



Subject: *Andrew Kim - Development Agreement for mixed-use proposal*
To: CAO for Planning Advisory Committee, June 20, 2023
Date Prepared: June 2, 2023, 2023
Related Motions: None
Prepared by: Rachel Gilbert, Manager of Planning
Approved by: John Woodford, Director of Planning and Development

Summary

The Municipality has received an application from Andrew Kim which requests approval for a mixed-use commercial building at 251 Highway 214, Elmsdale. The application includes a drive-thru which requires a development agreement be entered into.

Financial Impact Statement

A financial impact analysis has not been undertaken for this proposal. A summary of any financial impacts will be provided in the final staff report.

Recommendation

That initial consideration be given and authorize staff to schedule a public hearing.

Recommended Motion

Planning Advisory Committee recommends to Council that Council:

- *give initial consideration to enter into a development agreement for a mixed-use commercial building which includes a drive-thru located at 251 Highway 214, Elmsdale, to enable a public hearing; and*
- *authorize staff to schedule a public hearing.*

Subject Property

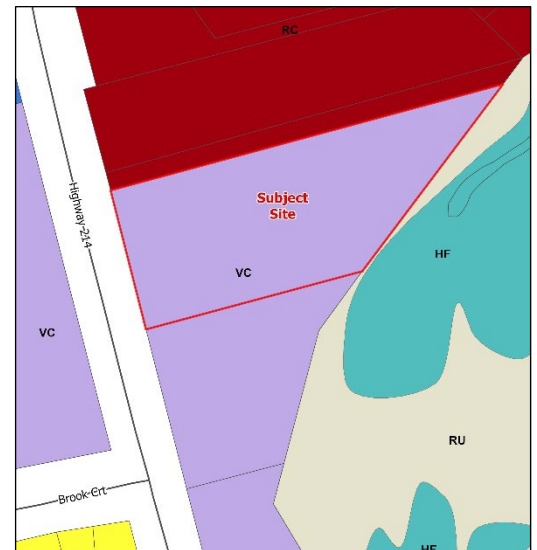
The property is located at 251 Highway 214, Elmsdale. 410 Highway 2, Enfield. There is an existing house and garage on the property. The existing dwelling is being relocated to a new location. The image to the right is taken from google streetview imagery dated Fall 2022.



The land is located in the Village Core (VC) Zone. To the north of the property is a McDonalds restaurant and drive-thru and this property is located in the Regional Commercial (RC) Zone. Opposite the property on Highway 214 is an Irving Oil property which has a Circle K gas station and an A&W restaurant and drive-thru. The Irving Oil property is zoned Village Core (VC). To the south of the application property is a residential property which has a dwelling and detached garage located on it.

The ground sign for the McDonalds property is estimated at 8 metres tall. The permitted maximum ground sign height for the A&W use is 7.6 metres.

To the rear of the property the land slopes downwards and this land is zoned either High Risk Floodplain (HF) or Rural Use (RU) with a Moderate Risk Floodplain (MF) overlay zone.



The land is approximately 0.48 hectares (1.9 acres) in size and has approximately 49 metres (160 feet) of frontage.

Development Proposal

The municipality has received an application from Dr. Andrew Kim for a mixed-use building which will include a dental office and a coffee shop with a drive-thru. Dr. Kim owns and operates the existing Elmsdale Dental Clinic in the Sobeys mall. Elmsdale Dental Clinic has been in the community for many years. The clinic will relocate to the new building once completed.

