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Item No. 13.1.2
North West Community Council
February 12, 2018

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

DATE: January 23, 2018

SUBJECT: **Case 21169: Non-Substantive Amendment to Development Agreement for Broad Street and Larry Uteck Boulevard, Bedford**

ORIGIN

Application by West Bedford Holdings Limited.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
2. Require the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

West Bedford Holdings Limited has applied for planning permission to allow the development of a car wash and automotive detailing facility on a vacant lot near the corner of Broad Street and Larry Uteck Boulevard, Bedford. An existing development agreement allows car washes only as an accessory use on the same lot as a gas bar. Developing a car wash on a separate lot was not contemplated at the time the existing development agreement was approved. This non-substantive amendment proposal would allow the car wash and automotive detailing facility on a lot separate from any other uses. No other changes to the development agreement are proposed.

Subject Site	PID 41442278
Location	Broad Street at Larry Uteck Boulevard
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Bedford West Secondary Planning Strategy
Zoning (Map 2)	Bedford West Commercial Development District (BWCDD)
Size of Site	0.95 Hectares (2.3475 Acres)
Street Frontage	Larry Uteck Boulevard and Broad Street
Current Land Use	Vacant
Surrounding Use	Vacant, but predominantly zoned BWCDD

Proposal Details

The applicant proposes to amend the existing development agreement to allow a car wash and automotive detailing facility as a main use on its own lot. A car wash is a permitted use on the subject property but is only permitted on the same lot and as an “accessory use” to a gas bar.

Existing Development Agreement

On October 23, 2008, North West Community Council approved a development agreement under case 00970 permitting development generally in accordance with the following:

- Subdivision and development of the lands commonly known as Bedford West, with residential and commercial areas; and
- Designation of a portion of the lands as Commercial Neighbourhoods; and
- Requirement for all land uses to meet the provisions of the Bedford Land Use By-Law as general development requirements for the subject site. That bylaw contains a provision only allowing car washes as accessory uses to gas bars.

On July, 21 2014, North West Community Council approved an amending development agreement under case 18423 to:

- Modify a portion of the existing subdivision measures and revise/replace the residential Schedules;
- Delete service station use from Schedule R (but retain gas bars); and
- Add Schedule V, Design Guidelines for Gas Bars.

Enabling Policy and LUB Context

The Bedford MPS permits gas bars and their accessory uses via Policy BW-34a. This policy also enables the creation of design controls applicable to gas bars (and, by extension, car washes).

Bedford West Secondary MPS

BW-34a

Council may consider the establishment of design, architectural and aesthetic guidelines for gas bars within the Community Commercial area to ensure that gas bars are designed appropriately. Regulations shall be established through the Bedford Land Use By-law to limit the permitted location of gas bars as follows:

i) Gas bars shall be permitted in Sub-Areas 2 and 6;

The Bedford LUB enables car washes in association with the primary use of Gas Bar as per the definitions section of the by-law:

PART 2 DEFINITIONS

Gas Bars - means development used for the retail sale of gasoline, other petroleum products and incidental automotive accessories. This use does not include service stations but may include a car wash or drive-thru restaurant as an accessory use. (RC-May 20/14;E-Jun 14/14)

COMMUNITY ENGAGEMENT

The community engagement process on this file was consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, a postcard mailed to property owners within the notification area and a public information meeting held on the 9th day of November, 2017 at 202 Innovation Drive Recreation Centre, Bedford. No members of the public attended. No comments were submitted to staff. Minutes were unnecessary. Five property owners comprised those in the notification area, all commercial owners.

The proposal will potentially impact commuters along Larry Uteck Boulevard and future commercial tenants of abutting lots.

North West Planning Advisory Committee

On December 6, 2017, the North West Planning Advisory Committee (PAC) recommended that the application be approved noting no conditions nor concerns. A report from the PAC to Community Council will be provided under a separate cover.

DISCUSSION

Policy

Staff reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment B provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Traffic

A Traffic Impact Study was completed and identified no added concerns. The study found the application should have no significant impact on projected traffic patterns not already anticipated within the Bedford West master plan. Staff concur with this assessment.

Development Agreement

The proposed amendments are minor and can be applied solely to existing Schedules. They, therefore, qualify as non-substantive under Section 6.2 (c) of the existing development agreement:

6.2 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of the Council:

(c) amendments to the Schedules of this Agreement provided that the Community Council is satisfied that such amendments are minor and conform with the intent and all applicable policies of the Secondary Planning Strategy.

Non-substantive amendments do not require a public hearing prior to approval.

