

Region of Queens Municipality

Public Hearing

Automobile Repair Shop by Development Agreement –

16 Edward Street, Milton

Tuesday, October 11, 2022

9:00 a.m.

Agenda

Purpose:

The purpose of this Public Hearing is to provide any interested person an opportunity to present an oral or written presentation to Council of Region of Queens Municipality with regard to the intention to enter into a development agreement with Samantha Corner and Robie Leigh Murphy to allow for an automobile repair shop on properties identified as PID# 70071782, 70261383 and 70071816 and located at 16 Edward Street in Milton.

The procedure for this Public Hearing is as follows:

A. OPENING REMARKS:

- 1) Every person is eligible to speak, but first must be recognized by the Chair and must give his or her name and address before commencing.
- 2) A person may speak more than once, but preference will be given to those who have not previously spoken.
- 3) This meeting will be conducted following parliamentary procedure. This Council uses its own Rules of Order, as well as Bourinot's Rules of Order.
- 4) The floor is now open for comments.

B. CLOSING REMARKS

C. ADJOURNMENT

**Region of Queens Municipality
Staff Report**

7.5

To: Council

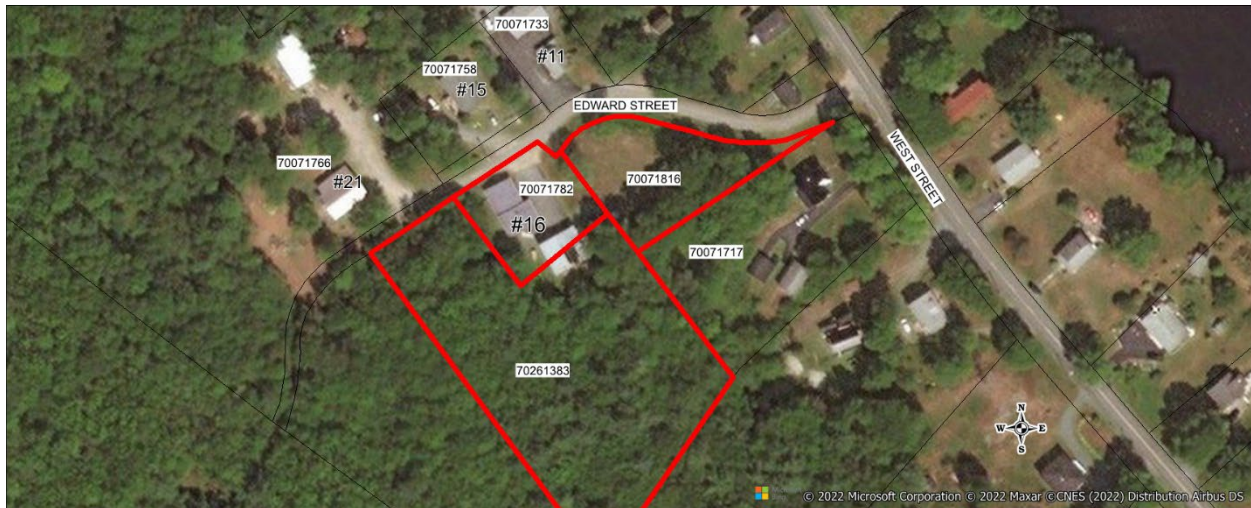
From: Mike MacLeod, Director of Planning and Development