A coffee shop is proposed for the front section of the building with a drive-thru along the rear and north side of the building. The rear portion is for the dental clinic. The floor plan for the dental clinic shows 12 practitioner rooms, plus other rooms/areas such as

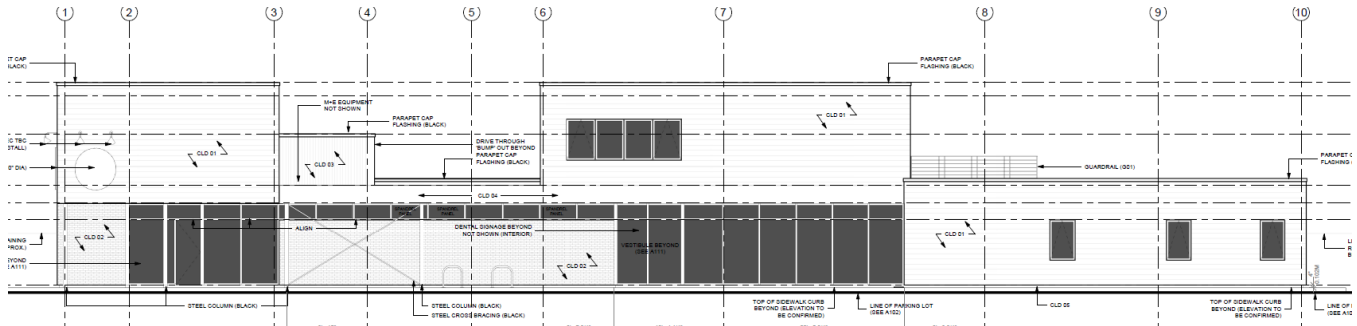


reception, staff lunch room and meeting space. The applicant does not believe there will be 12 practitioners in any given time but the additional rooms will allow for overflow or overlapping appointment. The applicant does have plans to expand the practice but as this point in time no specific details are available.



The building is mostly single storey but there is a second floor for the dental office which will provide an area for staff room/kitchen, a meeting room and an outdoor patio.

The front portion and the two storey section is approximately 7.5 metres (25 feet) tall. The single storey height sections are 3.7 metres (12 feet high)



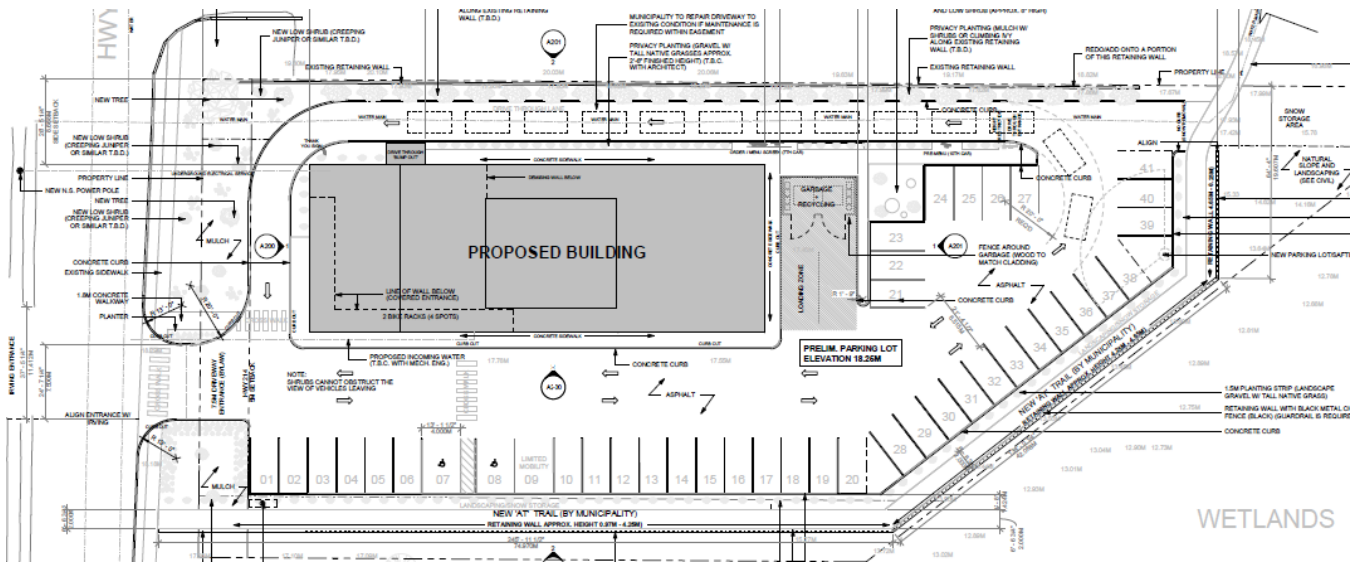
In the Village Core (VC) Zone the following are enabled to be considered by Council by a development agreement:

1. In the Village Core (VC) Zone drive-thru restaurants require a development agreement.
2. VC uses beyond 835 m² - the proposal is for an 840 m² gross floor area building.

There is an easement on the property over a municipal water main transmission. The site plan proposes the drive-thru driveway over the easement. The driveway is intended to be paved by the developer.

An Active Transportation (AT) network is being developed connecting the communities of Lantz, Elmsdale and Enfield. The development agreements with the FH Development Group, Clayton Developments and Armco included the establishment of the AT route through these developments. An element of the Clayton Developments open space contribution is the construction of an AT bridge over the Nine Mile River. The concept plan for the streetscaping of Highway 214 also includes Active Transportation sidewalks. Municipal staff have been working on connecting the AT trail from the western side of the Nine Mile River through to Highway 214. The application site offers an opportunity to make that critical connection.

The proposed site plan is being presented following many discussions with municipal staff and the developer. The discussions were regarding the drive-thru driveway being constructed over the water main easement and the inclusion of an AT trail and easement along the southern edge of the property. Staff have considered the significant community benefit from linking the AT network over this property. In balancing the two issues staff consider that the benefit from the AT linkage outweighs the future potential impact to the water main transmission. The final design of the site will be included in the development agreement.



The proposal also includes elements which do not meet the as-of-right requirements of the land use bylaw. Staff will provide a full review of the design of the proposed development in the final staff report. Staff have identified the following (below) which do not meet the land use bylaw as-of-right requirements.

- Two of the parking spaces are in the front yard of the property which is the area forward of the front elevation of the building to the front property boundary - The Village Core Form Based Code Requirements indicate that parking shall be located in the side and rear yard. Based on information provided by the applicant, staff estimate that the land use bylaw would require a minimum of 39 parking spaces. The applicant wants to provide 41 spaces as they want to make sure that there is more than adequate availability of spaces.
- The applicant is proposing an internally illuminated ground sign with a height the same as the sign on the adjacent McDonalds property. Staff estimate this to be 8 metres high but will seek to confirm these details - the signage regulations of the Land Use Bylaw limit as-of-right signage in the VC Zone to 6m high. The area of the proposed sign is 10.2m². and the maximum area of multi-unit sign in the VC Zone is 6.1m². Staff consider that the proposed ground sign is acceptable due to the location being adjacent to the McDonalds property which is zoned Regional Commercial and the proposed use is a Regional Commercial type use and the signage is appropriate for this type of use in this area of Highway 214.

Staff want to highlight that this is not an as-of-right development but is being considered through a development agreement and is not required to meet the land-use-bylaw unless indicated in the Municipal Planning Strategy or Land Use Bylaw. This is an important distinction as it enables negotiations regarding the design of the development. Policies in the MPS provide direction when considering the development. For this application the above bulleted elements can be negotiated through the development agreement process and there are policies in the Municipal Planning Strategy to enable this.

Policy UD15 of the Municipal Planning Strategy enable ‘institutional uses that do not meet the form-based zone requirements but will contribute to the vitality and overall goal of the VC Zone’ to be considered by development agreement. Health Care Services is listed as a permitted use in the Institutional Use Zone. This is the same policy which enabled the Enfield Family Dental Centre to be considered. This policy enables uses that don’t meet the design requirements but does meet the goal intent of the VC Zone. Development agreement applications in the VC Zone where an institutional use is not being proposed are required to meet the form-based zone requirements.

