



Subject: *Andrew Kim - Unsubstantial Development Agreement Amendment*
To: CAO for Planning Advisory Committee, November 12, 2024
Date Prepared: October 29, 2024
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 for an unsubstantial amendment to his development agreement. The original development agreement was approved by Council October 2023 for a commercial building (dental clinic and coffee shop), including a drive-thru, at 251 Highway 214, Elmsdale.

Financial Impact Statement

The development agreement commits the municipality to \$324,000 plus HST for the construction of a section of Active Transportation Trail.

An estimated value of the property once constructed is \$3.5 million and based on the Elmsdale Commercial Serviced Rate (2024) this could result in \$118,125 in annual tax revenue. However, construction value does not necessarily equal tax assessment value, so this estimate is subject to change based on PVSC's assessment determination.

Recommendation

That Council approve the unsubstantial development agreement amendments.

Recommended Motion

Planning Advisory Committee recommends to Council that Council:

- Approve the application by Andrew Kim for an unsubstantial development agreement amendment to amend the external design of the building and amend the parking lot layout at 251 Highway 214, Elmsdale; and
- Enter into the amendment within one year of Council's approval.

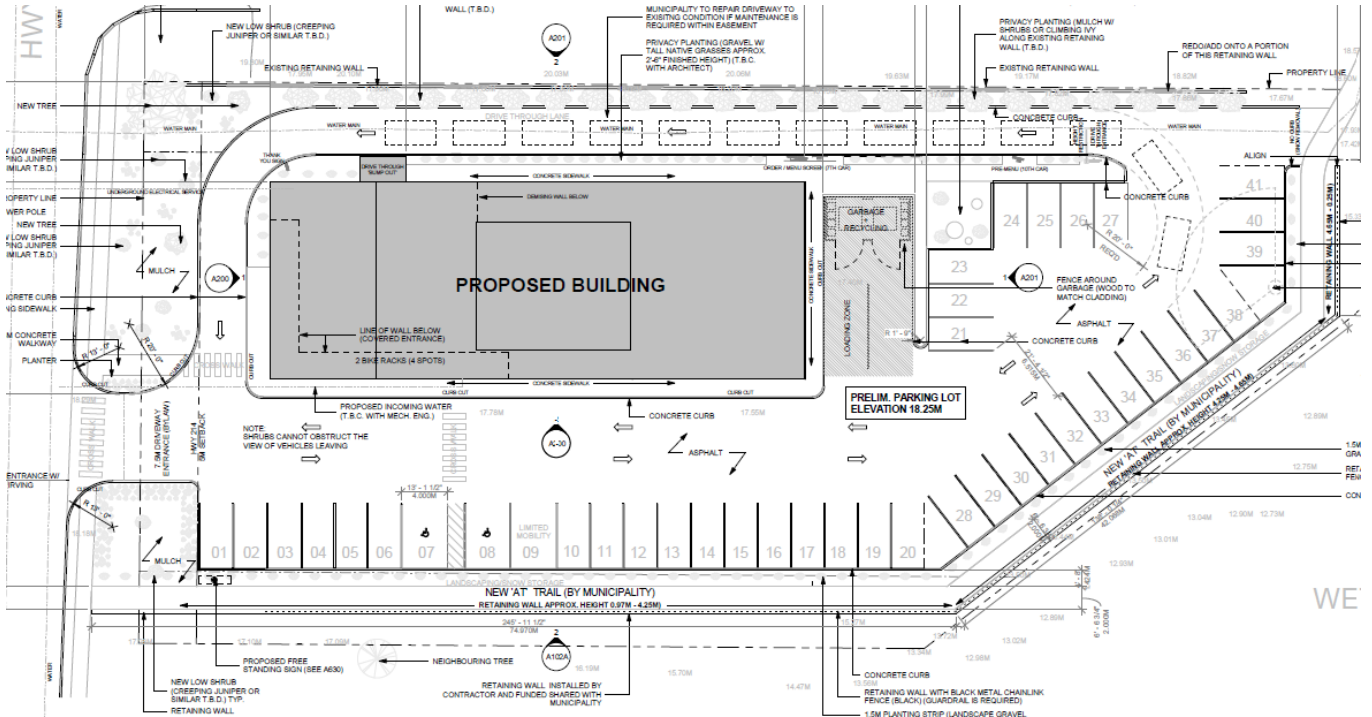
Background

In October 2023 Council approved a development agreement application for a dental clinic and coffee shop with drive-thru. Dr. Kim owns and operates the existing Elmsdale Dental Clinic in the Sobeys mall. The clinic will relocate to the new building once completed.

