



28 February 2025

John Woodford  
Director of Planning & Development  
Municipality of East Hants  
230-15 Commerce Court  
Elmsdale, NS B2S 3K5

Re: Request for Municipal Planning Strategy and enabled Development Agreement Amendment for  
PID 45428802, 45428810 and 45416831, Highway 214, Elmsdale  
Lands of Riverstone 214 Ltd

---

Dear Mr. Woodford,

Riverstone 214 Ltd ("the Client") is developing the above referenced lands along Highway 214 in Elmsdale in accordance with the development agreement (DA) registered as Document 118203000 on 15 March 2021 in the Land Registration Office. Unfortunately, our client has encountered significant difficulties leasing commercial spaces, which is negatively affecting the viability of the project. The client is seeking an amendment to East Hant's Municipal Planning Strategy (MPS) to enable an amendment to DA regarding the requirement that the commercial ground floor area to be no less than the residential ground floor area. We would also request an unsubstantial amendment to the DA regarding commercial parking. Riverstone 214 Ltd has authorized Brighter Community Planning ("BCP") to submit information to support this MPS and DA amendment application.

## Request

The request is twofold. First, we request an amendment to MPS policy ED 34 e to allow greater flexibility with the commercial component in mixed-use developments in the Regional Commercial (RC) designation. We request an amendment that allows our Client to maintain commercial uses at the front of the mixed use building on the ground floor but permit residential units at the back of the building, and, once enabled, amend the DA accordingly. A change to Policy ED 34 e will enable amendments to DA 1.3 regarding the ratio of combined residential ground floor area to combined commercial ground floor area, which would trigger a review or change to parking allocation. We ask that these processes be concurrent, and that any enabled amendment to the DA be considered for provisional approval pursuant to MGA 225A.

Also, our Client wishes to amend the DA to remove the provision that links commercial parking allocation to uses in the Land Use By-law. We suggest addressing commercial parking by having a specific number of parking spaces dedicated to commercial uses or a defined area for commercial parking on the site plan.

## Background & Context

Our client acquired three properties, PID#45428810, PID#45428802, and PID#45416831 (subject properties), on Highway 214 in June 2021. The subject properties are currently designated as Regional Commercial and zoned as Regional Commercial (RC).

The previous owner entered into the DA with the municipality for the subject properties on 1 March 2021. The DA allows for a mixed-use development consisting of three buildings: a one-storey commercial building, four-storey mixed-use building, and a six-storey multi-unit residential building. With the four-story mixed-use building, there is a requirement for the commercial ground floor area to be no less than the residential ground floor area. The DA requirement for the commercial ground floor area is drawn directly from Policy ED 34 e in the current MPS, approved in July 2023.

In accordance with Policy ED 34 e, the current DA requires at least 50% of the total ground floor area of all buildings to be commercial. The total residential ground floor area can not exceed the combined commercial ground floor area for all buildings. The one-storey building must be commercial along with the ground floor of the four-storey building. The six-story residential building can not be constructed until this requirement for commercial space is satisfied.

The changing nature of commercial activities impacts land use. Since the Covid-19 pandemic, there has been a shift away from “bricks and mortar” stores toward e-commerce, which has dramatically reduced the demand for retail space. Work from home, flexible workspaces, and hybrid work model, similarly have reduced the demand for office space. Conversely, the demand for residential space in Nova Scotia is currently considered high. All levels of government, developers, not for profit entities, and other stakeholders continue to prioritize housing initiatives aimed at addressing the continuing housing shortage.

Commercial spaces on the subject properties face competition from those in Elmsdale Business Park and plaza, given their proximity to the highway and the presence of anchor tenants. The surrounding area lacks the population to form a consumer base supporting commercial services of smaller scale, such as restaurants, pubs, hair salons, and personal care. There is no foot traffic here, and the site is not a destination that would attract customers. Areas east of the highway are more suitable locations for such services, given the presence of residential neighbourhoods branching off from Highway 2 and the Village Core area.

The single-storey commercial building is constructed and occupied. However, our client has encountered significant difficulties leasing the commercial space after aggressive promotional efforts. After a few inquiries and deals that have fallen through due to parking restrictions, our client continues to market the property, as shown by Figure 1 from ViewPoint. It is also advertised on social media, the MLS system, LinkedIn, has a sign out front, and will be posted on Facebook Marketplace shortly. Unfortunately, our Client still does not have tenants for the ground floor commercial space of the mixed use building.

