



File Number: 20-2530

April 23, 2020

Pearsall, Marshall, Halliwill & Seaton LLP
22 Queens Avenue
Leamington, ON
N8H 368

Attention: David Halliwill, MBA, LL.B.
Shannel Diewold, LL.B.

Additional Information for Council's Consideration
Amendment to Planning Opinion
200 Main Street East, Town of Kingsville, Ontario

Mayor and Councillors:

Please find enclosed additional information for your consideration related to the on-going matter at 200 Main Street East (Subject Property) in the Town of Kingsville. This letter is provided as an addendum to my planning opinion letter dated April 17, 2020.

This letter amends the previous letter. Since my previous letter, we have received additional information feedback from your legal counsel and the applicant. We have included an Amending Site Plan Control Agreement (refer to Appendix A) intended to replace the approved development and executed Site Plan Control Agreement for the subject property. We note that the Amending Agreement has language concerning:

1. Registration of the agreement;
2. A name change for the ownership of the property and signing authority, now "Tay Inc.";
3. Replacement of appropriate elevations and the site plan;
4. Privacy protection for the residential lands to the east; and
5. Reference to the conditions in the original agreement that remain in force.

Further to my previous letter of opinion, there are several matters that Council should consider:

Amended Issue #1 - Parking Requirements – It is my understanding that the applicant, through their solicitor has indicated that they are aware of the municipal parking standards and ensure that they are in compliance with the municipal by-law.

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Limited



Based on the drawing noted above (AS101), there are 45 parking spaces proposed above grade provided for the medical centre uses on phase 1. The proposed Medical Centre use will ultimately need to comply with the parking requirements set out in Table 5 of the Zoning By-Law and the number of parking spaces available will limit the intended use of the property and the Site Plan Agreement provides, among other things, that the owner must comply with the parking requirements under the by-law.

To comfort Council further, discussions held with the Town's staff confirm that only a shell permit has been issued for the medical clinic. To date there have been no interior "fit up" plans submitted to the Town of Kingsville providing details and additional permit requests for how the interior of the structure will be built out.

At that time, the Town's Building Department will be able to review the permit applications for these works, and verify with the Planning Department that the plans meet all zoning regulations including provision of required parking spaces.

The zoning by-law dictates the number of parking spaces required depending upon the ultimate use of the property and there are provisions in the Site Plan Control Agreement which requires the Owner to comply with these regulations. No changes have been proposed regarding the original total of 237 parking spaces proposed on the subject property including the estimate 30 parking spaces below grade. Based on the site plan, parking requirements are in compliance based on the proposed uses. When the Fit-up plans are submitted to the building department, there will be confirmation that the uses within the building comply with the parking provided. It is my opinion that the building permit for the fit-up could not be issued if the required on-site parking is not provided.

Amended Issue #4 - Revised SPA – The revised proposed language regarding the privacy window covering on the second floor easterly facing windows of the medical building is noted below and can be found in Item vii of the General Provisions, section 21. Based on discussions with the applicants solicitors regarding the Town Council's concern regarding reduced privacy of adjacent residential uses and the two (2) storey Medical Clinic, the use of a privacy blind is now proposed. The amending agreement has been revised to include this fixed window treatment to prohibit the ability to see out of the windows of the Medical Clinic.

- vii) Second Floor Easterly Facing Windows – the Owner agrees to install privacy blinds to all second floor, easterly facing windows. Said blinds shall be fixed in place, not capable of being opened or raised, save and except for maintenance purposes only, blocking views to the east while allowing natural daylight into the second floor spaces.



Professional Planning Opinion

The following is my revised professional planning Opinion for Council's consideration with respect to the parking requirements and Site Plan Agreement language concerning the subject property's proposed window screening:

- Revised draft language provided to me on April 22, 2020 (attached in Appendix A) carry out the will of council to require the applicant to include a screening solution to prohibit any views from the inside of the second floor the windows of the medical clinic looking out to the east. During maintenance periods, the screening solution will have the ability to be moved which is considered a reasonable function.
- The number of parking spaces available will limit the intended use of the property and the Site Plan Agreement provides, among other things, that the owner must comply with the parking requirements under the by-law. There are sufficient policy review and enforcement mechanisms in the Town of Kingsville to review for zoning compliances should there be any formal changes proposed.

