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Item No. 10.1.2
North West Community Council
April 9, 2018

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

DATE: February 15, 2018

SUBJECT: **Case 20975: Substantive Amendment to Development Agreement for 540 Southgate Drive, Bedford**

ORIGIN

Application by Boris Holdings Incorporated.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A of this report, to install a ground sign on lands at 540 Southgate Drive, Bedford and schedule a public hearing;
2. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. 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

Boris Holdings Incorporated is applying to install a commercial ground sign on the lands at 540 Southgate Drive, Bedford. The existing development agreement, which governs the site, requires signage meet the provisions of the Bedford Land Use Bylaw (LUB). The signage requested by the applicant for their commercial tenants does not meet the requirements of the LUB.

Subject Site	540 Southgate Drive at Larry Uteck Boulevard
Regional Plan Designation	US (Urban Settlement)
Bedford Land Use By-law	CMC (Mainstreet Commercial) Zone
Community Plan Designation (Map 1)	Bedford South Secondary Planning Strategy (BSSPS) under the Bedford Municipal Planning Strategy
Zoning (Map 2)	BSCDD (Bedford South Commercial Development District) Zone
Size of Site	0.708 Hectares (1.75 Acres)
Street Frontage	Southgate Drive and Larry Uteck Boulevard
Current Land Use	Commercial Tenancy: restaurant, child care centre, and medical offices
Surrounding Use	Commercial uses on Larry Uteck Boulevard, and low density residential along Southgate Drive.

Proposal Details

The applicant requested flexibility in the existing development agreement to install a monument type ground sign capable of reaching the market represented by the traffic volume on Larry Uteck Boulevard, while located on the site with a placement safe to driveway and intersection traffic patterns.

The proposed amendments are considered substantive in accordance with Section 3.2 of the existing development agreement. The existing development agreement sets signage parameters using the Mainstreet Commercial Zone (CMC) of the Bedford Land Use Bylaw (LUB). The proposed sign is approximately 2.79 sq. m (30 sq. ft.) in total area and is to be constructed of non-wood materials.

The proposed sign exceeds the maximum dimensions by 10 square feet per sign face and also does not meet the prescribed construction materials of the Bedford LUB which require signs to be constructed of wood or have a wood-like appearance. Therefore, an amendment is required to permit a ground sign on the subject site which does not meet these provisions of the LUB.

Existing Development Agreement

On September 18, 2006, Chebucto Community Council and North West Community Council approved development agreement 00624. This agreement allowed development in accordance with the following:

- Subdivision and development of the lands commonly known as Bedford South, with residential and commercial areas;
- Designation of a portion of the lands as Commercial Neighbourhoods including the (CMC) Mainstreet Commercial Zone; and
- The Bedford Land Use By-Law would prevail for signage on commercial properties affecting the subject site of this application within the CMC Zone;

Enabling Bedford MPS Policy and LUB Context

The Policy Review as Attachment B provides a comprehensive analysis of the planning rationale compared to relevant Bedford MPS and LUB policies.

COMMUNITY ENGAGEMENT

The level of community engagement on this file 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. The public engagement process had twenty-seven recipients on the mailing list.

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

A public hearing must be held by North West Community Council before they can consider approval of the proposed amending development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

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 amending development agreement in relation to the relevant MPS policies.

Traffic

An initial Traffic Impact Study (TIS) raised concerns with the original concept sign and its location on the subject site. However, the applicant modified their proposal both in site location and sign dimensions and submitted a revised TIS. Upon review of the revised submission, engineering staff concluded the redesign conformed to traffic engineering guidelines and that the sign is not expected to pose an impediment to driver sight lines and sight distances.

Proposed Amending Development Agreement

The proposed amendment is a single clause insertion permitting the sign, subject to maximum dimensions, and will refer to a schedule for site placement parameters. The amendment qualifies as substantive under Section 3.2 of the existing development agreement as signage is not an included item for non-substantive amendments. Please refer to Attachment A for the proposed amendment to the existing development agreement.

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 separate cover.

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 and is a reasonable accommodation of design and placement improving tenant visibility along a commercial strip. Signage is permitted as-of-right on the property and the applicant's monument ground sign proposal diverges modestly from the Bedford Land Use By-law, well within the discretion of an amendment to the existing development agreement.

Therefore, 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 amending development agreement. The administration of the proposed amending 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.

