Hall Neighbourhood Residents

*Brenda Francis Pelkey + Mayer Schulman*  
248 Hall Ave.

*Nadja Pelkey*  
250 Hall Ave.

*Peter Guba + Gabriela Guerra*  
381 Moy Ave.

*Robert Beer*  
207 Moy Ave.

*Naomi Pelkey*  
250 Hall Ave.

*Margot Schulman*  
250 Hall Ave.

*Lucy Howe + Zeke Moores*  
308 Hall Ave.

*Sinisa Simic + Nicole Baillargeon*  
396 Hall Ave.

*Russel Dupuis*  
166 Pierre Ave.

*The Malanka Family*  
288 Hall Ave.

*Donna Bergamin*  
331 Moy Ave.

*Courtney Thomas + Justin Bondy*  
522 Hall Ave.

*Jordan + Jesse Marchand*  
277 Hall Ave.

*Susan Johnson Washington*  
260 Hall Ave.

*Cameron McNaughton + Ameer Stieler*  
382 Moy Ave.

*Diana Radulescu*  
371 Moy Ave.

*Elise Keller + Johnny Oran*  
305 Hall Ave.

*Ramona Marte*  
1240 Assumption St.

*Stephanie Hill + Andrea Pollock*  
212 Hall Ave.

*Arun Rattan*  
365 Moy Ave.

*Janine Pfaff*  
341 Moy Ave.





## Item No. 8.4

### Committee Matters: SCM 13/2023

**Subject: Zoning Bylaw Amendment –Z 022-22 [ZNG-6787] & OPA 161 [OPA-6788]  
Passa Assoc 3821 King St - Ward 2**

Moved by: Councillor Angelo Marignani  
Seconded by: Councillor Jim Morrison

Decision Number: **DHSC 454**

THAT the application to amend the City of Windsor Official Plan by changing the designation of PLAN 953 N PT BLK A;PLAN 40 PT PARK LOT 1; in the City of Windsor, known municipally as 3821 King Street (Roll # 050-180-09900) from “Industrial” to “Residential” **BE DENIED**; and

THAT the application to amend Zoning By-law 8600 by changing the zoning of PLAN 953 N PT BLK A;PLAN 40 PT PARK LOT 1; in the City of Windsor, known municipally as 3821 King Street (Roll # 050 - 180 - 09900) from Manufacturing District (MD) 1.2 to Residential District (RD) 2.5 **BE DENIED**.

Carried.

Report Number: S 124/2022  
Clerk's File:Z/14428

#### Clerk's Note:

1. The recommendation of the Standing Committee and Administration are the same.
2. Please refer to Item 7.2 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Zoning Bylaw Amendment –Z 022-22 [ZNG-6787] & OPA 161  
[OPA-6788] Passa Assoc 3821 King St - Ward 2**

**Reference:**

Date to Council: January 9, 2023  
Author: Jim Abbs, MCIP, RPP  
Senior Planner  
255-6543 x6317  
jabbs@citywindsor.ca

Planning & Building Services  
Report Date: October 13, 2022  
Clerk's File #: Z/14428

**To:** Mayor and Members of City Council

**Recommendation:**

**THAT** the application to amend the City of Windsor Official Plan by changing the designation of PLAN 953 N PT BLK A;PLAN 40 PT PARK LOT 1; in the City of Windsor, known municipally as 3821 King Street (Roll # 050-180-09900) from "Industrial" to "Residential" **BE DENIED**

**THAT** the application to amend Zoning By-law 8600 by changing the zoning of PLAN 953 N PT BLK A;PLAN 40 PT PARK LOT 1; in the City of Windsor, known municipally as 3821 King Street (Roll # 050 - 180 - 09900) from Manufacturing District (MD) 1.2 to Residential District (RD) 2.5 **BE DENIED**

**Executive Summary:**

N/A

**Background:**

**Application Information:**

Location: 3821 King Street. Ward: 2

Planning District: 09 – Sandwich ZDM: 4

Owner: Jiang, Yingwei & Su, Gaoqiang

Agent: Lassaline Planning Consultants (Jackie Lassaline)



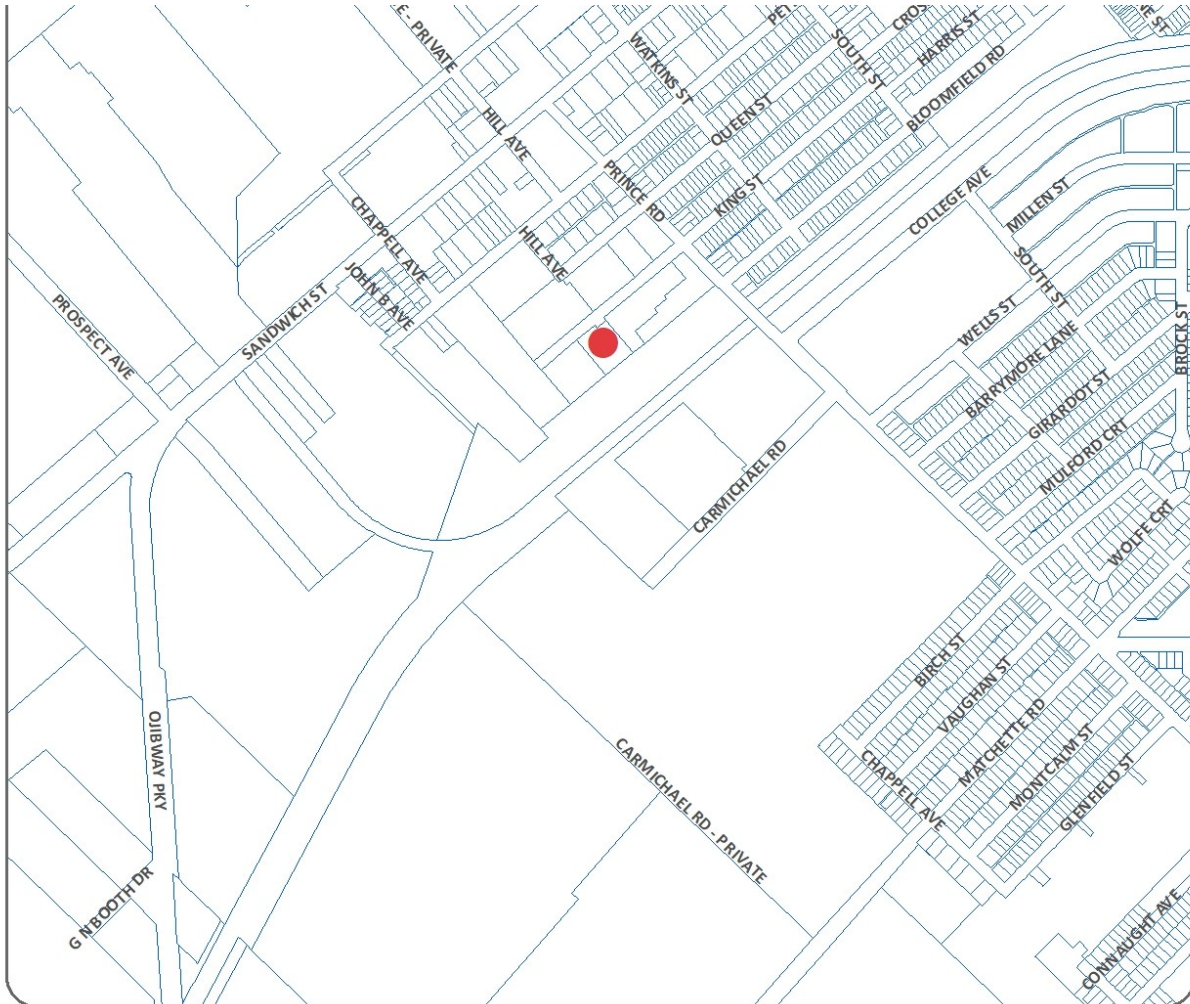
The site is currently vacant, but was previously used for residential purposes. The property contains a derelict and abandoned residence with associated outbuildings including a garage that was damaged by fire in 2021. The now derelict structure appears to have been constructed in 1915 (MPAC assessment data), predating the City of Windsor Official Plan And Zoning Bylaw. As such, the single detached residential use could continue until such time as the use ceased. Any new development on the site would be required to conform to the current Official Plan and comply with the current Zoning Bylaw.



Subject Site, Abandoned house



Subject Site, Fire Damaged garage



## KEY MAP - Z-022/22, ZNG-6787 & OPA 161, OPA-6788



● SUBJECT LANDS

APPLICANT: PASSA ASSOCIATES ARCHITECTS

ADDRESS: 3821 KING STREET

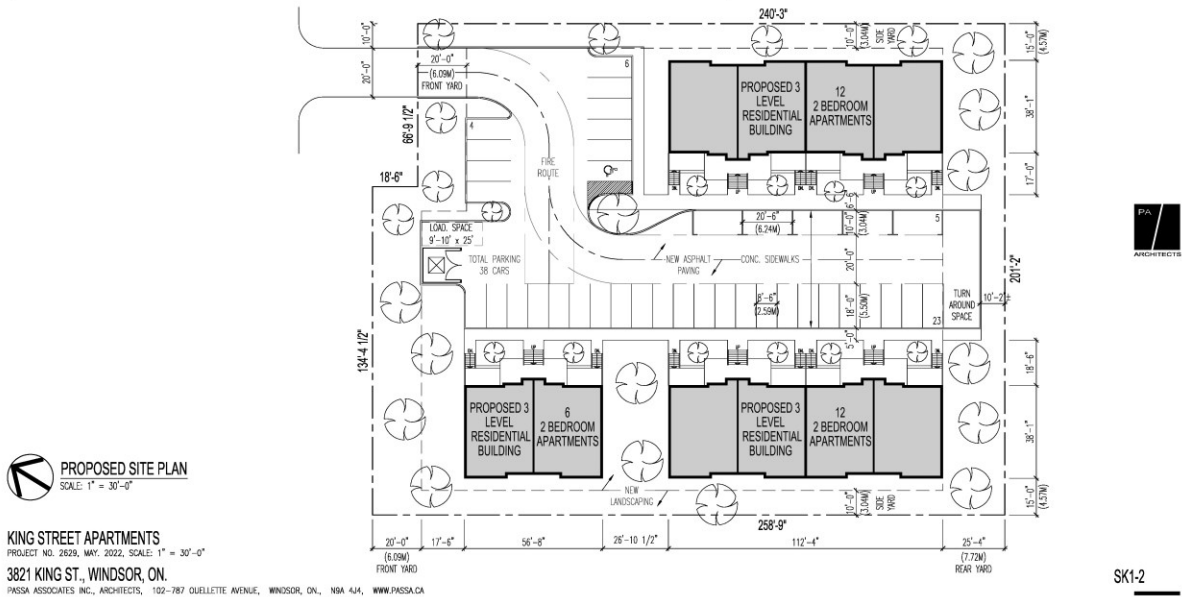
### Proposal:

The applicant is requesting Official Plan and Zoning By-law amendments for the property 3821 King Street. The applicant proposes that the Official Plan designation be changed from 'Industrial' to 'Residential', and the zoning category be changed from the Manufacturing District (MD) 1.2 category. The zoning of the property site currently includes a site specific provision, (S20(1)9) that permits a stamping forging or casting plant as additional permitted uses.

The applicant is requesting the Official Plan amendment as well as an amendment to the zoning to the Residential District (RD) 2.5 category to facilitate the development of 3 separate residential apartment buildings. The three buildings would be low profile, 3 storey multiple unit residential buildings. One multi-unit building would have 12 units; the second multi-unit building would have 12 units; while the third building would have 6 units. All units are proposed to be 2 bedroom units for a total of 30 residential apartment

units. The site is proposed to be developed with 38 parking spaces, including 1 barrier free space and 1 loading space.

SITE STATISTICS			
PROPOSED ZONING FOR SITE:	RESIDENTIAL DISTRICT 2.5 (R02.5)	TOTAL 2 BEDROOM APARTMENTS:	30 UNITS
TOTAL SITE AREA:	50,816 SQ. FT. (4,720.96 SQ. M.)	TOTAL PROPOSED PARKING SPACES:	38 SPACES
TOTAL PROPOSED BUILDING AREA:	10,786 SQ. FT. (1,000 SQ. M.)	TOTAL PROPOSED ACCESSIBLE SPACES:	1 TYPE '1' PARKING SPACE
TOTAL PROPOSED SITE COVERAGE:	21.22 % SITE COVERAGE	TOTAL PROPOSED LOADING SPACES:	1 LOADING SPACE
TOTAL FLOOR AREA OF NEW CONSTRUCTION:	32,357 SQ. FT. (3,006 SQ. M.)	TOTAL LANDSCAPED AREA:	25,524 SQ. FT. (2,371.26 SQ. M.) 50.23%



### Site Information:

Official Plan	Zoning	Current Use	Previous Use
Industrial	Manufacturing District MD1.2 , S20(1)9 additional permitted use stamping, forging or casting plant	Vacant	Residential
Lot Depth	Lot width	Area	Shape
+/- 79 m	+/- 40.8 m	4720 m <sup>2</sup>	square
All measurements are for the entire parcel and are approximate.			

### **Neighbourhood Characteristics:**

The lands are vacant but were previously used for residential purposes and the property contains a derelict abandoned residence with associated outbuildings including a garage that was damaged by fire in 2021.

### **Surrounding Land Uses:**

**North -** Sandwich Teen Action Group, Society of St. Vincent De Paul store;

**South –** industrial container supply, solar panel racking manufacture, solar panels, Major FA Tilston Armoury & Police Training Centre

**East –** Welding and stamping plant (Shur-lok), Retail and office uses, Essex Terminal Railway, Automotive Coating and Plating (Narmco)

**West –** Canpar Courier, vacant industrial



NEIGHBOURHOOD MAP - Z-022/22, ZNG-6787 &  
OPA 161, OPA-6788



SUBJECT LANDS

APPLICANT: PASSA ASSOCIATES ARCHITECTS  
ADDRESS: 3821 KING STREET

**Discussion:**

**Planning Analysis:**

**Provincial Policy Statement (PPS) 2020:**

The Provincial Policy Statement, (PPS) 2020 provides direction on matters of provincial interest related to land use planning and development and sets the policy foundation for regulating the development and use of land in Ontario.

The zoning bylaw amendment would result in a development on a residentially used parcel that is designated for Industrial purposes. This is not consistent with the Provincial Policy Statement in that the new and intensified residential development may negatively impact existing industrial uses, may inhibit opportunity for new or intensified industrial uses in the future (1.3.2.2) and will not have the benefit of an appropriate (or any) transition from industrial to sensitive land uses.(1.3.2.2

*1.3.2.2 At the time of the official plan review or update, planning authorities should assess employment areas identified in local official plans to ensure that this designation is appropriate to the planned function of the employment area.*

*Employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses to maintain the long-term operational and economic viability of the planned uses and function of these areas.*

*1.3.2.3 Within employment areas planned for industrial or manufacturing uses, planning authorities shall prohibit residential uses and prohibit or limit other sensitive land uses that are not ancillary to the primary employment uses in order to maintain land use compatibility.*

*Employment areas planned for industrial or manufacturing uses should include an appropriate transition to adjacent non-employment areas.*

#### **Official Plan:**

The City of Windsor Official Plan currently designates the site 'Industrial'. The proposed use of the site for multiple unit dwellings on the site is not permitted within the Industrial designation. The proposed development is not consistent with the goals and objectives of the City of Windsor Official Plan.

Section 6.4.3.1 describes the uses permitted in the Industrial designation. The uses included in this designation and anticipated to locate in this area

#### **PERMITTED USES**

*6.4.3.1 Uses permitted in the Industrial land use designation identified on Schedule D: Land Use include establishments which may exhibit any or all of the following characteristics:*

- (a) large physical size of site or facilities;*
- (b) outdoor storage of materials or products;*
- (c) large production volumes or large product size;*
- (d) frequent or continuous shipment of products and/or materials;*
- (e) long hours of production and shift operations;*
- (f) likelihood of nuisances, such as noise, odour, dust or vibration;*

(g) *multi-modal transportation facilities;*

(h) *is dependent upon, serves or otherwise complements the industrial function of the area; and (amended by OPA #22 – 07/16/02)*

(i) *service and repair facilities. (amended by OPA #22 – 07/16/02)*

The proposed development would be located in a designation that is not conducive to residential development and would not support the Official Plan Goals of creating:

- safe, caring and diverse neighbourhoods (6.1.1);
- seeks environmentally sustainable urban development (6.1.2).
- promotes housing suited to the needs of Windsor's residents. 6.1.3

The proposed development would create a development in the centre of an area designated and zoned for very intense industrial purposes in an area that is not complimentary to residential uses. The proposed development would not conform to the Official Plan

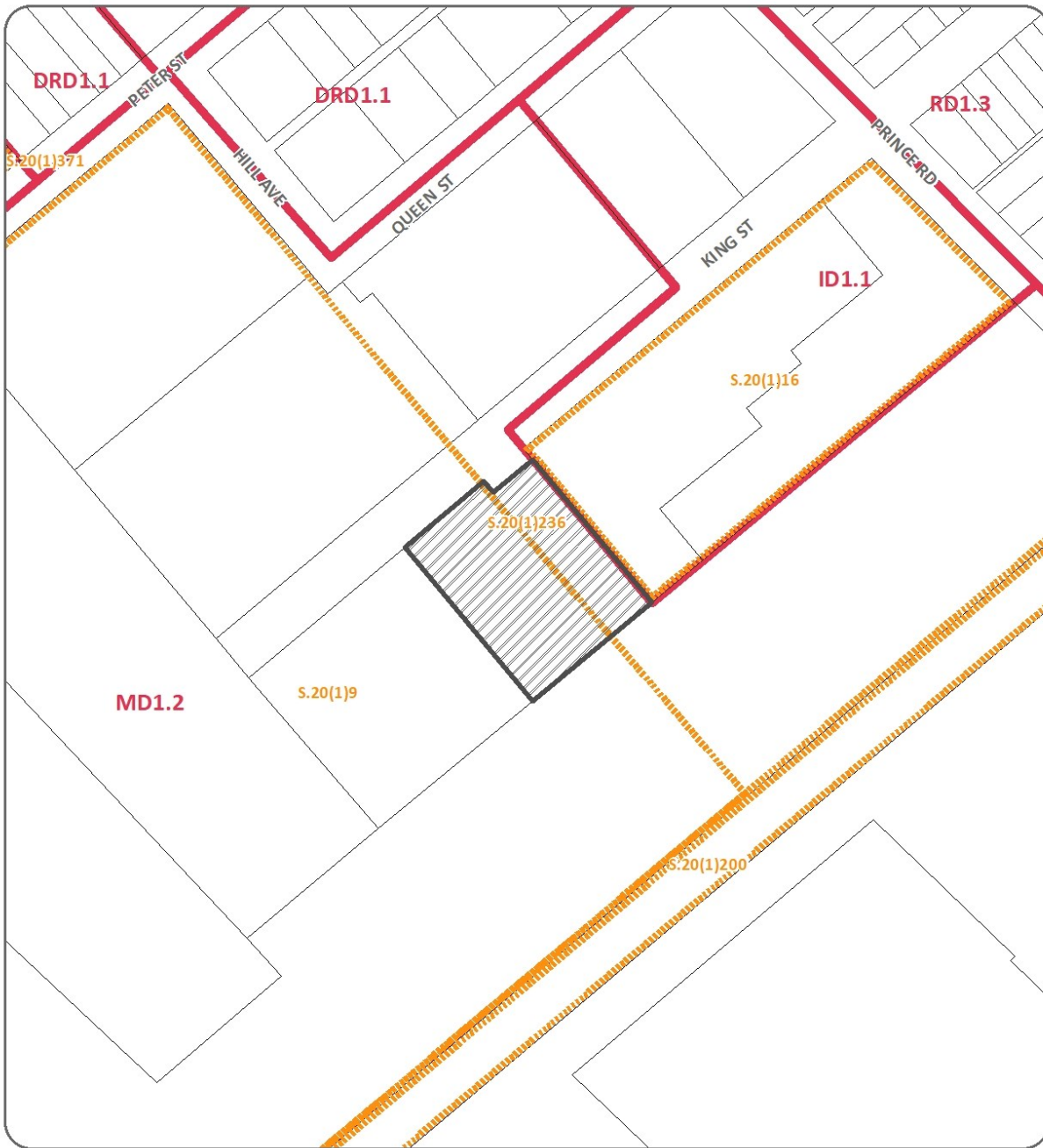
#### **Zoning By-Law:**

The subject site is currently zoned Manufacturing District (MD) 1.2, S20(1)9 additional permitted use stamping or casting plant in the City of Windsor Zoning By-law 8600. The current zoning does not permit a multiple dwelling, as such the proposed development requires a Major Zoning By-law Amendment.

The subject site lies within an area that is zoned to permit high intensity manufacturing uses that would generally be separated from residential uses. The introduction of a multiple unit residential development could have negative impacts on the continued use of the surrounding lands for industrial purposes. Therefore, applying a residential zone category to the site would not be appropriate in this situation.

#### **Planning Rationale Report:**

The Applicant submitted a Planning Rationale Report (PRR) prepared by a Registered Professional Planner as part of the complete Official Plan Amendment and Zoning Bylaw Amendment applications. While this report provided opinion that the proposed development was appropriate for the site, it focused on the previous residential use of the site, as well as the additional units that would be created. The PRR did not fully discuss the industrial context of the site and the impacts that a new multiple unit residential development placed in the centre of an area designated and zoned for industrial purposes could have on the viability current or future Industrial uses in the area. For this reason, the Planning Department disagrees with the conclusion made in the Applicant's PRR.

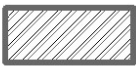


PART OF ZONING DISTRICT MAP 4

N.T.S.

## REZONING

Applicant: Passa Associates Architects



SUBJECT LANDS

PLANNING & BUILDING DEPARTMENT



DATE : JUNE 2022  
FILE NO. : Z-022/22, ZNG-6787

### Other Issues:

Both Transportation Planning and Public Works (Development) indicate that the existing road (King Street) is not suited for the additional use contemplated by this application,



and that significant improvements to King Street should be undertaken before any new development is undertaken.

**Risk Analysis:**

N/A

**Climate Change Risks**

**Climate Change Mitigation:**

The additional increase in the density of development on the site may encourage the use of transit, walking and cycling as modes of transportation, thereby helping to minimize the City's carbon footprint.

**Climate Change Adaptation:**

The development proposal incorporates landscaping and building design elements to improve energy efficiency and increase resiliency of the development and surrounding area.

**Financial Matters:**

N/A

**Consultations:**

Comments received from municipal departments and external agencies are attached as Appendix "A" to this report. The site would be subject to site plan control. The applicant has submitted a Functional Servicing Study, as well as a Storm Water Management Plan.

**Public Notice:**

The statutory notice required under the Planning Act was provided in the Windsor Star. In addition, all properties within 120m (400 feet) of the subject parcel received courtesy notice by mail by the City Clerk prior to the Development & Heritage Standing Committee Meeting (DHSC) meeting.

**Conclusion:**

This propose Multiple Dwelling development is proposed to be located in an area designated for, zoned for and used for intensive industrial uses, as such this application does not conform with the Provincial Policy Statements related to the maintenance the long-term viability of industrial uses, or the provision of transition between industrial uses. The proposed development does not conform to the Official Plan in that the proposed use would be introducing a sensitive (multiple unit dwelling) land use into an industrial area that would not be supportive of a safe development , or a development that would be suited to the needs of Windsor residents.

The proposed zoning by-law amendment is not consistent the PPS, does not conform with the policy direction of the City of Windsor Official Plan, is not compatible with existing and permitted uses in the surrounding neighbourhood and does not constitute good planning. Therefore, the Planning Department recommends that this development application be denied.

**Planning Act Matters:**

I concur with the above comments and opinion of the Registered Professional Planner.

*Michael Cooke, Manager, Planning Policy/Deputy City Planner*

*Thom Hunt, City Planner*

I am not a registered Planner and have reviewed as a Corporate Team Leader

*JP OC*

**Approvals:**

Name	Title
Michael Cooke	Manager of Planning Policy/Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Jelena Payne	Commissioner, Economic Development and Innovation
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address	Email
Lassaline Planning Consultants (Jackie Lassaline)	P.O. Box 52, 1632 County Road 31, St. Joachim ON N0R 1S0	jackie@lassalineplan
Passa Associates Architects (Joseph Passa)		joseph@passa.ca
Ward 2 Councillor		

**Appendices:**

- 1 Appendix A - Comments

## COMMENTS

### **Jennifer Nantais – Environmental & Sustainability Coordinator**

The Environmental Sustainability & Climate Change team would like to request an Energy Strategy.

In response to the application for an amendment there are no objections. Please also note the following comments for consideration:

#### Energy Conservation, Air Quality and Climate Change:

Please note PPS 2020 energy conservation and efficiency policies as they relate to long-term economic prosperity (1.7.1 (j)), as well as improved air quality and reduced greenhouse gas emissions (1.8.1). In addition, the City of Windsor Community Energy Plan (approved July 17 2017) aims to improve energy efficiency; modifying land use planning; reducing energy consumption and greenhouse gas emissions; and fostering green energy solutions throughout Windsor, while supporting local economic development.

As per these policies the developer should consider energy efficiency in the building design. This may include but not be limited to increased insulation, energy efficient appliances and fixtures, high efficiency windows and doors. In addition, consideration for EV charging infrastructure and opportunities to increase resiliency such as providing strategic back-up power capacity is warranted.

#### EV Charging

Due to increased production and escalating demand, consideration for EV charging infrastructure and opportunities to increase resiliency such as providing strategic back-up power capacity is suggested.

In addition, the large scale paving of natural space will increase the urban heat island in the area. It is recommended that the developer consider shade trees, white colour roofs or green roofs to mitigate this impact. For more suggestions please consult the following resources: LEED, Built Green Canada, and EnerGuide.

To promote the use of active transportation, bike racks should be incorporated.

#### Stormwater Management:

Consideration should be given, as per PPS 2020 Section 1.6.6.7 to maximize the extent and function of vegetative and pervious surfaces; and promote stormwater management best practices, including stormwater attenuation and reuse, water conservation and efficiency, and low impact development.

#### Landscaping

Consideration for shade trees are recommended to minimize the urban heat island impacts. Consideration of native, drought resistant plants is encouraged to limit watering requirements.

In addition we encourage the developer to consider community gardening space for residents. Local food production is very popular in Windsor and considering the size of this development a space for community garden boxes is warranted.

#### Windows

The City of Windsor has recently been designated a Bird Friendly City. In order to make structures safer and prevent window collisions it is recommended that bird safe window treatments be considered. See FLAP Canada [recommendations](#).

### **Jason Scott – Transit Windsor**

Transit Windsor has no objections to this development. The closest existing transit route to this property is with the Crosstown 2. The closest existing bus stop to this property is located on Prince at King Southeast Corner. This bus stop is approximately 220 metres away from this property falling within our 400 metre walking distance guideline to a bus stop. This will be maintained with our Council approved Transit Master Plan.

### **Enwin**

**HYDRO ENGINEERING:** No objection to Re-zoning, provided adequate clearances are achieved and maintained.

ENWIN has existing overhead pole lines along the east limits with 27,600 volt primary and 120/240 volt secondary hydro distribution.

ENWIN has existing overhead pole lines along the west limits with 120/240 volt streetlight distribution.

Prior to working in these areas, we would suggest notifying your contractor and referring to the Occupational Health and Safety Act and Regulations for Construction Projects to confirm clearance requirements during construction.

Also, we suggest referring to the Ontario Building Code for permanent required clearances for New Building Construction.

**WATER ENGINEERING:** Water Engineering has no objections to the rezoning.

### **Tracy Tang – Heritage Planning**

Supporting information required:

- Final Stage 1 & 2 Archaeological Assessment Report; and
- Associated Entered Into Register Letter from the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries

### **Archaeology**

The subject property is located within an area of high archaeological potential with special interest, factors including being within the historically significant Sandwich settlement area. A report titled "**DRAFT Stage 1 & 2 Archaeological Assessment, 3821 King Street, Part of Block A, Registered Plan 953, Part of Park Lot 1, South Side of Centre Road, Registered Plan 40, Town Plot of Sandwich, Geographic Township of Sandwich, City of Windsor, County of Essex**" was received in the rezoning materials package. However, we require the final Stage 1 & 2 Archaeological Assessment report along with the Entered Into Register Letter from the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries for review. Please provide these two materials in future re-submission packages.

### **Sandy Mio – Engineering & ROW**

The subject lands are located at 3821 King Street, designated Industrial by the City of Windsor Official Plan and zoned Manufacturing District (MD) by Zoning By-Law 8600. The applicant is requesting an Official Plan Amendment to designate the subject lands Residential from the existing Industrial to facilitate a zoning bylaw amendment that would zone the subject site from Manufacturing District (MD) 1.2 to Residential District (RD) 2.5. This would facilitate the development of 3 Multiple Dwelling Structures containing a total of 30 units.

SEWERS - The site may be serviced by a 300mm vitrified clay combined sewer within the King Street right-of-way. The applicant will be required to submit lot grading and site servicing drawings, as well as storm detention calculations restricting storm water runoff from this site to pre-development levels. This study must be completed in accordance with the City of Windsor Development Manual and the Windsor/Essex Region Stormwater Management Standards Manual. A sewer servicing study is required to demonstrate that there is adequate capacity in the municipal network. If possible existing connections should be utilized. Any redundant connections shall be abandoned in accordance with the City of Windsor Engineering Best Practice B.P1.3.3. Follow Best Practice B.P.1.1.1 for wye connections to combined sewers, where the Building Department determines that separation of storm and sanitary services is required on private property.

RIGHT-OF-WAY – King Street is classified as a local road, with a current right-of-way width of 20.1m. The current right-of-way is sufficient at 20.1m; therefore land conveyance is not required. The current King Street road cross section does not meet City standards; therefore; road improvements will be required. The road reconstruction should start approximately 90m north of the subject property with a full standard municipal cross-section in order for the development to proceed. The full standard municipal road will include curb & gutter, sidewalk, street lights, and pavement. A cul-de-sac will be required at the end King Street to provide turn around access. A servicing agreement is required to construct municipal road and cul-de-sac on King Street.

Driveways shall be constructed as per AS-221 or AS-222, complete with straight flares and no raised curbs within the right-of-way. Redundant curb cuts shall be removed and restored in accordance with City Standards to the satisfaction of the City Engineer.

In summary we have no objection to the proposed development, subject to the following requirements (Requirements can be enforced prior to issuance of Building and Right-of-Way Permits):

Site Plan Control Agreement – The applicant enters into an agreement with the City of Windsor for all requirements under the General Provisions of the Site Plan Control Agreement for the Engineering Department.

Servicing Agreement – The owner shall enter into a servicing agreement with the Corporation, to supply, construct and install a full municipal road including curbs and gutters, sidewalk and Cul-de-Sac at its own expense, in accordance with the manner, location and design to be approved by the City Engineer. Prior to the issuance of a construction permit, the owner shall ensure that:

1. The servicing agreement between the owner and the Corporation for servicing of the surrounding lands, has been signed by all parties, and registered on the lands, and
2. All necessary bonding and insurance has been approved by the Manager of Risk Management

Servicing Study – The owner agrees, at its own expense, to retain a Consulting Engineer to provide a detailed servicing study report on the impact of the increased flow to the existing municipal sewer systems, satisfactory in content to the City Engineer and prior to the issuance of a construction permit. The study shall review the proposed impact and recommend mitigating measures and implementation of those measures.

### **Rania Toufeili – Transportation Planning**

- King Street is classified as a Local Road with a required right-of-way width of 20 meters. The road will need to be extended to the site with a full standard municipal cross-section in order for the development to proceed. The appropriate right-of-way width is available for this

- extension and therefore a conveyance is not required.
- King Street will need to be extended and comply with City standards as per Engineering Right-of-Way requirements. A standard municipal cross-section is required with a cul-de-sac at the end of King Street. The road reconstruction should start approximately 90 meters north of the subject property.
  - Parking must comply with zoning by-law 8600 (vehicle, bicycle and loading spaces).
  - All accesses shall conform to the TAC Geometric Design Guide for Canadian Roads and the City of Windsor Standard Engineering Drawings.
  - All exterior paths of travel must meet the requirements of the Accessibility for Ontarians with Disabilities Act (AODA).

### **Stefan Fediuk – Landscape Architect**

Pursuant to the application for a zoning amendment (**Z 022/22**) and Official Plan amendment (OPA 161) to permit Residential Development (RD 2.5) on the subject, currently Zoned as a Manufacturing District (MD 1.2) please note no objections. Please also note the following comments:

#### Zoning Provisions for Parking Setback:

There are no requests for variance to zoning other than the proposed use and zoning classification. Therefore, there are no additional comments or recommendations related to landscape provisions related to zoning setbacks.

#### Tree Preservation and Climate Change Adaptation:

A tree inventory and preservation plan (TIPP) prepared by Bezaire Partners, Landscape Architects was submitted with the application. The TIPP identified 10 trees of desirable nature on the subject site, of which 6 are in good condition. The 4 other trees were identified in poor condition.

These trees would need to be protected as part of any construction on the subject properties. All conditions of development, including but not limited to the foregoing, would be provided at the time a Site Plan application is received.

Also identified on the subject were many volunteer trees of undesirable invasive character (Tree of Heaven, White Mulberry, and Manitoba Maple) which should be removed from site.

The preservation of existing desirable trees identified for preservation on the TIPP, will assist in providing climate change adaptation from both heat island effects resulting from hard surface paving associate with the development as well as providing shade for users. The well-established root systems will also help to prevent storm water from reaching the storm sewers.

Therefore as a condition of approval, it is requested that the preservation of the trees listed in the TIPP become part of the requirements for Site Plan Approval.

#### Parkland Dedication:

The site is situated in close proximity to Crowley Park, College Bikeway and MicMac Park which have established parkland and recreational amenities. Therefore, no land is required and all parkland cash-in-lieu requirements will be determined at the time a Site Plan application is received.

## **Kelbour Management Inc. 735 Prince Rd., Windsor ON N9C 2Z2**

**Attention:** Mr. Steve Vlachodimos City Clerk, Mr. Kevin Alexander Planner, Mr. James Abbs Planner

**Kelbour Management Inc.** is the owner of the lands outlined in red on the attached Schedule "B" hereto. We are herein filing an objection the Official Plan Amendment and Zoning Bylaw Amendment set out in City of Windsor Files:

**Z-022/22 ZNG (6787) and OPA 161(OPA 6788) Located at 3821 King Street.**

We object to these Official Plan and Zoning Bylaw Amendments for operational reasons including but not limited to;

1. Kelbour has had years of well documented, by Police, issues with crime, drug dealing, at this location
2. Kelbour Conducts industrial business on all of the land outlined in red on Schedule "B".
3. This change is absolutely not suited to any residential, let alone a multi-unit dwelling, and should remain industrial as it in the middle of our industrial properties.
4. There is an extremely loud gun range next to our property which echo's and reverberates thru-out our buildings. This will be a huge source of disturbance complaints for the city with these new tenants.
5. We have tried fencing around our properties only to have the fence cut open and trespassed.
6. We have tried building a buffer of steel racks and beams etc.... to create "no go zone" but we were told by City of Windsor Bylaw reps to clean it up as there was a complaint from the tenant of this property
7. We are constantly seeing trespassers on our property coming from 3821 King st property. We cannot do anything about this as apparently we must capture hold the perpetrators down until police show up. If we do not, they just walk away wit stolen goods
8. We already have many break ins at our locations again, well documented with Windsor Police.
9. Windsor Police have tried to clear this property from elements non conducive to our plight and many meetings have taken place between Police, Kelbour and, the neighboring community, Sandwich teen group, Windsor port authority etc. .. Sargent's Rob Wilson and Shannon Tennant among others were driving this issue.
10. Our employees' cars are constantly being broken into from this property, employees cannot keep gas in their cars as they will be siphoned off.
11. Adding 30 new units to this issue will create a constant fight with neighbor's as we make much noise on multiple shifts from stamping, truck loading etc. ... at our, "currently shielded by our own properties" land purchases with zero complaints.
12. Without a doubt, the tenants will be trespassing on our property's and causing issues with further thefts and property damage to employee's cars building etc. ... Only now instead of one bad actor, we will now have potentially 30 families.
13. There is constant forklift traffic on West side of our building behind this property and it creates a dangerous situation as I am sure it will become a "shortcut" route for the new residents and their children.
14. On our Hill Street property, we have multiple tenants with semi and large van trucks entering and exiting from the driveway directly adjacent to the property in question.  
The additional traffic and residents walking/ driving along this stretch of Queen st will also create a major safety concern
15. The property in question as it is a safety hazard of the City of Windsor's making due to a bylaw which , in my estimation, is hindering any kind of west Windsor renewal. It is well known why this bylaw came into effect.

We object to, and will appeal any amendments to the Official Plan and Zoning Designations based on the planning evidence set out below and in the attached Schedules "A", "B" & "C";

**Provincial Policy Statement 2020:** (See Schedule "A" attached hereto)

**Part V Section 1.0** - these amendments will weaken the community with inefficient and intrusive land use patterns and impact the financial viability of the existing manufacturing industries in the area thereby impacting the Provincial and Municipal well-being over the long term;

**Section 1.2.6.1** – The intrusion of residential into this area cannot minimize nor mitigate the adverse impacts of odour, noise and other contaminants and will adversely affect the economic viability of the major facilities in the area.

**Section 1.2.6.2** – There is no identified need for the proposed use and plenty of alternative locations available that would better suit the residential nature of the development. The sensitive nature of the residential use cannot be mitigated from the existing industrial uses and will have huge impacts that cannot be minimized or mitigated.

**Section 1.3.1** – Planning authorities must continue to provide a range of employment uses including a wide range of ancillary uses that could be placed on the subject land.

**Section 1.3.2.1** – Planning authorities shall protect and preserve employment areas for current and future uses. The subject land should become a viable future industrial use.

**Section 1.3.2.3** – Planning authorities shall prohibit residential uses that are not ancillary to primary employment uses. This application is inappropriate for this area as has been set out in the Zoning Bylaw 8600 in designating the subject land MD1.2 – Industrial.

**Section 1.3.2.3** – Planning authorities shall protect employment areas in proximity to major goods movement facilities (in this case the Gordie Howe International Bridge).

**City of Windsor Official Plan:** (See Schedule "A" & "C" attached hereto)

The entire area surrounding the subject property is designated "Industrial" under the Official Plan as set out in Schedule "C". It should be noted that all of the existing residential dwellings in the area are also under this designation and have been zoned as DRD1.1 (Development Reserve District 1.1) so that any future use and development of these properties will be subject to re-zoning in compliance with the Official Plan as Industrial. This has been done by the City of Windsor in accordance with the Provincial Policy statement regulations set out above. All other properties are designated as "Manufacturing District" under the Zoning Bylaw.

**Section 6.4.3** - The buffering of the industrial uses adequately separates them from sensitive residential land uses. The intrusion of the residential uses contemplated under the application subject of this objection goes against the municipalities' purposes and goals set out in their Official Plan.

Submitted this date October 19, 2022 by,  
**Kelbour Management Inc. by its principles:**

**Mr. Grant Bourdeau**  
&  
**Mr. Kevin Kelly**



# SCHEDULE "A"

## **Kelbour Management basis for objection and appeal to the Official plan and Zoning Bylaw Amendment under files number:**

### **Z-022/22 ZNG (6787) and OPA 161(OPA 6788)**

#### **Provincial Policy Statement 2020 – Under the Planning Act**

##### **Part V: Policies**

##### **1.0 Building Strong Healthy Communities:**

###### 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

###### 1.1.1 Healthy, liveable and safe communities are sustained by:

a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term.

c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;

##### **1.2.6 Land Use Compatibility**

1.2.6.1 Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

1.2.6.2 Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of **existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted** if the following are demonstrated in accordance with provincial guidelines, standards and procedures:

**a) there is an identified need for the proposed use;**

**b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;**

**c) adverse effects to the proposed sensitive land use are minimized and mitigated; and**

**d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.**

##### **1.3 Employment**

1.3.1 Planning authorities shall promote economic development and competitiveness by:

b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;

e) ensuring the necessary infrastructure is provided to support current and projected needs;

##### **1.3.2 Employment Areas**

1.3.2.1 Planning authorities shall plan for, **protect and preserve employment areas for current and future uses** and ensure that the necessary infrastructure is provided to support current and projected needs.

1.3.2.3 Within employment areas planned for industrial or manufacturing uses, **planning authorities shall prohibit residential uses and prohibit or limit other sensitive land uses that are not ancillary to the primary employment uses** in order to maintain land use compatibility. Employment areas planned for industrial or manufacturing uses should include an appropriate transition to adjacent non-employment areas.

1.3.2.6 Planning authorities shall protect employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations. 1.3.2.7 Planning authorities may plan beyond 25 years for the long-term protection of employment areas provided lands are not designated beyond the planning horizon identified in policy 1.1.2.

In accordance with these and all other principles and policies of the Provincial Policy Statement 2020, and under the Planning Act R.S.O. 1990, c. P.13, The City of Windsor has established their **Official Plan** for this entire area as "**Industrial**" and the Zoning Bylaws thereof as **MD1.2**, an industrial designation, and "**DRD1.1**", a development reserve district to prohibit the redevelopment of residential within this industrial area.

## **City of Windsor Official Plan:**

### 6.1 Goals

**EMPLOYMENT 6.1.4** The **retention** and expansion of Windsor's employment base.

### **6.4 Employment**

Employment lands provide the main locations for business and industrial activities. In order to strengthen Windsor's economy, meet the land and infrastructure needs of employment activities and address concerns over compatibility, employment land uses are provided under two designations on Schedule D as either **Industrial** or Business Park. The following objectives and policies establish the framework for development decisions in Employment areas.

#### **6.4.1 Objectives**

6.4.1.1 POSITIVE BUSINESS ENVIRONMENT - To ensure Windsor continues to be an attractive place to establish businesses and locate employees.

6.4.1.3 COMPATIBLE DEVELOPMENT - To ensure that employment uses are developed in a manner which are compatible with other land uses.

6.4.1.11 COMPREHENSIVELY PLANNED - To promote comprehensively planned employment areas.

#### **6.4.3 Industrial Policies**

The Industrial land use designation provides for a broad range of industrial uses which, because of their physical and operational characteristics, are more appropriately clustered together and separated from sensitive land uses. This designation is also applied to certain older industrial areas of Windsor where such a separation may not have been achieved.

6.4.3.3 Industrial development shall be located where:

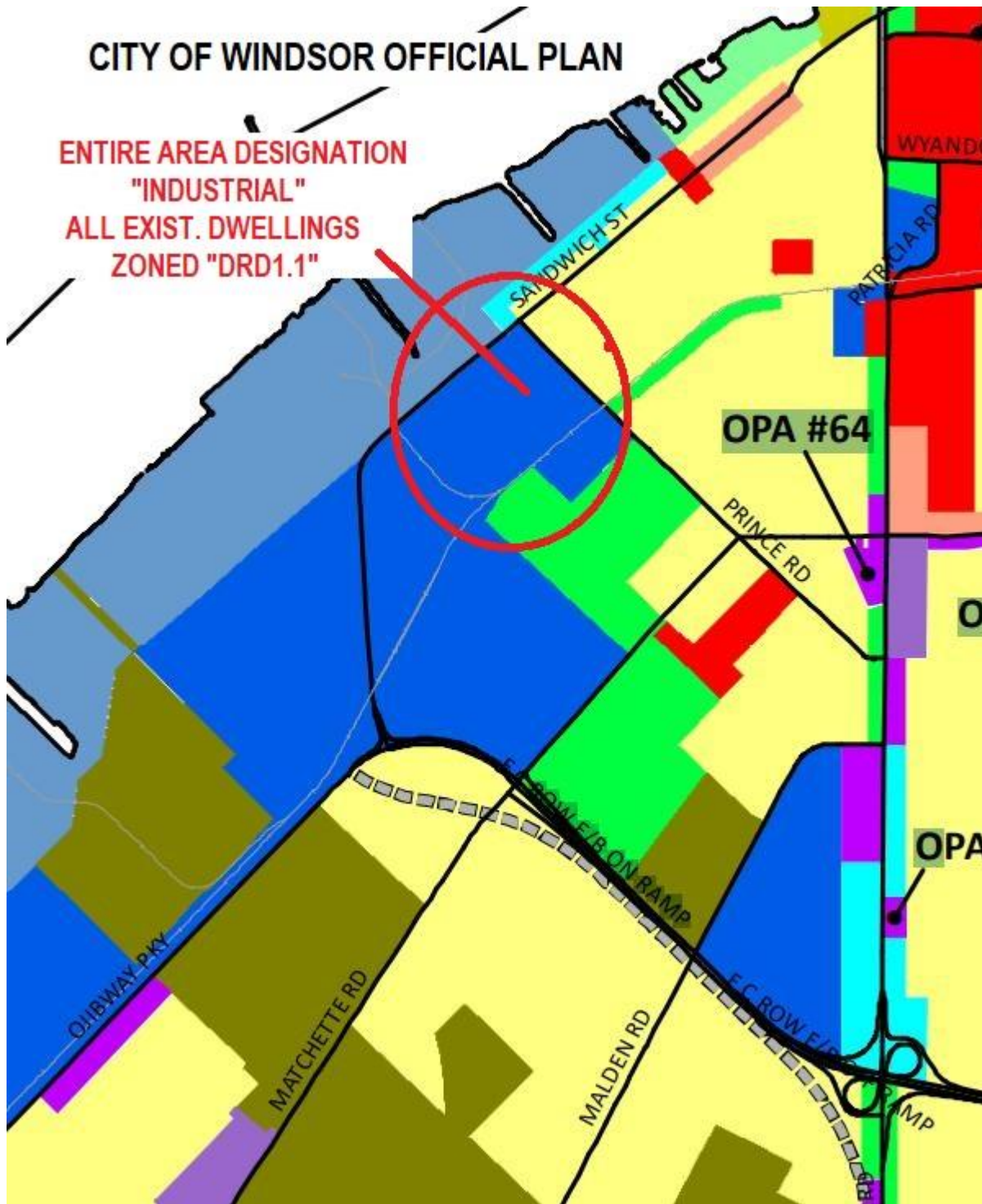
(a) the industrial use can be sufficiently separated and/or buffered from sensitive land uses.

**SCHEDULE "B"**  
**APPELLANT'S PROPERTY IN RELATION TO THE SUBJECT**



# SCHEDULE "C"

## CITY OF WINDSOR OFFICIAL PLAN DESIGNATION "INDUSTRIAL"



**From:** John Elliott <[sandwichteen@cogeco.net](mailto:sandwichteen@cogeco.net)>  
**Sent:** October 17, 2022 7:34 PM  
**To:** clerks <[clerks@citywindsor.ca](mailto:clerks@citywindsor.ca)>; Alexander, Kevin <[kalexander@citywindsor.ca](mailto:kalexander@citywindsor.ca)>  
**Cc:** Berry, Peter <[pberry@portwindsor.com](mailto:pberry@portwindsor.com)>; Kevin Kelly <[kbkelly@shurlok.ca](mailto:kbkelly@shurlok.ca)>; Faraj Myriam  
**Subject:** RE: Draft- letter of opposition to rezoning

**Dear: All**

As the Executive Director of the Sandwich Teen Action Group (STAG) for the past 30 years and a former Ward 2 city councillor I am in total opposition about the rezoning of 3821 King St. Property. The STAG is located directly beside this property.

My personal opinion is that the property should be cleaned up and left to become a natural habitat for wildlife such as deer's etc., along with habit species.

In the past 7 years when the property was residential it was a drug infested with transient persons coming in out. Here is a list of what we had to endure at our facility because of this property:

1. A haven for stolen property where by thefts of cars, motorcycles, RV trailers, boats etc. were stored.
2. Drugs being sold along with young women for sex.
3. Sandwich Teen Action was broken into on many occasion where **\$5,000.00** of audio and visual equipment stolen from our Girls Group room, along with a young 21 year old female entering our building through an open door and overdosed in the bathroom. Thankfully a tenant was working in the building where she came in and heard her in the bathroom and was able to call the ambulance and save her life. She stated to the paramedics that she had come from the property next door and had consumed the drugs there.
4. Numerous raids by Windsor Police and undercover law enforcement at the property during the teen center operation hours. Our youth witnessed these raids on many occasions being at the center.
5. Central a/c units at our building vandalized consistently along with outside condensers being cut out and stolen for scrap metals. We had to replace 1 unit at the cost of **\$4,500.00**
6. 9 metal exterior doors had to be replaced on our facility with 2 dead bolts at the top and bottom installed on the inside of the doors to keep the building from being broken into during the hours overnight that the center was closed.
7. 6 new exterior LED outdoor lights had to be installed on the building to keep the facility well lit at night for vandals coming to and from that property.
8. Veteran cab services bringing clientele to buy drugs from the property but parking outside our facility while the clients walked to the property and back. I questioned 1 particular cab driver as to what he was doing and I was told that by him that "the 3821 King St. Property was known to cab drivers to be dangerous and not to drive into it" I politely told the cab driver to leave as our youth center parking was not going to service that kind of activity.

I personally would like to be notified by the City of Windsor planning committee at this email address when this application comes forward so that I may attend and make a presentation opposing this rezoning.

Thank you for your time and patience concerning this matter.

**Respectfully,**

**J.**

**November 1, 2022**  
**Development & Heritage Standing Committee**  
**Item 7.4 – Written Submission**

**From:** Kevin Kelly <[kbkelly@shurlok.ca](mailto:kbkelly@shurlok.ca)>  
**Sent:** October 19, 2022 2:50 PM  
**To:** Alexander, Kevin <[kalexander@citywindsor.ca](mailto:kalexander@citywindsor.ca)>; clerks <[clerks@citywindsor.ca](mailto:clerks@citywindsor.ca)>  
**Cc:** Abbs, James <[jabbs@citywindsor.ca](mailto:jabbs@citywindsor.ca)>  
**Subject:** FW: Notice of Objection - 3821 King St. - Files Z-022/22 ZNG (6787) and OPA 161(OPA 6788)  
**Importance:** High

Sirs,

Kelbour Management Inc. is a viable manufacturing business operating as Shurlok Industries among others whose property completely surrounds the land at 3821 King Street.

We have attached a document setting out our objections to these applications and as a basis for any appeals that would be registered as a result of approval or by the applicant as a result of denial.

It cannot be emphasized strongly enough that we would expect that City of Windsor administration would be vehemently opposed to this application and recommend for denial under all of the principles of the regulations set out in our document.

We look forward to seeing this shut down before we would have to be present for any hearings but ask that you keep us up to date on the activity related to this application and any further communications related thereto.

We do want to be at any and all hearings, if any, to cement our objection to this proposal

Yours Sincerely,

Kevin Kelly  
Shurlok Products LTD  
735 Prince Rd. Windsor, On. Canada  
N9C2Z2

## **Kelbour Management Inc. 735 Prince Rd., Windsor ON N9C 2Z2**

**Attention:** Mr. Steve Vlachodimos City Clerk, Mr. Kevin Alexander Planner, Mr. James Abbs Planner

**Kelbour Management Inc.** is the owner of the lands outlined in red on the attached Schedule "B" hereto. We are herein filing an objection the Official Plan Amendment and Zoning Bylaw Amendment set out in City of Windsor Files:

**Z-022/22 ZNG (6787) and OPA 161(OPA 6788) Located at 3821 King Street.**

We object to these Official Plan and Zoning Bylaw Amendments for operational reasons including but not limited to;

1. Kelbour has had years of well documented, by Police, issues with crime, drug dealing, at this location
2. Kelbour Conducts industrial business on all of the land outlined in red on Schedule "B".
3. This change is absolutely not suited to any residential, let alone a multi-unit dwelling, and should remain industrial as it in the middle of our industrial properties.
4. There is an extremely loud gun range next to our property which echo's and reverberates thru-out our buildings. This will be a huge source of disturbance complaints for the city with these new tenants.
5. We have tried fencing around our properties only to have the fence cut open and trespassed.
6. We have tried building a buffer of steel racks and beams etc.... to create "no go zone" but we were told by City of Windsor Bylaw reps to clean it up as there was a complaint from the tenant of this property
7. We are constantly seeing trespassers on our property coming from 3821 King st property. We cannot do anything about this as apparently we must capture hold the perpetrators down until police show up. If we do not, they just walk away wit stolen goods
8. We already have many break ins at our locations again, well documented with Windsor Police.
9. Windsor Police have tried to clear this property from elements non conducive to our plight and many meetings have taken place between Police, Kelbour and, the neighboring community, Sandwich teen group, Windsor port authority etc. .. Sargent's Rob Wilson and Shannon Tennant among others were driving this issue.
10. Our employees' cars are constantly being broken into from this property, employees cannot keep gas in their cars as they will be siphoned off.
11. Adding 30 new units to this issue will create a constant fight with neighbor's as we make much noise on multiple shifts from stamping, truck loading etc. ... at our, "currently shielded by our own properties" land purchases with zero complaints.
12. Without a doubt, the tenants will be trespassing on our property's and causing issues with further thefts and property damage to employee's cars building etc. ... Only now instead of one bad actor, we will now have potentially 30 families.
13. There is constant forklift traffic on West side of our building behind this property and it creates a dangerous situation as I am sure it will become a "shortcut" route for the new residents and their children.
14. On our Hill Street property, we have multiple tenants with semi and large van trucks entering and exiting from the driveway directly adjacent to the property in question.  
The additional traffic and residents walking/ driving along this stretch of Queen st will also create a major safety concern
15. The property in question as it is a safety hazard of the City of Windsor's making due to a bylaw which , in my estimation, is hindering any kind of west Windsor renewal. It is well known why this bylaw came into effect.

We object to, and will appeal any amendments to the Official Plan and Zoning Designations based on the planning evidence set out below and in the attached Schedules "A", "B" & "C";

**Provincial Policy Statement 2020:** (See Schedule "A" attached hereto)

**Part V Section 1.0** - these amendments will weaken the community with inefficient and intrusive land use patterns and impact the financial viability of the existing manufacturing industries in the area thereby impacting the Provincial and Municipal well-being over the long term;

**Section 1.2.6.1** – The intrusion of residential into this area cannot minimize nor mitigate the adverse impacts of odour, noise and other contaminants and will adversely affect the economic viability of the major facilities in the area.

**Section 1.2.6.2** – There is no identified need for the proposed use and plenty of alternative locations available that would better suit the residential nature of the development. The sensitive nature of the residential use cannot be mitigated from the existing industrial uses and will have huge impacts that cannot be minimized or mitigated.

**Section 1.3.1** – Planning authorities must continue to provide a range of employment uses including a wide range of ancillary uses that could be placed on the subject land.

**Section 1.3.2.1** – Planning authorities shall protect and preserve employment areas for current and future uses. The subject land should become a viable future industrial use.

**Section 1.3.2.3** – Planning authorities shall prohibit residential uses that are not ancillary to primary employment uses. This application is inappropriate for this area as has been set out in the Zoning Bylaw 8600 in designating the subject land MD1.2 – Industrial.

**Section 1.3.2.3** – Planning authorities shall protect employment areas in proximity to major goods movement facilities (in this case the Gordie Howe International Bridge).

**City of Windsor Official Plan:** (See Schedule "A" & "C" attached hereto)

The entire area surrounding the subject property is designated "Industrial" under the Official Plan as set out in Schedule "C". It should be noted that all of the existing residential dwellings in the area are also under this designation and have been zoned as DRD1.1 (Development Reserve District 1.1) so that any future use and development of these properties will be subject to re-zoning in compliance with the Official Plan as Industrial. This has been done by the City of Windsor in accordance with the Provincial Policy statement regulations set out above. All other properties are designated as "Manufacturing District" under the Zoning Bylaw.

**Section 6.4.3** - The buffering of the industrial uses adequately separates them from sensitive residential land uses. The intrusion of the residential uses contemplated under the application subject of this objection goes against the municipalities' purposes and goals set out in their Official Plan.

Submitted this date October 19, 2022 by,  
**Kelbour Management Inc. by its principles:**

**Mr. Grant Bourdeau**  
&  
**Mr. Kevin Kelly**



# SCHEDULE "A"

## **Kelbour Management basis for objection and appeal to the Official plan and Zoning Bylaw Amendment under files number:**

### **Z-022/22 ZNG (6787) and OPA 161(OPA 6788)**

#### **Provincial Policy Statement 2020 – Under the Planning Act**

##### **Part V: Policies**

##### **1.0 Building Strong Healthy Communities:**

###### 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

###### 1.1.1 Healthy, liveable and safe communities are sustained by:

a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term.

c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;

##### **1.2.6 Land Use Compatibility**

1.2.6.1 Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

1.2.6.2 Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of **existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted** if the following are demonstrated in accordance with provincial guidelines, standards and procedures:

**a) there is an identified need for the proposed use;**

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**d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.**

##### **1.3 Employment**

1.3.1 Planning authorities shall promote economic development and competitiveness by:

b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;

e) ensuring the necessary infrastructure is provided to support current and projected needs;

##### **1.3.2 Employment Areas**

1.3.2.1 Planning authorities shall plan for, **protect and preserve employment areas for current and future uses** and ensure that the necessary infrastructure is provided to support current and projected needs.

1.3.2.3 Within employment areas planned for industrial or manufacturing uses, **planning authorities shall prohibit residential uses and prohibit or limit other sensitive land uses that are not ancillary to the primary employment uses** in order to maintain land use compatibility. Employment areas planned for industrial or manufacturing uses should include an appropriate transition to adjacent non-employment areas.

1.3.2.6 Planning authorities shall protect employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations. 1.3.2.7 Planning authorities may plan beyond 25 years for the long-term protection of employment areas provided lands are not designated beyond the planning horizon identified in policy 1.1.2.

In accordance with these and all other principles and policies of the Provincial Policy Statement 2020, and under the Planning Act R.S.O. 1990, c. P.13, The City of Windsor has established their **Official Plan** for this entire area as "**Industrial**" and the Zoning Bylaws thereof as **MD1.2**, an industrial designation, and "**DRD1.1**", a development reserve district to prohibit the redevelopment of residential within this industrial area.

## **City of Windsor Official Plan:**

### 6.1 Goals

**EMPLOYMENT 6.1.4** The **retention** and expansion of Windsor's employment base.

### **6.4 Employment**

Employment lands provide the main locations for business and industrial activities. In order to strengthen Windsor's economy, meet the land and infrastructure needs of employment activities and address concerns over compatibility, employment land uses are provided under two designations on Schedule D as either **Industrial** or Business Park. The following objectives and policies establish the framework for development decisions in Employment areas.

#### **6.4.1 Objectives**

6.4.1.1 POSITIVE BUSINESS ENVIRONMENT - To ensure Windsor continues to be an attractive place to establish businesses and locate employees.

6.4.1.3 COMPATIBLE DEVELOPMENT - To ensure that employment uses are developed in a manner which are compatible with other land uses.

6.4.1.11 COMPREHENSIVELY PLANNED - To promote comprehensively planned employment areas.

#### **6.4.3 Industrial Policies**

The Industrial land use designation provides for a broad range of industrial uses which, because of their physical and operational characteristics, are more appropriately clustered together and separated from sensitive land uses. This designation is also applied to certain older industrial areas of Windsor where such a separation may not have been achieved.

6.4.3.3 Industrial development shall be located where:

(a) the industrial use can be sufficiently separated and/or buffered from sensitive land uses.

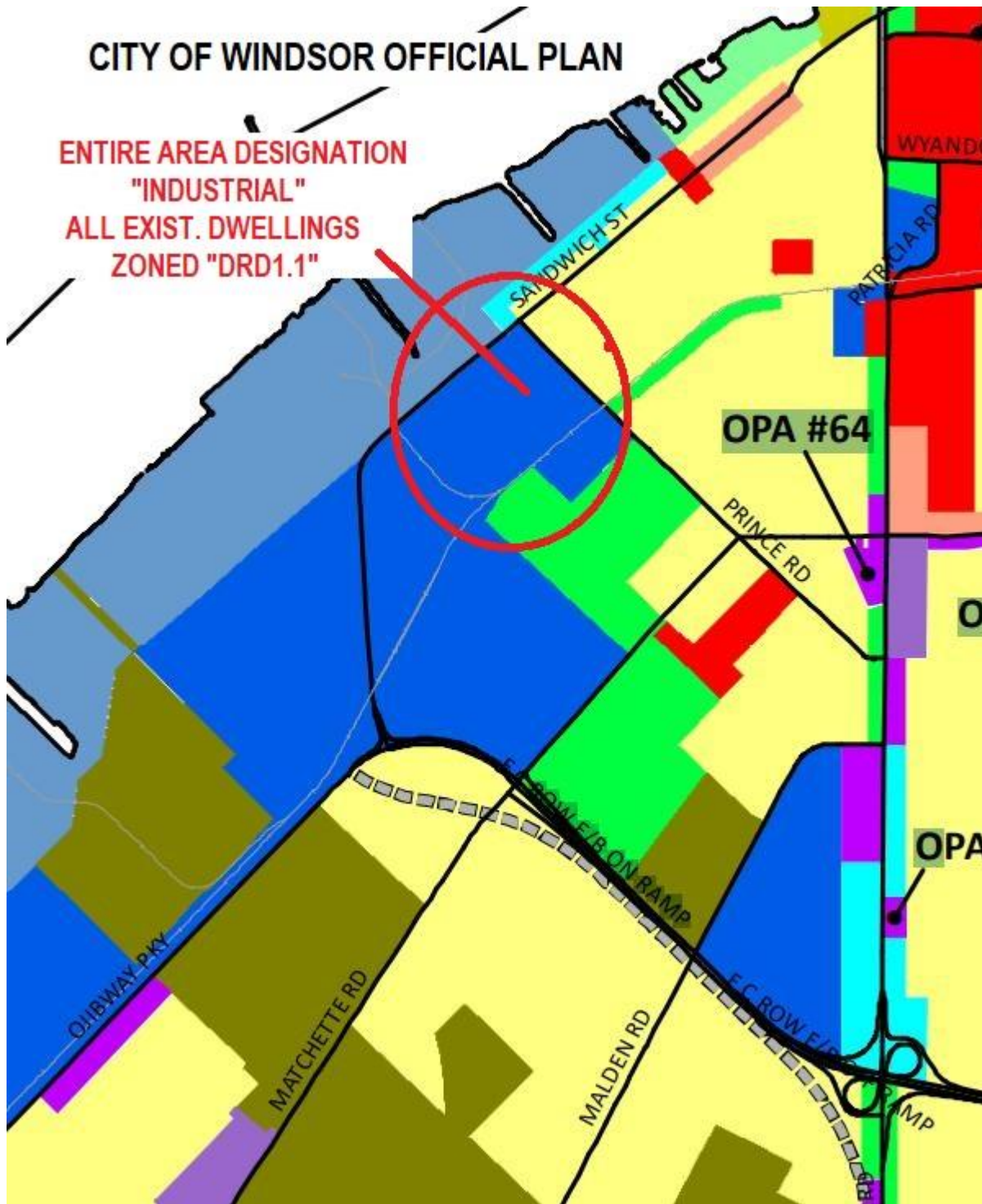
# SCHEDULE "B"

## APPELLANT'S PROPERTY IN RELATION TO THE SUBJECT



# SCHEDULE "C"

## CITY OF WINDSOR OFFICIAL PLAN DESIGNATION "INDUSTRIAL"



**November 1, 2022**  
**Development & Heritage Standing Committee**  
**Item 7.4 – Written Submission**

**From:** Faraj Myriam  
**Sent:** October 17, 2022 10:10 AM  
**To:** clerks <[clerks@citywindsor.ca](mailto:clerks@citywindsor.ca)>  
**Subject:** Opposition to rezoning on 3821 King st

To whom it may concern,

I do not agree with the rezoning of the land at 3821 King st as residential mainly because I think it's unsuitable for residential purposes.

I do not think the location is appropriate for residential units because of the noise and other disturbances. Although I live in the area, I could not imagine raising a family here. Compressors starting in the middle of the night, pieces of metal being dumped in a metal dumpster at all times of the night - weekdays and weekends alike -, the beeping delivery trucks at 4am, etc.: all these are detrimental to sleep, especially to a child. Also, kindly note that daytime noises can create issues as well as the police shooting range is clearly audible from here (which could be a trigger for people with ptsd or mental illness) and there are regular explosions (of an unknown source to me). And there is also quite a bit of light disturbance when trucks circulate at night. These are disruptive to a residential area and could be the source of endless residents complaints and mediation processes with the City and it would impede the functioning of the industries and other groups. Let's also keep in mind that these are to be rental units, so perhaps the residents would have less of a resolute acceptance/understanding of the disturbance situation. As safety and stability in a neighborhood are fostered by mixed income and mixed occupation of dwelling, this kind of development in this area - as it is unsuitable for a family and unappealing to anyone who could afford better - would tend to concentrate a more homogeneous type of population which could lead to serious issues. I mean, there was a reason why the previous occupancy of the lot was a drug house....

It seems to me to be a recipe for disaster to create housing in an unsuitable environment.

Also, the street is not meant to receive 30 housing units. Already people u-turn in my driveway at all times of day and night, and this would only be amplified. The corner of King and Prince, which is already unsafe due to the lack of stop signs on Prince, would see much more traffic and become even harder to cross for families and residents that are visiting the Mosque, the Society Shop or the Sandwich Teen Action Group. The general area is not really walkable (one side of Prince has no sidewalks which means people have to go through the unsafe crossing), and there are no groceries nearby thus increasing the reliance on vehicular transport. King street after STAG is narrow, I can't even imagine the traffic mess that would unfold.

Moreover, I am concerned about safety and trespassing on my property. When the 3821 lot was used as residential, a few items left unattended (shovel, hamac, etc.) went missing. Also, the piece of land I am on is naturalized and some people tend to think it's theirs to roam about. I fear this would be amplified by the discrepancy between the density of occupation between the two lots.

Finally, I do not believe it should be zoned residential because paradoxically the industrial lands in this area are creating a great habitat for wildlife, and it would be unfortunate to deprive all these non-voting beyond-human residents from a place to source food and shelter. For instance, there are coyotes around. I don't want them to be more affected by rat poisoning any more than they already are (which would be almost inevitable if more dwelling units are built). The deers were famished this year and needed all the resources they could get. The groundhogs, rabbits and turkeys would not be able to go about their lives without fear. I think that kind of wildlife habitat should be preserved and not disturbed.

We, as a city, need housing, but we need to densify built areas that are suited for residential purposes. We need to build housing where people can have a decent quality of life. This is unfortunately not the case on this lot.

The carcasses of the buildings on this lot should however be demolished as they are frequently visited by kids and pickers and they are utterly unsafe.

Sincerely,

Myriam Faraj

## Item No. 8.5



Committee Matters: SCM 11/2023

**Subject: Request for Heritage Permit – Art Windsor-Essex temporary public artwork, various Sandwich Heritage Conservation District locations (Ward 2)**

Moved by: Member Fratangeli

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 455**

- I. THAT a Heritage Permit requested by Art Windsor-Essex (legal name 'The Art Gallery of Windsor') **BE APPROVED** for the temporary installation (up to 24 months) of framed reproduction artwork displayed at five locations within the Sandwich Heritage Conservation District in accordance with Appendix A-Heritage Permit Application, subject to the following condition(s):
  - a. Submission of satisfactory product details and samples to the City Planner or designate;
  - b. Final locational clearance with City Administration (such as Engineering & Parks departments, etc.);
  - c. Technical and legal conditions associated with its installation and removal on City property in accordance with the Council Decision on the larger city-wide report (C 207/2022); and
  
- II. THAT the City Planner or designate **BE DELEGATED** the authority to approve any further changes including location changes to the heritage permit associated with the proposal.

Carried.