Date: September 13, 2022

Re: Automobile Repair Shop by Development Agreement – 16 Edward St., Milton

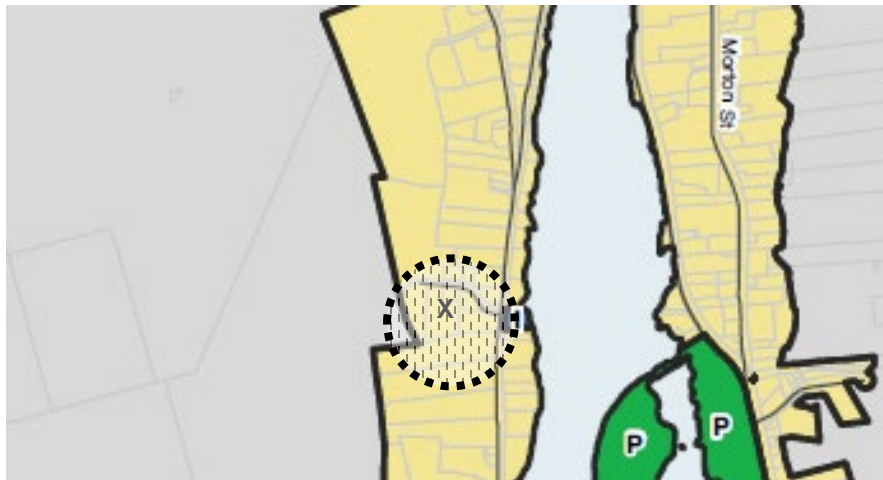
Background

Region of Queens Municipality has received an application to enter into a development agreement that would allow for an automobile repair shop on property identified as PID#'s 70071782, 70261383 and 70071816 and located at 16 Edward Street in Milton. A copy of the application is attached as Appendix A.

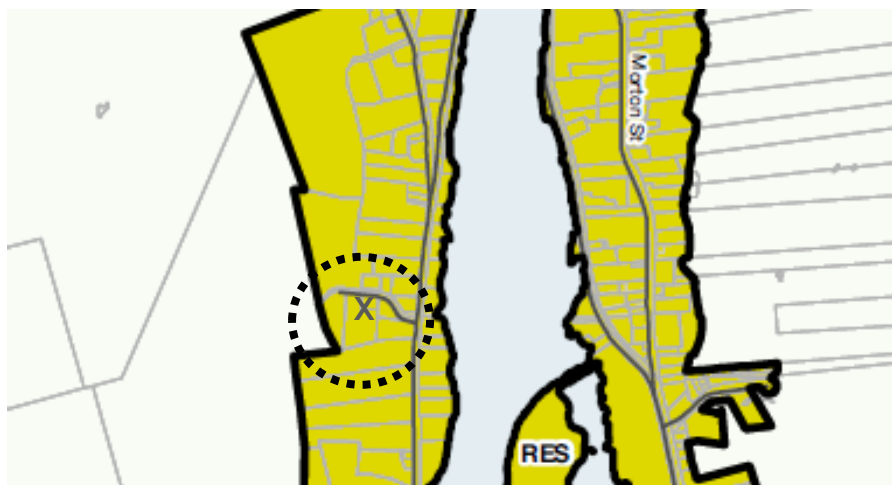


Details

The properties are zoned as General Residential (RG) under the Land Use Bylaw and have a future land use designation of Residential (RES) under the Municipal Planning Strategy.



Zoning Map 1



Generalized Future Land Use Map 1

An automobile repair shop is a use that is not permitted as of right in the General Residential (RG) Zone. This being said; however, Council has incorporated provision within the Land Use Bylaw whereby it can consider such uses through a development agreement process.

Commercial and Industrial Uses in Urban Serviced Residential Zones

	RL	RG	RM	RC	SPECIAL REQ's
Automobile Repair Shop	-	DA	-	-	
Convenience Store	-	-	-	P	S10.11 (c)
Day Care Centre	P	P	P	P	
Funeral Home	-	DA	-	-	
Kennel	-	DA	-	-	
Self Storage Facility	-	DA	-	-	

P = permitted | S = site plan approval | DA = development agreement

When evaluating development agreements, Council must be cognizant of the overall goals and policies of this MPS. In particular, it should have regard to the criteria listed in Policy 6-21.