Proposed Amending Agreement

Attachment A contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement would modify Schedules R and V and includes the following changes:

- 'Car Washes' are added as a permitted use to the existing Schedule R;
- 'Car Washes' are included in the title of Schedule V which will oblige this use to follow the same design guidelines standards as Gas Bars;
- A specific definition of the 'Car Wash' use is added as follows:

Car Washes

- *Car wash, detailing, general automotive cleaning, and related storage facilities, shall be designed in a manner that does not enable automotive repairs, vehicular painting, or tire servicing.*

Conclusion

Staff reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. A car wash is already enabled by the Bedford LUB. Staff advise that allowing the car wash use on its own lot separate from a gas bar is reasonable and responsive to commercial needs. It should be noted that building design controls applicable to gas bars remain in place for the proposed car wash.

Text modification of the schedules to the development agreement is the most efficient and effective means to enable and regulate the proposal.

Staff recommend that the North West Community Council approve the proposed amendment to the existing development agreement as set out in Attachment A.

FINANCIAL IMPLICATIONS

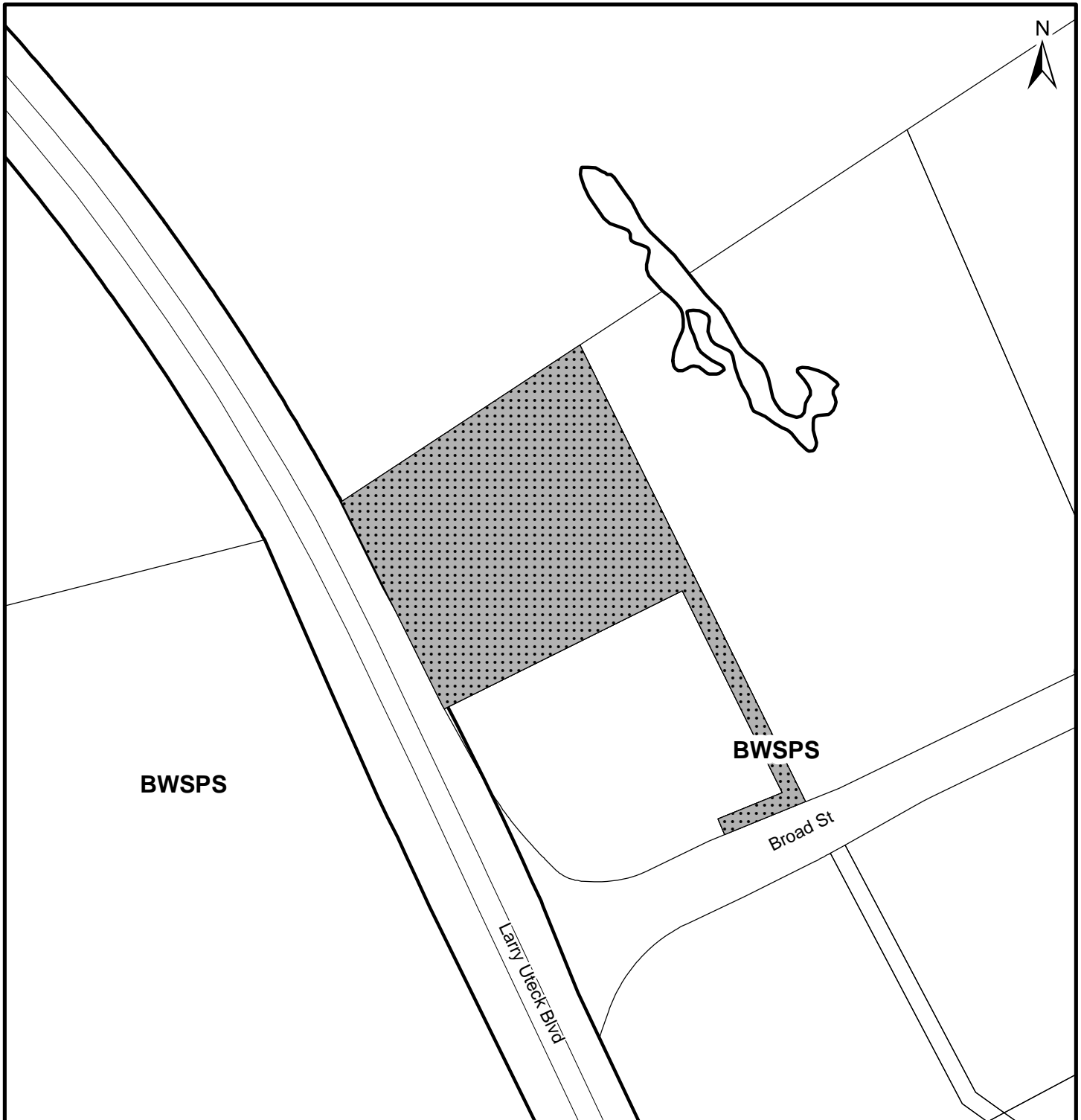
There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2017/18 C310 Planning Applications budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amending development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.