Report Number: S 146/2022  
Clerk's File: SR/13926

### Clerk's Note:

1. The recommendation of the Standing Committee and Administration are the same.
2. Please refer to Item 10.1 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Request for Heritage Permit – Art Windsor-Essex temporary public artwork, various Sandwich Heritage Conservation District locations (Ward 2)**

**Reference:**

Date to Council: January 9, 2023  
Author: Kristina Tang, MCIP, RPP  
Heritage Planner  
ktang@citywindsor.ca  
519-255-6543 X 6179  
Planning & Building Services  
Planning & Building Services  
Report Date: December 8, 2022  
Clerk's File #: SR/13926

**To:** Mayor and Members of City Council

**Recommendation:**

- I. **THAT** a Heritage Permit requested by Art Windsor-Essex (legal name 'The Art Gallery of Windsor') **BE APPROVED** for the temporary installation (up to 24 months) of framed reproduction artwork displayed at five locations within the Sandwich Heritage Conservation District in accordance with Appendix A-Heritage Permit Application, subject to the following condition(s):
  - a. Submission of satisfactory product details and samples to the City Planner or designate;
  - b. Final locational clearance with City Administration (such as Engineering & Parks departments, etc.);
  - c. Technical and legal conditions associated with its installation and removal on City property in accordance with the Council Decision on the larger city-wide report (C 207/2022); and
  
- II. **THAT** the City Planner or designate **BE DELEGATED** the authority to approve any further changes including location changes to the heritage permit associated with the proposal.

**Executive Summary: N/A**

**Background:**

City Council passed the Sandwich Heritage Conservation District (HCD) Designation By-law No. 22-2009 in January 2009, along with related by-laws. The Sandwich HCD



came into effect in October 2012, and the Sandwich HCD Plan requires changes to the public realm to apply for Heritage Permits.

In November 25, 2022, the Art Windsor-Essex (AWE) submitted a Heritage Permit application to install public art within the Sandwich HCD on City of Windsor property. The Sandwich project is part of a larger undertaking to bring temporary outdoor public art reproductions across the City, and is funded through Ontario Trillium Foundation & a Community Benefits Grant from the Windsor-Detroit Bridge Authority. AWE would like to start installation in early Spring 2023. The Heritage Permit application is outlined in Appendix 'A' – Heritage Permit Application.

### **Legal provisions:**

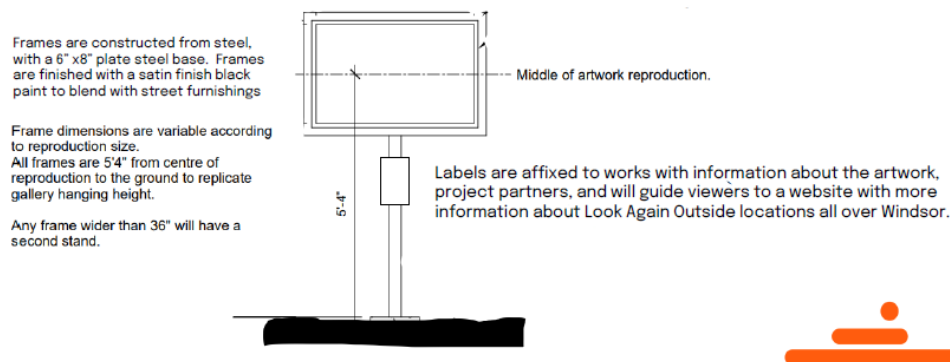
The locations (city property) chosen for installation of the 5 pieces of reproduction artwork fall within the boundaries of the Sandwich Heritage Conservation District (HCD) and are designated under Part V of the *Ontario Heritage Act* (OHA). Section 41.1(5) of the OHA requires the HCD Plan to contain (c) “a description of the heritage attributes of the heritage conservation district and of properties in the district”. Changes to the properties within the district are to be considered according to (d) “policy statements, guidelines and procedures for achieving the stated objectives and managing change in the heritage conservation district”. The Sandwich HCD Plan outlines some changes to be approved by City Council after review by the Committee; and some minor changes to be approved by staff.

The Sandwich HCD Plan requires Heritage Committee review and Council approval for replacement of street lighting, street signs, street furnishing (benches, trash receptacles, bicycle racks, planters and similar items), and changes or improvements to public park and open space features. By extension, the public art proposal would require Council approval.

### **Discussion:**

### **Proposal:**

The proposal is to install reproduction artworks from the Art Windsor-Essex collection to the public spaces. The artwork would be printed on outdoor quality 3M vinyl and the standard frames would be constructed with 1” by 3” steel tube and finished with low-sheen black paint to match the colour of other street furniture in Sandwich. The height of the middle of the artwork would be imitating standard gallery height at 5 ‘ 4”. For the more historic artworks, a more classical frame-type surround may be used.



Drawing of Frame Design (Source: AWE)

Examples from the pilot project in Downtown Windsor were provided in the Heritage Permit Application. AWE consulted the Sandwich Towne BIA (Mary Ann Cuderman & Thomas Coke) for suitable locations, as well as city Stakeholders. Installation locations were chosen to be on existing standard concrete pads to avoid intrusions to special treatment surfaces/pavers, and so as not to trigger any archaeological concerns at the following locations:

- Sandwich Street, close to Detroit Street
- Sandwich Street, in front of the Dominion House Tavern (3140 Sandwich Street)
- Mill Street & Russell Street, near Mill Street Park
- Mill Street, in front of the Shopping plaza (at 3211 Sandwich Street) or Sandwich Post Office
- Brock Street (in front of General Brock Public School)

Locational adjustments may need to be to remove any conflicts with maintenance and operations of existing street infrastructure, and would be further coordinated with city staff. Further, as part of the Sandwich reconstruction project, there may be a need to disinstall and reinstall the artwork. Any new locations are to be considered through delegated authority to the City Planner.

Themes for the artwork were suggested by city staff to AWE to have relevance to the Sandwich Heritage Conservation District. The artworks were co-curated by a Sandwich resident but were selected to showcase the existing AWE collections.

The project is intended to be displayed for 12 months with the possibility of extension to a total of 24 months, depending on the longevity of the reproduction artwork.

More details are included in Appendix 'A' – Heritage Permit Application.

### **Official Plan Policy:**

The Windsor Official Plan states "Council will enhance heritage resources by (a) Ensuring that within any Heritage Area or Heritage Conservation District that: (i) Infrastructure undertakings respect and enhance the historic character of the area; (ii)

Development be of compatible height, massing, scale, setback and architectural style.” (9.3.5.1)

Volume II Section 1.26 on the Sandwich Heritage Conservation District of the City's Official Plan includes more detailed policies, in particular that “All applications for heritage permits will be required to conform to the design guidelines in the Sandwich Heritage Conservation District Plan, adopted by By-law 22-2009.” (Volume II, Section 1.26.9)

## **Sandwich Heritage Conservation District (HCD):**

### **Review of Sandwich HCD policies**

The Sandwich HCD does not specifically discuss public art however, discusses elements in the public realm such as street furnishings that applies to the proposal.

Section 4.5 on Public Realm emphasizes the important role of the public realm in defining the overall heritage character of the neighbourhood through its mature trees and public furniture. The policies include:

*(f) Street furnishings, including benches, garbage cans, bicycle racks and other components, will be consistent throughout the neighbourhood and be of a style and material that complements the heritage attributes of the District;*

Section 5. 6. 2 on Approvals for Public Property and Infrastructure obligates the municipality to be consistent with the policies and guidelines of the Plan through Council review and approval of such works and items:

- Street furnishings, including benches, trash receptacles, bicycle racks, planters and similar items;
- Changes or improvements to public parks and open space features.

Section 8.10.3 discusses the impact Street Furnishings has on the character of an area. The section recommends coordination of street furnishing elements in terms of style and colour to provide a unifying element and to create a sense of place. The proposal conforms to the Sandwich Heritage Conservation District Plan.

### **Risk Analysis:**

As outlined in the Council approved Sandwich HCD Plan, the heritage permit process and Council review and approval is required to obligate the municipality and other property owners to be consistent with the policies and guidelines of the Sandwich HCD Plan. The risk of any issues with the installation and removal are considered under the larger city-wide project (Report C 207/2022). The report details requirement for an Agreement between the City and AWE, to cover topics such as risk and liability insurance, to the satisfaction of City staff. The agreement will also outline emergency removals which is particular an issue given the upcoming Sandwich Street Reconstruction project. AWE would also be required to provide an insurance certificate to the City of Windsor that is acceptable to City's Risk Management staff.

## Climate Change Risks

Climate Change Mitigation: N/A

Climate Change Adaptation: N/A

## Financial Matters:

The cost of the project is handled by AWE and detailed in Council Report C 207/2022. There is no financial contribution from Heritage Planning funds for the project and no financial decision or request from this Heritage Permit Council report. AWE will be responsible for all costs related to the reproduction product, installations, repair/maintenance, and removals at the end of the project.

## Consultations:

Culture Staff connected AWE with Heritage Planning Staff and Urban Design staff. Parks staff, Rights of Way Staff, Operations staff, and city project lead on Sandwich Reconstruction project were consulted.

## Conclusion:

The heritage permit request for the temporary installation of framed artwork on city property within the Sandwich Heritage Conservation District is recommended for approval, subject to conditions. Further changes or verifications to the proposal are recommended to be delegated to Planning staff.

Planning Act Matters: N/A

## Approvals:

Name	Title
Michael Cooke	Manager of Planning Policy/ Deputy City Planner
Wira Vendrasco	Deputy City Solicitor -Legal & Real Estate
Thom Hunt	City Planner / Executive Director Planning & Building
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administrative Officer

## Notifications:

Name	Address	Email
Nadja Pelkey- Windsor-Essex Art		npelkey@artwindsoressex.ca

<b>Name</b>	<b>Address</b>	<b>Email</b>
Michelle Staaedegaard		mstaadegaard@citywindsor.ca
Salina Larocque		SLarocque@citywindsor.ca

**Appendices:**

- 1 Appendix A- AWE Heritage Permit Application



# HERITAGE PERMIT APPLICATION

Revised 12/2021

## CORPORATION OF THE CITY OF WINDSOR

Planning Dept., Suite 320-350 City Hall Sq W, Windsor ON N9A 6S1  
519-255-6543 | 519-255-6544 (fax) | [planningdept@citywindsor.ca](mailto:planningdept@citywindsor.ca)

### 1. Applicant, Agent and Registered Owner Information

Provide in full the name of the applicant, registered owner and agent, the name of the contact person, and address, postal code, phone number, fax number and email address. If the applicant or registered owner is a numbered company, provide the name of the principals of the company. If there is more than one applicant or registered owner, copy this page, complete in full and submit with this application.

**APPLICANT** Jennifer Matotek, Executive Director, Art Windsor-Essex  
Contact Name(s) Nadja Pelkey, Associate Curator Projects & Partnerships, Art Windsor-Essex  
Company or Organization Art Windsor-Essex (Legal name: The Art Gallery of Windsor)  
Mailing Address 401 Riverside Drive West, Windsor, ON

Postal Code N9A 7J1  
Email project contact: npelkey@artwindsor.essex.ca Phone(s) (519) 977-0013

### REGISTERED OWNER IF NOT APPLICANT

Contact Name(s) \_\_\_\_\_  
Company or Organization \_\_\_\_\_  
Mailing Address \_\_\_\_\_

Postal Code \_\_\_\_\_  
Email \_\_\_\_\_ Phone(s) \_\_\_\_\_

### AGENT AUTHORIZED BY REGISTERED OWNER TO FILE THE APPLICATION

Contact Name(s) \_\_\_\_\_  
Company or Organization \_\_\_\_\_  
Mailing Address \_\_\_\_\_

Postal Code \_\_\_\_\_  
Email \_\_\_\_\_ Phone(s) \_\_\_\_\_

### Who is the primary contact?

- Applicant                       Registered Owner                       Agent

**2. SUBJECT PROPERTY**

Municipal Address: This project involves five sites, please appendix for details.

Legal Description (if known): All locations are sidewalk spaces on city property.

Building/Structure Type:

- Residential       Commercial       Industrial       Institutional

Heritage Designation:

- Part IV (Individual)       Part V (Heritage Conservation District)

By-law #: \_\_\_\_\_ District: Sandwich Town

Is the property subject to a Heritage Easement or Agreement?

- Yes       No

**3. TYPE OF APPLICATION**

Check all that apply:

- Demolition/Removal of heritage attributes       Addition       Erection       Alteration\*  
 Demolition/Removal of building or structure       Signage       Lighting

\*The Ontario Heritage Act's definition of "alter" means to change in any manner and includes to restore, renovate, repair or disturb.

**4. HERITAGE DESCRIPTION OF BUILDING**

*Describe the existing design or appearance of buildings, structures, and heritage attributes where work is requested. Include site layout, history, architectural description, number of storeys, style, features, etc..*

Please see appendix for project details.  
\_\_\_\_\_  
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## 5. PROPOSED WORK

*Provide a detailed written description of work to be done, including any conservation methods you plan to use. Provide details, drawings, and written specifications such as building materials, measurements, window sizes and configurations, decorative details, etc.. Attach site plans, elevations, product spec sheets, etc. to illustrate, if necessary.*

Look Again! Outside: Sandwich Town is a temporary outdoor public art project which will situate five reproductions from Art Windsor-Essex's collection through Sandwich Town.

Frames are made of steel and painted black in accordance with the heritage feel of the neighbourhood  
Reproductions will be in place for a period of 12 months with a possibility to renew the agreement.

---

## 6. HERITAGE PERMIT RATIONALE

*Explain the reasons for undertaking the proposed work and why it is necessary.*

This project is part of a larger project of Look Again! Outside. Current installations are present in Downtown Windsor, and on the main campus of St Clair College.

We are working towards bringing this project to all BIA areas in Windsor before expanding again.

The project in Sandwich is supported by the Ontario Trillium Foundation and a Community Benefits grant from WDBA.

---

*Describe the potential impacts to the heritage attributes of the property.*

This project is designed to blend into the neighbourhood and provide opportunities for residents and visitors to encounter artworks in unexpected places that inspire conversations about the past present and future of these places.

---

## 7. CHECKLIST OF MATERIALS SUBMITTED Check all that apply:

Required:

- Photographs (showing the current condition and context of existing buildings, structures, and heritage attributes that are affected by the application)
- Site plan/ Sketch (showing buildings on the property and location of proposed work)
- Drawings of proposed work (e.g. existing and proposed elevations, floor plans, roof plans, etc., as determined by Heritage Planning staff)
- Specifications of proposed work (e.g. construction specification details)

Potentially required (to be determined by Heritage Planning staff):

- Registered survey
- Material samples, brochures, product data sheets etc.
- Cultural Heritage Evaluation Report
- Heritage Impact Assessment (HIA)
- Heritage Conservation Plan
- Building Condition Assessment



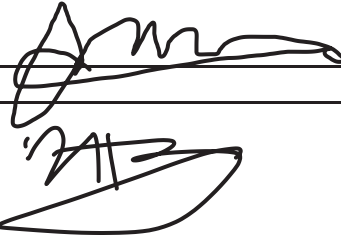
## 8. NOTES FOR DECLARATION

*The applicant hereby declares that the statements made herein and information provided are, to the best of their belief and knowledge, a true and complete representation of the purpose and intent of this application.*

*The applicant agrees that the proposed work shall be done in accordance with this application, including attachments, and understands that the issuance of the Heritage Alteration Permit under the Ontario Heritage Act shall not be a waiver of any of the provisions of any By-Law of the Corporation of the City of Windsor, or the requirements of the Building Code Act, RSO 1980, c51.*

*The applicant acknowledges that in the event a permit is issued, any departure from the conditions imposed by the Council of the Corporation of the City of Windsor, or plans and specifications approved is prohibited and could result in the permit being revoked. The applicant further agrees that if the Heritage Alteration Permit is revoked for any cause of irregularity, in the relation to non-conformance with the said agreements, By-Laws, acts or regulations that, in consideration of the issuance of the permit, all claims against the City for any resultant loss or damage are hereby expressly waived.*

APPLICANT Signature(s)



Date November 25, 2022

Date November 25, 2022

## SCHEDULE A

### A. Authorization of Registered Owner for Agent to Make the Application

If the applicant is not the registered owner of the land that is the subject of this application, the written authorization of the registered owner that the applicant is authorized to make the application must be included with this application form or the authorization below must be completed.

I, \_\_\_\_\_, am the registered owner of the land that is  
*name of registered owner*  
subject of this application for a Heritage Alteration Permit and I authorize  
\_\_\_\_\_ to make this application on my behalf.  
*name of agent*

\_\_\_\_\_  
Signature of Registered Owner

\_\_\_\_\_  
Date

If Corporation – I have authority to bind the corporation.

### B. Consent to Enter Upon the Subject Lands and Premises

I, \_\_\_\_\_, hereby authorize the members of the Windsor Heritage Committee and City Council and staff of the Corporation of the City of Windsor to enter upon the subject lands and premises described in Section 3 of the application form for the purpose of evaluating the merits of this application and subsequently to conduct any inspections on the subject lands that may be required as condition of approval. This is their authority for doing so.

\_\_\_\_\_  
Signature of Registered Owner

\_\_\_\_\_  
Date

If Corporation – I have authority to bind the corporation.

### C. Acknowledgement of Applicant

I understand that receipt of this application by the City of Windsor Planning Department does not guarantee it to be a complete application. Further review of the application will occur and I may be contacted to provide additional information and/or resolve any discrepancies or issues with the application as submitted.

I further understand that pursuant to the provisions of the Ontario Heritage Act and the Municipal Freedom of Information and Protection of Privacy Act, this application and all material and information provided with this application are made available to the public.

\_\_\_\_\_  
Signature of Applicant

November 25, 2022

\_\_\_\_\_  
Date

**DO NOT COMPLETE BELOW – STAFF USE ONLY**

**Approval Record**

Date Received by Heritage Planner: \_\_\_\_\_

Building Permit Application Date, if needed: \_\_\_\_\_

Application Approval (City Council):  
 Development & Heritage Standing Committee: \_\_\_\_\_  
 City Council: \_\_\_\_\_

Application Approval (City Planner):  
 Heritage Planner: \_\_\_\_\_  
 Staff Decision Appealed to City Council: \_\_\_\_\_  
 If so, Date to City Council: \_\_\_\_\_  
 Council Decision Appealed: \_\_\_\_\_

Additional Notes / Conditions:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**DECISION**

Heritage Permit No.: \_\_\_\_\_ Date: \_\_\_\_\_

Council Motion or City Planner's Signature: \_\_\_\_\_

Please contact Heritage Planning to request inspections at [ktang@citywindsor.ca](mailto:ktang@citywindsor.ca)

**CONTACT INFORMATION**

Planning Department - Planning Policy  
 Corporation of the City of Windsor  
 Suite 320 - 350 City Hall Square West  
 Windsor ON N9A 6S1  
 planningdept@citywindsor.ca  
 519-255-6543 x 6179  
 519-255-6544 (fax)  
 http://www.citywindsor.ca



# *Look Again! Outside* Heritage Permit Appendix

Updated December 09, 2022

# Look Again! Outside Project History

In 2021 AWE launched *Look Again!* in Downtown Windsor, placing reproductions of artworks from the Art Windsor-Essex collection directly in the community. The success of that project inspired the expansion to every BIA area in Windsor.

Art Windsor-Essex is transforming into a community centered gallery for the 21<sup>st</sup> century. As part of our strategic plan we are working to make the works in our collection relevant, accessible and compelling to audiences. *Look Again! Outside* Brings artworks out of the vault and into the street.

Reproductions will be installed in selected sites for a period of one year, installation and removal is handled by Art Windsor-Essex.

We have recently completed an edition of *Look Again! Outside* at St Clair College's main campus in Windsor, and in Amherstburg with support from donors and partners.



# Look Again! Outside: Downtown Windsor



Left: Reproduction of *No One – In Particular #3, Series 1*, 2001, silicone, hair, fabric, 56.0 cm x 77.0 cm, by Evan Penney, from the Collection of the Art Gallery of Windsor



Right: Reproduction of *Untitled, [Self-Portrait of the Artist as Shaman]*, ca. 1975 acrylic on canvas 121.9 cm x 96.5 cm by Norval Morrisseau from the Collection of the Art Gallery of Windsor

Photography by Frank Piccolo



# Locations & Artworks:

*Look Again! Outside* is pedestrian-focused. We have worked with local BIAs to identify places with the following features:

Potential to pause:

Seating or a natural gathering point.

Clear view:

A space that does not interfere with visibility for pedestrians or motor vehicles.

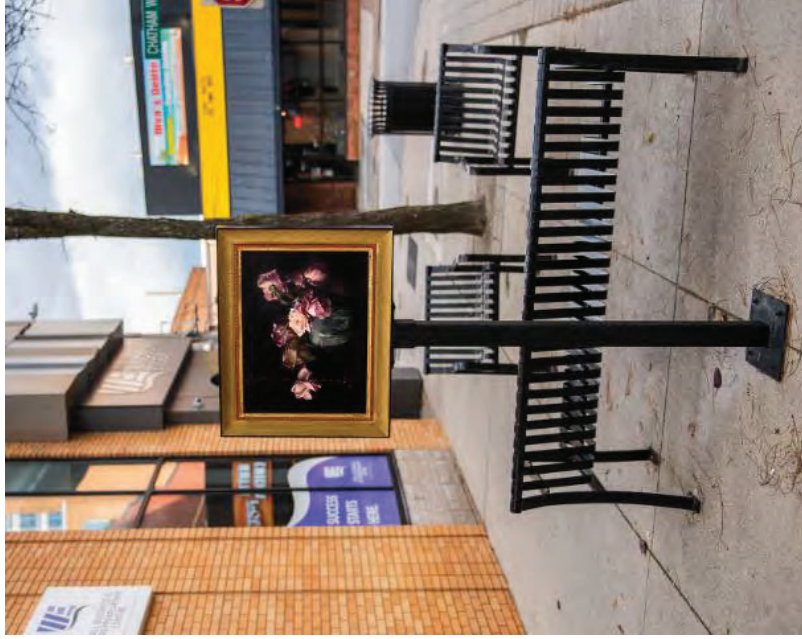
Landmark:

Is there a place the neighbourhood is especially proud of?

AWE's collection is home to over 4,000 artworks, *Look Again! Outside* allows us to connect works from the collection directly to neighbourhoods. We have selected works that can inspire conversations in an informal, public environment.



# Frame Styles & Reproduction Locations:



- Frames for the display of artwork reproductions are designed to blend into the environment and work nicely with outdoor furniture like lamp posts and benches.

- Sites included in this document were chosen in consultation with Mary Ann Cuderman and Thomas Coke of the Sandwich Towne BIA, if there are alternate sites that committees or city staff feel would be more suitable for logistical reasons we are happy to explore options and locate reproductions in the areas where installation is simple and safe.

- We are hoping to install in early spring, reproductions will be in place for 12-24 months. In our Downtown project we are seeking to renew the initial 12 month installation for another year as all the reproductions are in excellent condition and the community response has been wonderful.





# Frame Design:

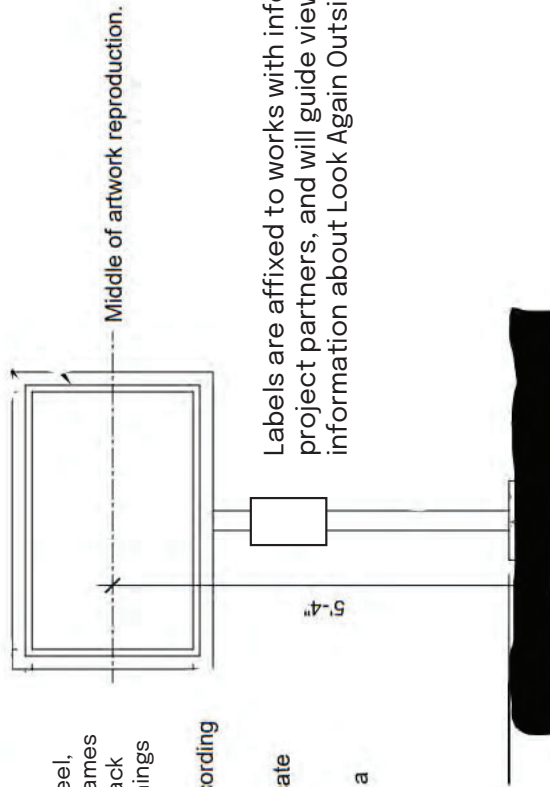
Look Again! Outside: Sandwich Towne  
Frame design

Frames are constructed from steel, with a 6" x8" plate steel base. Frames are finished with a satin finish black paint to blend with street furnishings

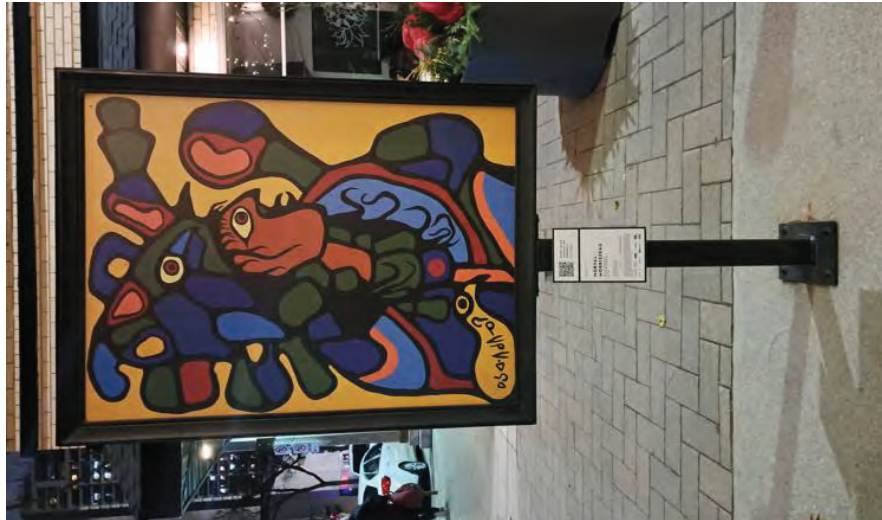
Frame dimensions are variable according to reproduction size.

All frames are 5'4" from centre of reproduction to the ground to replicate gallery hanging height.

Any frame wider than 36" will have a second stand.



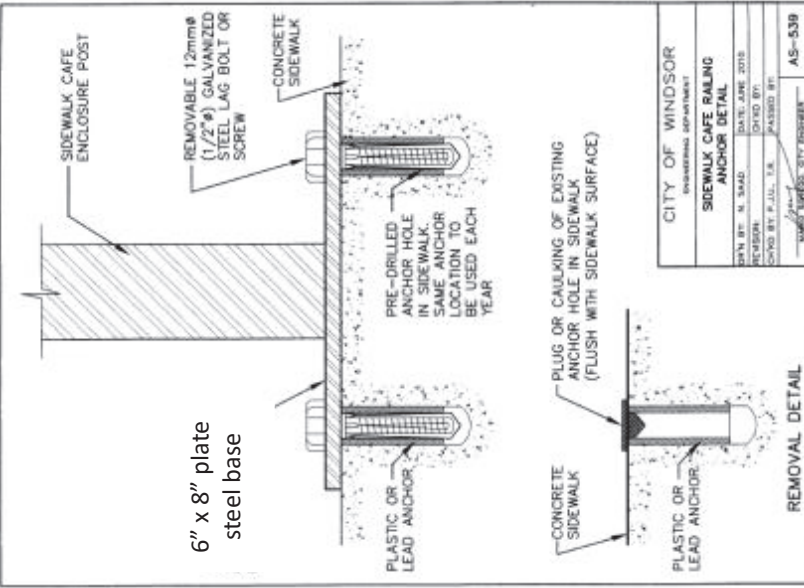
# Labels:



Left: Label installed on work downtown  
Above: Label sample from Look Again!  
Outside: St Clair College



# Installation & Removal Details:



AWE has collaborated with city staff to identify spaces where reproductions can be safely installed in spaces that enrich the experience of walking through the neighbourhood.

If a reproduction needs to be temporarily removed or moved to another location due to construction or other reason AWE will remove the frame at the City's request and work to identify a new location.

In the event of an urgent need to remove a reproduction, AWE authorizes The City of Windsor to remove the reproduction.



# Fabrication & Materials:

Reproductions are printed on outdoor quality 3M vinyl, and mounted on rigid alupanel. The frames are made from steel, and finished in high-quality, weatherproof paint. Frame materials and design blend in with the feel of the neighbourhood.



Frame Construction:  
(cutaways for detail)

- A. Exterior (green for contrast) and Interior frames constructed from steel. Larger works also have vertical supports on the interior frame.
- B. Interior frame provides additional strength and mounting surface for the prints.
- C. Images are mounted and secured to interior frame
- D. Hardware is concealed with channel of black plastic, also sealing work from weather.



# Timeline:

Fall 2022: Submit applications and project information to City staff, connect with relevant staff and stakeholders.

Late Fall/Early Winter 2022: Seek approval from City Council after consultation with staff and stakeholders.

Winter 2022: Prepare and Fabricate. Consult with City of Windsor Staff on precise locations, modify plans as necessary.

Late Winter - Spring 2023 (weather permitting): Install reproductions across other BIA Areas.

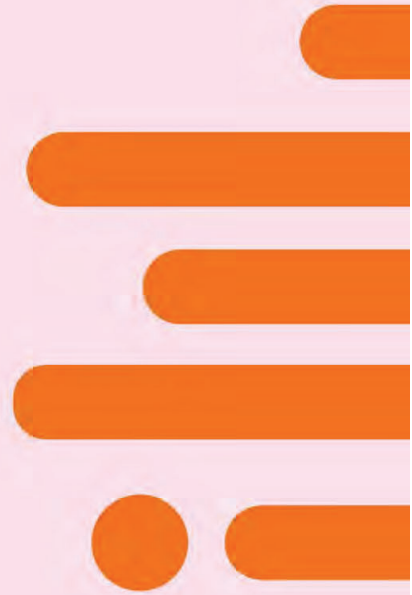
Spring 2023: Full public launch. Works will remain in place for one year from public launch.

Spring 2023 - Winter 2023: Programming to enhance engagement with works.

Late Winter-Spring 2024: Review project, seek to extend permissions where desirable. De-install where necessary.



# Olde Sandwich Towne



# Olde Sandwich Towne Co-Curator

## Reginald S. Tolson



- AWE received a Community Benefits grant for *Look Again! Outside* in Sandwich, and through that support have hired local resident Reginald S. Tolson as Co-Curator to select the works for the neighbourhood.
- Reginald has selected work that he feels represents the “Past, present and future” of the neighbourhood.
- Reginald S. Tolson is a resident of Sandwich Towne, and a third-year Business Administration student at University of the People. He has a passion for innovative urban planning solutions which promote sustainable work/life balances. When he is not studying, he enjoys casual research, yarn crafting, gardening and digital world-building.

# Sandwich Street

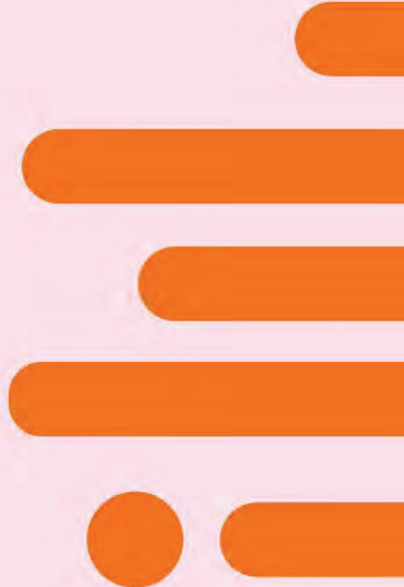
Bench area on existing concrete pad



Frederick Verner, View of Sandwich, December 1879, Windsor, Ontario 1896, 14cm x48cm, watercolour over graphite on paper. Gift of W.T. Grant in memory of his wife Janet B. Grant, 1980, 1980.017

Frame Size around reproduction: 12"x40"  
(reproduction will double actual size of work)  
Total Frame Height: 66"

Note: The height of frames is the same as the hanging height would be in a gallery space.





# Sandwich Street

Near planter on existing concrete pad



Kenneth Saltmarche, *Untitled (panel for the Cleary Auditorium)*, 1959-1960, oil and gold leaf on masonite, 122.0 cm x 244.0 cm

Gift of the Cleary International Centre, 1993, 1993.024

Frame Size around reproduction: 28" x 51" (reproduction will be approx. 50% of actual size)

Total Frame Height: 66"

Note: The height of frames is the same as the hanging height would be in a gallery space.

# Mill Park

On existing concrete pad near bench

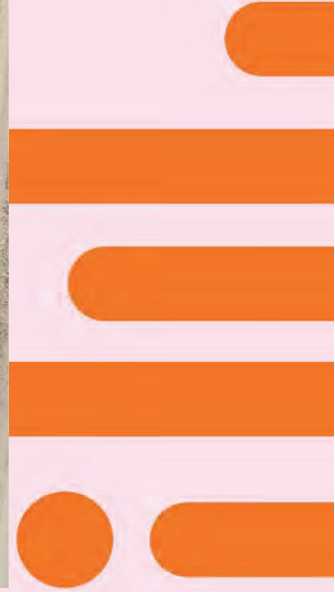


Fritz Brandtner, *Untitled (Ship at Harbour)*, date unknown, ink and wash on paper, 28.0 cm x 38.0 cm  
Given by Mrs. C.J. Grimwood in memory of her husband, Carroll J. Grimwood, 1980, 1980.056

Frame Size around reproduction: 15" x 18"

Total Frame Height: 66"

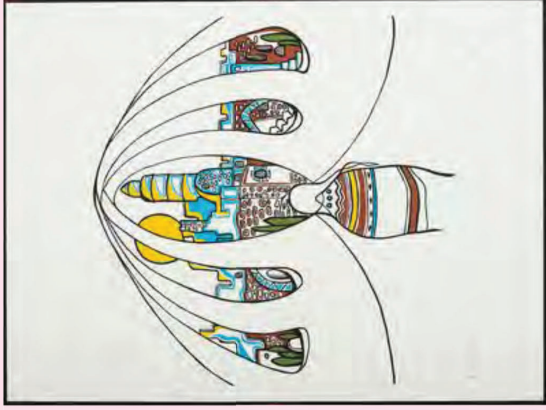
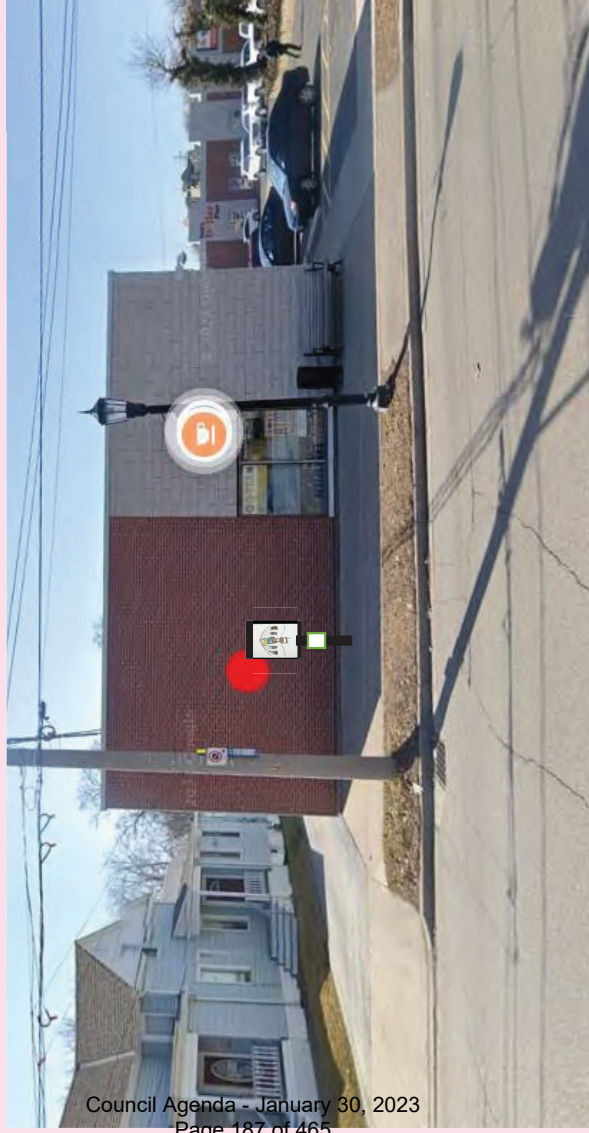
Note: The height of frames is the same as the hanging height would be in a gallery space.



# Mill Street

## Option A, Private Property

We are seeking permission from the property owner to place this work in the sidewalk in front of the brick wall.



Daphne Odjig, *Vision*, (from the *Jerusalem Series*), not dated, ca. 1976, Serigraph on Arches paper, 156/250, 74.5 cm x 55.5 cm  
Gift of Philip Gevik, 2017, 2017.023

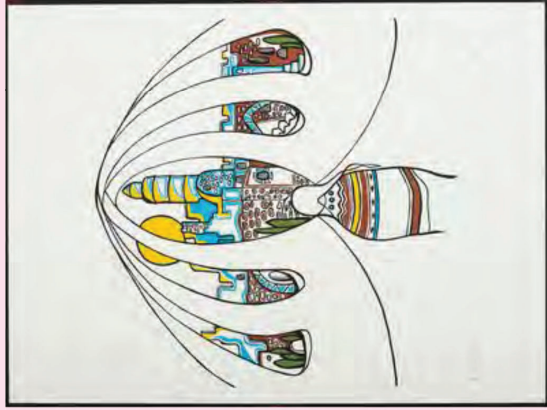
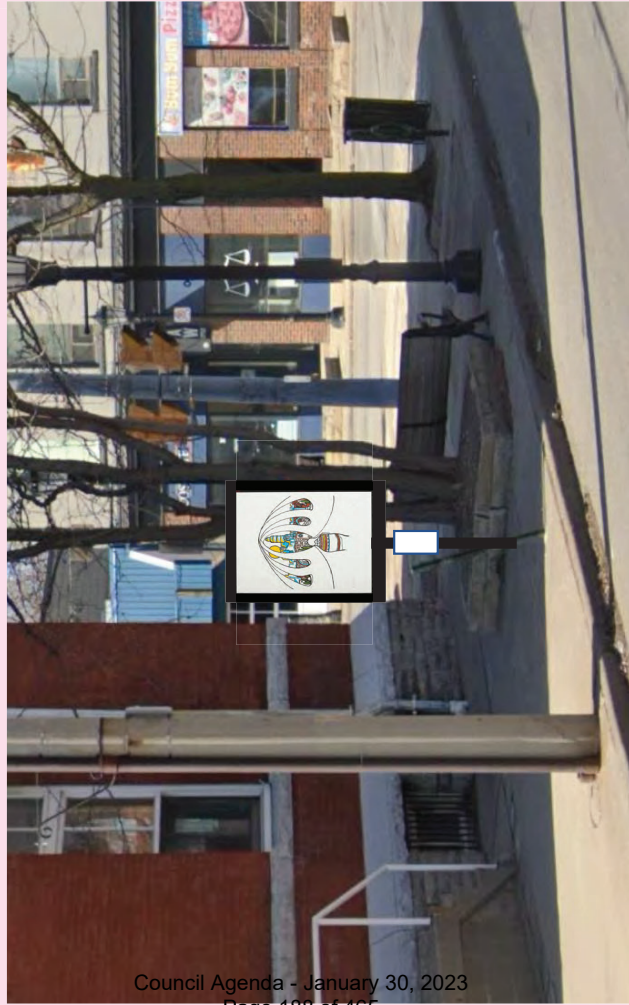
Frame Size around reproduction: 33"x25"

Total Frame Height: 66"

Note: The height of frames is the same as the hanging height would be in a gallery space.

# Mill Street

Option B, Behind Planter at corner of Mill and Sandwich Street



Daphne Odjig, *Vision*, (from the *Jerusalem Series*), not dated, ca. 1976, Serigraph on Arches paper, 156/250, 74.5 cm x 55.5 cm  
Gift of Philip Gevik, 2017, 2017.023

Frame Size around reproduction: 33"x25"  
Total Frame Height: 66"  
Note: The height of frames is the same as the hanging height would be in a gallery space.

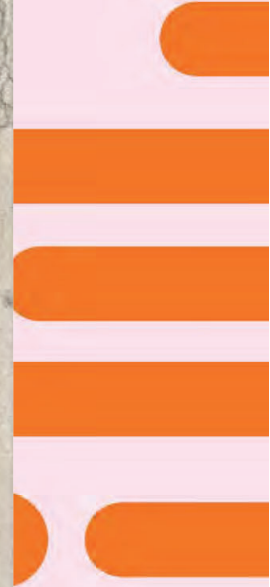
# Brock Street

General Brock Public School / WPL Local  
History Branch



Eleanor Bond, *Study after Protective Communities in an Aging City*, 1998-2000, oil on board, 41.0 cm x 57.0 cm  
Gift of the artist, 2001, 2001.009

Frame Size around reproduction: 19"x26"  
Total Frame Height: 66"  
Note: The height of frames is the same as the hanging height would be in a gallery space.



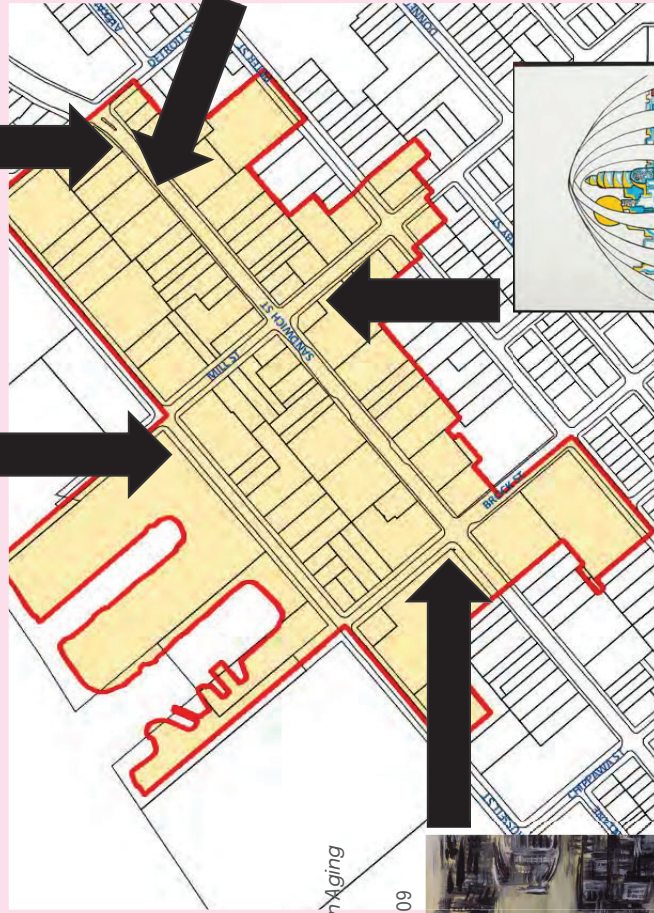
# Olde Sandwich Towne Map



Fritz Brandtner, *Untitled (Ship at Harbour)*, date unknown, ink and wash on paper, 28.0 cm x 38.0 cm  
Given by Mrs. C.J. Grimwood in memory of her husband, Carroll J. Grimwood, 1980, 1980.056



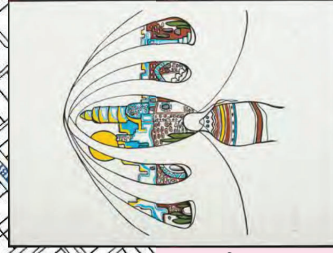
Frederick Verner, *View of Sandwich*, December 1879, Windsor, Ontario 1896, 14cm x48cm, watercolour over graphite on paper. Gift of W.T. Grant in memory of his wife Janet B. Grant, 1980, 1980.017



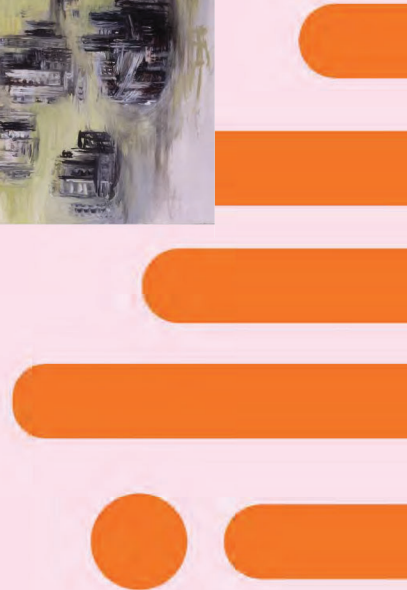
Eleanor Bond, *Study after Protective Communities in an Aging City*, 1998-2000, oil on board, 41.0 cm x 57.0 cm  
Gift of the artist, 2001, 2001.009



Kenneth Saltmarche, *Untitled (panel for the Cleary Auditorium)*, 1959-1960, oil and gold leaf on masonite, 122.0 cm x 244.0 cm  
Gift of the Cleary International Centre, 1993, 1993.024



Daphne Odjig, *Vision*, (from the Jerusalem Series), not dated, ca. 1976, Serigraph on Arches paper, 156/250, 74.5 cm x 55.5 cm  
Gift of Philip Gevik, 2017, 2017.023





**Subject: Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by 731 Goyeau Ltd. and 785 Goyeau Ltd. for property located at 0 and 785 Goyeau Street (Ward 3)**

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

Decision Number: **DHSC 456**

- I. THAT the request made by 731 Goyeau Ltd. and 785 Goyeau Ltd. to participate in the Brownfield Rehabilitation Grant Program **BE APPROVED** for 70% (or 100% if LEED certified) of the municipal portion of the tax increment resulting from the proposed redevelopment at 0 & 785 Goyeau Street for up to 10 years or until 100% of the eligible costs are repaid pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan; and,
- II. THAT Administration **BE DIRECTED** to prepare an agreement between 731 Goyeau Ltd., 785 Goyeau Ltd., the City, and any persons legally assigned the right to receive grant payments to implement the Brownfield Rehabilitation Grant Program in accordance with all applicable policies, requirements, and provisions contained within the Brownfield Redevelopment Community Improvement Plan to the satisfaction of the City Planner as to content, the City Solicitor as to legal form, and the CFO/City Treasurer as to financial implications; and,
- III. THAT the CAO and City Clerk **BE AUTHORIZED** to sign the Rehabilitation Grant Agreement; and,
- IV. THAT the approval to participate in the Brownfield Rehabilitation Grant Program **EXPIRE** if the agreement is not signed by applicant within one year following Council approval. The City Planner may extend the deadline for up to one year upon request from the applicant.

Carried.

Report Number: S 141/2022  
Clerk's File: SPL2023

**Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are the same.

2. Please refer to Item 11.1 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>



**Subject: Brownfield Redevelopment Community Improvement Plan (CIP) application submitted by 731 Goyeau Ltd. & 785 Goyeau Ltd. (Ward 3)**

**Reference:**

Date to Council: January 9, 2023  
Author: Greg Atkinson, Senior Planner  
519-255-6543 ext. 6582  
gatkinson@citywindsor.ca  
Planning & Building Services

Report Date: November 28, 2022  
Clerk's File #: SPL2023

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT the request made by 731 Goyeau Ltd. and 785 Goyeau Ltd. to participate in the Brownfield Rehabilitation Grant Program **BE APPROVED** for 70% (or 100% if LEED certified) of the municipal portion of the tax increment resulting from the proposed redevelopment at 0 & 785 Goyeau Street for up to 10 years or until 100% of the eligible costs are repaid pursuant to the City of Windsor Brownfield Redevelopment Community Improvement Plan; and,
- II. THAT, Administration **BE DIRECTED** to prepare an agreement between 731 Goyeau Ltd., 785 Goyeau Ltd., the City, and any persons legally assigned the right to receive grant payments to implement the Brownfield Rehabilitation Grant Program in accordance with all applicable policies, requirements, and provisions contained within the Brownfield Redevelopment Community Improvement Plan to the satisfaction of the City Planner as to content, the City Solicitor as to legal form, and the CFO/City Treasurer as to financial implications; and,
- III. THAT the CAO and City Clerk **BE AUTHORIZED** to sign the Rehabilitation Grant Agreement; and,
- IV. THAT the approval to participate in the Brownfield Rehabilitation Grant Program **EXPIRE** if the agreement is not signed by applicant within one year following Council approval. The City Planner may extend the deadline for up to one year upon request from the applicant.

## **Executive Summary:**

N/A

## **Background:**

### **Brownfield Redevelopment Community Improvement Plan (CIP)**

Brownfield sites are properties that may be contaminated due to previous industrial or commercial uses such as a manufacturing facility or gas station. City Council approved a Brownfield Redevelopment CIP at its April 19, 2010 meeting for the purpose of encouraging the study, clean-up, and redevelopment of contaminated properties. The approval of the CIP was the result of nearly five years of study and consultation, which began in October 2005.

### **Importance of Brownfield Redevelopment**

In 2009 the City's Planning Department identified 137 brownfield properties (i.e. 226 hectares or 559 acres) that are candidates for redevelopment. While the inventory is not exhaustive, it illustrates the significance of Windsor's brownfield stock and the need to work with land owners to put these properties back into productive use. Based on approvals to date under the Brownfield CIP approximately 50 hectares (123 acres) or 22% of the inventory has been or is planned to be redeveloped.

Historically, there has been little interest in redeveloping brownfield sites due to the uncertainty surrounding the extent of contamination and the potential cost of clean-up. The Brownfield Redevelopment CIP provides financial incentives to undertake the necessary studies and remedial work necessary to redevelop brownfield sites and reduce the potential negative impacts to the City's environment and neighbourhoods.

The benefits associated with brownfield redevelopment go far beyond the boundaries of the property. For example, they are often strategically located within existing built up areas of the City where services and other infrastructure, such as roads, schools, community facilities and public transit are already available, therefore additional infrastructure costs are not incurred to service these areas. The redevelopment of these sites also remove the negative stigma often associated with brownfield properties, which increases the value of the subject property and adjacent properties.

Brownfield sites also represent a significant underutilization of the land base. According to the National Round Table on the Environment and the Economy (2003), every hectare redeveloped through a brownfield project saves up to an estimated 4.5 hectares of greenfield land from being developed (i.e. agricultural land on the edge of the City);

and for every dollar invested in a brownfield redevelopment, it is estimated that \$3.80 is invested in the economy.

## **Site Background**

The subject site is located in the Downtown area and occupies the entire block located west of Goyeau Street, north of Elliot Street East, east of Dufferin Place, and south of Tuscarora Street (see location map). The sites is comprised of two abutting properties that total 0.71 hectares (or 1.72 acres) and are currently vacant. The properties were occupied by an automotive dealership and service garage from (at least) 1924 until 1960. From 1965 to present, the property has been used as an asphalt parking lot.

The subject property is designated 'Mixed Use' on Official Plan Schedule E: City Centre Planning District and is zoned Commercial District CD3.1, which permits a range of commercial uses with residential dwelling units above the ground floor. The Official Plan allows for buildings greater than 14 storeys at this location.

The principal owners of 731 Goyeau and Ltd. 785 Goyeau Ltd. are:

- 2031986 Ontario Inc. (Leo Agozzino);
- Euromart Corporation of Canada;
- Michael Nobrega;
- Lauterbrunnen Development Inc.; and
- Ivano D'Onofrio.

## **Discussion:**

### **Development Proposal**

The applicant proposes to construct two, twenty storey mixed use buildings (connected by common podium). The ground floor will contain 5,245 sq. ft. of commercial space and parking, and the towers will contain 546 multiple residential dwellings. The proposal is currently seeking site plan approval.

Prior to issuance of a building permit a Record of Site Condition (RSC) confirming the soil and groundwater quality meet residential standards must be filed with the Ministry of the Environment, Conservation and Parks (MOECP). Phase 1 and 2 Environmental Site Assessment work completed by the applicant has identified 55 m<sup>2</sup> of impacted soil that must be removed prior to filing a RSC. The total eligible cost of the work required to file a RSC is estimated to be \$62,000.

## **Brownfield Rehabilitation Grant Program**

The Brownfield Rehabilitation Grant Program encourages the remediation, rehabilitation and adaptive re-use of brownfield sites by providing grants to help pay for remediation costs as well as non-environmental rehabilitation costs normally associated with brownfield site redevelopment (e.g. development application and building permit fees, and upgrading on-site /off-site infrastructure).

The program offers annual grants funded through the increase in municipal property tax levy created by the investment for up to 10 years to help offset eligible costs. The CIP specifies Brownfield Rehabilitation Grants will equal 70% of the municipal property tax increase for a project that employs standard construction methods and 100% of the municipal property tax increase for projects that achieve any level of Leadership in Energy and Environmental Design (LEED) certification.

Annual grants are paid out following the filing of a RSC, reassessment of the property and the payment of the property taxes for the year in which the grant is to be provided. Issuance of the first grant payment typically occurs at least two years after approval to participate in the program.

### **CIP Goals**

City staff are supportive of the application as it meets all of the eligibility requirements specified within the Brownfield Redevelopment CIP. The proposed filing of a RSC and redevelopment of the property supports the following CIP goals:

- To promote the remediation, rehabilitation, adaptive re-use and redevelopment of brownfield sites throughout the City of Windsor in a fiscally responsible and sustainable manner over the long term;
- Improve the physical and visual quality of brownfield sites;
- Improve environmental health and public safety;
- Provide opportunities for new housing, employment uses, and commercial uses;
- Increase tax assessment and property tax revenues;
- Improving the land use compatibility of potential brownfield sites with surrounding land uses;
- Increase community awareness of the economic, environmental and social benefits of brownfield redevelopment; and
- Utilize public sector investment to leverage significant private sector investment in brownfield remediation, rehabilitation, adaptive re-use, and redevelopment.

## **Policy Support**

The clean up, redevelopment, and intensification of the site is supported by numerous policies within the 2020 Provincial Policy Statement, the City's Official Plan, Community Energy Plan, and the City's Environmental Master Plan.

## **Risk Analysis:**

As with all brownfield sites, there is a degree of risk associated related to the potential presence of contamination. In this case there is also a risk of the property remaining in a vacant state, which negatively affects the surrounding properties. The proposed clean-up and redevelopment of this site will assist in mitigating these risks.

## **Climate Change Risks**

### **Climate Change Mitigation:**

The proposed redevelopment implements Environmental Master Plan Objective C1: Encourage in-fill and higher density in existing built areas. In particular, the redevelopment would implement the action that supports the existing Brownfields Redevelopment Strategy and achieve its work plan.

### **Climate Change Adaptation:**

The proposed redevelopment may be affected by climate change, in particular with respect to extreme precipitation and an increase in days above 30 degrees. While not the subject of this report, any new construction would be required to meet the current provisions of the Building Code, which would be implemented through the building permit process. The site would also be required to incorporate storm water management best practices.

## **Financial Matters:**

The current property value assessment of the two subject properties is \$1,057,000. The total current tax levy is \$26,967.66 with the municipal portion being \$18,277.58. Based on the proposed redevelopment plan submitted by the owner, administration estimates the post-development property value assessment to be \$72,601,485. The post-development total annual tax levy is estimated to be \$1,365,530 with the municipal portion being \$1,248,616. The municipal tax increase (i.e. \$1,230,338) would repay the 100% of the eligible costs (i.e. \$62,000) within the first year of the grant program.

The Brownfield Redevelopment grants are paid back to the applicant after redevelopment has occurred, property assessment value has been reassessed by MPAC, and total taxes as it relates to the redevelopment have been paid to the City in full. After the grant programs cease the full amount of increased annual municipal taxes would be retained by the City in perpetuity.

Administration expects to receive an application under the Downtown CIP in 2023 as the details of the project are finalized. The applicant has proceeded with the Brownfield CIP application at this time to allow site remediation to commence. Tax increment grants may be approved under both CIPs as long as the total grant value does not exceed the total eligible costs under both CIPs.

### **Consultations:**

The development and approval of the Brownfield Redevelopment CIP was subject to extensive stakeholder and public consultation, which sought input from a wide range of stakeholders and internal City departments.

Planning staff have consulted with the applicant prior to accepting the application for the Brownfield Rehabilitation Grant Program. Staff from the Planning, Finance, and Legal Departments were consulted in the preparation of this report.

### **Conclusion:**

Administration recommend Council approve the requests from 731 Goyeau Ltd. and 785 Goyeau Ltd. to participate in the Brownfield Rehabilitation Grant Program. The proposed clean-up and redevelopment of this brownfield site conforms to the Brownfield Redevelopment CIP; assists the City in the achievement of a number of CIP, Official Plan, Community Energy Plan, and Environmental Master Pan goals; and exemplifies the purpose for which the Brownfield Redevelopment Strategy was created.

### **Planning Act Matters:**

N/A

## Approvals:

Name	Title
Josie Gualtieri	Financial Planning Administrator
Michael Cooke	Manager of Planning Policy / Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Janice Guthrie	Deputy Treasurer, Taxation & Financial Projects
Joe Mancina	Commissioner, Corporate Services Chief Financial Officer / City Treasurer
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administration Officer

## Notifications:

Name	Address	Email
Joe Passa		joseph@passa.ca

## Appendices:

1. Location Map



# LOCATION MAP : 0, 785 GOYEAU STREET



SUBJECT PROPERTY





## Item No. 8.7



### Committee Matters: SCM 15/2023

**Subject: Economic Revitalization Community Improvement Plan (CIP) application submitted by DS C&K Inc. for a Manufacturing Facility located at 3475 Wheelton Drive (Ward 9)**

Moved by: Councillor Jim Morrison  
Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 457**

- I. THAT the request made by DS C&K Inc. to participate in the Business Development Grant Program **BE APPROVED** for the property located at 3475 Wheelton Drive (shown in Appendix 1) for a period that ends the earlier of 10 years or when 100% of the eligible costs are repaid pursuant to the City of Windsor Economic Revitalization Community Improvement Plan; and,
- II. THAT, Administration **BE DIRECTED** to prepare an agreement between the City and DS C&K Inc. to implement the Business Development Grant Program in accordance with applicable policies, requirements, and provisions contained within the Economic Revitalization Community Improvement Plan, and applicable lease terms for the subject property to the satisfaction of the City Planner for content, the Commissioner of Legal Services as to legal form, and the CFO/City Treasurer as to financial implications; and,
- III. THAT, the CAO and City Clerk **BE AUTHORIZED** to sign the Business Development Grant Agreement.

Carried.

Report Number: S 144/2022  
Clerk's File: SPL2023

#### **Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are the same.
2. Please refer to Item 11.2 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to: <https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Economic Revitalization Community Improvement Plan (CIP) application submitted by DS C&K Inc. for a Manufacturing Facility located at 3475 Wheelton Drive (Ward 9)**

**Reference:**

Date to Council: January 9, 2023  
Author: Greg Atkinson, Senior Planner  
519-255-6543 ext. 6582  
gatkinston@citywindsor.ca  
Planning & Building Services  
Report Date: December 2, 2022  
Clerk's File #: SPL2023

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT the request made by DS C&K Inc. to participate in the Business Development Grant Program **BE APPROVED** for the property located at 3475 Wheelton Drive (shown in Appendix 1) for a period that ends the earlier of 10 years or when 100% of the eligible costs are repaid pursuant to the City of Windsor Economic Revitalization Community Improvement Plan; and,
- II. THAT, Administration **BE DIRECTED** to prepare an agreement between the City and DS C&K Inc. to implement the Business Development Grant Program in accordance with applicable policies, requirements, and provisions contained within the Economic Revitalization Community Improvement Plan, and applicable lease terms for the subject property to the satisfaction of the City Planner for content, the Commissioner of Legal Services as to legal form, and the CFO/City Treasurer as to financial implications; and,
- III. THAT, the CAO and City Clerk **BE AUTHORIZED** to sign the Business Development Grant Agreement.

**Executive Summary:**

N/A

## **Background:**

City Council approved the Economic Revitalization Community Improvement Plan (CIP) at its January 31, 2011 meeting via CR 50/2011. The adopting By-law 30-2011 was passed by Council at its February 14, 2011 meeting.

The Economic Revitalization CIP provides financial incentives to encourage new investment in targeted economic sectors for the purposes of diversifying the local economy and creating/retaining jobs. The CIP allows the City to take a variety of measures to further the objectives of the Economic Revitalization CIP that would otherwise be prohibited by Ontario's *Municipal Act*. This includes the acquisition and preparation of land; construction, repair, rehabilitation or improvement of buildings; the sale, lease or disposal of land and buildings; and the provision of grants to owners or tenants of land—all of which must conform with the objectives and policies contained within the CIP.

To date, City Council has approved a number of applications made under the CIP representing a range of targeted economic sectors including manufacturing, research and development, creative industries, logistics, health & life sciences, and tourism.

### *Windsor Works Strategy*

In February of 2020, Windsor City Council commissioned an economic development report called Windsor Works - An Economic Development Strategy for the City's Future Growth. One of the report's chief recommendations relating to the future economy was to build on Windsor's manufacturing strength to become a hub for new innovation and the auto sector of the future. Specifically, the report recommended establishing Canada's first ramp up factory for electric and autonomous vehicles and working with the Province to prioritize the area for battery production by 2025.

### *Announcement of Landmark Investment*

On March 23, 2022 Stellantis and LG Energy Solutions (LGES) announced that Windsor had been selected as the site of Canada's first large-scale electric vehicle battery manufacturing facility. The companies have formed a joint venture called NextStar Energy Inc. to facilitate a \$5 Billion (CAD) investment in a large scale lithium-ion battery production plant located west of Banwell Road and south of EC ROW Expressway. The facility will have an annual production capacity in excess of 45 gigawatt hours, targeted to be operational in 2024 and create an estimated 2,500 new jobs.

Dongshin Motech is the parent company of DS C&K Inc. and a key supplier of aluminum casings for LGES batteries. Aluminum casings provide enclosure for the lithium ion batteries and guarantee lightness and shock resistance, combined with the

high thermal conduction needed for the battery temperature management system. Dongshin Motech was established in 1995 and has 7 factories including the head office and R&D center in Korea and 3 additional factories in China and Poland. Dongshin Motech has strong interest in locating their manufacturing facility in Windsor to supply the NextStar Energy facility that is currently under construction.

### *Subject Site*

DS C&K Inc. has applied for financial incentives under the Business Development Grant Program for property located west of the FedEx Cargo Building, Flex Ion, and Automobility & Innovation Centre, which are located at 3475 Wheelton Drive. (see Appendix 1: Location Map). The proposed manufacturing facility would be located on approximately 12 acres of surplus airport land that is owned by the City of Windsor and would be leased to DS C&K Inc.

The existing site is vacant land that is currently farmed. Pre-development studies were complete by the City as part of the Provincial Investment Ready Certified Sites Program. The site is designated 'Industrial' on Schedule D of the Official Plan and is zoned Manufacturing District MD2.7, which permits a wide range of industrial uses.

## **Discussion:**

### *Business Development Grant Program*

The Business Development Grant Program is intended to provide financial incentive to stimulate new investment in targeted economic sectors for the purposes of expanding and diversifying Windsor's economy. The Business Development Grant Program will also apply to projects that demonstrate a major investment resulting in a significant positive impact on the local economy and workforce. New manufacturing businesses that create a minimum of 50 jobs are eligible to apply under the program.

Successful applicants are eligible to receive an annual grant for up to 100% of the municipal property tax increase created by an investment in development or redevelopment of a building or property—provided it conforms with the Economic Revitalization CIP. Annual grants typically continue for up to 10 years or until up to 100% of the eligible investment costs are repaid.

### *Proposed Construction*

The application proposes to construct a 26,529 m<sup>2</sup> (285,555 ft<sup>2</sup>) industrial building in three phases. The CIP application only applies to Phases 1 and 2 which would total 17,326 m<sup>2</sup> or 186,495 ft<sup>2</sup> and is estimated to cost \$32,000,000.

### *Eligible Sector*

DS C&K Inc. falls under the eligible Manufacturing sector, which is defined as:

#### *Manufacturing*

*Companies engaged in the fabricating, processing, assembling, packaging, producing or making goods or commodities, including ancillary repair, storage, wholesaling or office uses.*

### *Employment*

According to the CIP application DS C&K Inc. will create 115 new jobs as part of Phase 1 and 85 new jobs as part of Phase 2 (i.e. total of 200 new jobs).

### *CIP Objectives*

Construction of the industrial facility and recommended Business Development Grant supports the following CIP objectives:

- Encourage investment that results in the productive use of lands and/or buildings for the purposes of establishing or maintaining a business enterprise, or the expansion of existing businesses to realize more effective use of the land's potential;
- Encourage capital investments that create new and/or maintain existing permanent jobs, as well as short-term construction jobs that contribute to the reduction of the unemployment rate;
- Attract investment based on the community's strengths and competitive advantages;
- Support investments in specified high potential economic sectors that contribute to the diversification of the local economy;
- Facilitate the development of the City's vacant employment lands and other areas that have the potential to be new employment areas;
- Provide financial incentive programs that are attractive to potential investors and corporate decision-makers, but are balanced with expectations of City taxpayers and the City's ability to fund the financial incentive programs;
- Support the establishment and on-going development of sector clusters and encourage businesses to take advantage of cluster-related synergies; and,
- Support investment and development that results in an increase in property assessment and grows the non-residential municipal tax base over the long-term.

### **Risk Analysis:**

There is little risk involved in the approval of CIP incentives. Staff resources are required for the upfront administration of the grant program and finalization of the legal

agreement. Limited staff resources related to on-going monitoring of the eligible employment use and issuance of annual grants will also be required over the next 10 years. Should Council refuse the CIP request there is a significant risk that DS C&K Inc. may not proceed with the proposed investment in Windsor.

## **Climate Change Risks**

### **Climate Change Mitigation:**

The proposed manufacturing facility implements Environmental Master Plan Goal A – Improve Our Air Quality, which directs the City to be proactive by partnering with community groups, industry and other levels of governments to improve Windsor’s air quality. It also implements Community Energy Plan Transportation Strategy 11, which seeks to increase the adoption of electric vehicles and alternate fuel vehicles.

The construction and operation of the proposed manufacturing facility will result in an increase in the community greenhouse gas emissions, however, it is important to highlight as in previous reports regarding the NextStar Energy Battery facility that the emissions associated with this opportunity will support the national/international transition to EV vehicles as a priority mitigation strategy to move away from fossil fuels

### **Climate Change Adaptation:**

The new buildings may be affected by climate change, in particular with respect to extreme precipitation and an increase in days above 30 degrees. While not the subject of this report, any new construction would be required to meet the current provisions of the Building Code, which would be implemented through the building permit process. The site would also be required to incorporate storm water management best practices. The site plan control application will be reviewed for opportunities to enhance resiliency.

## **Financial Matters:**

### *Business Development Grant Program*

The tax increment portion of the Business Development Grant is not calculated or paid out until all eligible work is completed and the property is reassessed by the Municipal Property Assessment Corporation (MPAC). Reassessment of the property must result in an increase in assessment value. The grant amount is recalculated annually based on the actual assessed property value, tax class, and municipal tax rate.

### *Summary of Potential Financial Incentives*

DS C&K Inc. proposes to invest \$32,000,000 in eligible building construction costs

between the two phases of construction (i.e. Phase 1 & 2). The current tax levy is \$0 as the vacant lands are currently owned by the City and therefore are considered to be exempt for property tax purposes. The lease of the land to DS C&K Inc. and construction of the industrial building would trigger a change in use causing the property to become taxable.

Based on the 2022 BMA Management Consulting data for standard industrial facilities City staff anticipate the post-development tax levy to total approximately \$330,000 with the municipal share estimated to be \$270,420. The recommended grant period of 10 years would provide a total estimated grant value of \$2,704,200, which would offset approximately 8.5% of the eligible building construction costs and permit fees incurred by DS C&K Inc.

Because the Business Development Grant Program does not cancel taxes, DS C&K Inc. must pay the full amount of property taxes annually and will subsequently receive a grant for the difference between the pre and post-development municipal taxes (i.e. the 'tax increment').

### **Consultations:**

The Economic Revitalization CIP was subject to extensive stakeholder and public consultation as part of the approval process, including two public open houses, a statutory public meeting of Council and circulation among internal City staff and the Province.