An image of the approved design of the building is included in this report (right) and below is an image of the approved site plan.



Approved building design (above)



Approved site plan (above)

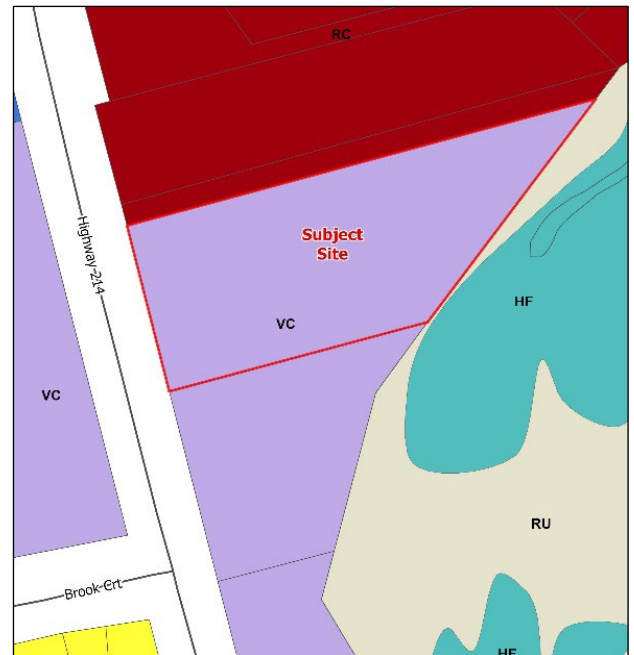
Subject Property

The property is located at 251 Highway 214, Elmsdale. There was a house and garage on the property but these have since been removed.

The land is located in the Village Core (VC) Zone. To the north of the property is a McDonalds restaurant and drive-thru which 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 site is a residential property which has a dwelling and detached garage located on it.

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.



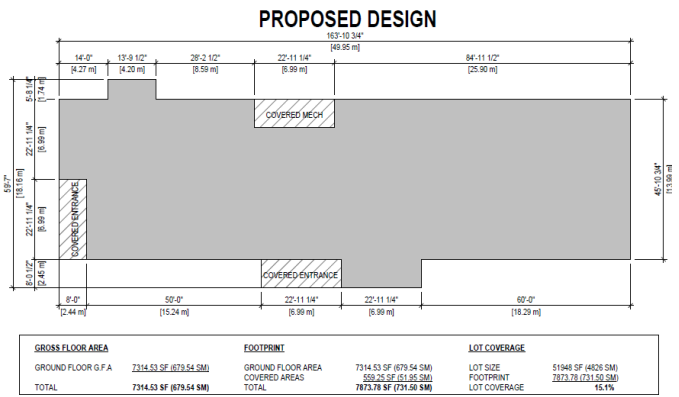
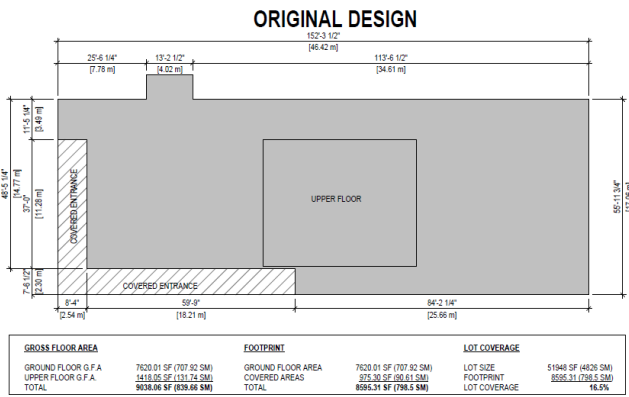
Development Proposal

An application has been received for unsubstantial amendments to the approved development agreement. Unsubstantial amendments to a development agreement are those amendments which Council has determined do not need a public hearing to be held. A public notification process is also not required for unsubstantial development agreements although there is a right of appeal for decisions on these types of applications. The unsubstantial amendments requested are:

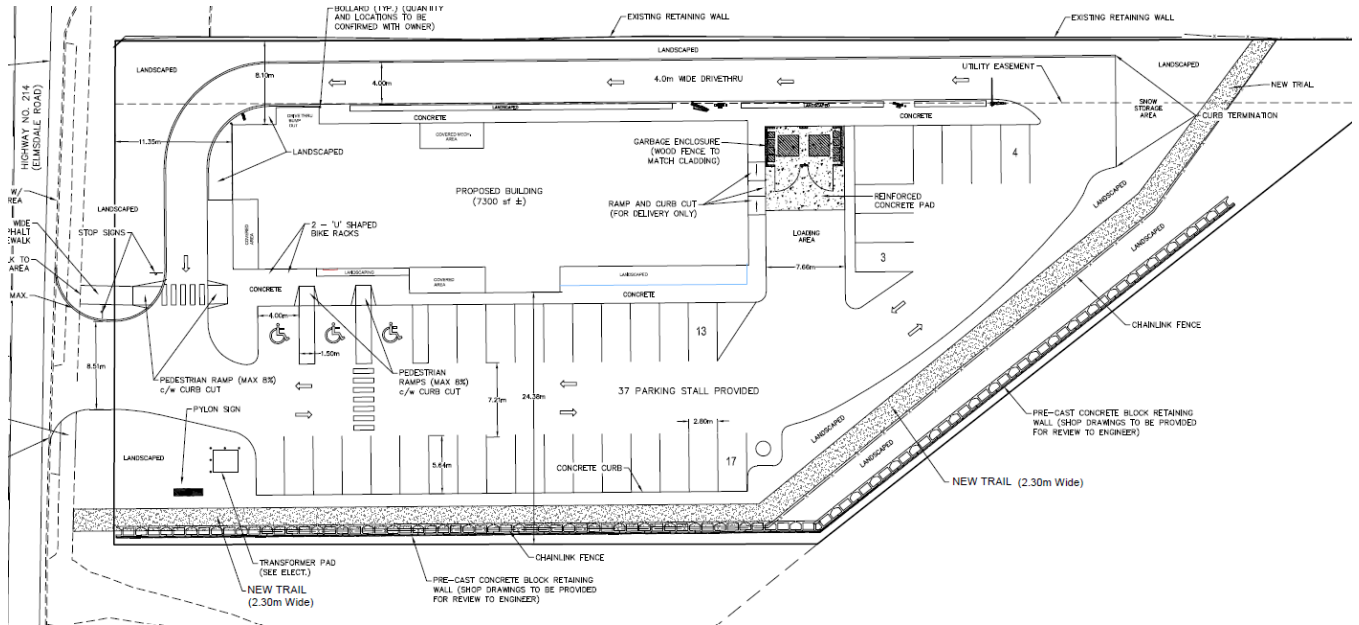
- Changes to the parking lot layout (identified as 9.c.vi in the DA); and
- Changes to the external elevation design of the multi-premises commercial building which are not considered 'generally in accordance' with Schedule "C", unless otherwise permitted by this Development Agreement. (identified as 9.c.vii in the DA)

The general layout of the building remains as approved with the coffee shop proposed for the front section of the building with a drive-thru along the rear and north side of the building and the rear portion is for the dental clinic.

The footprint of the proposed amended building is 67 square metres (721 sq.ft) smaller than the permitted building. The amended design has also removed the upper floor from the building. The floor area of the proposed design is 680 sqm. (7315 sq.ft) and the floor area of the original approved building is 840 sqm. (9038 sq.ft).



