



TOWN OF WINDSOR RECOMMENDATION REPORT

To: Members of Town of Windsor Planning Advisory Committee

Submitted by: _____
Sara Poirier, Planner

Date: February 13, 2020

Subject: Land Use By-Law Map Amendment: 411 King Street, Windsor; PID 45059755

File # **19-13**

1.0 BACKGROUND

An application was received on December 3, 2019 from Michael Jamieson to permit a commercial school, office, repair and rental establishment, retail store, service shop, entertainment uses, and residential uses at 411 King Street, Windsor (PID 45059755). The building was constructed in 1898 and the property was used as Windsor United Baptist Church until November 2019 when the congregation moved to a different location. The property is currently owned by a registered company, 3333941 Nova Scotia Limited. Michael Jamieson is the Director of that registered company.

2.0 LEGISLATIVE AUTHORITY

Municipal Government Act Part 8; Windsor Municipal Planning Strategy (WMPS) and Land Use By-law (WLUB).

3.0 RECOMMENDATION

To allow the requested development, staff recommends that the Windsor Planning Advisory Committee forward a positive recommendation by passing the following motion:

that Regional Council give First Reading and hold a Public Hearing to consider amending the Zoning Map of the Windsor Land Use By-law to enable the lot located at 411 King Street, Windsor, PID 45059755 to be rezoned from the Institutional (I) Zone to the General Commercial (GC) Zone, as shown on the map attached as Figure 3 to the Windsor Planning Advisory Committee report #19-13 dated February 12, 2020.

4.0 DISCUSSION and DOCUMENT REVIEW

The lot is designated Community Use (CU) on the Generalized Future Land Use Map of the WMPS (Figure 1). Part 11.0 of the WMPS contains the overall intention for properties designated Community Use (CU) in Windsor.

The subject lot is zoned Institutional (I) on the Zoning Map of the WLUB (Figure 2). Commercial schools, offices, repair and rental establishments, retail stores, service shops, and entertainment uses are not permitted within the Institutional (I) Zone. Residential uses are only permitted within the Institutional (I) Zone if they are accessory to a use permitted in the Institutional (I) Zone. The owner has no intention of using the lot for an institutional use.

The owner would like to convert one half of the building to residential uses and offices for the operation of their audio and lighting production business and preserve the other half of the building, where the church services have been held, to train staff members how to use audio equipment and lighting and for indoor entertainment uses such as musical performances and theatre shows.

4.1 Municipal Planning Strategy

The 2.8-acre subject lot is located on King Street. The lot is directly abutting properties with single unit dwellings which are zoned Single Unit Residential (R-1) and commercial properties which are zoned General Commercial (GC) (Figure 2).

For the existing structure to be allowed to be used for the uses requested an amendment to the Zoning Map of the WLUB is required. Figure 3 shows the proposed changes to the Zoning Map.

Section 8.0 of the WMPS contains the commercial policies for Windsor. Policy 8.3.2 establishes Council's intention to *"consider the creation of new General Commercial zones in any designation, with the exception of the Wentworth Road Gateway District, by amendment to the Land Use By-law"*. The subject lot is not within the Wentworth Road Gateway District therefore the rezoning to General Commercial (GC) can be considered under this policy.

Although the owner is planning to utilize the existing building for their proposed uses, it is important to note that the lot is included in the Environmental Constraints designation which means that it has been identified as marshland, specifically

within the Tregothic Marsh. Properties within the Environmental Constraints designation have to meet more stringent requirements including completing an environmental study before being issued a development permit for any new building. Since the owner is utilizing the existing building, which was constructed (in 1898) before land use regulations were in place, they do not have to meet these requirements unless they are proposing to construct new buildings on site. The existing building may be enlarged, reconstructed, repaired or renovated provided all other requirements of the WLUB are met.