ALTERNATIVES

1. North West Community Council may choose to approve the proposed amending development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this amending development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amending Development Agreement & Schedules
Attachment B:	Review of Relevant MPS and LUB Policies

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: T. Scott Low, Planner II, Current Planning, 902.490.6373

Original Signed

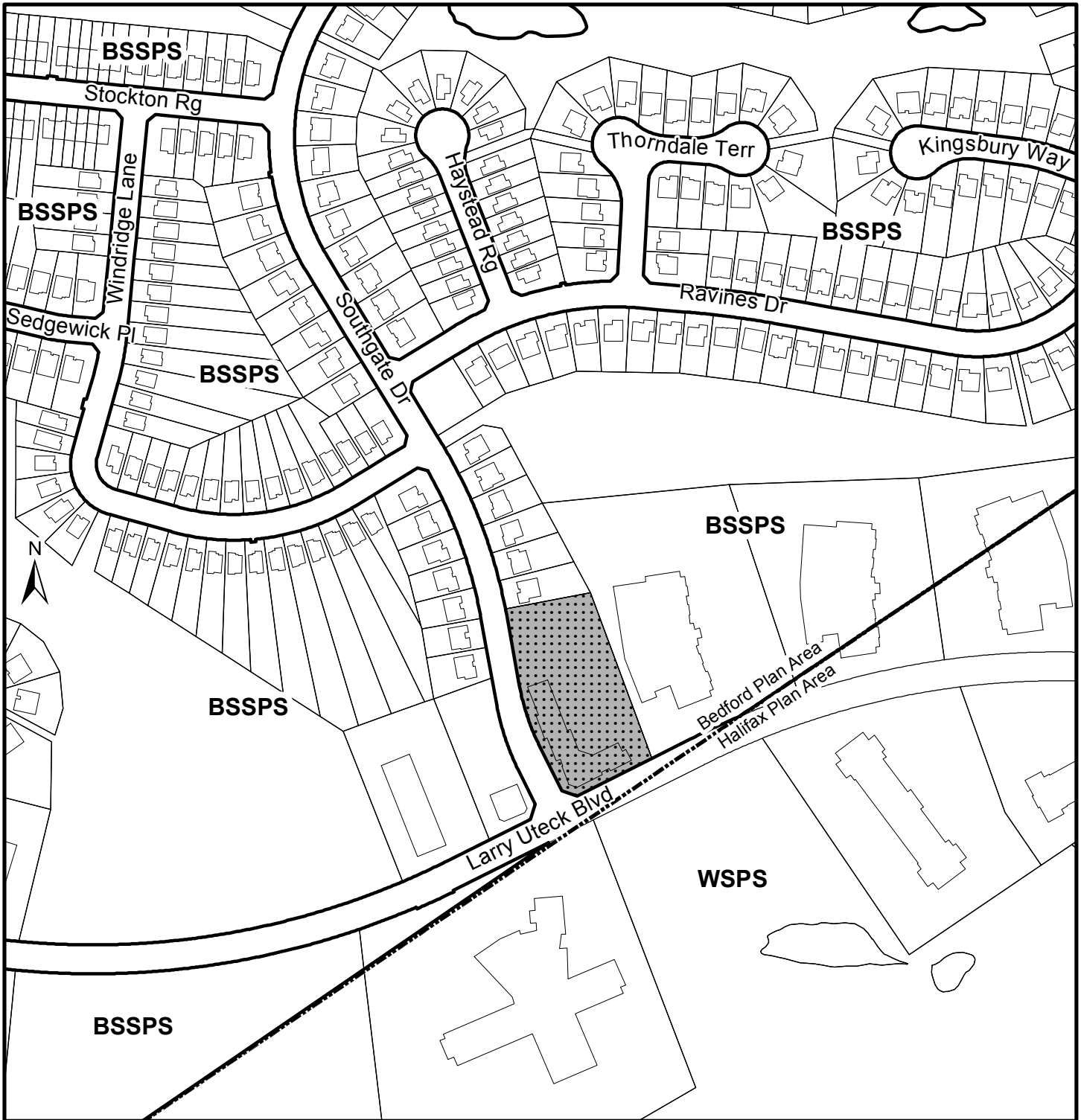
Report Approved by:

Maggie Holm, Principal Planner, Current Planning, 902.293-9496

Original Signed

Report Approved by:

Steve Higgins, Acting Manager, Current Planning, 902.476.8120



Map 1 - Generalized Future Land Use

540 Southgate Drive
Bedford

HALIFAX

Subject Property

Bedford Designations
BSSPS Bedford South Secondary Planning Strategy

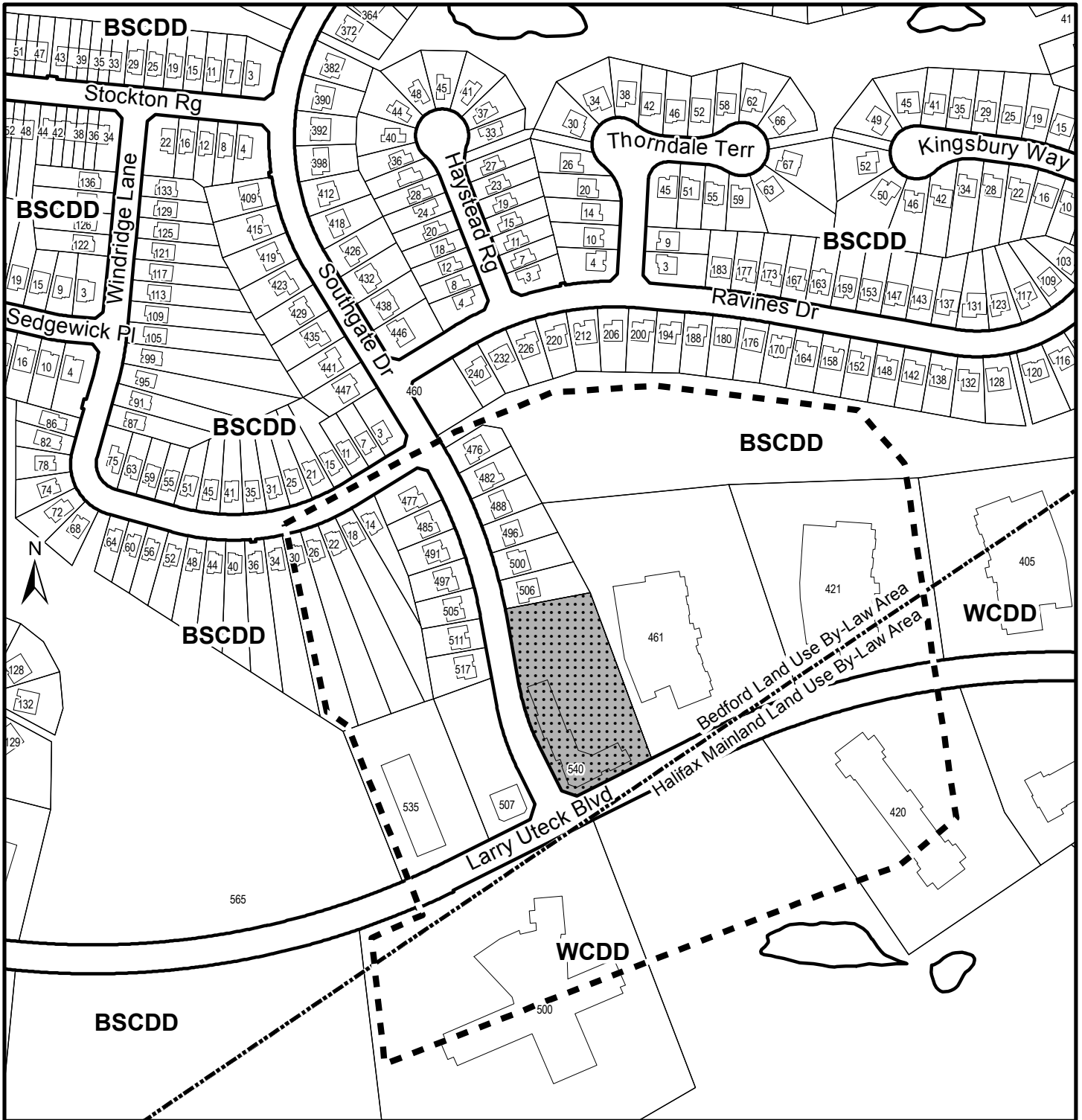


Bedford
Plan Area

Halifax Mainland Designations
WSPS Wentworth 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.



Map 2 - Zoning and Notification

540 Southgate Drive
Bedford

-  Subject Property
-  Area of Notification

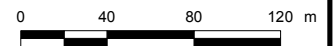
Bedford Zones

BSCDD Bedford South Comprehensive Development District

Halifax Mainland Zones

WCDD Wentworth Comprehensive Development District

HALIFAX



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.