Policy IM28.d of the MPS enables development agreements to include any matters that may be addressed in the Land Use Bylaw, such as yard requirements, outdoor storage, height, bulk and lot coverage, etc. This policy means that Council can add criteria in the DA that differs from the Land Use Bylaw, such as signage. Council should weigh this variation from the Land Use Bylaw against the impact on the local area and whether the variation is appropriate.

Discussion

The Planning and Development Department will review the proposed application based on the applicable policies contained in the Municipal Planning Strategy. A detailed table of the evaluative criteria from the enabling policies and corresponding comments from Staff and reviewing agencies will be attached to the final report.

To address potential compatibility issues with neighbouring residences, and to comply with criteria applied to consideration of this application, Staff will be requesting comments from internal departments and external agencies, including Nova Scotia department of Public Works (NSPW) and the internal East Hants Department of Infrastructure and Operations (I&O). Staff from I&O and Parks, Recreation and Culture have already been actively involved in discussing this application with the developer.

The Nova Scotia Department of Public Works have been in discussion with the applicant on the development of their site plan including the location of the driveway onto Highway 214 but comments in writing will still be sought from them.

STRATEGIC ALIGNMENT

One of the Key Strategies from the Strategic Plan is Economic Prosperity. This development will change an existing single unit residential use into a commercial use. This supports the Economic Prosperity key strategy.

LEGISLATIVE AUTHORITY

The legislative authority and process for entering into a development agreement is set out in the Municipal Government Act, Part VIII.

FINANCIAL CONSIDERATIONS

A financial impact analysis would be provided with a final staff report. There are no immediate financial impacts from refusing this application.

Citizen Engagement

Planning staff will comply with the Citizen Engagement Policies of the Municipal Planning Strategy when processing this application. An advertisement outlining the proposal and indicating that it is under review by staff will be placed in the Chronicle Herald.

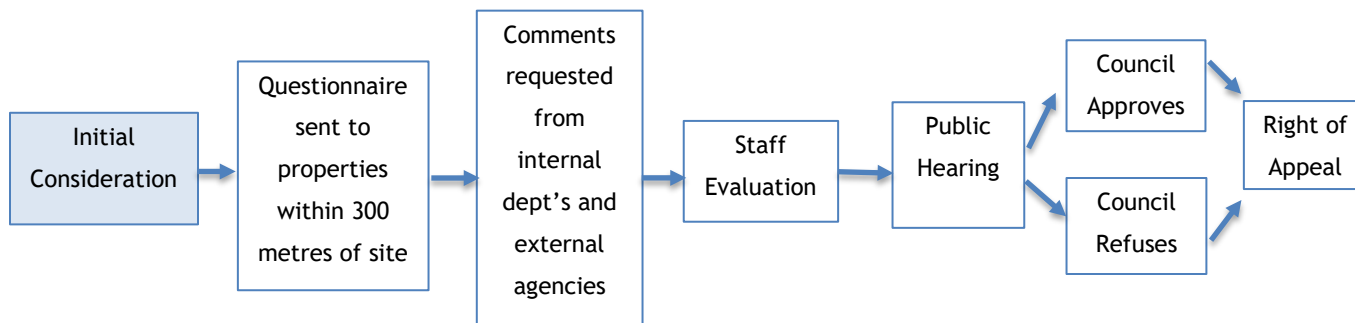
A letter and questionnaire will be mailed to all property owners within a 300 m of the subject property asking for comments on the proposed development agreement amendment.

Conclusion

Staff will continue to review this application which includes seeking comments from external and internal departments. Through the development of this site the applicant is enabling the AT trail system to be

connected. The development also proposes an expanded dental practice plus a new coffee shop. Staff will provide a full analysis of the proposal in the final staff report.

Any decisions to approve or not the development agreement application is appealable to the Utility and Review Board.



Alternatives

A public information meeting (PIM) is not required for this application however PAC or Council may determine that it is in the best interest of the community to hold a PIM. Staff do not recommend this alternative.

Attachments

- Appendix A - Copy of application plans