The Windsor Dykeland's Background Report (2001) specifies that the subject lot, and approximately 40 percent of the properties within the Tregothic Marsh, have been exempted by the Province from the requirements of Section 41 of the *Agricultural Marshland Conservation Act*. The *Agricultural Marshland Conservation Act* (2001) protects marshland for agricultural purposes. Being exempt from this portion of the *Act* means that the owner would not have to apply to the marsh body to allow any future construction. Any new construction on site would have to meet the requirements of Section 27.0 of the WLUB and any other requirements of the Regional Municipality.

4.1.1 *WMPS Specific Criteria*

Policy 8.3.2 establishes Council's intention to "*consider the creation of new General Commercial zones in any designation, with the exception of the Wentworth Road Gateway District, by amendment to the Land Use By-law*" and establishes the criteria to be considered by Council. These criteria are examined in detail in Appendix B. In summary, the criteria are met since:

- the lot is serviced by both municipal water and sewer;
- the proposed use will not conflict with adjacent existing uses;
- the proposal meets the WMPS general criteria.

4.1.2 *WMPS General Criteria*

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

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

4.2 **Land Use By-law**

4.2.1 *Text Amendment*

The definitions of the WLUB, although not directly applicable to the WMPS, can be used as a guide to the intent of the WMPS. On the subject lot, the applicant proposes to renovate half of the existing building for residential uses and offices which may include repair, service, rental and sales of equipment, and preserve the other half for a commercial school to train staff members how to use equipment and for indoor entertainment uses. Should the lot be amended from the Institutional (I) Zone to the General Commercial (GC) Zone (Appendix A), the proposed uses would be allowed “as-of-right”, as they are each listed as a permitted use in the General Commercial (GC) Zone.

Therefore, there are no required text amendments to the WLUB for this application.

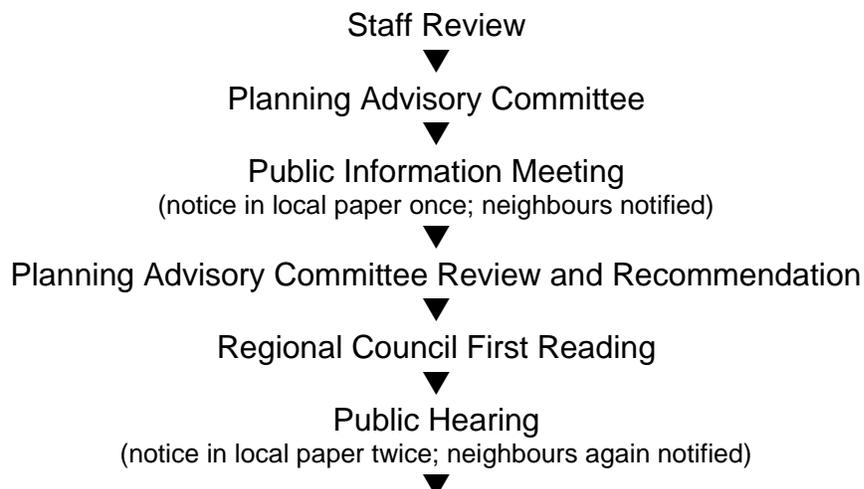
4.2.2 *Map Amendment*

The proposed uses are not permitted in the Institutional (I) Zone. There is a policy option to allow Council to consider rezoning the subject lot to the General Commercial (GC) Zone. The proposed uses are permitted in the General Commercial (GC) Zone. An amendment to the WLUB Zoning Map is required for this application. The proposed map amendment is shown in Figure 3.

5.0 CONCLUSION

As noted above, the proposed map amendment has been considered within the context of both the specific and general policies of the WMPS and is consistent with the intent, objectives and policies of the WMPS. The proposed map amendment meets the specific and general criteria for amendments to the WLUB. There are no proposed text amendments. As a result, it is reasonable to amend the zoning of the lot located at 411 King Street, Windsor, PID 45059755 from the Institutional (I) Zone to the General Commercial (GC) Zone on the Zoning Map of the Windsor Land Use By-Law.