ATTACHMENT A

Proposed Amending Development Agreement

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

BETWEEN:

BORIS HOLDINGS INCORPORATED

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 registered owner of the subject lands known by the civic address of 540 Southgate Drive, Bedford, or PID 41278649 (more particularly described in Schedule A and hereinafter called the "Lands");

AND WHEREAS Clayton Developments Limited conveyed interest in the Lands to the Developer on August, 30 2010;

AND WHEREAS Clayton Developments Limited and the Municipality previously entered into an agreement to allow for development of the Lands commonly known as Bedford South Ravines, approved by the Chebucto Community and North West Community Council at a meeting held on September 18, 2006 (referenced by Original Municipal Case number 00624), being recorded at the Land Registry Office at Halifax on September 20, 2007 as Document 88868600 (hereinafter known as the "Original Agreement"), and which does apply to the Lands;

AND WHEREAS the North West Community Council of the Municipality approved on January 22, 2009 an amendment to the Original Agreement to allow for additional dwelling lots (referenced as Municipal Case Number 01223), filed at the Land Registry Office at Halifax on March 19, 2009 as Document Number 92987438 (hereinafter called the "First Amending Agreement"), and which does not apply to the Lands;

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

AND WHEREAS the Developer requested an amendment to the Existing Agreement allowing for installation of a commercial ground sign on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* (S. 240), the *Bedford Municipal Planning Strategy* (Policy C-8, and Policy C-9), and the *Bedford Land Use By-law* (Part 4);

AND WHEREAS the Halifax North West Community Council of the Municipality approved this request at a meeting held on **[INSERT-Date]**, referenced as Municipal Case Number 20975;

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 Second 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 Second Amending Agreement and the Existing Agreement.
3. The Existing Agreement shall be amended (and a new Schedule simultaneously attached) by inserting a line in the Original Agreement under PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS, 2.1.1 to read in **bold** as follows:

Schedule "C" Ground Sign Site Plan (attached)

4. The Existing Agreement shall be amended by inserting a clause under PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS, 2.2.7 Commercial Development to read in **bold** as follows, after sub-clause (k):
 - (l) **The developer shall be permitted to install a maximum 6 feet tall by 6 feet wide ground sign, of metal frame and backlit display, at civic address 540 Southgate Drive (PID 41278649), positioned on the Larry Uteck Boulevard street frontage of the lot, meeting sight line requirements approved by the Development Engineer, and site placement as specified in Schedule C.**

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: _____

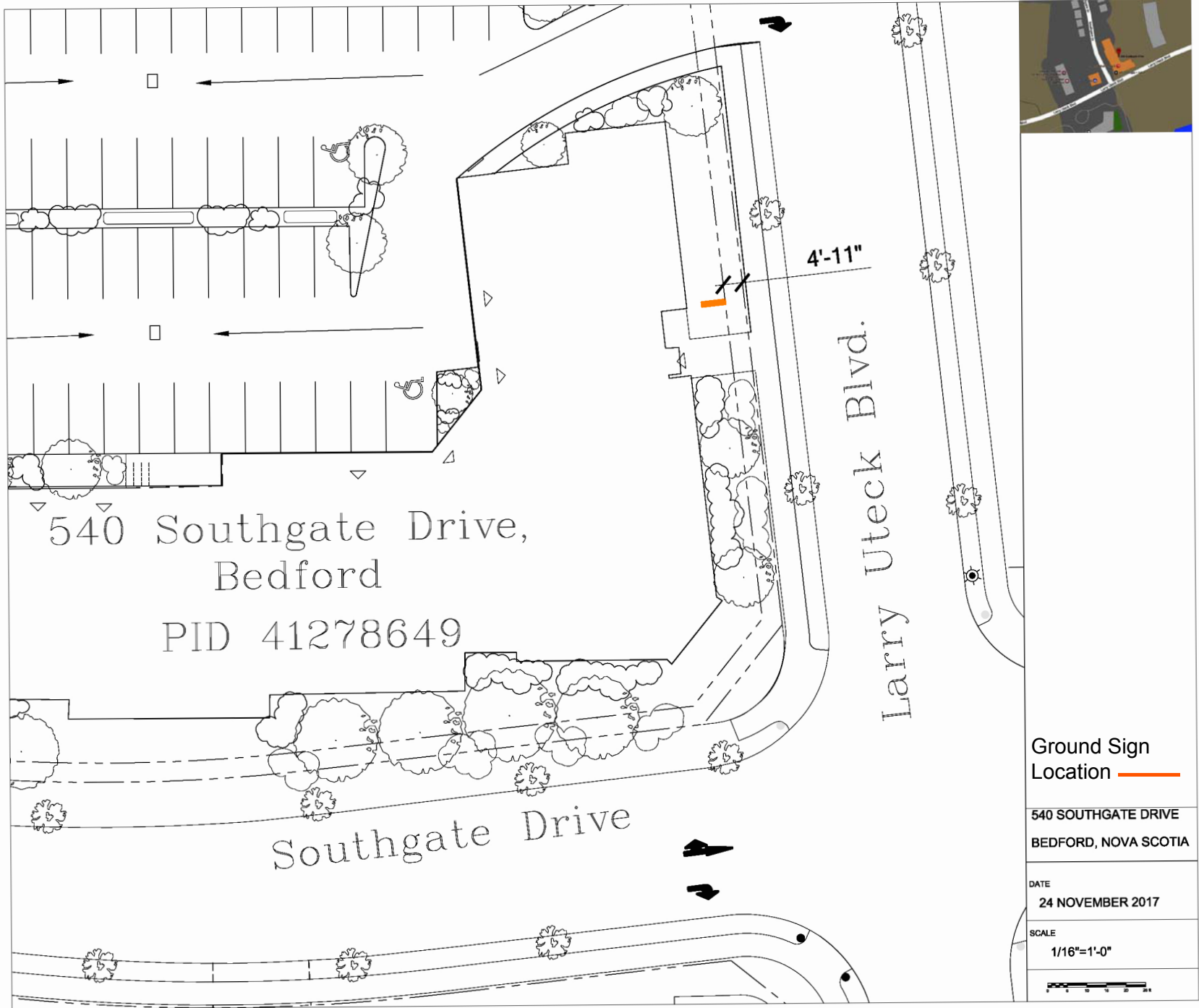
=====
SEALED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