Planning staff have consulted with the applicant prior to accepting the application for the Business Development Grant Program. Staff from the Planning, Finance, Legal, and Economic Development and Innovation were consulted in the preparation of this report.

### **Conclusion:**

Administration recommends that Council approve the request made by DS C&K Inc. to participate in the Business Development Grant Program. Specifically, that the municipal portion of the tax increment resulting from the proposed development located west of 3475 Wheelton Drive be provided as an annual grant for a period that ends the earlier of 10 years or until 100% of the eligible costs are repaid pursuant to the City of Windsor Economic Revitalization CIP.

The planned development conforms with the Economic Revitalization CIP and assists the City in the achievement of a number of the CIP objectives, Windsor Works Strategy, and exemplifies the purpose for which the Economic Revitalization CIP was created.

**Planning Act Matters:**

N/A

**Approvals:**

<b>Name</b>	<b>Title</b>
Josie Gualtieri	Financial Planning Administrator
Michael Cooke	Manager of Planning Policy/Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Janice Guthrie	Deputy Treasurer, Taxation & Financial Projects
Joe Mancina	Commissioner, Corporate Services Chief Financial Officer / City Treasurer
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administration Officer

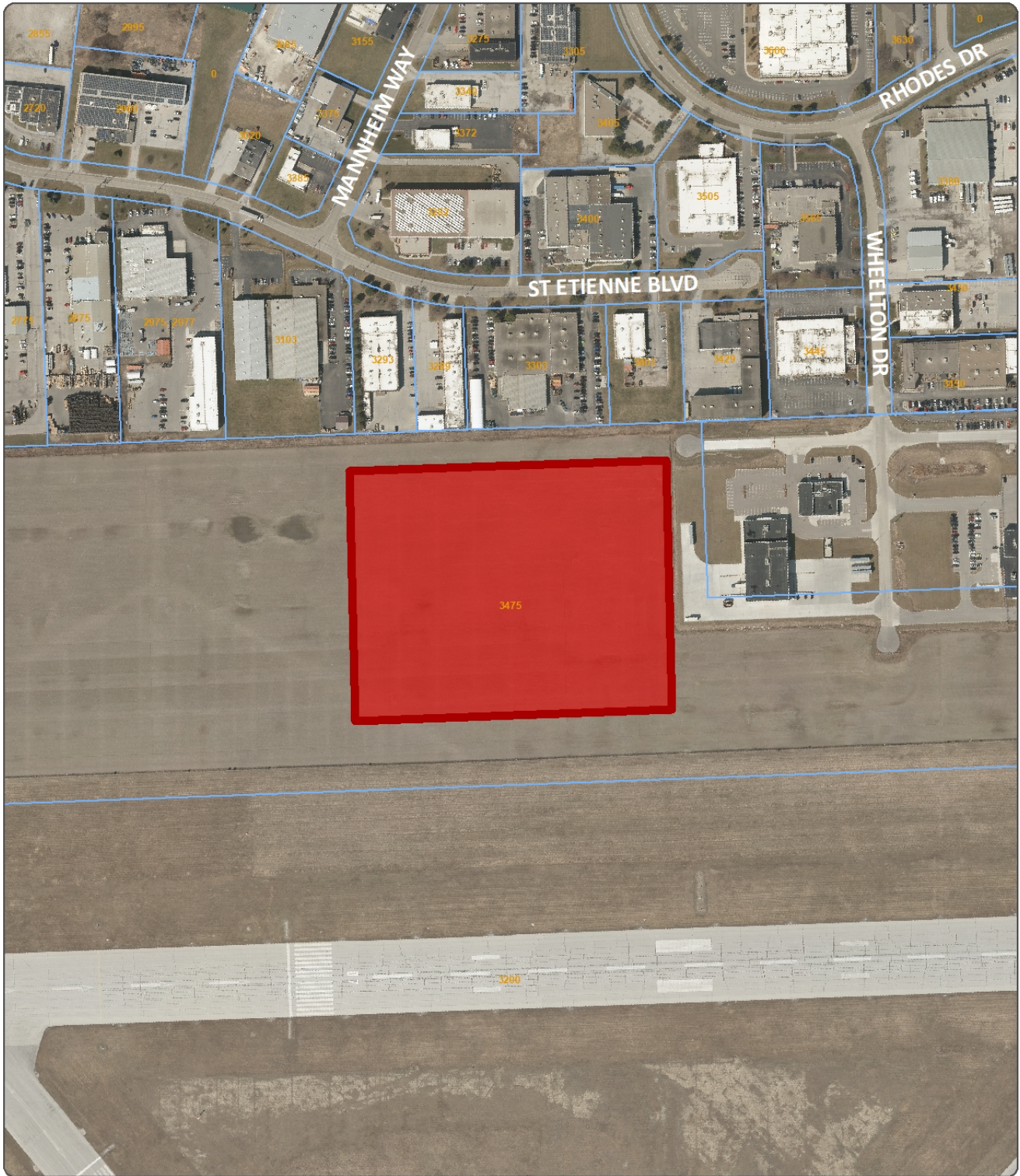
**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
		kh.han@dscnk.ca sh.park@dscnk.ca JGoncalves@InvestWindsorEssex.com

**Appendices:**

1. Location Map
2. Application Overview

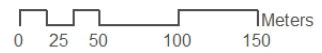




## LOCATION MAP : 3475 WHEELTON DRIVE



SUBJECT SITE





DS C&K's parent company produces battery packs, parts for electric vehicles, automotive stamping components, and micro electric mobility. The company was established in 1995 and has 7 factories including the head office and R&D center in Korea and 3 additional factories in China and Poland.

DS C&K is planning to manufacture and assemble a component (aluminum battery casing) for NextStar Energy. DS C&K manufactures aluminum and steel materials through stamping, machining, and various welding techniques. In addition, our company uses state of art automated robots, cleaning machines, welding machine, fusion equipment, and inspection equipment to produce a very precise battery casing.

Due to the customer's entry into Canada, DS C&K decided to build a manufacturing facility to supply parts to NextStar by 2024. Currently, we supply components to Stellantis, LGES, Renault, Nissan, and GM.

DS C&K plans to create 200 jobs over two phases. Our company will invest \$32M for the construction of the building and an additional \$49 M in equipment for Phase 1 & 2. The total investment will be around 80 M CND.

The financial assistance from the City of Windsor would assist Dongshin Canada in selecting Windsor as its preferred site. This funding would help close the gap between incentives being offered from Michigan, USA. In addition, inflation has substantially increased the cost of building supplies, logistics and equipment – as a result, our overall CAPX is much higher than what we budgeted. The CIP tax grant help us to offset some of this additional cost and make the project viable in Windsor.

This would enable DS C&K to proceed with its multimillion-dollar investment, which will lead to the creation of several hundred jobs. This will contribute to diversification and aligns with goals of Windsor Works.

DS C&K would like to thank Mayor Dilkens, City Council and the city staff for all your support.

DS C&K Inc.

Kwanghee Han 



**Subject: Main Street CIP/Ford City CIP Application for 1367 Drouillard Rd. Owner: HEIMAT LTD (C/O Ryan Stiller) – Ward 5**

Moved by: Councillor Angelo Marignani

Seconded by: Councillor Jim Morrison

Decision Number: **DHSC 458**

- I. THAT subject to completion and review satisfactory to the City Planner, the request made by HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), owner of the property located at 1367 Drouillard Road **BE APPROVED** for grants totalling a maximum of \$30,000 in principle under the *Main Streets Community Improvement Plan(CIP)*;
- II. THAT subject to completion and review satisfactory to the City Planner, the request for incentives under the *Ford City Community Improvement Plan (CIP) Financial Incentive Programs* made by HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), owner of the property located at 1367 Drouillard Road **BE APPROVED**, for the *Municipal Development Fees Grant Program* in the amount of +/--\$1,182.85;
- III. THAT funds in the amount of \$30,000 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 +/--\$1,182.85 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 HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), upon completion of improvements to the Facade(s) of the property located at 1367 Drouillard Road from the *Main Streets CIP* Fund (Project #7219018) and *Ford City CIP* Fund (Project #7181046) to the satisfaction of the City Planner and Chief Building Official; and
- VI. 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: S 148/2022  
Clerk's File: SPL2023

**Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are the same.
2. Please refer to Item 11.3 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Main Street CIP/Ford City CIP Application for 1367 Drouillard Rd. Owner: HEIMAT LTD (C/O Ryan Stiller) – Ward 5**

**Reference:**

Date to Council: January 9, 2023  
Author: Kevin Alexander, MCIP RPP  
Senior Planner-Special Projects  
519-255-6543 x6732  
kalexander@citywindsor.ca

Planning & Building Services  
Report Date: December 9, 2022  
Clerk's File #: SPL2023

**To:** Mayor and Members of City Council

**Recommendation:**

- I. **THAT** subject to completion and review satisfactory to the City Planner, the request made by HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), owner of the property located at 1367 Drouillard Road **BE APPROVED** for grants totalling a maximum of \$30,000 in principle under the *Main Streets Community Improvement Plan(CIP)*;
- II. **THAT** subject to completion and review satisfactory to the City Planner, the request for incentives under the *Ford City Community Improvement Plan (CIP) Financial Incentive Programs* made by HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), owner of the property located at 1367 Drouillard Road **BE APPROVED**, for the *Municipal Development Fees Grant Program* in the amount of +/--\$1,182.85;
- III. **THAT** funds in the amount of \$30,000 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 +/--\$1,182.85 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 HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), upon completion of improvements to the Facade(s) of the property located at

1367 Drouillard Road from the *Main Streets CIP* Fund (Project #7219018) and *Ford City CIP* Fund (Project #7181046) to the satisfaction of the City Planner and Chief Building Official; and

- VI. **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.

### **Executive Summary:**

N/A

### **Background:**

On January 8<sup>th</sup>, 2018, City Council approved the Building Facade Improvement Program and Urban Design Guidelines for Main Streets Community Improvement Plan (CIP) (CR9/2018 PHED 533) adopted through By-law 26-2018.

On November 19, 2018, City Council approved the Ford City Community Improvement Area and Ford City Community Improvement Plan (CIP) (CR625/2018 PHED 603) adopted through by-laws 171-2018 and 172-2018. These By-laws came into effect in January of 2019. In addition, on November 19, 2018, City Council activated the following financial incentive programs from the Ford City CIP:

1. Municipal Development Fees Grant Program
2. Retail Investment Grant Program
3. Building/Property Improvement Tax Increment Grant Program

Through CR383/2022 DHSC 414 this the *Building Facade Improvement Program and Urban Design Guidelines for Main Streets CIP* was amended and renamed *Main Streets CIP*. The new *Main Streets CIP* includes the following programs:

1. Building Facade Improvement Program
2. Building Property Improvement Tax Increment Grant Program
3. New Residential Development Grant Program (Creation of residential units)

On April 7<sup>th</sup>, 2021, HEIMAT LTD., (c/o Ryan Stiller and Wayne Stiller), owner of the property located at 1367 Drouillard Road, submitted an application for grants under the former *Building Facade Improvement Program and Urban Design Guidelines for Main Streets CIP* (amended and renamed *Main Streets CIP*) and *Ford City CIP* Financial Incentive Programs. The property is located in the Ford City Business Improvement Area (BIA) and CIP Area.

## Discussion:

### **Building Facade Improvement Grant Program (new *Main Streets CIP*)**

The former City of Windsor Building Facade Improvement Program and Urban Design Guidelines for Main Streets CIP (renamed as the *Main Street CIP*) offers financial incentives to encourage property owners and businesses to make investments to improve the exterior appearance of their buildings and storefronts along Main Streets. Such improvements provide a benefit to the community as a whole, by preserving heritage features, protecting Main Streets, and reconnecting storefronts with the public realm. The CIP is applicable to the Ford City BIA Main Street and all other BIAs in the City of Windsor, except for the Sandwich Town and Downtown Windsor BIAs, which are under separate CIPs. Funding for the Building Facade Improvement Grant Program is broken down into three categories:



Category A (Beautification) —aesthetic and minor functional improvements aimed at making the building facade and storefront more attractive and welcoming to tenants and customers



Category B (Restoration)—aesthetic, functional, and restoration improvements made to restore key features of the building facade



Category C (Replacement)— encourage work that will replace or reinstate key features that have been lost or deteriorated beyond repair or are of a style that is no longer consistent with the building design.

Applicants can receive a grant for 50% of the costs for eligible building facade and storefront improvements up to a maximum of \$30,000 per project. The amount can be increased up to \$60,000 per project for larger buildings with multiple storefronts. The grant also applies to the side(s) and rear of buildings provided the building facade is visible from an adjacent street or public right-of-way or park, and as long as the storefront/facade facing the main street is improved at the same time.

The applicant proposed replacement, restoration, and beautification changes to the exterior of the building. The applicant proposed the following improvements:

- Install Bavarian themed signage (as permitted by the Sign By-law) on the east (Drouillard Road) and south facades;
- Install new lighting above three-dimensional lettering and board sign;
- Demolish blocked in windows on the east (Drouillard Road) and south facades, construct new openings and install new windows on the east (Drouillard Road) and south facades;
- Install Bavarian themed flower boxes and shutters;
- Repair and repoint masonry block, brick, and window sills; and,
- Paint existing doors.

The project is eligible for a maximum grant of \$15,000 per facade to a maximum of \$30,000 for improvements to east facades facing Drouillard Road and south facade that is visible from the street.

### **Ford City CIP Financial Incentive Programs**

The applicant is eligible for the *Municipal Development Fees Grant Program* under the Ford City CIP Financial Incentive Programs. The intent of the program is to encourage development within Ford City by providing an incentive to offset the costs associated with seeking the appropriate planning approvals and building permits for a project. Property owners will be eligible to receive a grant for 100% of the specified *Municipal Development Fees*, up to a maximum of \$50,000 per property. The applicant is eligible for \$1,182.85 under this program for the following fees:

Sidewalk Closure	\$212.00
Sign Permit Application	\$303.00
Encroachment Application	\$667.85
Total: \$1,182.85	

### **Risk Analysis:**

The approval of these grants does not carry significant risk, as there are sufficient funds within the new CIP reserve fund approved by Council on February 22, 2021. The applicant will not receive any grants until all work is completed and inspected to the satisfaction of the Planning and Building Department. As a requirement of Section 28 (7.3) of the Planning Act, Administration has confirmed that the grant amount does not exceed the total cost of the project.

### **Climate Change Risks**

#### **Climate Change Mitigation:**

The rehabilitation of the existing building will have a low impact on how the project affects climate change, because improvements are largely contained to the existing building footprint where modern building methods will be utilized.

The rehabilitation of the existing building contributes to the revitalization of an existing Main Street that services the surrounding Ford City Neighbourhood limiting vehicular travel and promoting walking and other alternative modes of transportation, thereby contributing to a complete community. The improvements to the building such as the installation of new windows will make the building more energy efficiency.

Utilizing an existing building and infrastructure in an existing built-up area of the City also promotes efficiency on the existing infrastructure network by not promoting development on greenfield land.

#### **Climate Change Adaptation:**

As temperatures increase and when considering the Urban Heat Island effect for the City of Windsor, the property appears to be located within a Heat Vulnerability area.



However, the rehabilitation of the building will utilize modern building methods, which will conform to the Ontario Building Code concerning energy efficiency. New windows will be more energy efficient than what is existing.

### **Financial Matters:**

On February 22, 2021, Council approved the 2021 budget, which included a new reserve fund for all active CIPs in the City. As CIP grant applications are approved, the *approved grant amount will be transferred to the capital project account to be kept as committed funds, until the grant is ready to be paid out.* The current uncommitted balance in the CIP reserve fund is \$1,080,026 however this balance does not account for other CIP grant requests that are currently being considered by the standing committee or have been endorsed by the standing committee and are not yet approved by City Council.

If approved, funds will be transferred from the CIP reserve fund to the *Main Street CIP Capital Project Fund* to disperse the maximum amount of \$30,000 for the *Facade Improvement Grant Program* identified in this report when all work is completed.

Also, if approved funds will be transferred from the CIP reserve fund to the Ford City CIP Fund (Project #7181046) in the maximum amount of +/- \$1,182.85 for the *Municipal Development Fees Grant Program* when all work is completed.

If this report is approved the applicant will receive \$31,182.85 in grants. According to the application, the owner will invest approximately \$113,672.69 on improvements to the exterior of this building and the open space seating area with decorative fencing and landscaping adjacent the south exterior wall of the building. Therefore, the grant to investment ratio will be \$3.65 for every municipal dollar granted to this project.

### **Consultations:**

The owner for the property located at 1367 Drouillard Road have been consulted regarding grants related to the improvements outlined in this report. Josie Gualtieri, Financial Planning Administrator was also consulted regarding the *Main Streets CIP* and *Ford City CIP* grants, and related capital project/reserve fund balances.

### **Conclusion:**

The improvements to 1367 Drouillard Road meet all eligibility criteria identified in this report, for the *Building Facade Improvement Program* through the *Main Streets CIP* and *Municipal Development Fees Grant Program* through the *Ford City CIP*.

The improvements will contribute to the Revitalization of Ford City and a vibrant main street through the indoor-outdoor connection created through improvements to the building facades and exterior patio area.

There are sufficient funds in the CIP reserve fund to provide grants for the proposed improvements. Administration recommends approval of the grants identified in this report.

**Planning Act Matters:**

N/A

**Approvals:**

<b>Name</b>	<b>Title</b>
Kevin Alexander	Senior Planner-Special Projects
Josie Gualtieri	Financial Planning Administrator
Neil Robertson	Manager of Urban Design / Deputy City Planner
Thom Hunt	City Planner/Executive Director of Planning and Building Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Janice Guthrie	Deputy Treasurer Taxation & Financial Planning
Joe Mancina	Commissioner, Corporate Services Chief Financial Officer / City Treasurer
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administrative Officer

**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
HEIMAT LTD (c/o Ryan Stiller)	1367 Drouillard Road, Windsor, ON N8Y 2R8	<a href="mailto:HEIMATWINDSOR@GMAIL.COM">HEIMATWINDSOR@GMAIL.COM</a> <a href="mailto:STILLERRYAN@YAHOO.COM">STILLERRYAN@YAHOO.COM</a>
HEIMAT LTD (c/o Wayne Stiller)	1330 Lauzon Road APT#1108 Windsor, ON N8S 4P6	<a href="mailto:WSTILLER2002@YAHOO.CA">WSTILLER2002@YAHOO.CA</a>

**Appendices:**

- 1 Appendix 'A' - Location Map and Existing Condition
- 2 Appendix 'B' - Improvements

# APPENDIX 'A'

## 1367 DROUILLARD ROAD – LOCATION MAP



### LOCATION MAP



 SUBJECT PROPERTY : 1367 DROUILLARD ROAD

APPENDIX 'A'

1367 DROUILLARD ROAD – EXISTING CONDITION



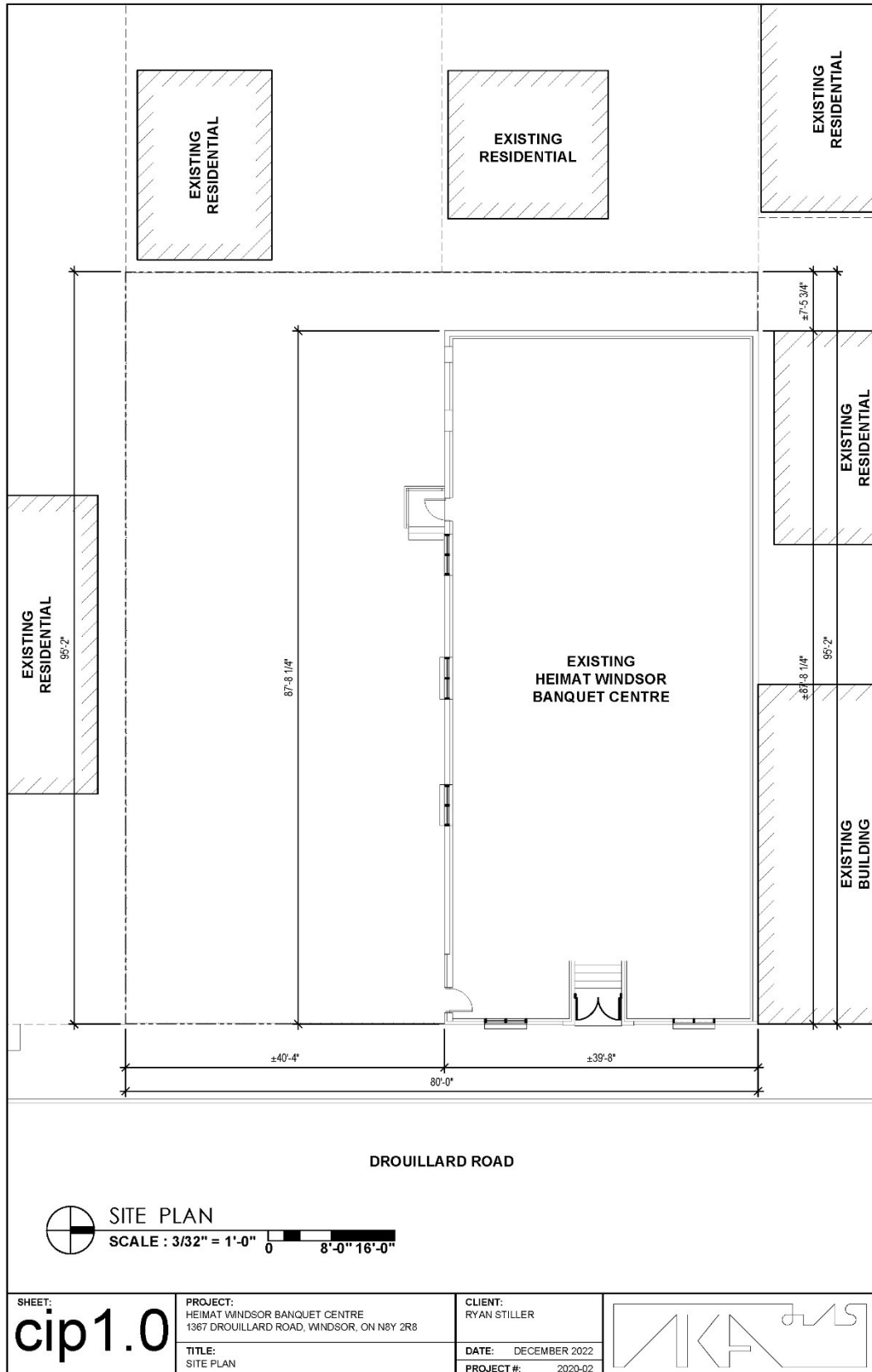
APPENDIX 'A'

1367 DROUILLARD ROAD – EXISTING CONDITION



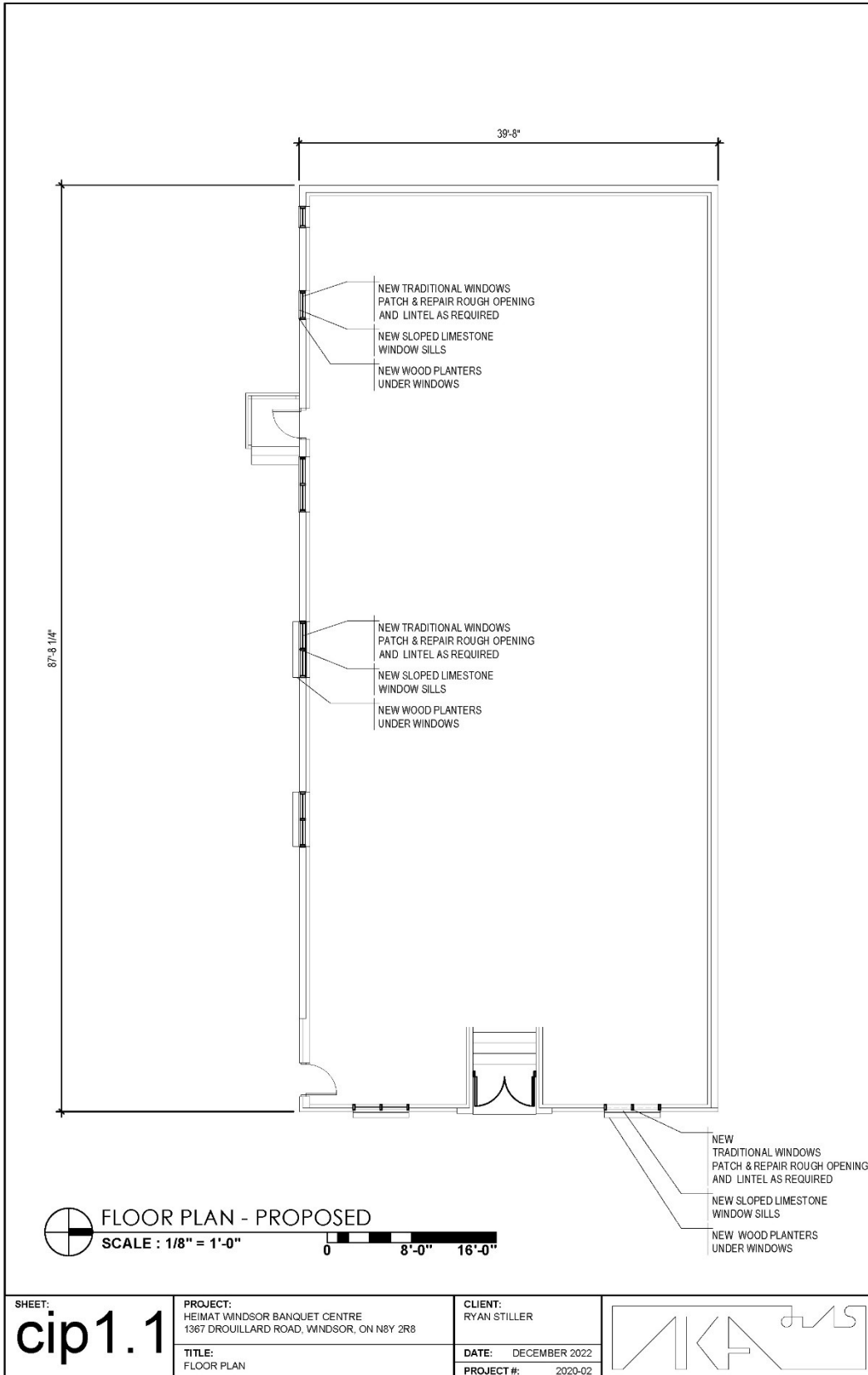
# APPENDIX 'B'

## 1367 DROUILLARD ROAD – IMPROVEMENTS



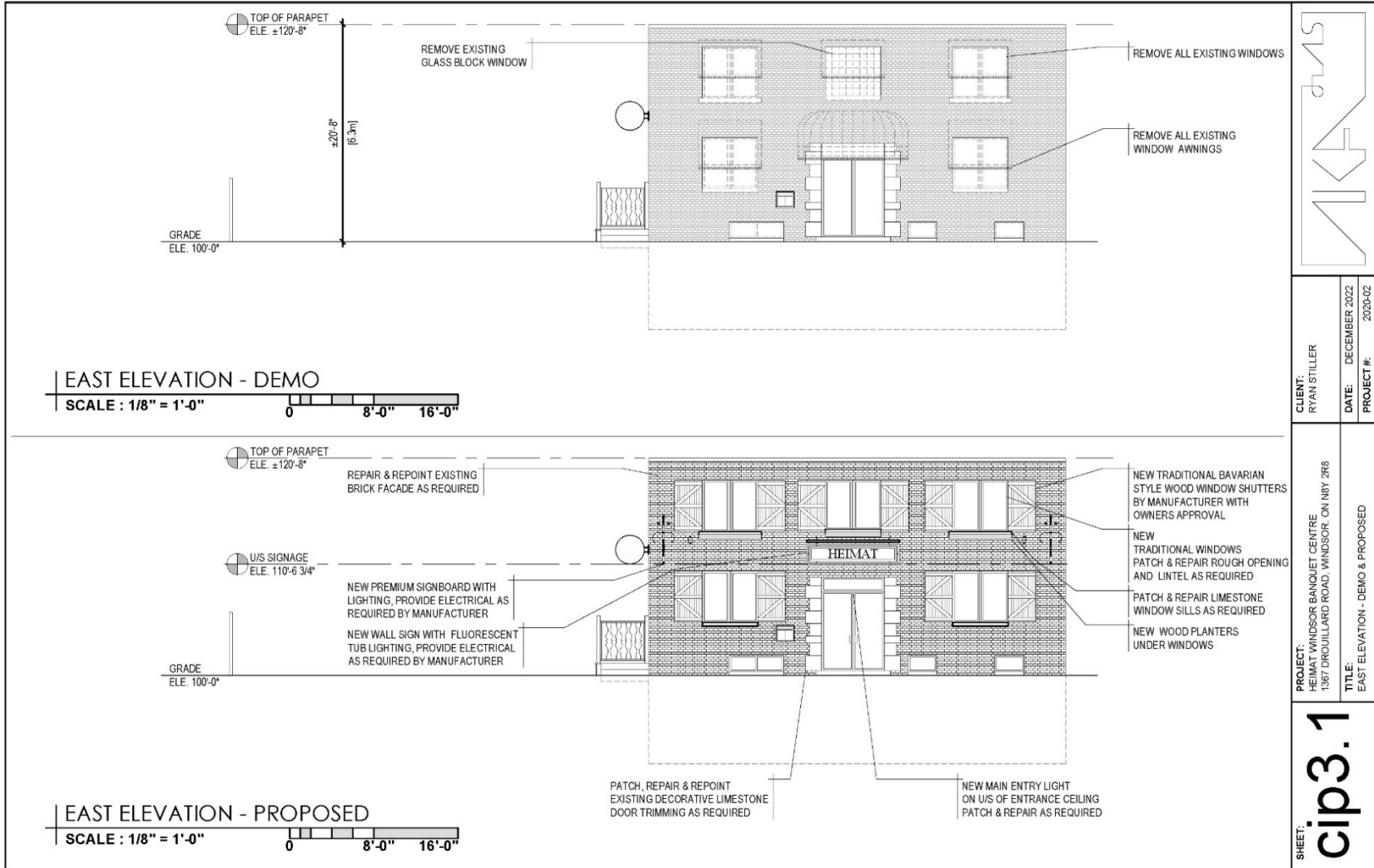
# APPENDIX 'B'

## 1367 DROUILLARD ROAD – IMPROVEMENTS



# APPENDIX 'A'

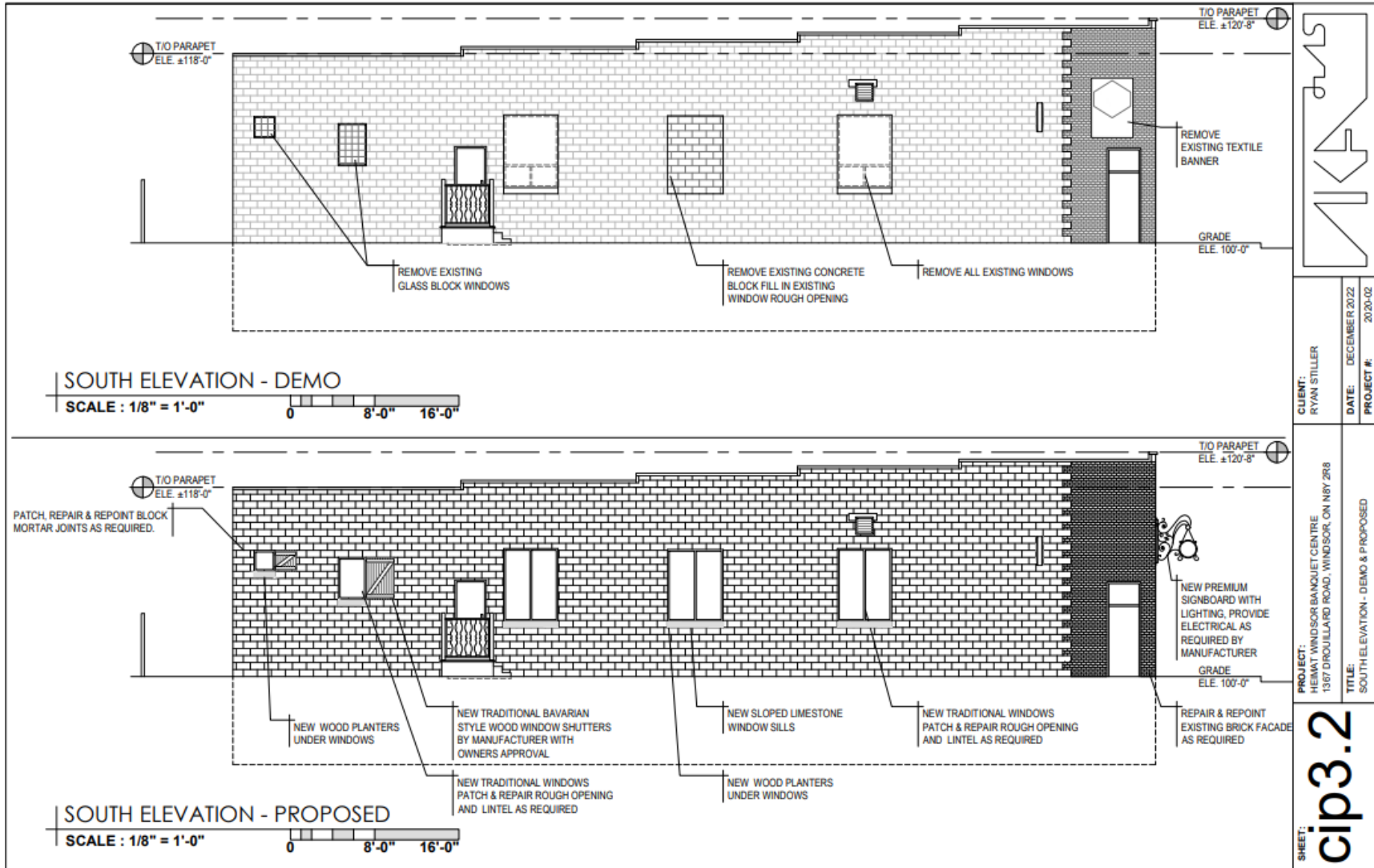
## 1367 DROUILLARD ROAD – IMPROVEMENTS





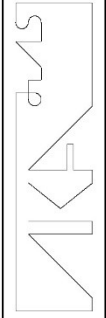
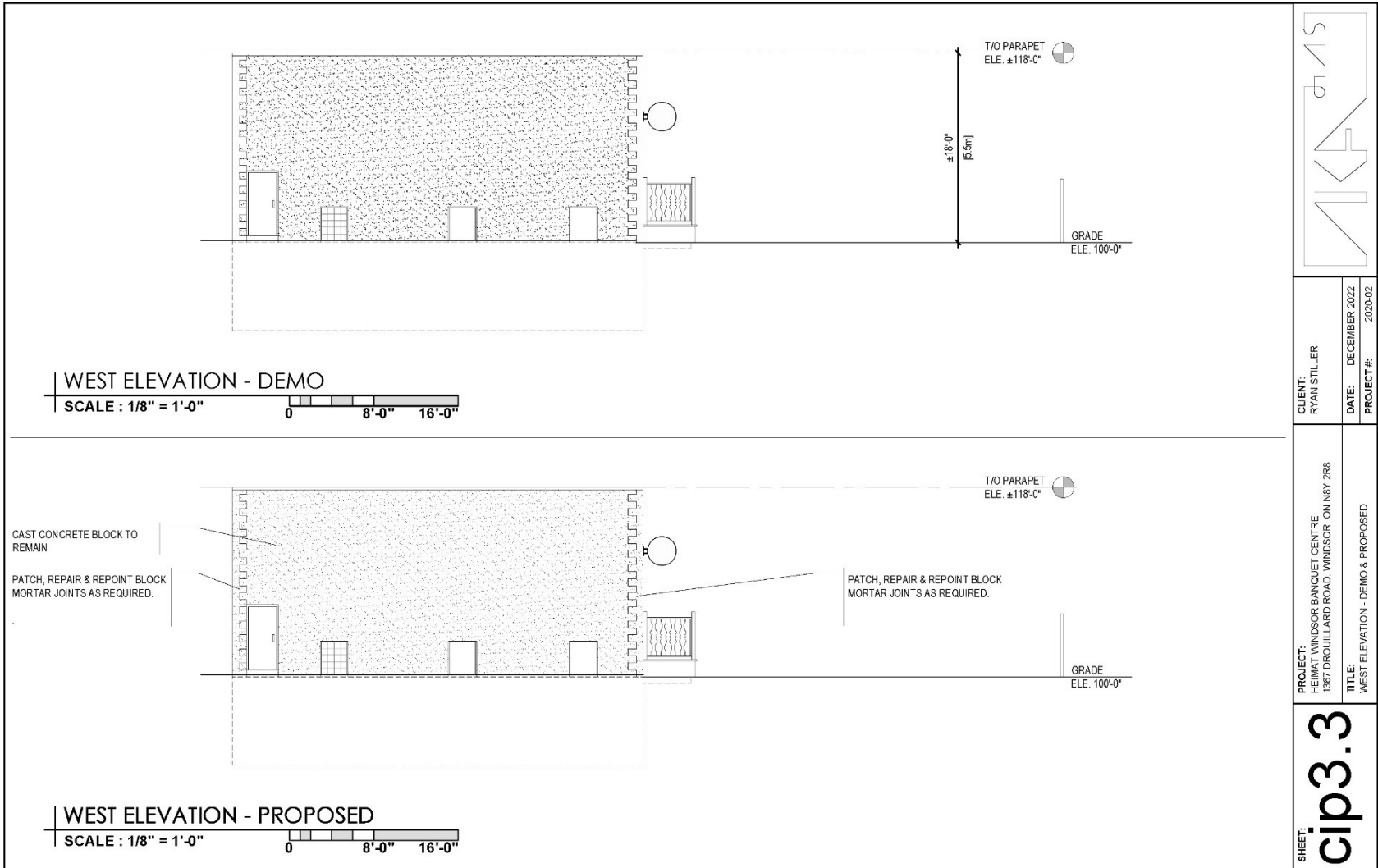
# APPENDIX 'B'

## 1367 DROUILLARD ROAD – IMPROVEMENTS



# APPENDIX 'B'

## 1367 DROUILLARD ROAD – IMPROVEMENTS



CLIENT:  
RYAN STILLER

DATE: DECEMBER 2022

PROJECT #:  
2023-02

PROJECT:  
HEIMAT WINDSOR BANQUET CENTRE  
1367 DROUILLARD ROAD, WINDSOR, ON N8Y 2R8

TITLE:  
WEST ELEVATION - DEMO & PROPOSED

SHEET:  
**cip3.3**

APPENDIX 'B'

1367 DROUILLARD ROAD – IMPROVEMENTS



APPENDIX 'B'

1367 DROUILLARD ROAD – IMPROVEMENTS



**Subject: Closure of N/S Alley b/w Melbourne Road & Closed E/W Alley and Part of N/S Alley b/w Melbourne Road & 3605 Matchett Road, Ward 2, SAA-5925**

Moved by: Councillor Jim Morrison

Seconded by: Councillor Mark McKenzie

Decision Number: **DHSC 459**

- I. THAT the 4.88 metre wide north/south alley located between Melbourne Road and the north limit of the closed east/west alley shown on Registered Plan 1344, and shown as Part 1 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- II. THAT the 4.88 metre wide north/south alley located between Melbourne Road and the north limit of the closed east/west alley shown on Registered Plan 1344, and shown as Part 1 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **BE CLOSED AND CONVEYED** to the owner of the abutting property known municipally as 3557 Melbourne Road (legally described as Lots 2071 to 2099, 2105 to 2108 & Part of Lot 2109, Plan 1344; Lots 1264 to 1266 & Part of Alley, Plan 1059; and Lots 183 to 190, Plan 673) and as necessary, in a manner deemed appropriate by the City Planner;
- III. THAT Conveyance Cost **BE SET** as follows:
  - a. For alley conveyed to abutting lands zoned ID1.1, \$1.00 plus 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.
- IV. THAT the portion of the 4.88 metre wide north/south alley located between the south lot line of the property known municipally as 3559 Matchett Road (legally described as Lots 2031 & 2032, Plan 1344) and the north lot line of the property known municipally as 3605 Matchett Road (legally described as Lots 2041 & 2042, Part of Closed Alley and Part of Closed Virginia Avenue, Plan 1344; Parts 13, 15 & 17, RP 12R-18697), and shown as Part 2 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- V. THAT the portion of the 4.88 metre wide north/south alley located between the south lot line of the property known municipally as 3559 Matchett Road (legally described as Lots 2031 & 2032, Plan 1344) and the north lot line of the property known municipally as 3605 Matchett Road (legally described as Lots 2041 & 2042, Part of Closed Alley and Part of Closed Virginia Avenue, Plan 1344; Parts 13, 15 & 17, RP 12R-18697), and shown as Part 2 on Drawing No. CC-1765

*attached* hereto as Appendix “A”, **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. Easement, subject to there being accepted in the City’s standard form and in accordance with the City’s standard practice and EnWin Utilities Ltd. Aboveground Hydro Easement Diagram *attached* hereto as Appendix “F”, **BE GRANTED** to:
  - i. Bell Canada for access to service and maintain existing aerial plant;
  - ii. Cogeco for access to service and maintain existing infrastructure;
  - iii. EnWin Utilities Ltd to accommodate and for access to service and maintain existing overhead 120/240 volt hydro distribution, poles and down guy wires; and
  - iv. MNSi for access to service and maintain existing aerial infrastructure;

VI. THAT Conveyance Cost **BE SET** as follows:

- a. For alley conveyed to abutting lands zoned RD1.2, \$1.00 plus 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.
- b. For alley conveyed to abutting lands zoned ID1.1, \$5.00 per square foot without easements and \$2.50 per square foot with easements.

VII. THAT The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1765, *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.

X. THAT the matter **BE COMPLETED** electronically pursuant to By-law Number 366-2003  
Carried.

Report Number: S 125/2022  
Clerk’s File: SAA2023

**Clerk’s Note:**

- 1. The recommendation of the Standing Committee and Administration are the same.

2. Please refer to Item 11.4 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Closure of N/S Alley b/w Melbourne Road & Closed E/W Alley and Part of N/S Alley b/w Melbourne Road & 3605 Matchett Road, Ward 2, SAA-5925**

**Reference:**

Date to Council: January 9, 2023  
Author: Brian Nagata, MCIP, RPP  
Planner II - Development Review  
(519) 255-6543 ext. 6181

Planning & Building Services  
Report Date: December 7, 2022  
Clerk's File #: SAA2023

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT the 4.88 metre wide north/south alley located between Melbourne Road and the north limit of the closed east/west alley shown on Registered Plan 1344, and shown as Part 1 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- II. THAT the 4.88 metre wide north/south alley located between Melbourne Road and the north limit of the closed east/west alley shown on Registered Plan 1344, and shown as Part 1 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **BE CLOSED AND CONVEYED** to the owner of the abutting property known municipally as 3557 Melbourne Road (legally described as Lots 2071 to 2099, 2105 to 2108 & Part of Lot 2109, Plan 1344; Lots 1264 to 1266 & Part of Alley, Plan 1059; and Lots 183 to 190, Plan 673) and as necessary, in a manner deemed appropriate by the City Planner;
- III. THAT Conveyance Cost **BE SET** as follows:
  - a. For alley conveyed to abutting lands zoned ID1.1, \$1.00 plus 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.
- IV. THAT the portion of the 4.88 metre wide north/south alley located between the south lot line of the property known municipally as 3559 Matchett Road (legally described as Lots 2031 & 2032, Plan 1344) and the north lot line of the property known municipally as 3605 Matchett Road (legally described as Lots 2041 & 2042, Part of Closed Alley and Part of Closed Virginia Avenue, Plan 1344; Parts



13, 15 & 17, RP 12R-18697), and shown as Part 2 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;

- V. THAT the portion of the 4.88 metre wide north/south alley located between the south lot line of the property known municipally as 3559 Matchett Road (legally described as Lots 2031 & 2032, Plan 1344) and the north lot line of the property known municipally as 3605 Matchett Road (legally described as Lots 2041 & 2042, Part of Closed Alley and Part of Closed Virginia Avenue, Plan 1344; Parts 13, 15 & 17, RP 12R-18697), and shown as Part 2 on Drawing No. CC-1765 *attached* hereto as Appendix "A", **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice and EnWin Utilities Ltd. Aboveground Hydro Easement Diagram *attached* hereto as Appendix "F", **BE GRANTED** to:
    - i. Bell Canada for access to service and maintain existing aerial plant;
    - ii. Cogeco for access to service and maintain existing infrastructure;
    - iii. EnWin Utilities Ltd to accommodate and for access to service and maintain existing overhead 120/240 volt hydro distribution, poles and down guy wires; and
    - iv. MNSi for access to service and maintain existing aerial infrastructure;
- VI. THAT Conveyance Cost **BE SET** as follows:
- a. For alley conveyed to abutting lands zoned RD1.2, \$1.00 plus 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.
  - b. For alley conveyed to abutting lands zoned ID1.1, \$5.00 per square foot without easements and \$2.50 per square foot with easements.
- VII. THAT The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1765, *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.
- X. THAT the matter **BE COMPLETED** electronically pursuant to By-law Number 366-2003

## Executive Summary:

N/A



Figure 1 - Location Map

## Background:

The applicant, Greater Essex County District School Board, owner of the property known municipally as 3557 Melbourne Road (Marlborough Public School), applied to close the 4.88 metre wide north/south alley located between Melbourne Road and the north limit of the closed east/west alley shown on Registered Plan 1344 (the east alley), 4.88 metre wide north/south alley located between Melbourne Road and the north lot line of the property known municipally as 3605 Matchett Road (the west alley) and 15.24 metre wide east/west Strathmore Crescent right-of-way located immediately east of Matchett Road (the right-of-way), and shown on Drawing No. CC-1765 *attached* hereto as **Appendix "A"**, and also shown on the aerial photo *attached* hereto as **Appendix "B"**.

The east alley is unmaintained and makes up part of Marlborough Public School. The east alley contains part of the east wing of the school building, as well as part of the school yard. The east alley was established by Registered Plan 1344, registered on January 11, 1929, and has been used continuously by Marlborough Public School since its opening in September 1930. There are no Encroachment Agreements on record for the use of the east alley.

The majority of the west alley is unmaintained, save an except for an asphalt section spanning between Melbourne Road and the midpoint of the property known municipally as 3559 Matchett Road. The west alley is composed primarily of grass and asphalt, and includes a few stand alone patches of low growing vegetation. The west alley contains three utility poles, one of which has guy wires and anchors, and includes a curb cut off of Melbourne Road. The asphalt section of the west alley provides the only means of vehicular access to the rear garage at 3559 Matchett Road, parking area at Marlborough Public School, and only means of vehicular egress to the parking area at the property known municipally as 0 Matchett Road (Roll No. 050-430-01400), which serves Marlborough Public School. The properties known municipally as 3559, 3583 & 3593 Matchett Road have extended their rear yards to include their half of the alley and demarcated the boundary with wood privacy fences. There are no Encroachment Agreements on record for the use of the west alley.

The right-of-way is unmaintained, composed primarily of gravel, and includes a small strip of grass with a few stand alone patches of low growing vegetation along its south and north boundaries. The right-of-way contains overhead wires and provides the only vehicular means of access to the parking area at Marlborough Public School via the west alley.

The applicant wishes to close the east alley, west alley and right-of-way for the purpose of adding the land to Marlborough Public School.

The applicant, via December 5, 2022 email, requested that their application be revised to exclude the closure of the right-of-way.

### **Discussion:**

The decision to recommend closure of an alley is derived from the City's *Classification of Alleys and Suitability for Closure* guideline document (the document), **attached** hereto as **Appendix "E"**. The document details four classifications of alleys based on their usefulness, and provides corresponding criteria for determining suitability for closure.

### **Classification of Public Right-of-Ways**

The initial step is to determine if the alley and right-of-way are indispensable. This is achieved through the evaluation of the following criteria set forth in Section 1 of the document.

#### **East Alley:**

1. *Does the alley serve commercial properties?*
  - a. The east alley does not serve commercial properties.
2. *Does the alley serve properties fronting on heavily traveled streets i.e. major arterial routes?*

- a. The east alley serves Marlborough Public School which fronts Tecumseh Road West, a designated Class II Arterial Road on *Schedule F: Roads and Bikeways* to the *Official Plan*.
3. *Does the alley contain sewers, and must the alley remain accessible for servicing?*
  - a. The east alley does not contain sewers.
4. *Does the alley serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive?*
  - a. The east alley does not serve as the only vehicular means of access to any rear parking areas or garages.
5. *Does the alley contain Fire Department connections that are deemed to be necessary for firefighting access?*
  - a. The east alley does not contain any fire department connections.
6. *Does the alley lie within a Holding zone or other similar undeveloped areas where the alley system is clearly obsolete and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent?*
  - a. The east alley does not lie within a Holding zone or other similar undeveloped areas.

**West Alley:**

1. *Does the alley serve commercial properties?*
  - a. The west alley does not serve commercial properties.
2. *Does the alley serve properties fronting on heavily traveled streets i.e. major arterial routes?*
  - a. The west alley serves Marlborough Public School which fronts Tecumseh Road West, a designated Class II Arterial Road on *Schedule F: Roads and Bikeways* to the *Official Plan*.
3. *Does the alley contain sewers, and must the alley remain accessible for servicing?*
  - a. The west alley does not contain sewers.
4. *Does the alley serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive?*

- a. The west alley serves as the only vehicular means of access to the rear garage at 3559 Matchett Road and parking area at Marlborough Public School.
  - b. The rear garage was constructed from 1955 to 1957 by Building Permit 55 B 4924.
  - c. The date that the parking area was established is unknown.
5. *Does the alley contain Fire Department connections that are deemed to be necessary for firefighting access?*
- a. The west alley does not contain any fire department connections.
6. *Does the alley lie within a Holding zone or other similar undeveloped areas where the alley system is clearly obsolete and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent?*
- a. The west alley does not lie within a Holding zone or other similar undeveloped areas.

Based on the above, the Planning Department deems the east alley and west alley “indispensable”.

Notwithstanding the east alley and west alley being deemed indispensable, the Planning Department is recommending that they be closed and conveyed for the following reasons and in the following manner:

- East Alley
  - The aforesaid factor that deems the east alley indispensable stems solely from the subject property’s use of the alley.
  - It is recommended that the east alley be conveyed to Marlborough Public School as the only abutting property owner.
- West Alley
  - The aforesaid factors that deem the west alley indispensable stem solely from Marlborough Public School and 3559 Matchett Road’s use of the alley.
  - It is recommended that the portion of the west alley not serving 3559 Matchett Road be closed and conveyed to the abutting property owners. This portion of the west alley being more particularly described as that located between the north limit of 3605 Matchett Road and south limit of 3559 Matchett Road.

**Risk Analysis:**

The recommended closures will divest the City of associated liability risks and maintenance costs. The recommended closures pose no known risk to the City.

## Climate Change Risks

### Climate Change Mitigation:

N/A

### Climate Change Adaptation:

N/A

### Financial Matters:

The rate for an alley conveyed to abutting lands zoned ID1.1 (East Alley) and RD1.2 is assessed at \$1.00 plus deed preparation fee and proportionate share of the survey costs as invoiced to the City by an Ontario Land Surveyor.

The rate for an alley conveyed to abutting lands zoned ID1.1 (West Alley), \$5.00 per square foot without easements and \$2.50 per square foot with easements.

### Consultations:

Consultations were held with Municipal Departments and Utility Companies, which resulted in the information found in **attached** hereto as **Appendix "C"**.

Notice of Development & Heritage Standing Committee meeting and Council meeting are published in the Windsor Star prior to each of the meetings. In addition, notice of each of the public meetings will be mailed to the abutting/affected property owners prior to the meetings.

### Conclusion:

The Planning Department recommends closure of the east alley and west alley as shown on attached Appendix "A", subject to easements in favour of Bell Canada, Cogeco, EnWin Utilities Ltd. and MNSi for the latter as in Recommendation II of this report.

The east alley is to be conveyed to Marlborough Public School as in Recommendations II of this report.

The west alley is to be conveyed to the abutting property owners, as in Recommendation IV of this report.

### Planning Act Matters:

N/A

### Approvals:

Name	Title
Michael Cooke	Manager of Planning Policy/Deputy City

Name	Title
	Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Chris Carpenter	Coordinator of Real Estate Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administration Officer

**Notifications:**

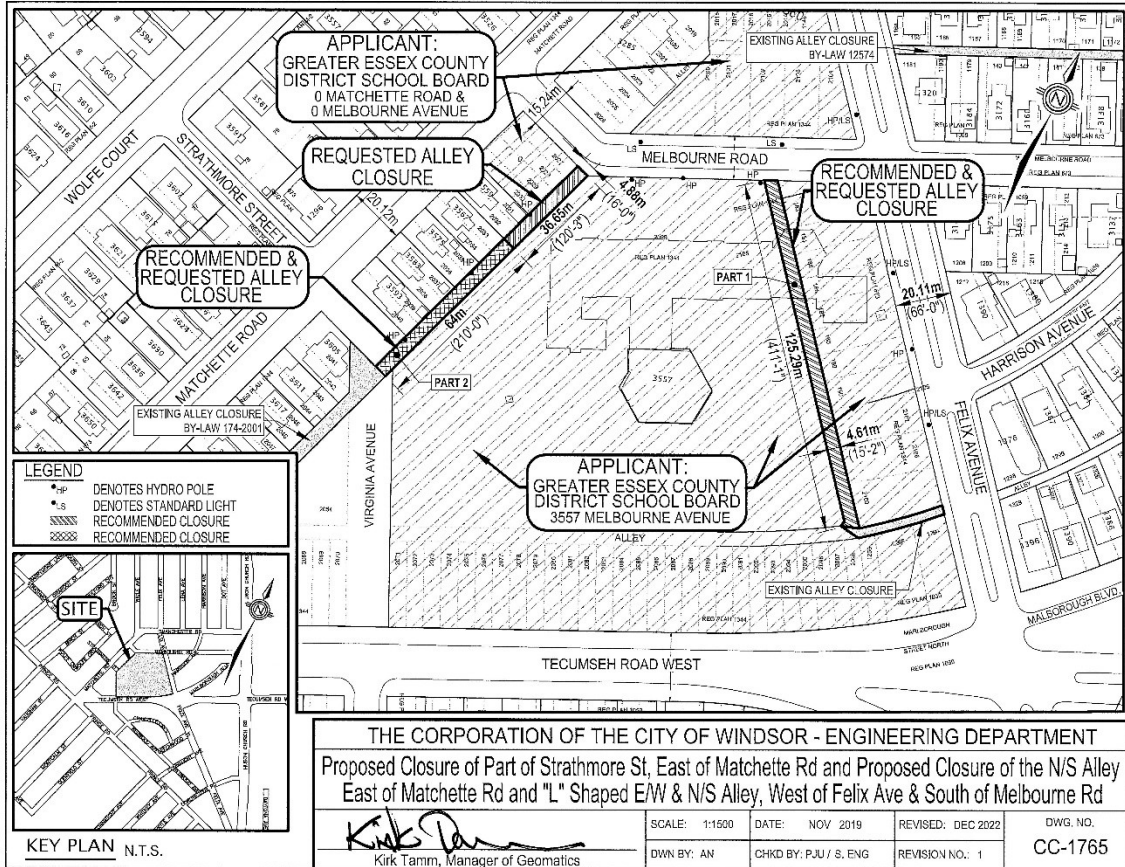
Name	Address	Email
Councillor Fabio Costante		<a href="mailto:fcostante@citywindsor.ca">fcostante@citywindsor.ca</a>

**Appendices:**

- 1 Appendix A - Drawing No. CC-1765
- 2 Appendix B - EIS Drawing - Aerial Photo
- 3 Appendix C - Consultations with Municipal Departments and Utility Companies
- 4 Appendix D - Site Photos
- 5 Appendix E - Classification of Alleys and Suitability for Closure
- 6 Appendix F - EnWin Utilities Ltd. Aboveground Hydro Easement Diagram

## APPENDIX "A"

### Drawing No. CC-1765





# APPENDIX "B"

## EIS Drawing - Aerial Photo



### STREET & ALLEY CLOSING (SAA/5925)

1:2,000

APPLICANT : GREATER ESSEX COUNTY DISTRICT SCHOOL BOARD

 SUBJECT LAND



PLANNING DEPARTMENT - DEVELOPMENT DIVISION

DATE: DECEMBER, 2022

## APPENDIX “C”

### Consultations with Municipal Departments and Utility Companies

#### **BELL CANADA WSP**

As with our previous response, we request an easement over the entire alley at the rear of the properties on Matchette Road, or a strip 3 m wide for the entire length of the alley. The approximate location of our aerial plant is shown in yellow below. (Bell File: 519-19-506).

**[Charleyne Hall, Bell Canada External Liaison]**



#### **CANADA POST**

Canada Post has no comments for the attached application.

**[Bruno DeSando, Delivery Planning]**

#### **COGECO CABLE SYSTEMS INC.**

Please be advised that Cogeco will require an easement.

**[Rebecca Borsellino, Senior Agreements Administrator]**

#### **ENVIRONMENTAL SERVICES**

No concerns from Environmental Services.

**[Anne-Marie Albidone, Manager, Environmental Services]**

**ENWIN UTILITIES - HYDRO**

No Objection, however, an easement named to ENWIN Utilities Ltd. is required for the entire east / west Strathmore Street upon closing to accommodate existing overhead 16 kV hydro distribution, poles and down guy wires.

No Objection, however, an easement named to ENWIN Utilities Ltd. is required for the entire north / south alley behind Matchette Rd upon closing to accommodate existing overhead 120/240 volt hydro distribution, poles and down guy wires.

No Objection, to Felix Ave alley closure.

**[Steve Zambito Hydro Engineering Technologist]**

**ENWIN UTILITIES - WATER**

Water Engineering has no objections.

**[Technical Services Dispatch]**

**LEGAL DEPARTMENT**

For lands abutting properties zoned Institutional ID1.1, as the abutting property is not an operating school, \$2.50 per square foot without easements and \$1.25 per square foot with easements, plus deed preparation fee and proportionate share of the survey cost as invoiced to The Corporation of the City of Windsor by an Ontario Land Surveyor.

For lands abutting properties zoned Residential RD1.3: \$1 plus deed preparation fee and proportionate share of the survey cost as invoiced to The Corporation of the City of Windsor by an Ontario Land Surveyor.

**[Chris Carpenter, Coordinator of Real Estate Services]**

**MNSi**

MNSi will require an aerial easement through the subject properties as indicated on the Subject Map below in green.

**[Dave Hartleib, Outside Plant Manager]**

**PARKS & FACILITIES**

No comments provided.

**PLANNING DEPARTMENT**

No comments provided

**PLANNING DEPARTMENT - LANDSCAPE ARCHITECT**

No objection from a Parks or Landscape architectural perspective.

**[Stefan Fediuk - Landscape Architect]**

**PUBLIC WORKS - ENGINEERING**

The subject N/S alley closure located at the rear of properties on Matchette Road is approximately 4.87m (16ft) wide and is partially paved and composed of grass. The 'L' shaped alley closure is composed of grass. The N/S alley appears to be used for parking access for 3557 Melbourne Road. There are hydro poles and overhead wires located on the west side of the N/S alley, an easement is required for utilities. There are no sewers, manholes, or catch basins located in the alley closures. There appears to be fence

encroachments from 3593, 3583, and 3559 Matchette Road within the N/S closure. For the additional requested street closure of Strathmore Street south of Matchette Road, it is approximately 15.2m (49.7ft) wide and appears to be partly composed of gravel and grass. The applicant is required to reinstate the barrier curb, construct and maintain a driveway approach to City standard AS-204. The two alleys and right-of-way appear to serve no useful purpose; therefore, we have no objections to the closure of this alley.

**[Adam Pillon - Manager of Right-of-Way]**

**PUBLIC WORKS - TRAFFIC**

No concerns with closing Part 3 or Part 4.

Regarding Part 2, there is a garage at the rear of 3559 Matchette that requires vehicular access. The alley would need to remain accessible behind 3559 Matchette and north to Melbourne.

Regarding Part 1, ROW is currently used for vehicle, pedestrian and bicycle traffic connectivity to the adjacent neighbourhood. Consideration of south parking lot should be addressed. If parking lot is required to satisfy the required amount of parking spaces on site, then ROW is needed to access the parking lot. Strathmore should also be retained should the site ever be developed, the full ROW would be needed.

**[Mike Spagnuolo, Signal Systems Analyst]**

**ROGERS COMMUNICATIONS**

No comments provided

**TELUS COMMUNICATIONS**

TELUS has no infrastructure in the area of your proposed work. Permit expires six (6) months from approval date.

**[Indira Sharma, Project Support]**

**TRANSPORTATION PLANNING**

No comments provided

**TRANSIT WINDSOR**

No comments provided

## **UNION GAS**

After reviewing the provided drawing and consulting our mapping system, please note that Enbridge Gas has an active service going across the proposed alley closure West of Felix Ave. A PDF drawing has been attached for reference.

Please Note:

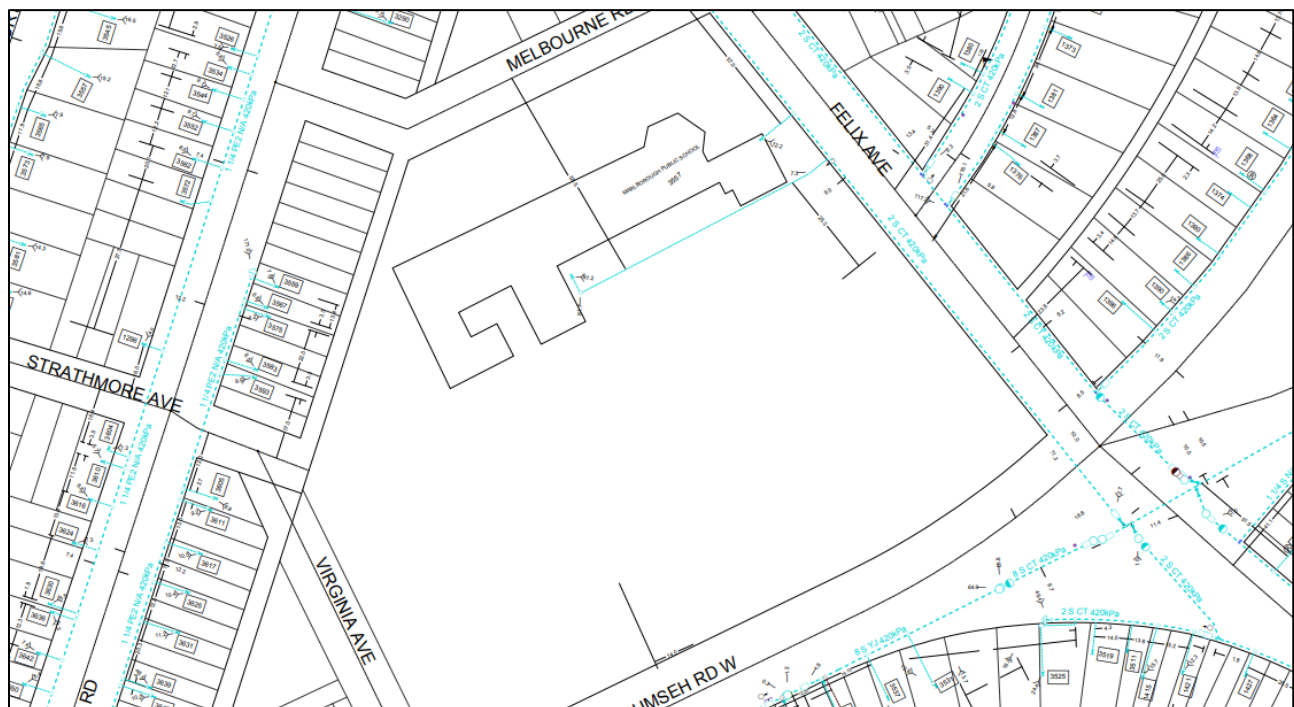
1. The shown piping locations are approximate and for information purposes only
2. The drawings are not to scale
3. This drawing does not replace field locates. Please contact Ontario One Call for onsite locates prior to excavating, digging, etc.

Also, please note the following should you find any abandoned infrastructure in the area:

- Any pipe that is excavated, please assume that it is live
- If during the course of any job, any pipe is found that is not on the locate sheet and is in conflict with your work, please call our emergency number (1-877-969-0999), and one of our Enbridge Gas representatives will respond to determine if that plant is in fact live or dead
- Please note that our Enbridge Gas representative will respond to the live or dead call within 1-4 hours, so please plan your work accordingly

Please contact me if you have any further questions or concerns.

**[Sandro Aversa, Drafter / Estimator, Construction & Growth]**



**WINDSOR FIRE**

No concerns to close from WFR.

**[John Lee - Chief Fire Prevention Officer]**

**WINDSOR POLICE**

The Windsor Police Service has no objections with the proposed closures being requested by the school board in relation to its property in general. On the section of Strathmore Street south of Matchette Road, this is currently an open vehicular access to parking facilities into the school property – an access also used by Windsor Police periodically to access the school property for incident response and mobile patrol purposes. Assuming the Strathmore Street closure will still maintain a vehicular access of some kind for emergency response.....or an alternative property access can be identified, we have no concerns or objections to the application.

**[Barry Horrobin, Director of Planning & Physical Resources]**

**APPENDIX “D”**  
**Site Photos (June 30, 2022)**



*Figure 1 - Looking north towards north/south alley from Strathmore Crescent*



*Figure 2 - North/south alley looking north from point adjacent to 3559 Matchette Road (left)*





*Figure 3 - Rear garage at 3559 Matchette Road*



*Figure 4 - Looking south towards north/south alley from Melbourne Road (Marlborough Public School on left)*



*Figure 5 - North/south alley looking south from point immediately north of 3559 Matchette Road (left)*



*Figure 6 - North/south alley looking south from point adjacent to 3583 Matchette Road (right)*

## **APPENDIX “E”**

### **Classification of Alleys and Suitability for Closure**

#### **Classification of Public Rights-of-Ways:**

Currently streets and alleys fall into four classifications on the basis of their usefulness:

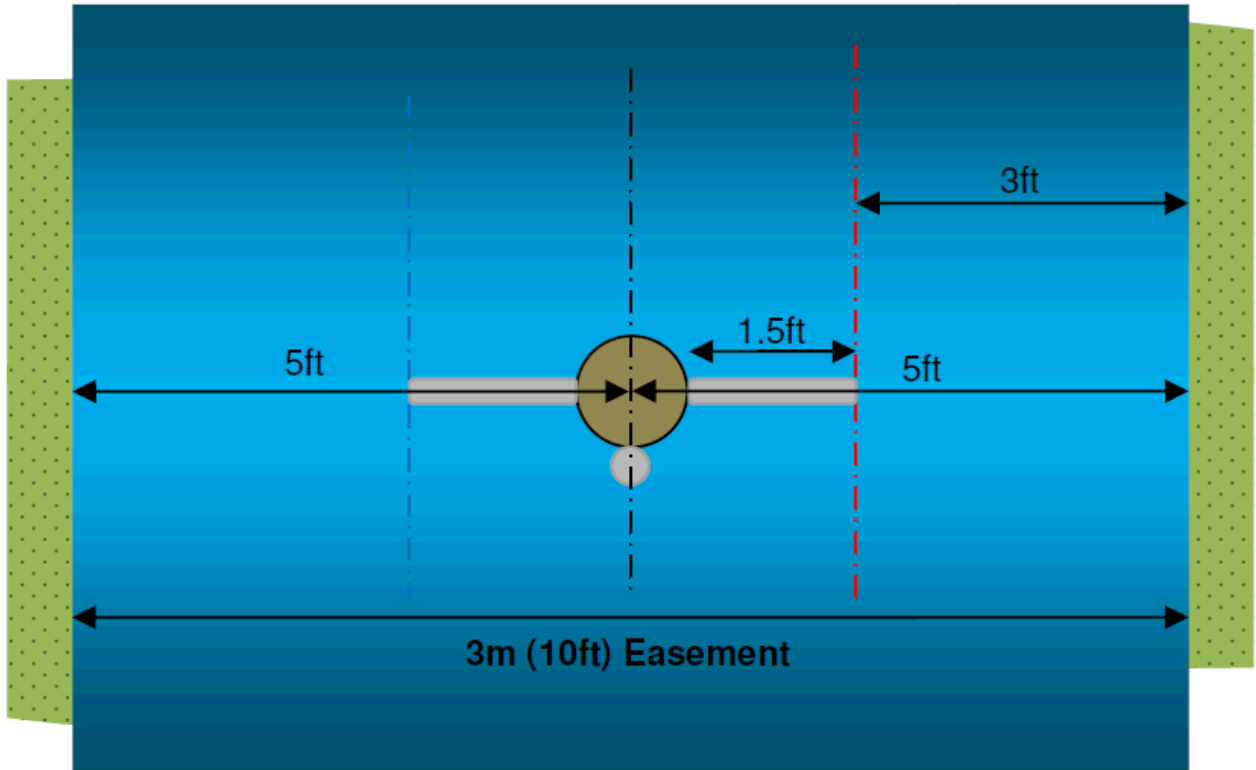
- 1) Alleys that are **indispensable**. These would be alleys serving commercial properties and properties fronting on heavily traveled streets i.e. major arterial routes and alleys which contain sewers and must remain accessible for servicing; alleys or streets which serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive; and, alleys which contain Fire Department connections that are deemed to be necessary for firefighting access.
- 2) Alleys that, **have some usefulness**, are nevertheless dispensable and may or may not be a complete liability.
- 3) Alleys that appear to serve **no useful purpose**, either now, or anticipated. Such alleys are in residential areas and locations where generally the lots are wide enough for side drives, or those alleys abutting parks and other parcels of land that do not require any servicing from the alley. Remnant or stub-end streets which are dead-ended and do not serve as access to other streets.
- 4) Alleys lying in Holding zones and other similar undeveloped areas where the alley system is **clearly obsolete** and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent.