6.0 PROCESS



Regional Council Second Reading



Notice of Approval in Local Paper



14 Day Appeal Period

7.0 OPTIONS

In response to the application, WPAC may recommend that Regional Council:

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

8.0 APPENDICES

Figure 1 Windsor Generalized Future Land Use Map – Existing

Figure 2 Windsor Zoning Map – Existing

Figure 3 Draft Windsor Zoning Map – Proposed Amendment

Appendix A General Commercial (GC) Zone

Appendix B Specific Criteria for Amendment

Appendix C General Criteria for Amendment

Report Reviewed by: Madelyn LeMay, Director of Planning and Development

Figure 1
Windsor Generalized Future Land Use Map – Existing

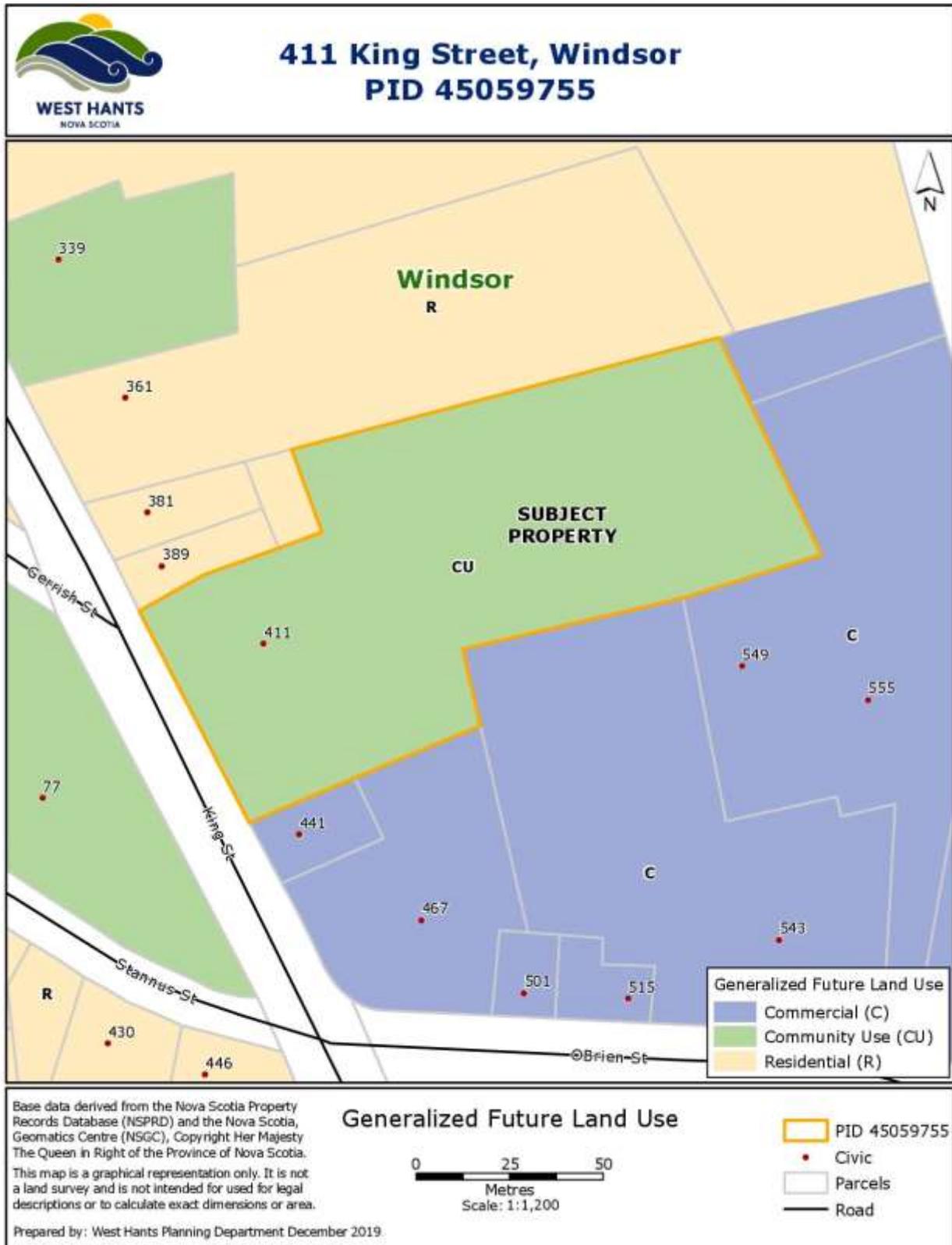


Figure 2
Windsor Zoning Map – Existing

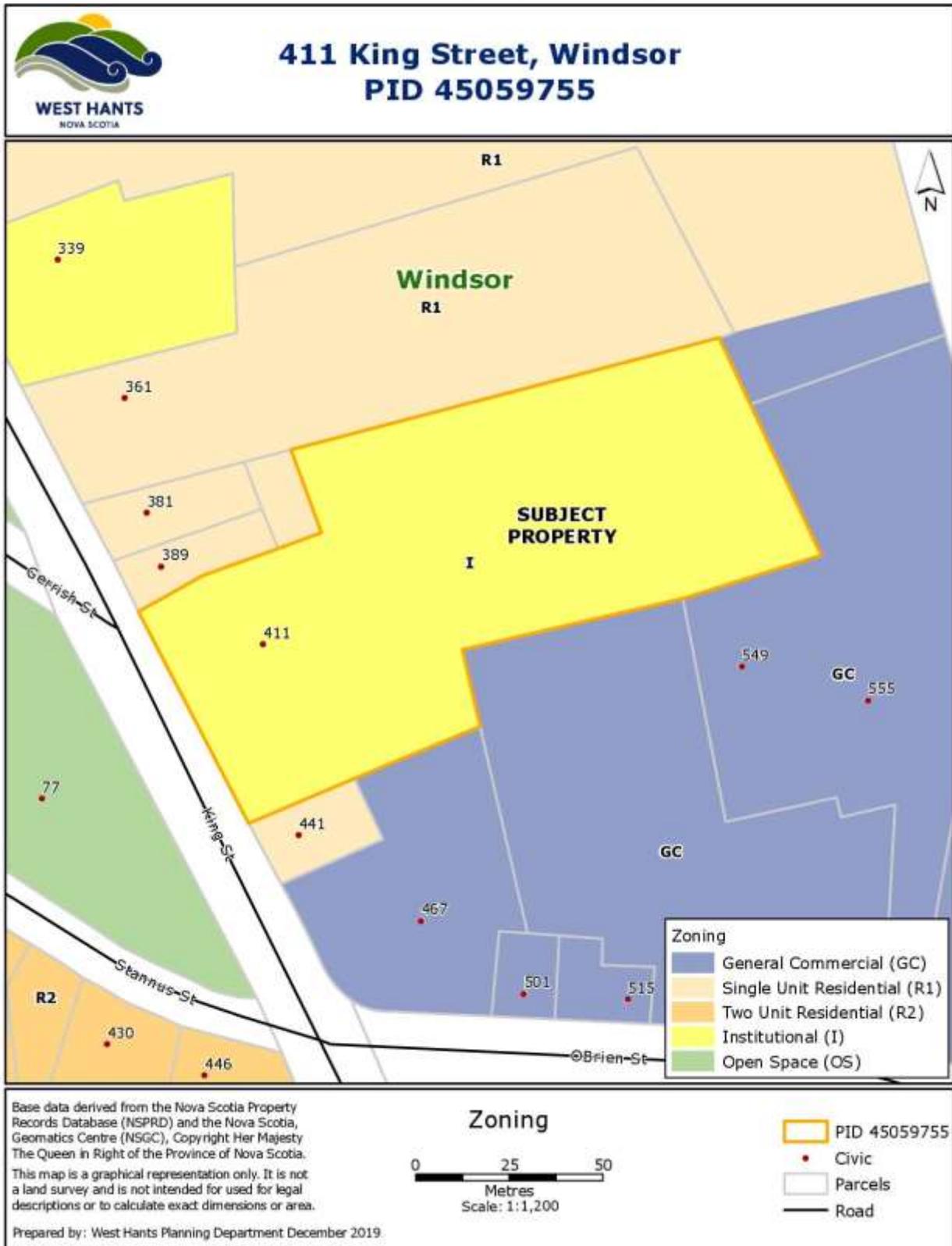
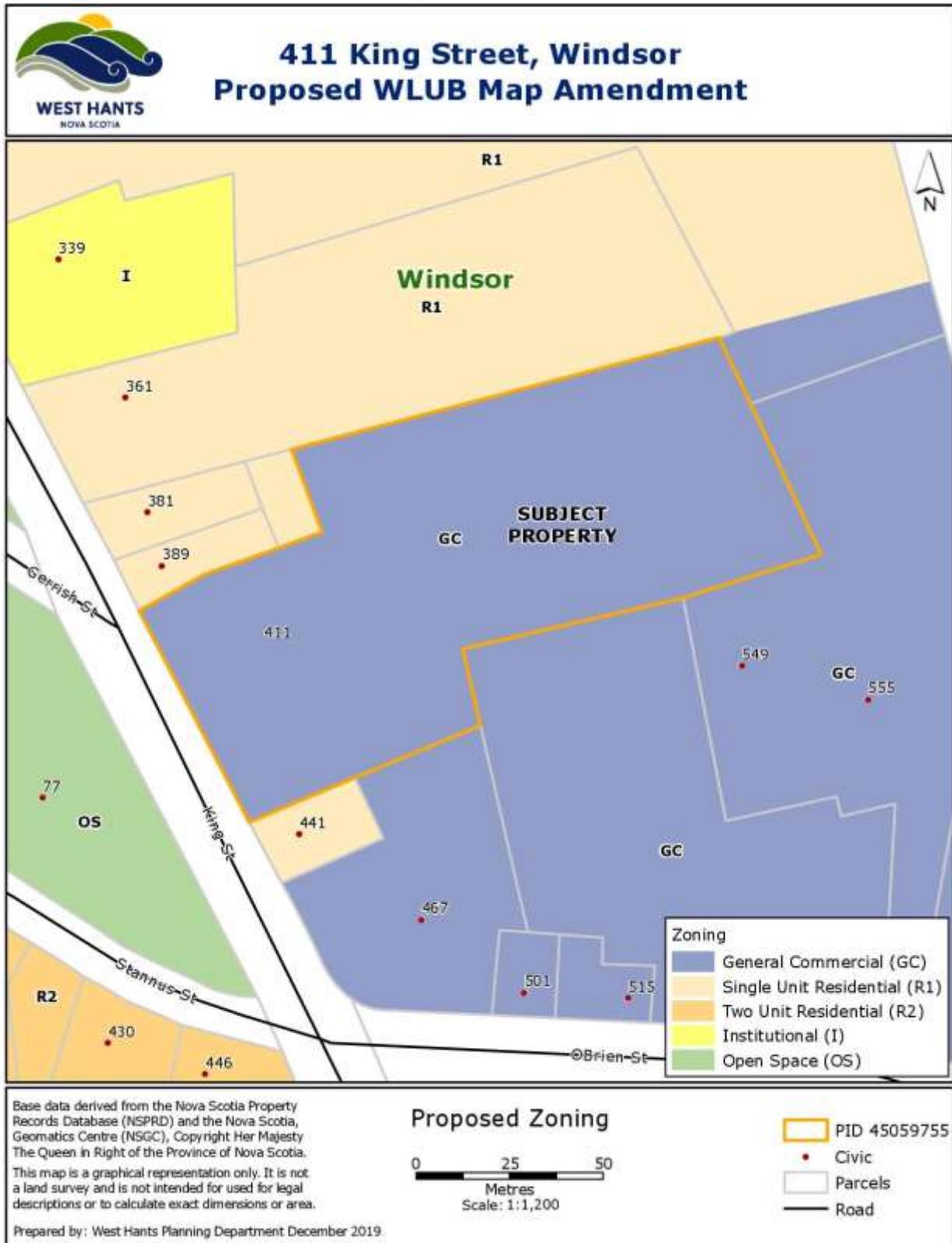


