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Item No. 10.1.1
Harbour East-Marine Drive Community Council
September 11, 2014

TO: Chair and Members of Harbour-East Marine Drive Community Council

Original signed

SUBMITTED BY:

For: Brad Anguish, Director of Community and Recreation Services

DATE: August 13, 2014

SUBJECT: **Case 19092: Amendment to the C-4 (Highway Commercial) Zone of the Cole Harbour/ Westphal Land Use By-law**

ORIGIN

Application by Kimars Mirzaei and Partov Shakiba

LEGISLATIVE AUTHORITY

Halifax Regional Municipal Charter- Part VII "Planning and Development"

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council

1. Give First Reading to the proposed amendment of the Cole Harbour/Westphal Land Use By-law to add 'Car Washes' to the list of permitted commercial uses in the C-4 (Highway Commercial) Zone, as contained in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed amendment to the Cole Harbour/Westphal Land Use By-law to add 'Car Washes' to the list of permitted commercial uses in the C-4 (Highway Commercial) Zone, as contained in Attachment A of this report.

BACKGROUND

An application has been submitted to amend the Cole Harbour/Westphal Land Use By-law (LUB) to enable a car wash as a permitted use in the C-4 (Highway Commercial) Zone. The LUB lists the permitted uses in the C-4 (Highway Commercial) Zone, which includes, among others, retail, and food stores, service and personal service shops, banks and financial institutions, outdoor display courts and restaurants. Car washes are only permitted in conjunction with a service station, as the definition for service station states that it may include washing establishments. The consideration of a standalone car wash in the C-4 Zone may be considered by Community Council through a Land Use By-law amendment.

Kimars Mirzaei and Partov Shakiba, the owners of the property located at 925 Highway No. 7 in Westphal, have requested an amendment to the LUB to add car washes to the list of permitted uses in the C-4 (Highway Commercial) Zone, as they would like to establish a car wash without an associated gas station on the subject property. Their proposal would involve the removal of the existing store and single unit dwelling located on the property.

Location, Designation and Zoning

<i>Subject Property & Location</i>	925 Highway 7, Westphal, Northwest corner of the intersection of Highway 7 and Riley Road
<i>Lot Area</i>	1831 square meters (19,708 square feet)
<i>Community Designation</i>	HC (Highway Commercial) (Map 1) under the Cole Harbour/Westphal Municipal Planning Strategy (MPS)
<i>Regional Designation</i>	RC (Rural Commuter) under the Regional Plan
<i>Zoning</i>	C-4 (Highway Commercial) (Map 2) under the Cole Harbour/Westphal Land Use By-law
<i>Surrounding Land Uses</i>	vacant gas station to the west, church to the south across Highway 7, Nova Scotia Power station across Riley Road, vacant land to the rear
<i>Current Use</i>	store and single unit dwelling

DISCUSSION

Policy intent:

The subject property is zoned C-4 (Highway Commercial) under the Cole Harbour/Westphal LUB. The intent of the zone is to provide for commercial uses which make extensive use of land and serve the travelling public. There is no specific policy within the MPS that precludes Council's consideration of the addition of 'car washes' to the C-4 Zone. Policy HC-2, which establishes the C-4 Zone in the MPS, sets limits for the gross floor area of commercial uses, and also identifies existing dwellings and community uses, including medical and day care centres as permitted uses within the C-4 Zone. At the time of the Land Use By-law's development, car washes were typically developed in conjunction with gas stations, whereas today, car washes are also developed as main uses.

The general evaluative criteria of Policy IM-11 have been considered and the request to amend the LUB to add the use to the C-4 Zone is reasonably consistent with plan policy. Halifax Water and Development Engineering staff have been consulted and have indicated that they have no specific concerns with the addition of the use to the zone. Further to this, a detailed review of the proposal for a car wash on the property will take place at the time of application for a permit. The assessment of the Policy as it relates to the proposed amendment is contained in Attachment B.

Implication on other C-4 Properties:

If approved, the proposed amendment would allow for the establishment of a car washes on the subject property as well as on any other property zoned C-4 within the Cole Harbour/Westphal plan area, provided all applicable requirements of the LUB are met. Currently, car washes are permitted in conjunction with service stations. This amendment will allow them to be developed as standalone main uses in response to changes in the commercial market.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2014/15 operating budget for C310 Planning & Applications.

COMMUNITY ENGAGEMENT

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

Due to the minor nature of the application, a public information meeting was not held. Notification and invitation to comment was sent to property owners within the area shown on Map 2. One response from the community was received, indicating concern with potential water flowing into the street. This is an item that can be addressed during detailed site design and be reviewed through the permitting process.

A public hearing has to be held by Community Council before they can consider approval of any amendment to the Land Use By-law. 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 will be notified as shown on Map 2.

