



Riverstone 214 Ltd. – Development Agreement Amendment

Planning Advisory Committee

June 18, 2024

Planning & Development Department



EAST HANTS

Background

- The land the subject of this application has been zoned for commercial use for several years. Amendments were made to the Regional Commercial (RC) Zone in the 2016 Official Community Plan to enable a mixed-use development on the Nine Mile River side of Highway 214.
- Approval was given in April 2020 by Council for a mixed-use development on the property in the Regional Commercial (RC) Zone. This decision was appealed by local residents to the NSUARB but this appeal was not successful and the development agreement was signed and entered into in March 2021.
- The developer purchased the property with the approved development agreement in place.

Background

- The development agreement requires:
 - that at least 50% of the total ground floor area of all building be commercial. At no point shall the total residential ground floor area surpass the combined commercial ground floor area for all buildings.
 - that the single storey building is commercial and that the ground floor of the four-storey building is commercial.
- This means that the single-storey commercial building and the four-storey mixed-use building have to be constructed before the six-storey residential building is completed.
- The developer has been constructing the single-storey commercial building and the four-storey mixed-use building as these will provide all the total required ground floor commercial for the whole development.
- The developer has indicated that despite active promotion for over a year they haven't found tenants for the plaza (commercial floor area of four-storey building) as they believe it's due to low demand for commercial floor area.

Two of the buildings are currently under construction.



Approved Buildings

- Four-storey mixed-use building (right).
- Six-storey residential building (below).