#### **Suitability for Closing:**

Following are the criteria and suitability for closing alleys in each of the above classifications.

- 1) Indispensable alleys should **not be closed**, conveyed, reduced or otherwise jeopardized through minority interests unless a suitable substitute alley is opened in lieu thereof. They are essential from the viewpoint of fire protection, police protection, emergency services (i.e. ambulance) and loading or unloading of goods, refuse collection, servicing of blocked sewers and utility services. Without such alleys, the above noted services would at least be more costly if not impossible to complete or adequately access; and would noticeably interfere with street traffic, thereby reducing the access capacity of the adjacent arterial, collector, or street for business.
- 2) Alleys having some usefulness should **be considered for closing** only upon request of abutting owners rather than by encouragement of the City.
- 3) Alleys that serve no useful purpose should **be closed** if at all possible, and in fact the owners abutting thereon should be encouraged to accept conveyance.
- 4) Alleys that are clearly obsolete should **not be closed** unless there is a municipal need or specific development proposals acceptable to the City are submitted.

**APPENDIX "F"**  
**EnWin Utilities Ltd. Aboveground Hydro Easement Diagram**



**Subject: Closure of north/south alley between Guy Street & 1980 Meldrum Road;  
east/west alley between north/south alley & Larkin Road, Ward 5, SAA-6689**

Moved by: Councillor Jim Morrison

Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 460**

- I. THAT the 4.27 metre wide north/south alley located between Guy Street and the property known municipally as 1980 Meldrum Road (legally described as Lots 250 to 255 & Part of Closed Alley, Plan 1098) and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- II. THAT the 4.27 metre wide north/south alley located between Guy Street and the property known municipally as 1980 Meldrum Road (legally described as Lots 250 to 255 & Part of Closed Alley, Plan 1098) and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice and EnWin Utilities Ltd. Aboveground Hydro Easement Diagram *attached* hereto as Appendix "F", **BE GRANTED** to:
    - i. Bell Canada to protect existing aerial facilities;
    - ii. EnWin Utilities Ltd to accommodate the pole, anchors and existing overhead plant; and
    - iii. MNSi for access to service and maintain existing aerial infrastructure;
- III. THAT the 5.49 metre wide east/west alley located between the aforesaid north/south alley and Larkin Road and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- IV. THAT the 5.49 metre wide east/west alley located between the aforesaid north/south alley and Larkin Road and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **BE CLOSED AND CONVEYED** to the abutting property owners and as necessary, in a manner deemed appropriate by the City Planner:

- V. Type THAT Conveyance Cost **BE SET** as follows:
  - a. For alley conveyed to abutting lands zoned RD1.2, \$1.00 plus 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.
  - b. For alley conveyed to abutting lands zoned ID1.1, \$5.00 per square foot without easements and \$2.50 per square foot with easements.
- VI. THAT The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1809, *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.
- IX. That administration **BE REQUESTED** to undertake further discussion with the proponent regarding some of the issues brought forward; and,
- X. That this information **BE BROUGHT FORWARD** when this report proceeds to Council.

Carried.

Report Number: S 135/2022  
Clerk's File: SAA2023

**Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are **not** the same.
2. Please refer to Item 11.5 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to: <https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Closure of north/south alley between Guy Street & 1980 Meldrum Road; east/west alley between north/south alley & Larkin Road, Ward 5, SAA-6689**

**Reference:**

Date to Council: January 9, 2023  
Author: Brian Nagata, MCIP, RPP  
Planner II - Development Review  
(519) 255-6543 ext. 6181

Planning & Building Services  
Report Date: November 22, 2022  
Clerk's File #: SAA2023

**To:** Mayor and Members of City Council

**Recommendation:**

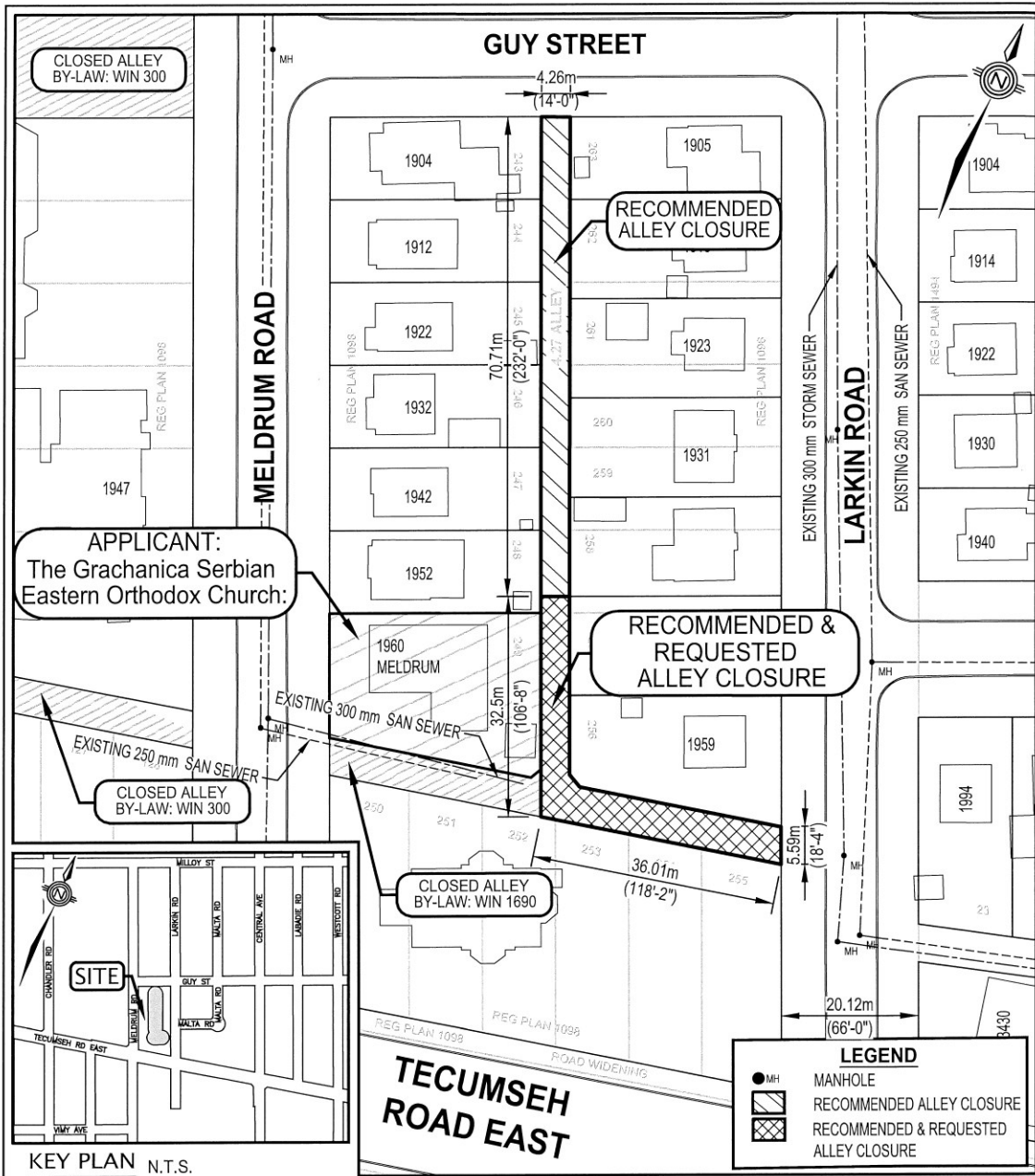
- I. THAT the 4.27 metre wide north/south alley located between Guy Street and the property known municipally as 1980 Meldrum Road (legally described as Lots 250 to 255 & Part of Closed Alley, Plan 1098) and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- II. THAT the 4.27 metre wide north/south alley located between Guy Street and the property known municipally as 1980 Meldrum Road (legally described as Lots 250 to 255 & Part of Closed Alley, Plan 1098) and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice and EnWin Utilities Ltd. Aboveground Hydro Easement Diagram *attached* hereto as Appendix "F", **BE GRANTED** to:
    - i. Bell Canada to protect existing aerial facilities;
    - ii. EnWin Utilities Ltd to accommodate the pole, anchors and existing overhead plant; and
    - iii. MNSi for access to service and maintain existing aerial infrastructure;

- III. THAT the 5.49 metre wide east/west alley located between the aforesaid north/south alley and Larkin Road and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- IV. THAT the 5.49 metre wide east/west alley located between the aforesaid north/south alley and Larkin Road and shown on Drawing No. CC-1809 *attached* hereto as Appendix "A", **BE CLOSED AND CONVEYED** to the abutting property owners and as necessary, in a manner deemed appropriate by the City Planner:
- V. Type THAT Conveyance Cost **BE SET** as follows:
  - a. For alley conveyed to abutting lands zoned RD1.2, \$1.00 plus 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.
  - b. For alley conveyed to abutting lands zoned ID1.1, \$5.00 per square foot without easements and \$2.50 per square foot with easements.
- VI. THAT The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1809, *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.

**Executive Summary:**

N/A





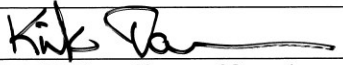
<b>THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT</b>				
<b>Proposed Closure of North/South Alley and East/West Alley Between Meldrum Road &amp; Larkin Road, North of Tecumseh Road East to Guy Street</b>				
 Kirk Tamm, Manager of Geomatics	SCALE: 1:750	DATE: MARCH 2022	REVISED:	DWG. NO. CC-1809
	DWN BY: JLH	CHKD BY: PJU / MC	REVISION NO.:	

Figure 1 - Location Map

## Background:

The applicant, Serbian Orthodox Church “Grachanica”, owner of the properties known municipally as 1960 Meldrum Road, 1980 Meldrum Road, 1951 Larkin Road and 1959 Larkin Road (the subject property), applied to close the portion of the 4.27 metre wide north/south alley located between Guy Street and 1980 Meldrum Road abutting the subject property, together with the 5.49 metre wide east/west alley located between the north/south alley and Larkin Road, and shown on Drawing No. CC-1809 **attached** hereto as **Appendix “A”**, and also shown on the aerial photo **attached** hereto as **Appendix “B”**. The subject property contains the circa 1952 Serbian Orthodox Church “Grachanica” with rear asphalt parking area (1980 Meldrum Road), together with a circa 1978 Single Family Dwelling (1960 Meldrum Road), circa 1949 Single Family Dwelling (1951 Larkin Road) and circa 1949 Single Family Dwelling (1959 Larkin Road).

The north/south alley is unmaintained and composed primarily of grass. The alley contains a small patch of natural vegetation (shrubs and trees), utility poles with guy wires and anchors, part of a decorative steel fence belonging to the subject property, and includes a curb cut off of Guy Street. There are no Encroachment Agreements on record for the use of the alley.

The east/west alley is unmaintained and composed primarily of asphalt and gravel. The asphalt portion of the alley makes up part of the parking area on the subject property and includes the sole access area via a curb cut off of Larkin Road. There are no Encroachment Agreements on record for the use of the alley.

The applicant wishes to close the aforesaid alleys for the purpose of consolidating the subject property into one parcel and improving security.

## Discussion:

The decision to recommend closure of an alley is derived from the City’s *Classification of Alleys and Suitability for Closure* guideline document (the document), **attached** hereto as **Appendix “E”**. The document details four classifications of alleys based on their usefulness, and provides corresponding criteria for determining suitability for closure.

### Classification of Public Right-of-Ways

The initial step is to determine if the alley is indispensable. This is achieved through the evaluation of the following criteria set forth in Section 1 of the document.

1. *Does the subject alley serve commercial properties?*
  - a. The north/south and east/west alleys do not serve any commercial properties.

2. *Does the subject alley serve properties fronting on heavily traveled streets i.e. major arterial routes?*
  - a. The north/south alley does not serve properties fronting on heavily traveled streets.
  - b. The east/west alley serves 1980 Meldrum Road which fronts Tecumseh Road East, a Class II Arterial Road on *Schedule F: Roads and Bikeways* to the *Official Plan*.
3. *Does the subject alley contain sewers, and must the alley remain accessible for servicing?*
  - a. The north/south and east/west alleys do not contain any sewers.
4. *Does the subject alley serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive?*
  - a. The north/south alley does not serve as the only vehicular means of access to rear parking areas and garages.
  - b. The east/west alley serves as the only vehicular means of access to the aforesaid rear parking area.
5. *Does the subject alley contain Fire Department connections that are deemed to be necessary for firefighting access?*
  - a. The north/south and east/west alleys do not contain any Fire Department connections.
6. *Does the subject alley lie within a Holding zone or other similar undeveloped areas where the right-of-way system is clearly obsolete and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent?*
  - a. The north/south and east/west alleys do not lie within a Holding zone or other similar undeveloped areas.

Based on the above, the Planning Department deems the north/south alley “dispensable” and supports the requested closure with an addendum to include the entire alley.

It is our recommendation that, upon closure, the abutting property owners be given the chance to acquire the north/south alley in the manner described in the Recommendation section herein. Hence the recommendation is to close and convey the north/south alley to the abutting property owners, which is the standard manner of conveyance.

Based on the above, the Planning Department deems the east/west alley “indispensable”.

Notwithstanding the east/west alley being deemed indispensable, the Planning Department is recommending that it be closed and conveyed to the owner of the subject property for the following reason:

- The aforesaid factors that deem the alley indispensable stem solely from the subject property's use of the alley.
- The alley is only abutted by the subject property.

It is our recommendation that, upon closure, the owner of the subject property be given a chance to acquire the east/west alley. Hence the recommendation is to close and convey the alley to the owner of the subject property.

### **Risk Analysis:**

The recommended closure of the alley will divest the City of associated liability risks and maintenance costs. The recommended closure poses no known risk to the City.

### **Climate Change Risks**

#### **Climate Change Mitigation:**

N/A

#### **Climate Change Adaptation:**

N/A

### **Financial Matters:**

The rate for an alley and surplus lands conveyed to abutting lands zoned RD1.2 is assessed at \$1.00 plus deed preparation fee and proportionate share of the survey costs as invoiced to the City by an Ontario Land Surveyor.

The rate for an alley conveyed to abutting lands zoned ID1.1, \$5.00 per square foot without easements and \$2.50 per square foot with easements.

### **Consultations:**

Consultations were held with Municipal Departments and Utility Companies, which resulted in the information found in **attached** hereto as **Appendix "C"**.

Notice of this application was issued to property owners abutting the alley by regular mail on April 6, 2022. Written or verbal correspondence to this notice has been received from the owners of 1904 Meldrum Road, 1923 Larkin Road, 1931 Larkin Road & 1941 Larkin Road, **attached** hereto as **Appendix "G"**. The said property owners have all indicated that they would like to purchase their half of the alley should it be closed.

Notice of Development & Heritage Standing Committee meeting and Council meeting are published in the Windsor Star prior to each of the meetings. In addition, notice of

each of the public meetings will be mailed to the abutting/affected property owners prior to the meetings.

**Conclusion:**

The Planning Department recommends closure of the north/south alley and east/west alley shown on attached Appendix “A”, the latter of which being subject to easements in favour of Bell Canada, EnWin Utilities Ltd., and MNSi as in Recommendation II of this report.

The closed alleys are to be conveyed to the abutting property owners as in Recommendations II and IV of this report.

**Planning Act Matters:**

N/A

**Approvals:**

Name	Title
Michael Cooke	Manager of Planning Policy/Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Chris Carpenter	Coordinator of Real Estate Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administration Officer

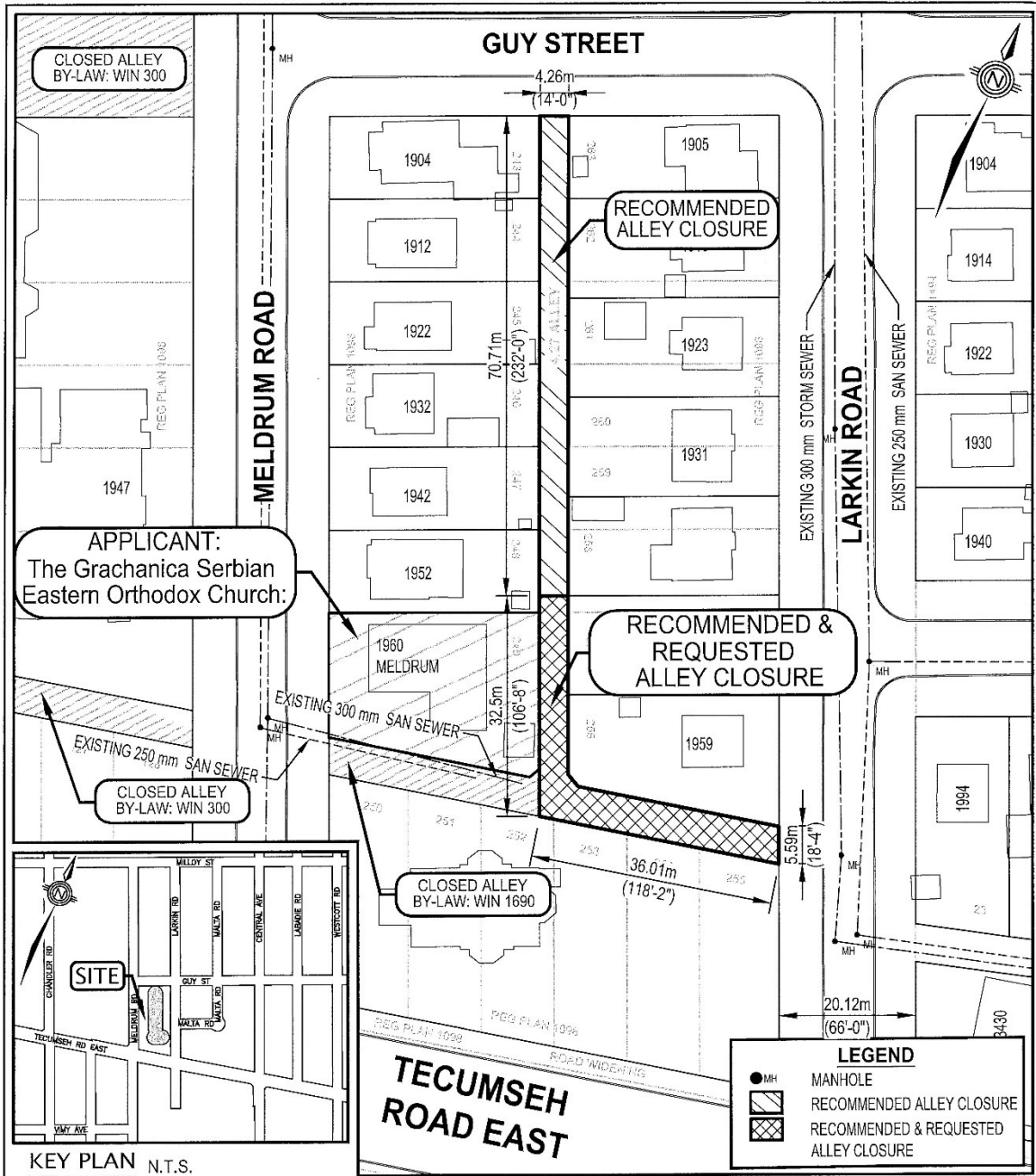
**Notifications:**

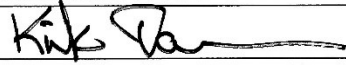
Name	Address	Email
Councillor Ed Sleiman	350 City Hall Square West, Suite 220  Windsor, ON	<a href="mailto:esleiman@citywindsor.ca">esleiman@citywindsor.ca</a>
List of mailing labels for property owners abutting alley issued to Clerks office		

Appendices:

- 1 Appendix A - Drawing No. CC-1806
- 2 Appendix B - EIS Drawing - Aerial Photo
- 3 Appendix C - Consultations with Municipal Departments and Utility Companies
- 4 Appendix D - Site Photos
- 5 Appendix E - Classification of Alleys and Suitability for Closure
- 6 Appendix F - EnWin Utilities Ltd. Aboveground Hydro Easement Diagram
- 7 Appendix G - Correspondence to Notice of Application

**APPENDIX "A"**  
**Drawing No. CC-1809**



THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT			
Proposed Closure of North/South Alley and East/West Alley Between Meldrum Road & Larkin Road, North of Tecumseh Road East to Guy Street			
 Kirk Tamm, Manager of Geomatics	SCALE: 1:750	DATE: MARCH 2022	REVISED:
	DWN BY: JLH	CHKD BY: PJU / MC	REVISION NO.:
			DWG. NO. <b>CC-1809</b>





# APPENDIX "B" EIS Drawing - Aerial Photo



## STREET & ALLEY CLOSING (SAA/6689)

1:750

APPLICANT : SERBIAN ORTHODOX CHURCH

 SUBJECT LANDS

PLANNING DEPARTMENT - DEVELOPMENT DIVISION

DATE: OCTOBER, 2022



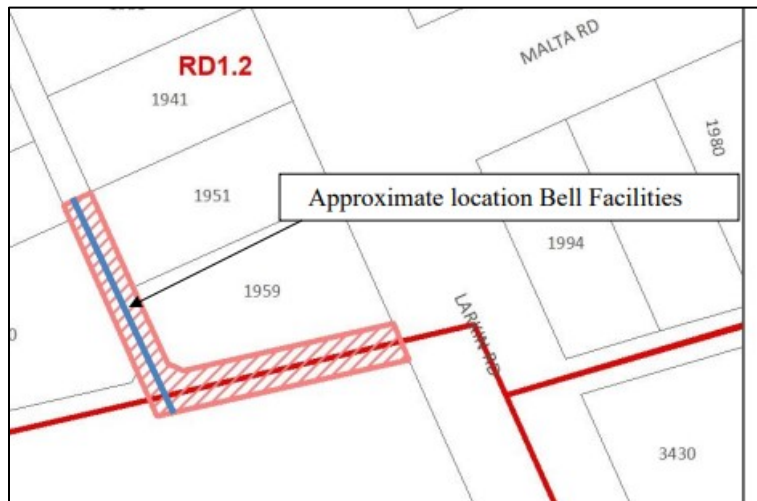
## APPENDIX "C"

### Consultations with Municipal Departments and Utility Companies

#### **BELL CANADA WSP**

Bell Canada requests an easement over the closure area to protect existing aerial facilities.

#### **[Charleyne Hall, Bell Canada External Liaison - Right-of-Way]**



#### **CANADA POST**

No comments provided

#### **COGECO CABLE SYSTEMS INC.**

No comments provided

#### **ENVIRONMENTAL SERVICES**

No comments provided

#### **ENWIN UTILITIES - HYDRO**

If no open alley exists, we will require a minimum 10 ft wide easement (5 ft each side of the pole line) to accommodate the pole, anchors and existing overhead plant.

Also, please note communications may also require easements (ie: Bell, Cogeco).

#### **[Jeremy Allossery, Hydro Engineering Technologist]**

#### **ENWIN UTILITIES - WATER**

Water Engineering has no objections.

#### **[Bruce Ogg, Water Project Review Officer]**

**LEGAL DEPARTMENT**

For lands conveyed to RD1.2, \$1 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. For lands abutting ID1.1, \$5.00 per sq/ft without easements and \$2.50 with easements.

**[Denise Wright, Lease Administrator]**

**MNSi**

MNSi will require an aerial easement through the subject properties please.

**[Dave Hartleib, Outside Plant Manager]**

**PARKS & FACILITIES**

Please note that Parks Design & Development has no comments pertaining to the SAA/6689 LIAISON.

**[Sherif Barsom, Landscape Architect]**

**PLANNING DEPARTMENT**

No comments provided

**PLANNING DEPARTMENT - LANDSCAPE ARCHITECT**

No objections from a landscape architectural perspective.

**[Stefan Fediuk, Landscape Architect]**

**PUBLIC WORKS - ENGINEERING**

Both the north/south and east/west section of the alley closure is composed of grass. There are no sewers or manholes that are located within the alley. There are hydro poles and guy wires within the alley, an easement will be required for utilities. There is a driveway approach at the end of the east/west alley segment allowing entry from Larkin Rd. If the alley is closed, a driveway permit will be required by the property owner of 1980 Meldrum Road to keep and maintain the driveway approach to City Standard AS-204. This alley appears to have no useful purpose by CR146/2005; therefore, we have no objections to the closure subject to the easement.

**[Adam Pillon - Manager Right-of-Way]**

**PUBLIC WORKS - TRAFFIC**

The alley system is not used for vehicular access and not required for pedestrian access. Given that the applicant owns all adjoining properties adjacent to the alley entrance into their parking lot, there are no concerns with closing the alley as shown. Applicant should borne all associated costs including additional No Exit signage required at the north access on Guy St.

Consideration should be given to close the entire alley system at the same time.

**[Mike Spagnuolo, Signal Systems Analyst]**

**ROGERS COMMUNICATIONS**

No comments provided

**TELUS COMMUNICATIONS**

TELUS has no underground infrastructure in the area of your proposed work.

**[Meghna Patel, Permit Coordinator]**

**TRANSPORTATION PLANNING**

No concerns with the proposed closure.

**[Rania Toufelli, Policy Analyst]**

**TRANSIT WINDSOR**

No comments provided

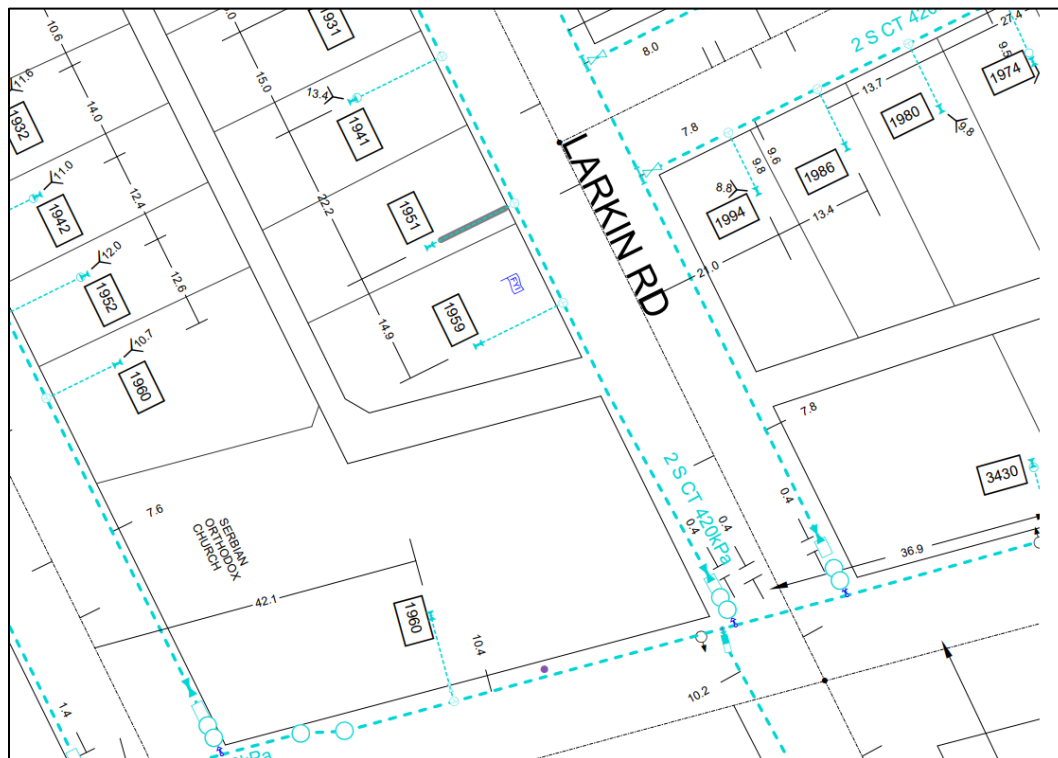
**UNION GAS**

After reviewing the provided drawing between Meldrum Rd & Larkin Rd and consulting our mapping system, please note that Enbridge Gas has no active infrastructure in the proposed area. A PDF drawing has been attached for reference.

Also, please note the following should you find any abandoned infrastructure in the area:

- Any pipe that is excavated, please assume that it is live
- If during the course of any job, any pipe is found that is not on the locate sheet and is in conflict with your work, please call our emergency number (1-877-969-0999), and one of our Union Gas representatives will respond to determine if that plant is in fact live or dead
- Please note that our Enbridge Gas representative will respond to the live or dead call within 1-4 hours, so please plan your work accordingly

**[Jose Dellosa, Drafter / Estimator]**



### **WINDSOR FIRE**

Windsor fire and rescue has no issue.

**[Mike Coste, Chief Fire Prevention Officer]**

### **WINDSOR POLICE**

The Windsor Police Service has no concerns or objections with the closure of this section of alley situated behind the church property. The alley in question is a grassed laneway currently accessible to vehicular traffic but its situational configuration lends itself to facilitating discreet activity, which may be problematic. Closure will not create problems for police to otherwise gain access for emergency incident response or vehicle patrol purposes within the immediate area, as other viable options will remain for this. The end result from this closure will allow for better access control of this space by the Church, which will subsequently generate more beneficial safety and security outcomes.

**[Barry Horrobin, Director of Planning & Physical Resources]**

**APPENDIX "D"**  
**Site Photos (June 28, 2022)**



*Figure 1 - North/south alley looking north from 1960 Meldrum Road*



*Figure 2 - North/south alley looking north towards Guy Street*



*Figure 3 - North/south alley looking south from 1922 Meldrum Road*



*Figure 4 - North/south alley looking south from 1960 Meldrum Road*



*Figure 5 - East/west alley looking east towards Larkin Road*



*Figure 6 - Looking west towards east/west alley from Larkin Road*



## **APPENDIX “E”**

### **Classification of Alleys and Suitability for Closure**

#### **Classification of Public Rights-of-Ways:**

Currently streets and alleys fall into four classifications on the basis of their usefulness:

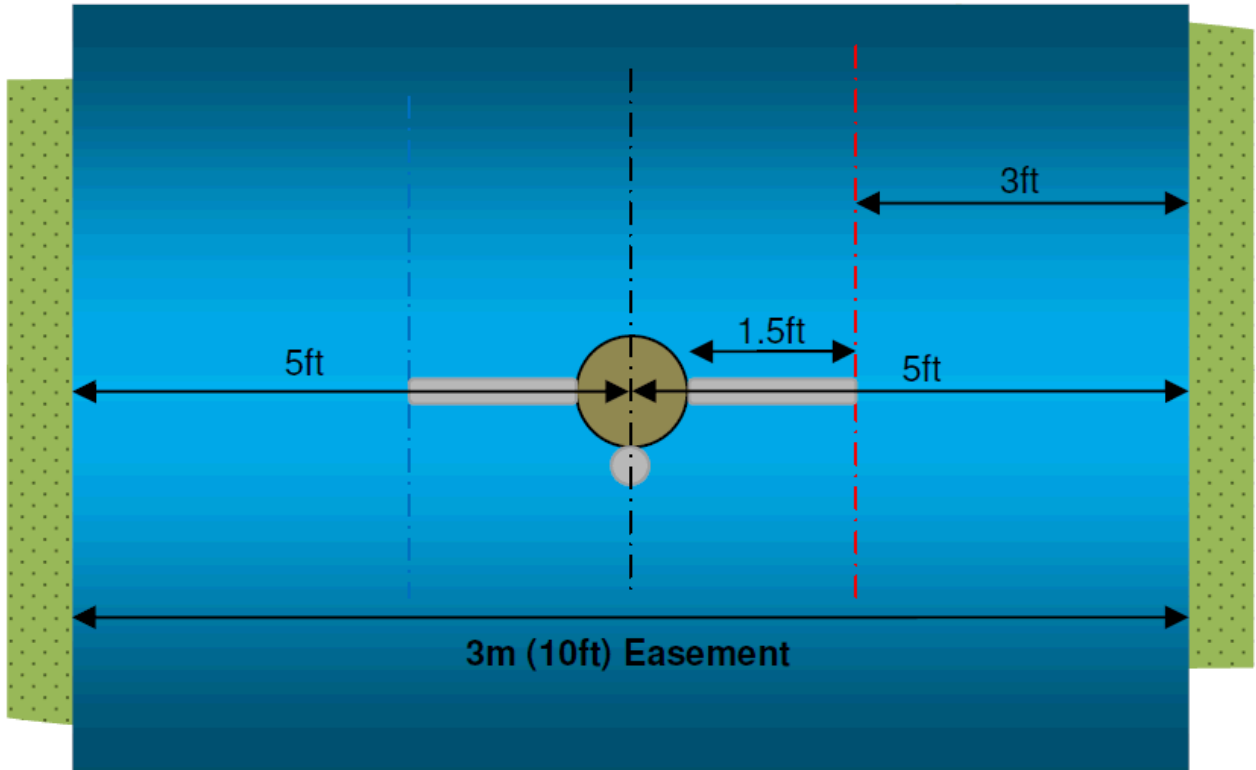
- 1) Alleys that are **indispensable**. These would be alleys serving commercial properties and properties fronting on heavily traveled streets i.e. major arterial routes and alleys which contain sewers and must remain accessible for servicing; alleys or streets which serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive; and, alleys which contain Fire Department connections that are deemed to be necessary for firefighting access.
- 2) Alleys that, **have some usefulness**, are nevertheless dispensable and may or may not be a complete liability.
- 3) Alleys that appear to serve **no useful purpose**, either now, or anticipated. Such alleys are in residential areas and locations where generally the lots are wide enough for side drives, or those alleys abutting parks and other parcels of land that do not require any servicing from the alley. Remnant or stub-end streets which are dead-ended and do not serve as access to other streets.
- 4) Alleys lying in Holding zones and other similar undeveloped areas where the alley system is **clearly obsolete** and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent.

#### **Suitability for Closing:**

Following are the criteria and suitability for closing alleys in each of the above classifications.

- 1) Indispensable alleys should **not be closed**, conveyed, reduced or otherwise jeopardized through minority interests unless a suitable substitute alley is opened in lieu thereof. They are essential from the viewpoint of fire protection, police protection, emergency services (i.e. ambulance) and loading or unloading of goods, refuse collection, servicing of blocked sewers and utility services. Without such alleys, the above noted services would at least be more costly if not impossible to complete or adequately access; and would noticeably interfere with street traffic, thereby reducing the access capacity of the adjacent arterial, collector, or street for business.
- 2) Alleys having some usefulness should **be considered for closing** only upon request of abutting owners rather than by encouragement of the City.
- 3) Alleys that serve no useful purpose should **be closed** if at all possible, and in fact the owners abutting thereon should be encouraged to accept conveyance.
- 4) Alleys that are clearly obsolete should **not be closed** unless there is a municipal need or specific development proposals acceptable to the City are submitted.

**APPENDIX "F"**  
**EnWin Utilities Ltd. Aboveground Hydro Easement Diagram**



**APPENDIX “G”**  
**Correspondence to Notice of Application**

**1904 Meldrum Road**

**From:** [REDACTED]  
**Sent:** Thursday, April 14, 2022 7:08 AM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** Re: SAA/6689 || 1904 Meldrum

**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.

You are most welcome to share the email if it helps to close it all off.

If our neighbor behind us doesn't want to purchase his half of the ally. Would we have the option to buy his half as well?

Thank you.

**From:** [REDACTED]  
**Sent:** Wednesday, April 13, 2022 5:43 PM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** Ally close-off Meldrum

**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.

Hello,

I emailed the city about this matter a while back. Now that there is an application to close off the ally. Does this now mean I have the option to buy our portion of the ally from the city? If so how much will it cost to purchase?

The last time I requested this info I was told to submit an application and money. However I did not want to waste my money for the application if the city was going to turn down the application and keep my money. So if it guaranteed we will get it, I will apply to purchase.

Any information is appreciated.

Thank you.

**John & Sarah Schenk**

Resident at:  
1904 Meldrum Rd

**1923 Larkin Road**

**From:** [REDACTED]  
**Sent:** Friday, April 22, 2022 3:31 PM  
**To:** Matthews, Meghan <MMatthews@citywindsor.ca>  
**Subject:** Re: SAA/6689 || 1923 Larkin

**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.

Thank you for getting back to me so quickly.

Yes, we are interested so feel free to include my email wherever needed.

Have a great weekend.

[REDACTED]

**From:** [REDACTED]  
**Sent:** Friday, April 22, 2022 3:17 PM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** Alley closure at Meldrum and Larkin

**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.

Good afternoon, Meghan.

My [REDACTED] and I live at 1923 Larkin Rd and received the notice in the mail regarding the application for the alley to be partly closed. We spoke with our neighbours and they have also reached out to you to let you know that we are interested in acquiring our portion of the alley if this is an option. Please email me back to let me know what we can do to potentially make this happen.

Thank you,

[REDACTED]

**1931 Larkin Road**

**From:** [REDACTED]  
**Sent:** Wednesday, April 20, 2022 1:52 PM  
**To:** Matthews, Meghan <MMatthews@citywindsor.ca>  
**Subject:** Re: SAA/ 6689 || 1931 Larkin

**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.

Meghan

Yes I would definitely be interested in the ally. I will watch for further emails or letters regarding this matter.

Thank you for getting back to me.

[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, April 19, 2022 6:17 PM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** Partial closing alley - Larkin

**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.

Hello,

My name is [REDACTED] I reside at 1931 Larkin. I received your letter regarding the partial closing of the ally between Meldrum and Larkin. I'm just curious why it's just the beginning and not the entire ally. Is there anything that the rest of the homeowners can do to get the entire ally closed or is this just for the Church? Can you please forward the meeting date and time as many of us would like the ally and we will be in attendance.

I appreciate your time!

[REDACTED]

**1941 Larkin Road**

**From:** Matthews, Meghan <MMatthews@citywindsor.ca>

**Sent:** Thursday, April 14, 2022 10:07 AM

**To:** Matthews, Meghan <MMatthews@citywindsor.ca>

**Subject:** SAA/6689 || 1941 Larkin Rd || Comments

I spoke to [REDACTED] this morning who lives at 1941 Larkin Road. [REDACTED] would like to request that the whole alley be closed. [REDACTED] believed the N/S alley between Larkin & Meldrum were on the alley subsidy list previously. He think it will help with reduce the amount of break-ins and suspicious activity in the alley. [REDACTED] also believes it would help reduce the rat population as garbage and other debris is dumped into the alley.

[REDACTED]

1941 Larkin Road

[REDACTED]

MEGHAN MATTHEWS | STREET & ALLEY LEGAL CLERK



Planning and Building Department

350 City Hall Square West | 210 | Windsor, ON | N9A 6S1

(519)-255-6543 ext. 6310 | Fax (519) 255-6544

[www.citywindsor.ca](http://www.citywindsor.ca)

On Tue, Jan 10, 2023 at 12:39 PM Nagata, Brian <[bnagata@citywindsor.ca](mailto:bnagata@citywindsor.ca)> wrote:

Hi Nik,

Not a problem.

Please refer to my responses to your questions in red below.

Regards,

**BRIAN NAGATA, MCIP, RPP, B.A.A., Dipl.URPI | PLANNER II – DEVELOPMENT REVIEW**



Planning & Building Services

350 City Hall Square West | Reception - 2nd Floor | Windsor, ON | N9A 6S1

(519) 255-6543 ext. 6181

**From:** Nik Gacesa

**Sent:** January 10, 2023 12:04 PM

**To:** Nagata, Brian <[bnagata@citywindsor.ca](mailto:bnagata@citywindsor.ca)>

**Cc:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>; Mckenzie, Kieran <[kmckenzie@citywindsor.ca](mailto:kmckenzie@citywindsor.ca)>

**Subject:** Re: SAA-6689 (North/South Alley between Guy Street & 1980 Meldrum Road; East/West Alley between North/South Alley & Larkin Road)

Thank you for the information.

Regarding the East/West portion of the Alley.

Costs will be \$1 for the North half of the East/West Alley and \$5 per sq ft for the South half of the East/West Alley. Please confirm. **Correct**

What if we attached the whole portion of the East/West Alley to the Mun.No.1959? That has a RD1.2 Zoning? Would that affect the price of the Alley? **The price would remain the same as the south half will continue to be used for institutional purposes.**

The price for the North/South portion of the Alley we are closing would be \$1, also? Please Confirm.. **Correct (save and except that portion that abuts the ID1.1 zoned lands)**

I do have a question. How will Enwin and others access the North/South Alley without an easement for access from the East/West Alley? It is a long way from Guy Street. **EnWin et. al. will ask the property owner/tenant for permission to enter their property to access the infrastructure**

Thank You for Your Time

Nik Gacesa

On Tue, Jan 10, 2023 at 11:01 AM Nagata, Brian <[bnagata@citywindsor.ca](mailto:bnagata@citywindsor.ca)> wrote:

Good morning Nik,

Thank you for attending last evenings' Development & Heritage Standing Committee meeting, and speaking to your application.



You raised questions about the easements and the purchase price that required a more detailed follow-up response from administration.

The easements required to be granted in favour of Bell Canada, EnWin Utilities Ltd. and MNSi will **only** be applied to the alley. Notwithstanding these easements, please note that the *Ontario Building Code* requires a minimum building setback of 3.0 metres from above ground electrical conductors (hydro lines).

The east/west alley located between Larkin Road and the north/south alley will be assessed at the following rates:

- North half will be assessed at \$1.00 plus 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.
- South half of the alley will be assessed at \$5.00 per square foot.

Please feel free to contact me if you have any questions.

Regards,

**BRIAN NAGATA, MCIP, RPP, B.A.A., DipI.URPI|PLANNER II – DEVELOPMENT REVIEW**



Planning & Building Services

350 City Hall Square West | Reception - 2nd Floor | Windsor, ON | N9A 6S1

(519) 255-6543 ext. 6181



## Item No. 8.11

### Committee Matters: SCM 20/2023

**Subject: Amendment to CR305/2021 for closure of part of n/s alley b/w north limit of 1216 Tourangeau Rd & closed part of said n/s alley; e/w alley west of Rossini Blvd & south of Via Rail corridor; and e/w alley b/w Rossini Blvd & said n/s alley, Ward 9, SAA-6317**

Moved by: Councillor Jim Morrison  
Seconded by: Councillor Angelo Marignani

Decision Number: **DHSC 461**

THAT CR305/2021, adopted on July 5, 2021, **BE AMENDED** as follows:  
By **DELETING** the following wording from Recommendation V:

That the portion of the 4.88 metre wide east/west alley between Franklin St and the VIA Rail corridor, east of Tourangeau Rd and west of Rossini Blvd, and shown as Part 3 on Drawing No. CC-1787 *attached* as Appendix "A", **BE RETAINED FOR MUNICIPAL PURPOSES**;

And **INSERTING**:

THAT the east/west alley located between Rossini Boulevard and the properties known municipally as 0 Tourangeau Road (legally described as Lot 147, Plan 796) and 1210 Tourangeau Road (legally described as Lot 146, Plan 796), and shown as Part 3 on Drawing No. CC-1787 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;

THAT the east/west alley located between Rossini Boulevard and the properties known municipally as 0 Tourangeau Road (legally described as Lot 147, Plan 796) and 1210 Tourangeau Road (legally described as Lot 146, Plan 796), and shown as Part 3 on Drawing No. CC-1787 *attached* hereto as Appendix "A", **BE CLOSED AND RETAINED** by The Corporation of the City of Windsor.  
Carried.

Report Number: S 137/2022  
Clerk's File: SAA 2023

**Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are the same.
2. Please refer to Item 11.6 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Amendment to CR305/2021 for closure of part of n/s alley b/w north limit of 1216 Tourangeau Rd & closed part of said n/s alley; e/w alley west of Rossini Blvd & south of Via Rail corridor; and e/w alley b/w Rossini Blvd & said n/s alley, Ward 5, SAA-6317**

**Reference:**

Date to Council: January 9, 2023  
Author: Brian Nagata, MCIP, RPP  
Planner II - Development Review  
(519) 255-6543 ext. 6181  
Planning & Building Services  
Report Date: November 24, 2022  
Clerk's File #: SAA2023

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT CR305/2021, adopted on July 5, 2021, **BE AMENDED** as follows:

By **DELETING** the following wording from Recommendation V:

That the portion of the 4.88 metre wide east/west alley between Franklin St and the VIA Rail corridor, east of Tourangeau Rd and west of Rossini Blvd, and shown as Part 3 on Drawing No. CC-1787 *attached* as Appendix "A", **BE RETAINED FOR MUNICIPAL PURPOSES**;

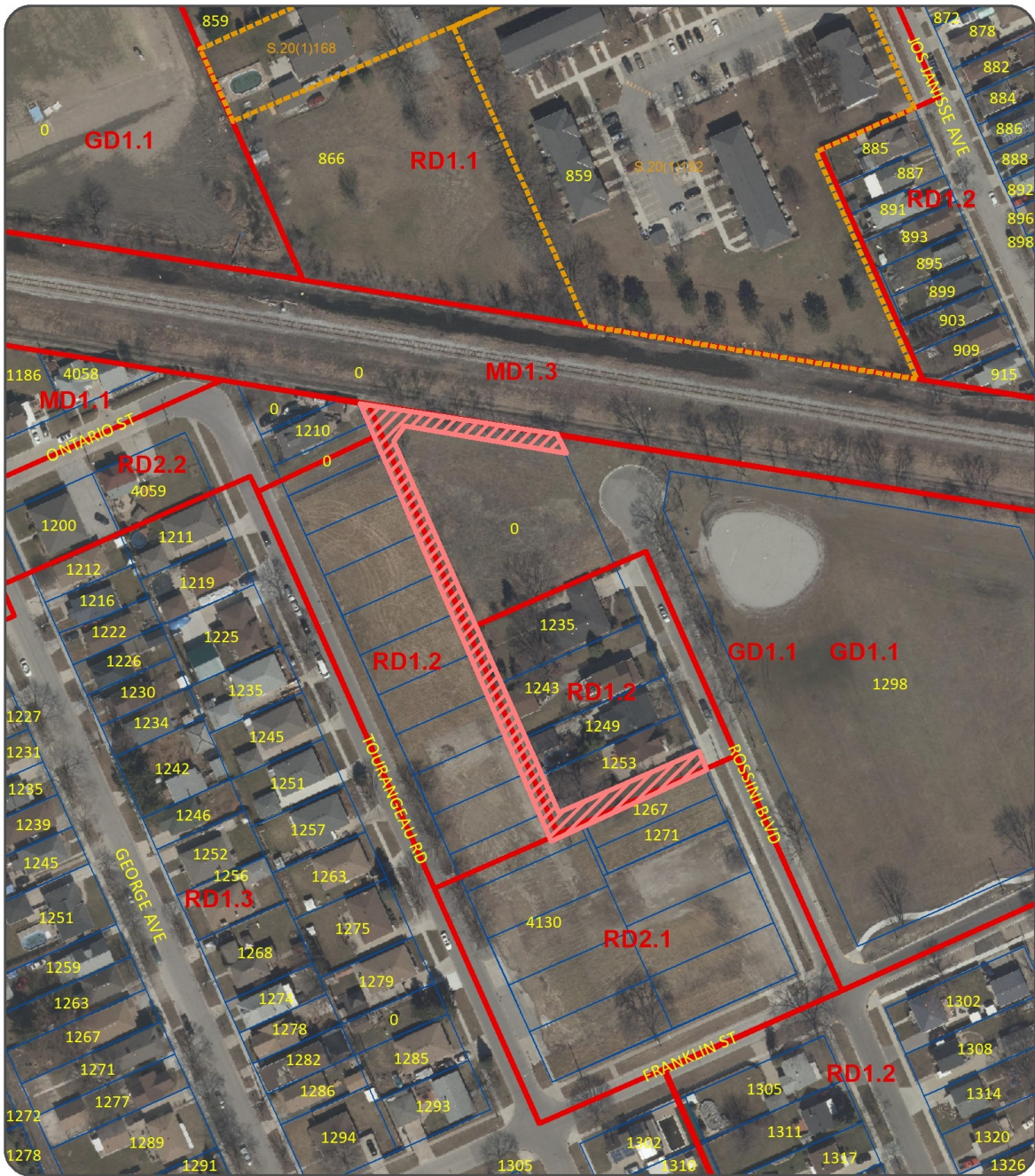
And **INSERTING**:

THAT the east/west alley located between Rossini Boulevard and the properties known municipally as 0 Tourangeau Road (legally described as Lot 147, Plan 796) and 1210 Tourangeau Road (legally described as Lot 146, Plan 796), and shown as Part 3 on Drawing No. CC-1787 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;

THAT the east/west alley located between Rossini Boulevard and the properties known municipally as 0 Tourangeau Road (legally described as Lot 147, Plan 796) and 1210 Tourangeau Road (legally described as Lot 146, Plan 796), and shown as Part 3 on Drawing No. CC-1787 *attached* hereto as Appendix "A", **BE CLOSED AND RETAINED** by The Corporation of the City of Windsor.

# Executive Summary:

N/A



## STREET & ALLEY CLOSING (SAA/6317)

1:1,500

APPLICANT : OLIVIA CONSTRUCTION HOMES

 SUBJECT LANDS

PLANNING DEPARTMENT - DEVELOPMENT DIVISION

DATE: FEBRUARY, 2021



Figure 1 - Location Map

**Background:**

CR305/2021 was adopted by Council on July 5, 2021, to close the portion of the north/south alley located between the north limit of 1216 Tourangeau Road and the previously closed portion of the alley, east/west alley located between Rossini Boulevard and the properties known municipally as 0 Tourangeau Road (Roll No. 010-200-11701) and 1210 Tourangeau Road (the subject alley), and east/west alley located between Rossini Boulevard and the said north/south alley to be closed.

The Legal Services Department in drafting the alley closure by-law (the by-law), identified that CR305/2021 does not include a recommendation to assume the subject alley, which is necessary for its closure.

**Discussion:**

CR305/2021 must be amended to add a recommendation to assume the subject alley in order for it to be included in the by-law.

**Risk Analysis:**

The recommended amendment to CR305/2021 poses no known risk to the City.

**Climate Change Risks****Climate Change Mitigation:**

N/A

**Climate Change Adaptation:**

N/A

**Financial Matters:**

The recommended amendment to CR305/2021 does not effect the conveyance price for the alleys.

**Consultations:**

Consultation was held with representatives from the Legal, Real Estate & Risk Management Department to confirm the details of the required amendment to CR305/2021.

**Conclusion:**

The Planning Department recommends that CR305/2021 be amended to allow for the subject alley to be assumed and closed.

**Planning Act Matters:**

N/A

**Approvals:**

<b>Name</b>	<b>Title</b>
Michael Cooke	Manager of Planning Policy/Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Chris Carpenter	Coordinator of Real Estate Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administration Officer

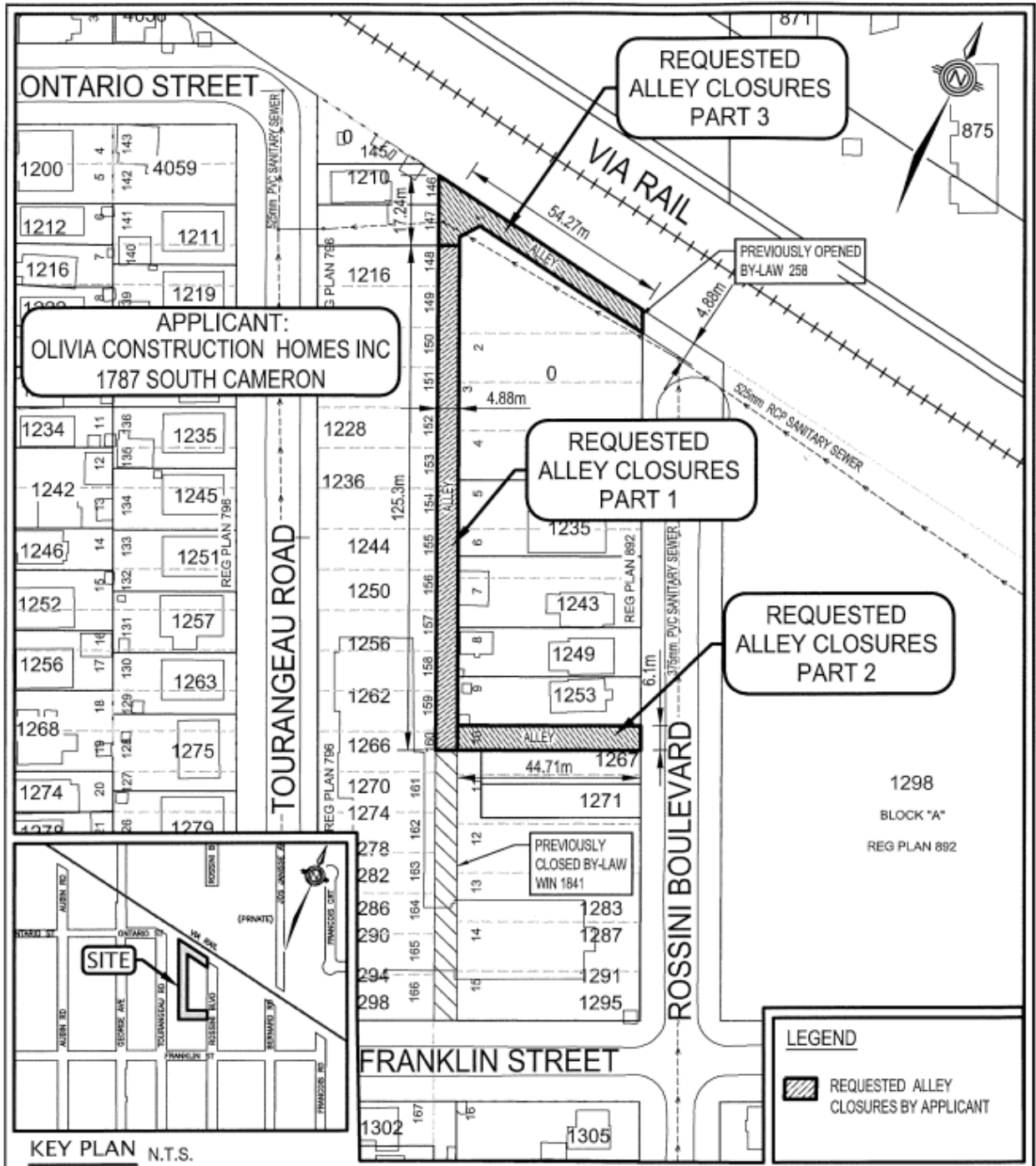
**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
Councillor Sleiman	350 City Hall Square West, Suite 220 Windsor, ON N9A 6S1	<a href="mailto:esleiman@citywindsor.ca">esleiman@citywindsor.ca</a>

**Appendices:**

1 Appendix A - Drawing No. CC-1787

**APPENDIX "A"**  
**Drawing No. CC-1787**



THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT Proposed Alley Closures North of Franklin Street and South of Via Rail between Tourangeau Road and Rossini Boulevard			
 Kirk Tamm, Manager of Geomatics	SCALE: 1:1250	DATE: MAY 2021	REVISED:
	DWN BY: A.C	CHKD BY: PJU / CA / AP	REVISION NO.:
			DWG. NO. CC-1787





**Subject: Closure of portion of north/south alley between Seneca Street & Essex Terminal Railway corridor, and all of east/west alley between Lincoln Road & north/south alley, Ward 4, SAA-6740**

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

That the closure of portion of north/south alley between Seneca Street & Essex Terminal Railway corridor, and all of east/west alley between Lincoln Road & north/south alley, Ward 4, SAA-6740 BE DENIED.

The motion is **put** and is **lost**.

Aye votes: Councillors Mark McKenzie, Angelo Marginani  
Nay votes: Councillors Jim Morrison, Kieren McKenzie  
Absent: Councillor Fred Francis  
Abstain: None.

Moved by: Councillor Jim Morrison  
Seconded by: Councillor Angelo Marignani  
Decision Number: **DHSC 462**

- I. THAT the portion of the 2.13 metre wide north/south alley located between the Essex Terminal Railway corridor and the south limit of the property known municipally as 1624 Lincoln Road (legally described as Lot 702, Plan 988) and shown on Drawing No. CC-1811 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
  
- II. THAT the portion of the 2.13 metre wide north/south alley located between the Essex Terminal Railway corridor and the south limit of the property known municipally as 1624 Lincoln Road (legally described as Lot 702, Plan 988) and shown on Drawing No. CC-1811 *attached hereto as Appendix "A"*, **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice and EnWin Utilities Ltd. Aboveground Hydro Easement Diagram *attached* hereto as Appendix "F", **BE GRANTED** to:
    - i. Bell Canada to protect existing aerial facilities;
    - ii. EnWin Utilities Ltd. to accommodate existing overhead 347/600 volt and 120/240 volt hydro distribution; and

- iii. MNSi for access to service and maintain existing aerial infrastructure;
- III. THAT the east/west alley located between Lincoln Road and the aforesaid north/south alley and shown on Drawing No. CC-1811 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- IV. THAT the east/west alley located between Lincoln Road and the aforesaid north/south alley and shown on Drawing No. CC-1811 *attached* hereto as Appendix "A", **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice, be granted to:
    - i. Essex Terminal Railway Co. for access to repair and maintain the south face of the two existing buildings on the property known municipally as 0 Morton Drive (PIN No. 01140-0266) IF Essex Terminal Railway Co. waives their right to purchase their half of the east/west alley.
  - b. Ontario Land Surveyor be directed to include the existing concrete driveway with the lands to be conveyed to the owner of the property known municipally as 1618 Lincoln Road (legally described as Part of Lot 701, Plan 988).
- V. THAT the Public Works Operations Department **BE REQUESTED** to restore the Seneca Street curb cut to City Standards, and to the satisfaction of the City Engineer.
- VI. THAT Conveyance Cost **BE SET** as follows:
  - a. For alley conveyed to abutting lands zoned RD2.2, \$1.00 plus 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.
  - b. For alley conveyed to abutting lands zoned MD1.1 and MD1.3, \$7.00 per square foot without easements and \$3.50 per square foot with easements.
- VII. THAT The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1811, *attached* hereto as Appendix "A".
- VIII. THAT The City Solicitor **BE REQUESTED** to prepare the necessary by-law(s).  
Carried.  
Councillor Mark McKenzie voting nay.

Report Number: S 142/2022  
Clerk's File: SAA2023

**Clerk's Note:**

1. The recommendation of the Standing Committee and Administration are **not** the same.
2. Please refer to Item 11.7 from the Development & Heritage Standing Committee Meeting held on January 9, 2023.
3. To view the stream of this Standing Committee meeting, please refer to:  
<https://csg001-harmony.sliq.net/00310/Harmony/en/PowerBrowser/PowerBrowserV2/20230109/-1/9374>

**Subject: Closure of portion of north/south alley between Seneca Street & Essex Terminal Railway corridor, and all of east/west alley between Lincoln Road & north/south alley, Ward 4, SAA-6740**

**Reference:**

Date to Council: January 9, 2023  
Author: Brian Nagata, MCIP, RPP  
Planner II - Development Review  
(519) 255-6543 ext. 6181

Planning & Building Services  
Report Date: November 30, 2022  
Clerk's File #: SAA2023

**To:** Mayor and Members of City Council

**Recommendation:**

- I. THAT the portion of the 2.13 metre wide north/south alley located between the Essex Terminal Railway corridor and the south limit of the property known municipally as 1634 Lincoln Road (legally described as Lot 704, Plan 988) and shown on Drawing No. CC-1811 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- II. THAT the portion of the 2.13 metre wide north/south alley located between the Essex Terminal Railway corridor and the south limit of the property known municipally as 1634 Lincoln Road (legally described as Lot 704, Plan 988) and shown on Drawing No. CC-1811 *attached hereto as Appendix "A"*, **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice and EnWin Utilities Ltd. Aboveground Hydro Easement Diagram *attached* hereto as Appendix "F", **BE GRANTED** to:
    - i. Bell Canada to protect existing aerial facilities;
    - ii. EnWin Utilities Ltd. to accommodate existing overhead 347/600 volt and 120/240 volt hydro distribution; and
    - iii. MNSi for access to service and maintain existing aerial infrastructure;

- III. THAT the east/west alley located between Lincoln Road and the aforesaid north/south alley and shown on Drawing No. CC-1811 *attached* hereto as Appendix "A", **BE ASSUMED** for subsequent closure;
- IV. THAT the east/west alley located between Lincoln Road and the aforesaid north/south alley and shown on Drawing No. CC-1811 *attached* hereto as Appendix "A", **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. Easement, subject to there being accepted in the City's standard form and in accordance with the City's standard practice, be granted to:
    - i. Essex Terminal Railway Co. for access to repair and maintain the south face of the two existing buildings on the property known municipally as 0 Morton Drive (PIN No. 01140-0266) IF Essex Terminal Railway Co. waives their right to purchase their half of the east/west alley.
  - b. Ontario Land Surveyor be directed to include the existing concrete driveway with the lands to be conveyed to the owner of the property known municipally as 1618 Lincoln Road (legally described as Part of Lot 701, Plan 988).
- V. THAT the Public Works Operations Department **BE REQUESTED** to restore the Seneca Street curb cut to City Standards, and to the satisfaction of the City Engineer.
- VI. THAT Conveyance Cost **BE SET** as follows:
  - a. For alley conveyed to abutting lands zoned RD2.2, \$1.00 plus 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.
  - b. For alley conveyed to abutting lands zoned MD1.1 and MD1.3, \$7.00 per square foot without easements and \$3.50 per square foot with easements.
- VII. THAT The City Planner **BE REQUESTED** to supply the appropriate legal description, in accordance with Drawing No. CC-1811, *attached* hereto as Appendix "A".
- VIII. THAT The City Solicitor **BE REQUESTED** to prepare the necessary by-law(s).

**Executive Summary:**

N/A



**STREET & ALLEY CLOSING (SAA/6740)**

1:1,000

APPLICANT : HARIS RADONCIC

 SUBJECT LANDS

PLANNING DEPARTMENT - DEVELOPMENT DIVISION

DATE: DECEMBER, 2022



**Figure 1 - Location Map**

## Background:

The applicant, Haris Radonicic, owner of the property known municipally as 1618 Lincoln Road (the subject property), applied to close the portion of the 2.13 metre wide north/south alley located between the Essex Terminal Railway corridor and the south limit of the subject property, together with the east/west alley located between Lincoln Road and the aforesaid north/south alley, and shown on Drawing No. CC-1811 **attached** hereto as **Appendix "A"**, and also shown on the aerial photo **attached** hereto as **Appendix "B"**.

The north/south alley is unmaintained, composed primarily of grass and natural vegetation (shrubs, trees and vines) and includes a curb cut off of Seneca Street. The alley contains utility poles with guy wires and anchors, a small amount of asphalt paving adjacent to 1668 Lincoln Road and a 4.88 metre high chain link fence along the portion of its east limit that abuts Stodgell Park. The alley serves as a means of vehicular access for the following properties:

Address	Type
1638 Lincoln Road	Detached Garage
1662 Lincoln Road	Detached Garage
1668 Lincoln Road	Driveway (includes access off of Lincoln Road)

The alley formerly served as a means of vehicular access for the following properties:

Address	Type
0 Kildare Road	Driveway (gate covered in vines)
1628 Lincoln Road	Detached Garage (chain link fence and moveable planters currently located in front of garage door)
1634 Lincoln Road	Driveway (gate covered in vines)
1656 Lincoln Road	Driveway (overgrown with vegetation)
1674 Lincoln Road	Driveway (accessory building located in front of gate)
1690 Lincoln Road	Driveway (gate covered in vines)

In July 2022, the Parks & Facilities Department removed the chain link fence and a significant amount of the natural vegetation that was growing on and adjacent to it. This action was taken due to it being a safety issue, an eyesore and an impediment to vehicles travelling through the alley. It will also grant the Parks & Facilities Department improved access to cut the grass in the alley and remove the remainder of the natural vegetation along its west side.

In July 2022, the Seneca Street curb cut was inadvertently removed and the boulevard restored when improvements were being made to Stodgell Park and the Seneca Street right-of-way.

The east/west alley is unmaintained and composed primarily of grass. The alley contains of a concrete driveway serving the subject property and includes a curb cut off of Lincoln Road. The Public Works Department issued Driveway Permit P9600939 on May 24, 1996, which allows a portion of the concrete driveway to be located within the

alley. Vehicles accessing the alley must drive over this portion of the concrete driveway. There are no Encroachment Agreements on record for the use of the alley.

The applicant wishes to close the alley for the purpose of enlarging the subject property and eliminating illicit activities occurring within (i.e. illegal dumping, transients).

### **Discussion:**

The decision to recommend closure of an alley is derived from the City's *Classification of Alleys and Suitability for Closure* guideline document (the document), **attached** hereto as **Appendix "E"**. The document details four classifications of alleys based on their usefulness, and provides corresponding criteria for determining suitability for closure.

### **Classification of Public Right-of-Ways**

The initial step is to determine if the alley is indispensable. This is achieved through the evaluation of the following criteria set forth in Section 1 of the document.

1. *Does the subject alley serve commercial properties?*
  - a. The alleys do not serve any commercial properties.
2. *Does the subject alley serve properties fronting on heavily traveled streets i.e. major arterial routes?*
  - a. The alleys do not serve properties fronting on heavily traveled streets.
3. *Does the subject alley contain sewers, and must the alley remain accessible for servicing?*
  - a. The alleys do not contain any sewers.
4. *Does the subject alley serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive?*
  - a. The north/south alley serves as the only vehicular means of access to rear garages at 1638 Lincoln Road and 1662 Lincoln Road, all of which do not have sufficient lot width for a side drive.
    - As noted herein, 1628 Lincoln Road currently has a chain link fence and moveable planters located in front of the overhead door to their detached garage.
  - b. The east/west alley does not serve as a vehicular means of access to any rear parking areas or garages.
5. *Does the subject alley contain Fire Department connections that are deemed to be necessary for firefighting access?*



- a. The alleys do not contain any fire department connections.
6. *Does the subject alley lie within a Holding zone or other similar undeveloped areas where the right-of-way system is clearly obsolete and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent?*

- a. The alleys do not lie within a Holding zone or other similar undeveloped areas.

Based on the above, the Planning Department deems the east/west alley “dispensable” and supports the requested closure.