- Policy 6-21:** Council shall not amend the Land Use Bylaw or approve a development agreement unless Council is satisfied the proposal:
- (a) is consistent with the intent of this Municipal Planning Strategy;
 - (b) does not conflict with any Municipal or Provincial programs, bylaws, or regulations in effect in the municipality;
 - (c) is not premature or inappropriate due to:
 - (i) the ability of the Municipality to absorb public costs related to the proposal;
 - (ii) impacts on existing drinking water supplies, both private and public;
 - (iii) the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;
 - (iv) the creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;
 - (v) the adequacy of fire protection services and equipment;
 - (vi) the adequacy and proximity of schools and other community facilities;
 - (vii) the creation of a new, or worsening of a known, pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses;
 - (viii) site-specific climate change risks;
 - (ix) the potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas;
 - (ix) *impacts on known habitat for species at risk;*
 - (x) *light pollution and impacts on dark sky views, especially in the vicinity of the Kejimikujik Dark-Sky Preserve;*
 - (xi) *the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility rights-of-way; and*
 - (xiii) *negative impacts on the viability of existing businesses in the surrounding community, including, but not limited to, the risk of land use conflicts that could place limits on existing operational procedures.*

The Municipal Planning Strategy also establishes a list of conditions that may be incorporated in a development agreement.

Policy 6-15: *Council may specify conditions in the development agreement to bring the proposal into alignment with the enabling policy and the general criteria set out in Policy 6-21. Such conditions may include, but are not limited to, controls regarding:*

- (a) *servicing;*
- (b) *the type, location, and orientation of structures;*
- (c) *the architectural design of structures, including, but not limited to, bulk, scale, height, roof shape, building and cladding materials, and the shape and size and placement of doors and windows;*
- (d) *the provision of open space and amenities;*
- (e) *the type, size, and location of signage;*
- (f) *the type and orientation of exterior lighting;*
- (g) *management of solid waste, compost, and recycling;*
- (h) *pedestrian, bicycle, and vehicular circulation;*
- (i) *connections to existing or planned pedestrian, bicycle, and vehicular networks;*
- (j) *the location and number of bicycle and vehicular parking and loading spaces;*
- (k) *access for emergency vehicles;*
- (l) *the location and type of landscaping, including fences and other forms of screening;*
- (m) *stormwater management;*
- (n) *grading and erosion control;*
- (o) *the emission of noise, odour, light, liquids, gases, and dust;*
- (p) *the type of materials stored and/or sold on site;*
- (q) *hours of operation;*
- (r) *the phasing of development;*
- (s) *financial bonding for the construction and maintenance of components of the development, including, but not limited to, roads and landscaping;*
- (t) *mitigation measures for construction impacts;*
- (u) *time limits for the initiation and/or completion of development; and*
- (v) *all other matters enabled in Section 227 of the Municipal Government Act.*

The process for entering into a development agreement is set out in Section 230 of the Municipal Government Act and requires a public hearing process prior to Council making a decision.

Adoption or amendment of development agreement

- 230 (1) A council shall adopt or amend a development agreement by policy.
- (2) A council shall hold a public hearing before approving a development agreement or an amendment to a development agreement.
- (3) Only those members of the council present at the public hearing may vote on the development agreement or the amendment.
- (4) Upon approving a development agreement or an amendment to a development agreement, the clerk shall place a notice in a newspaper circulating in the municipality stating that the development agreement is approved and setting out the right of appeal.
- (5) The clerk shall file a certified copy of a development agreement or amendment with the Minister when notice of the development agreement or an amendment to it is published.
- (6) Within seven days after a decision refusing to approve a development agreement or an amendment to a development agreement, the clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.
- (7) Amendments to those items in a development agreement that the parties have identified as not substantive, if the substantive items were identified in the agreement, or that were not identified as being substantive, do not require a public hearing. 1998, c. 18, s. 230; 2003, c. 9, s. 60.

Considerations

- PID#'s 70071782, 70261383 and 70071816 have a combined area of approximately 110,000 square feet, with approximately 215 feet of frontage on Edward Street.
- The area is predominantly a low density residential neighbourhood.
- While there are no municipal record showing it, both the current owners and the previous owners have indicated that the properties were previously used for an auto body / auto repair business. Refer to letter attached as Appendix B.
- There is an existing personal storage building located on the property which is intended to be utilized for the automobile repair shop.
- The proposed operation is approximately 150 feet from closest dwelling (civic # 15 on the north side of Edward Street).
- PID# 70261383 is primarily a wooded parcel and provides a good buffer between subject property and adjacent property to the south east (70071717).
- Edward Street is and owned and maintained provincial public road.
- Existing access to the property to be utilized.
- No municipal services in vicinity of subject properties. Existing on-site septic and dug well.