The DA ties parking load to uses in the Land Use By-law. There is a finite number of parking spaces and the site can not support additional parking. The DA has spaces dedicated to residential units, guest parking, and commercial uses. We suggest designating the commercial spaces for use by commercial tenants, regardless of the type of business. That is, remove the DA provision that links parking space requirements to uses in the Land Use By-law. Potential tenants would be cognizant of the commercial parking space allocation and choose a space based on their needs. It does not make good business sense for a business to locate where the need for customer parking is not met. The market will dictate suitability. The few potential tenants that the Client has had either could not meet the requirements of the Land Use By-law or decided for themselves, such as the case with the dentistry office, that parking on the site did not meet their needs. The ground floor sits vacant. As construction and costs continue to rise and the availability of skilled labour is at a premium, the vacant commercial space is not and will not contribute to covering the cost of construction. My client has related that construction financing for the commercial component is not available as it is for residential construction. Therefore, the Client is paying for space that is and will likely continue to be vacant.



Figure 1: Advert 27 Feb 25, ViewPoint

The one-storey commercial building fronting Highway 215 has been constructed in accordance with the terms of the DA. The Client feels very fortunate to have secured Nova Scotia Health Authority as a tenant.

## Parking

The location of adequate parking is an important component of site design. The trend is to reduce or eliminate parking requirements; however, the area is not currently serviced by public transit, and Highway 214 is not conducive to on-road parking, so consideration must be given to on-site parking.

The current DA allows for a four-storey mixed-use building, with ground floor commercial space with a minimum of 36 parking spaces for the residential units. There are 24 units. Under the DA, Schedule B, Site Plan, shows 24 parking spaces abutting Highway 214 and 42 spaces to the rear of the building on Lot 1. The DA effectively has a parking ratio of 1.5 spaces per residential unit (36 spaces/24 units). Additional parking spaces for guest parking is at the ratio of one guest space per seven units (4 guest parking spaces). The number of parking spaces dedicated to commercial uses varies according to the uses, as set out in the Land Use By-law. The requirement for residential and guest parking is 40 spaces for 24 units. Schedule B, Site Plan, shows 24 parking spaces abutting Highway 214 and 42 spaces to the rear of the building on Lot 1. There are 81 spaces - 19 commercial (street-facing parking lot, surface parking), 21 underground residential, and 41 exterior residential (non-street facing side of the structure) on the drawings that were submitted and approved for the building permit (60 above ground and 21 underground). The ground floor area that is devoted to commercial use under the existing DA is 8,381 sq ft.

We are submitting a site plan in support of our requests. Please see the site plan prepared by nuvo, page A100. There are 81 parking spaces. With the conversion of the back of the building to 5 residential units, the residential and guest parking is 62 spaces. There will be 21 spaces underground and 41 exterior (surface). These will be located toward the rear of the building. There will be 19 commercial spaces, located at the front of the building where there is direct access to commercial units. Using the ratios above, the requirement for 29 units is 49 (44 residential plus 5 guest). The site can accommodate this change.

With respect to amending the DA to remove linkages to the parking requirements of the Land Use By-law for the mixed use building only, an amendment to DA 2.7. would be required. Matters dealing with parking are an Unsubstantial Amendment under DA 7.2.d. Although the Development Officer may grant an Unsubstantial Amendment, we ask that this request be considered in the context of the policy amendment, as the number of commercial spaces available is directly related to the number of residential units permitted in the mixed-use building, should the request for a policy amendment be successful.

## The Proposal

The proposal for the four-storey mixed-use building relates to changing the ground floor use from commercial throughout the ground floor to commercial in the front of the building (fronting on Highway 214) and residential at the rear of the building. The proposed residential use on the ground floor is 5 units. The ground floor will have the entrance for all residential units (ground floor plus 3 storeys) with a lobby, seating area, office, stairways, and elevator. The units are two at 535 sq ft, two at 697 sq ft, 681 sq ft. The proposed ground area for residential (including lobby, office, etc) is 5,666 sq ft. The proposed commercial ground floor area is 3, 315 sq ft. The plan shows two commercial spaces; one with 2165 sf ft; the other, 1550 sq ft. Please refer to the PROPOSED GROUND FLOOR AREA COMMERCIAL/RESIDENTIAL plan by Nuvo, Pages A-02, for the interior layout.