It is our recommendation that, upon closure, the abutting property owners be given the chance to acquire the east/west alley in the manner described in the Recommendation section herein. Hence the recommendation is to close and convey the east/west alley to the abutting property owners. This recommendation includes a small deviation from the standard manner of conveyance of offering abutting property owners first right to purchase their half of the alley. The deviation involves offering the owner of the subject property the portion of the north half of the alley occupied by the existing concrete driveway, thus honouring the previously issued Driveway Permit. This recommendation also includes the granting of an easement in favour of the Essex Terminal Railway corridor property, known municipally as 0 Morton Drive (Roll No. 080-850-03200), for access to repair and maintain the south face of the two existing buildings with a zero lot line along the alley. This easement is only necessary **IF** 0 Morton Drive waives their right to purchase their portion of the alley. This easement is a prerequisite to the conveyance.

Based on the above, the Planning Department deems the north/south alley “indispensable”.

Notwithstanding the north/south alley being deemed indispensable, the Planning Department is recommending that the portion of the alley not serving as a means of vehicular access to 1638 Lincoln Road and 1662 Lincoln Road be closed and conveyed. This portion of the alley being more particularly described as that located between the Essex Terminal Railway corridor and the south limit of the property known municipally as 1634 Lincoln Road. This recommendation includes the portion of the alley requested for closure as well as that which abuts 1624 Lincoln Road, 1628 Lincoln Road and 1634 Lincoln Road.

It is our recommendation that, upon closure, the abutting property owners be given the chance to acquire the north/south alley in the manner described in the Recommendation section herein. Hence the recommendation is to close and convey the north/south alley to the abutting property owners, which is the standard manner of conveyance. This recommendation is dependent on the Public Works Operation Department restoring the Seneca Street curb cut.

## **Risk Analysis:**

The recommended closure of the alley, described herein will divest the City of associated liability risks and maintenance costs. The recommended closure poses no known risk to the City.

## **Climate Change Risks**

### **Climate Change Mitigation:**

N/A

### **Climate Change Adaptation:**

N/A

## **Financial Matters:**

The rate for an alley conveyed to abutting lands zoned RD2.2 is assessed at \$1.00 plus deed preparation fee and proportionate share of the survey costs as invoiced to the City by an Ontario Land Surveyor.

The rate for an alley conveyed to abutting lands zoned MD1.1 and MD1.3 is assessed at \$7.00 per square foot without easements and \$3.50 per square foot with easements.

## **Consultations:**

Consultations were held with Municipal Departments and Utility Companies, which resulted in the information found in **attached** hereto as **Appendix "C"**.

The Parks Department is not in support of the requested closure, as it will eliminate emergency and pedestrian access to Stodgell Park from Lincoln Road.

This pedestrian access poses public safety concerns due to limited sightlines from the public realm and absence of lighting.

Windsor Police through their comments has confirmed that the requested closure will not hinder their ability to respond to calls from Stodgell Park or the properties on Lincoln Road abutting the alley.

Notice of this application was issued to property owners abutting the alleys on April 29, 2022, which resulted in the correspondence found in **attached** hereto as **Appendix "G"**.

The correspondence includes concerns raised by the applicant and the owners of 1628 Lincoln Road, 1634 Lincoln Road and 1638 Lincoln Road. A high level overview of the concerns with select commentary from the Planning Department is included below:

### **1618 Lincoln Road**

- Concerned with how the removal of the Seneca Street curb cut will affect their alley closure application.

### **1628 Lincoln Road**

- Will eliminate pedestrian access to Stodgell Park from Lincoln Road.
- Unhappy that the Seneca Street curb cut was removed prior to a decision being made by Council on the requested alley closure.
- Will negatively impact property values.
- City has neglected to maintain its half of the alley for several years.
- Use the alley to access property to drop off groceries and to do work in the backyard.
  - The use of the alley for non-essential (not required by law) pedestrian access does not warrant excluding the abutting portion from the recommended closure.
- Concerns with the removal of the aforesaid chain link fence.
  - This matter has no bearing on the application.
  - The property owner has been advised to discuss their concerns with the Parks & Facilities Department.

### **1634 Lincoln Road**

- Opposed to the requested closure, as it would create a one-way alley causing vehicles without a rear garage or driveway to back out of the alley. This in conjunction with the alleys narrow width and unmaintained state would create a dangerous situation.
- Use the alley for access.
  - The use of the alley for non-essential (not required by law) pedestrian access does not warrant excluding the abutting portion from the recommended closure.
- City should be maintaining their half of the alley.
- Requested closure will probably negatively impact property value.

### **1638 Lincoln Road**

- Concerned that requested closure will eliminate access to rear garage, as the north/south alley from their property to Seneca Street is not maintained.
- Existing trees impede vehicles from backing out north of the garage, which is necessary to exit the alley onto Seneca Street.
  - There are trees that impede vehicles backing out south of the garage as well.
- Existing Multiple Dwelling (Seneca Apartments) at 1636 Seneca Street obstructs sightlines of vehicular operators exiting the north/south alley onto Seneca Street.

- The Transportation Planning Division did not identify any concerns with sightlines.
- Seneca Apartments have been in place for close to 100 years.
- Would like the entire alley to remain open.

The Planning Department is not recommending that the portion of the alley abutting this property be closed, as it serves as a means of vehicular access to a rear garage.

Notice of Development & Heritage Standing Committee meeting and Council meeting are published in the Windsor Star prior to each of the meetings. In addition, notice of each of the public meetings will be mailed to the abutting/affected property owners prior to the meetings.

**Conclusion:**

The Planning Department recommends closure of the east/west alley and a portion of the north/south alley, shown on attached Appendix “A”, subject to easements in favour of Bell Canada, EnWin Utilities Ltd., Essex Terminal Railway Co. (if applicable) and MNSi, and the restoration of the Seneca Street curb cut as in Recommendation II of this report respectively.

The closed alleys are to be conveyed to the abutting property owners as in Recommendation II of this report.

**Planning Act Matters:**

N/A

**Approvals:**

Name	Title
Michael Cooke	Manager of Planning Policy/Deputy City Planner
Thom Hunt	City Planner / Executive Director, Planning & Development Services
Chris Carpenter	Coordinator of Real Estate Services
Wira Vendrasco	Deputy City Solicitor, Legal Services & Real Estate
Jelena Payne	Commissioner, Economic Development & Innovation
Onorio Colucci	Chief Administration Officer

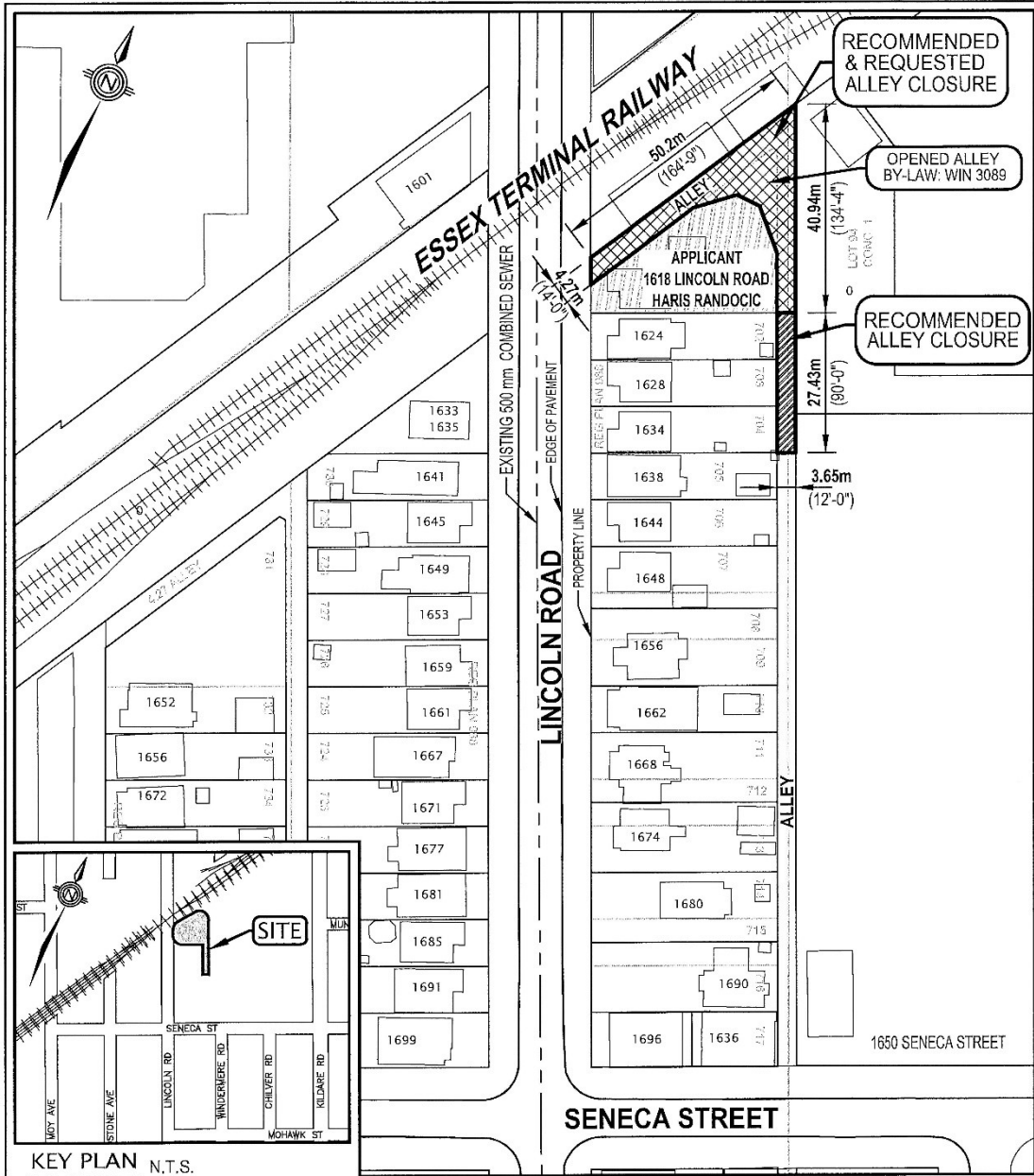
**Notifications:**

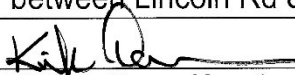
<b>Name</b>	<b>Address</b>	<b>Email</b>
Councillor Mark McKenzie	350 City Hall Square West, Suite 220 Windsor, Ontario N9A 6S1	<a href="mailto:MMcKenzie@citywindsor.ca">MMcKenzie@citywindsor.ca</a>
List of mailing labels for property owners abutting alley issued to Clerks office		

**Appendices:**

- 1 Appendix A - Drawing No. CC-1811
- 2 Appendix B - EIS Drawing - Aerial Photo
- 3 Appendix C - Consultations with Municipal Departments and Utility Companies
- 4 Appendix D - Site Photos
- 5 Appendix E - Classification of Alleys and Suitability for Closure
- 6 Appendix F - EnWin Utilities Ltd. Aboveground Hydro Easement Diagram
- 7 Appendix G - Correspondence to Notice of Application

### APPENDIX "A" Drawing No. CC-1811



THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT Proposed Partial Closure of North/South Alley and East/West Alley between Lincoln Rd & Kildare Rd, North of Seneca St & South of ETR				
 Kirk Tamm, Manager of Geomatics	SCALE: 1:1000	DATE: MAY 2022	REVISED:	DWG. NO. CC-1811
	DWN BY: DB/GP	CHKD BY: PJU / MM	REVISION NO.:	

# APPENDIX "B" EIS Drawing - Aerial Photo



## STREET & ALLEY CLOSING (SAA/6740)

1:1,000

APPLICANT : HARIS RADONCIC

 SUBJECT LANDS

PLANNING DEPARTMENT - DEVELOPMENT DIVISION

DATE: DECEMBER, 2022



**APPENDIX “C”****Consultations with Municipal Departments and Utility Companies****BELL CANADA WSP**

No comments provided

**CANADA POST**

No comments provided

**COGECO CABLE SYSTEMS INC.**

No comments provided

**ENVIRONMENTAL SERVICES**

No concerns from Environmental Services.

**[Anne-Marie Albidone, Manager, Environmental Services]**

**ENWIN UTILITIES - HYDRO**

No objection, however, upon closing, an easement named to ENWIN Utilities Ltd. is required for the entire east/west and north/south alley upon closing to accommodate existing overhead 347/600 volt and 120/240 volt hydro distribution.

**[Steve Zambito, Senior Hydro Engineering Technologist]**

**ENWIN UTILITIES - WATER**

Water Engineering has no objections.

**[Bruce Ogg, Water Project Review Officer]**

**LEGAL DEPARTMENT**

For lands conveyed to RD2.2, \$1 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. For lands abutting MD1.1 and MD1.3, \$7.00 per sq/ft without easements and \$3.50 per sq/ft with easements. For lands abutting GD1.1, to be retained for municipal purposes.

**[Denise Wright, Lease Administrator]**



**MNSi**

MNSi has plant on the pole line through this area as shown below we will require an Aerial Easement

**[Dave Hartleib, Outside Plant Manager]**

**PARKS & FACILITIES**

Please note that Parks Design and Development is not in support to partially close N/S alley and close E/W Alley between Lincoln & Kildare; North of Seneca & South of Shepherd.

This closing will cut the live continues connection between the back ally and the Lincoln Rd from the Northwest corner. The existing Ally that parallel to the Stodgell Park will have a dead (closed) end and this is not preferred for any emergency situation or emergency access.

Also, closing such alley's end is limiting the pedestrian access to Stodgell Park from Lincoln Rd at the Northwest corner.

It's recommended to leave it as is and reject the proposed closing.

**[Sherif Barsom, Landscape Architect]**

**PLANNING DEPARTMENT**

No comments provided

**PLANNING DEPARTMENT - LANDSCAPE ARCHITECT**

No comments provided

**PUBLIC WORKS - ENGINEERING**

The subject alley closure is approximately 4.27 (14 feet) wide and is composed of grass. There are no sewers, manholes or catch basins located in the proposed closure. There are wooden hydro poles, guy-wires, and overhead wires located in the alley. An easement will be required for utilities. The abutting property owners at 1618 Lincoln Road have a driveway permit in place to maintain the driveway approach to City Standard. The alley may be used as garage access for 1628, 1638 and 1662 Lincoln Road, however, the current closure application would only restrict alley access from the north. Alley access would remain from Seneca Street. This alley appears to serve no useful purpose by CR146/2005; therefore, we have no objections to the closure of this alley.

**[Adam Pillon - Manager Right-of-Way]**

**PUBLIC WORKS - TRAFFIC**

Alley is not required for pedestrian access. There are multiple garages and driveways that still use the alley way for access. Although it is a grass alley, it appears to be maintained and used. If the alley is closed as proposed, the south access to Seneca would need to remain accessible.

**[Mike Spagnuolo, Signal Systems Analyst]**

**ROGERS COMMUNICATIONS**

No comments provided

**TELUS COMMUNICATIONS**

No comments provided

**TRANSPORTATION PLANNING**

No objections to the proposed closure as shown. The alley should remain open from 1624 Lincoln Road to Seneca as some homes appear to still be using this alley.

**[Shannon Deehan, Transportation Planner I]**

**TRANSIT WINDSOR**

No comments provided

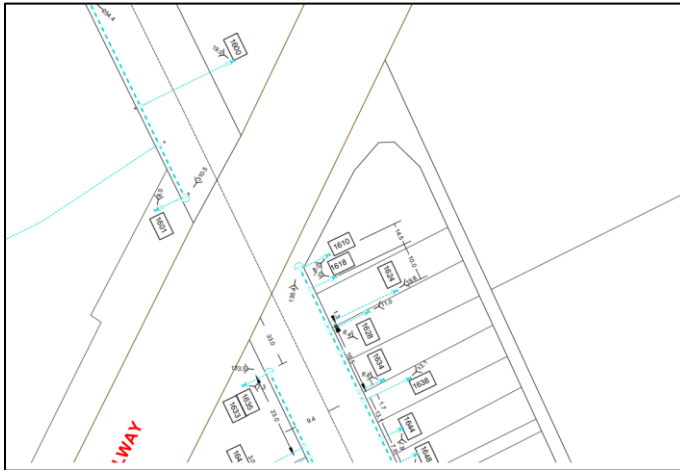
**UNION GAS**

After reviewing the provided drawing at 1618 Lincoln and consulting our mapping system, please note that Enbridge Gas has no active infrastructure in the proposed area. A PDF drawing has been attached for reference.

Also, please note the following should you find any abandoned infrastructure in the area:

- Any pipe that is excavated, please assume that it is live
- If during the course of any job, any pipe is found that is not on the locate sheet and is in conflict with your work, please call our emergency number (1-877-969-0999), and one of our Union Gas representatives will respond to determine if that plant is in fact live or dead
- Please note that our Enbridge Gas representative will respond to the live or dead call within 1-4 hours, so please plan your work accordingly

**[Jose Dellosa, Drafter / Estimator]**



### **WINDSOR FIRE**

No comments provided

### **WINDSOR POLICE**

Principally speaking, the Windsor Police Service has no objections with the closure of this uniquely shaped section of east/west and north/south alley. A physical site inspection was carried out on June 10<sup>th</sup>, 2022 to assess conditions. The space in question is a grassed area that is only marginally visible and currently accessible via the side yard space between 1618 Lincoln Road and the property next north. The rear side is enclosed with chain link fencing where the subject alley section abuts the large parking lot to the east. If this alley space is closed, it will not prevent the police from maintaining emergency response capability to incidents to abutting properties but the remaining side yard width facing Lincoln becomes the only realistic and convenient way patrolling officers can view into the space if suspicious activity was to be occurring.

**[Barry Horrobin, Director of Planning & Physical Resources]**

**APPENDIX "D"**  
**Site Photos (June 28, 2022 & November 3, 2022)**

**June 28, 2022**



*Figure 1 - Looking east towards east/west alley from Lincoln Road (1618 Lincoln Road on right)*



*Figure 2 - East/west alley looking east from west face of garage at 1618 Lincoln Road (right)*



*Figure 3 - East/west alley looking west towards Lincoln Road (1618 Lincoln Road on left)*



*Figure 4 - North/south alley looking south from junction with east/west alley*



*Figure 5 - North/south alley looking south (detached rear garage at 1628 Lincoln Road on right)*



*Figure 6 - North/south alley looking south (detached rear garage at 1638 Lincoln Road on right)*



*Figure 7 - North/south alley looking south (detached rear garage at 1662 Lincoln Road on right)*



*Figure 8 - Looking north towards north/south alley from Seneca Street*



*Figure 9 - North/south alley looking north (detached rear garage at 1662 Lincoln Road on left)*



*Figure 10 - North/south alley looking north from north limit of 1624 Lincoln Road (left)*



**November 3, 2022**



*Figure 11 - Looking north towards north/south alley from Seneca Street*



*Figure 12 - North/south alley looking north (1636 Seneca Street on left)*



*Figure 13 - North/south alley looking north (1690 Lincoln Road on left)*



*Figure 14 - North/south alley looking west towards rear driveway at 1668 Lincoln Road*



*Figure 15 - North/south alley looking north towards rear detached garage at 1662 Lincoln Road*



*Figure 16 - North/south alley looking north towards fence in state of disrepair at 1648 Lincoln Road*



*Figure 17 - North/south alley looking north (rear detached garage at 1638 Lincoln Road on left)*



*Figure 18 - North/south alley looking north towards rear detached garage at 1638 Lincoln Road*



*Figure 19 - North/south alley looking north (1638 Lincoln Road on left)*



*Figure 20 - North/south alley looking east towards access gate to Bell Canada facility*



*Figure 21 - North/south alley looking south (1624 Lincoln Road on right)*



*Figure 22 - North/south alley looking south (1634 Lincoln Road on right)*



*Figure 23 - North/south alley looking south (1648 Lincoln Road on right)*



*Figure 24 - North/south alley looking south (1656 Lincoln Road on right)*



*Figure 25 - North/south alley looking west towards 1636 Seneca Street*



## **APPENDIX “E”**

### **Classification of Alleys and Suitability for Closure**

#### **Classification of Public Rights-of-Ways:**

Currently streets and alleys fall into four classifications on the basis of their usefulness:

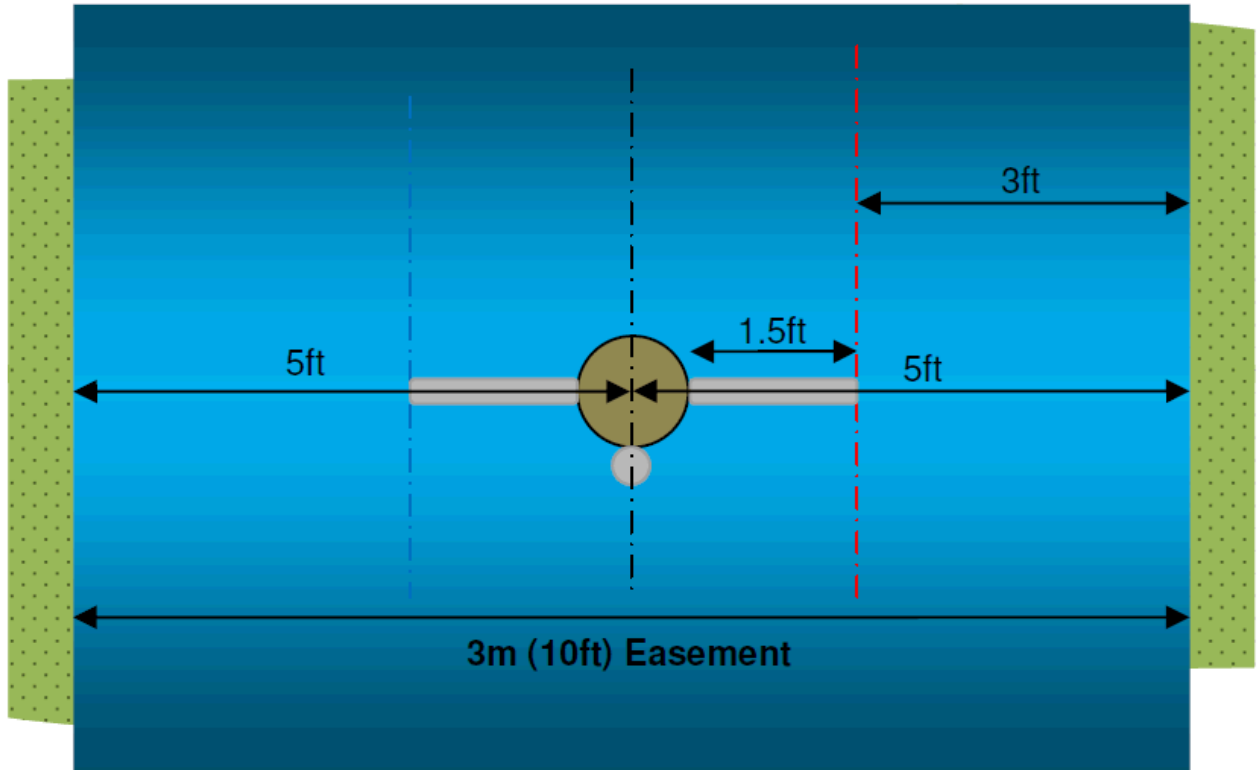
- 1) Alleys that are **indispensable**. These would be alleys serving commercial properties and properties fronting on heavily traveled streets i.e. major arterial routes and alleys which contain sewers and must remain accessible for servicing; alleys or streets which serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive; and, alleys which contain Fire Department connections that are deemed to be necessary for firefighting access.
- 2) Alleys that, **have some usefulness**, are nevertheless dispensable and may or may not be a complete liability.
- 3) Alleys that appear to serve **no useful purpose**, either now, or anticipated. Such alleys are in residential areas and locations where generally the lots are wide enough for side drives, or those alleys abutting parks and other parcels of land that do not require any servicing from the alley. Remnant or stub-end streets which are dead-ended and do not serve as access to other streets.
- 4) Alleys lying in Holding zones and other similar undeveloped areas where the alley system is **clearly obsolete** and has never been developed, but where the City needs to keep its options open until new area plans are prepared and development is imminent.

#### **Suitability for Closing:**

Following are the criteria and suitability for closing alleys in each of the above classifications.

- 1) Indispensable alleys should **not be closed**, conveyed, reduced or otherwise jeopardized through minority interests unless a suitable substitute alley is opened in lieu thereof. They are essential from the viewpoint of fire protection, police protection, emergency services (i.e. ambulance) and loading or unloading of goods, refuse collection, servicing of blocked sewers and utility services. Without such alleys, the above noted services would at least be more costly if not impossible to complete or adequately access; and would noticeably interfere with street traffic, thereby reducing the access capacity of the adjacent arterial, collector, or street for business.
- 2) Alleys having some usefulness should **be considered for closing** only upon request of abutting owners rather than by encouragement of the City.
- 3) Alleys that serve no useful purpose should **be closed** if at all possible, and in fact the owners abutting thereon should be encouraged to accept conveyance.
- 4) Alleys that are clearly obsolete should **not be closed** unless there is a municipal need or specific development proposals acceptable to the City are submitted.

**APPENDIX "F"**  
**EnWin Utilities Ltd. Aboveground Hydro Easement Diagram**



**APPENDIX “G”**  
**Correspondence to Notice of Application**

**1618 Lincoln Road**

**From:** [REDACTED]  
**Sent:** Tuesday, July 05, 2022 11:33 AM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** RE: SAA/6740 - 1618 Lincoln

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Yes , No more curb entrance on Seneca side.

That park that is there appears to have a new parking lot (Still in progress) on top of all construction on Corner of Seneca/Lincoln.

But I did hear that the garages that are there (newer builds) are illegal.

Thanks,

[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, July 05, 2022 8:21 AM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Cc:** [REDACTED]  
**Subject:** RE: SAA/6740 - 1618 Lincoln

**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.

Good Morning Meghan,

My [REDACTED] was there at time of photos.

But I noticed that a parking lot is being added at the play ground ,and the alley way curb approach(South alley Seneca road entrance) was removed and a new curb installed.(Alley has no approach curb).

Is this going to be a problem as we were looking at a partial closing next to 1618 property?

Let me know.

Or call me at 519-965-4928 anytime.

Thanks,

[REDACTED]

**1628 Lincoln Road****From:** [REDACTED]**Sent:** Wednesday, August 3, 2022 4:17 PM**To:** Nagata, Brian <bnagata@citywindsor.ca>**Subject:** Re: Alley Closure Application SAA-6740 (North/South Alley between the Essex Terminal Railway and Seneca Street; East/West Alley between Lincoln Road and said Alley)

**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.

Hello Mr. Brian Nagata,

Thank you for the update.

We find it rather interesting that The Parks & Facilities Department using their neglect to maintain the fence as an excuse for the removal of said fence. Yes, weed growth and trees growing into the fence caused problems but it has never been the residents' responsibility but the City's. As of now with the removal of the driveway from Seneca and the fence as well we are not sure that we can even talk about an alley as such for the most part since Stodgell Park now extends to the back of most of the properties on the block. It may improve the maintenance - we'll have to wait and see - but it also removed the privacy of people enjoying their backyard.

It should be noted that the only pedestrian traffic from the alley to the park is from the north entrance which the alley closure application intends to block. Pedestrian access from the alley to the park has nothing to do with the fence because the fence did not extend all the way to Bell Canada's property. People could access the park from the north walking through the part of the alley that's not bordering the park and enter the park before the fence started. So that has never been an issue however it will be if the application is aproved and the north entrance to the alley is closed as well.

You wrote in your previous letter that "the alley is NOT closed." Well it is de facto closed at Seneca. This fact on the ground contradicts your statement that "The closure of an alley requires the passing of a by-law(s) by Council." It's been over a month now and we still don't know who and why decided to remove the driveway from Seneca or when will it be restored. It seems somebody has more authority than you or Council in this matter.

We certainly hope that this problem get's resolved soon before somebody files a legal complaint.

Sincerely,

Karoly Biro

**From:** [REDACTED]  
**Sent:** Monday, July 18, 2022 9:54 PM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** Re: File No. SAA/6740

**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.

Dear Meghan Matthews,

I would really like to know why the alley was closed from Seneca and the fence separating the alley from the park ripped out without a single word of notice from the City of Windsor and zero input from the people living here? You have only notified the homeowners about an application to partially close the north end of the alley. There was no mention of closing the alley at the Seneca entrance. "The City will not erect fences, etc. to physically block off the alley/street/walkway." This is exactly what the City just did at Seneca!

This is not only outrageous but your attitude towards us living here is discriminatory. You are ignoring and downplaying the concerns and complaints of the residents when they write or call.

It appears you are trying to completely eliminate the alley by removing the boundary (fence) between the park and the properties located here. By closing off access from Seneca and pushing forward with the application (File No. SAA/6740) you are in fact denying homeowners access to the back of their properties.

The claim that it will not affect the property values is utter nonsense and it is clearly not supported by any facts on your part.

The City has neglected for decades to maintain the fence and its half of the alley by breaking its own BY-LAW NO. 3-2006/ Part 7 – Prohibition of Littering within the City of Windsor/ 7.3 Maintaining the Alley or Land: "Every owner or occupant of land in the City of Windsor shall keep and maintain that portion of the alley or land which abuts upon such land, up to the middle of the alley or lane, free and clear of weeds, ashes, paper, building material, rubbish and other refuse.(added By-law 126-2007, July 3, 2007)"

So the homeowners are only responsible for half of the alley the other half next to the fence is the City's responsibility.

I am very disappointed in the way this is being handled and the way you are treating us.

Sincerely,  
[REDACTED]

**From:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Sent:** Wednesday, July 6, 2022 3:17 PM

To: Matthews, Meghan <MMatthews@citywindsor.ca>

Subject: SAA/6740 || 1628 Summary

I received a call today from 1628 Lincoln. They were requesting an update to the file. I had advised them that the planner has done a field visit and will be working on a report in the future.

1628 has a garage in the rear of the property that faces the park. Their garage does have a fence around it, as noted in Brian's field visit. I inquired if they move the fence to park in their garage. They informed me that they currently do not use their garage to park in but they do use the alley to access their property to drop off groceries and to do work in their backyard, as they do not have a driveway.

They also informed me that today there was someone removing the fence that borders the Alley and Park. They inquired if the fence will be replaced and the worker informed them that they were told to remove the fence and to leave all trees. The worker is unsure if a new fence will be erected. The worker informed 1628 Lincoln to speak to Trevor Duquette. They left a message with Duquette requesting a call back.

1628 Lincoln also informed me that the curb cut to enter Seneca has been restored to a full curb. They can no longer access the alley through the Seneca entrance.

-Meghan

**MEGHAN MATTHEWS | STREET & ALLEY LEGAL CLERK**



Planning and Building Department

350 City Hall Square West | 210 | Windsor, ON | N9A 6S1

(519)-255-6543 ext. 6310 | Fax (519) 255-6544

[www.citywindsor.ca](http://www.citywindsor.ca)

-----Original Message-----

From: [REDACTED]

Sent: Sunday, May 8, 2022 10:44 PM

To: Matthews, Meghan <MMatthews@citywindsor.ca>

Subject: File No. SAA/6740

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.

To whom it may concern,

Re: To partially close N/S alley and close E/W alley between Lincoln & Kildare; North of Seneca & South of Shepperd

We are strongly opposed to the idea of closing the alley as described in the letter dated April 29, 2022. We regularly use this route to access our garage and the back of our property.

This closure of the north access to the alley has no benefit to the people living in the area affected by this application. The alley is not maintained by the city so many times the alley is not driveable all the way through from Seneca due to overgrown bushes, vines and waist high grass. Closing off the alley from the north could make it next to impossible to access the garages that open to the alley especially during several days of raining. It would also negatively affect the value of properties and encourage illegal dumping of discarded furniture and other junk in the alley.

On a final note the applicant does not even reside at 1618 Lincoln so he has no concern how this closure would affect his neighbours.

Please keep us updated about the public meeting regarding this application.  
Thank you.

Sincerely,

██████████  
1628 Lincoln Rd.  
██████████

**1634 Lincoln Road**

**From:** [REDACTED]  
**Sent:** Tuesday, May 24, 2022 10:03 AM  
**To:** Matthews, Meghan <MMatthews@citywindsor.ca>  
**Subject:** Re: Closing alley - File No. SAA/6740

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Hello Meghan,

Yes, I use the alley for access. I would like to point out that the eastern side of the alley is bordering a park so it should be the city's responsibility to properly maintain that side. When they cut the grass in the park it would not take much effort, time and energy to cut the grass in the alley as well as it was done some time ago but not anymore.

[REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** Sunday, May 22, 2022 9:43 PM  
**To:** Matthews, Meghan <MMatthews@citywindsor.ca>  
**Subject:** Closing alley - File No. SAA/6740

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.

File No. SAA/6740

Re: To partially close N/S alley and close E/W alley between Lincoln & Kildare; North of Seneca & South of Shepherd

Hello,

I am opposed to the idea of closing the alley on the north side. The closure would create a one way alley where every vehicle entering would have to back out in reverse. The alley is very narrow and not maintained so this would create a dangerous situation. This would also probably negatively impact the value of my property.

It is a very bad idea that does not serve the interest of the people living in this neighborhood.

Sincerely,

[REDACTED]  
1634 Lincoln Rd.



**1638 Lincoln Road**

**From:** Matthews, Meghan <MMatthews@citywindsor.ca>

**Sent:** Friday, May 13, 2022 2:20 PM

**To:** Matthews, Meghan <MMatthews@citywindsor.ca>

**Subject:** SAA/6740 - Homeowner objection

I spoke to [REDACTED] who is the homeowner of 1638 Lincoln. [REDACTED] has advised me that [REDACTED] has a garage that faces the alley. [REDACTED] uses it daily to park in. [REDACTED] does not have a driveway. [REDACTED] has children and believes it is safer for [REDACTED] to use [REDACTED] garage to unload [REDACTED] groceries and children than the street parking. [REDACTED] asked me how [REDACTED] would get out of the alley if the Lincoln entrance was closed, I advised [REDACTED] that [REDACTED] can exist out Seneca. [REDACTED] informed me that the Seneca entrance is often not properly maintained so it is difficult to exit. It is also hard to see past the 1636 Seneca to properly exit. [REDACTED] also informed me that if [REDACTED] enters Seneca and tries to exit Seneca there is a tree in the alley that makes it difficult to exit [REDACTED] garage towards Seneca.

[REDACTED] would like the whole alley to remain open.

-Meghan

**MEGHAN MATTHEWS | STREET & ALLEY LEGAL CLERK**



Planning and Building Department

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**From:** Kelly Stacey  
**Sent:** Wednesday, December 28, 2022 2:50 PM  
**To:** Matthews, Meghan  
**Subject:** Re:SAA/6740 - 1662 Lincoln Road

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Good Afternoon Meghan,

In response to a Public Meeting Notice regarding **Closure of portion of north/south alley between Seneca Street & Essex Terminal Railway corridor, and all of east/west alley between Lincoln Road & north/south alley, Ward 4, SAA-6740**

Yes, we will certainly be attending the meeting on January 9, 2023.

Included with the Notice just received, are numerous emails directed to the City of Windsor regarding the closure. We would like to add our comments below to those already received.

As recent homeowners, we were very disappointed to learn that although we have a garage on our premises, it is virtually useless. Mere month(s) before we purchased our house, access was removed.

Although, we appreciate the upgrades to the public park, it is unacceptable that basic access to our property has been eliminated.

All residents and taxpayers would feel the same. It is inconvenient and housing values will suffer as a result. Access to your entire property is critical.

Even simple activities such as washing the car or changing a tire are now impossible. It is simply not fair and must be rectified.

Lincoln Road is a busy and narrow street. It is a bus route and parking is limited. By reopening the alleyway and thus allowing residents to access/park in their garages, you are helping to relieve the strain on street parking. This is common sense and a benefit to all.

Please reinstate alley access! It is necessary!!

Sincerely,

Benjamin Fossen & Kelly Stacey

Residents of 1662 Lincoln Road

**January 9, 2023**  
**Development & Heritage Standing Committee**  
**Item 11.7 – Written Submission**

Dear Meghan,

I am contacting you because I would like to submit additional photos and information regarding the upcoming meeting on Jan 9th. In the copy of the report and recommendations of the planner provided to us by the clerk's office, there was a statement that said the driveway on my property, 1634 Lincoln Rd., had a gate covered in vines that formerly served as vehicular access to my backyard. This is not accurate. As you can see in the pictures I provided in the attachments, the gate is not covered in vines and can be opened for access. Closing the east-west alley would cut off the main vehicular access to my rear parking area, which I intend to clear of debris and use as the number of cars parked on Lincoln Rd has significantly increased recently. My plot is too narrow for a driveway or parking in the front, so I must use my rear parking area if I wish to park a car, boat, or any other vehicle, now or in the near future. Therefore, I believe that this alley is not 'dispensable', and ask that the planner to update his report and recommendations to the Development and Heritage Standing Committee.

I may not be able to make it to the meeting on Monday since I finish work at 4pm, but I have asked Zeena Biro to speak on my behalf.

Sincerely,

Attila Kovats

1634 Lincoln Rd.

**From:** Aliz  
**Sent:** Tuesday, May 24, 2022 10:03 AM  
**To:** Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
**Subject:** Re: Closing alley - File No. SAA/6740

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Hello Meghan,

Yes, I use the alley for access. I would like to point out that the eastern side of the alley is bordering a park so it should be the city's responsibility to properly maintain that side. When they cut the grass in the park it would not take much effort, time and energy to cut the grass in the alley as well as it was done some time ago but not anymore.

Attila Kovats

On 5/23/2022 1:30 PM, Matthews, Meghan wrote:  
Hello Attila Kovats,

Thank you so much for providing your comment. I will add your comment to our file for the planner to review. In due course you will receive a letter from the city inviting you to participate at the Standing Committee to voice your concerns about the closure. At this time I do not have a date.

However, I do want to inform you that if the Seneca entrance is not properly maintained please call 311. It is the abutting owners responsibility to properly maintain the alley, especially if the alley is being used for access. Attila, do you currently use the alley for access?

-Meghan

**MEGHAN MATTHEWS | STREET & ALLEY LEGAL CLERK**



Planning and Building Department  
350 City Hall Square West | 210 | Windsor, ON | N9A 6S1  
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-----Original Message-----

From: Aliz  
Sent: Sunday, May 22, 2022 9:43 PM  
To: Matthews, Meghan <[MMatthews@citywindsor.ca](mailto:MMatthews@citywindsor.ca)>  
Subject: Closing alley - File No. SAA/6740

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.

File No. SAA/6740

Re: To partially close N/S alley and close E/W alley between Lincoln & Kildare; North of Seneca & South of Shepherd

Hello,

I am opposed to the idea of closing the alley on the north side. The closure would create a one way alley where every vehicle entering would have to back out in reverse. The alley is very narrow and not maintained so this would create a dangerous situation. This would also probably negatively impact the value of my property.

It is a very bad idea that does not serve the interest of the people living in this neighborhood.

Sincerely,

Attila Kovats  
1634 Lincoln Rd.









**January 9, 2023**  
**Development & Heritage Standing Committee**  
**Item 11.7 – Written Submission**

Dear Meghan,

I want to provide you with some photos and documentation that I think will be very important for the meeting on Monday. From the pictures you can see that my parking garage is completely accessible to vehicles, and is not blocked by fences or planters of any kind.

According to Appendix "E" of the planner's report and recommendations that we have received, "alleys which serve as the only vehicular means of access to rear parking areas and garages where the property has insufficient lot width for a side drive" are to be deemed **indispensable**.

My property is not wide enough to put in a driveway or garage in the front. Therefore, our garage is necessary to access or park a vehicle on our property. The east/west alley serves as my main point of access. This alley closure would cut off the main vehicular access to my property. I request that the Planning Department reconsider their recommendation and classify the east/west alley as '**indispensable**' according to the Classification of Public Right-of-Ways because it meets the criteria as explained above.

Sincerely,

Karoly Biro

1628 Lincoln Road







**January 9, 2023**  
**Development & Heritage Standing Committee**  
**Item 11.7 – Written Submission**

Hello Meghan,

Unfortunately I will be out of town on the 9<sup>th</sup> and unavailable to be present.  
The package you sent had what I believe to read as positives towards closure.(Partial)

There were some points of devalue in property which I disagree with, if anything it will increase the value of everyone's property as they are gaining land value.

My points for wanting closure, that I want stated are:

- 1- Vandalism(Graffiti) on my garage and Railway buildings.
- 2- Transients (meth clinic) 20 yards away leave bikes on our property and peer into house.(Living room and back yard)
- 3- Garbage-This area is used for dumping.-Ex: Roof shingles, Pool liner and accessories, furniture , needles, bottles, dog waste..(We clean all that up)
- 4- Vehicles that have gone through create long deep tracks and get stuck creating possible liabilities.

Pro's- We all get more property for an increase in value I believe.

Thanks,  
Haris

**Subject: Streamlining Right-of-Way Division Approvals to Enable Rapid Execution of Council's Vision and Incorporating Heritage Features into the Encroachment Policy - City Wide**

**Reference:**

Date to Council: January 30, 2023

Author: Amy Olsen

Technologist III

(519) 255-6257 ex 6562

aolsen@citywindsor.ca

Engineering

Report Date: November 23, 2022

Clerk's File #: SW2023

To: Mayor and Members of City Council

**Recommendation:**

1. That the following items **BE DELETED** from the Delegation of Authority By-law No. 208-2008 and incorporated into regular business processes:
  - (a) Section 1.9 Sidewalk Sales
  - (b) Section 1.33 Sewer Agreements
  - (c) Section 3.2 Approval of legal encroachments within the terms of Council's established policy.
2. That Council **APPROVE** Administration's recommendation to add Heritage Features to the Encroachment Policy.
3. That Council **APPROVE** the amended Encroachment Policy M67-2015 attached herein as Appendix A and delegate the signing of agreements as identified in the Encroachment Policy.
4. That Council **APPROVE** the updated Land Value Fees within Appendix B and further that the updated fees **BE REFERRED** to the 2023 Operating Budget Process by way to the 2023 User Fee Schedule and further that the Land Value Fees **BE AMENDED** from time to time to reflect current rates.

5. That the Chief Administration Officer and City Clerk **BE AUTHORIZED** to execute agreements for Private Drain Connection replacements and encroachment agreements, satisfactory in form to the Commissioner of Legal & Legislative Services, in technical content to the Commissioner of Infrastructure Services and in financial content to the Commissioner of Corporate Services.

### **Executive Summary:**

N/A

### **Background:**

Council Report C-169/2021 (Appendix C) dated December 20, 2021, provided the following information to Council:

“As part of the Chief Administrative Officer’s (CAO’s) report to Council on the *Current Organizational State of The Corporation of the City of Windsor* (Report C87/2021, June 21, 2021), Council directed administration to report back to Council with amendments to the Delegation of Authority By-law No. 208-2008 (DOA By-law) to remove “red tape” and enable rapid execution of Council’s vision and direction.”

The purpose of this report is to propose streamlining measures that would enable administration to deliver better and faster services to residents. By reducing administrative burdens (such as lengthy approval timelines, multiple levels of review and approval, and high demand of staff time to prepare reports), staff could maximize their time to enable rapid execution of Council’s vision and direction.”

On the April 11, 2022 Special Meeting of Council, the subject report was deferred back to Administration to allow for consideration of any recommended changes to the Delegation of Authority By-law, and asked that those recommended changes be brought forward by subject area in individual reports to Council.

Recommendations 3 and 4 within C-169/2021 pertain to the Right-of-Way Division (outlined below) and have been further defined within the Discussion Section of this report as requested by CR-132/2022.

3. That the following items **BE DELETED** from the Delegation of Authority By-law No. 208-2008 and incorporated into regular business processes:
  - (a) Section 1.9 Sidewalk Sales
  - (b) Section 1.33 Sewer Agreements
  - (c) Section 3.2 Approval of legal encroachments within the terms of Council’s established policy

4. That the Manager of Right-of-Way **RETURN** to Council with an amendment to the Encroachment Policy M67-2015 to adjust the approval authority.

Further to the above Recommendations, on August 10, 2022, the following question was asked by Councillor Bortolin:

*“Ask that Administration provide Council with a report on potential changes to the encroachment policy that would permit memorial signs and historical features to be placed in the right-of-way. Also, report on potential options to the Engineering Landscape Best Practice BP3.2.2 that would allow mulch in right-of-way without a permit.”*

While the Landscape Best Practice and Memorial Signs have been addressed in a separate report to Council (C 205/2022), Heritage Encroachments have been included in the amended Encroachment Policy (Appendix A) and are discussed further below.

### **Discussion:**

The recommendations in this report focus on the following Right-of-Way matters: 1) Items to be deleted from the Delegation of Authority By-law No. 208-2008 and incorporated into Regular business processes; and 2) Approval of the amended Encroachment Policy M67-2015

- 1) Items TO BE DELETED from the Delegation of Authority By-law No. 208-2008 (DOA By-law) and Incorporated into Regular Business Processes. A review of these three items outlined below, showed that in the last 12 years, none of the Delegation of Authority Reports supported by Administration and submitted for approval to the CAO have been rejected.

**Section 1.9 Sidewalk Sales:** Sidewalk sales are requested by the Business Improvement Associations (BIAs) a few times per year and have increased recently due to the pandemic, in an effort to bring the community together. The review process for a sidewalk sale is very similar to a sidewalk café permit application, which no longer requires CAO approval as per By-law 64-2016, May 16, 2016 and has not had any issues since eliminating this section from the DOA. The current process to receive approval for a sidewalk sale takes 4 to 6 weeks. If the Commissioner of Infrastructure Services approves the sidewalk sale, a permit could be issued in 7 to 10 days. After review of the previous eleven (11) Sidewalk Sale applications submitted since 2017, it was verified that they were all approved. Administration recommends removing sidewalk sales from the DOA By-law and administration will implement a permit process approved by the Commissioner of Infrastructure Services.

**Section 1.33 Sewer Agreements:** Sewer Agreements are completed as per By-law 4921. Currently, a report is created to obtain a CAO approval number in order to authorize the execution of the agreement. A sewer permit is issued immediately, as



the property owners' plumbing may not be functioning. The Right-of-Way Division issues the sewer permit as per By-law 25-2010 and there is a Request for Proposal (RFP) issued to the approved contractors. There is little to no risk in removing this item from the DOA By-law as the agreement is standardized and eliminating the requirement for a CAO approval will allow the Right-of-Way Division to deliver these services faster, as per By-law 4921 and By-law 25-2010. Since its inclusion under By-Law 208-2008, over 750 Sewer Agreement reports have been created and approved by the CAO.

**Section 3.2 Approval of legal encroachments within the terms of Council's established policy:** The encroachment agreement process is very lengthy, with an average timeline of approximately 5 to 6 months to completion. Removing this section from the DOA By-law and incorporating it into regular business processes will expedite the timeline to less than a month. This new process is outlined on Appendix D and will be similar to the encroachment agreement renewal process that was previously approved under CAO-3648 in August 2016. This process reduced encroachment renewals from four (4) to six (6) months down to two (2) or three (3) weeks. Delegating authority to the Commissioner of Infrastructure Services would not change the permitting, review, and agreement process. Since 2010, over 1000 encroachment applications have been received by property owners looking to legalize items within the right-of-way. Of the applications submitted for approval and recommended by Administration, none of the reports have been rejected by the CAO. If Administration cannot recommend a proposed encroachment or if it requires a broader consultation, then Council will receive a report for decision.

2) AMENDMENTS to the Encroachment Policy M67-2015 (Appendix A):

**Section 4.0 Responsibility**

***Added***

- 4.2 Approval to execute agreements by the Chief Administrative Officer.
- 4.3 Approval to execute agreements by the City Clerk.
- 4.6 Inclusion of the Office of the Commissioner of Corporate Services to ensure financial process within the Policy is followed.

***Amended***

- 4.5 Approval of the Encroachment Policy has shifted from the Chief Administrative Officer to the Commissioner of Infrastructure Services.

**Section 5.0 Definitions**

***Added***

- 5.4 *City*, means The Corporation of the City of Windsor.

- 5.11 *Good Standing*, the property owner(s) tax account payments are up-to-date, there are no outstanding fees and the tax account is not subject to any form of sanction, suspension or payment plans.
- 5.13 *Heritage Encroachments*, the heritage features of a property on the Windsor Municipal Heritage Register, that are integral to the cultural heritage value or interest of the property as determined by the City Planner, and which if removed would otherwise trigger an *Ontario Heritage Act* process.
- 5.24 *User Fee Schedule*, the City's current encroachment user fee schedule, which may be amended from time to time.

***Amended***

- 5.16 *No Fee Encroachment* definition has been amended to include waiving the one-time or annual encroachment fee.

**Section 6.0 Encroachment Fees**

***Amended***

- 6.3 Residential Encroachment fee: Revised and reconfigured to include a section allowing residential encroachment fees of \$2,000.00 and greater to be added to their property taxes with conditions.
- 6.6 Parking Space Encroachment fee: Additional wording has been included to better define the fee structure based on property zoning.

**Section 8.0 Approvals**

***Amended***

- 8.1 Approval of the Encroachment Policy has shifted from the Chief Administrative Officer to the Commissioner of Infrastructure Services.

**Section 9.0 Encroachment Application**

***Amended***

- 9.4 Language has been incorporated to allow existing encroachment agreements to remain in place at the discretion of City Administration.
- 9.5 Notice of sale has been shifted from Risk Management to the Engineering Department, who will advise affected internal departments upon receipt.

**Section 10.0 Encroachment Agreement**

***Deleted***

- 10.1 One-time & annual encroachment agreement templates have been removed from the Policy. The Commissioner of Legal & Legislative Services will continue to follow the proper process to ensure encroachment agreements are drafted satisfactory in form as outlined in Section 4 of the Encroachment Policy.

Note : Insurance Requirements & Encroachment Exemptions/Special Exceptions Circumstances previously Sections 11 & 12 have been moved to Section 10 & 11 respectively.

## **Section 11.0 Encroachment Exemptions/Special Exceptions Circumstances**

### ***Newly Added***

11.8 Heritage Encroachment section included to define their requirements.

### ***Amended***

11.1 Encroachments over 8'-0" has been amended to generalize the type of object encroaching.

11.2 Encroachments from grade to 8'-0" has been amended to generalize the type of object encroaching.

Other non-material, minor amendments have been made to ensure consistency throughout the Policy.

### **Risk Analysis:**

There is minimal to no risks associated with delegating the approval authority of the items discussed here to the Commissioner of Infrastructure Services. Detailed policies and processes have been developed to ensure the protection of the City's interest as a whole while meeting the residents individual needs.

### **Climate Change Risks**

#### **Climate Change Mitigation:**

N/A

#### **Climate Change Adaptation:**

N/A

### **Financial Matters:**

Land values, for purposes of determining Encroachment Fees are published within the annual User Fee schedule. These fees are established by the Manager of Real Estate Services or designate in accordance with the Encroachment Policy to determine that rates are current. Amendments to these fees are traditionally brought forward as part of the annual operating budget approval process.

The last amendment was in 2015. After review, it is recommended that the current fees be amended and incorporated into the 2023 User Fee Schedule as follows:

Land Types	Current Land Value (2015-2022)	Proposed Land Value (2023)
Residential (R1 & R2 only)	\$10.00/ft <sup>2</sup>	\$12.00/ft <sup>2</sup>
Commercial (and >=R3)	\$12.00/ft <sup>2</sup>	\$15.00/ft <sup>2</sup>
Industrial	\$2.30/ft <sup>2</sup>	\$7.00/ft <sup>2</sup>
Institutional	\$5.00/ft <sup>2</sup>	\$5.00/ft <sup>2</sup>
Downtown	\$25.00/ft <sup>2</sup>	\$36.00/ft <sup>2</sup>

**Consultations:**

The following members of Administration have been consulted:

Joshua Meloche, Legal Counsel

Janice Guthrie, Taxation, Treasury & Financial Projects, Deputy Treasurer

Linda Mancina, Financial Planning Administrator

Kristina Savi-Mascaro, Purchasing, Risk Management & Provincial Offences

Chris Carpenter, Coordinator of Real Estate Services

Frank Scarfone, Manager of Real Estate Services

Kristina Tang, Heritage Planner

Michael Cooke, Manager of Planning Policy, Deputy City Planner

Andrew Lewis, Coordinator of Right-of-Way & Field Services

**Conclusion:**

Administration is always looking for ways to improve the delivery of services and streamline processes. The recommendations outlined herein provides an opportunity to streamline approvals to permit Sidewalk Sales, expedite the execution of standard private sewer and encroachments agreements as well as incorporate heritage features into the Encroachment Policy.

**Planning Act Matters:**

N/A

**Approvals:**

Name	Title
Adam Pillon	Manager of Right-of-Way
France Isabelle-Tunks	Executive Director Engineering/Deputy City Engineer
Chris Nepszy	Commissioner, Infrastructure Services/City Engineer
Shelby Askin Hager	Commissioner, Legal and Legislative Services
Joe Mancina	Commissioner, Corporate Services CFO/City Treasurer
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address
List provided to Clerks Office	

**Appendices:**

- 1 Appendix A - M67-2015 Amended Encroachment Policy
- 2 Appendix B - Encroachment User Fee Schedule
- 3 Appendix C - Council Report C-169/2021
- 4 Appendix D - Encroachment Agreement Approval Flow Chart

**Appendix A**

**THE CORPORATION OF THE CITY OF WINDSOR  
POLICY**

Service Area:	<b>Office of the Commissioner of Infrastructure Services</b>	Policy No.:	
Department:	<b>Engineering</b>	Approval Date:	<b>February 17, 2015</b>
Division:	Development, Projects, Right-of-Way	Approved By:	<b>M67-2015</b>
		Revised Date:	<b>December 12, 2022</b>
		Effective Date:	<b>February 17, 2015</b>
Subject:	<b>Encroachment Policy</b>	Procedure Ref.:	User Fee Schedule
		Pages:	Replaces:
Prepared By:	Amy Olsen		Date:

**1. POLICY**

1.1 The encroachment policy governs the computation of encroachment fees and requirements as defined within this Policy.

**2. PURPOSE**

2.1 The revised encroachment policy would simplify, provide direction to Administrative staff for processing the encroachment application and streamline the encroachment process, ensuring the exposure to risk and liability is mitigated. Therefore this Policy specifically:

- 2.1.1 Defines an encroachment;
- 2.1.2 Provides a process for approvals, requirements, exemptions; and
- 2.1.3 Establishes simplified computation of encroachment fees.

**3. SCOPE**

3.1 This Policy applies to all encroachments on the public right-of-way including properties with encroachment agreements that have changed ownership since the agreement was executed as defined herein.

**4. RESPONSIBILITY**

The responsibilities related to use of this Policy are outlined below:

- 4.1 The Mayor and City Council are responsible for:**
  - 4.1.1 Approving, supporting and enforcing the Policy;
  - 4.1.2 Make determination of the Policy and resolve any exceptions or disagreements.
- 4.2 The Chief Administrative Officer is responsible for:**
  - 4.2.1 Enforcing and supporting the Policy;
  - 4.2.2 Execute Encroachment Agreements.
- 4.3 The City Clerk is responsible for:**
  - 4.3.1 Execute Encroachment Agreements.
- 4.4 The Office of the Commissioner of Legal & Legislative Services:**
  - 4.4.1 Enforcing the Encroachment Policy;
  - 4.4.2 Ensuring the Encroachment Agreement is satisfactory in form.

## Appendix A

### 4.5 The Office of the Commissioner of Infrastructure Services:

- 4.5.1 Approving, administering, enforcing and supporting the Policy;
- 4.5.2 Ensuring the Encroachment Agreement is Satisfactory in technical content;
- 4.5.3 Ensures staff process the application and follow the Policy.

### 4.6 The Office of the Commissioner of Corporate Services:

- 4.6.1 Ensuring the Encroachment Agreement is Satisfactory in financial content;
- 4.6.2 Ensures staff process the encroachment agreement fees and follow the Policy.

## 5. DEFINITIONS

- 5.1 **A-Frame Signs or ‘Sandwich Board Signs’**, are signs not permanently anchored to the ground.
- 5.2 **Area of Encroachment**, the square footage of the personal property of any description that is placed, occupied or maintained upon any highway.
- 5.3 **Bus Bays (lay-by)**, road widening to permit temporary parking/stopping etc.
- 5.4 **City**, means The Corporation of the City of Windsor.
- 5.5 **Downtown Land Value**, the value of property (\$ per square foot) used for non-residential encroachment located within the Downtown Windsor Business Improvement Area, and collected in accordance with the User Fee Schedule.
- 5.6 **Encroachment**, any personal property of any description that is placed, occupied or maintained upon any municipal right-of-way including but not limited to signs, fences, sheds, porches, footings, canopies, parking areas, decorative or landscape rocks or boulders, logs, curbing, vaults, structures (in whole or part), private sewers.
- 5.7 **Encroachment Agreement**, refers to a legal and binding agreement between the City and the property owner having permission to occupy the right-of-way. The Council Resolution requires the owner to enter into a legal and binding agreement as a condition of approval to use the public right-of-way.
- 5.8 **Encroachment caused by gratuitously conveyed lands**, is an encroachment caused as a result of a property owner gratuitously conveying lands to the City for road widening purposes (reference 5.16 - No Fee Encroachment).
- 5.9 **Encroachment Term**, 20 years from the agreement execution date or change of zoning or change in ownership, whichever occurs first.
- 5.10 **Exception**, a person or thing that is excluded from a general statement or does not follow a rule.
- 5.11 **Good Standing**, the property owner(s) tax account payments are up-to-date, there are no outstanding fees and the tax account is not subject to any form of sanction, suspension or payment plans.
- 5.12 **Hedge, Plantings, Ground Cover**, includes but is not limited to plants, shrubs, flowers, ornamental grasses, and hedges.
- 5.13 **Heritage Encroachments**, the heritage features of a property on the Windsor Municipal Heritage Register, that are integral to the cultural heritage value or interest of the property as determined by the City Planner, and which if removed would otherwise trigger an *Ontario Heritage Act* process.
- 5.14 **Land Value**, the value of property (\$ per square foot) as per the User Fee Schedule as determined by the Commissioner of Legal & Legislative Services.
- 5.15 **Long Term Hoarding**, for properties that have hoarding on City rights-of-ways for two (2) or more years with no intention of construction (no Building Permit application submitted) and repair is not proceeding or ongoing.
- 5.16 **No Fee Encroachment**, the application fee, agreement preparation fee, and the annual or one-time encroachment fees are waived. The Right-of-Way Permit fee is applicable

## Appendix A

as well as the annual inspection and billing fee (applies to properties not zoned R.1 or R.2 only), including a Certificate of Insurance.

- 5.17 **Non Residential Encroachment**, being defined as an encroachment located on the public right-of-way abutting area not zoned R.1, R.2 or partially exempt in the City of Windsor.
- 5.18 **Parking Space Encroachment**, being defined as an encroachment with an area used for parking on any type of hard surface that is approximately 18.5 square metres (200 square feet).
- 5.19 **Partially Exempt Encroachment**, being defined as an encroachment located on the public right-of-way abutting lands owned by a partially exempt organization (Public Authority, charitable organization, non-profit charities, churches and similar facilities) independent of zoning in the City of Windsor.
- 5.20 **Permanent**, lasting or intended to last or remain unchanged indefinitely.
- 5.21 **Public Authority**, means a School Board, Public Library Board, Board of Health, Board of Commissioners of Police or any other board or commission or committee or authority established or exercising any power or authority under any general or special statute of Ontario with respect to the affairs or purposes of the City of Windsor.
- 5.22 **Residential Encroachment**, being defined as an encroachment located on the public right-of-way abutting land zoned R.1, R.2 in the City of Windsor.
- 5.23 **Temporary**, lasting for only a limited period of time; not Permanent; less than one (1) year.
- 5.24 **User Fee Schedule**, the City's current encroachment user fee schedule, which may be amended from time to time.

## 6. **ENCROACHMENT FEES**

- 6.1 All encroachment fees are based on the User Fee Schedule, including a minimum annual or one-time encroachment fee.
- 6.2 Multiple encroachments may exist on a single property, if approved.
- 6.3 The **Residential Encroachment fee** is based on the Encroachment Term, and is computed in accordance with the User Fee Schedule.
  - 6.3.1 One-time fees payable to the City upon demand (invoice).
  - 6.3.2 Any residential property with a one-time encroachment fee of \$2,000.00 or greater, may elect to add the costs to their tax roll and will be collected in the same manner as taxes, under the following conditions:
    - 6.3.2.1 The property owner(s) statement of account with the City is in Good Standing.
    - 6.3.2.2 Paying in full by way of 5 equal annual installments, the Owner's cost of encroachment plus interest calculated at the rate of prime rate plus 1%, established as of the invoice date is determined by the City, to be calculated annually in advance, plus registration costs.
    - 6.3.2.3 The Owner's agreement that the Owner's amortized cost of encroachment constitutes a lien against the Owner's real property until such time as the Owner's amortized cost of encroachment has been paid in full.
    - 6.3.2.4 That the agreement may be registered against the title of the Owner's property.
    - 6.3.2.5 Subject to the provisions of this policy and encroachment agreement, as amended, the Chief Administrative Officer and the City Clerk are hereby authorized and directed to execute, from time to time,



# Appendix A

agreements with the Owners for the payment, by the Owners to the City, of the costs of the one-time encroachment fee.

- 6.4 The **Partially Exempt Encroachment fee** is based on the Encroachment Term, and is computed in accordance with the User Fee Schedule.
  - 6.4.1 One time fees payable to the City upon demand (invoice).
- 6.5 The **Non Residential Encroachment fee** is based on the Encroachment Term, and is computed in accordance with the User Fee Schedule.
  - 6.5.1 Annual Non Residential Encroachment and Billing/Inspection fees are added to property taxes.
- 6.6 The **Parking Space Encroachment fee** is based on the Encroachment Term, and is computed in accordance with the User Fee Schedule.
  - 6.6.1 One time fees payable to the City in accordance with Section 6.3.1 or 6.3.2, as applicable, if determined Residential Encroachment.
  - 6.6.2 One time fees payable to the City in accordance with Section 6.4.1 if determined Partially Exempt Encroachment.
  - 6.6.3 Annual fees payable to the City in accordance with Section 6.5.1 if determined Non Residential Encroachment.

## 7. LAND VALUES

- 7.1 Land Values are based on zoning designation of the property, not use of the property and are collected in accordance with the User Fee Schedule, save and except for Downtown Land Values.

## 8. APPROVALS

- 8.1 Approval may be granted by the Commissioner of Infrastructure Services or delegate.
- 8.2 Any encroachments of concern or not supported by the Commissioner of Infrastructure Services are referred to City Council for decision.

## 9. ENCROACHMENT APPLICATION

- 9.1 One (1) application per property identified by the Assessment Roll Number
- 9.2 Multiple encroachments may exist on a single property, if approved.
- 9.3 A new encroachment application is required to amend existing agreements if one (1) or more encroachments are removed, or added or altered.
- 9.4 A new encroachment application is required for succeeding property owners, at the discretion of the Commissioner of Infrastructure Services or designate.
- 9.5 The property owner is required to give ten (10) days notice to the City's Engineering Department before any sale.
- 9.6 The applicant agrees to remove the encroachment and restore the area within 60 days to the condition of the surrounding area upon receipt of written notice by the Commissioner of Infrastructure Services to do so.

## 10. INSURANCE REQUIREMENTS

- 10.1 For the life of the encroachment agreement, the Licensee will provide a Certificate of Insurance in its legal name confirming the Licensee has in force insurance coverage. The Certificate of Insurance must be satisfactory in form and content to the City's Risk Management Department.

# Appendix A

- 10.1.1 Residential Properties – A Certificate of Insurance with proof of General Liability Insurance in the amount of at least \$2,000,000.00 per occurrence, containing an endorsement naming **“The Corporation Of The City Of Windsor”** as an additional insured, and containing a 30-day cancellation notice requirement.
- 10.1.2 Commercial Properties – A Certificate of Insurance with proof of same coverage as Residential Properties (See 10.1.1) but must also include proof of a cross-liability clause.
- 10.2 The insurance requirements may increase or change from the basic requirements set out in 10.1 at the outset of the encroachment or throughout the Encroachment Term, at the discretion of the Commissioner of Legal & Legislative Services or designate.

## 11. **ENCROACHMENT EXEMPTIONS/SPECIAL EXCEPTIONS CIRCUMSTANCES**

### 11.1 Encroachments over 8'-0"

Any overhead object that projects less than 0.3m (1 foot) into the Public right-of-way allowance, in whole or in part and is a minimum of 8'-0" above grade.

### 11.2 Encroachments from grade to 8'-0"

Any object that projects less than 100mm (4 inches) into the Public right-of-way allowance, in whole or in part and exists from grade to a maximum of 8'-0".

### 11.3 Bus Bays (lay-by)

Notwithstanding the City contributions to bus bays; an encroachment agreement is required for bus bays (lay-by) in the right-of-way, to mitigate the risk of liabilities.

### 11.4 Encroachment caused by gratuitously conveyed lands

An encroachment is caused as a result of a property owner gratuitously conveying lands to the City for road widening purposes. The property owner may either remove said encroachment(s) or apply for a No Fee Encroachment (the application, agreement preparation, annual or one-time encroachment fees are waived) with the City if recommended by the Commissioner of Legal & Legislative Services and approved by the Commissioner of Infrastructure Services or City Council. The Right-of-Way Permit fee and Annual Inspection and Billing fee (if zoned other than R.1 or R.2) will still apply.

### 11.5 Temporary Encroachments

11.5.1 An encroachment agreement is not required for any door that encroaches into the public right-of-way while open.

11.5.2 A-Frame Signs removed from the right of way daily, do not require an encroachment agreement; however, will require a Right-of-Way permit, as per the User Fee Schedule.

11.5.3 Any other encroachment that is deemed temporary by the Commissioner of Infrastructure Services and/or Commissioner of Legal & Legislative Services.

### 11.6 Long Term Hoarding

11.6.1 An Encroachment Agreement will be required and the fee for use of City right-of-ways will be calculated based on the following formula:

$$\text{Annual Encroachment Fee} = \text{Area of Encroachment} \times \text{Land Value} \times \text{Encroachment Factor (1.25)}$$

## **Appendix A**

- 11.6.2** The encroachment agreement shall contain the following terms;
- 11.6.2.1** The encroachment agreement must be approved yearly by City Council;
  - 11.6.2.2** Proper Insurance must be submitted, to the satisfaction of the City's Risk Management Division;
  - 11.6.2.3** The Commissioner of Infrastructure Services and Chief Building Official (CBO), upon concurrence by the Chief Administrative Officer, can extend the temporary hoarding to a period beyond two (2) years if construction is ongoing and the construction schedule is presented; and
  - 11.6.2.4** Any other terms deemed appropriate by the Commissioner of Legal & Legislative Services or the Commissioner of Infrastructure Services.
  - 11.6.2.5** That the Chief Administrative Officer and City Clerk BE AUTHORIZED to sign the agreement satisfactory in technical content to the Commissioner of Infrastructure Services and form satisfactory to the Commissioner of Legal & Legislative Services and financial content to the CFO/City Treasurer.

### **11.7** Hedges, Plantings, Ground Cover

- 11.7.1** Hedges/plantings located within the right-of-way that does not comply with Engineering Best Practice BP-3.2.2 and drawing 4M-157 as amended from time to time, must be removed from the right-of-way or obtain permission via a permit, as per the User Fee Schedule.
- 11.7.2** Right-of-way permit fee will be required as per the User Fee Schedule.
- 11.7.3** Permit will be cancelled and all objects shall be removed from the right-of-way at the discretion of the Commissioner of Infrastructure Services.
- 11.7.4** Any hedges, plantings, ground cover that the Commissioner of Infrastructure Services and/or the Commissioner of Legal & Legislative Services deem acceptable.

### **11.8** Heritage Encroachments – An encroachment agreement is required for any heritage feature located in the right-of-way as defined under section 5.13.