- There are no wetlands or watercourses in the vicinity of the proposed operation.
- Applicants have submitted letters of support from property owners at #11 and #15 Edward Street Refer to Appendix C.

Potential Options

1. Maintain status quo (deny development agreement request); or
2. Enter into a development agreement with Samantha Corner and Robie Leigh Murphy to allow for the establishment of an automobile repair shop on properties identified as PID#70071782, 70261383 and 70071816 and located at 16 Edward Street in Milton.

Tentative Timeframe

<u>Date</u>	<u>Procedure</u>
September 6, 2022	Planning Advisory Committee
September 13, 2022	Council
September 20, 2022	First Public Notice
September 27, 2022	Second Public Notice
October 11, 2022	Public Hearing
October 11, 2022	Council
October 18, 2022	Notice of Passing
November 2, 2022	Appeal Period Ends

In looking at the use that is being proposed for the property, the property itself and the surrounding area, it is the opinion of Staff that sufficient terms and condition can be incorporated into a development agreement to meet the needs of the applicant and also to mitigate potential issues that the operation may have on the surrounding area. It would be Staff's recommendation that a development agreement include provisions respecting, but not limited to:

- Off-street parking
- Maintenance of a vegetative buffer with abutting residential properties
- Outdoor storage
- Outdoor lighting
- Hours of operation

A draft copy of the development agreement and Policy respecting the development agreement have been prepared for discussion purposes and is attached hereto as Appendix D.

The Region's Planning Advisory Committee (PAC) met on September 6, 2022 to review the application and the proposed use of the property. In review of the draft development agreement, it was suggested that; given the residential nature of the neighbourhood; operation should be limited to Monday to Saturday. Following additional discussion on the implications of the proposed use of the property, PAC recommended in favor of entering into a development agreement to allow for an automobile repair shop on properties located at 16 Edward Street in Milton.

A draft copy of the Policy respecting the development agreement has been prepared for discussion purposes and is attached hereto as Appendix E.

Applicable Legislation

Municipal Government Act.

Recommendation

That Council of Region of Queens Municipality give notice of its intention to enter into a development agreement with Samantha Corner and Robie Leigh Murphy to allow for an automobile repair shop on properties identified as PID# 70071782, 70261383 and 70071816 and located at 16 Edward Street in Milton;

And That a Public Hearing be held on October 11, 2022 in the Council Chambers of the Municipal Building, 249 White Point Road in Liverpool, NS, at 9:00 a.m.



Appendix A

For Internal Use Only

Acceptance Date: _____

Processing Date: _____

Region of Queens Municipality

Planning Amendment and Development Agreement Application



1. Application Type:

- Land Use Bylaw Amendment
- Development Agreement

2. Property Information:

Civic address of subject property - 116 Edward Street

Property Identification Number (PID) - 700711782 (Home) 70261383 + 70071316

Present use of subject property - Residential (land around property we own)

Proposed Use of subject property - Commercial

Existing Lot Size - 13000 + 110,000 Ft² (3 parcels)

Existing Lot Frontage - 70261383 + 70261383

3. Property Owner Information:

Name - Samantha Corner & Robie Leigh Murphy

Applicant is:

- Owner
- Agent of Owner

Civic Address - 116 Edward Street, Milton NS

Mailing Address (If different from Civic Address) - _____ NS

Telephone Number - (902) _____ (902) _____

Email Address - _____

4. Zoning Information:

Existing Zoning - Residential

Proposed Zoning - Commercial

5. Property Servicing Information:

Water Services –

Municipal System - Existing Proposed

Drilled Well - Existing Proposed

Dug Well - Existing Proposed

Other - _____

Sewer Services –

Municipal System - Existing Proposed

On-site System - Existing Proposed

Other - _____

Access –

Public Road - Existing Proposed

Private Road - Existing Proposed

Other - _____

6. Declaration:

- Registered Owner of Property (Please print)

I / We Samantha Corner & Robie Leigh Murphy do solemnly declare that I / We are the current registered owner(s) of the property described in this application. I / We have examined the contents of this application and certify that the information submitted is accurate.