Figure 3
Draft Windsor Zoning Map – Proposed Amendment



**Appendix A
General Commercial Zone**

17.0 GENERAL COMMERCIAL (GC)

Permitted Uses

17.1 The following uses shall be permitted in the General Commercial (GC) zone:

- Arts and crafts studios including photography
- Banks and financial institutions
- Clubs and community organizations
- Commercial schools
- Country inns
- Day care centres, licensed and non-licensed
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Garden and nursery sales and supplies
- Licensed liquor establishments
- Local shopping centres containing uses permitted in the GC zone
- Microbrewery, Microdistillery, Winery (Amended WLUB 18-01 Effective January 29, 2019)
- Offices
- Parking structures
- Repair and rental establishments
- Residential uses (not on the ground floor)
- Restaurants, excluding drive-through restaurants
- Retail stores
- Service and personal service shops
- Taxi, train and bus stations
- Veterinary clinics and animal hospitals
- Existing residential uses

GC Zone General Requirements

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

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

Open Storage

17.3 No open storage shall be permitted in the GC zone.

Residential Uses

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

Access

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

Appendix B
Specific Criteria for Amendment

8.0 COMMERCIAL

8.3 General Commercial

Policy 8.3.2 *It shall be the policy of Council to consider the creation of new General Commercial zones in any designation, with the exception of the Wentworth Road Gateway District, by amendment to the Land Use By-law subject to the following criteria:*

CRITERIA	COMMENT
<i>(a) the proposed use has direct access to:</i>	
<i>(i) an arterial road as shown on the Transportation Map (Map 2), or</i>	King Street is an arterial road as shown on the Transportation Map (Map 2) of the WMPS.
<i>(ii) a major collector road shown on the Transportation Map (Map 2) provided a traffic impact study is submitted to the Town which demonstrates the proposed use will not have an unacceptable impact on traffic flows and existing streets as determined by the Traffic Authority;</i>	Not applicable.
<i>(b) the proposed use will not conflict with adjacent uses; where located in the Residential designation, particular attention is paid to compatibility in terms of building scale and design and traffic generation;</i>	The lot is within the Community Use (CU) designation and currently zoned Institutional (I). The subject lot abuts properties zoned Single Unit Residential (R1) to the north, General Commercial (GC) to the east and south and Open Space (OS) to the west. As the proposed uses are to be located in the existing building it is not anticipated that they would conflict with the adjacent uses.
<i>(c) required parking can be provided;</i>	The parking requirements will need to be determined once the owner knows exactly what uses permitted in the General Commercial (GC) Zone are being proposed and the square footage of each use. The Development Officer stated that given the size of the lot and the fact that it was formerly used as a

	church, they are not anticipating that parking will be a problem.
<i>(d) traffic flow and pedestrian safety will not be adversely affected;</i>	The Traffic Authority had no concerns about the impact of the proposed use on traffic generation and traffic safety or the ability to provide safe and efficient roadway access to the lot.
<i>(e) adequate landscaping, green space and buffering will be provided;</i>	The lot is approximately 2.8 acres in size; the proposed uses are to be located within the existing building. Any future building or expansion would need to meet the requirements of the General Commercial (GC) zone.
<i>(f) the architectural design of the development is reasonably consistent with the provisions of the Architectural Design Manual, if the proposed development is located in an Architectural Control District;</i>	Not applicable as the lot is not within an Architectural Control District.
<i>(g) any other matter which may be addressed in a Land Use By-law; and</i>	All other matters have been addressed elsewhere in this report.
<i>(h) Policy 16.3.1.</i>	See Appendix C.