**Map 1 - Generalized Future Land Use
Larry Uteck Boulevard
PID 41442278**

HALIFAX

 Subject Site

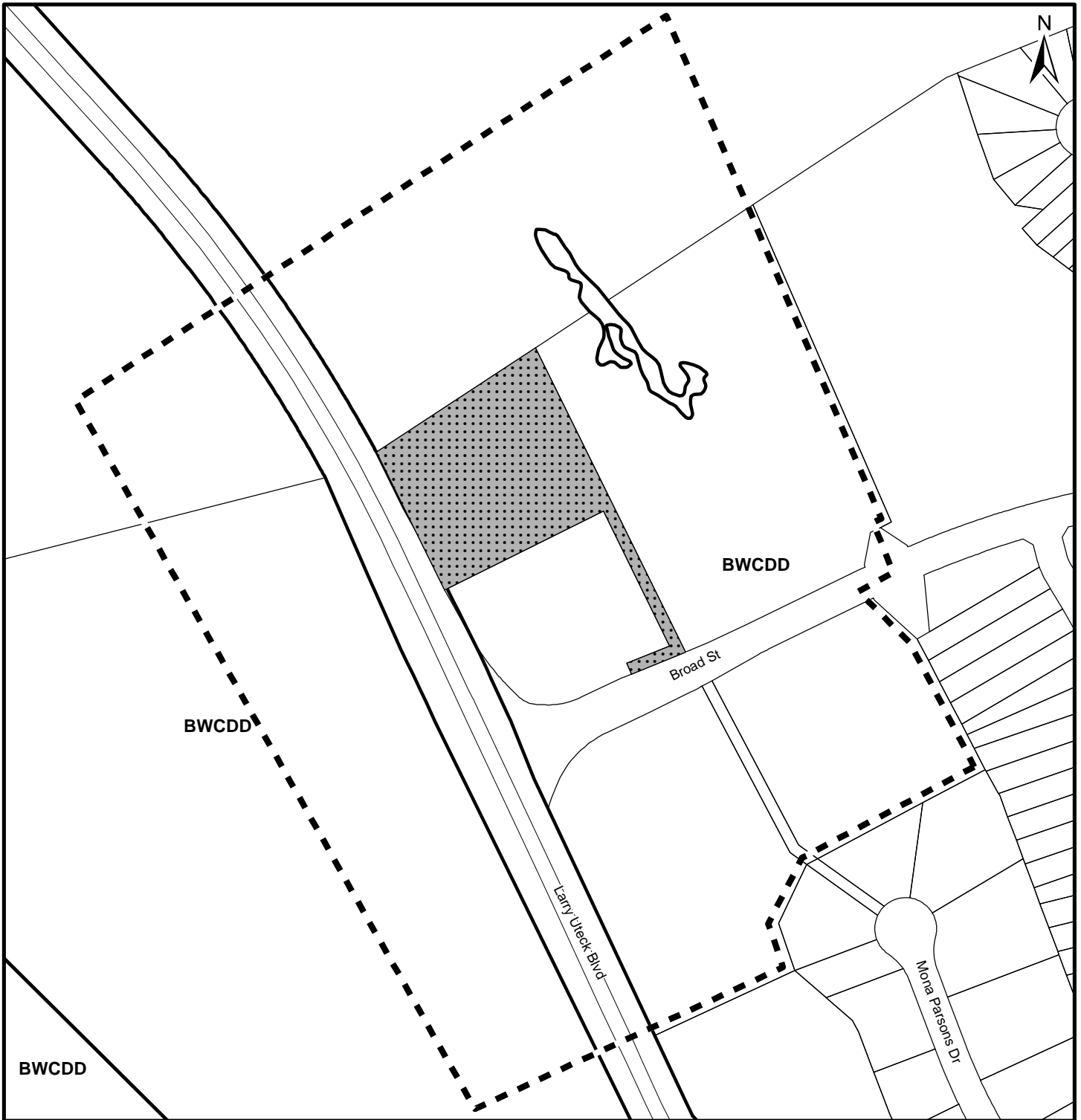
Designations

BWSPS Bedford West Secondary Planning Strategy

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.



The accuracy of any representation on this plan is not guaranteed.