ENVIRONMENTAL IMPLICATIONS

The proposal meets all applicable environmental policies contained in the MPS. No additional concerns were identified beyond those discussed in this report.

ALTERNATIVES

1. Community Council may choose to approve the amendment to the Cole Harbour/Westphal Land Use By-law as contained in Attachment A, or may request that additional amendments not identified in this report be made, in which case an additional staff report or second public hearing may be required.
2. Community Council may choose not to approve the amendment to the Cole Harbour/Westphal Land Use By-law, as contained in Attachment A and, in doing so, must provide reasons why the amendment does not reasonably carry out the intent of the MPS. A decision to refuse the proposed amendments may be appealed to the N.S. Utility and Review Board as per s. 262 of the *HRM Charter*.

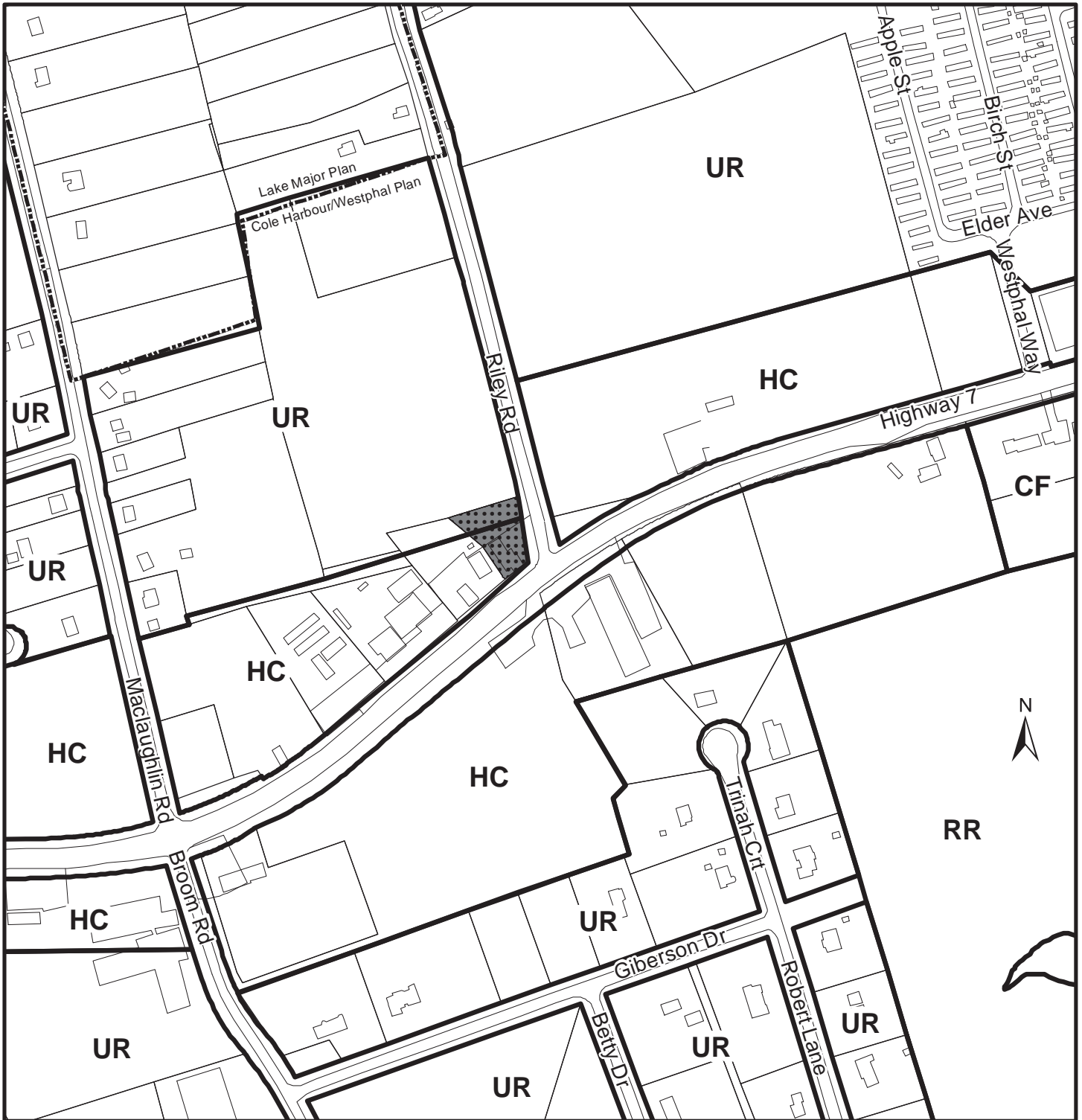
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Map 3	C-4 (Highway Commercial) Zoned Properties
Attachment A	Proposed Amendment to the Cole Harbour/Westphal Land Use By-law
Attachment B	Excerpts of Cole Harbour/Westphal MPS and Policy Review

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Erin MacIntyre, Planner 1,490-6704

Report Approved by: Original signed
Kelly Denty, Manager, Development Approvals 490-4800



Map 1 - Generalized Future Land Use

925 Highway 7,
Westphal

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 Subject Area

Designation

- UR Urban Residential
- RR Rural Residential
- HC Highway Commercial
- CF Community Facility



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.