Appendix C
General Criteria for Amendment

16.0 IMPLEMENTATION

16.3 Land Use By-law Amendments and Development Agreements

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

CRITERIA	COMMENT
<i>(a) whether the proposal is considered premature or inappropriate in terms of:</i>	
<i>(i) the adequacy of sewer and water services;</i>	The Acting Director of Public Works confirmed that the lot is connected to the Town of Windsor's water distribution system and combined wastewater system. They did not have any concerns regarding the supply of water or effluent which may be discharged into the sewer and stated all relevant rules, policies, codes and regulations must be followed for both water and wastewater.
<i>(ii) the adequacy of school facilities;</i>	No impact on school facilities is anticipated.
<i>(iii) the adequacy of fire protection;</i>	In response to an inquiry, the local Fire Chief stated that they do not believe the proposed uses for the lot are premature or inappropriate for the area. When discussing the adequacy of fire protection, the Fire Chief specified that the fire department currently has access to all sides of the structure. He added that laneways and apparatus access points should not be restricted by outside storage or new outbuildings because a fire in the structure that gets any headway would require multiple aerial trucks to control and prevent spread to neighbouring occupancies. Due to the current and potential fire loads, 360-degree access must be maintained regardless of what uses the owner decides to do there.

	<p>The Fire Chief also specified that any major change of use from the current assembly occupancy of the building would need input from the Senior Building and Fire Official to ensure proper fire separations, alarm systems, sprinkler systems and occupancy load, particularly when there is potential for breweries, distilleries, licensed liquor establishments and restaurants in the General Commercial (GC) Zone. If the owner plans on living and running a business in this structure the Fire Inspector input is paramount.</p> <p>The Senior Building and Fire Official confirmed that he does not have any issues with the uses listed in the new zone being permitted on this lot. He added that the required fire separations will have to be determined when the owner applies for a building permit.</p>
<i>(iv) the adequacy of road networks adjacent to, or leading to the development; and</i>	The Traffic Authority had no concerns about the adequacy of road networks adjacent to or leading to the subject lot.
<i>(v) the financial capacity of the Town to absorb any costs relating to the development.</i>	There are no anticipated costs to the Town or new Regional government in regard to this development.
<i>(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;</i>	The Traffic Authority has confirmed that the existing driveway is suitable as a commercial access and has no concerns. There is no rail transportation in this area. There is a sidewalk in front of the lot which will not be impacted by the proposed uses.
<i>(c) the adequacy of the dimensions and shape of the lot for the intended use;</i>	The Development Officer has no concerns with regards to the dimensions and shape of the lot for the proposed uses <i>“as this is a large lot and there is no indication that the new owner plans to expand the building footprint.”</i>
<i>(d) the pattern of development which the proposal might create;</i>	The Development Officer has no concerns with the pattern of development this proposal might create.

<p><i>(e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, marshes or bogs and susceptibility of flooding;</i></p>	<p>This clause is not applicable as the proposed uses are to be contained within an existing building. However, it is important to note that the lot is included in the Environmental Constraints designation which means that it has been identified as marshland. The owner is able to enlarge, reconstruct, repair or renovate the existing building provided all other requirements of the WLUB are met, however any new buildings proposed on site would be required to meet Section 27.0 of the WLUB.</p>
<p><i>(f) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and</i></p>	<p>All Municipal, Provincial and Federal regulations will have to be met.</p>
<p><i>(g) any other matter required by relevant policies of this Strategy.</i></p>	<p>All other matters have been addressed elsewhere in this report.</p>