- 11.8.1** The following fees will apply, based on the type of encroaching items:
  - 11.8.1.1** Only heritage items encroach at the subject property: All fees associated with obtaining an encroachment agreement and permit are waived.
  - 11.8.1.2** Non-heritage and heritage items encroach at the subject property: All fees related to applying for and obtaining an encroachment agreement and permit will apply, with the exception of the one-time or annual fees associated with the heritage features only.
- 11.8.2** Insurance requirements remain consistent with section 10 of this document.

### **11.9** Additional Exemptions/Special Exceptions

- 11.9.1** Any additional approved by City Council.

**Encroachment – User Fee Schedule**

**Residential & Partially Exempt Encroachment Formula**

*Land Value x Area of Encroachment x Residential & Non Profit Factor x Risk Factor = Fee*

**Non Residential Encroachment Formula**

*Land Value x Area of Encroachment x Non Residential Factor x Risk Factor = Fee*

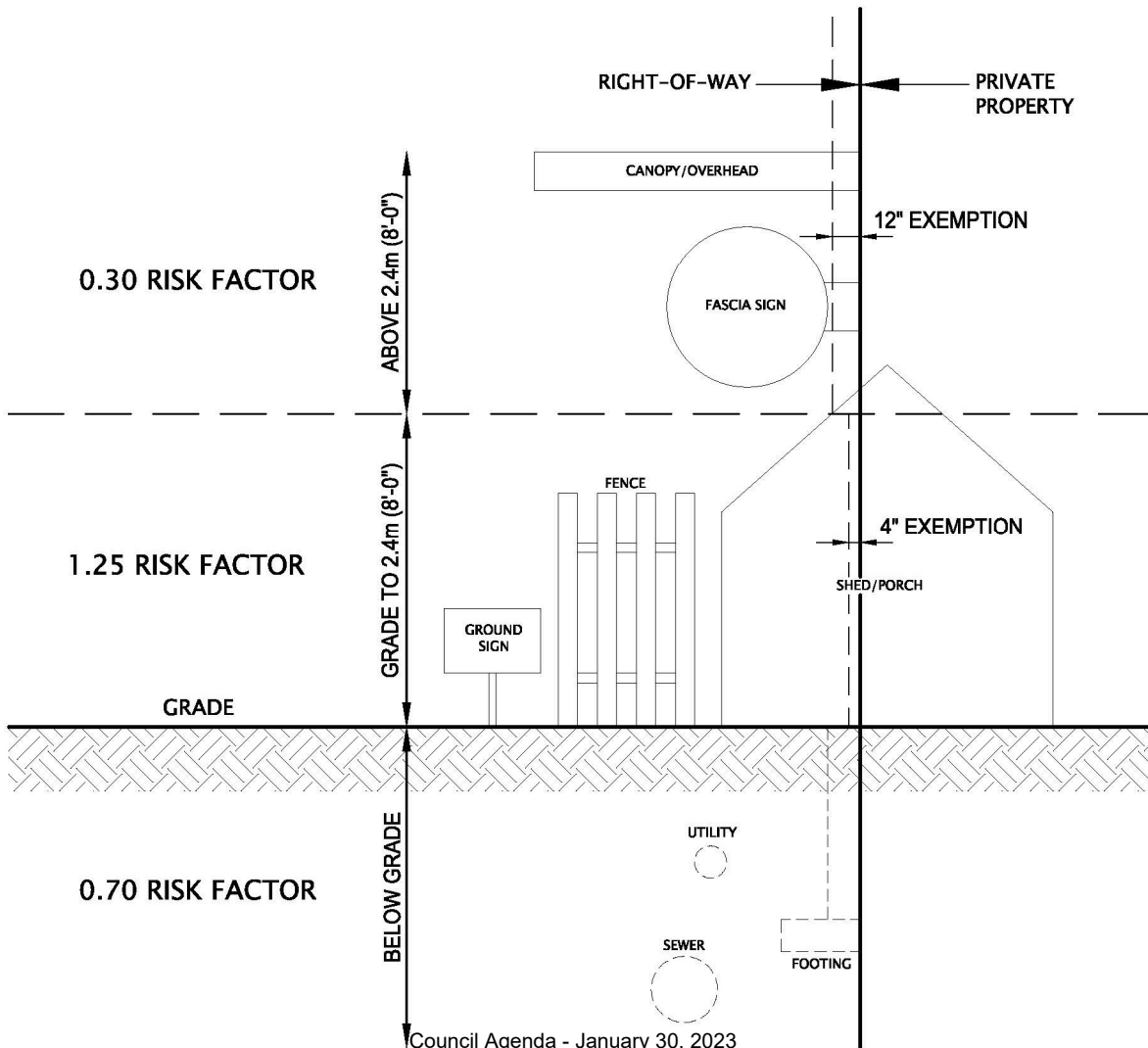
**Parking Encroachment Formula**

*Area of Parking Encroachment x \$1.75 = Fee (One Time or Annual Fee based on Zoning)*

LAND VALUES	
Residential (R1 & R2 only)	\$12.00/ft <sup>2</sup>
Commercial (and >=R3)	\$15.00/ft <sup>2</sup>
Industrial	\$7.00/ft <sup>2</sup>
Institutional	\$5.00/ft <sup>2</sup>
Downtown	\$36.00/ft <sup>2</sup>
PARKING SPACE VALUE	
\$350.00/200ft <sup>2</sup> parking space (\$1.75/ft <sup>2</sup> )	

RISK FACTOR	
Below Grade	0.70 Risk Factor
Grade to 2.4m (8'-0")	1.25 Risk Factor
Above 2.4m (8'-0")	0.30 Risk Factor

ZONING FACTOR	
Residential & Partially Exempt Factor = 0.5	
Non Residential Factor = 0.05	





### **Subject: Streamlining Approvals to Enable Rapid Execution of Council's Vision and Direction**

#### **Reference:**

Date to Council: 12/20/2021  
Author: Laura Strahl, MCIP, RPP  
Executive Initiatives Coordinator (Acting)  
CAO Office  
lstrahl@citywindsor.ca  
519-255-6100 x6479

CAO Office  
Report Date: 10/29/2021  
Clerk's File #: AS/7748

**To:** Mayor and Members of City Council

#### **Recommendation:**

1. That Council **APPROVE** the delegation of additional authority to the Chief Administrative Officer (CAO) by amending Section 4 of the Delegation of Authority By-law No. 208-2008 to add the following:
  - (a) Approval of Transfers From/To Reserves from the following Reserves :
    - i. PC Maintenance/Support Reserve Fund 177, unlimited, in accordance with the Purchasing By-law
    - ii. Pay As You Go (PAYG) Leasing Reserve Fund 170, unlimited, in accordance with the Purchasing By-law
    - iii. Pollution Control Reserve Fund 208 for purchases up to \$300,000
  - (b) Approval of the conversion of temporary positions to permanent Full Time Equivalent (FTE) when the temporary position is already fully funded via an approved temporary salary budget and the addition of permanent FTE positions when external dedicated grant funding is provided for the purpose of funding specific programs/positions, resulting in no additional costs to the City
  - (c) Approval of minor required changes to Transit Windsor service routes
  - (d) Approval of Quarterly Compliance Reports
  - (e) Approval of Subcontract Quotations
  - (f) Approval of Participation Agreements for Municipal Benchmarking Network of Canada (MBNC) Program
2. That Council **APPROVE** the delegation of additional authority to the CAO by further amending Section 4 of the Delegation of Authority By-law No. 208-2008 to

allow the CAO to delegate to identified positions within the City's Administration the following items:

- (a) The Fleet Manager to sign documents required by the dealer for delivery of vehicles and equipment as required, where the purchase of vehicles and equipment has been approved by Council
  - (b) The Commissioner of Infrastructure Services to sign a letter of support to the Ministry of Environment, Conservation and Parks to allow the Windsor Essex Community Health Unit (WECHU) to perform mosquito larviciding on the City's behalf
  - (c) The Commissioner of Infrastructure Services to sign Data Agreements to obtain natural gas consumption numbers
  - (d) The respective Commissioner to sign Letters of Support for grant applications where the following criteria is met: 1) no funds required from the City and 2) municipalities are ineligible to apply
  - (e) The Commissioner or designate, identified in Appendix B to Report C169/2021 has the authority to approve CAO reports and sign agreements, or authority to sign agreements.
3. That the following items **BE DELETED** from the Delegation of Authority By-law No. 208-2008 and incorporated into regular business processes:
- (a) Section 1.9 Sidewalk Cafes
  - (b) Section 1.33 Sewer Agreements
  - (c) Section 3.2 Approval of legal encroachments within the terms of Council's established policy
4. That the Manager of Right-of-Way **RETURN** to Council with an amendment to the Encroachment Policy M67-2015 to adjust the approval authority.
5. That Schedule A1 of the Delegation of Authority By-law No. 208-2008 **BE AMENDED** as follows:
- (a) Section I., 1. **BE DELETED** and **REPLACED** with  

“The Chief Administrative Officer is authorized to approve fee simple land acquisitions, acquisition of easements, consent to enter/temporary working easements and expropriation settlements up to and including a limit of \$200,000 (exclusive of any taxes, registration and legal fees, real estate commissions and survey costs), subject to the following:...”
  - (b) Section I. 1., c. **BE DELETED** and **REPLACED** with:  

“The land is not being acquired by means of expropriation, unless the Expropriation Act is being used to assemble the lands for road improvement projects”.
  - (c) Section II., 2. **BE DELETED** and **REPLACED** with

“The Chief Administrative Officer may approve fee simple land sales (including vacant or improved properties and closed rights-of-way if not sold to an abutting property owner and is permitted under the applicable closing or conveying bylaw), lands acquired by means of expropriation or other conveyances of an interest in land up to and including \$200,000 (exclusive of any taxes, registration and legal fees, rehabilitation costs, real estate commission and survey costs), subject to the following conditions:...”

(d) Section II., 2. b. **BE DELETED** and **REPLACED** with:

“In the event that the land was acquired by the municipality by means of expropriation that the requirements provided for under the Expropriation Act be followed prior to selling it to someone other than the individual who was expropriated;”

(e) Section II., 2. d. **BE DELETED** and **REPLACED** with:

“In the opinion of the City Solicitor, the fee simple sale of land is not contrary to Bylaw 52-2014 (Disposal of Land policy) as amended from time to time. Other conveyances of an interest in land up to and including \$200,000 (exclusive of any taxes, registration and legal fees, rehabilitation costs, real estate commission and survey costs) are not subject to By-Law 52-2014 (Disposal of Land policy);

6. That Section 3.43 Sandwich Community Improvement Plan Neighbourhood Residential Rehabilitation Program and Development and Building fees **BE DELETED** from the Delegation of Authority By-law No. 208-2008 and that the City Planner By-law 139-2013 **BE AMENDED** to include:

(a) Authority for the City Planner to approve *Olde Sandwich Towne Community Improvement Plan Grant Programs* for the following:

1) *Neighbourhood Residential Rehabilitation Grant Program* applications to a maximum of \$15,000 and where sufficient budget funding is available. Such approval to be based on the recommendation of the Planner as to technical merit and the City Treasurer as to financial considerations; and,

2) *Development and Building Fee Grant Program* applications when the Grant is requested as part of the *Neighbourhood Residential Rehabilitation Grant* only, to a maximum of \$15,000 and where sufficient budget funding is available. Such approval to be based on the recommendation of the Planner as to technical merit and the City Treasurer as to financial considerations

(b) Authority for the City Planner to approve Study Grant approvals under the Brownfield Redevelopment Community Improvement Plan to a maximum of \$25,000 and where sufficient budget funding is available. Such approval to be based on the recommendation of the Planner as to technical merit and the City Treasurer as to financial considerations

- (c) Authority for the City Planner to approve applications under the Demolition Control By-laws as long as the policies/requirements of the Planning Act, Demolition Control By-law and Official Plan are addressed. In the event the City Planner is of the opinion that the application does not comply with the policies/requirements of the Planning Act, By-law or Official Plan, then the application will proceed to Council
7. That Section 3.32 of the Delegation of Authority By-law No. 208-2008 **BE AMENDED** by deleting 'Ministry of Community Safety and Correctional Services' and replacing it with 'Ministry of the Solicitor General, or associated Ministry'.
8. That Section 3.24 of the Delegation of Authority By-law No. 208-2008 **BE DELETED** and **REPLACED** with: "Approval of the execution of one-time or infrequent agreements that comply with approved operating or capital budgets, and administrative forms or additional documents connected to agreements already approved and signed by the City".
9. That the Purchasing Manager **RETURN TO COUNCIL** after consulting with internal and external stakeholders regarding the following proposed amendments to the Purchasing By-law 92-2012:
- (a) Section 37(a) allow the Chief Administrative Officer to approve a requisition and make an award of up to \$500,000, provided the funds have been included in the Council-approved operating or capital budget;
  - (b) increasing the Small Purchase Order (SPO) limit up to \$35,000;
  - (c) eliminate the requirement for an informal Request for Quotation process;
  - (d) Increasing the formal Request for Quotation process thresholds between \$35,001 - \$75,000; and,
  - (e) Increasing the estimated dollar thresholds for all Request for Proposal/Request for Tender (RFP/RFT) to \$75,000 or greater.
10. That the City Solicitor **BE DIRECTED** to prepare the required amending by-laws to Delegation of Authority By-law No. 208-2008 and City Planner By-law 139-2019.

Executive Summary:

N/A

### **Background:**

As part of the Chief Administrative Officer's (CAO's) report to Council on the *Current Organizational State of The Corporation of the City of Windsor* (Report C87/2021, June 21, 2021), Council directed administration to report back to Council with amendments to the Delegation of Authority By-law No. 208-2008 (DOA By-law) (Attached as Appendix A) to remove "red tape" and enable rapid execution of Council's vision and direction. This report also includes other streamlining recommendations under the City Planner



By-law 139-2013 and proposes a method for streamlining the Purchasing By-law 92-2012.

The purpose of this report is to propose streamlining measures that will enable administration to deliver better and faster services to residents. By reducing administrative burdens (such as lengthy approval timelines, multiple levels of review and approval, and high demand of staff time to prepare reports) staff can maximize their time to enable rapid execution of Council's vision and direction.

As part of the Corporate Strategic Plan that administration is currently developing, ideas are being explored to make the organization even more innovative, agile, collaborative, solution-oriented, efficient and effective. Part of this shift in corporate culture includes empowering staff to make decisions and providing the ability for staff to be more agile.

Section 23.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides Council with authority to delegate some of its powers and duties under the Municipal Act or any other Act to a person or body subject to specified restrictions. Pursuant to this authority council passed the CAO By-law 208-2008. This by-law has been amended over the years to delegate various routine administrative matters to the CAO. This report recommends a further delegation of authority of administrative powers and duties to the CAO. These delegations are in accordance with the provisions of the Municipal Act.

## **Discussion:**

Council has already streamlined some approval processes by delegating approval of items to administration under the DOA By-law. This allows Council to address long-term and strategic issues at Council meetings. This also allows administration to process approvals without requiring the preparation of a Council report and submission in the agenda review process. The CAO approves over 400 CAO/CAOP reports a year on behalf of Council through the DOA By-law and Purchasing By-law.

The internal administrative process for approvals for items listed in the DOA By-law requires staff to prepare a CAO report to seek approval from the CAO, which can be time consuming where the item is routine in nature (and carries low risk) or where another more streamlined process (such as a permit process) can be implemented for record keeping. For example, changes made to Sidewalk Cafe Agreements in 2016 removed the item from the DOA By-law and a permit process was incorporated into regular business processes.

In cases where a CAO report is still the best process for proper review and transparency/record keeping purposes, there are items in the DOA By-law that can be delegated from the CAO to a designate (another member of CLT or a senior leader). By reducing a layer of review and approval and empowering staff to make decisions in their respective departments the corporation can provide faster services to residents. This will save time in the approval process and save staff time reviewing reports. It's difficult to calculate the time and staff resources saved by reducing the number of approvals needed, however if the CAO spends an average of 15 minutes on each report to review and approve, by removing one layer of approvals needed this could save 100 hours of staff time a year (assuming 400 reports a year).

Therefore, the recommendations in this report focus on: 1) Items to be Added to Section 4 of the DOA By-law; 2) Items to Be Further Delegated to CLT or senior leader (or designate); 3) Items To Be Deleted and Incorporated into Regular Business Processes; and 4) Minor Housekeeping Amendments.

## **Proposed Amendments to the Delegation of Authority By-law No. 208-2008 (DOA By-law)**

### **1) Items to be Added to Section 4 of the DOA By-law:**

**CAO Delegated Authority to Approve Transfers From/To Reserves:** The corporation has numerous reserve funds/accounts each requiring City Council approval for any transfers to/from the respective reserve. While some reserves are legislated, such as Development Charge Reserves, others are set up for the specific purpose of accumulating funding for the repair or replacement of an asset in the future.

There are 2 Reserve Funds administered by the Information Technology (IT) department as well as one Reserve administered by Pollution Control that collect revenue over a period of time to fund purchases as required. Annual transfers are required from the respective reserves to fund these purchases made in the operating budget. These transfers are considered housekeeping in nature and are recommended to be placed in the CAO DOA Bylaw.

### **PC Maintenance/Support Reserve Fund 177**

Departments annually contribute to the PC Maintenance/Support reserve based on the number of personal computers (PC's) and printers being used in each department. The purpose is:

- To allocate a portion of the costs to support, network and secure the computers and printers across the Corporation.
- To annualize the expenses related to the big-ticket upgrades when required in a corporate computing environment (e.g. operating systems, office suite, E-mail system, management systems).

### **Pay As You Go (PAYG) Leasing Reserve Fund 170**

This reserve fund was set up when the City converted from a leasing model and established a Pay As You Go (PAYG) purchase replacement program for equipment such as computers, vehicles, radios etc. Departments contribute annually to the PAYG reserve based on the number of personal computers (PC's) being used in each department.

The IT department then manages the assets on a lifecycle basis and makes the procurements through their operating budget as follows:

- Replacement PC's (desktop PC's, laptop PC's, CAD workstations, monitors)
- Parts and maintenance for out-of-warranty PC's

- Networking and Server lifecycle management (maintaining, replacing infrastructure using evolving technology to improve efficiency and total cost of ownership)
- Salary and benefits for several staff required for End User Support, Technical Support, and Personal Computer Support.

Annually, at year-end, these operating accounts recover from their respective reserves to fund any expenditures incurred for these activities. The reserve forecast models are monitored and reviewed annually to ensure ongoing sustainability.

The IT reserve transfers for F177 and F170 were \$837,000 and \$967,000 respectively in 2021 and can fluctuate annually based on the timing and needs in IT. Administration does not recommend an upper limit on the amounts that can be transferred from these funds, provided purchases are in accordance with the Purchasing By-law.

### **Pollution Control Reserve Fund 208**

The Pollution Control reserve is funded annually by Sewer Surcharge revenue and was set up to ensure funds are available to fund critical pollution control related equipment repairs, refurbishments and replacements over a period of 15 years. The equipment is located at the Lou Romano Water Reclamation Plant, Little River Pollution Control Plant and numerous pump stations throughout the City. The equipment in these facilities is very specialized and critical to the ongoing operations of the pollution control system. There have been cases recently where repairs were required with very short notice and were necessary to ensure all provincial regulatory standards were maintained. This recommendation is to add transfers from this reserve to the CAO DOA Bylaw for purchases up to \$500,000 to facilitate funding for emergency repairs to expedite the need to get Council approval to transfer funds from the reserve fund.

### **Increase Permanent Full Time Equivalent (FTE) Positions In Specific**

**Circumstances:** The City currently has numerous temporary positions that were added over the years to address specific service level concerns and/or grant funding requirements. In many cases, these positions have been in place for many years and are currently filled by temporary staff and/or staff seconded from other City positions. Given the temporary nature of these positions, it is very difficult to recruit quality external candidates due to the future uncertainty of permanent employment with the City. In addition, when a position is filled with a temporary candidate, this is usually short lived as the employee leaves as soon as a permanent employment opportunity becomes available. This continuous and repetitive recruitment cycle is not efficient, resulting in low productivity for the area and significant recruitment and training costs overall.

Turnover costs are very difficult to quantify. Industry standards for an entry level position can start at 30% to 40% of the employee's annual salary, and can escalate quickly as you move up to higher positions in the organization where the percentage can double, triple or go even higher.

Providing delegated authority to the CAO to assess and convert these temporary positions to permanent FTE positions on a case-by-case basis, will allow for the

recruitment of better quality candidates, reduced turnover costs, and generate overall increased efficiencies within the corporation.

This delegated authority would allow the CAO to add FTE positions in 2 specific cases as follows:

1. The conversion of temporary positions to permanent FTE when the temporary position is already fully funded via an approved temporary salary budget and;
2. The addition of permanent FTE positions when external dedicated grant funding is provided for the purpose of funding specific programs/positions, resulting in no additional costs to the City.

### **Transit Windsor - Required Changes to Service:**

Including, but not limited to:

1. Changes to routes
2. Changes to route frequencies
3. Lengthening or shortening an existing route
4. Changes to fare media sales outlets

Before submitting a recommendation to make any changes, Transit Administration will continue to exercise due diligence by assessing trends, seeking public feedback/consultation, reviewing financial impacts, investigating all available options, and ensuring decisions are made in the best interest of all stakeholders.

In order to make Transit Windsor a more nimble, responsive, and customer-focussed service, Transit Administration would like to have the ability to implement changes of lesser magnitude, (routing changes, service improvements, efficiencies, etc.) without the cumbersome and time-consuming process of going to the Transit Windsor Board (ETPS) and Council. Two recent examples of route changes that went through the normal approval process were the minor routing change in 2021 on the Route 1C, and the changes to the Tunnel Bus route in 2019 resulting from the opening of the new Little Caesar's Arena. Both changes were carefully determined and made in the best interest of serving our riders, but implementation was delayed by several months as the changes wound their way through the Committee and Council approval process.

Any changes/recommendations submitted via the DOA By-law are expected to have zero or minimal financial impact to the Corporation. Should there be any variances in the year impacted, the recommendation will be made to annualize the cost through the proceeding year's budget.

Further, Transit Administration will provide updates as information via reports to ETPS and Council on the implemented changes.

**Quarterly Compliance Reports:** On a quarterly basis, department/division heads are asked to verify compliance with respect to applicable laws and regulations/inquiries received from government agencies. An update report on the status of compliance was previously submitted as an agenda item to the Corporate Services Standing Committee

of City Council. In the 2021 Q1 update report, administration noted the intention to transition future compliance updates to the CAO as part of the DOA By-law.

**Subcontract Quotation:** When this issue came up during the recent EWSWA tender for refuse transfer from various sites, Operations was informed by Purchasing that the City needed Council approval to give a subcontract quotation to the general contractors bidding on the work for our staff to perform this part of the tender. There was no impact to our service delivery and no impacts to staffing or equipment. An email poll of council was conducted, but this was not the most efficient process. For future we would like to use a CAO report where details of the issue are summarized for the CAO to approve. To take it a step further, there may be additional tendering opportunities where the City could bid as a general on this work, similar to our garbage collection for schools. Given tendering timelines it would not be feasible to complete a full business case and bring it to council for their approval. Preparing a CAO report with the relevant information documented for approval by the CAO will make the process more efficient. By expediting the approval process the City is not missing out on revenue opportunities.

**Participation Agreement for Municipal Benchmarking Network of Canada (MBNC) Program:** An annual membership agreement needs to be signed for the City's participation in the Municipal Benchmarking Network of Canada (MBNC) Program. The City has been participating in the program for approximately 17 years and has the budget for membership, however with the Program's recent incorporation, formalized participation agreements will be required to be signed on an annual basis going forward.

## **2) Items to Be Further Delegated to CLT (or designate):**

By delegating approval authority of CAO reports to the appropriate members of CLT who work closer with the issue/report subject will expedite the approval process. The table attached as Appendix B breaks down the DOA By-law by section and identifies where approval authority is recommended to another member of CLT or if no change is proposed. Delegating authority to the relevant CLT member would not change the permitting, review, and agreement process.

**West Nile Larviciding Requirements:** Every year the City needs to submit a letter of support to the Ministry of Environment, Conservation and Parks to allow the Windsor Essex Community Health Unit (WECHU) to perform mosquito larviciding on our behalf. The letter has not changed in almost a decade. Administration recommend removing this item from the DOA By-law to and allow the Commissioner of Infrastructure Services to process the letter of support as needed.

**Data Agreements to Obtain Natural Gas Consumption Numbers:** In order to obtain community natural gas consumption numbers from Enbridge a data agreement must be signed. The data is used by the Supervisor of Environmental Sustainability and Climate Change to calculate Community Emissions. Drafting a CAO report and having the CAO sign an agreement slows down the process of obtaining the numbers. It's recommended that the relevant commissioner can sign the agreement moving forward.

**Letters of Support for grant applications:** The City is often asked to provide a letter of support for either the University or Non-profits in applications for grants. Administration recommends that this item be removed from the DOA By-law and that

the respective Commissioner or senior leader be allowed to sign the letter of support if the following conditions are met: 1) no funds required from the City and 2) municipalities are ineligible to apply (i.e. not supporting possible competition).

**Signing of Agreements:** It's recommended that the DOA By-law authorize the CAO to provide for the appropriate signing officer (CLT and other senior leadership), in addition to the Clerk, for various levels of contracts and agreements.

### **3) Items To Be Deleted and Incorporated into Regular Business Processes**

**Section 1.9 Sidewalk Sales:** Sidewalk sales are requested by the Business Improvement Associations (BIAs) once or twice a year. The review process for a sidewalk sale is very similar to a sidewalk café permit application, which no longer requires CAO approval as per By-law 64-2016, May 16, 2016. The current process to receive approval for a sidewalk sale takes 4 to 6 weeks. If the Commissioner of Infrastructure Services approves the sidewalk sale, a permit could be issued in 7 to 10 days. Administration recommends removing sidewalk sales from the DOA By-law and administration will implement a permit process approved by the Commissioner of Infrastructure Services.

**Section 1.33 Sewer Agreements:** Sewer Agreements are completed as per By-law 4921. Currently, a CAO report is created to obtain a CAO approval number to approve the agreement. A sewer permit is issued as soon as possible as the property owners' plumbing may not be functioning. The Right-of-Way Division issues the sewer permit as per Bylaw 25-2010 and there is a Request for Proposal (RFP) for the approved contractors. Removing this item from the DOA By-law will remove the requirement for a CAO approval number and allow the Right-of-Way Division to deliver the services faster as per By-law 4921 and By-law 25-2010.

**Section 3.2 Approval of legal encroachments within the terms of Council's established policy:** The encroachment agreement process is very lengthy. The typical process is 5 to 6 months. Removing this section from the DOA By-law and incorporating it into regular business processes will streamline the process to 3 to 4 weeks. This new process will be similar to the encroachment agreement renewal process that was approved in August 2016 (CAO3648). The renewal process reduced encroachment renewals from four (4) to six (6) months to two (2) to three (3) weeks. If approved, the Encroachment Policy M67-2015 would need a minor amendment to adjust approval authority. Delegating authority to the Commissioner of Infrastructure Services would not change the permitting, review, and agreement process. If Administration can not recommend a proposed encroachment agreement, then Council will receive a report for decision. Also, encroachments of concern to the Commissioner of Infrastructure Services that may require broader consultation will be referred to City Council for decision.

**Section 3.43 Sandwich CIP Neighbourhood Residential Rehabilitation Program and Development and Building fees:** Administration recommends removing this items from the DOA By-law and adding it to City Planner By-law 139-2013. The Ford City CIP has a similar program which was delegated to the City Planner (through an amendment to By-law 139-2013) (CR453/2019 CR339/2019 HDSC 61). Planning and

Building Department Planners have the technical background to evaluate such applications. Delegating approval to the City Planner will eliminate the need for a report and will streamline the review and approval process allowing homeowners to complete improvements to their properties in a timely manner. It also makes sense to delegate the authority to approve the *Development and Building Fees Grant Program* when applicants are also applying to the *Neighbourhood Residential Rehabilitation Grant* program only. This still requires sign off by the Planner (working on the file), the Department's Financial Planning Administrator, and the City Planner and City Treasurer. Funds cannot be dispersed unless there are sufficient uncommitted budget funding in place that had previously been approved by City Council.

#### **4) Minor Housekeeping Amendment:**

**Section 3.32 Court Security and Prisoner Transportation (CSPT) Program:** The Court Security and Prisoner Transportation (CSPT) Program provides for provincial subsidies to municipalities to offset municipal costs associated with providing security to provincial courthouses and transporting prisoners to and from those facilities. This program is administered under the Ministry of the Solicitor General (formerly known as the Ministry Community Safety and Correctional Services), therefore the DOA By-law needs to be amended to update the correct ministry name.

**Schedule A1 – Property Transactions:** This schedule was last updated in April 2014. Land values, in many cases, have more than doubled in value since 2014. This in effect reduces the number of acquisitions or sales that could be approved by a CAO report. The amendments to Schedule A1 in this regard changes the approval value for acquisitions, sales and other matters to \$200,000 from \$100,000. It also includes routine expropriation settlements with an upset limit of \$200,000.

The City often uses the Expropriations Act to assemble the lands for road improvement projects. There is no provision in the current by-law for the administrative approval of routine settlements. Administration is recommending that Schedule A1 be amended to include routine expropriation settlements.

**Section 3.24 Approval of the execution of onetime or infrequent processes or agreements that are of an administrative nature and comply with approved operating or capital budgets:** This section should be amended to reflect how the section is currently used by Administration. Administration uses this section to sign any kind of agreement that needs to be signed quickly without having to go to Council, therefore it should read: "Approval of the execution of one-time or infrequent agreements that comply with approved operating or capital budgets" to give the CAO the power to approve the types of agreements. Further, Administration recommends that the City Solicitor be delegated the authority to approve administrative forms or additional documents connected to agreements already approved and signed by the City.

#### **Purchasing By-law Amendments:**

As per Section 164 of the Purchasing By-law, the Purchasing By-law shall be reviewed and amended prior to the end of each term of Council. Further, Section 165 stipulates

that internal and external stakeholders shall be consulted in making amendments. The Purchasing Department has started to review the By-law and will circulate the following draft recommendations to internal and external stakeholders for review.

Purchasing analyzed 2018, 2019 and 2020 procurements and have determined that by doing the following would reduce the burden on City departments and expedite approximately 400-500 procurements per year:

- Amend s.37(a) of the Purchasing by-law to allow the CAO to approve a requisition and make an award of up to \$500,000, provided the funds have been included in the Council-approved operating or capital budget (this is an increase from \$150,000). This amendment would reduce the frequency for departments to have to seek council approval for approximately 1/3 of the RFP awards per year. Majority of RFP awards up to \$500,000 are general infrastructure construction consultant related services, specifically; design, contract administration and inspection. The CAO may use discretion and seek Council approval from time to time where he or she considers necessary and in the best interest of the City.
- Increase the thresholds under the by-law to allow departments more discretionary spending by increasing the SPO limit from \$5,000 to \$35,000 and eliminate the requirement for an informal RFQ process all together, and then move to a formal RFQ process between \$35,001 - \$75,000, and open market procurement for anything above that threshold. Administration selected the \$35,000 SPO limit because that number captures majority of standard deliverables required to perform daily operations in the City. Currently deliverables between \$5,001 - \$25,000 are solicited through the informal RFQ process which requires the departments independently to obtain at least two (2) quotes. This amendment would allow departments to source majority of deliverables that currently fall under the SPO and informal RFQ process without competitively sourcing the deliverable, which would streamline operations and improve timing. Risk to this amendment would reduce purchasing oversight and increase our non-competitive-means of procurement exposure from approximately \$2M to \$9M per year, not including sole sourcing.

Administration will return with final proposed amendments to the Purchasing By-law prior to the end of the current Council term.

### **City Planner By-law 139-2013**

To reduce red tape Administration recommend amendments to the City Planner By-law 139-2013 for the following:

- Administration recommends delegating applications under the Demolition Control By-laws to the City Planner as long as the policies/requirements of the Planning Act, By-law, and Official Plan are addressed. Specific areas of the City are under Demolition Control to protect residential housing stock from being demolished for speculation purposes (i.e. – demolishing a residential unit without a redevelopment plan and leaving the property vacant). Council approval is required for the Chief Building Official to issue the demolition permit where a property is within a Demolition Control Area. Where applicants already have a



redevelopment plan in place, the process of seeking Council approval can take 2 months, which can cause delays. By delegating approval authority to the City Planner the process would be expedited.

- Administration recommends delegating Study Grant Approvals under the Brownfield CIP to the City Planner. The majority of approvals issued under the Brownfield CIP are study grant approvals. Study grants are often completed as due diligence accompanying a property sale, which is time sensitive. It is common for applicants to submit an application and begin the work in advance of a Council decision due to the approximate six week time frame between making an application and receiving a Council decision. Delegation of study grant approvals to Administration, up to a maximum of \$25,000, would provide more timely approvals for property owners or prospective purchasers looking for assistance with the costs of an eligible Feasibility or Environmental Site Assessment Grant Study. It would also reduce resources required to process approvals. Delegating Study Grant Approvals to Administration was discussed in Report S71/2021 - Brownfield Redevelopment Community Improvement Plan (CIP) Update and Initiation of the Review Process. The lengthy approval process was identified as an issue by stakeholders when surveyed for the preparation of Report S71/2021.

**Reporting Procedures:** Where a CAO report is required for approval of a DOA By-law item, the same semi-annual reporting procedure to Council will be followed.

### **Risk Analysis:**

Finding the right balance of bureaucratic oversight is important for an efficient government. After many years of adding items to the DOA By-law, the approval process has become cumbersome and can create bottlenecks for approval. Risks associated with delegating authority from the CAO to other members of CLT and senior leaders have been mitigated as the items delegated all work within existing City budgets and allow the senior staff working closely with the subject matter to make decisions.

### **Climate Change Risks**

#### **Climate Change Mitigation:**

N/A

#### **Climate Change Adaptation:**

N/A

**Financial Matters:**

N/A

**Consultations:**

The following members of Administration have been consulted: Tony Ardovini, Deputy Treasurer Financial Planning, Kate Tracey, Legal Counsel, Angela Marazita, Fleet Manager, Patrick Brode, Senior Legal Counsel, Adam Pillon, Manager of Right-of-Way, Karina Richters, Supervisor of Environmental Sustainability and Climate Change, Kevin Alexander, Planner III – Special Projects, Greg Atkinson, Planner III – Special Projects, Thom Hunt, City Planner, Tyson Cragg, Executive Director Transit Windsor, Hem Kong, Coordinator of Administration, Shawna Boakes, Executive Director of Operations/Deputy City Engineer, Marco Aquino, Executive Initiatives Coordinator, Frank Scarfone, Manager of Real Estate Services, Wira Vendrasco, Deputy City Solicitor.

**Conclusion:**

Administration recommends that Council approve the recommendations in this report to streamline approvals to enable rapid execution of Council’s vision and direction.

**Approvals:**

Name	Title
Joe Mancina	Commissioner of Corporate Services, CFO
Shelby Askin Hager	Commissioner of Legal and Legislative Services
Jason Reynar	Chief Administrative Officer

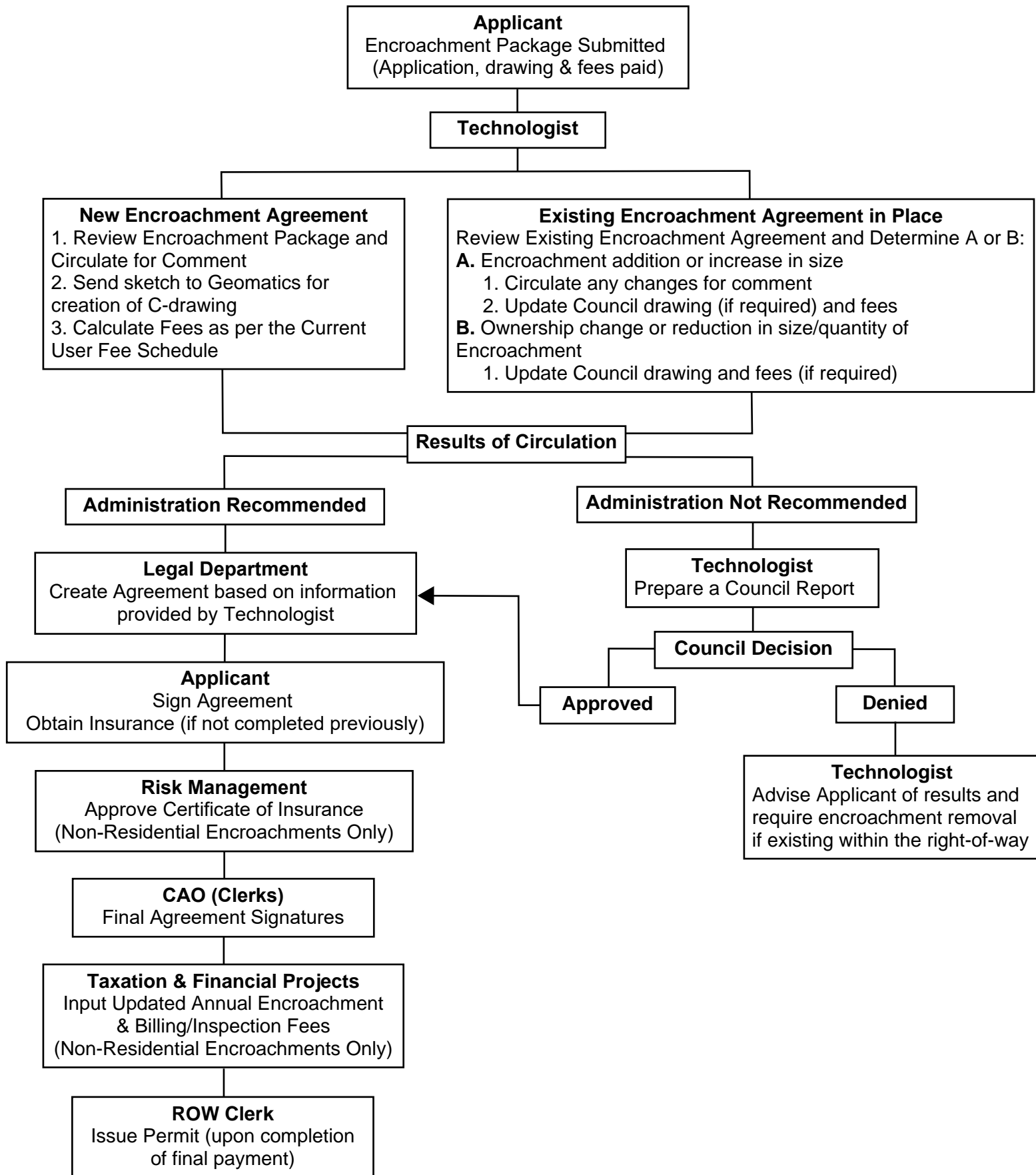
**Notifications:**

Name	Address	Email

**Appendices:**

- 1 Appendix A - DOA By-law
- 2 Appendix B - DOA Sections

# Encroachment Agreement Approval Flow Chart



**Subject: Response to CQ 13-2022 – Process to allow Memorial Signs within the right-of-way and the feasibility of allowing the placement of mulch in the right-of-way without a permit - City Wide**

**Reference:**

Date to Council: January 30, 2023

Author: Amy Olsen

Technologist III

(519) 255-6257 ext. 6562

aolsen@citywindsor.ca

Engineering

Report Date: November 23, 2022

Clerk's File #: SE2023

**To:** Mayor and Members of City Council

**Recommendation:**

1. That Council **RECEIVE** the response to CQ13-2022 for information; and,
2. That Council **APPROVE** the permit process outlined herein to allow Memorial Signs within the right-of-way.

**Executive Summary:**

N/A

**Background:**

Previous Councillor Bortolin had asked the following question at the August 8, 2022 meeting of Council:

CQ 13-2022

“Asks that Administration provide Council with a report on potential changes to the encroachment policy that would permit memorial signs and historical features to be placed in the right-of-way. Also, report on potential options to the Engineering Landscape Best Practice BP3.2.2 that would allow mulch in right-of-way without a permit.”

This report discusses the process to allow Memorial Signs within the right-of-way and considers the feasibility of allowing mulch within the right-of-way without a permit. A separate report to Council (C 204/2022) has been prepared which addresses the addition of Historical Features within the Encroachment Policy.

## **Discussion:**

### **Memorial Signs**

Administration has reviewed the impacts of allowing memorial signs in the right-of-way with the focus to streamline the process. Encroachment agreements are required when City of Windsor property owners elect to place personal items within the right-of-way, fronting their property. Understanding that memorial signs will be placed on streetlight poles throughout the City, without necessarily fronting the applicant's property, Administration recommends the use of a permit in lieu of the Encroachment Policy. The following process has been established for applicants looking to erect an individual memorial sign, commemorating a group or individual.

1. Permit – Consent to place a sign within the right-of-way will be granted under a 5 year Right-of-Way Permit.
2. Fabrication – Memorial signs cannot have a similar appearance to traffic signs with respect to colour or design. Applicants have two options:
  - Owner fabricated - Size cannot exceed 30cm x 45cm
  - City fabricated - Provide the wording & design to Traffic Operations for creation
3. Installation/Inspection – The Traffic Operations Department will install the sign, upon permit issuance, in the approved location. If in subsequent years the sign is found to be in disrepair, the applicant can elect to be notified upon removal and will be given the option to replace the sign under a new permit.
4. Fees – The following fees will apply to place a memorial sign in the right-of-way:
  - Permit Fee – As per the Current User Fee Schedule (\$212.00 in 2022)
  - Fabrication Fee – This cost will vary based on design and is only applicable if the City will fabricate the sign
  - Installation Fee – \$250.00
5. Location – Signs can be located on City of Windsor owned streetlight poles within the right-of-way. Further permissions/fees will be required to allow memorial signs on Enwin owned poles.
6. Review – Upon receipt of a complete permit application package (associated sign design and location of proposed sign included), Administration will review and circulate for compliance, prior to approval.

## Mulch in the Right-of-Way without a Permit

Currently, Section 4.3 of Engineering Best Practice BP3.2.2 - Landscaping in the Right-of-Way (Appendix A) states that:

*“Landscaping consisting of loose stone, pebbles, decorative stone, or **mulch**, with a minimum separation of 0.3metres (1 foot) from the edge of any municipal roadway, sidewalk, trail or path used for passage by the public may be allowed, provided they are maintained and do not pose a risk of injury or property damage, as to be determined by the City Engineer or City Solicitor. **If these conditions are satisfied, a permit will be required.**”*

Right-of-Way Permits are issued to ensure the following:

1. All work is completed and inspected as approved by the City of Windsor.
2. When complaints or issues occur as a result of work within the right-of-way, the area or address in question can be easily referenced by City staff for review of the documented permit and contact information, enabling a quick resolution. Risk Management also requires these permit records when a damage claim form is submitted.
3. Indemnification of the City against any future claims stating that *“for the purpose of and in consideration of the granting of the permission, the permit holder hereby covenants and agrees to release, save harmless and indemnify the Corporation of the City of Windsor from and against all losses or damages and from all actions or claims [collectively “Claims”] which may be brought or made against the City in consequence of granting said permit and resulting therefrom in any way.”*

Administration has reviewed the proposal to allow mulch in the right-of-way without a permit; however, as with loose stone and pebbles, if mulch is not properly contained within garden beds, the City is at risk for claims that may arise as a result of these items spilling on to adjacent sidewalks & roadways. Issuing a permit mitigates this risk through inspections, clearly identifying property owner’s responsibilities to maintain. The entire process is documented.

There are numerous municipalities throughout Ontario of comparable size to the City of Windsor which require permits prior to placement of landscaping in the right-of-way including Brampton, Hamilton, Markham, Oakville, Oshawa & Wasaga Beach.

It should be noted that City Trees planted in the right-of-way are not considered landscaping. Property owners may elect to top up like for like mulch placed around City trees fronting their property without requiring a permit, as noted in the Landscape Best Practice.

### **Risk Analysis:**

There are significant risks associated with not requiring a permit as outlined in this report. Liability risks are standard with any items placed in the right-of-way and are mitigated by transferring the risk to the property owner through permits and insurance requirements. All conditions related to the occupancy of the public right of way are managed in accordance with the Right-of-Way Permit, including an indemnification.

## Climate Change Risks

### Climate Change Mitigation:

N/A

### Climate Change Adaptation:

N/A

### Financial Matters:

Approximately 55 permits have been issued for landscaping (ex. mulch, pebbles, decorative stone, etc....) within the right-of-way since 2018 (average of 11 per year). If permits related to placement of mulch within the right-of-way are waived, the loss of annual revenue based on the 2022 User Fee Schedule is estimated below:

Items (Waived)	Associated Fee per 2022 Operating Budget per Permit	Total Loss of Revenue per Year based on 55 Permits (Over Years 2018-2022)
Permit Fee	\$212.00	\$2,300

The loss revenue would be reported as a part of the Operating budget variance.

### Consultations:

Andrew Lewis, Coordinator of Right-of-Way & Field Services

Shawna Boakes, Executive Director, Operations, Deputy City Engineer

Kristina Savi-Mascaro, Purchasing, Risk Management & Provincial Offences

Linda Mancina, Financial Planning Administrator

Poorvangi Raval, Manager of Performance Measurement & Business Case Development (A)

### Conclusion:

Administration recommends that Council approve the recommendations outlined within this report to allow placement of Memorial Signs within the right-of-way and continue to require a permit for installation of mulch in the right-of-way.

### Planning Act Matters:

N/A

**Approvals:**

<b>Name</b>	<b>Title</b>
Adam Pillon	Manager of Right-of-Way
France Isabelle-Tunks	Executive Director, Engineering/Deputy City Engineer
Chris Nepszy	Commissioner, Infrastructure Services/ City Engineer
Shelby Askin Hager	Commissioner, Legal and Legislative Services
Joe Mancina	Commissioner, Corporate Services  CFO/City Treasurer
Onorio Colucci	Chief Administrative Officer

**Notifications:**

<b>Name</b>	<b>Address</b>
List provided to Clerk's office	

**Appendices:**



**1. SUBJECT: LANDSCAPING IN THE RIGHT-OF-WAY****2. DEFINITIONS**

**Landscaping** – Landscaping includes but is not limited to plants (flowers, plants, bushes, shrubs, boxwood and hedges), loose stone, pebbles, decorative stone, mulch, artificial turf and underground sprinkler systems.

**Encroachment** – any personal property of any description that is placed, occupied or maintained upon any municipal right-of-way including but not limited to signs, fences, sheds, porches, footings, canopies, parking areas, decorative or landscape rocks or boulders, logs, curbing, vaults, structures (in whole or part) and private sewers.

**3. DRAWINGS**

4M-157 – Landscaping in the Right-of-Way (attached)

AS-401 – Residential Concrete Sidewalk

**4. BEST PRACTICE**

- 1) No landscaping, with the exception of grass, artificial turf and low growing ground cover plants (as approved by the City Engineer) at a height of no greater than 100mm (4”), is permitted within a minimum of 0.3m (1 foot) of any municipal roadway, sidewalk, trail or path used for passage by the public. **If installing artificial turf a permit will be required.**
- 2) Landscaping consisting of flowers, plants, bushes or shrubs at a height of no greater than 0.9 meters (3 feet), with a minimum separation of 0.3metres (1 foot) from the edge of any municipal roadway, sidewalk, trail or path used for passage by the public may be allowed provided they are maintained and do not pose a risk of injury or property damage, as to be determined by the City Engineer or City Solicitor. **If these conditions are satisfied, a permit will not be required.**
- 3) Landscaping consisting of loose stone, pebbles, decorative stone, or mulch, with a minimum separation of 0.3metres (1 foot) from the edge of any municipal roadway, sidewalk, trail or path used for passage by the public may be allowed provided they are maintained and do not pose a risk of injury or property damage, as to be determined by the City Engineer or City Solicitor. **If these conditions are satisfied, a permit will be required.**
- 4) An encroachment agreement is required to place any personal property of any description that is placed, occupied or maintained upon any municipal right-of-way that does not fall within notes (2) or (3) above including but not limited to signs, fences, sheds, porches, footings, canopies, parking areas, decorative or landscape rocks or boulders, retaining wall, logs, curbing, vaults, structures (in whole or part) and private sewers or as otherwise outlined in the City of Windsor Encroachment Policy.
- 5) Tree branches overhanging any municipal roadway, sidewalk, alley, trail or path used for passage by the public may be allowed, provided branches are maintained with a minimum vertical clearance of 4.24m (14ft) and do not pose a risk of injury or property damage, as to be determined by the City Engineer or City Solicitor.
- 6) Tree planting in the right-of-way is not considered landscaping and shall only be conducted by the City of Windsor Forester and/or as approved by the City Engineer and City Forester. Property owners may elect to top up existing mulch placed around City trees fronting their property in future years, **without requiring a permit.**

**5. LANDSCAPING DURING CONSTRUCTION**

- A. Where the City is undertaking an infrastructure project, any landscaping which does not meet the requirements above, shall be relocated by the property owner, to be in compliance with the Best Practice. The property owners will be notified of this requirement in writing by the City Engineer. Should the property owner fail to relocate the landscaping prior to the work commencing, the City may remove said landscaping without replacing the same.

- B. Where the City, or the developer, is constructing a sidewalk where one did not previously exist, the sidewalk will be constructed through existing landscaping features. Reasonable efforts may be made to avoid certain features, where possible to do so. Restoration of the area adjacent to the new sidewalk will be completed by the City or developer with the following rules:
- i. A minimum 0.3m (1 foot) area adjacent to the sidewalk on both sides will be restored with grass only (no landscaping features with the exception of grass will be permitted).
  - ii. Where the sidewalk is proposed to be less than 0.6m from the back of curb, the sidewalk shall be a 1.5m wide sidewalk adjacent to the curb in accordance with City of Windsor Standard Drawing AS-401.
- C. Where sprinklers are damaged during construction, the contractor will be responsible to replace or repair said sprinkler system. Property owners shall be notified in advance of the construction to identify any sprinkler locations in an effort to prevent damage.

**6. RELATED BEST PRACTICES**

N/A

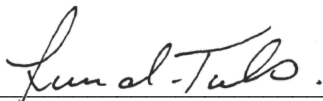
**7. RELATED CITY SPECIFICATIONS**

**S-3 – Earth Excavation (Grading) and Structural Removal**

**S-14 – Sodding**

**S-15 – Seeding Roadway Areas by Hydraulic Seeding and Mulch Cover Method**

**S-34 – Topsoil**

  
\_\_\_\_\_  
City Engineer or Designate

January 3, 2023

\_\_\_\_\_  
Date

Attachment – 4M-157



**Subject: Little River Pollution Control Plant (LRPCP) Bypass Improvements at Pontiac Pumping Station- Schedule C Municipal Class Environmental Assessment- Filing the Notice of Study Completion- City Wide**

**Reference:**

Date to Council: January 30, 2023  
Author: Chandana Walgama  
Pollution Control Project Engineer  
519 253 7111 Ext 3274  
cwalgama@citywindsor.ca  
Pollution Control  
Report Date: December 21, 2023  
Clerk's File #: SW2023

**To:** Mayor and Members of City Council

**Recommendation:**

1. THAT Council **ENDORSE** the Environmental Study Report (ESR) for LRPCP Bypass Improvements at the Pontiac Pumping Station-Schedule C Municipal Class Environmental Assessment, with recommendations supporting the preferred solution and preferred design (Alternative #2) identified by Stantec Consulting Ltd.; and further,
2. THAT Administration **BE DIRECTED** to finalize the ESR for LRPCP Bypass Improvements at the Pontiac Pumping Station -Schedule C Municipal Class Environmental Assessment and issue the Notice of Study Completion in accordance with the Municipal Class Environmental Assessment Planning Process to commence the 30-day review period immediately following finalizing the Environmental Assessment.

**Executive Summary:** N/A

**Background:**

Due to an increasing number of Canadian communities experiencing significant weather-related events, the Government of Canada established the Disaster Mitigation and Adaptation Fund (DMAF) in 2018 which was developed to help communities better manage the risks of disasters triggered by climate change. This investment into

improving the public infrastructure will help alleviate the impacts and improve resiliency against future extreme weather events.

The City of Windsor (City) has experienced an increase in significant high precipitation events in recent years. Basement, coastal, and surface level flooding has occurred across the City, particularly in the Riverside area. In response, a comprehensive study was adopted by the City as the Sewer & Coastal Flood Protection Master Plan (SMP) in July of 2020.

The SMP identified the need for expansion of the Pontiac drainage area and hydraulic capacity upgrades at the Pontiac Pumping Station. The Pontiac Pumping Station, which is located on the site of the Little River Pollution Control Plant (LRPCP), is a stormwater pumping station that services the Pontiac drainage area and acts as an emergency bypass for the LRPCP in the case of a severe storm event. The SMP identified the need for a new wet well structure to house three (3) new stormwater pumps, which will increase the level of service in the expanded Pontiac drainage area and provide capability for a controlled bypass of the LRPCP in the case of a severe storm event.

This project is a part of the Disaster Mitigation and Adaptation Fund (DMAF) application and identified as a Schedule C Municipal Class Environmental Assessment, which required a much more detailed review of all of the various alternatives being considered, environmental impacts and relevant mitigating measures including public and government stake holder consultations.

This project is funded in part by the Government of Canada

The City of Windsor commissioned Stantec Consulting through an RFP process to complete the Schedule C Municipal Class Environmental Study for the Pontiac Pumping Station Upgrades.

### **Discussion:**

The Class Environmental Assessment for the LRPCP Bypass Improvements at the Pontiac Pumping Station was carried out in accordance with the Schedule “C” requirements as outlined under the Municipal Class Environmental Assessment (MCEA). Under the Schedule “C” process for MCEAs, there are five phases to be completed as noted in the Figure 1 below.

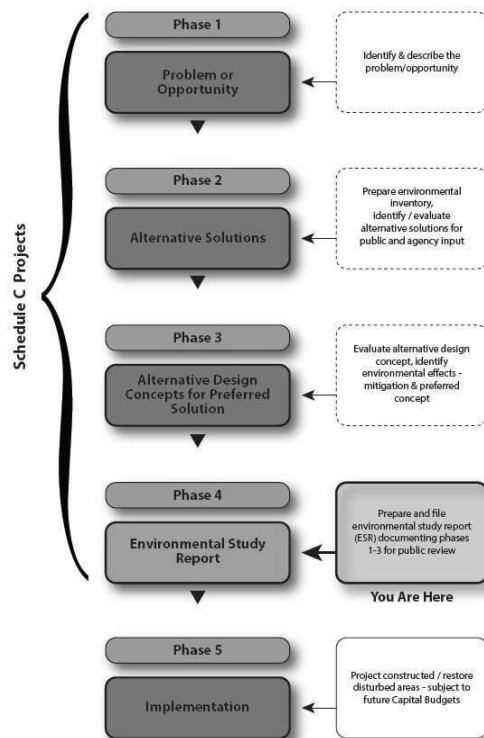


Figure 1: Schedule “C” MCEA Process

The SMP satisfied Phases 1 and 2 of the MCEA process. The Environmental Study Report (ESR) for LRPCP Bypass Improvements at the Pontiac Pumping Station - Schedule C Municipal Class Environmental Assessment satisfies Phases 3 and 4 of the MCEA process.

The preferred design concept was recommended in the ESR after evaluating alternative pumping technologies and facility layouts. Axial flow pumps were recommended for the preferred facility layout described in the ESR. The preferred facility layout was based on the recommended design concepts, optimizing the site area, and providing flexibility for future process and building expansions.

ESR included the details of the consultations with the public, indigenous communities and review agencies that is part of the EA process. A public information centre (PIC) was held on Wednesday, July 13, 2022 at the WFCU Centre, St. Clair Room from 3.00 pm to 7.00 pm to provide information regarding the project and outline the alternatives and evaluation criteria. A series of displays were prepared for PIC depicting alternative design concepts evaluation criteria, recommended design, background information such as SMP, Class EA process, and an air photo of the study area. The purpose of this PIC was to introduce the public regarding the preferred design concept to address the capacity limitations of the LRPCP By-pass at the Pontiac Pumping Station.

The implementation of the preferred solution under phases 3 and 4 of the MCEA process (Phase 5 of the MCEA) will be the subject of a separate assignment, to be awarded through another RFP process upon the issuance of the notice of completion of the Schedule C Municipal Class Environmental Assessment.

## **Next Steps**

Pending the Council endorsement of the ESR for LRPCP Bypass Improvements at the Pontiac Pumping Station -Schedule C Municipal Class Environmental Assessment as a planning document, the Notice of Study Completion will be published in the Windsor Star and on the Project Website ([www.WindsorEAs.ca](http://www.WindsorEAs.ca)). The notice will be provided by direct mail-out to those whom have requested to be included on the project contact list for the EA. A copy of the Notice of Filing of the ESR will be provided to the Mayor and Members of Council and included as a Communication Item at the next regularly scheduled meeting of Council following publication. The ESR will be made available at City Hall in the Council Services office during the 30-calendar day review period.

## **Climate Change Risks**

### **Climate Change Mitigation:**

The energy efficiency requirements per the latest industry standards will be included in the detailed design phase of the pumping station.

### **Climate Change Adaptation:**

This project will address the City's climate change adaptation plan objectives by strengthening the infrastructure resilience, reducing risk to buildings and property, and protecting public health and safety.

### **Risk Analysis:**

There is no significant or critical risks in accepting the ESR for LRPCP Bypass Improvements at the Pontiac Pumping Station -Schedule C Municipal Class Environmental Assessment

The recommendation will require, pursuant to the Environmental Assessment Act, a mandatory 30-day review period. This provides an opportunity for the public to request a Part II Order regarding the proposed undertaken in the EA. Upon filing such an objection, the Minister of Environment undertakes a review and renders a decision, which may approve the project, deny, or approve with conditions. This is a moderate risk, with medium impact with a likely possibility of occurring. However, since the project is at the initial stage of design and the 30- day period is mandated by legislation, it is recommended that this risk be tolerated.

## **Financial Matters:**

### **FPA Comments confirming Budgetary Funding:**

Work on the LRPCP Bypass Improvements at the Pontiac Pumping Station is funded under the DMAF – Intake #1 program. The total DMAF grant covers 40% of all eligible projects costs up to a maximum of \$32 million, for all projects identified under that intake. At the time the report was written, total costs to complete the Pontiac Pumping Station improvements were estimated at \$5,096,000.

Inflationary issues due to material shortages, labour shortages and general economical changes has current cost estimates for DMAF projects that have not yet been tendered, estimated to be higher than originally budgeted. Subsequent to the work commencing on the preferred solution, Administration will report back to Council on the total current cost for the project, should costs exceed budget.

Further, Administration continues to monitor the impact of inflationary and economic impacts to all projects within the capital budget and particularly those funded through various grant programs.

### **Consultations:**

Ed Valdez, Manager Process Engineering and Maintenance

Mark DiPasquale, Financial Planning Administrator

Janelle Coombs, Project Administrator (DMAF Project Coordinator)

### **Conclusion:**

Several criteria and factors were utilized in evaluating alternative design concepts including impacts to the natural environment, socio-economic environment, cultural environment, costs, and technical considerations.

Pending Council confirmation, the ESR will be finalized identifying the Preferred Design for the LRPCP bypass improvements at Pontiac Pumping Station. The Notice of Study Completion will be published in the Windsor Star and on the Project Website ([www.WindsorEAs.ca](http://www.WindsorEAs.ca)) immediately following finalizing the ESR and provided by direct mail-out to the directly affected property owners and those whom have requested to be included on the project contact list for the ESR. A copy of the Notice of Study Completion will be provided to the Mayor and Members of Council and included as a Communication Item at the next regularly scheduled meeting of Council following publication. The ESR will be available at City Hall in Council Services during the 30-calendar day review period.

**Approvals:**

<b>Name</b>	<b>Title</b>
Ed Valdez	Manager, Process Engineering & Maintenance
Jake Renaud	ED, Pollution Control/Deputy City Engineer
Mark DiPasquale	Financial Planning Administrator
Natasha Gabbana	Senior Manager, Asset Planning
Chris Nepszy	Commissioner, Infrastructure Services
Joe Mancina	Commissioner, Corporate Services Chief Financial Officer & City Treasurer
Shelby Askin Hager	Commissioner, Legal and Legislative Services
Onorio Colucci	Acting Chief Administrative Officer

**Notifications:**

<b>Name</b>	<b>Address</b>	<b>Email</b>
Stantec Consulting Attn. Jian Li	2555 Ouellette Ave Windsor, ON. N8X 1L9 Tel: 519 966 2250 Cell: 519 562 7541	jian.li@stantec.com

**Appendices:**

- 1 Final ESR- LRPCP Bypass Improvements at Pontiac P S- Schedule C MCEA





**Pontiac Pumping Station  
Capacity Upgrades –  
Schedule 'C' Municipal Class  
Environmental Assessment**  
Environmental Study Report

December 21, 2022

Prepared for:  
City of Windsor

Prepared by:  
Stantec Consulting Ltd.

Project Number:  
165620249

This document entitled Pontiac Pumping Station Capacity Upgrades – Schedule 'C' Municipal Class Environmental Assessment was prepared by Stantec Consulting Ltd. ("Stantec") for the account of the City of Windsor (the "Client"). Any reliance on this document by any third party is strictly prohibited. The material in it reflects Stantec's professional judgment in light of the scope, schedule and other limitations stated in the document and in the contract between Stantec and the Client. The opinions in the document are based on conditions and information existing at the time the document was published and do not take into account any subsequent changes. In preparing the document, Stantec did not verify information supplied to it by others. Any use which a third party makes of this document is the responsibility of such third party. Such third party agrees that Stantec shall not be responsible for costs or damages of any kind, if any, suffered by it or any other third party as a result of decisions made or actions taken based on this document.

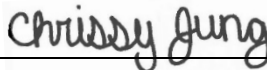
Prepared by



(signature)

**Hannah Rindlisbacher, B.A.Sc., E.I.T., Environmental Engineer in Training**

Prepared by



(signature)

**Chrissy Jung, M.A.Sc., E.I.T., Environmental Engineer in Training**

Reviewed by



(signature)

**Harold Horneck, P.Eng., Senior Consultant**

Prepared and Approved by



(signature)

**Dr. Jian Li, P.Eng., PE, Project Manager**

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## EXECUTIVE SUMMARY

The City of Windsor (City), like many other municipalities, has experienced an increase in significant storm events in recent years. Basement, coastal, and surface flooding has occurred across the City, particularly in the Riverside area. In response, the City undertook a comprehensive study in the Spring of 2018. This study looked to understand the causes of the widespread flooding; identify areas and locations in which severe flooding occurs, evaluate high-level alternative solutions to address this flooding, complete high-level designs and cost estimates; and provide an implementation strategy and timing for the proposed solutions. This comprehensive study was adopted by the City as the Sewer & Coastal Flood Protection Master Plan (SMP) in July of 2020.

The SMP identified the need for expansion of the Pontiac drainage area and hydraulic capacity upgrades at the Pontiac Pumping Station. The Pontiac Pumping Station, which is located on the site of the Little River Pollution Control Plant (LRPCP), is a stormwater pumping station that services the Pontiac drainage area and acts as an emergency bypass for the LRPCP in the case of a severe storm event. The SMP identified the need for a new wet well structure to house three (3) new stormwater pumps, which will increase the level of service in the expanded Pontiac drainage area and provide capability for a controlled bypass of the LRPCP in the case of a severe storm event.

The purpose of this study is to identify, evaluate, and report on the alternative design concepts for the Pontiac Pumping Station upgrades. This evaluation will include the conceptual design of the proposed Pontiac Pumping Station upgrades including the site layout and pumping technology. The project objective is to identify the recommended pumping station design to meet flood mitigation objectives in the Pontiac drainage area. This Environmental Assessment report is the documentation of the Class Environmental Assessment (Class EA) process outlined by the Municipal Engineers Association (MEA) for the Pontiac Pumping Station upgrades.

This report comprises **Sections 1 to 10** inclusive and **Appendices A to C** inclusive. A brief description of each section follows.

## **SECTION 1: INTRODUCTION**

This section provides background information and a description of the Class EA process. The Class EA process is comprised of five phases.

- Phase 1 includes identification of the problem or opportunity and discretionary public consultation.
- Phase 2 includes identification and evaluation of alternative solutions to the problem, identification of environmental impacts of the alternative solutions, consultation with the public and review agencies, selection of the preferred solution and determination of the project schedule. Projects are classified as Schedule A, B or C depending on their complexity and potential for environmental impact.
- Phase 3 includes identification and evaluation of alternative design concepts, identification of environmental impacts and mitigating measures with respect to the design concepts, further consultation with the public and review agencies, and selection of the preferred design.
- Phase 4 includes the completion of the ESR and placing it on the public record, notification to the public and review agencies of completion of the Class EA and a 30-day review period providing the opportunity to request the Minister to require a proponent to comply with Part II of the EA Act (which addresses individual EAs) before proceeding with the project. The Minister determines whether this is necessary.
- Phase 5 includes the implementation of the recommended design.

The SMP was prepared in accordance with Phases 1 and 2 of the Class EA process and identified this project as Schedule C. This Class EA has been carried out in accordance with Phases 3 and 4.

## **SECTION 2: STUDY AREA CONDITIONS**

Projects identified through this Class EA process must be evaluated based on the potential impact on the existing environmental conditions of the study area. This section provides a general description of the existing natural, social, and economic environmental conditions in the study area.

## **SECTION 3: PROBLEM STATEMENT**

This section provides an overview of the existing stormwater pumping station and nearby wastewater treatment facility, identifies the problem statement, and establishes the project objective.



## **SECTION 4: DESIGN SOLUTION FOR PONTIAC PUMPING STATION AS OUTLINED IN THE SMP**

This section presents the details of the work undertaken under Phase 2 of the Class EA process, which was completed as a part of the SMP study. Phase 2 involves the identification and evaluation of various conceptual alternatives with the objective of determining alternative solutions which best address the identified problems and needs based on the potential impact to the natural, social, and economic environments.

## **SECTION 5: DESIGN CONCEPTS AND RECOMMENDATIONS FOR PONTIAC PUMPING STATION**

This section presents the details of the work undertaken to support Phase 3 of the Class EA process, which was completed as a part of this study. In this section of the ESR, alternative design concepts are presented and evaluated leading to the selection of the recommended design, which satisfies the overall preferred solution identified under Phase 2. The evaluation of alternative designs includes consideration of potential environmental, social, and economic impacts and recognizes the need to design the facilities in such a way that they will be as unobtrusive as possible and blend in with existing and proposed uses in the Little River Pollution Control Plant.

## **SECTION 6: ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

This section identifies the environmental impacts of the preferred solution and describes the recommended mitigation measures.

## **SECTION 7: PROPERTY REQUIREMENTS**

This section includes any property and easement requirements for the proposed upgrades and a brief description of typical process for the property acquisition.

## **SECTION 8: CONSULTATION**

This section includes documentation of consultation with the public, review agencies and Indigenous communities that occurred during Phases 2 and 3 of the process. In order to complete Phase 4 of the Class EA process, this report will be made available for review and comment by the above-mentioned parties as a part of the consultation process.

## **SECTION 9: OPINION OF PROBABLE COST**

This section summarizes the opinion of probable cost for the recommended solution and anticipated phasing. The estimated total capital cost for this project is approximately \$8,200,000.00 (in 2022 dollars).

## **SECTION 10: SUMMARY**

This section summarizes recommendations that are made with respect to this study.

# 1.0 INTRODUCTION

## 1.1 BACKGROUND

### 1.1.1 General

The City of Windsor (City) has experienced an increase in significant storm events in recent years as well as record-high water levels in Lake St. Clair and the Detroit River. These hydrological factors have resulted in significant basement, coastal, and surface level flooding throughout the city and surrounding municipalities. Coastal zones and low-lying areas, which includes Riverside and a majority of East Windsor, are at considerable risk for flood events that can negatively impact the community and cause damage to municipal infrastructure, residential / commercial properties, and local transportation networks.