There will be no significant change to the exterior of the building. The commercial use and façade remain toward Highway 214. Please refer to West (Street- Commercial) Elevation on ELEVATIONS Commercial Main Level (west) plan by nuvo, page A-0, to see the commercial component. On this plan, the rear, East (Back) Elevation, is also shown. Residential-related activities are separate from commercial uses and include building entrance, driveway, surface parking and entrance to the underground, and tenant and visitor pedestrian flow.

There are also changes to the parking area, as noted above. Please refer to the site plan prepared by Nuvo, page A100.

## The Request & Rational

The main request is to amend MPS Policy ED 34 e in a way that would allow greater flexibility when siting mixed-use development to allow for ground floor commercial facing Highway 214, in this case, with residential on the ground floor to the rear, behind the commercial use. Currently Policy ED 34 e sets out that "... e) The proposed commercial ground floor must equal or surpass the residential ground floor area..." This strict requirement has resulted in the entire ground floor of a mixed-use building remaining empty, when it could be put to mixed use, retaining the commercial

use along the street with residential units to the rear (behind the commercial units). Flexibility could be achieved through an amendment that would allow Council to consider a relaxation of ED24 e in cases where the commercial nature of the streetscape is maintained.

It is my understanding that residential development in the form of mixed-use development has been supported by policy in the Regional Commercial (RC) Zone since 2016. These properties are in the RC Zone and are abutting RC zoned lands, except for a portion of lot PID 45428810, which is zoned High Risk Floodplain (HF). A development agreement was appropriate and enabled in policy.

The subject properties are currently designated as Regional Commercial and zoned as Regional Commercial (RC). The Policy Goal here is to “facilitate the development of a regional, large-scale service-based commercial area with a wide range of retail goods and services, and business uses in a land-intensive, vehicular dependent environment. A regional-scale commercial area will allow for a convenient shopping environment for East Hants residents and the travelling public and for large-scale commercial with minimum impact to the built and natural environment.” Policy ED 24 establishes the intent of the zone. The Regional Commercial Zone is intended for a wide range of commercial activities. Policy ED 31, recognizes that flexibility is needed given the “changing face of medium and large scale commercial retail development, ...” and allows for removal of the building square footage maximum, removal of lot frontage requirements, etc. There is no increasing demand in this area of Highway 214, as evidenced by the client's inability to lease commercial space. With respect to Policy ED 31, it is reasonable for Council to consider a reduction in the square footage of the commercial area in this development and to amend Policy ED 34 e, which has strict requirements for commercial ground floor area.

Section 7 contains policies for economic development. Policy ED 34 enables mixed use developments in the Regional Commercial (RC) designation. Policy ED 34 c sets out that the proposed residential uses should have frontage on the Nine Mile River. This requirement resulted in the development of a flag lot for the six-storey multiunit dwelling. I believe that the intent is not for high density residential development to be located next to a river, especially when a portion of the lot is in a High Risk Floodplain (HF) Zone, but rather to ensure that residential development does front on the public right of way, i.e., fronting on Highway 214. The intent is for residential development to be located back from the public road, behind commercial development. Commercial development should front (face) on the public road. Perhaps ED 34 c could be clarified to better reflect the intent. The intent speaks to location, not frontage. Lots could have frontage on both the public right of way and on Nine Mile River. The policy does not set out that the location of the multi-unit dwelling is to be located to the rear of the property, closer to the river. I believe that the location of the development should be adjacent (to the rear of the lot) to the river and that the general location is along Nine Mile River. If the lot needs frontage on Nine Mile River, the lots that contain the four-storey mixed-use development and the six-storey multiunit could be consolidated and meet the requirement. Regardless, ED34 c is permissive in that it is not a requirement as “shall” is not used (“should” is used ).

Key strategies in the MPS include those for fostering viable and vibrant communities under Community Planning and Development and facilitating the growth of the commercial assessment base under Economic Development. Both strategies apply to this development. The enablement of mixed-use development in the RC Zone via development agreement is in keeping with both strategic directions. The strategies are not mutually exclusive but should be used together.

The streetscape will not change with this proposal. The location will still have the look, feel, and function of a regional commercial area. The ground level façade for the mixed-use development, which fronts Highway 214, will be commercial in nature. There will be no direct impact on the streetscape with the conversion of the back half of the ground floor from commercial to residential. It is hoped that the reduced commercial area will contain commercial uses, that, because of the unit size, will not require as many parking spaces, thereby lessening the parking demand.