Cole Harbour/Westphal
Plan Area



Map 2 - Zoning and Notification

925 Highway 7,
Westphal

 Subject Area

 Area of Notification

Cole Harbour/Westphal
Plan Area

Zone

R-1 Single Unit Dwelling
C-4 Highway Commercial
P-2 Community Facility

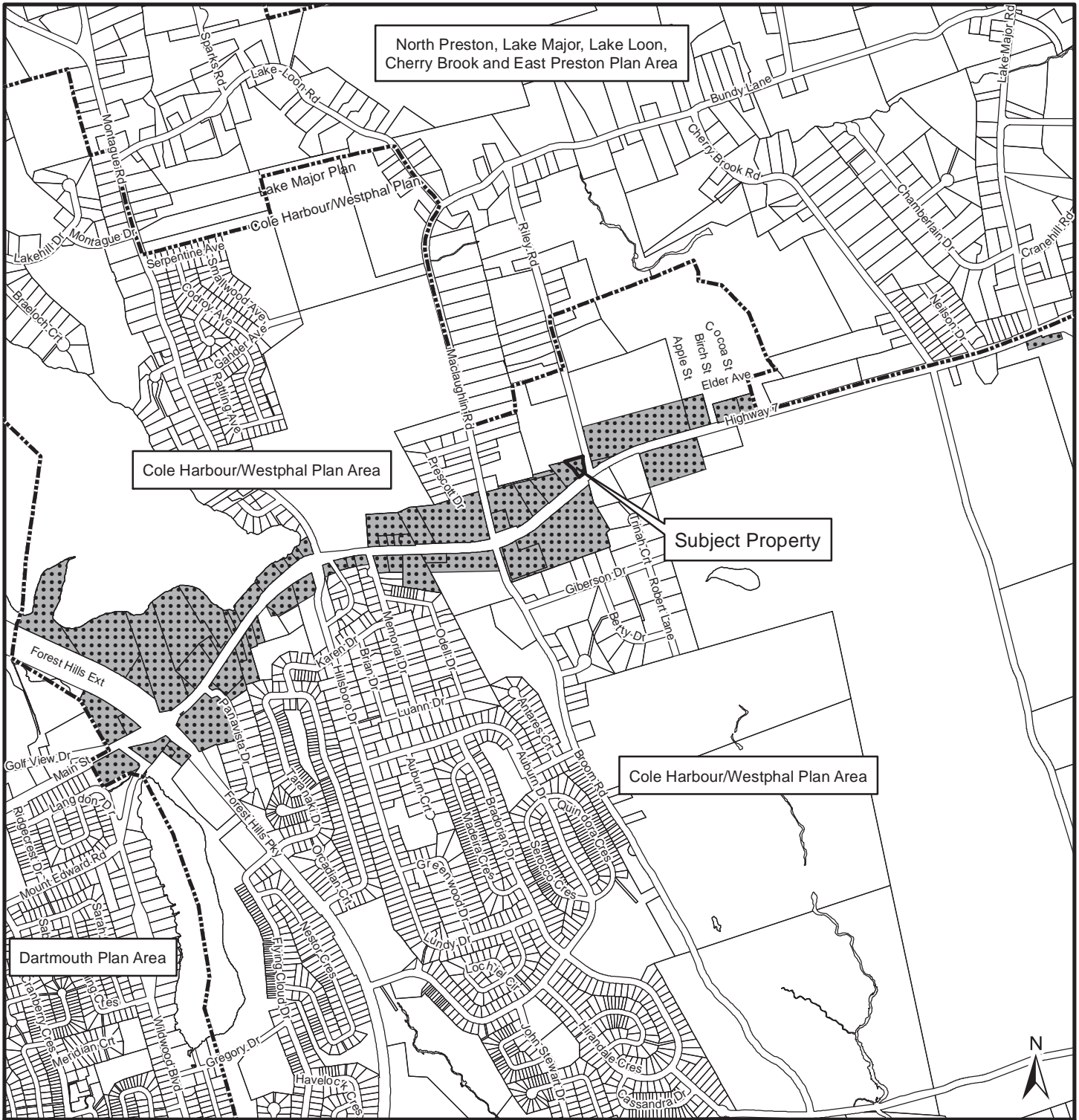
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Map 3- C-4 (Highway Commercial) Zoned Properties