The Intergovernmental Panel on Climate Change (IPCC) noted that it is increasingly clear climate change has influenced several variables, including precipitation and snowmelt, which may contribute to localized flooding. Climate change and more specifically anthropogenic influence has contributed to the intensification of extreme precipitation events worldwide. In North America, the likeliness of heavy precipitation events is set to increase in the future resulting in more frequent, intense, and unpredictable precipitation events. The Windsor Climate Change Adaptation Plan (2020) outlines the local data regarding climate change and projects that an increase in severe precipitation events is to be expected in the future. In addition, high water levels in Lake St. Clair and the Detroit River are putting a strain on the municipal storm sewer systems and poses a risk to property owners in coastal and low-lying areas.

To address widespread basement and surface level flooding during extreme storm events, the City carried out a comprehensive study known as the SMP. The SMP study identified the Pontiac stormwater drainage area and LRPCP sanitary collection area as areas of concern. These areas are at high risk for basement and surface level flooding during a significant storm event because the Pontiac Pumping Station does not have adequate capacity to remove water from the stormwater system or sanitary system (in the case of a bypass event at the LRPCP). Further, the SMP identified that the hydraulic grade line (HGL) in the stormwater collection system did not meet the recommended level of service for a 1 in 100-year storm event. These findings are consistent with observed and reported data during severe storm events. Failure to have adequate infrastructure in place will negatively impact the community and may cause damage to infrastructure, properties, and local transportation networks. The LRPCP will be expanded in the future to provide wastewater treatment capacity for anticipated development throughout East Windsor and Tecumseh. However, to reduce the risk of backups and provide flood relief, the SMP recommended an expansion of the Pontiac drainage area and capacity upgrades at the Pontiac Pumping Station.

The Pontiac Pumping Station, which is located on the site of the LRPCP, is a stormwater pumping station that services the Pontiac drainage area and acts as an emergency bypass for the LRPCP

in the case of a severe storm event. The SMP identified the need for a new wet well structure to house three (3) 1.25 m<sup>3</sup>/s pumps to lower the HGL in the stormwater collection system and increase capacity to provide a 1:100-year storm level of service for the extended Pontiac drainage area. The upgrades completed as a part of this project will increase the level of service in the expanded Pontiac drainage area and provide capability for a controlled bypass of the LRPCP in the case of a severe storm event.

The Pontiac Pumping Station generally services the East Riverside area and is bounded by Tecumseh Road East in the south, the Detroit River in the north, Lauzon Road on the west and Chateau Avenue on the east. The existing infrastructure in the Pontiac drainage area consists of separate sanitary and stormwater collection systems as well as two (2) stormwater management ponds. The existing stormwater infrastructure and boundaries of the Pontiac drainage area are shown in **Figure 1.1** of **Appendix A**. The proposed upgrades to the Pontiac Pumping Station will modify the service areas for the Pontiac drainage area and the nearby East Marsh drainage area. This will include redirecting a portion of the East Marsh drainage area to the Pontiac Pumping Station. The following sections of storm collection system will be redirected from the East Marsh Pumping Station to the Pontiac Pumping Station:

- Riverside Drive East between Bertha Avenue and Adelaide Avenue;
- Adelaide Avenue between Riverside Drive East and Wyandotte Street East;
- Clover Street between Riverside Drive East and Wyandotte Street East;
- Elinor Street between Riverside Drive East and Wyandotte Street East;
- Florence Avenue between Riverside Drive East and Wyandotte Street East;
- Menard Street and John Street between Elinor Street and Florence Avenue;

The proposed drainage area and modifications identified in the SMP study are shown in **Figure 1.2** of **Appendix A**.

### **1.1.2 Sewer & Coastal Flood Protection Master Plan (SMP)**

To address widespread basement and surface level flooding issues during extreme storm events, the City carried out a comprehensive study known as the Sewer & Coastal Flood Protection Master Plan (SMP). The SMP study was initiated in the Spring of 2018 and was completed in July of 2020. The purpose of the SMP study was to understand the causes of flooding; identify locations of basement, surface, and coastal flooding; evaluate alternative solutions; complete high-level design and cost estimates for proposed infrastructure improvements; and provide an implementation strategy for the recommended solutions. The SMP report can be accessed through the following weblink: [Sewer and Coastal Flood Protection Master Plan \(citywindsor.ca\)](https://www.citywindsor.ca/DocumentCenter/View/11111/Sewer-and-Coastal-Flood-Protection-Master-Plan).

The SMP study was carried out under the direction of a Technical Advisory Committee (TAC) that included representatives from the Essex Regional Conservation Authority (ERCA), the City of Windsor, Aquafor Beech Ltd. (Aquafor), and Dillion Consulting Ltd (Dillion). The engineering and planning team assembled to complete the study included Dillion as lead consulting firm, partnered with Aquafor and AMG Environmental Inc.

The SMP Study was carried out in general accordance with the Municipal Engineer's Association Municipal Class EA Master Plan Process, an approved process under the provincial *Environmental Assessment Act*. It included a planning and design process and public open house consultation sessions to provide information on the study findings and solicit input on preferred control options.

As a part of the SMP, the City considered shorter-term and longer-term solutions. Shorter-term solutions were defined as those which can be implemented relatively quickly (ex. 0 to 10 years) and do not need significant capital investment. These include measures to reduce the quantity of precipitation and lake water getting into the sewer system through municipal policies, subsidy programs, and collaborative improvements. Municipal policies include mandatory use of sewage ejector pumps, mandatory downspout disconnection, stormwater surcharges and green infrastructure credits, sanitary rain catchers and maintenance hole sealing, infrastructure maintenance and assessment, design standards, and sewer network backflow prevention devices.

Longer-term solutions were defined as those which will require a longer period of time to implement (ex. greater than 10 years) and may involve a significant capital investment. These include measures to improve the sewer systems by increasing downstream outlet capacity through increased treatment capacity or enlarging outlets to receiving water bodies, source control and private property measures, coastal protection through overland flood barriers and backflow prevention, and improving sewer system conveyance and storage capacity through enlarging sewer pipes and storage facilities.

Longer-term solutions identified in the East Windsor Area, near the Pontiac Pumping Station, include the following improvements:

- Construct 40 km of new storm sewers in East Windsor;
- Improve existing sewer pipes by upgrading from 300 mm diameter circular pipes to 4200 mm x 1800 mm box culverts in certain regions of East Windsor;
- Design and install five (5) underground stormwater storage facilities at the following locations with the corresponding storage volumes:
  - Brumpton Park → 4,725 m<sup>3</sup>
  - Wyandotte Street East at Watson Avenue → 7,000 m<sup>3</sup>

- 8380 Wyandotte Street East → 5,000 m<sup>3</sup>
- Meadowbrook Park → 5,000 m<sup>3</sup>
- Roseville Garden Park → 31,625 m<sup>3</sup>
- Design and construct a new stormwater surcharge storage pond in the Little River Golf course with a storage volume of 20,000 m<sup>3</sup>;
- Design and construct a new stormwater pumping station at the following locations with the corresponding pumping capacity:
  - St. Rose Pumping Station in St. Rose Park with a pump rate of 13.5 m<sup>3</sup>/s
- Upgrades and modifications to existing stormwater pumping stations:
  - St. Paul Pumping Station capacity upgrade for a new pump rate of 18.2 m<sup>3</sup>/s
  - Ford Pumping Station pump replacement with a new pump rate of 0.5 m<sup>3</sup>/s
  - Pontiac Pumping Station capacity upgrade with a new pump rate of 2.5 m<sup>3</sup>/s (Overflow at the LRPCP)
  - East Marsh Pumping Station pump replacement with a new pump rate of 1.7 m<sup>3</sup>/s
- Upgrade Lakeview Pumping Station to increase pump rate to 0.65 m<sup>3</sup>/s. Improve the outlet pipe to Detroit River by replacing the existing 300 mm diameter outlet pipe with a 600 mm diameter outlet pipe;
- Construct 2.7 km of landform barriers and improve the existing landform barrier along Riverside Drive to meet the flood protection elevation of 176.50 m;
- Install backflow prevention measures for sewers crossing the proposed landform barrier;
- Design and install local storm sewers adjacent to the landform barrier ranging in size from 450 mm to 525 mm in diameter; and
- Provide emergency infill areas where temporary flood protection measures are required to provide continuous barrier.

The Class EA for the proposed Pontiac Pumping Station capacity upgrades started in February of 2022. The City of Windsor has initiated this Class EA for the Pontiac Pumping Station capacity upgrades as the next step in implementing the SMP.

### **1.1.3 The Windsor Climate Change Adaptation Plan**

The City of Windsor has a long-standing commitment to both Climate Change Mitigation and Adaptation Planning. This corporate environmental commitment was made through the development of an Environmental Master Plan in 2007 which was further developed through the Climate Change Adaptation Plan in 2020. The Windsor Climate Change Adaptation Plan was developed by the City of Windsor and ICLEI Canada Project Staff working closely with a Community Task Force and various City of Windsor departments.

In the Windsor Climate Change Adaptation Plan, the City determined that average precipitation values are expected to increase in the future, particularly in the seasons of winter and spring. The summer months may see a slight decrease in precipitation coupled with increasingly warm seasonal temperatures. In terms of extreme precipitation, the intensity and frequency of events is expected to increase in the future corresponding to 25% increase in 10-year storm events and 40% increase in 100-year storm events. For example, the City of Windsor has already experienced two 100-year storms between 2018 and 2020. On average more rain is expected to fall (in terms of mm/hr) during these periods of extreme precipitation. The water levels in Lake Erie and Lake St. Clair have been above average values since 2013. In 2019, the Detroit River reached a high-water level of 176.08 metres. In the near climate future water levels are expected to continue to be high. In the distant climate future, the water levels are projected to decrease in the Great Lakes partially due to warmer temperatures and changing precipitation patterns.

The City will continue to prepare for the climate future by creating a more climate resilient city. The City will continue to minimize climate change risks to the community through the advancement of sustainable policies, infrastructure investment, and public education. Forward thinking and proactive actions will benefit the community health, environment, and economy. The climate change mitigation and planning objectives for the City of Windsor include:

1. Integrate Climate Change Thinking and Response
2. Protect Public Health and Safety
3. Reduce Risk to Buildings and Property
4. Strengthen Infrastructure Resilience
5. Protect Biodiversity and Enhance Ecosystem Functions
6. Reduce Community Service Disruptions
7. Build Community Resilience

The Class EA for the proposed Pontiac Pumping Station upgrades will improve capacity and provide flood relief to the extended Pontiac drainage area. This project will address the City's

climate change adaptation plan objectives by strengthening the infrastructure resilience, reducing risk to buildings and property, and protecting public health and safety.

#### **1.1.4 Disaster Mitigation and Adaptation Fund**

Communities throughout Canada are actively experiencing the negative impacts of climate change, including significant weather events and natural disasters. In 2018, the Government of Canada launched the Disaster Mitigation and Adaptation Fund (DMAF) to assist communities with flooding issues, capacity concerns and improve overall community resilience. This project is one of the many that will benefit from Federal Government Funding to make necessary capacity upgrades. The DMAF involves a series of projects, including studies, environmental assessments, road works, sewer works, stormwater management works, and pumping station works to address areas in the City prone to flooding, drainage complications and overall storm sewer capacity issues. These projects seek to reduce future flooding risks in the City of Windsor.

#### **1.1.5 Purpose of Report**

This is an Environmental Study Report (ESR) for the Pontiac Pumping Station capacity upgrades. This ESR presents the completed planning and decision-making process for the recommended design of the proposed upgrades to the Pontiac Pumping Station. This ESR includes a general introduction, review of existing conditions, problem statement, presentation of design solution identified in the SMP, identification and evaluation of alternative design concepts, and recommendations.

Alternative design approaches are presented and evaluated leading to the selection of a preferred design for proposed upgrades to the Pontiac Pumping Station and outlet structure. The decision-making process is based upon minimizing undesirable impacts on the natural, social, and economic environments and the ESR presents the rationale for decisions made. Where impacts on the environment are unavoidable, proposed mitigating measures are presented for consideration to minimize those impacts.

## **1.2 CLASS ENVIRONMENTAL ASSESSMENT PROCESS**

### **1.2.1 General**

The Ontario *Environmental Assessment Act* (the Act) aims to protect, conserve, and properly manage the natural, social, cultural, built, and economic environments as undertakings are planned and implemented in Ontario. The Act recognized that certain undertakings occur frequently, are small in scale, and have a generally predictable range of effects; or have minor environmental significance with the inclusion of a process to approve class environmental assessments as the process to ensure proper planning and engagement on such projects. Under the Act, many municipal stormwater, wastewater, water, roads, and transit projects proceed through the approved Municipal Engineers Association (MEA) Municipal Class EA process (Class



EA). The work undertaken in preparation of this study report follows the planning and design process of the Municipal Class EA, October 2000, as amended in 2007, 2011 and 2015.

This report also serves as a statement for public use in the decision-making process under the Act. Municipal staff and consultants can use the Class EA process in planning, design, and construction of projects to ensure that the requirements of the Act are met. As part of the Class EA procedure, the proponent is required to state how the project is to proceed and gain approval under the Act. There are four approval mechanisms available to the proponent under the Class EA process:

- **Schedule A and Schedule A+** projects are limited in scale, have minimal adverse environmental affects, and include several normal or emergency municipal maintenance and operational objectives. Projects listed in these schedules are now exempt from the Act
- **Schedule B** projects generally include improvements and minor expansions to existing facilities. In these cases, there is a potential for some adverse environmental impacts and therefore the proponent is required to proceed through a screening process including consultation with those who may be affected.
- **Schedule C** projects generally include the construction of new facilities and major expansions to existing facilities. These projects proceed through the environmental assessment planning process outlined in the Class EA and require preparation of an Environmental Study Report to document the planning process.

The preferred solution has multiple activities identified under multiple Class EA schedules. Therefore, this project is being completed under the Municipal Class EA as a **Schedule C** activity, which is the highest identified schedule. Upon completion of Phase 1, Phase 2, Phase 3 and Phase 4 for Schedule C projects, the Owner may proceed directly to Phase 5 and implement the preferred solution.

## 1.2.2 Phases in Municipal Class EA Process

**Figure 1.3** in **Appendix A** illustrates the steps followed in the planning and design of projects covered by the Municipal Class EA. The Class EA for municipal projects follows a five-phase planning process that can be summarized as follows:

Phase 1 – Identification of the problem

Phase 2 – Identification of alternative solutions to the problem, consultation with review agencies and the public, selection of the preferred solution, and identification of the project as a Schedule A, A+, B or C activity.

Phase 3 – Identification of alternative design concepts (technical alternatives) for the preferred solution, evaluation of the alternative designs and their impacts on the environment, consultation with review agencies and the public and selection of the preferred design.

- Phase 4 – Preparation of an Environmental Study Report to document the planning, design and consultation process for the project. The ESR is placed on the public registry for scrutiny by review agencies and the public.
- Phase 5 – Final design, construction and commissioning of the selected technical alternative. Monitoring of construction for adherence to environmental provisions and commitments.

### 1.3 PROJECT SCHEDULE

Phase 1 and 2 of the Municipal Class EA process, problem identification and evaluation of alternative design solutions, were completed as a part of the SMP. Phase 3 and 4 of the Municipal Class EA process, evaluation of alternative design concepts and preparation of an Environmental Study Report, were completed as a part of this study. Phase 5 of the Municipal Class EA process, project implementation, is anticipated to commence in Spring 2023. **Table 1.1** outlines the project schedule thus far and the anticipated schedule for implementation.

**Table 1.1: Project Schedule for the Pontiac Pumping Station Capacity Upgrades**

Phase of Class EA Process	Project Component	Completion Date
Phase 1 & 2	Sewer & Coastal Flood Protection Master Plan	July 2020
Phase 3	Project Initiation – Notice of Study Commencement	March 2022
Phase 3	Review of Background Information	May 2022
Phase 3	Evaluation of Alternative Design Concepts	June 2022
Phase 3	Public Information Center	July 2022
Phase 4	Draft Environmental Study Report	August 2022
Phase 4	Council Presentation & Resolution	January 2023
Phase 4	Notice of Completion	January 2023
Phase 5	Project Implementation	Anticipated to Start in Spring 2023; Completion by the end of the year 2025

## 2.0 STUDY AREA CONDITIONS

The following sections provide an overview of background information and a description of existing conditions within the study area as a basis for comparison. Alternative design solutions and concepts must be evaluated based on their potential impact to existing natural environment, social, and economic factors.

### 2.1 GENERAL DESCRIPTION OF THE STUDY AREA

The City of Windsor is located in Southwestern Ontario on the south shore of the Detroit River and Lake St. Clair directly across from the City of Detroit, Michigan. The population of Windsor is approximately 230,000 with a total land area of approximately 145.3 square kilometers (12,063 hectares). Settlement in the Windsor area dates to the 1700's with a population of 200 being reported in 1836 and 2,500 in 1892. Development generally started along the riverfront and progressed southernly away from the river as the population increased. More recently, the Canadian Census Program shows the population of the City increased from 217,188 in 2016 to 229,660 in 2021. The Windsor Census Metropolitan Area (which includes the Towns of Amherstburg, LaSalle, Lakeshore, and Tecumseh) is the 14<sup>th</sup> largest metropolitan area in Canada.

The riverfront area of the City extends from Lake St. Clair approximately 22.5 km downstream to the west limit of the City. The long-term average discharge of the Detroit River is 5,200 m<sup>3</sup>/s with mid-channel surface currents of 1 to 1.2 m/s at the Ambassador Bridge. Flow travel time along the riverfront study area from Lake St. Clair to the western City limit is approximately 8 to 9 hours. There are numerous existing uses of the Detroit River as described in the "Detroit River Remedial Action Plan, Stage 1" dated 1991.

- The river is heavily used for commercial navigation as part of the Great Lakes-St. Lawrence Seaway system with Detroit being the busiest port on the Great Lakes.
- The river is used as a source of cooling water supply for several industries.
- There are five municipal drinking water intakes in the river including the City of Windsor intake and the Town of Amherstburg intake in the lower reaches of the river near Lake Erie.
- The river supports over sixty species of resident and migratory fish with an associated strong sport fishery.
- The river provides habitat for many resident and migratory birds.
- The Detroit River is an important recreational resource used for activities such as swimming, water skiing, jet skiing, scuba diving, fishing, boating, waterfowl viewing and waterfowl hunting.

- The two bathing beaches on the Canadian shore are located upstream of the study area (Sand Point Beach and Stop 26).
- The river serves as a receiving water for municipal and industrial discharges.
- There are extensive park areas in the City of Windsor bordering on the river.

Riverside, Ontario is a neighbourhood located in the eastern section of the City of Windsor. The Riverside area is characterised by its waterfront road, Riverside Drive, which follows the southern shoreline of the Detroit River. The neighbourhood of Riverside extends generally from Westminster Boulevard to the Windsor/Tecumseh town borderline. The Pontiac drainage area, which is the focus of this study, is located in the Riverside neighbourhood of the City of Windsor. The drainage area considered in the study is shown in **Figure 1.2 of Appendix A** and is generally described as the lands lying between Tecumseh Road East and the Detroit River extending from Lauzon Road on the west and Chateau Avenue on the east. The topography of the land in the study area is relatively low lying and flat with a fall of 2 to 2.5 metres per kilometre from the south limit of the study area to the river.

## **2.2 LAND USE**

The study area for this project is the Pontiac drainage area as shown in **Figure 1.2 of Appendix A**. The Pontiac drainage area is located on the east end of Windsor, otherwise known as East Riverside. The study area is mostly composed of residential dwellings and parkland with some small areas with industrial and commercial establishments. All the developed lands within this area are serviced with separate sanitary sewers and storm sewers.

## **2.2 EXISTING FACILITIES AND INFRASTRUCTURE**

### **2.3.1 Existing Pontiac Pumping Station**

The Pontiac Pumping Station is adjacent to the Little River Pollution Control Plant which is located at 9400 Little River Road. The Pontiac Pumping Station is primarily a stormwater pumping station that services the Pontiac drainage area and acts as an emergency bypass for the LRPCP in the case of a severe storm event. The stormwater from the drainage area flows by gravity to the stormwater inlet chamber and further to the Pontiac Pumping Station where it is lifted and discharged to the Little River. The station receives water from a 1950 mm diameter storm sewer incoming from the LRPCP bypass chamber.

The Pontiac Pumping Station generally services the East Riverside area and is bounded by Tecumseh Road East in the south, the Detroit River in the north, Lauzon Road on the west and Chateau Avenue on the east. The existing infrastructure in the Pontiac drainage area consists of separate sanitary and stormwater collection systems as well as two (2) stormwater management ponds. The existing stormwater infrastructure and boundaries of the Pontiac drainage area are shown in **Figure 1.1 of Appendix A**.

The Pontiac Pumping Station was constructed in 1977 and has been in operation since then. The station has a firm capacity of 4812 L/s and a total capacity of 6935 L/s. It is equipped with four (4) screw pumps, three at 2123 L/s (each) and one at 566 L/s. The pumps are electrically driven. The station is equipped with a 1320 HP diesel driven generator that provides power in an emergency when the normal electrical feed is interrupted. There are several subsystems required to keep the generator functioning, including a fuel oil feed system, a cooling water feed system, an air start system and an oil lubrication system. There are also several ancillary systems within the building that are required to support the pumping operation.

Pontiac Pumping Station is primarily a stormwater pumping station which provides flood relief to the Pontiac drainage area. In a severe storm event, where the capacity of the LRPCP is exceeded, the Pontiac Pumping Station acts as an emergency bypass for wet weather flows to prevent basement flooding. However, the existing pumping station does not have the hydraulic capacity to meet the required level of service and reduce the risk of basement flooding. The SMP identified that the HGL in the LRPCP stormwater collection system did not meet the recommended level of service for a 1 in 100-year storm event. This results in increased risk of basement and surface flooding in the Pontiac drainage area, which is consistent with observed and reported data during severe storm events. Failure to have adequate infrastructure in place will negatively impact the community and may cause damage to infrastructure, properties, and local transportation networks. To reduce the risk of backups and provide flood relief, the SMP recommended an expansion of the Pontiac drainage area and capacity upgrades at the Pontiac Pumping Station.

### **2.3.2 Little River Pollution Control Plant**

The LRPCP, is located on a 16.2-hectare (40 acres) site at the intersection of Little River Road and Little River Access Drive at 9400 Little River Road. The plant treats sanitary and industrial wastewater from the portion of the City of Windsor east of Pillette Road, and the nearby Town of Tecumseh. The LRPCP receives wastewater from the 1200mm diameter Little River Sanitary Trunk Sewer, servicing the south-eastern section of the City of Windsor. It also receives wastewater from the 1500mm diameter Windsor-Tecumseh Sanitary Sewer, presently servicing East Windsor and the Town of Tecumseh. LRPCP receives wastewater from the 900mm diameter Edgar Avenue – Riverside Sandwich East Trunk Interceptor Sewer. An oval 940 x 990mm combined trunk sewer from Wyandotte Street, and a 690mm diameter Clairview Avenue sanitary interceptor sewer serve the areas West of LRPCP to Pillette Road and Westminster Boulevard and North of Little River Boulevard to Detroit River.

The LRPCP was originally constructed in 1965 and has undergone several expansions, most recently the upgrades completed in 1993. The original plant began its operation in 1966 as a primary treatment plant with a rated capacity of 18,000 m<sup>3</sup>/d. In 1974, it was upgraded and expanded to 36,000 m<sup>3</sup>/d providing secondary treatment using the activated sludge process and phosphorous removal. The plant was expanded again in the early 90's to a rated capacity of 73,000 m<sup>3</sup>/d. The major unit operations at the LRPCP include fine bar screening, raw wastewater pumping station, grit removal, primary clarifiers, aeration tanks (activated sludge process), final

clarifiers (activated sludge process), UV disinfection and sludge dewatering by centrifuges. In the case of a significant wet weather event where the capacity of the LRPCP is exceeded, the Pontiac Pumping Station acts as an emergency bypass for wet weather flows to prevent basement flooding.

## **2.4 NATURAL ENVIRONMENT**

### **2.4.1 Climate**

The climate in Essex County is classified as modified humid continental, which has hot and humid summers with mild winters and adequate precipitation. In comparison with the other areas in the Province, Essex County's southerly latitude and proximity to the lower Great Lakes provides for warmer summer and winter temperatures with a longer growing season. Because the area is also on one of the major continental storm tracks, it experiences wide variations in day-to-day weather including severe summer thunderstorms. The normal minimum and maximum temperatures are  $-9^{\circ}\text{C}$  and  $+28^{\circ}\text{C}$  respectively and the mean daily temperature is above  $6^{\circ}\text{C}$ , which tends to increase temperatures in surface waters.

### **2.4.2 Geology and Physiography**

The City of Windsor is located in the physiographic region of Southwestern Ontario known as the St. Clair Clay Plains. As the name suggests the area is covered with extensive clay plains. The topography of the area is extremely flat with elevations ranging from 175 to 204 meters above sea level.

Most of the bedrock under the region is sedimentary limestone of the Devonian age which has a high calcium and magnesium content. The bedrock in the majority of Essex County is covered by glacial drift with a thickness ranging from 3 m to 45 m from west to east. The parent soil material is a heavy ground moraine and lacustrine deposition containing a considerable amount of limestone, appreciable amounts of shale and some igneous rock.

### **2.4.3 Soils and Subsurface Conditions**

Soils within the County of Essex were formed from heavy ground moraine which has been altered by glacial lake wave action and lacustrine deposition. The majority of the area is part of a smooth clay plain and the predominant soil types are Perth and Brookston clays and their associated clay loams. Developed from dolomitic limestone intermixed with shale, the imperfectly drained member is the Perth clays and the poorly drained member is the Brookston clays.

The clay deposits found in the majority of the Windsor area consist of a stiff silty clay to clayey silt deposited without significant stratification and possessing a distinctively till-like structure with a small fraction of sand and gravel sized particles distributed randomly throughout. In the west end of Windsor, this till-like deposit is overlain by a lacustrine deposit of soft to firm, layered silty clay. This deposit was laid down in the glacial lakes in front of the ice sheet during their retreat in the

post glacial period, when the level of Lake Erie was considerably higher than it is at present. These layered strata, of varying thicknesses and strengths, are known to exist up to 30 meters in total depth.

Geotechnical investigations at this site were carried out by Golder Associates for the City of Windsor. To evaluate the site conditions, historical geological and geotechnical information in the site were reviewed. There are six (6) geotechnical reports in Golder's records for lands at or adjacent to the Pontiac Pumping Station site. The borehole investigations on the site determined the general subsurface conditions on site consist of existing fill, topsoil, and pavement structures underlain by extensive deposits of native silty clay to sandy silty clay.

Further there are three (3) soil layers on the site: (i) topsoil, (ii) sandy silty clay fill, (iii) native sandy silty clay. The depth and thickness of the three soil layers is anticipated to vary slightly throughout the site. At the borehole locations the subsurface conditions consisted of surficial topsoil of approximately 150 to 240 mm in thickness underlain by sandy silty clay fill of approximately 0.8 m to 1.3 m in thickness. Beneath the sandy silty clay fill was an extensive deposit of native sandy silty clay. Borehole investigations were terminated in this soil layer after exploring the stratum for depths ranging from about 11.7 m to 14.4 m. During the borehole investigations no seepage into the open boreholes was observed and boreholes were dry upon completion of drilling. No obvious staining or odours indicative of potentially significant chemical impacts were observed in the soil samples for the boreholes. It should be noted that groundwater conditions vary dependent on precipitation, site grading, and other factors; therefore, some groundwater seepage should be anticipated during construction. Inflows may be controlled by pumping with filtered sumps and are anticipated to be sufficiently low such that a Permit to Take Water (PTTW) should not be required.

#### **2.4.4 Natural Vegetation**

The County lies completely within the Niagara section of the Deciduous Forest Region of Ontario. Favourable soil and climatic conditions have allowed for the extension of many species of Carolinian and Prairie flora which makes the region unique in Canada.

The study area within the LRPCP consists mainly of walking paths, paved parking lots and green space around the facilities and infrastructure. Stantec completed a site investigation on April 13<sup>th</sup>, 2022, to document existing natural heritage conditions in the Study Area. Surveys included Ecological Land Classification (ELC) of vegetation communities, a species at risk (SAR) habitat assessment of terrestrial features, and a fish habitat assessment of the shoreline. The natural heritage features that were identified through the background review were confirmed during the field surveying. The natural heritage impact assessment report is included in **Appendix C**.

Potential impacts associated with the construction of the proposed building and connecting infrastructure include soil compaction, siltation of adjacent natural communities, vegetation disturbance, spills of deleterious substances into the Little River, noise disturbance and encounters with wildlife. The impacts are considered short term, localized to the construction area during



construction activities, and will be mitigated through the application of appropriate construction techniques and mitigation measures. Climbing prairie rose is a species of conservation concern (SOCC) that may be present within the impacted thicket community. A site visit to look for this species is recommended prior to vegetation removal. If the species is present, relocation may be needed.

#### **2.4.5 Terrestrial Animal Life**

The study area within the LRPCP consists mainly of walking paths, paved parking lots and green space around the facilities and infrastructure which are not anticipated to support a wide diversity of terrestrial animal life. Impacts from construction of the proposed building and connecting infrastructure will primarily be limited to anthropogenic habitats that do not support wildlife. Construction of the outlet sewer may result in a small, short-term impact to terrestrial communities.

Eight (8) SAR have the potential to be present in the Study Area: Barn Swallow, Chimney Swift, bat SAR (4 different species), Butler's Gartersnake and Eastern Foxsnake. Of these, Butler's Gartersnake and Eastern Foxsnake are the only SAR that have potential to be present within the work zone. Mitigation measures for SAR snakes are discussed in **Section 6**. No permanent impacts to breeding birds, reptiles or other wildlife species, is expected as a result of the construction of the proposed building and connecting infrastructure provided mitigation measures recommended in **Section 6** are implemented.

#### **2.4.6 Marine Life**

The Study Area includes the Little River and the embayment connecting the Little River and the Pumping Station, which serves as the outlet for the proposed pumping station and supports a limited variety of marine and aquatic species. As many as 8 species of fish have been documented in the Little River. Installation of the Pontiac Pumping Station will result in a short-term impact to fish habitat as a result of the temporary isolation and dewatering of the work area. No permanent impacts to fish and fish habitat are expected as a result of the installation of the Pontiac Pumping Station provided mitigation and contingency measures are followed.

## **2.2 CULTURAL, SOCIAL AND ECONOMIC ENVIRONMENT**

### **2.5.1 Study Area**

The study area, within the boundaries of the Pontiac drainage area, can be described as a residential community. The study area contains a mixture of residential, parkland, and commercial/industrial developments.

Air quality in the area is poor which has been partially attributed to heavy industry on the American side of the Detroit River. Noise levels are typical of City settings.

The study area is well served with a good road system and a full range of utilities including electrical power, water, natural gas and telephone.

### **2.5.2 Official Plan**

The City of Windsor has an Official Plan and zoning by-laws that regulate and control development and planning policies in the service area. These documents are revised from time to time as necessary to take into account physical and social changes affecting the City.

Based on the Official Plan and zoning by-laws, the study area consists of mainly three zones. The area north of Riverside Drive East is zoned Waterfront Residential, the central part of the study area between Riverdale Avenue and Clover Avenue is mostly Open Space and the remainder of the area is zoned as Residential. The study area does not include any of the City's designated special policy areas.

### **2.5.3 Provincial Policy Statement**

The Provincial Policy Statement (PPS) is a consolidated statement of the government's policies on land use planning. The PPS was issued in 2020 under the *Planning Act* and as such all decisions affecting planning matters shall be consistent with the Provincial Policy Statement. The PPS has policies across five themes: increasing housing supply and mix, protecting the environment and public safety, reducing barriers and costs, supporting rural, northern, and Indigenous communities, and supporting certainty and economic growth. The PPS is a key consideration for identifying land-use planning objectives and evaluating alternative design concepts in **Section 5.0** of this ESR.

In combination with Municipal Official Plans, the PPS outlines a framework for comprehensive planning that allows Ontario to sustain strong communities, a clean and healthy environment, and economic growth. The key approach for implementing the PPS is through Municipal Official Plans which identify provincial interests and present appropriate land use designations and policies for the local community. It is important that Municipal Official Plans are kept up to date with the PPS to protect provincial interests and ensure that development takes place in suitable areas. This proposed project is consistent with the City of Windsor's Official Plan.

### **2.5.4 Archaeological**

Windsor is an area rich in cultural heritage resources and diversified cultural traditions. **Figure 2.1** of **Appendix A**, which is adapted from Figure 4: 'Archaeological Potential' of the City of Windsor Archaeological Master Plan, shows land containing archaeological resources or areas of archaeological potential within the City of Windsor. There are eighteen (18) registered archeological sites within the Windsor city limits and five (5) additional registered sites in the immediate environs of the City. In addition, there are several dozen unregistered archeological finds. Registered sites in Windsor include five (5) Native sites, nine (9) Euro-Canadian sites and four (4) sites with both cultural components. A majority of the registered and unregistered

archeological sites within the City of Windsor are located in the Central and West end particularly in the Old Sandwich Town region.

In accordance with the Checklist for Determining Archaeological Potential from the Ministry of Tourism and Culture, a Stage 1 Archaeological Assessment is to be conducted for lands impacted by this project. If the Stage 1 Archaeological Assessment concludes that these areas have moderate to high potential for the discovery of Indigenous or Euro-Canadian resources, a further Stage will be conducted to determine if any archaeological resources are on the property using either pedestrian survey or test pit survey.

A Stage 1 Archaeological Assessment was undertaken by Fisher Archaeological Consulting (FAC) for the study area. The Stage 1 Archaeological Assessment consists of a review of geographic, land use, and historical information for the property and the relevant surrounding area, a property visit to inspect its current condition and contacting MTCS to find out whether there are any known archaeological sites on or near the property. Its purpose is to identify areas of archaeological potential and further archaeological assessment (e.g. Stage 2-4) as necessary.

The Stage 1 Archaeological Assessment indicated that there was one registered archaeological site within a one-kilometer radius of the study area and there were no previous archaeological reports for work within fifty meters of the study area. The Pontiac Pumping Station study area is located between Little River and the 'Old' Little River. The historic NTS map from 1912 shows some channelization of the 'Old' Little River. The archaeological potential for Indigenous and Euro-Canadian sites is high based on the study area's proximity to this watercourse. Although the archaeological potential is high, there have been obvious disturbances to parts of the study area during the construction of the existing pumping station. Due to the potential for discovery of Aboriginal or Euro-Canadian resources, FAC recommended that the small portion of the study area indicated as having high archaeological potential undergo a Stage 2 Archaeological Assessment by a test pit survey at five metre intervals.

The Stage 2 Archaeological Assessment to determine if any archaeological resources are on the property using test pit survey was carried out by Stantec on May 19<sup>th</sup>, 2022. No archaeological resources were identified during the Stage 2 Archaeological Assessment at the site. Therefore, no further land-based archaeological assessment of the study area is required. The archaeological assessment carried out as a part of this study is included in **Appendix C**.

### **2.5.5 Built Heritage and Cultural Heritage Landscapes**

The heritage resources around the proposed work area were identified based on the Windsor Municipal Heritage Register provided by the City of Windsor. The City of Windsor's Planning and Building Services Department was also consulted to determine the location and details of Built Heritage and Cultural Heritage Landscapes.

**Figure 2.2** of **Appendix A** is an aerial plan showing the built heritage and cultural heritage landscapes around the potential proposed work area. As shown, there are no built heritage resources and/or cultural heritage landscapes in proximity to the location of proposed work area.

The Ministry of Tourism, Culture and Sport (MTCS)'s "Screening for Impacts to Built Heritage and Cultural Heritage Landscapes" checklist was completed for this project. The completed checklist is included in **Appendix C**. The checklist indicated that there are buildings or structures aged 40 years or more on or adjacent to the properties impacted by the proposed work. In response, a Heritage Overview Memorandum (memo) was prepared to address this matter. The preparation of the Heritage Overview included a review of relevant online materials and consultation with the City of Windsor, Ontario Heritage Trust, and Ministry of Citizenship and Multiculturalism. Review of historic mapping indicated no potential for 19<sup>th</sup> century structures in the study area. The building/structures identified in the MTCS Checklist were evaluated and determined to have no design, physical, historic, associative, or contextual value. Thus, the Heritage Overview concluded that no protected heritage resources or "cultural heritage values or interests" (CHVI) were identified within the study area. Given the findings of the Heritage Overview, no additional heritage studies are recommended. The Heritage Memo is included in **Appendix C**.

## **3.0 PROBLEM STATEMENT**

### **2.1 PROBLEM IDENTIFICATION**

The City of Windsor has experienced several significant storm events in recent years that have resulted in widespread basement, coastal, and surface level flooding. Through the comprehensive SMP study the Pontiac stormwater drainage area and LRPCP collection area were identified as areas of concern. These areas are at high risk for basement and surface level flooding during a significant storm event because the Pontiac Pumping Station does not have adequate capacity to remove water from the stormwater system or sanitary system (in the case of a bypass event at the LRPCP). Further, the SMP identified that the HGL in the stormwater collection system upstream of the LRPCP did not meet the recommended level of service for a 1 in 100-year storm event.

In addition, the Riverside area between Ford Boulevard and the east City limits (which includes the Pontiac drainage area) was identified as a coastal flood risk area. A coastal flood risk area is defined as those areas that are at risk of flooding due to overtopping of the existing shoreline from unusually high lake/river level conditions or storm surges. During the SMP study, it was confirmed that basement and surface level flooding was observed throughout the drainage area during storm events.

Failure to have adequate infrastructure in place will negatively impact the community and may cause damage to infrastructure, properties, and local transportation networks. The LRPCP will be expanded in the future to provide wastewater treatment capacity for anticipated development throughout East Windsor and Tecumseh. However, to reduce the risk of backups and provide flood relief, the SMP recommended an expansion of the Pontiac drainage area and capacity upgrades at the Pontiac Pumping Station. This design solution will reduce the HGL within the storm sewer system, allow LRPCP emergency bypass to minimize sanitary sewer surcharge during severe storm events, mitigate the risk of basement flooding, and provide flood resiliency for the 1 in 100-year storm event.

### **3.2 PROJECT OBJECTIVE**

The City of Windsor, with funding from the Federal Government's Disaster Mitigation and Adaptation Fund, has initiated this Class EA for the design of the new Pontiac Pumping Station as recommended in the Sewer & Coastal Flood Protection Master Plan. The purpose of this EA study will be to investigate and report on the design and site layout alternatives for the Pontiac Pumping Station capacity upgrades to reduce the risk of flooding in the Pontiac drainage area during major storm events.

## 4.0 DESIGN SOLUTION FOR THE PROPOSED UPGRADES TO PONTIAC PUMPING STATION AS OUTLINED IN THE SMP

This section presents an overview of the work undertaken for Phase 2 of the Class EA process. Phase 2 involves the identification and evaluation of various design solutions with the objective of determining which alternative best addresses the problem statement. Phase 2 for this project was completed as a part of the SMP, which can be accessed through the following weblink:

[Sewer and Coastal Flood Protection Master Plan \(citywindsor.ca\)](https://www.citywindsor.ca)

In order to reduce the risk of flooding in the Pontiac drainage area, the SMP determined the following actions are required:

1. Redirect a portion of the East Marsh drainage area to the Pontiac drainage area to reduce the risk of inland coastal flooding. Improving the effectiveness of the Ganatchio Trail berm to provide inland drainage preventing coastal flood waters from entering the storm sewer system and reducing the risk of flooding in the Pontiac and East Marsh drainage areas;
2. Upgrade sewers along Cedarview Avenue, Riverside Drive, North Neighbourhood, and South Neighbourhood as well as provide off-line underground storage in Brumpton Park; and
3. Upgrade the hydraulic capacity of the Pontiac Pumping Station to effectively release stormwater to the Little River and reduce the HGL within the stormwater system to meet the appropriate level of service. This would be accomplished by redirecting flow from the existing stormwater inlet chamber to a new wet well structure proposed to be located south of the existing Pontiac Pumping Station. The wet well structure is to house three (3) 1.25 m<sup>3</sup>/s (each) pumps.

### 2.1 PROPOSED DRAINAGE AREA

The Pontiac Pumping Station generally services the East Riverside area and is bounded by Tecumseh Road East in the south, the Detroit River in the north, Lauzon Road on the west and Chateau Avenue on the east. The existing infrastructure in the Pontiac drainage area consists of separate sanitary and stormwater collection systems as well as two (2) stormwater management ponds. The existing stormwater infrastructure and boundaries of the Pontiac drainage area are shown in **Figure 1.1** of **Appendix A**. The proposed Pontiac Pumping Station project will modify the service areas for the Pontiac drainage area and the nearby East Marsh drainage area to reduce the risk of inland coastal flooding. The following sections of storm collection system will be redirected from the East Marsh Pumping Station to the Pontiac Pumping Station:

- Riverside Drive East between Bertha Avenue and Adelaide Avenue;

- Adelaide Avenue between Riverside Drive East and Wyandotte Street East;
- Clover Street between Riverside Drive East and Wyandotte Street East;
- Elinor Street between Riverside Drive East and Wyandotte Street East;
- Florence Avenue between Riverside Drive East and Wyandotte Street East;
- Menard Street and John Street between Elinor Street and Florence Avenue;

The Ganatchio Trail berm provides inland drainage preventing coastal flood waters from entering the storm sewer system and reduces flooding risk in the Pontiac and East Marsh drainage areas. However, the identified sections of storm sewers, which are currently directed to the East Marsh Pumping Station, are located inland (to the south) of the existing berm. In the event of a severe storm event, coastal flooding, pump failure, or other event where stormwater is not able to be effectively released at the East Marsh Pumping Station, these storm sewers may surcharge and cause inland flooding south of the Ganatchio Trail berm. Redirecting these storm sewers to the Pontiac drainage area would eliminate this pathway for inland flooding and improve the effectiveness of the Ganatchio Trail berm significantly reducing the risk to infrastructure. The proposed drainage area and modifications identified in the SMP study are shown in **Figure 1.2** of **Appendix A**.

## 2.2 PROPOSED PUMPING STATION CAPACITY

As outlined in the SMP, the Pontiac Pumping Station is proposed to be designed to provide the following level of service:

- Major System (Overland Drainage):
  - Provide service for the 1 in 100-year event and maintain the storm sewer HGL such that surface flooding is less than 0.30 m deep within the municipal right-of-way.
  - Ensure emergency access is available via main roadways and reduce the risk of property damage.
- Minor System (Underground Sewers):
  - Provide service for the 1 in 5-year event and maintain the storm sewer HGL at least 0.3 m below the ground level based on the available outlet receiving capacity.
  - No surface flooding in the case of a minor rainfall event.

The level of service provided by the Pontiac Pumping Station was established in the SMP study based on input from the Technical Advisory Committee, Essex Regional Conservation Authority,

emergency services providers, internal departments at the City of Windsor, the public, and the Ministry of Environment, Conservation and Parks (MECP). In addition, the following documents were referenced to determine the level of service: Windsor and Essex Regional design guidelines, applicable City of Windsor Master Plan studies, and applicable Municipal Master Plan studies from likewise Municipalities (i.e., Toronto, London, and Hamilton). In addition to the recommendations for the pumping station level of service, the MECP recommends the use of Low Impact Development (LID) features such as infiltration trenches or bioswales to attenuate and infiltrate stormwater throughout the drainage area.

Due to the physical characteristics of the existing pumping station improving the hydraulic capacity through pump replacement or addition is not plausible. In the SMP study, the existing water levels in the Pontiac Pumping Station and the corresponding pumping capacities were evaluated. The sanitary trunk sewer immediately upstream of the LRPCP is connected to the Pontiac Pumping Station through an emergency bypass sewer which is only utilized during severe storm events. The overflow elevation of the emergency bypass sewer is 173.38 m and emergency bypass events are controlled by a sluice gate which opens when the water level in the LRPCP wet well reaches an elevation of 170.69 m. The filling point or water level elevation at which the screw pump is operating at its full capacity and maximum efficiency is 170.99 m. Therefore, when an emergency bypass event occurs the screw pumps are not operating at their full capacity and the existing pumping station is not able to lower the water level in the inlet chamber to facilitate an overflow.

In the SMP study (see Section 6.3 of Appendix F of the SMP), the overflow rate at the LRPCP was estimated to be approximately 2.5 m<sup>3</sup>/s. Therefore, the firm capacity of the proposed Pontiac Pumping Station based on the desired level of service was determined to be 2.5 m<sup>3</sup>/s. The proposed improvements will include expanding the existing pumping station by adding a new wet well structure to house the three (3) pumps. These pumps will operate in a two duty and one standby configuration with each pump having a capacity of 1.25 m<sup>3</sup>/s. The functional design of the pumping station and specific site features are to be determined throughout this Schedule C Class Environmental Assessment and refined based on further stakeholder input.



## **5.0 DESIGN CONCEPTS AND RECOMMENDATIONS FOR PROPOSED UPGRADES TO PONTIAC PUMPING STATION**

### **5.1 PUMPING STATION TECHNOLOGIES**

In this section of the report, alternative designs which would satisfy the recommended solution are identified and evaluated leading to the selection of a preferred design for this application. The recommended design will include an evaluation of the following alternative pumping technologies:

- Centrifugal Flow Pump
- Axial Flow Pump
- Mixed Flow Pump
- Archimedean Screw Pump

The evaluation of alternative designs includes consideration of potential environmental, social and economic impacts and recognizes the need to design the facilities in such a way that maximizes performance and efficiency, reduces footprint at the LRPCP, and reduces operation and maintenance requirements.

#### **5.1.1 Centrifugal Flow Pump**

The Hydraulic Institute Standards (HIS) defines a centrifugal pump as a kinetic machine that converts mechanical energy into hydraulic energy through centrifugal activity. As fluid enters the pump it is directed to the center of a rotating impeller. The rotational movement of the impeller creates centrifugal force accelerating the fluid radially outward into the diffuser (volute chamber), from which the fluid exits with higher energy than when it entered. Centrifugal pumps are typically non-clog close-coupled pumps. Pumps which are designed for all electrical components to be watertight and submerged below the surface of the water are otherwise known as submersible centrifugal pumps. These pumps may be removed from the wet well for inspection and repair. This type of pump is typically used for raw sewage and other solids bearing fluids.

Centrifugal flow pumps can be used for high head – low flow applications or can be designed to meet a wide range of head and flow requirements making them functional for a variety of applications. Centrifugal pumps can be arranged in a variety of configurations including coupled so that the discharge from one pump feeds the intake of subsequent pumps, thereby increasing the delivery head. In this way it is possible to design centrifugal pumping systems which can meet head requirements in the order of hundreds of metres. Centrifugal pumps are also able to operate at a higher speed than the other types of pumps especially when higher pressures are required.

However, matching the pump operating speeds with the application is crucial to maximizing pump efficiency, as high operating speeds usually require more power and need to be controlled to avoid losses. Centrifugal pumps tend to be less tolerant of solid material entering the stream and while they can be designed to be tolerant of solid material, it is usually at considerable expense to efficiency.

### **5.1.2 Axial Flow Pump**

The Hydraulic Institute Standards (HIS) defines an axial flow pump as a kinetic machine that converts mechanical energy into hydraulic energy. For axial flow pumps the fluid enters the pump cavity parallel to a central rotating impeller. The rotational movement of the impeller creates a force accelerating the fluid axially outward as a result the fluid exits with higher energy than when it entered. A similar analogy to an axial flow pump is a boat motor or propeller which pushes the water in a single direction to create movement or thrust. Of the various pump types, axial flow pumps are considered to have the highest efficiency; however, the use of this pump type is limited due to inability to use in high head applications.

Axial flow pumps are high-capacity pumps that are typically used for low head - high flow applications such as stormwater pumping stations. These pumps can be mounted at any angle, although in stormwater applications they tend to be almost universally mounted in the vertical orientation. Typically, axial flow pumps are driven by means of a vertical shaft attached to an external motor which is mounted on the top of the pumping chamber structure. Axial flow pumps tend to be more tolerant of solid material entering the stream; however, large debris should be screened as the propellers may bend or break if they strike a relatively large or hard object. In addition, as with centrifugal pumps, fibrous materials may wrap themselves around the propellers causing maintenance and operational impacts.

### **5.1.3 Mixed Flow Pump**

Mixed flow pumps are high-capacity pumps that are typically used for high flow – medium head applications. The mixed flow pump impellers are designed uniquely such that the vanes sweep backwards and the pump functions as a compromise between axial flow pumps and centrifugal pumps. In mixed flow pumps the flow is directed radially and axially along the shaft centerline. As a result, mixed-flow pumps are able operate at higher head than axial-flow pumps while delivering higher flow rates than centrifugal-flow pumps. Like axial-flow pumps, mixed-flow pumps can be mounted at any angle; however, they are typically mounted in a vertical orientation in stormwater applications. Mixed flow pumps are commonly used for the following applications: transferring water from rivers to canals, flash mixers, filter-to-waste, or intermediate pumping stations.

### **5.1.4 Archimedean Screw Pump**

An Archimedean screw pump is a type of positive-displacement pump which provide lift by carrying fluids in the spaces between the screw threads. Screw pumps utilize the Archimedes

principle of a rotating shaft to displace the fluid axially as the screws rotate. An inclined screw pump has a continuous spiral vane attached to a central shaft, mounted in a trough or pipe. When the screw is rotated, the spiral vane scoops water from the free water surface at the entrance of the pump and discharges it at a higher elevation. It is a continuous propeller pump and flows are axial, with no centrifugal action. The primary advantage of an inclined screw pump is that it is a natural variable flow pump which operates at a constant speed. As the free water surface at the suction rises, the submergence of the inlet increases, and the pump is able to scoop more liquid.

The Archimedes screw pump is usually large capacity low head, non-clogging and therefore advantageous in raw sewage and wastewater applications. As a result of the pumping mechanism, screw pumps can provide constant flow rates and pressures and have a relatively high tolerance for solids entering the flow stream. Screw pumps are commonly used in applications where low heads are required (i.e., less than 10 meters). The main disadvantage of screw pumps is the difficulty to increase the pumping head without considerable physical modifications to the structure, whereas this is easy with other types of pumps. Also, since the design is dependent upon minimal leakage from between the flights and the channel, any wear over time significantly reduces efficiency.

### **5.1.5 Evaluation of Alternative Pump Technologies**

Four alternatives, which include the centrifugal flow pumps, axial flow pumps, mixed-flow and screw pumps were evaluated based on the following evaluation criteria:

- Performance or Effectiveness
- Space Required
- Capital and Construction Cost
- Operation & Maintenance
- General Concerns

Each pump technology was reviewed and summarized in **Table 5.1**.

**Table 5.1: Evaluation of Alternative Pump Technologies**

<b>Evaluation Criteria</b>	<b>Centrifugal - Flow Pump</b>	<b>Axial - Flow Pump</b>	<b>Mixed - Flow Pump</b>	<b>Screw Pump</b>
<b>Performance &amp; Effectiveness</b>	<ul style="list-style-type: none"> <li>• Lower efficiency, shorter lifetimes</li> </ul>	<ul style="list-style-type: none"> <li>• Very efficient in high flow, low head applications</li> </ul>	<ul style="list-style-type: none"> <li>• Efficient in high flow, low head applications</li> </ul>	<ul style="list-style-type: none"> <li>• Wide range of flow, Difficult to increase head</li> </ul>
<b>Space Required</b>	<ul style="list-style-type: none"> <li>• Low space requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Low space requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Low space requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Relatively high space requirements</li> </ul>
<b>Capital / Construction Cost</b>	<ul style="list-style-type: none"> <li>• Relatively low to medium</li> </ul>	<ul style="list-style-type: none"> <li>• Relatively low to medium</li> </ul>	<ul style="list-style-type: none"> <li>• Relatively low to medium</li> </ul>	<ul style="list-style-type: none"> <li>• Relatively high equipment and construction cost</li> </ul>
<b>O&amp;M Requirements</b>	<ul style="list-style-type: none"> <li>• Low to medium O&amp;M requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Low O&amp;M requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Low to medium O&amp;M requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Medium O&amp;M requirements</li> </ul>
<b>General Concerns</b>	<ul style="list-style-type: none"> <li>• Loss of efficiency should solids enter the flow</li> </ul>	<ul style="list-style-type: none"> <li>• Performance is very dependent upon providing good inlet flow, Loss of efficiency should solids enter the flow</li> </ul>	<ul style="list-style-type: none"> <li>• Performance is very dependent upon providing good inlet flow, Loss of efficiency should solids enter the flow</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to modify, Requires enclosing</li> </ul>

Based on a detailed review of the four alternative pump technologies, the axial flow type of pump was identified as the preferred alternative for the new pumps to be installed as part of the proposed upgrades to the Pontiac Pumping Station. This is due to the pump’s high efficiency in high flow – low head applications, relatively low space requirement, and relatively low capital cost. These benefits are of particular importance for this application as reducing the size of the pumps and pumping station will minimize the space utilized at the LRPCP site. This will result in more space for future expansions of the UV disinfection facilities as well as improved access for vehicles to the northwest side of the site and minimal structural impact for the proposed expansion of the administration building.

The simple and proven operation of this axial flow pump technology makes this the preferred alternative for this project. The typical concerns associated with axial flow pumps are the loss of efficiency caused by solids entering the wet well and the need to provide adequate inlet flow

conditions. In the final design of the Pontiac Pumping Station these issues will be addressed by implementing a bar screen at the pumping station inlet to minimize solids entering the pumping chamber and configuring the wet well to reduce the turbulent flow conditions.

## **2.2 PUMPING STATION SITE LAYOUT**

In this section of the report, alternative design concepts for the site layout are identified and evaluated leading to the selection of a recommended design for this application. The evaluation of alternative layouts included consideration of potential environmental, social, technical, and economic impacts. However, due to the isolated location of the study area and the nature of this application, the social, natural environmental, and economic impacts are anticipated to be similar regardless of the layout chosen for the site. As a basis for comparison, it is assumed that all of the site layout alternatives will: be able to meet flood mitigation objectives; provide an enhanced level of service for the Pontiac drainage area; and have comparable capital, operations, and maintenance cost/requirements.

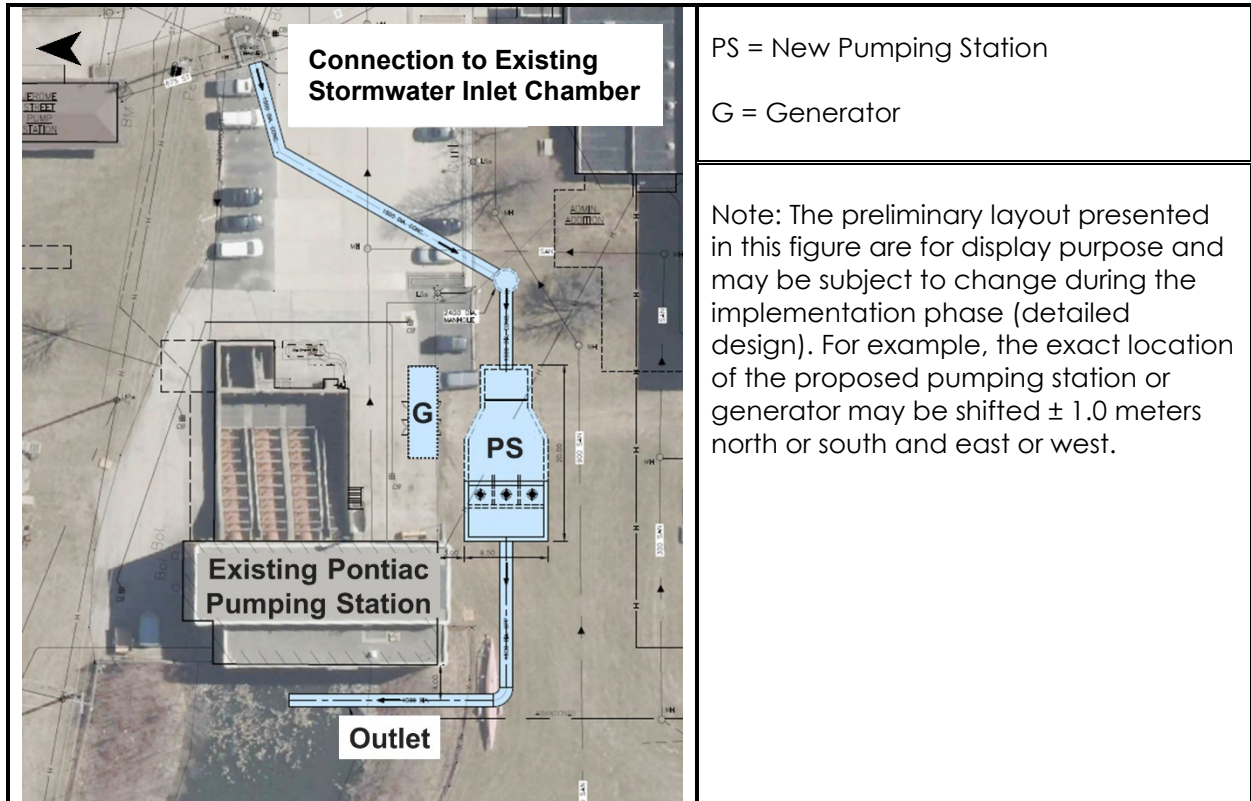
### **5.2.1 Alternative No. 1**

Site Layout Alternative No. 1 features the new wet well structure and generator to the south of the existing Pontiac Pumping Station with a designated outlet to the Little River embayment. This layout will include the construction of a new storm sewer from the existing bypass chamber, extending southwest to the southern edge of the parking lot, and connecting to a new manhole just north of the administration building expansion. The new storm sewer will then continue west and connect to the wet well structure. The proposed outlet sewer will exit the pumping station heading west and will turn 90-degrees to the north where it will outlet directly into the Little River embayment.

This layout would avoid existing underground sanitary sewer lines and therefore would not require the relocation of any existing utilities resulting in relatively easy construction. However, the construction of the new outlet to the Little River embayment would require in-water construction work and additional considerations under the Fisheries Act and Species at Risk Act. These requirements would result increase the complexity of construction.

Site Layout Alternative No. 1 will include all above grade structures close to the existing Pontiac Pumping Station which will minimize the space utilized at the LRPCP site. This layout will not hinder the future expansion of the administration building, UV disinfection facilities or existing parking area in front of the administration building.

See **Figure 5.1A** below and in greater detail in **Figure 5.1B** of **Appendix A**.



**Figure 5.1A: Site Layout Alternative No. 1**

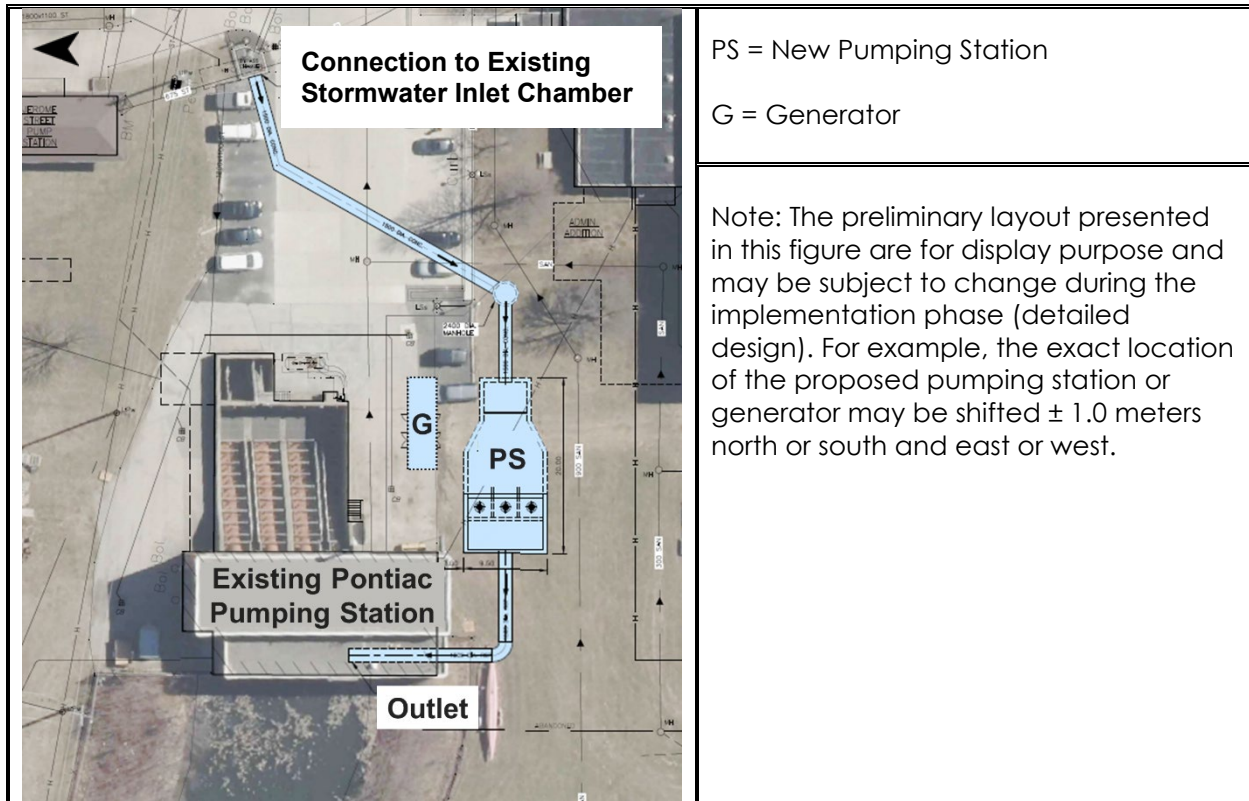
## 5.2.2 Alternative No. 2

Site Layout Alternative No. 2 features the new wet well structure and generator to the south of the existing Pontiac Pumping Station with an outlet the existing Pontiac Pumping Station discharge chamber. This layout will include the construction of a new storm sewer from the existing bypass chamber, extending southwest to the southern edge of the parking lot, and connecting to a new manhole just north of the administration building expansion. The new storm sewer will then continue west and connect to the wet well structure. The proposed outlet sewer will exit the pumping station heading west and will turn 90-degrees to the north where it will outlet directly into the existing Pontiac Pumping Station discharge chamber.

This layout would avoid existing underground sanitary sewer lines and therefore would not require the relocation of any existing utilities resulting in relatively easy construction. The construction of the new outlet to existing Pontiac Pumping Station discharge chamber would require modifications to the existing structures. However, it would negate the requirements for in-water construction work or additional considerations under the Fisheries Act and Species at Risk Act, which would typically increase the complexity of construction.

Site Layout Alternative No. 2 will include all above grade structures close to the existing Pontiac Pumping Station which will minimize the space utilized at the LRPCP site. This will result in more space for future expansions of the administration building or UV disinfection facilities as well as improved access for vehicles to the northwest side of the site.

See **Figure 5.2A** below and in greater detail in Figure **5.2B** of **Appendix A**.



**Figure 5.2A: Site Layout Alternative No. 2**

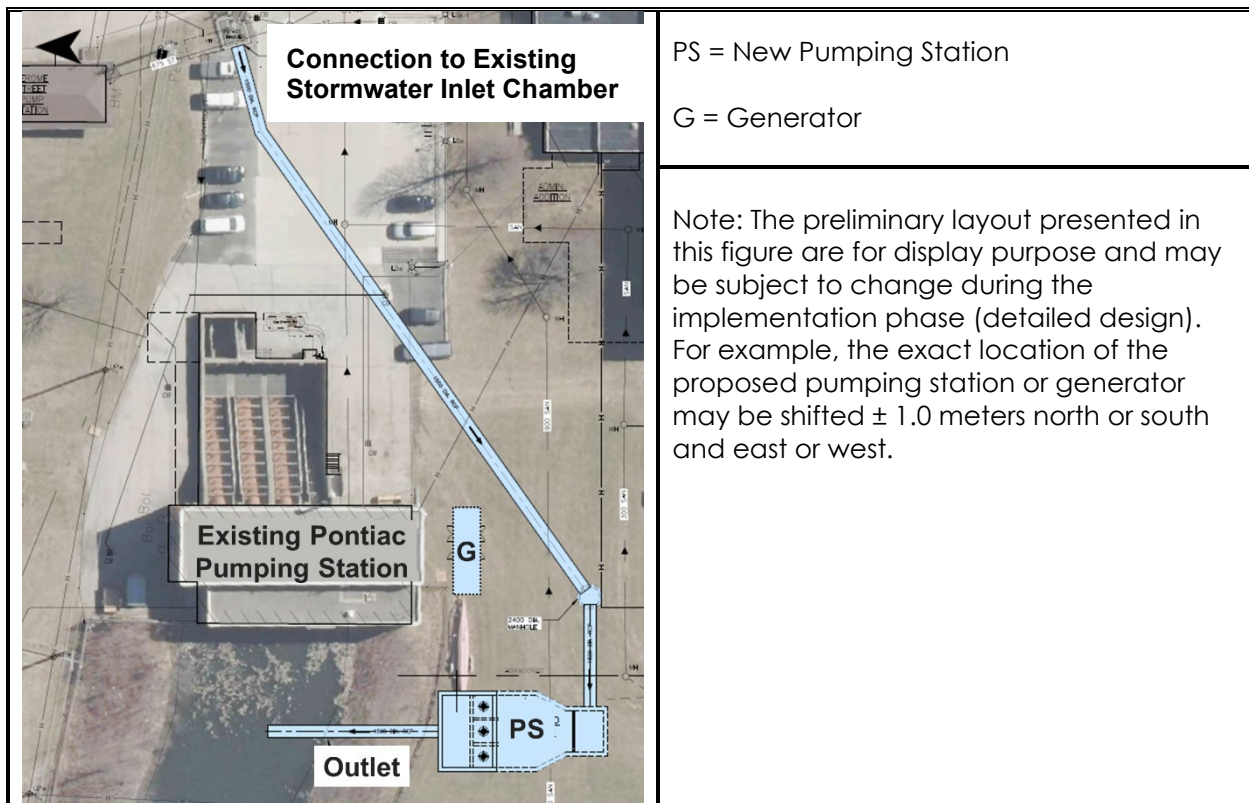
### 5.2.3 Alternative No. 3

Site Layout Alternative No. 3 features the new wet well structure and generator to the south and southwest of the existing Pontiac Pumping Station with a designated outlet to the Little River embayment. This layout will include the construction of a new storm sewer from the existing bypass chamber, extending southwest and connecting to a new manhole west of the administration building. The new storm sewer will then continue west and connect to the wet well structure. The proposed outlet sewer will exit the pumping station heading north where it will outlet directly into the Little River embayment.

This layout would intersect with existing underground sanitary sewer lines and therefore would result in more complex construction requirements. In addition, the construction of the new outlet to the Little River embayment would require in-water construction work and additional considerations under the Fisheries Act and Species at Risk Act. These requirements would further increase the complexity of construction.

Site Layout Alternative No. 3 will include above grade structures at a greater distance from the existing Pontiac Pumping Station which will require additional space at the LRPCP site. This will result in less functional space for future expansions of the administration building or UV disinfection facilities as well as limited access for vehicles to the northwest side of the site.

See **Figure 5.3A** below and in greater detail in Figure **5.3B** of **Appendix A**.



**Figure 5.3A: Site Layout Alternative No. 3**



## 5.2.4 Evaluation of Alternative Site Layouts

Three site layout alternatives were evaluated based on the following evaluation criteria:

- Ease of Construction
- Space Requirements
- Work In-Water
- Technical Suitability
- General Concerns

Each site layout alternative was reviewed and summarized in **Table 5.4**.