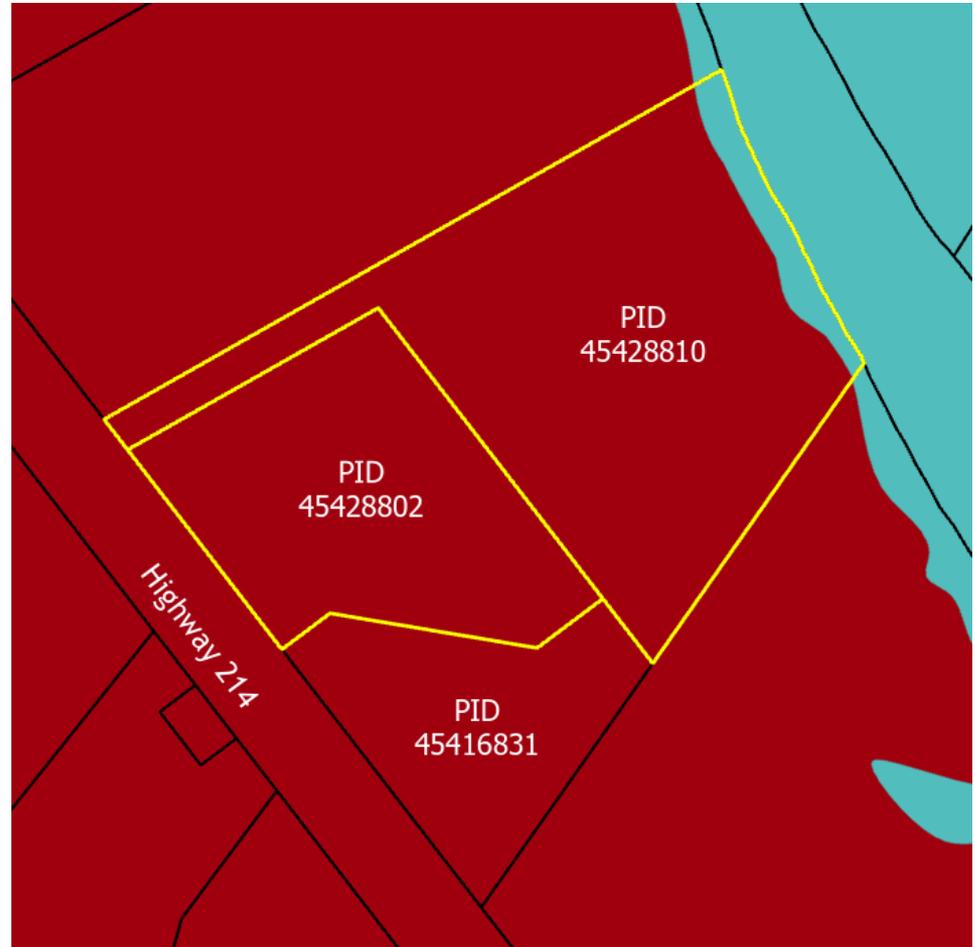


Approved Site Plan



Subject Property

- The existing development agreement (DA) is applied to 3 properties along Highway 214 which are identified as 411 & 427 Highway 214 and the property located behind # 427 (PID 45428810). These were originally one property but since the approval of the DA in 2020 the property has been subdivided.
- The subject site and surrounding properties are zoned Regional Commercial (RC).
- A small portion of the rear of PID 45428810 is zoned High Risk Floodplain (HF).





Development Proposal

- The applicant has requested a substantial amendment to their development agreement dealing with the following two items:
 1. **Relocation of Commercial Activities:** The applicant is applying to move commercial activities from the four-storey building to the proposed six-storey building. This adjustment will enable the conversion of the four-storey building entirely to residential use. To enable this change, the amendments to the DA will also include amendments to the approved external designs for both buildings; amendments to the parking allocation; and amendments to the common amenity area for the buildings.
 2. **Introduction of Short-term Rentals:** The applicant is seeking to include short-term rental accommodations as a commercial use. The developer has indicated that this will give greater flexibility to lease the commercial floor area.
- Further details of the request has been included within the application letter which has been added as Appendix B to this staff report.

Development Proposal

- The site plan submitted with the application mostly remains the same as permitted but notes that the mixed-use is now moved to the six-storey building.
- Changes to the site plan may be needed to address amended parking requirements and amenity area but staff have not yet assessed the site plan in detail.



Discussion - moving the commercial ground floor

- The Policy Goal for the Regional Commercial (RC) Designation and Zone 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 dependant environment. A regional-scale commercial area will allow for a convenient shopping environment for East Hants residents and the traveling public and for large-scale commercial with minimum impact to the built and natural environment.”
- This goal means that the Regional Commercial area Zone is a commercial zone and not a mixed-use zone. Policy ED24. does provide an exception to this by enabling some residential uses in areas adjacent to the Nine Mile River. It’s under this policy that the original property owner was able to negotiate a development agreement for the 3 properties (originally one property).

- ED34. Council shall consider mixed Use Developments in the Regional Commercial (RC) designation provided the requirements below, as well as the requirements regarding Walkable Comprehensive Development District developments are met.
 - a) The property must be serviced by water and wastewater services.
 - b) The property shall connect to an existing sidewalk or trail network, if such a network is accessible.
 - c) Proposed residential uses should have frontage on the Nine Mile River.
 - d) Mixed use areas shall not be serviced by a right-of-way easement. All lots shall have public road frontage.
 - e) The proposed commercial ground floor must equal or surpass the residential ground floor area.
 - f) Proposed residential uses should be in the rear yard, or above commercial uses.

- Council's Policy ED34. c & f is therefore that:
 - the residential use building needs to be provided in the rear six-storey building as the four-storey building does not have frontage on the Nine Mile River; and
 - the proposed residential four-storey building is not located in the rear yard or above commercial uses. This is supported by the goal and intent of the policies of the Regional Commercial (RC) Zone as a commercial area.
- The four-storey building is currently under construction and if the developer delays the construction of the six-storey building or does not construct the six-storey building, the development would not meet the requirement under ED34.e - the proposed commercial ground floor must equal or surpass the residential ground floor area.
- However, PAC and Council may determine that as both policies ED34.c and ED34.f use the word 'should' instead of 'shall' or 'must' that there is enough flexibility in the wording of the policy to enable them to consider the application further.