Bedford Plan Area
Bedford West Secondary Planning Strategy

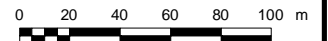


Map 2 - Zoning & Notification
Larry Uteck Boulevard
PID 41442278

HALIFAX

-  Subject Site
-  Area of notification

Zone
 BWCCD Bedford West Comprehensive Development District



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Bedford
 Plan Area

ATTACHMENT A

Proposed Amending Development Agreement

THIS THIRD AMENDING AGREEMENT made this **[INSERT]** day of **[INSERT]** , 2018,

BETWEEN:

WEST BEDFORD HOLDINGS LIMITED

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the owner of the subject lands (more particularly described in Schedule A and hereinafter called the "Lands");

AND WHEREAS the Developer and Halifax Regional Municipality previously entered into an agreement allowing for development of a residential mixed use subdivision at Sub Area 2 Bedford West, Bedford, the said Agreement (hereinafter called the "Original Agreement") being recorded at the Land Registry Office at Halifax on March 2, 2009 as Document 92870626 (referenced as Municipal Case Number 00970), and which applies to the Lands;

AND WHEREAS the North West Community Council of the Municipality approved an amendment to the Original Agreement to allow for 34 foot wide single unit dwelling lots and the establishment of gas bars (referenced as Municipal Case Number 18423), filed at the Land Registry Office at Halifax on November 28, 2014, as Document Number 106245013 (hereinafter called the "First Amending Agreement"), and which applies to the Lands;

AND WHEREAS the North West Community Council of the Municipality approved an amendment to the Original Agreement relocating uses (referenced as Municipal Case Number 20832), filed at the Land Registry Office at Halifax on August 8th, 2017, as Document Number 111206653 (hereinafter called the "Second Amending Agreement"), and which does not apply to the Lands;

AND WHEREAS the Original Agreement, First Amending Agreement, and Second Amending Agreement together comprise the Existing Agreement (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested amendments to the Existing Agreement allowing for the establishment of car washes as a permitted use to be listed on Schedule R 'Community Commercial Uses' of the agreement (hereinafter called the "Third Amending Agreement");

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on **[INSERT-Date]**, referenced as Municipal Case Number **[INSERT #]**;

WITNESSETH THAT, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. Except where specifically varied by this Third Amending Agreement, all other terms, conditions and provisions of the Existing Agreement shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Third Amending Agreement and the Existing Agreement.
3. The Existing Agreement Schedule R shall be amended by inserting a separate clause, immediately following "z) Uses accessory to the foregoing uses", to enable "car wash" as a permitted use, in **bold** as follows:

aa) Car washes

4. The Existing Agreement Schedule V shall be amended in its title by inserting the text shown in **bold** as follows:

Design Guidelines for Gas Bars **and Car Washes**

5. The Existing Agreement Schedule V shall be amended by inserting a separate clause, immediately following '4 Landscaping', in **bold** as follows:

5. Car Washes

- **Car wash, detailing, general automotive cleaning, and related storage facilities, shall be designed in a manner that does not enable automotive repairs, vehicular painting, or tire servicing.**

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

SIGNED, SEALED AND DELIVERED in the presence of:

<INSERT REGISTERED OWNER NAME>

Witness

Per: _____

Witness

Per: _____

=====
SEALED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

=====
HALIFAX REGIONAL MUNICIPALITY

Per: _____
Mayor

Per: _____
Municipal Clerk

Attachment B: Review of Relevant MPS and LUB Policies

Bedford Municipal Planning Strategy	
Policy	Comment
<p>Policy BW-34A</p> <p>Within the Community Commercial area it shall be the intention to enable the sale of gasoline at gas bars located proximate to the commercial and transportation core of Bedford West. Further, the establishment of other Highway Commercial uses such as automotive service uses shall not be considered as they are more appropriate in the General Commercial area. Council may consider the establishment of design, architectural and aesthetic guidelines for gas bars within the Community Commercial area to ensure that gas bars are designed appropriately. Regulations shall be established through the Bedford Land Use By-law to limit the permitted location of gas bars as follows:</p> <p>i) Gas bars shall be permitted in Sub-Areas 2 and 6;</p> <p>ii) Where permitted, gas bars shall be located within 180 metres (590 feet) of Kearney Lake Road, except in Sub-Area 6, and have driveway access to Kearney Lake Road or the community collector road;</p> <p>iii) Within Sub-Area 2, gas bars shall be located to the north of the community collector road; and</p> <p>iv) Within Sub-Area 6, gas stations may be located at any location within the Sub-Area. (RC-May 20/14;E-Jun 14/14)</p>	<p>The proposal locates the car wash within the Sub-Area enabling gas bars. The policy requires location and design control through the LUB. The application is enabled under the location parameters being within Sub-Area 2.</p>
Bedford Land Use Bylaw	Comment
<p>Part II, Definitions</p> <p>Gas Bars - means development used for the retail sale of gasoline, other petroleum products and incidental automotive accessories. This use does not include service stations but may include a car wash or drive-thru restaurant as an accessory use. (RC-May 20/14;E-Jun 14/14)</p>	<p>A car wash is an anticipated use by function. The auxiliary use is conditional on there being a gas bar on the same property.</p>