Registered Owner Samantha Corner

Signature _____

Date Jan 31, 22

Registered Owner (if more than one) Robie Leigh Murphy

Signature _____

Date Jan 31, 22

- Authorization of Registered Owner (Please print)

I / We Samantha Cornejo Robu Murphy authorize _____
To act as agent and sign this application on my / our behalf for property located
at
(Civic Address) 16 Edward Street and identified as PID# 70571782

Notes:

1. The requirements of a Land Use Bylaw amendment or development agreement application are established by the Planning Department of the Region of Queens Municipality. An application approval process will not commence until a completed application and advertising deposit are received.
2. Please make cheques payable to the Region of Queens Municipality. Following completion of the amendment process, the unused balance will be returned to the applicant. However, should the deposit be insufficient to cover the cost of advertising, the applicant will be responsible for the difference.
3. It is recommended that an applicant have a pre-consultation meeting with staff of the Planning Department prior to submitting this application.

HillTop Tire and Lube

Mission Statement

Hilltop Tire and Lube is here to provide exceptional automotive services in and around the surrounding area of Queens County. We have spent months designing the new business patiently awaiting this change to change the land zoning from Residential to Commercial. I will provide the community with tire service and repairs, oil changes, undercoating and auto detailing. Vehicles have always been my passion and I want to be able to provide my customers with lower pricing and great service. I offer free pick up and drop off within Queens County and flexible hours working evenings and weekends. The location of the business is on a small road where all neighbors are very excited for this new business venture. Attached are letters from close neighbors showing support.

Business Structure

This business will be a sole proprietorship as I will be working on my own having no other employees or overhead as the business will be running out of a fully ready garage on our property.

Operation Plans

The business will be located at 16 Edward St., Milton Nova Scotia. We have a large amount of spacing approximately 75 ft x 40 ft for parking fitting approximately 14 cars. The garage where work will be done is 36 ft x 32 ft and the other side is 36 ft x 20 ft. We are approximately two minutes outside of town and it's very accessible for all of Liverpool and Queens.







Appendix B

Dec 2/22

To Whom it may Concern.
This letter is to hopefully help
Town Council decide to change property
at 16 Edward St. from residential to
Commercial. Myself + Ross who've lived
at this location for 50yrs, when garage
was built in 1980 the property was Commercial
as Ross did body work from location.
When he retired it was back to residential
San Come + Leigh Murphy bought property
2020 with hopes of opening their own
business. I know this would not be an
issue to any of the neighbors. This
beautiful young family moved here with
hopes of raising their family, they are
not asking for hand outs they just
want to open a business, which would
benefit the Region in Taxes, that's all.

Ross + Heather Wynal
902 685-3355
902 350-1593

Appendix C

To whom it may concern,

I have owned the home on 15 Edward Street since July 2011. I understand from my neighbours Samantha Corner and Leigh Murphy they are trying to change the property type so they can run a business.

I know from past conversations, 16 Edward Street used to be a business property and has since changed. I realize my new neighbors are attempting to change it back to business. This is not an issue for myself. If any further questions happen to come up, please do not hesitate to reach out.

Thank you

Alana Dowling Jan 31/2022

902-350-6585

To whom this my concern;

I have lived at #11 Edward St. For 57 yrs;

It is my understanding that the owners of #11 Edward St. are looking to open up a Auto Motive Service business in the garage on their property.

This business doesn't effect our location by any means, and we are very supportive of the business that is being offered, our community needs this also.

Not only have I lived on this street my entire life, but my mother, Emily Fralic has also lived 2 doors down on this Street, for 87 yrs. She is also very much in support of this new business and all its potential for great success.

If you have any questions please don't hesitate to call me.

902 350 3321

Sincerely

Allen White

902 354-4251

Emily Fralic

Appendix D

THIS AGREEMENT made this d , A.D., 2022.