Changes to the parking lot layout

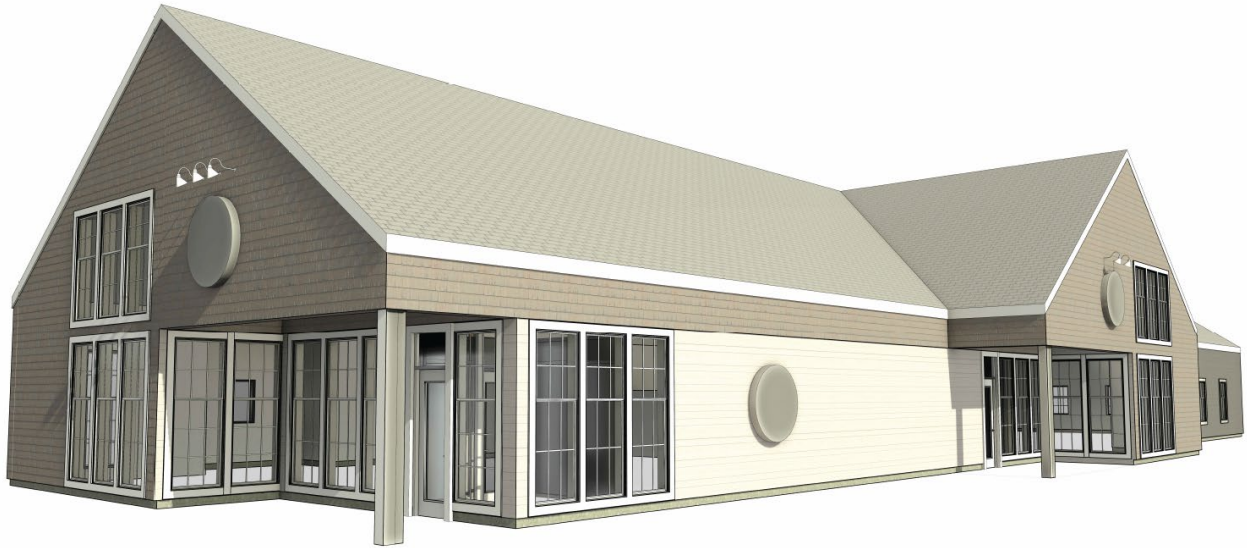


Changes to the parking lot layout are proposed as part of this application. Due to the decrease in size of building, the applicant has been able to move parking from the rear of the property to be alongside the south side of the building. Changes to the design has resulted in a need for less parking. A total of 37 spaces are now proposed which is a reduction of 4 spaces. They have reduced the size of the building and have removed two of the practitioner rooms from 12 to 10. The proposed parking meets the requirements of the land use bylaw.

Nova Scotia Public Works have been requested to provide comments but no comments have been received - the location of the driveway remains the same as the original approval.

The Active Transportation Trail remains a part of the proposed development.

Changes to the external elevation



Planning staff have reviewed the design of the building regarding the Form Based Zone design requirements for the Village Core (VC) Zone.

This application is submitted as an unsubstantial amendment to an existing approved building. The amended design increases the glazing on the frontage by 10% and proposes a more traditional design with a roof pitch of just over 8:12.

Staff recommend approval for the changes to the external design of the building.

Policy Analysis

The Planning and Development Department has reviewed this application based on the applicable sections of the *Municipal Government Act*, the current development agreement, and the policies contained in the Municipal Planning Strategy; and have concluded this application be identified as an unsubstantial amendment.

As per the existing development agreement with the Municipality, any amendment, whether substantive or not, to the agreement must be approved by both parties in writing. Although, as already noted in this report, no public hearing is required, the process requires a newspaper notice and is open to appeal to the Nova Scotia Utility and Review Board.

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 and amending that agreement is set out in the *Municipal Government Act*, Part VIII.

FINANCIAL CONSIDERATIONS

An estimated value of the property once constructed is \$3.5 million and based on the Elmsdale Commercial Serviced Rate (2024) this could result in \$118,125 in annual tax revenue. However, construction value does not necessarily equal tax assessment value, so this estimate is subject to change based on PVSC's assessment determination.

The development of the site includes the construction of a new section of AT Trail. The municipal contribution required to construct the final connection of the AT Trail is \$324,000 plus HST. Municipal staff have reviewed the estimates and the construction estimate is not unrealistic.

Conclusion

Staff have completed the review of this application to amend the parking layout and external elevation and recommend approval.

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

Alternatives

Alternatives would be for the application be recommended for refusal or for staff to be directed to amend the draft development agreement amendment. Staff do recommend either of these

Attachments

- Appendix A - Copy of application plans
- Appendix B - Draft Amending Development Agreement
- Appendix C - Original Development Agreement