**Table 5.2: Evaluation of Alternative Site Layouts**

<b>Evaluation Criteria</b>	<b>Alternative No.1</b>	<b>Alternative No. 2</b>	<b>Alternative No. 3</b>
<b>Ease of Construction</b>	Moderately complex construction due to: <ul style="list-style-type: none"> <li>• Requirements and additional considerations for in-water construction work related to constructing the outlet to the Little River Embayment</li> <li>• No relocations of existing sanitary sewers or utilities required</li> </ul>	Moderately complex construction due to: <ul style="list-style-type: none"> <li>• Requirements for modifications to existing Pontiac Pumping Station to accommodate new outlet piping</li> <li>• No relocations of existing sanitary sewers or utilities required</li> <li>• No requirements for in-water work</li> </ul>	Most complex construction due to: <ul style="list-style-type: none"> <li>• Requirements and additional considerations for in-water construction work related to constructing the outlet to the Little River Embayment</li> <li>• Requires relocation of existing sanitary sewer</li> </ul>
<b>Space Requirements</b>	<ul style="list-style-type: none"> <li>• Low space requirements</li> <li>• Close to existing PS</li> </ul>	<ul style="list-style-type: none"> <li>• Low space requirements</li> <li>• Close to existing PS</li> </ul>	<ul style="list-style-type: none"> <li>• High space requirements</li> <li>• Limits access to west side of site</li> </ul>
<b>Work in-Water</b>	Required	Not required	Required
<b>Technical Suitability</b>	<ul style="list-style-type: none"> <li>• All site layout alternatives will be able to meet flood mitigation objectives and provide an enhanced level of service for the Pontiac drainage area</li> <li>• Comparable O &amp; M requirements with access to generator and pumping chambers</li> </ul>		
<b>General Concerns</b>	The social, natural environmental, and economic impacts of the proposed pumping station are anticipated to be similar for each site layout alternative.		

## 2.2 OVERVIEW OF RECOMMENDED DESIGN

**Section 5.1** and **Section 5.2** identified, evaluated, and reported on the pumping technology and site layout to determine the recommended pumping station design. The recommended design meets the requirements outlined in the SMP to reduce the risk of flooding in the Pontiac drainage area.

The design concepts that form the overall recommended design are summarized in **Table 5.3**. Exact locations of new wet well structure, standby power generator, and sewer routing are to be further reviewed during the detailed design. Also, in the detailed design phase, replacing the existing Pontiac Pumping Station generator with a new generator to power the existing and new pumping station should be considered. The existing generator requires significant maintenance costs, and it has already exceeded the service life.

**Table 5.3: Summary of Recommended Design**

Design Concept	Recommendation
Pump Technology	Axial Flow Pump Benefits Include: <ul style="list-style-type: none"> <li>• Low space requirements</li> <li>• High efficiency in high-flow low-head applications</li> <li>• Relatively low to medium capital cost</li> <li>• Relatively low operations and maintenance cost</li> </ul>
Site Layout	Site Layout Alternative No. 2 as shown in <b>Figure 5.2A</b> . Benefits Include: <ul style="list-style-type: none"> <li>• Moderately complex construction</li> <li>• No utility relocations</li> <li>• No work in-water permitting required</li> <li>• Meets flood mitigation objectives</li> </ul>

## 2.4 IMPACT ON EXISTING AND FUTURE OPERATION OF THE LITTLE RIVER POLLUTION CONTROL PLANT

The LRPCP was originally constructed in 1965 and has undergone multiple expansions since this date. The treatment process was originally designed to facilitate gravity flow through the plant based on the predicted high-water level in the Detroit River. However, the current predicted high-water level in the Detroit River, based on climate change studies, is significantly higher than that used in the original design of the plant. As a result of this increase, it is unlikely that gravity flow through the existing plant will be possible during peak flow events and high-water level conditions. Pumping of effluent during these periods will be required to maintain operation of the treatment process, reduce backups in the sewer system, and minimize sewage bypasses.

Upgrading of the Pontiac Pumping station could potentially impact future operation of the LRPCP if there is any interference between the area needed for the Pontiac Pumping Station upgrades and the provision of effluent pumping facilities for the LRPCP.

It is recommended that an analysis of the need for effluent pumping from the LRPCP be undertaken using the current predicted ultimate water level in the Detroit River. If the need is confirmed, a planning level study should be done to determine approximate sizing and location for the effluent pumping facilities and to identify any potential areas of conflict between the two undertakings. If the need for effluent pumping is confirmed there may well be an opportunity during final design to achieve some synergy and cost savings in the structures and equipment needed for the two projects.

## 6.0 ENVIRONMENTAL IMPACTS AND MITIGATING MEASURES

### 6.1 OVERVIEW

**Table 6.1** provides a summary of potential environmental impacts and proposed mitigating measures for the preferred design. In general, the preferred design will have a limited effect on the environment and that effect will be mostly due to construction activities. Other than the environmental effects listed in **Table 6.1**, it is anticipated that the preferred work will not have a significant effect on the natural environment such as wildlife, vegetation, or the habitat characteristics of any particular species. The main impact that the alternatives for the proposed work will have on the socio-economic environment is the disruption that residents may experience during the construction. However, this inconvenience and disruption will only be temporary and should not significantly impact the environment.

With respect to other socio-economic impacts, it is anticipated that the preferred servicing alternative will not have any serious impact on existing land uses, cultural activities, heritage resources or any other community program except to the extent that it will permit the ongoing implementation of development and other activities as envisioned in planning documents which have positive impacts on the socio-economic environment.

**Table 6.1: Environmental Effects and Mitigating Measures**

<b>OPERATION</b>	<b>EFFECT</b>	<b>MITIGATING MEASURES</b>
Cutting, digging, or trimming ground covers, shrubs and trees	Reduced terrestrial wildlife habitat quality (i.e., diversity, area, function) and increased fragmentation of habitat.	➤ This is not a concern as there is no significant existing terrestrial wildlife habitat in the proposed area of construction
	Loss of unique or otherwise valued vegetation features	<ul style="list-style-type: none"> <li>➤ There are no known unique vegetation features in the area that may be disturbed by construction activities.</li> <li>➤ Where possible, existing vegetation features will be restored to a preconstruction condition.</li> </ul>
Trenching / tunnelling for sewers, excavation and construction for new wet well structure and	Soil erosion and sediment transport to adjacent water bodies causing sedimentation and turbidity of adjacent water bodies and drainage ditches	<ul style="list-style-type: none"> <li>➤ Use of erosion control measures (i.e., sediment traps, silt fences, etc.)</li> <li>➤ Collect contaminated runoff</li> <li>➤ Restore vegetation growth quickly</li> <li>➤ Stage construction activities to minimize potential of adverse impacts</li> </ul>

OPERATION	EFFECT	MITIGATING MEASURES
generator foundation.	Reduced water quality and clarity due to increased erosion and sedimentation, and transport of debris.	<ul style="list-style-type: none"> <li>➤ Apply wet weather restrictions to construction activity.</li> <li>➤ Comply with any local regulations, policies and guidelines that stipulate a minimum acceptable buffer width (the allowable distance from a water body). Maximum buffer widths are desirable.</li> <li>➤ If possible, direct surface drainage away from working areas and areas of exposed soils. To the maximum extent possible, promote overland sheet flow to well vegetated areas.</li> <li>➤ Install and maintain silt curtains, sedimentation ponds, check dams, cofferdams or drainage swales, and silt fences around soil storage sites and elsewhere, as required.</li> </ul>
	Loss of vegetation and topsoil and mixing topsoil and subsoil	<ul style="list-style-type: none"> <li>➤ Restore site by replacing topsoil and reinstate vegetation to prevent erosion</li> </ul>
	Removal and/or disturbance of trees and ground flora	<ul style="list-style-type: none"> <li>➤ Avoid treed areas where possible</li> <li>➤ Employ tree protection measures</li> <li>➤ Replace trees and provide site landscaping</li> </ul>
	Temporary disruption of pedestrian and vehicle traffic	<ul style="list-style-type: none"> <li>➤ Provide and maintain detours</li> <li>➤ Provide for safe alternate routes</li> <li>➤ Select alternate routes to minimize inconvenience</li> </ul>
	Temporary disruption and inconvenience during construction to adjacent properties, buildings and inhabitants	<ul style="list-style-type: none"> <li>➤ Notify public agencies and neighbouring owners of construction activities</li> <li>➤ Prepare program for reporting and resolving problems</li> <li>➤ Ensure access is provided for emergency vehicles and personnel</li> <li>➤ Apply noise and vibration control measures</li> <li>➤ Apply dust control measures</li> <li>➤ Control emissions from construction equipment and vehicles</li> <li>➤ Use silencers to reduce noise</li> <li>➤ Require compliance with municipal noise by-laws</li> </ul>
	Possible need to remove petroleum contaminated excavated material.	<ul style="list-style-type: none"> <li>➤ Sample material.</li> <li>➤ Handle and dispose of contaminated material in an acceptable manner</li> </ul>
	Decreased ambient air quality due to dust and other particulate matter.	<ul style="list-style-type: none"> <li>➤ Avoid site preparation or construction during windy and prolonged dry periods.</li> <li>➤ Cover and contain fine particulate materials during transportation to and from the site.</li> <li>➤ Instruct workers and equipment operators on dust control methods.</li> <li>➤ Spray water to minimize dust off paved areas or exposed soils.</li> <li>➤ Stabilize high traffic areas with a clean gravel surface layer or other suitable cover material.</li> <li>➤ Cover or otherwise stabilize construction materials, debris and excavated soils against wind erosion.</li> </ul>

OPERATION	EFFECT	MITIGATING MEASURES
	Disturbance to microscopic organisms in the soil.	<ul style="list-style-type: none"> <li>➤ Limit the size of stockpiles to avoid anaerobic conditions.</li> <li>➤ Protect stockpiled soils from exposure to and sterilization by solar radiation (or stockpile in an uncovered shaded area).</li> </ul>
	Reduced soil capability through compaction and rutting, and mixing of topsoil and layers below.	<ul style="list-style-type: none"> <li>➤ Avoid working during wet conditions and/or confine operation to paved or gravel surfaces.</li> <li>➤ Whenever possible, strip and store topsoil separately from the layers below and return to excavation in sequence.</li> </ul>
	Industrial disruption of field/facility access.	<ul style="list-style-type: none"> <li>➤ All driveways, roadways and field access will be restored to pre-construction condition</li> <li>➤ Staging of construction and advance notice to property owners prior to disruption of construction to minimize inconvenience</li> </ul>
	Disruption surface drainage systems.	<ul style="list-style-type: none"> <li>➤ Provide for temporary drainage systems until final restoration is accomplished.</li> <li>➤ Avoid disturbing drainage systems during critical periods.</li> <li>➤ All existing culverts, tiles and drainage systems to be restored to pre-construction conditions following construction.</li> </ul>
	Reduced water quality of nearby surface waters having value as wildlife habitat.	<ul style="list-style-type: none"> <li>➤ Use sediment control techniques for stockpiled materials to minimize degradation of water quality.</li> <li>➤ An emergency spill kit will be kept on site during construction activities.</li> <li>➤ Service equipment shall be washed, refuelled and/or a minimum of 30 m from watercourses to reduce the risk of deleterious substances entering the watercourse.</li> <li>➤ Construction machinery shall be cleaned prior to entering the site to reduce the potential for establishment of invasive species, such as Phragmites</li> </ul>
	Modifications or removal of aquatic habitat.	<ul style="list-style-type: none"> <li>➤ Stage construction to minimize potential for adverse impacts.</li> </ul>
	Residential impacts.	<ul style="list-style-type: none"> <li>➤ Construction noise and dust impacts will be controlled through noise by-laws and dust control measures in contract specification.</li> <li>➤ Inconvenience due to temporary loss of property access will be minimized through proper communication and advance notice of disruption.</li> <li>➤ Pedestrian safety will be maintained through excavation barricades and construction fencing</li> </ul>

OPERATION	EFFECT	MITIGATING MEASURES
	Traffic disruption.	<ul style="list-style-type: none"> <li>➤ It is not expected that there will be any significant traffic disruptions during the construction of the proposed work.</li> <li>➤ Emergency services will be advised of work in advance and access to the site will be maintained during construction.</li> </ul>
	Visual aesthetics.	<ul style="list-style-type: none"> <li>➤ The design will adhere to the current visual aesthetics that the surrounding infrastructure currently maintains.</li> </ul>
	Recreation.	<ul style="list-style-type: none"> <li>➤ Maintain access to recreational sites during construction.</li> <li>➤ Locate water and wastewater infrastructure components to minimize impact.</li> <li>➤ Construction and tree protection fencing shall be installed prior to the start of construction, after layout, and shall be reviewed by an engineer.</li> </ul>
	Archaeological and heritage resources.	<ul style="list-style-type: none"> <li>➤ Assess archaeological significance in areas undisturbed by previous activities. Complete Stage 1 &amp; 2 Land Archaeological Assessment if required and follow mitigative measures outlined in cooperation with the MTCS.</li> <li>➤ The MTCS's "Screening for Impacts to Built Heritage and Cultural Heritage Landscapes" checklist was reviewed. Proposed work is located away from any built heritage and cultural heritage landscapes, and thus is not expected to impact heritage resources in the area.</li> </ul>
Use of construction equipment	Contamination of surface waters, drains and public roadways from spills, leaks or equipment refuelling.	<ul style="list-style-type: none"> <li>➤ Use containment facilities</li> <li>➤ Inspect equipment regularly for fuel and oil leaks</li> <li>➤ Clean equipment before it travels off site</li> </ul>
	Decreased air quality due to vehicular emissions causing increased concentrations of chemical pollutants.	<ul style="list-style-type: none"> <li>➤ Minimize operation and idling of vehicles and gas-powered equipment, particularly during local smog advisories.</li> <li>➤ Use well-maintained equipment and machinery within operating specifications.</li> </ul>
	Disruption to wildlife migration and movement patterns, breeding, nesting or hibernation.	<ul style="list-style-type: none"> <li>➤ There are no known areas containing sensitive vegetation and wildlife.</li> <li>➤ There are no known areas where migratory birds are breeding.</li> </ul>
	Introduction of non-native vegetation, including opportunistic species.	<ul style="list-style-type: none"> <li>➤ Clean heavy machinery and equipment prior to transporting to new location.</li> </ul>

OPERATION	EFFECT	MITIGATING MEASURES
	Loss of unique or otherwise valued vegetation features	<ul style="list-style-type: none"> <li>➤ Avoid or minimize trampling vegetation with equipment.</li> <li>➤ Minimize physical damage to vegetation by avoiding push-outs and avoiding the placement of splash onto living vegetation.</li> </ul>
	Reduced water quality and clarity due to increased erosion and sedimentation, and transport of debris.	<ul style="list-style-type: none"> <li>➤ Operate heavy machinery on the shore above the normal water level.</li> <li>➤ Where possible, conduct activities in the dry, above the actual water level and above any expected rises in water level that may occur during a rainfall or snowmelt event.</li> </ul>
	Reduced water quality due to inputs of contaminants from surface runoff during construction and operation.	<ul style="list-style-type: none"> <li>➤ Refuel equipment off slopes and well away from water bodies.</li> <li>➤ Securely contain and store all oils, lubricants, fuels and chemicals. If necessary, use impermeable pads or berms.</li> </ul>

## 6.2 NATURAL ENVIRONMENT IMPACTS AND MITIGATING MEASURES

### 6.2.1 Aquatic and Terrestrial Habitat

The proposed work area may contain natural features that may support habitat of endangered species and threatened species. As per Section 2.1.7 of the Provincial Policy Statement (PPS 2020) – “Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.” All issues related to the provincial Endangered Species Act and its regulations shall be addressed prior to the construction of the proposed work. If the proponent believes that their proposed activities are going to have an impact on Species at Risk or are uncertain about the impacts, they should contact [SAROntario@ontario.ca](mailto:SAROntario@ontario.ca) to undergo a formal review under the ESA. It is the responsibility of the proponent to ensure that Species at Risk are not killed, harmed, or harassed, and that their habitat is not damaged or destroyed through the proposed activities to be carried out on the site.

Stantec completed a site investigation on April 13th, 2022, to document existing natural heritage conditions in the Study Area. Surveys included Ecological Land Classification (ELC) of vegetation communities, a species at risk (SAR) habitat assessment of terrestrial features, and a fish habitat assessment of the shoreline. The natural heritage features that were identified through the background review were confirmed during the field surveying. Potential impacts associated with the construction of the proposed building and connecting infrastructure include soil compaction, siltation of adjacent natural communities, vegetation disturbance, spills of deleterious substances into the Little River, noise disturbance and encounters with wildlife. The impacts are considered short term, localized to the construction area during construction activities, and will be mitigated



through the application of appropriate construction techniques and mitigation measures. The natural heritage impact assessment report is included in **Appendix C**.

Eight (8) SAR have the potential to be present in the general study area and include the Barn Swallow, Chimney Swift, bat SAR (4 different species), Butler's Gartersnake, and Eastern Foxsnake. Of these, Butler's Gartersnake and Eastern Foxsnake are the only SAR that have potential to be present within the work zone. Mitigation measures for these SAR snakes are discussed in **Section 6.2.2**. Climbing prairie rose is a species of conservation concern that may be present within the impacted thicket community. A site visit to look for this species is recommended prior to vegetation removal. If the species is present, relocation may be needed. Impacts from construction of the proposed building and connecting infrastructure will primarily be limited to anthropogenic habitats that do not support wildlife. No permanent impacts to breeding birds, reptiles or other wildlife species, is expected as a result of the construction of the proposed building and connecting infrastructure provided mitigation measures recommended are implemented.

### **6.2.2 Butler's Gartersnake and Eastern Foxsnake Mitigation**

The sensitive periods of the year for Butler's Gartersnake and Eastern Foxsnake include hibernation and breeding. The breeding and birthing period for this species is between late May and September while the hibernation period for the species is approximately November 1 – March 31, but individuals may emerge earlier during warm spring weather.

If work is to be completed between April 1 and October 31 (i.e., during the active period for the species) the following mitigation is recommended:

- All persons entering the site should be provided training about Butler's Gartersnake and Eastern Foxsnake and proper steps to take upon encountering these species.
- If Crayfish burrows, ant hills, small mammal burrows or other potential hibernacula features are observed, they should not be impacted during a time of year when they may be in use by hibernating snakes (i.e., October 1 to April 30).
- Vegetation brushing or removal that is required to facilitate the Activity must be limited to the smallest extent possible, ideally under guidance of a qualified biologist, and while air temperatures are above 10 °C, when snakes are more active and able to flee.
- To reduce interaction with Butler's Gartersnake and Eastern Foxsnake, sediment fencing is recommended along the border of the Work Zone to reduce interactions of snakes on site. Installation of sediment fencing will occur before April 1 or after October 31 (i.e., outside of snake active season) to define Work Zones and restrict the movement of snakes into the working area. If the installation of fencing occurs during the active season, it is recommended that the area be searched by a Qualified Biologist for the presence of snakes prior to installation of fencing. Fencing materials with plastic mesh will not be used due to risk of entanglement of snakes or other wildlife. Further specifications for reptile

exclusion fencing should follow Best Practices Technical Note – Reptile and Amphibian Exclusion Fencing and Best Management Practices for Mitigating the Effects of Road Mortality on Amphibian and Reptile Species at Risk in Ontario. As per the recommendations fencing should be buried to a depth of 10-20 cm and a height of 200 cm. The exclusion fencing is to be maintained around the work area for the duration of the active season and checked daily to identify any repairs that may be needed. Fencing should be repaired immediately if it is found to be deficient.

- A thorough visual search of the Work Zone by construction contractors is recommended before work commences each day. Visual searches should include inspection of machinery and equipment, prior to starting equipment, particularly during the peak reptile activity period from April 1 to October 31.
- In the unlikely event that a Butler's Gartersnake or Eastern Foxsnake enters the work area and is in immediate danger, a 30 m buffer should be placed on the work area and construction activities should cease until the snake has vacated the work area on its own accord before recommencing construction activity. If the reptile does not vacate the area within a reasonable time, a qualified individual may be used to relocate the reptile to a safe location away from the Work Zone.

### **6.2.3 Protection of Migratory Birds**

The Migratory Birds Convention Act, 1995 (MBCA) provides legal protection of migratory birds and their active nests in Canada. The loss of migratory bird nests, eggs and/or nestlings due to tree cutting or other vegetation clearing can be avoided by limiting clearing of vegetation to outside of the general nesting period for migratory birds in this region (C2) as identified by Environment and Climate Change Canada (ECCC) (i.e., between April 1 and August 31). If work must be performed within this window, a survey for active nests or breeding activity should be conducted by a qualified biologist before work commences and additional mitigation measures (e.g., implementation of avoidance distances during construction) implemented, if required.

### **6.2.4 Protection of Fish and Fish Habitat**

In addition to the measures identified in **Sections 6.1.1**, the following specific measures are recommended to protect fish and fish habitat:

- Avoid in-water work during the restricted activity period for spring spawning fish species in the MNRF's Southern Region (i.e., no in-water work March 15 to July 15).
- The contractor should monitor the five-day weather forecast daily to anticipate weather conditions and should be prepared to leave the site in a stable and secure condition should water levels rise.

- Prior to instream construction activity, fish should be rescued from the isolated work areas by implementing a fish removal and relocation plan.
- During dewatering of the in-water work areas the dewatering pump inlet should be covered with filter fabric or clear stone. The outlet should discharge to a sediment bag or trap. Discharge from the bag should be released to a relatively flat vegetated location or if vegetated location is not available, a flow dissipating structure should be provided.
- Water from dewatering and unwatering operations should be directed to a sediment control measure and/or a vegetated discharge are 30 m away from the waterbodies or as far as practical from the top of bank of any waterbody, prior to discharge to the natural environment. No dewatering shall be sent directly to a sewer. These control measures shall be monitored for effectiveness and maintained or revised to meet the objective of reducing the risk of the entry of sediment into the watercourse.
- All water intakes used to dewater area(s) that may contain fish should be screened to reduce the risk of the impingement and entrainment of fish as per DFO's Interim Code of Practice: End-of-Pipe Fish Protection Screens for Small Water Intakes in Freshwater.

### **6.2.5 Floodplain Hazard Management**

The proposed work site is under the jurisdiction of the Essex Region Conservation Authority. The preferred route and location of this project was reviewed in accordance with ERCA's floodplain mapping of this area, and it has been determined that the western limits fall within the Limit of Regulated Area. The proposed excavations, construction of structures, drain crossings, and placement and grading of fill, within the regulated area will require permits from the ERCA under Ontario Regulation 158/06, (Development, Interference with Wetlands and Alteration to Shorelines and Watercourse Regulations - Section 28 of the Conservation Authorities Act).

In the final design phase, an application of flood proofing measures must be submitted to the ERCA for review and approval. The permit application shall meet the following requirements:

- Specific "Best Management Practices" regarding erosion control measures, sedimentation, and the removal of vegetation, which is provided in the MECP Stormwater Management Planning and Design Manual (2003).
- The Windsor-Essex Region Stormwater Management Standards Manual (2018), <https://essexregionconservation.ca/wp-content/uploads/2018/12/WE-Region-SWM-Standards-Manual.pdf>.
- Water quality measures shall be considered to ensure no adverse impact on the downstream watercourse. Surface water monitoring program is to be implemented to verify no adverse impact on the downstream watercourse.

- Items listed in **Table 6.1** “Environmental Effect and Mitigation Measures” described in this ESR Report.

### **6.2.6 Erosion and Sediment Control**

Appropriate erosion and sediment controls should be employed during all phases of construction to reduce erosion and sediment transport into the Little River to the extent possible. Mitigation measures to reduce the risk of negative effects on fish, fish habitat and water quality in the Little River are listed below:

- Silt fence will be installed around the perimeter of the work area
- Materials requiring stockpiling (fill, topsoil, etc.) will be stabilized and kept outside of the floodplain
- All disturbed areas are to be restored with erosion protection/vegetative cover following disturbance
- Erosion and sediment control materials (silt fence, strawbales, clear stone) are to be kept on site for emergencies and repairs
- Erosion and sediment controls should be monitored and maintained, as required. Controls are to be removed only after the soils of the construction area have been stabilized and adequately protected until cover is re-established
- Conditions of the anticipated ERCA permit under Ontario Regulation (O. Reg.) 171/06 should be followed during these activities.

### **6.2.7 Excess Soil Materials and Waste**

In 2019, the MECP introduced O. Reg. 406/19 entitled ‘On-Site and Excess Soil Management’ under the *Environmental Protection Act* to support improved management of excess construction soil. The purpose of the new regulation to ensure the proper steps are taken to manage excess soils, prevent valuable resources from going to waste, and to offer a clear set of rules on how to manage and reuse excess soil. This regulation will also reduce soil management costs, while protecting human health and the environment.

Any construction activities carried out in the process of this project involving the management of excess soil should be completed in accordance with O. Reg. 406/19 and the ministry's guidance document titled “Management of Excess Soil – A Guide for Best Management Practices” (2014). All waste generated during the course of construction must be disposed of in accordance with the ministry's requirements.

## **6.2.8 Source Water Protection**

### **6.2.8.1 Source Water Protect**

For the protection of local municipal drinking water sources, the Essex Region Source Protection Plan (SPP), which has been established under the Clean Water Act, 2006 (Ontario Regulation 287/07), came into effect on October 1, 2015.

The Clean Water Act (2006) refers to four types of Vulnerable Areas, which include:

- Intake Protection Zones
- Wellhead Protection Areas
- Highly Vulnerable Aquifers
- Significant Groundwater Recharge Areas

The types of Vulnerable Areas are addressed further below in relation to this project location.

### **6.2.8.2 Intake Protection Zones (IPZs)**

There are two municipal Water Treatment Plants (WTPs) in the region, the A. H. Weeks (Windsor) and Amherstburg WTPs, having their intakes in the Detroit River (refer to Map 3 of the Essex Region Source Protection Plan). Intake Protection Zones are areas of land and water, where run-off from streams or drainage systems, in conjunction with currents in lakes and rivers, could directly impact the source water at the municipal drinking water intakes.

An Intake Protection Zone can be described as a defined area surrounding a surface water body intake. The size and shape of each zone in an IPZ represents either a set distance around the intake pipe, or the length of time it would take water and contaminants to reach the intake:

- IPZ-1 is the area closest to the intake pipe and is a set distance which extends one kilometre upstream and 120 metres onto the shore.
- IPZ-2 includes the on and offshore areas where flowing water and any pollution would reach the intake pipe within two hours.
- IPZ-3 is an area where contaminants could reach the intake pipe during and after a large storm.

According to Approved Source Protection Plan for Essex region source protection area, the Detroit River in the study area is characterized to be an Intake Protection Zone 3 (IPZ-3). Refer to Map 10 of the Essex Region Source Protection Plan)

The purpose of this EA study is to investigate and report on alternative means of controlling basement and surface flooding in the Pontiac storm water drainage area. The proposed pumping station upgrades for the collection of wet weather flow will have a negligible impact on the source of drinking water quality.

### 6.2.8.3 Wellhead Protection Areas

Wellhead Protection Areas are not applicable in the Essex Region, as no municipal drinking water systems are supplied by groundwater.

### 6.2.8.4 Highly Vulnerable Aquifers (HVAs)

Highly Vulnerable Aquifers (HVAs) are defined as aquifers on which external sources have or are likely to have a significant adverse impact, and include the land above the aquifer.

In the ERSPA these HVAs are generally located in the sandy soil areas in the southern part of the region, including most of Pelee Island (refer to Map 4 of the Essex Region Source Protection Plan). There are no HVAs located in or close to the proposed work area.

### 6.2.8.5 Significant Groundwater Recharge Areas

Significant Groundwater Recharge Areas (SGRAs) are defined as per Regulation 287/07 as areas within which it is desirable to regulate or monitor drinking water threats that may affect the recharge of an aquifer. Groundwater recharge occurs where rain or snowmelt percolates into the ground and flows to an aquifer. The greatest recharge usually occurs in areas which have loose or permeable soil such as sand or gravel that allows the water to seep easily into the aquifer.

Most of the SGRAs in the ERSPA are located in the sandy soil areas of the southern part of the Essex Region, in the Harrow area, parts of Leamington and Kingsville, and limited parts of the Turkey Creek and Pelee Island subwatersheds (refer to Map 5 of the Essex Region Source Protection Plan). There are no HVAs located in the northern part of the Essex Region including City of Windsor area.

### 6.2.8.6 Overall Vulnerability Assessment Summary

Project activities in vulnerable areas need to be assessed to determine the risk they pose. The Clean Water Act requires that significant threats be managed to reduce the threat to a point where it is no longer significant. Action may be taken to address low and moderate threats at the discretion of the Source Protection Committee. Table 6.2 provides a summary of threats to vulnerable areas and the subsequent actions to be taken, relating to this project.

**Table 6.2: Summary of Threats to Vulnerable Areas**

Vulnerable Area	Threat Potential	Action Taken
Intake Protection Zone	Low	None
Wellhead Protection Areas	Not applicable	None

Highly Vulnerable Aquifer	Not applicable	None
Significant Ground Water Recharge Areas	Not applicable	None

### 6.2.9 Permits to Take Water

At the site location, the Little River water surface is approximately 2 meters below the site grade while the ground water table is about 12.5 m to 14.1 m below, indicating that the native silty clay soil has low permeability and ground water control will not be a big issue during construction. It is anticipated that any groundwater inflows from excavating within this stratum during construction can be managed by pumping from properly filtered sumps located within the excavation. The use of these dewatering systems will require the acquisition of MECP approvals. The relevant MECP approvals are discussed further in **Section 6.4.2.2**.

### 6.2.10 Climate Change

Climate encompasses all aspects of weather, including: temperature, precipitation, air pressure, humidity, wind speeds, and cloudiness. Weather and climate are not static processes and variability is often normal. Weather, for example, changes on a daily and sometimes hourly basis. Weather can also change on a monthly basis, through the changing of seasons. When climate changes on a global scale, it is referred to as Climate Change.

Since the beginning of the industrial revolution in the 18th century, excessive emission of greenhouse gases, like carbon dioxide and methane, have been released through human activities, causing an increased percentage of solar radiation to be trapped in our atmosphere. In recent decades the effect of this on climate has become clearer. As more energy is retained within the atmosphere, a general increasing trend in global temperatures has occurred.

Regardless of the cause, the average temperature in Windsor has increased by almost 1°C since 1940. As air temperatures increases, so does the capacity of the air to hold more water leading to more intense rainfall events. The Environment Canada weather station located at Windsor Airport has been monitoring and recording weather data since 1941. Since this time, an increasing trend in annual precipitation has been documented.

The effects of climate change are expected to include an increase in the number and severity of storms, leading to increased precipitation. Since 1970, there has been increasing evidence of heavier short duration (24 hours or less) rain events in southern Ontario.

Climate changes related to increasing rainfall in the region have a significant impact on municipal sewer systems. The City of Windsor recently experienced a significant rainfall event that inundated and overwhelmed the area's sanitary and storm sewer system/facilities. In the last decade alone,

this region has experienced six (6) significant storm events that have surpassed current 1:100 year regulatory standards, and have resulted in urban flooding issues and sewer backups that have impacted hundreds of homes and businesses in the region. As such, historical data regarding the likelihood of major flooding events must be reconsidered. It is important that the proposed work for storm and coastal flooding control continues to operate effectively in the future. A solution needs to be identified to provide resiliency to the impacts of climate change.

The City's own Climate Change Adaptation Policy notes that focus needs to be directed towards climate change impacts such as: operating/maintenance demands to deal with climate extremes, flooding to basements, roads and infrastructure, and operation demands during severe storms. **Table 6.3**, which is obtained from City of Windsor Climate Change Adaption Plan (September 2012), summarizes the average trends in the amount of annual maximum rain events.

**Table 6.3: Summary of the Observed and Projected Increases in Rainfall Over Time in Windsor**

	<b>Observed trends 1970 – 2000</b>	<b>Projected trends to 2050 (High Emissions)</b>
<b>30 Minute Extremes</b>	<ul style="list-style-type: none"> <li>• 5% increase per decade</li> <li>• 4.5% increase per decade to 1996</li> </ul>	<ul style="list-style-type: none"> <li>• 5% increase per decade</li> </ul>
<b>Daily Extremes</b>	<ul style="list-style-type: none"> <li>• 7% per decade (May, June, July)</li> <li>• 5% increase per decade (over the year) to 1996</li> </ul>	<ul style="list-style-type: none"> <li>• 3% per decade over the year (20 year return period)</li> <li>• 2.5 to 6% increase per decade (rainfall with probability &lt;5 %)</li> </ul>
<b>Annual Rainfall</b>	<ul style="list-style-type: none"> <li>• 1% to 3% increase per decade</li> </ul>	<ul style="list-style-type: none"> <li>• 1% increase per decade</li> </ul>

In conjunction with the regional municipalities including City of Windsor, the ERCA has developed a set of regional stormwater management guidelines that take into account adjustments for the impacts of Climate Change. The recommendations from this guidance document have also been considered and endorsed in the Storm and Coastal Flooding Master Plan.

The proposed work for storm and coastal flooding control, which was coordinated with the above studies, was recommended based on current standards with a conservative design method that provides a safety margin for extreme rainfall events above and beyond the average year design storms. The proposed facility is designed to handle an additional flow of 2.5 m<sup>3</sup>/s, which is the estimated additional flow predicted during the 100-year storm event.



As there is an increase in the number and intensity of storm events affecting the region, climate change needs to be considered in the evaluation of alternative solutions, and the opportunity for flooding protection is considered where feasible.

## **3.2 SOCIO-ECONOMIC IMPACTS AND MITIGATING MEASURES**

### **6.3.1 Built Heritage Resources and Cultural Heritage Landscapes**

**Figure 2.2** of **Appendix A** is an aerial plan showing the heritage resources around the proposed work areas. As shown in the aerial plan, there are no built heritage resources and/or cultural heritage landscapes in proximity to the locations of proposed work areas.

The vibration limits set for the project will ensure that all buildings, including those with heritage features, are protected. Monitoring during construction will ensure that vibration is kept below the established limit.

### **6.3.2 Archaeological Resources**

The Stage 1 Archaeological Assessment for the proposed upgrades of the Pontiac Pumping Station site, which is situated within the Little River Treatment Plant was completed in 2020. The Stage 1 Archaeological Assessment was completed by Fisher Archaeological Consulting and determined that the area retained potential for the identification of archaeological resources. The Stage 1 Archaeological Assessment consisted of a review of geographic, land use, and historical information for the property and the relevant surrounding area, a property visit to inspect its current condition and contacting MTCS to find out whether there are any known archaeological sites on or near the property. Its purpose is to identify areas of archaeological potential and further archaeological assessment (e.g. Stage 2-4) as necessary.

The Stage 1 Archaeological Assessment indicated that there was one registered archaeological site within a one-kilometer radius of the study area and there were no previous archaeological reports for work within fifty meters of the study area. The Pontiac Pumping Station study area is located between Little River and the 'Old' Little River. The historic NTS map from 1912 shows some channelization of the 'Old' Little River. The archaeological potential for Indigenous and Euro-Canadian sites is high based on the study area's proximity to this watercourse. Although the archaeological potential is high, there have been obvious disturbances to parts of the study area during the construction of the existing pumping station. Due to the potential for discovery of Aboriginal or Euro-Canadian resources, it was recommended that the small portion of the study area indicated as having high archaeological potential undergo a Stage 2 Archaeological Assessment by a test pit survey at five metre intervals.

The Stage 2 Archaeological Assessment to determine if any archaeological resources are on the property using test pit survey was carried out by Stantec on May 19<sup>th</sup>, 2022. No archaeological resources were identified during the Stage 2 Archaeological Assessment at the site. Therefore, no

further land-based archaeological assessment of the study area is required. The archaeological assessment carried out as a part of this study is included in **Appendix C**.

As stated in the Stage 2 Archaeological Assessment report, if previously undocumented archaeological resources are discovered during construction, there may be a new archaeological site and therefore subject to Section 48(1) of the Ontario Heritage Act (Government of Ontario 1990c). The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed consultant archaeologist to carry out archaeological fieldwork, in compliance with Section 48(1) of the Ontario Heritage Act (Government of Ontario 1990c).

The Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 (Government of Ontario 2002) requires that any person discovering human remains must notify the police or coroner and the Registrar of Cemeteries at the Ministry of Government and Consumer Services.

### **6.3.3 Community**

#### **6.3.3.1 Disruption of Traffic**

It is not expected that there will be any significant traffic disruptions during the construction of the proposed work. If there are any traffic disruptions during the construction of the proposed facility and outfall, all emergency services will be notified of detours prior to commencement of construction. Mitigating measures are to provide and maintain detours, provide safe alternate routes, and select alternate routes to minimize inconvenience, if applicable.

#### **6.3.3.2 Proximity to Arterial Roadway**

The EC Row Expressway and Highway 401 are major arterial roadways that provide direct access to the Windsor Communities and neighboring areas. It is not expected that there will be any significant traffic disruptions during the construction of the proposed work.

## **3.2 PERMITTING CONSIDERATIONS**

### **6.4.1 Essex Region Conservation Authority**

The proposed pumping station is located in the Essex Region Conservation Authority regulated area related to the Detroit River and its associated floodplain. As such, development in the ERCA regulated area is subject to the policies of O. Reg. 158/06 under the Conservation Authorities Act.

## **6.4.2 Ministry of the Environment, Conservation and Parks**

### **6.4.2.1 Endangered Species Act**

During the Natural Heritage Impact Assessment field studies eight (8) species are risk were identified to have the potential to be present in the study area. This includes the Barn Swallow, Chimney Swift, Eastern Foxsnake, Butler's Gartersnake, and four (4) different species of bat. Based on this, development in the area is subject to the policies of the *Endangered Species Act*, (2007). It was further determined that there is a low likelihood of occurrence within the Work Zone as the area is heavily disturbed. Avoidance of the migratory bird nesting season (April 1 - August 31) and active reptile season (April 1 and October 31) is recommended. If this is not possible, then bird nesting surveys must be completed in advance of construction as well as the erection of proper exclusionary fencing for reptiles form the Work Zone. With the implementation of this mitigation, no authorizations are anticipated under the ESA.

### **6.4.2.2 Environmental Protection Act and Ontario Water Resource Act**

The use of these dewatering systems will require the acquisition of a PTTW from the MECP. Any water extraction over 50,000 L/day will require MECP approval under the *Environmental Protection Act* and *Ontario Water Resource Act*. However, certain water taking activities that have been prescribed by the Water Taking Regulation O. Reg. 63/16, such as some construction dewatering, may require Environmental Activity and Sector Registry (EASR) registration instead of a PTTW. Regardless, a PTTW is required if the water-taking exceeds 400,000 L/day.

### **6.4.2.3 Environmental Compliance Approval**

There is no ECA for the existing Pontiac Pumping Station. There is an ongoing discussion with MECP regarding a "Corporate ECA" for all the City of Windsor pumping stations including the Disaster Mitigation and Adaptation Fund (DMAF) upgrades.

## **6.4.3 Fisheries and Oceans Canada**

*Fisheries Act* and *Species at Risk Act* (SARA) - Under the fish and fish habitat protection provisions of the *Fisheries Act*, works, undertaking or activity of a project must incorporate measures to avoid causing the death of fish and the harmful alteration, disruption, or destruction (HADD) of fish habitat. To assist proponents with determining if their project will comply with the fish and fish habitat provisions, DFO provides measures to protect fish and fish habitat (DFO 2021b) as well as several standards and codes of practice (DFO 2021c). If it is determined that a project cannot implement the measures to protect fish and fish habitat and if there are no applicable standards and codes of practice, then it is recommended that the proponent request a review of the project by DFO. If DFO determines that a project will result in the death of fish and/or HADD of fish habitat an Authorization under the *Fisheries Act* may be required.

Based on the presence of fish habitat in the Study Area, the proposed activities, and DFO's current guidelines, Stantec recommends that a DFO Request for Review form be completed and submitted to DFO for review of the project under the Fisheries Act. DFO also reviews projects under the federal SARA. A SARA permit may be required by DFO for potential handling of Aquatic SAR during in water construction activities.

#### **6.4.4 City of Windsor – Building Permit**

The proposed pumping station is located within the City of Windsor and as such would require a building permit prior to construction. Building permits ensure that construction within our municipality meet the standards set out in the Ontario Building Code. In addition, this permitting process ensures all zoning requirements, fire and structural safety standards, and other building standards are met.

## 7.0 PROPERTY REQUIREMENTS

There does not appear to be any property and easement requirements for the proposed upgrades to Pontiac Pumping Station.

If there is any property or easements is required, the City will acquire property and easement at fair market value, which basically means that it is sold at the price that other real estate is selling for in that area. The City may obtain the services of an accredited appraiser to assist in establishing the fair Market value and related compensation for any 'land' required for the Project.

Below is a brief description of typical process for the property acquisition:

- a) Identify and contact effected property owners
- b) Procure the services of qualified appraiser
- c) Present Letter of Offer to property owner
- d) Negotiate agreement with property owner
- e) Obtain appropriate Municipal approval for acquisition of property
- f) Present an Agreement of Purchase and Sale to property owner
- g) Conduct any required survey work and due diligence for the property
- h) Close on the property acquisition

The City will pay for all costs of acquiring the property and easements for its purposes, including the cost of the appraisal of the property, compensation related to the land, survey costs, and reasonable closing fees.

## 8.0 CONSULTATION

The Municipal Class Environmental Assessment process provides a minimum of three points of contact for a Schedule C undertaking where members of the public, review agencies and Indigenous communities have the opportunity to review the project findings and submit comments for consideration in development of the project. The following sections summarize the approach that has been taken with respect to participation during this project.

### 2.1 PUBLIC PARTICIPATION

A notice of commencement was originally published in the March 5<sup>th</sup>, 2022, edition of the Windsor Star and on the City of Windsor's Webpage advising of the initiation of this Class EA undertaking and inviting public input. A copy of the notice is contained in **Appendix B**.

In addition to this discretionary point of contact, there are two points for mandatory public contact during the Class EA process, namely:

- Phase 3: Public Consultation and Information Centre
- Phase 4: Notice of Completion

A public open house was held on July 13<sup>th</sup>, 2022, to provide information regarding this undertaking and to invite input and comment from interested persons. A copy of the open house notice as published in the Windsor Star on July 2<sup>nd</sup>, 2022 is included in **Appendix B** together with a list of persons who attended the open house and a copy of the material that was given to all attendees.

### 3.2 REVIEW AGENCIES

The Class EA provides for the involvement in the project by the MECP's various branches as well as other provincial and federal ministries and outside agencies. The list of Review Agencies varies depending upon the scope of the project, its location and the potential environmental impacts.

Emails were sent out to review agencies the week of March 7<sup>th</sup> 2022, advising of the initiation of this project. Copies of the letter, notice of project commencement and the list of review agencies are contained in **Appendix B**.

The Notice of Public Information Centre was distributed to review agencies and mandatory contacts July 4<sup>th</sup>, 2022. A copy of the email, the notice and the distribution list is included in **Appendix B**.

The Notice of the Draft Environmental Study Report was distributed to review agencies and mandatory contacts by email on August 30<sup>th</sup>, 2022. The email included a link to the project webpage on the City of Windsor's website where a PDF file of the draft ESR could be viewed.

## 2.2 RESPONSE FROM PUBLIC AND REVIEW AGENCIES

### 8.3.1 Notice of Project Initiation

The notice of initiation of the project did not generate any public response. The following responses (copies included in **Appendix B**) were received from review agencies and mandatory contacts.

- Ministry of the Environment, Conservation and Parks (MECP) – provided acknowledgement of Notice of Project Initiation on March 30, 2022.
- Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDNR)– advised in an email dated March 18, 2022, that the Class EA should identify and address potential impacts to natural heritage including species at risk or other resource values.
- Ministry of Tourism Culture and Sport (MTC) – advised in an email dated April 20, 2022, that Little River is in an area of High Archaeological Potential and works proposed would have to be subject to City of Windsor adopted Archaeological Management Plan (WAMP). MTC then advised in an email dated May 11, 2022, that they recommend the Environmental Study Report clearly articulates the existing conditions and that there are no impacts to the existing storm water pumping station which is over 40 years old.
- Ministry of Transportation – advised in an email dated April 8, 2022, that the site (Little River Pollution Control Plant) does not fall within the MTO Permit Control Area (PCA), and as such, MTO permits are not required. MTO would have concerns with any work that could potentially impact the highway or falls within the PCA.
- Windsor Police - advised in an email dated March 15, 2022, that any alternative design concepts/solutions developed for the proposed Pontiac Pumping Station Capacity Upgrades capture appropriate target hardening (physical access control and related security) measures to ensure an outcome that functions with less risk. They want to continue to be informed with project updates as they develop.
- Enwin Utilities – advised in an email dated March 11, 2022, that they would like to stay informed on the progress of the project.
- TELUS – advised in an email dated March 14, 2022, that they have no underground infrastructure in the area of the proposed work.

### 8.3.2 Public Open House

A total of one (1) person attended the Open House held on July 13<sup>th</sup>, 2022. No one expressed any objection to the proposed undertaking. Email comments (copies included in **Appendix B**) were received from the following review agencies and mandatory contacts.

- ERCA - advised in a letter dated August 3<sup>rd</sup>, 2022, that
  - The study area is regulated, by the Conservation Authority, under Section 28 of the Conservation Authorities Act. In addition, there is very little by way of natural heritage that, should be affected by the works proposed for the new pumping station in the study area
  - For the new pumping station, early consultation with the ERCA, at the detailed design stage, is encouraged to obtain feedback on the recommended / preferred design. This is to ensure environmental impacts are avoided and to discuss the specific permitting requirements for this project,
- Hydro One - advised in an email dated July 6<sup>th</sup>, 2022, that
  - "In our preliminary assessment, we confirm there are no existing Hydro One Transmission assets in the subject area. Please be advised that this is only a preliminary assessment based on current information. If plans for the undertaking change or the study area expands beyond that shown, please contact Hydro One to assess impacts of existing or future planned electricity infrastructure. Any future communications are sent to [Secondarylanduse@hydroone.com](mailto:Secondarylanduse@hydroone.com). Be advised that any changes to lot grading and/or drainage within proximity to Hydro One transmission corridor lands must be controlled and directed away from the transmission corridor."
- Windsor Police Service – advised in an email dated July 5<sup>th</sup>, 2022, that
  - This project is not anticipated to carry any significant impact to public safety in a way that is overtly discernible.
  - The primary issue, while low in overall risk probability, is to ensure the property is established and maintained in a way that optimizes physical security. This is because of the high importance associated with this asset, when required. In this regard, failure of its functioning should unlawful access be gained, would be detrimental. Criminal access that leads to possible acts of sabotage needs to be prevented. In saying this, extra care should be given to solidifying good access control measures into the site, plus implementing important target hardening features.
  - It is also important that uninhibited access by all emergency responders (Police, Fire, and EMS) be achieved as an outcome from the final design, when it is constructed and made operational.

No feedback forms were received in response to the information provided at the Public Open House.

A copy of the display material, which was presented at the open house is included in **Appendix B**.



### 8.3.3 Notice of Draft Environmental Study Report

The notice of draft ESR was sent by email to review agencies and the public on August 30<sup>th</sup>, 2022. A copy of the email and list of recipients can be found in **Appendix B**. The email included a link to the City's website where the Draft ESR could be found on the project's page.

- The MECP provided comments via email on October 5<sup>th</sup>, 2022, see **Appendix B**.
- The MTCS provided comments via email on September 30<sup>th</sup>, 2022, see **Appendix B**.
- Transport Canada advised in an email on September 15<sup>th</sup>, 2022 that,
  - Transport Canada does not require receipt of all individual or Class EA related notifications. We are requesting project proponents self-assess if their project:
    1. Will interact with a federal property and/or waterway by reviewing the Directory of Federal Real Property, available at [www.tbs-sct.gc.ca/dfrp-rbif/](http://www.tbs-sct.gc.ca/dfrp-rbif/); and
    2. Will require approval and/or authorization under any Acts administered by Transport Canada available at <http://www.tc.gc.ca/eng/acts-regulations/menu.htm>.

Projects that will occur on federal property prior to exercising a power, performing a function or duty in relation to that project, will be subject to a determination of the likelihood of significant adverse environmental effects, per Section 82 of the *Impact Assessment Act, 2019*. A self-assessment was done to ensure the project does not interact with federal property and/or waterway and does not require approval or authorization under any Acts administered by Transport Canada.

## 2.2 INDIGENOUS CONSULTATION

Consultation with Indigenous communities is ongoing in accordance with the Municipal Class EA Indigenous Consultation requirements. As part of this Environmental Assessment, communications with Indigenous agencies and communities are being undertaken in parallel with the other stakeholder communications and consultations. This report will be sent to the Indigenous groups and organizations to solicit their interest or non-interest in the study.

The communities contacted as a part of this EA study include:

- Aamjiwnaang First Nation
- Caldwell First Nation
- Walpole Island First Nation (Bkejwanong Territory)
- Chippewas of the Thames First Nation

- Chippewas of Kettle & Stony Point First Nation
- Oneida Nation of the Thames (ONYOTA'A:KA)
- Métis Nation of Ontario
- Moravian of the Thames (Delaware Nation)

Notices were sent to the following Indigenous groups and organizations at study commencement and public open house to solicit their interest or non-interest in the study.

Following the project Notice of Commencement, a consultation response was received from Chippewas of the Thames First Nation (COTTFN), stating that the proposed project is located within the McKee Treaty Area (1790) to which Chippewas of the Thames First Nation (COTTFN) is a signatory. It is also located within the Big Bear Creek Additions to Reserve (ATR) land selection area, as well as COTTFN's Traditional Territory. COTTFN requested to have a First Nation Field Liaison present for the Stage 2 Archaeological Assessment. COTTFN was notified of the assessment and a COTTFN Field Liaison was on site May 19<sup>th</sup>, 2022, when the assessment was completed.

Documentation of consultation with Indigenous communities during the Environmental Assessment Process is in **Appendix B**.

## 9.0 OPINION OF PROBABLE COST

This section discusses an opinion of probable cost for the preferred solution. The opinion of probable cost is an estimate of the future contract price for the engineering and construction work, which is not yet fully defined and may be subject to changes in scope, design, and market conditions.

### 9.1 LEVEL OF ACCURACY

Opinions of probable cost are typically provided throughout various stages of a project's life cycle. There are a number of classifications for estimates that identify typical minimum and maximum probable costs or levels of accuracy. These classifications vary widely by industry but all are based on the fact that the level of accuracy is directly proportional to the level of detail available at each stage of the project.

The level of accuracy increases as the project moves through the various stages from planning to preliminary design to final design. A wide range of accuracy would be expected at the planning stage of a project development because a number of details would be unknown. As the project moves closer to completion of final design, the estimate would become more accurate due to the increased level of detail available and the reduced number of unknowns.

**Table 9.1** includes a summary of typical estimate classifications used throughout a project's development including a description of the project stage and range of accuracy. The opinions of probable cost in this study are estimated at the study stage (Class 2) and the corresponding level of accuracy could range from -15% to +30% from the opinion presented in the report.

**Table 9.1: Classification of Cost Estimates**

Class	Description	Level of Accuracy	Stage of Project Lifecycle
1	Conceptual Estimate	+50% to -30%	Screening of alternatives.
2	Study Estimate	+30% to -15%	Treatment system master plans.
3	Preliminary Estimate	+25% to -10%	Pre-design report.
4	Detailed Estimate	+15% to -5%	Completed plans and specifications.
5	Tender Estimate	+10% to -3%	This is the actual tender price and it can vary depending on the amount of contingency allowance consumed.

### 1.3 OPINION OF PROBABLE COST FOR PREFERRED SOLUTION

A capital budget estimate (in 2022 dollars) is summarized in **Table 9.2**. In addition to the level of accuracy discussed, the opinion of probable cost was prepared taking into consideration the following factors.

- All estimates are in 2022 dollars.
- It is assumed that the Contractor will have unrestricted access to the site and will complete the work during normal working hours from 7:00 am to 6:00 pm Monday to Friday. There is no allowance for premium time included.
- Labour costs are based on union labour rates for the Windsor area.
- An allowance is included for mobilization and demobilization and the Contractor's overhead and profit.
- Equipment costs are based on vendor supplied price quotations and historical pricing of similar equipment.
- Bulk material and equipment rental costs used are typical for the Windsor area.
- The estimate does not include the cost of application or permit fees.
- Allowances for engineering and contingency allowances (approximately 15% and 30%, respectively) are included in the estimate.
- No allowance is included for interim financing costs or legal costs.
- No allowance is included for escalation beyond the date of this report.
- A factor that could impact the estimate is the possible presence of archaeological resources in the construction area. However, the potential for these resources has been identified to be low and therefore no allowance is included in the estimate.

**Table 9.2: Opinion of Probable Capital Cost for Preferred Solution**

Item	Description	Probable Cost
1	Pumping Station and Outlet Structure	\$5,500,000
<b>Sub-total Construction Cost</b>		<b>\$5,500,000</b>
	Contingency Allowance (30%)	\$1,650,000
	Engineering Allowance (15%)	\$1,050,000
<b>TOTAL CAPITAL COST (excluding taxes)</b>		<b>\$8,200,000</b>

The 2020 SMP study estimated the cost of the proposed upgrades to be \$5.1 million. The opinion of probable cost is \$8,200,000 as of Phase 4 of this Class EA.

The causes of the cost increase are primarily a result of

- Unprecedented price increases for materials and equipment over the last 3 years, mostly due to continued unprecedented supply chain issues affecting the construction industry, increased demand in construction, COVID-19 lockdowns, and home improvements, increased new housing sales, new infrastructure stimulus announcement of \$6 Trillion by US and forthcoming Canadian Infrastructure spending, etc.
- Shortage of skilled labour within the local Union halls

# 10.0 SUMMARY

## 10.1 RECOMMENDATIONS

The preferred design is indicated in the **Figure 5.2A** and recommended design concepts are summarized in the **Table 5.3**. The recommended design meets the requirements outlined in the SMP to reduce the risk of flooding in the Pontiac drainage area in the case of severe storm events. Construction of the proposed infrastructure will positively impact the community and work to decrease the risk of damage to municipal infrastructure, local transportation networks, and residential properties due to flooding.

When capital budget funding becomes available, it is recommended that the following work described in the ESR proceed to Phase 5 with final design and construction:

- Upgrade the hydraulic capacity of the Pontiac Pumping Station to effectively release stormwater to the Little River and reduce the HGL within the stormwater system to meet the appropriate level of service. The wet well structure is to house three (3) pumps, two duty and one standby, each rated 1.25 m<sup>3</sup>/s. Exact number and configuration of pumps is to be further reviewed in the detailed design phase.
- Upgrade existing Pontiac Pumping Station inlet chamber to divert flow from the inlet chamber to a new wet well structure that is to be located south of the existing Pontiac Pumping Station.
- New 1500 mm diversion sewer from existing inlet chamber to new wet well structure.
- New 1500 mm connection sewer from the new wet well structure to the outlet of existing Pontiac Pumping Station

## 10.2 PERMITS & APPROVALS

**Table 10-1** shows the permit and approval requirements for the preferred design. The permit requirements are based on past experience with similar projects and may change at the discretion of the regulatory authorities. The applications shall be prepared upon completion of the detailed design drawings and specifications.

**Table 10-1: Permit requirements for implementing the preferred design**

Regulatory Authority or Owner	Permit
Ministry of Environment Conservation and Parks (MECP)	ECA for Pontiac Pumping Station Upgrades
Essex Region Conservation Authority (ERCA)	ERCA permit for Pontiac Pumping Station Upgrades
Ministry of Natural Resources and Forestry (MNR)/Fisheries and Oceans Canada (DFO)	Endangered Species Act permit or authorization
Building Permit	Building Permit for Pontiac Pumping Station Upgrades

# APPENDICES



## **Appendix A** **FIGURES**

Figure 1.1: Existing Storm Sewer System in the Pontiac Drainage Area

Figure 1.2: Proposed Pontiac Drainage Area Improvements

Figure 1.3: Municipal Class EA Planning and Design Process

Figure 2.1: Archaeological Potential in the City of Windsor Area

Figure 2.2: Aerial Plan of Windsor's Cultural Heritage Sites

Figure 5.1B: Site Layout Alternative No. 1

Figure 5.2B: Site Layout Alternative No. 2

Figure 5.3B: Site Layout Alternative No. 3

## **Appendix B** CONSULTATION

1. Notice of Study Commencement
2. Public Information Centre
3. Notice of Draft Environmental Study Report
4. Email Packages to Review Agencies
5. Response from Review Agencies – Notice of Project Commencement
6. Response from Review Agencies – Public Open House
7. Response from Review Agencies – Notice of Draft ESR
8. Indigenous Consultation

## **Appendix C** **FIELD INVESTIGATIONS**

1. Geotechnical Assessment and Preliminary Geotechnical Exploration Report
2. Preliminary Soil Characterization Report
3. Stage 2 Archaeological Assessment Report
4. Ministry of Tourism, Culture and Sport Letter Affirming Entry of 'Stage 2 Archaeological Assessment Report' into the Ontario Public Register
5. Natural Heritage Impact Assessment Report
6. Criteria for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes – Checklist
7. Heritage Overview Memo



**Subject: Exemption to Noise By-law 6716 for Nighttime Construction Work – Lauzon Parkway from Cantelon Drive to Forest Glade Drive - Ward: 8**

**Reference:**

Date to Council: January 30, 2023  
Author: Joseph Bressan  
Engineer I  
519-255-6100 x 6890  
jbressan@citywindsor.ca

Public Works - Operations  
Report Date: January 3, 2023  
Clerk's File #: SW2023

To: Mayor and Members of City Council

**Recommendation:**

- I) That the following exemption requests to the provisions of the Noise By-law 6716 (as amended), **BE GRANTED**:
  - a. **Specific exemption request:**

The Public Works Department of the City of Windsor is requesting a noise by-law exemption for the time periods for the operation of construction equipment as dictated by the City of Windsor **By-Law No. 6716** in order to allow 24/7 construction work.
  - b. **Scope of Exemption:**

The project limits are located in the City of Windsor at Lauzon Parkway from Cantelon Drive to Forest Glade Drive.
  - c. **Duration of Exemption:**

This Noise By-Law Exemption is requested for the dates commencing on April 17, 2023 and continuous through October 31, 2023.

**Executive Summary:**

N/A

**Background:**

The City's Asset Management plan indicates that Lauzon Parkway, from Cantelon Drive to Forest Glade Drive, is in need of rehabilitation due to its state of disrepair.

The Operations department will be issuing a tender this winter to have Lauzon Parkway rehabilitated in the spring and summer of 2023. This project has been on Operation's agenda for the last 3 to 4 years.

The expected start date of Lauzon Parkway is largely dependant on the tendering process; however, a completion date will be set for October 31, 2023.

**Discussion:**

The City of Windsor is undertaking the removal and replacement of the roads surface of Lauzon Parkway from Cantelon Drive to Forest Glade Drive. Lauzon Parkway is a major arterial road that connects much of the Forest Glade and Riverside regions to EC Row Expressway. This section of Lauzon Parkway has significantly deteriorated due to the heavy volumes of traffic and the annual freeze-thaw cycles: thus, requiring rehabilitation. Based on the findings of a 2022 geotechnical report provided by Golder Associates the intent of this project is to remove and replace the existing concrete pavement with the addition of an open graded drainage layer (OGDL) to improve the structure and lessen the effects of the freeze thaw cycle.

The project consists of the following components:

- Demolition and removal of existing concrete road and concrete median from Cantelon Drive to Forest Glade Drive
- Demolition and removal of existing concrete sidewalk from Cantelon Drive to Forest Glade Drive
- Addition of OGDL
- Construction of new concrete pavement, sidewalks and median islands.
- Construction of new asphalt multi-use trail
- New Street lighting infrastructure
- Drainage improvements.

Construction activities will be permitted to be carried out 7 days a week and 24 hours a day to the extent that the construction operations will allow.

Access to businesses will remain open throughout the construction works.

The properties fronting this section of Lauzon Parkway are primarily residential and commercial. Commercial properties would normally render this area exempt as per the Noise By-law 6716 however, due to residential properties adjacent to this work; Public Works is seeking a Noise By-Law Exemption in order to:

- Minimize the potential safety hazards during construction to the traveling public.
- Minimize the total duration of construction.

The proposed nighttime works will involve the reconstruction of the road, and associated infrastructure within the right-of-way and will involve the use of the following noise producing machinery:

- Construction vehicles such as: dump trucks and material delivery trucks
- Construction equipment such as: excavators, loaders, bulldozers, rollers
- Paving units (concrete and OGDL pavers)
- Use of power tools such as: air compressors and portable power generators;
- Compaction equipment; and,
- Concrete saws and coring machines.

The control of construction noise from this project requires that the Contractors maintain equipment in a good operating condition that prevents unnecessary noise (e.g. machinery must be kept in good working order, and no excessive idling of equipment will be permitted). A notification area for the by-law exemption is illustrated in Appendix A.

**Risk Analysis:**

Risk Description	Impacted Objective(s)	Risk Level	Mitigating Strategy / Status	Responsibility
Noise will exceed generally acceptable nighttime levels	Consideration of community	Low	To minimize noise nuisance from construction activities to adjacent businesses and private properties, private construction firms working under contract for the City will be required to minimize the idling of construction vehicles, maintain equipment in good working order, and apply standard noise mitigation measures. If construction noise complaints arise during construction, they will be investigated by City staff in an attempt to mitigate the concerns and reach a resolve to the complaint.	City / General Contractor

**Climate Change Risks**

**Climate Change Mitigation:**

N/A

**Climate Change Adaptation:**

N/A

**Financial Matters:**

There is no financial impact to the City in granting the Public Works Department the requested exemption to By-Law 6716.

**Consultations:**

A letter will be delivered to all properties within 150m of the proposed works (see-attached properties in Appendix A).

Public Works Operations - Charles Hartford

**Conclusion:**

Administration supports the Public Works Department's requested exemptions to the Noise By-law as nighttime work will minimize the duration of the construction works resulting in a return to normal traffic flow as quickly as possible.

**Planning Act Matters:**

N/A

**Approvals:**

Name	Title
Charles Hartford	Contracts Coordinator
Phong Nguy	Manager of Contracts, Field Services & Maintenance
Shawna Boakes	Executive Director of Operations
Chris Nepszy	Commissioner, Infrastructure Services
Steve Vlachodimos	City Clerk
Shelby Askin Hager	Commissioner, Legal & Legislative Services
Onorio Colucci	Chief Administrative Officer

**Notifications:**

Name	Address	Email
All affected properties within 150m of the construction activities.		
311		311@citywindsor.ca

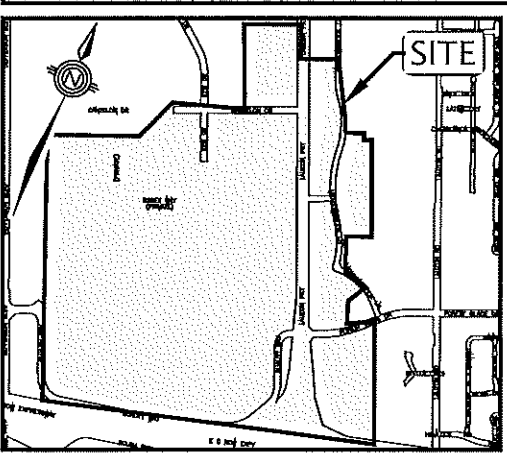
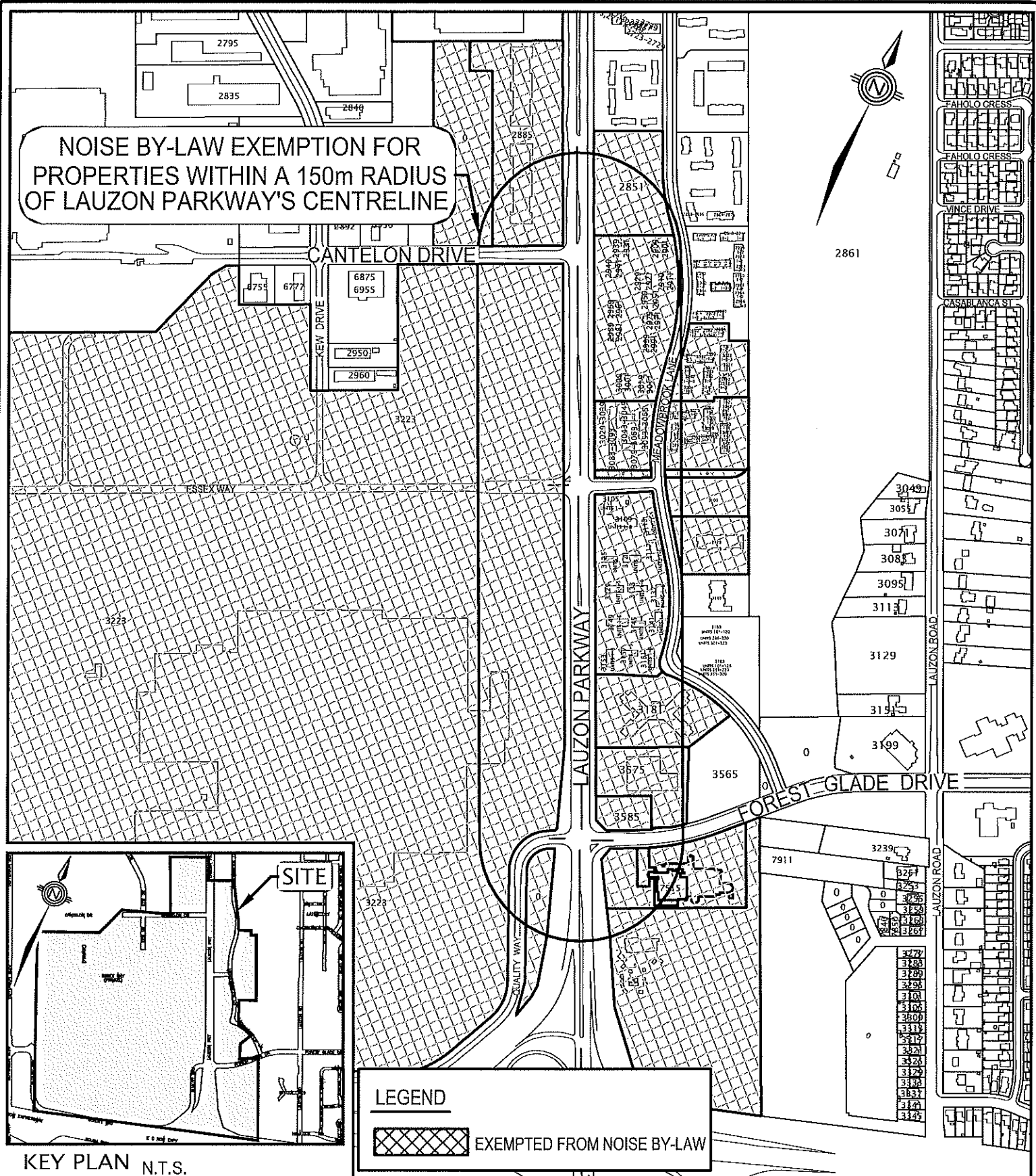
<b>Name</b>	<b>Address</b>	<b>Email</b>
Windsor Police Services		info@police.windsor.on.ca

**Appendices:**

- 1 Appendix A - C-3641 - Lauzon Parkway between Cantelon Drive and Forest Glade Drive




**NOISE BY-LAW EXEMPTION FOR PROPERTIES WITHIN A 150m RADIUS OF LAUZON PARKWAY'S CENTRELINE**



**KEY PLAN** N.T.S.

**LEGEND**

 EXEMPTED FROM NOISE BY-LAW

**THE CORPORATION OF THE CITY OF WINDSOR - ENGINEERING DEPARTMENT**

**Noise By-Law Exemption for Lauzon Parkway between Cantelon Drive and Forest Glade Drive**

*Kirk Tamm*  
 Kirk Tamm, Manager of Geomatics

SCALE: 1:7500    DATE: OCTOBER 2021    REVISION NO.: \_\_\_\_\_  
 Council Agenda - January 30, 2023    CHECKED BY: PJJ MC  
 OWN BY: AC    PAGE 465 OF 465

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