BETWEEN:

SAMANTHA CORNER and **ROBIE LEIGH MURPHY** of Milton, in the County of Queens and Province of Nova Scotia, hereinafter referred to as the "Developers"

OF THE ONE PART

-and-

REGION OF QUEENS MUNICIPALITY, a municipal corporation, duly incorporated under the laws of the Province of Nova Scotia and having its office in Liverpool in the County of Queens and Province of Nova Scotia, hereinafter referred to as the "Region"

OF THE SECOND PART

WHEREAS the Developers have requested that the Region enter into a Development Agreement, pursuant to Sections 225 and 230 of the Municipal Government Act of Nova Scotia, and Policy 5-9 of the Region's Municipal Planning Strategy, so that the Developers may use the subject properties in a manner which is not presently provided for under the Region's Land Use Bylaw;

AND WHEREAS the Region is prepared to enter into such an agreement on the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the benefits, which flow to both parties as a result of the covenants contained herein, the parties hereto agree by and between themselves as follows:

1. **THAT** the Developers are the registered owners of the Lands identified as PID# 70071782, 70261383 and 70071816 and shown on Schedule "A" attached hereto, (hereinafter referred to as "the Lands");
2. **THAT** the Developers shall not develop or use the Lands, including buildings located on the lands, for purposes other than those described in this Agreement;
3. **THAT** the proposed uses permitted under this Development Agreement are the following:
 - a) Automobile repair shop; and
 - b) General Residential (R2) Zone Uses
4. **THAT** any outdoor storage of materials shall be screened from view by an opaque fence;

5. **THAT** the Developers shall provide a minimum of six (6) off-street parking space for the commercial business;
6. **THAT** the proposed parking area shall be maintained with a stable surface, that is treated to prevent the raising of dust or loose particles;
7. **THAT** any lighting for proposed parking area shall be directed away from abutting properties;
8. **THAT** a vegetative buffer be maintained at all times between the Lands and the adjacent property to the south east (70071717);
9. **THAT** the hours of operation for the automobile repair shop shall be from 7:00 am to 7:00 pm;
10. **THAT** notwithstanding any other provisions of this Development Agreement, the Developers shall not undertake or carry out any development on the Lands which does not comply with:
 - (a) this Development Agreement;
 - (b) any statutes and regulations of the Province of Nova Scotia to the extent that the same are properly the subject of a development agreement; and
 - (c) appropriate Municipal Bylaws, including without restricting the generality of the foregoing, the Bylaw Respecting the Building Code Act.
11. **THAT** in the event of a dispute, the decision of the Development Officer of the Region as to whether the development is in conformance with the terms of this Agreement shall be conclusive;
12. **THAT** notwithstanding the provisions of the Region of Queens Municipality Municipal Planning Strategy and Land Use Bylaw, the Developers shall be permitted to seek substantial or non-substantial amendments to this Development Agreement, subject to the procedure as set forth in Section 230 of the Municipal Government Act of Nova Scotia;
13. **THAT** amendments which shall be considered substantial are any affecting the following:
 - (a) A change in the uses permitted;
 - (b) Any increase in the size of the building utilized for commercial purposes
14. **THAT** any amendment whether substantial or otherwise must be approved by both parties in writing;