For the purposes of this amendment letter, my opinion is limited to the request of the applicant for a Site Plan Control Amendment and how that request is consistent and/or conforms to Provincial, County and Municipal planning legislation and/or regulations.

Sincerely,

DILLON CONSULTING LIMITED

Karl Tanner, MCIP RPP
Partner
KDT/dlt
Encl.

Appendix A

Amendment to Site Plan Agreement



Amendment to Site Plan Agreement

THIS AGREEMENT made (in triplicate) this 27TH day of April 2020.

BETWEEN:

THE CORPORATION OF THE TOWN OF KINGSVILLE,

hereinafter called the "Corporation",

OF THE FIRST PART

-and-

TAY INC.

hereinafter called the "Owner",

OF THE SECOND PART

WHEREAS the Owner and the Corporation executed a Site Plan Agreement made the 12th day of February, 2018 and said Site Plan Agreement was registered in the Registry Office for the County of Essex on February 7, of 2019 as instrument No. CE872411;

AND WHEREAS the Owner has requested an amendment to the Site Plan Agreement which the Corporation has agreed to allow for the construction of a second floor and addition of a covered canopy on land described as Pt. Lot 2, Concession 1, ED, Part 2, RP 12R 26799 and further known as 200 Main St. E., in the Town of Kingsville in the County of Essex, Province of Ontario (the "subject lands");

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the parties agree as follows:

1. The Owner hereby consents to the registration of this Amendment to the Site Plan Agreement on title at its sole expense and at the sole discretion of the Corporation.
2. That the existing site plan agreement dated February 12th, 2018 be amended by changing the name of the Owner from HVM Holdings Ltd. to Tay Inc.
3. That the existing site plan attached and dated February 2, 2018 to the Site Plan Agreement made the 12th day of February, 2018 be replaced with a new site plan Schedule "A-2020" (consisting of AS101, A301 & A302) prepared by ROA Studio Inc. and dated April 23 2019 to said Agreement.
4. That all reference to the site plan dated February 2, 2018 in the Site Plan Agreement made the 12th of February, 2018 are deleted and shall now refer to Schedule 'A-2020' (consisting of AS101, A301 & A302).

5. That item 21. General Provisions be amended by adding the following as item vii):

‘vii) **Second Floor Easterly Facing Windows** – the Owner agrees to install privacy blinds to all second floor, easterly facing windows. Said blinds shall be fixed in place, not capable of being opened or raised, save and except for maintenance purposes only, blocking views to the east while allowing natural daylight into the second floor spaces.

Notwithstanding this clause may be removed from the site plan agreement via a site plan amendment request should the zoning of the property immediately east of 200 Main St. E. be changed, no longer permitting residential housing.

6. All of the terms and covenants in the said Site Plan Agreement are hereby confirmed in full force and effect save and except for the amendments noted in Paragraphs 1, 2, 3, 4 & 5 herein and such other modifications as are necessary to make said paragraphs applicable to the Site Plan Agreement.

IN WITNESS WHEREOF the parties have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf this **27TH day of April, 2020**.

SIGNED SEALED AND DELIVERED

WITNESS

TAY INC.