925 Highway 7,
Westphal

 C-4 (Highway Commercial) Zoned Properties



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Cole Harbour/Westphal
Plan Area

Attachment A
Proposed Amendment to the Cole Harbour/Westphal Land Use By-law

BE IT ENACTED by the Harbour East Marine Drive Community Council of the Halifax Regional Municipality that the Cole Harbour/Westphal Land Use By-law, which was adopted by the former Halifax County Municipality on the 30th day of November, 1992 and as approved by the Minister of Municipal Affairs on the 3rd day of March, 1993, and as subsequently amended, in hereby further amended as follows:

Section 18.1, (C-4 (Highway Commercial) USES PERMITTED), as shown below in bold, is amended to add the words "Car Washes" after the words "Re-cycling depots" and before the words "Community Uses":

18.1 C-4 USES PERMITTED

No development permit shall be issued in any C-4 (Highway Commercial) Zone except for the following:

Commercial Uses

Retail stores;
Food stores;
Service and personal service shops;
Banks and financial institutions;
Restaurants;
Outdoor display courts;
Hotels, motels and motor inns;
Indoor commercial recreation uses;
Funeral establishments;
Service stations;
Taxi and bus depots;
Parking lots;
Greenhouses and nurseries;
Veterinary hospitals and kennels;
Re-cycling depots
Car Washes

Community Uses

Open space uses;
Institutional uses;
Fraternal centres and halls.

Residential Uses

Existing dwellings

I HEREBY CERTIFY that the amendments to the Cole Harbour/ Westphal Land Use By-law as set out above, was passed by a majority vote of the Harbour East Marine Drive Community Council of the Halifax Regional Municipality at a meeting held on the _____ day of _____, 2014.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this _____ day of _____, 2014.

Cathy Mellett
Municipal Clerk

Attachment B
Excerpts of Cole Harbour/Westphal MPS and Policy Review

Policy Criteria	Comment
<p>Policy HC-2: Within the Highway Commercial Designation, it shall be the intention of Council to create a highway commercial zone which permits general commercial uses not exceeding ten thousand (10,000) square feet of gross floor area, and also permits existing dwellings and community uses, including medical and day care centres. In addition, the zone shall provide for the screening of open storage and outdoor display areas.</p>	<p>Limitations on square footage devoted to commercial uses and requirements related to location, size and screening of outdoor storage and display within C-4 zone will apply. Scale of commercial uses appropriately addressed by current C-4 zone controls. A service station with a car wash is currently permitted, and so a car wash as a stand-alone use is a reasonable use to permit in the zone.</p>
<p>IM-11 In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, Cole Harbour/Westphal Community Council shall have appropriate regard to the following matters:</p>	
<p>(a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;</p>	<p>The proposed amendment and proposal is in conformance with the intent of the Cole Harbour/ Westphal MPS.</p>
<p>(b) that the proposal is not premature or inappropriate by reason of:</p>	
<p>(i) the financial capability of the Municipality to absorb any costs relating to the development;</p>	<p>The subject proposal does not require any capital or operating costs be absorbed by the Municipality.</p>
<p>(ii) the adequacy of sewer and water services;</p>	<p>The evaluation of the proposed servicing of the use by HRM's Development Engineering and HRWC will occur at the time of permit application, however there are no specific objections noted in regards to the addition of the use in the zone.</p>
<p>(iii) the adequacy or proximity of school, recreation and other community facilities;</p>	<p>Not applicable.</p>
<p>(iv) the adequacy of road networks leading or adjacent to or within the development; and</p>	<p>HRM Engineering reviewed the proposal and has no specific objection in regards to the addition of the use to the zone. Evaluation of the proposal of a car wash on the property will take place at the time of application for a permit.</p>
<p>(v) the potential for damage to or destruction of designated historic buildings and sites.</p>	<p>Not applicable.</p>
<p>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p>	
<p>(i) type of use;</p>	<p>Car washes are currently permitted in conjunction with a service station. The proposal is to permit them as stand-alone, which would be a less intense use than in combination with a service station.</p>
<p>(ii) height, bulk and lot coverage of any proposed building;</p>	<p>Current LUB requirements would apply. There is no direct effect as the result of the amendment.</p>

(iii) traffic generation, access to and egress from the site, and parking;	HRM Engineering has no concerns with traffic generation or access to the property.
(iv) open storage;	Current LUB requirements would apply. There is no direct effect as the result of the amendment.
(v) signs; and	Current LUB requirements would apply. There is no direct effect as the result of the amendment.
(vi) any other relevant matter of planning concern.	No other relevant planning concerns.
(d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding; and	Proposed site is suitable in terms of topography, contains no wetlands or watercourses, marshes or bogs.
(e) any other relevant matter of planning concern.	No other relevant planning concerns.
(f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)	Not applicable.