15. **THAT** the Developers agrees to pay for all legal costs, advertising and expenses incurred by the Region that have originated from its application for this Development Agreement;
16. **THAT** this Agreement shall be binding upon the parties hereto, their heirs, successors and assigns and shall run with the land which is subject to this Agreement;
17. **THAT** this Agreement is not assignable without the written consent of the Region;
18. **THAT** enforcement and rights and remedies on default of this Agreement shall be as follows:
 - (a) The Developers agree that the Development Officer appointed by the Region to enforce this Agreement shall be granted access onto the lands during all reasonable hours without obtaining consent of the Developers. The Developers further agree that, upon receiving written notification from the Development Officer to inspect the interior of any building located on the lands, the Developers agree to allow for such inspection during any reasonable hour within two (2) days of receiving such notice.
 - (b) If the Developers fail to observe or perform any condition of this Agreement, after the Region has given the Developers thirty (30) days written notice of the failure or default, then in each such case:
 - (1) the Region shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developers from continuing such default, and the Developers hereby submit to the jurisdiction of such Court and waive any such defense based upon the allegation that damages would be an adequate remedy;
 - (2) The Region may enter upon the lands and perform any of the covenants contained in this Agreement, whereupon all reasonable expenses whether arising out of the entry on the lands or from the performance of the covenants may be recovered from the Developers; if unpaid within 30 days of billing by the Region; by direct suit and such amount shall, until paid, form a lien upon the lands and be shown on any tax certificate issued under the Municipal Government Act;
 - (3) The Region may by resolution discharge this Agreement, upon providing the Developers sixty days (60) written notice, whereupon this agreement shall have no further force or effect and henceforth the development of the lands shall conform with the provisions of the Region of Queens Municipality Land Use Bylaw;

- (4) In addition to the above-mentioned remedies, the Region reserves the right to pursue any other remediation under the Municipal Government Act or common law to ensure compliance with this Agreement.

19. **THAT** the entering into of this Agreement was approved by the Council of the Region of Queens Municipality at a duly held meeting of Council convened on the _____ day of _____, 2022.

- (a) This Agreement shall not be entered into, or signed by the parties, until the time for Appeal under Section 228 of the Municipal Government Act of Nova Scotia has elapsed, any appeals which have been lodged have been disposed of and the required resolution of Council has been affirmed by the Nova Scotia Utility and Review Board;
- (b) This Agreement does not come into effect until it is filed, by the Region of Queens Municipality, in the Registry of Deeds as set out in Section 228 of the Municipal Government Act of Nova Scotia.

IN WITNESS WHEREOF the parties have hereto set their hands and affixed their Corporate seals the day and year first above written.

SIGNED, SEALED AND DELIVERED

in the presence of

_____)	
)	
)	Per: _____
Witness)	Samantha Corner
)	
)	Per: _____
_____)	Robie Leigh Murphy
Witness)	

) **REGION OF QUEENS MUNICIPALITY**

)	
)	
)	Per: _____
)	Mayor
)	
_____)	Per: _____
Witness)	Municipal Clerk

**PROVINCE OF NOVA SCOTIA
COUNTY OF QUEENS**

ON this ____ day of _____, 2022, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing Indenture, who having been by me duly sworn, made oath and said that Samantha Corner and Robie Leigh Murphy signed, sealed and delivered the same in his/her presence.