PATRICIA VAN MINNEN – PRESIDENT

I HAVE AUTHORITY TO BIND THE CORPORATION

**THE CORPORATION OF THE TOWN OF
KINGSVILLE**

MAYOR NELSON SANTOS

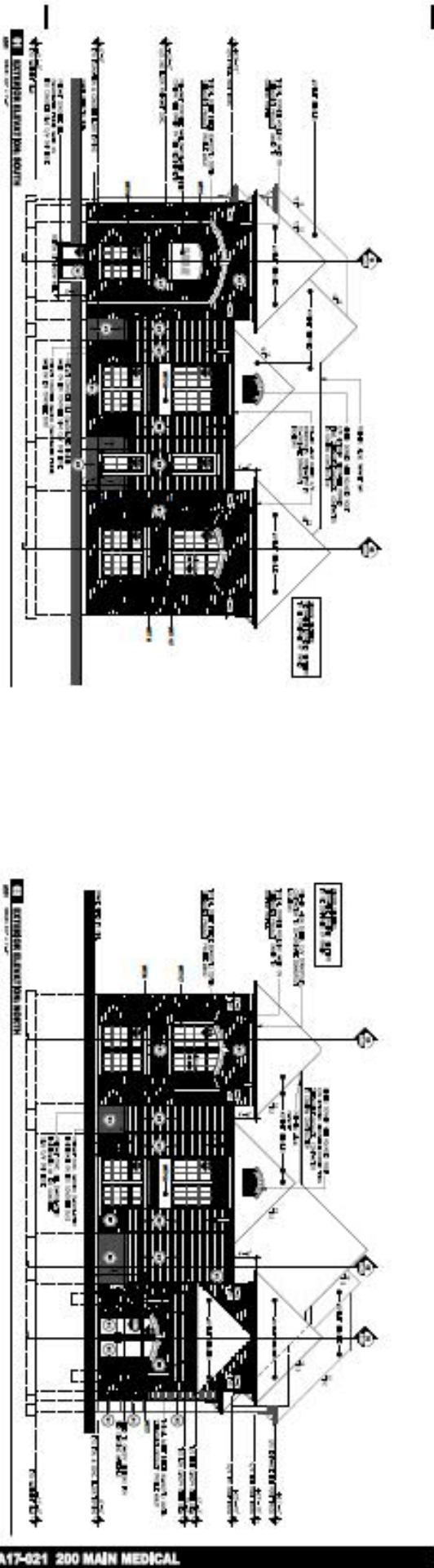
CLERK JENNIFER ASTROLOGO

I/WE HAVE AUTHORITY TO BIND THE CORPORATION

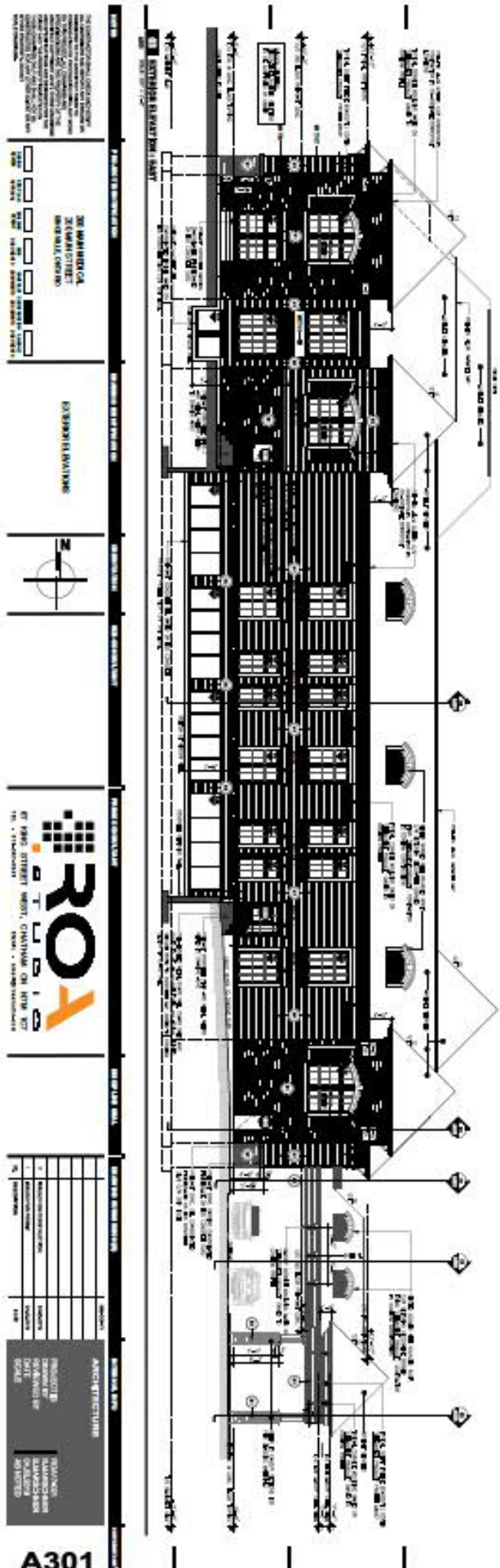
SCHEDULE "A-2020" SITE PLAN

SITE PLAN





ROA17-021 200 MAIN MEDICAL



A301