Policy ED 34 f sets out that proposed residential uses should be in the rear yard or above the commercial uses. Allowing ground floor commercial to front on the road while having residential at the rear is a common practice. It is often permitted as of right, without the need for a development agreement to regulate that aspect of development. For example, Kings County allows residential units in a commercial building with the special condition that the residential units are located above, behind, or below the ground floor commercial uses. This is permitted in the General Commercial (C1) Zone, Central Business District (C2) Zone and Rural Commercial (C4) Zone. Kings County has a policy to allow thorough DA in all commercial zones, proposals for commercial, industrial, mixed-use, and residential developments that are not otherwise permitted or cannot meet applicable commercial zone standards. In Kings County, if the DA application is for a residential use or mixed use, the residential component of the proposal must have a compact built form and not consist of low-density housing forms including, but not limited to, one and two unit dwellings or grouped dwellings; and the proposal is oriented to the street and contributes to a vibrant and active streetscape. The Town of Truro uses site plan approval for their Downtown Core (DC) Zone for 5-12 dwelling units in a new structure provided the structure does not have ground floor residential space within 7.5 m (24.6 ft) of the public right of way. The same condition applies to as of right development for up to four dwelling units. The condition ensures that the residential uses are not abutting the street, thereby impacting the commercial streetscape. Similarly in the Town of Lunenburg, the Commercial Mixed Use Zone sets out that dwelling units shall be prohibited on the ground floor within 15 m (50 ft) of the front lot line. For greater clarity, uses accessory to dwellings, such as residential lobbies and amenity space, may be permitted on the ground floor. In Antigonish County's West River Antigonish Harbour's Plan (for areas surrounding the Town) residential dwelling units are permitted within commercial buildings in the Local Commercial (C-1) Zone, provided that the dwelling units shall not be located on the ground level at the front of the building. Cumberland's Downtown Commercial (CDwn) Zone has special conditions where the dwelling units be located in the same building as a ground-floor commercial use; and be located above or behind the ground-floor commercial use.

This is not an extensive review but a sample of how other units deal with maintaining commercial uses and streetscape. These municipal units did not have a ratio restricting the residential ground floor area in relation to the commercial ground floor area. The trend is to be more permissive and supportive of multiunit residential development in efforts to address the housing crisis in Nova Scotia. Perhaps Policy ED 34 f's favoured prominent location of commercial uses along the frontage (road) and residential uses in the rear yard or behind commercial uses does more to protect the integrity and commercial nature of the RC Zone than Policy ED 34 e where the requirement for commercial ground floor area to equal or surpass the residential ground floor area.

An amendment to Policy ED 34 e will not have a significant impact on land use planning across the Municipality as there are only two Regional Commercial areas in the Municipality. The other area is within the Mount Uniacke Growth Management Area along Highway 1. Mixed-use development in the RC zone would remain subject to DA approval. The amendment would not reduce the impact of

Council's oversight of developments in the RC zone.

## Conclusion

The policy goal for the Regional Commercial designation is to “facilitate the development of a regional, large-scale service-based commercial area....” An amendment to Policy ED 34 e to allow for ground floor commercial to be fronting on the roadway (with residential development toward the rear), thereby maintaining the commercial nature and streetscape and, most importantly, retaining commercial space so that it is available for a “wide range of retail goods and services and business uses in a land-intensive, vehicular dependent environment....” is in keeping with this goal and intent of policy. Being more flexible in the DA by removing the requirement that ties parking spaces to the Land Use By-law would support the success of the development.

We appreciate the municipality's consideration of our requests for a policy amendment and amendments to the DA. We believe that the policy amendment will increase the feasibility of this and future development projects enabled under Policy ED 34 and attract development to this area.

We respectfully request the municipality's support in amending the ground-floor commercial space requirement, and amending the DA. We are available to discuss any further details or provide additional information as needed.

As I have accepted a planning position within the Province, Chrystal Fuller, Principal, will be your contact for this application. Her email is [chrystal@brighterplanning.ca](mailto:chrystal@brighterplanning.ca), phone is 902-790-0664.

Sincerely,



Dawn Sutherland, MBA, LPP, MCIP

Senior Planner

Brighter Community Planning & Consulting

CC: Rachel Gilbert