=====
HALIFAX REGIONAL MUNICIPALITY

Per: _____
Mayor

Per: _____
Municipal Clerk

Schedule C - Ground Sign Site Plan



Attachment B: Review of Relevant MPS and LUB Policies

Halifax MPS, Bedford South Secondary Planning Strategy	
Policy	Comment
<p>Policy MCP-1 The Community Concept Plan, presented as Schedule I, shall form the framework for land use allocation within the master plan area and all policies and actions taken by the Municipality shall conform with the intent of this plan. A comprehensive development district zone shall be applied to all lands within the master plan area and any development of the land shall be subject to approval of a development agreement.</p>	<p>The subject site is as within the Community Commercial/Institutional Designation. The signage proposal for 540 Southgate is appropriate to the character of the locality. The design is acceptable based on local context and similar signs at nearby commercial sites.</p>
<p>Policy MCP-2 Unless otherwise specified by this secondary planning strategy, the standards for developments applied under the Municipal Planning Strategy and Land Use By-law shall be preferred under any development agreement application brought forward for approval.</p>	<p>Under the Existing Development Agreement, the LUB standards and requirements for ground signs do not apply to the proposal. Signage request are instead subject to review by staff from Development, Engineering, Traffic Services, Development Officer, Civic Addressing and Fire Protective Services.</p>
Community Commercial/Institutional Designation	
Policy	Comment
<p>Policy CCI-1 A range of community commercial, institutional, and recreational uses may be permitted within the Community Commercial/Institutional Designation subject to consideration of the following matters:</p>	<p>See below.</p>
<p>a) the windows, exterior features and materials and signs employed in any building create a sense of interest from public streets;</p>	<p>The proposed ground sign, based on information as submitted, is a design response to the business's perceived lack of visibility for commercial tenants.</p>

	<p>The revised sign, both lessened in height and width, is deemed acceptable and in character with the building and similar signs from other local businesses.</p>
<p>b) the proposal conforms with all applicable provisions and requirements adopted under this Secondary Planning Strategy regarding environmental protection, the community transportation system and municipal services.</p>	<p>Staff reviewed all provisions and requirements adopted under the BSSPS and find the proposal, and signage in general, is not addressed in the environmental protection, community transportation system or municipal services policies.</p>

<p>Bedford Land Use Bylaw: Part 14 Mainstreet Commercial (CMC) Zone</p>	
<p>Special Requirements: Signs - Ground Signs</p> <p>Ground signs shall not: a) exceed a height of eight feet; b) exceed an area of 20 sq. ft. per side; c) be within 2 feet of the street right-of-way; d) be within 10 feet of a side property line or driveway.</p>	<p>The proposal exceeds the dimensions specified in the Bedford LUB. A substantive amendment to the existing DA is therefore required.</p>