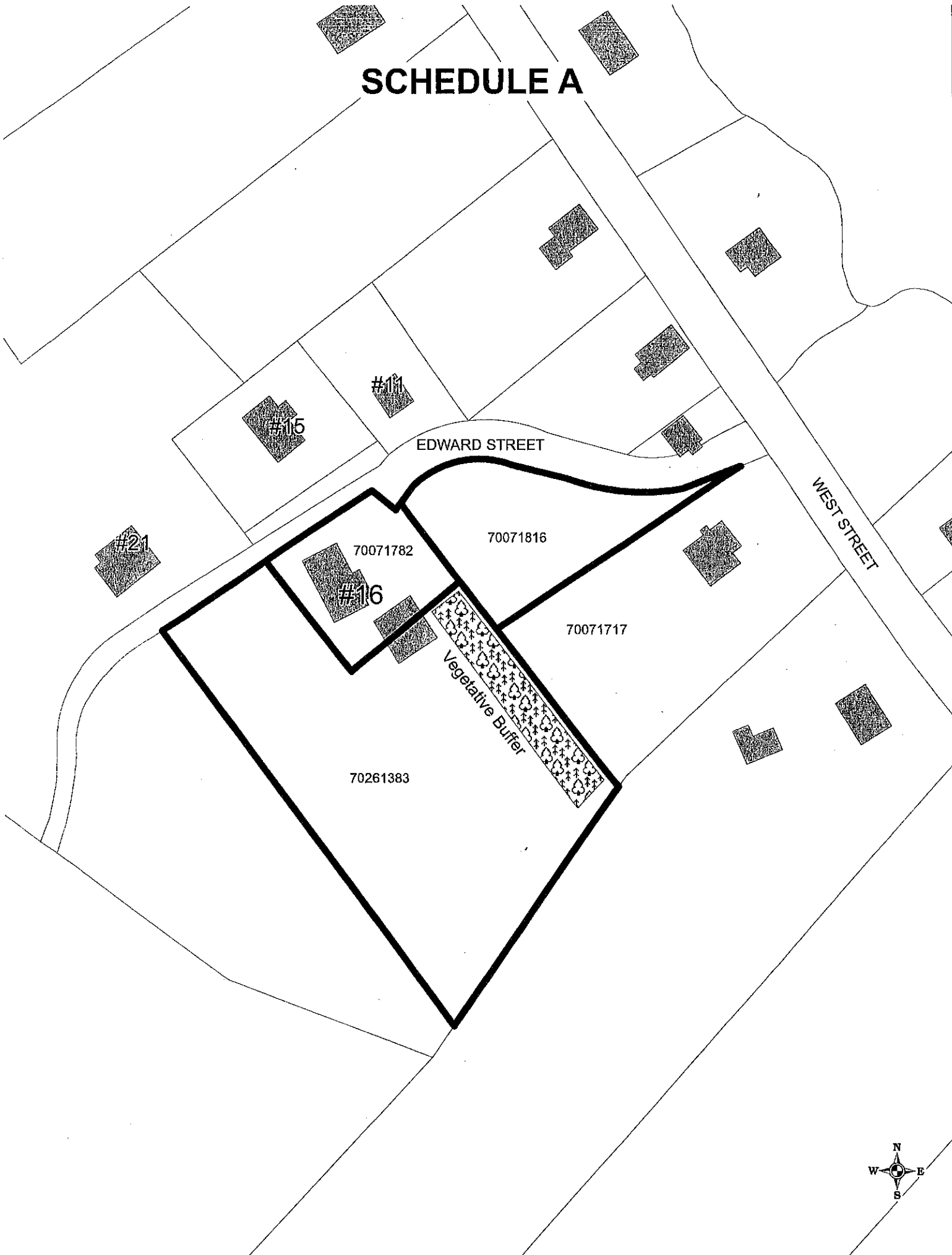
A Commissioner of the Supreme Court of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF QUEENS**

ON this _____ day of _____, 2022, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing Indenture, who having been by me duly sworn, made oath and said that the Region of Queens Municipality, per its authorized officers, Darlene Norman and Eric Levy, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court of Nova Scotia

SCHEDULE A



Appendix E

**Region of Queens Municipality
Administrative Policy - Respecting a
DEVELOPMENT AGREEMENT for Automobile Repair Shop
At 16 Edward Street in Milton**

WHEREAS Section 230(1) of the Municipal Government Act provides that Council shall adopt a development agreement by policy;

AND WHEREAS Samantha Corner and Robie Leigh Murphy have applied for a development agreement which would allow them to establish an automobile repair shop on their properties identified as PID# 70071782, 70261383 and 70071816 and located at 16 Edward Street in Milton;

AND WHEREAS the request is permitted under Policy in Region of Queens Municipality Municipal Planning Strategy;

AND WHEREAS the Region did cause to have placed two advertisements in the Lighthouse Now on _____ and _____, giving notice of a public hearing to hear comments respecting the development agreement;

AND WHEREAS Council did hold a public hearing regarding the development agreement on _____;

THEREFORE, BE IT RESOLVED THAT the Council of the Region of Queens Municipality approve entering into a development agreement with Samantha Corner and Robie Leigh Murphy which will allow them to establish an automobile repair shop on their properties identified as PID# 70071782, 700261383 and 70071816 and located 16 Edward Street in Milton.

THIS IS TO CERTIFY THAT this Administrative Policy was passed by the Council of the Region of Queens Municipality at a duly constituted meeting of said Council held on the ____ day of _____, 2022.

MAYOR

MUNICIPAL CLERK