Discussion - Short Term Rentals

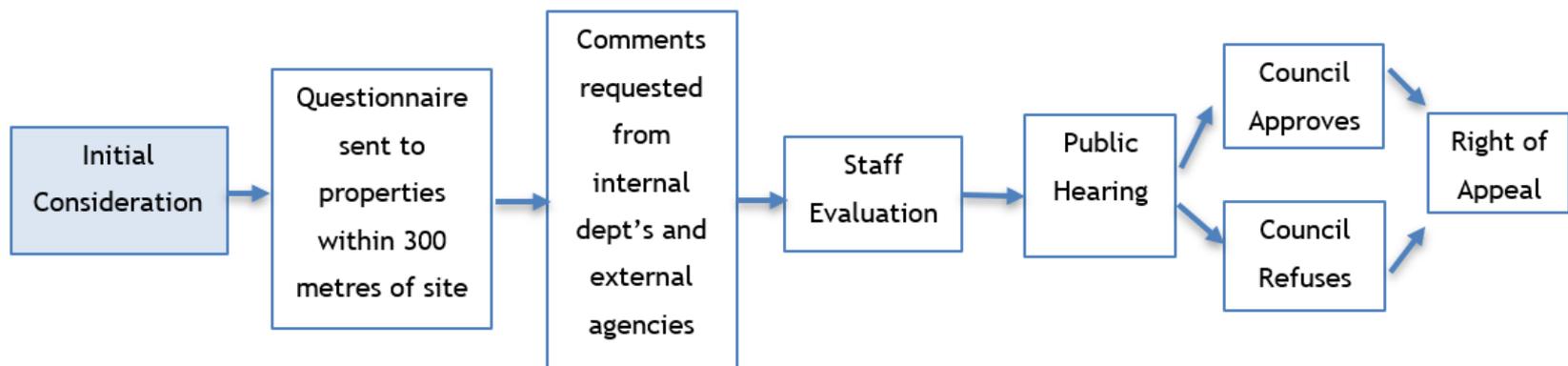
- The applicant is also requesting that 'short-term rentals' be considered a commercial use.
- Short-term rentals are a residential use, they pay residential taxes and not commercial taxes. The rental units are permitted where residential uses are permitted. Staff do not recommend enabling short-term rentals to be located in the commercial floor area as they are essentially a residential use and creating a definition to enable them does not change the nature of the use.
- There are several concerns with enabling an amendment in the DA for this use including that once the units are created it would require some level of monitoring to make sure the units do not become full time residential units.
- Enabling this change for this one location also sets a precedent that other developers or property owners may make similar requests for their commercial uses.

Citizen Engagement

- Should PAC and Council direct staff to continue processing this application, planning staff will comply with the Citizen Engagement Policies of the Municipal Planning Strategy when processing the application.

Conclusion

- Despite the challenges the developer is experiencing, the intent and goal of the Regional Commercial Zone should not be compromised. The Regional Commercial area along Highway 214 has been identified for commercial use for several years and based on Council's policies in the MPS it is recommended that changes to the development agreement not be made.
- Alternatives have been identified for PAC and Council.



Alternatives

- There are some alternatives that staff have identified should PAC and Council decide to review the proposal further:
 - 1) Direct staff to continue to process the development agreement application which would include seeking comments from property owners within 300 metres of the site; consult with stakeholders; and draft a development agreement for consideration with a final report.
 - 2) Direct staff to begin the process to amend the MPS to remove the statement regarding where the residential ‘should’ be located on the property. This would still require the development agreement be amended but would create criteria in the MPS which was more flexible for the locating of the commercial elements. The first step with this alternative would be to schedule a Public Information Meeting to talk to the community about the potential change to policy.

Recommendation

That the application by Riverstone 214 Ltd. for an amendment to an existing development agreement be refused.

Recommended Motion

Planning Advisory Committee recommends to Council that Council:

- Refuse the application by Riverstone 214 Ltd. to amend an existing development agreement on land within the Elmsdale Regional Commercial (RC) Designation and Zone.