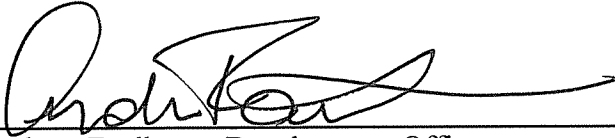




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
July 10, 2006

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: July 4, 2006

SUBJECT: Appeal of the Development Officer's decision to approve an application for
a Variance - 1377 Robie Street, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance from the Angle Control requirements of the Halifax Peninsula Land Use Bylaw to permit construction of a 43 unit multi-unit dwelling.

RECOMMENDATION

It is recommended that Council uphold the Development Officer's decision to approve the variance.

BACKGROUND

The subject properties are located at 1377 Robie Street & 5987 College Street in Halifax. The properties are zoned R-3, Multiple Dwelling Zone, Peninsula Centre Area Plan, Spring Garden Road Sub Area, Schedules A & B in the Halifax Peninsula Land Use Bylaw. If these 2 existing lots were consolidated and the existing buildings were demolished, this zoning would allow for the construction of a 43 unit apartment building.

This Variance was approved by the Development Officer on May 29, 2006. Subsequently, there was an appeal received by the owner of 5977 College Street following the variance notice to the neighbours.

DISCUSSION

The *Municipal Government Act* sets out guidelines under which the Development Officer may consider variances to Land Use Bylaw requirements. Those guidelines are as follows:

"A variance may not be granted where the:

- (a) variance violates the intent of the land use bylaw;*
- (b) difficulty experienced is general to the properties in the area;*
- (c) difficulty experienced results from an intentional disregard for the requirements of the land use bylaw."*

In order to be approved, the proposed variance must not conflict with any of the above statutory guidelines. An assessment of the proposal relative to these stipulations is set out below.

Does the proposed variance violate the intent of the land use bylaw ?

In many cases, the intent of a specific regulation in a land use bylaw can be quite general in nature and determining the intent sometimes requires subjective judgement.

Angle controls were introduced in the Halifax Peninsula Land Use Bylaw in the late 1960's as a means to address siting and scale issues with multi-unit residential dwellings. At the same time, provisions regulating lot area, population density and open space were adopted. The objectives were to regulate the intensity and form of residential development to strike an acceptable middle point between the desires of developers for maximum use and the desires of residents for good environments.

Setbacks are determined by applying a theoretical 60 & 80 degree vertical angle over the lot from the side property line. The 60 degree angle can be viewed on all the elevations, and the 80 degree angle can be viewed on the site plan.

The review for this variance found that the proposed structure at 1377 Robie Street resulted in a building configuration that could not meet the theoretical 80 degree angle from the property line on the North elevation of the building. In order for the proposal to meet the 80 degree angle, a large indent would be required in the building as identified on the site plan.

The variance would also allow for the 4 bachelor units proposed on the North elevation to be enlarged and one of the units would become a 1-bedroom unit. This variance would have no impact on density, open space or parking requirements for this development.

This variance does not oppose any of the aforementioned objectives for angle controls and does not propose a substantial change to the footprint or mass of the proposed structure. The benefits of the proposal were seen to outweigh the need to maintain this internal indent in the building, and the variance was approved.

Is the difficulty experienced general to the properties in the area ?

The application of angle controls is consistent across all high density residential zones on the Peninsula. These particular lots in question are the only lots on this block zoned R-3 that are not used for an R-3 use. The existing configuration of these two existing lots would not allow for an apartment building to be constructed because they do not meet the minimum lot frontage and area requirements. If these lots were consolidated, the resultant lot could meet the minimum requirements for frontage and area and an apartment building could be constructed, which would be consistent with the neighbourhood and zoning in the area. Therefore this difficulty is not general to the properties in the area.

Is the difficulty the result of intentional disregard for the requirements of the land use bylaw?

There has been no intentional disregard for the requirements of the Land Use Bylaw.

BUDGET IMPLICATIONS

There are no implications on the Capital Budget associated with this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

REGIONAL PLANNING IMPLICATIONS

There are no implications on the Regional Planning process associated with this application.

ALTERNATIVES

1. Council could uphold the decision of the Development Officer to approve the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and refuse the variance.

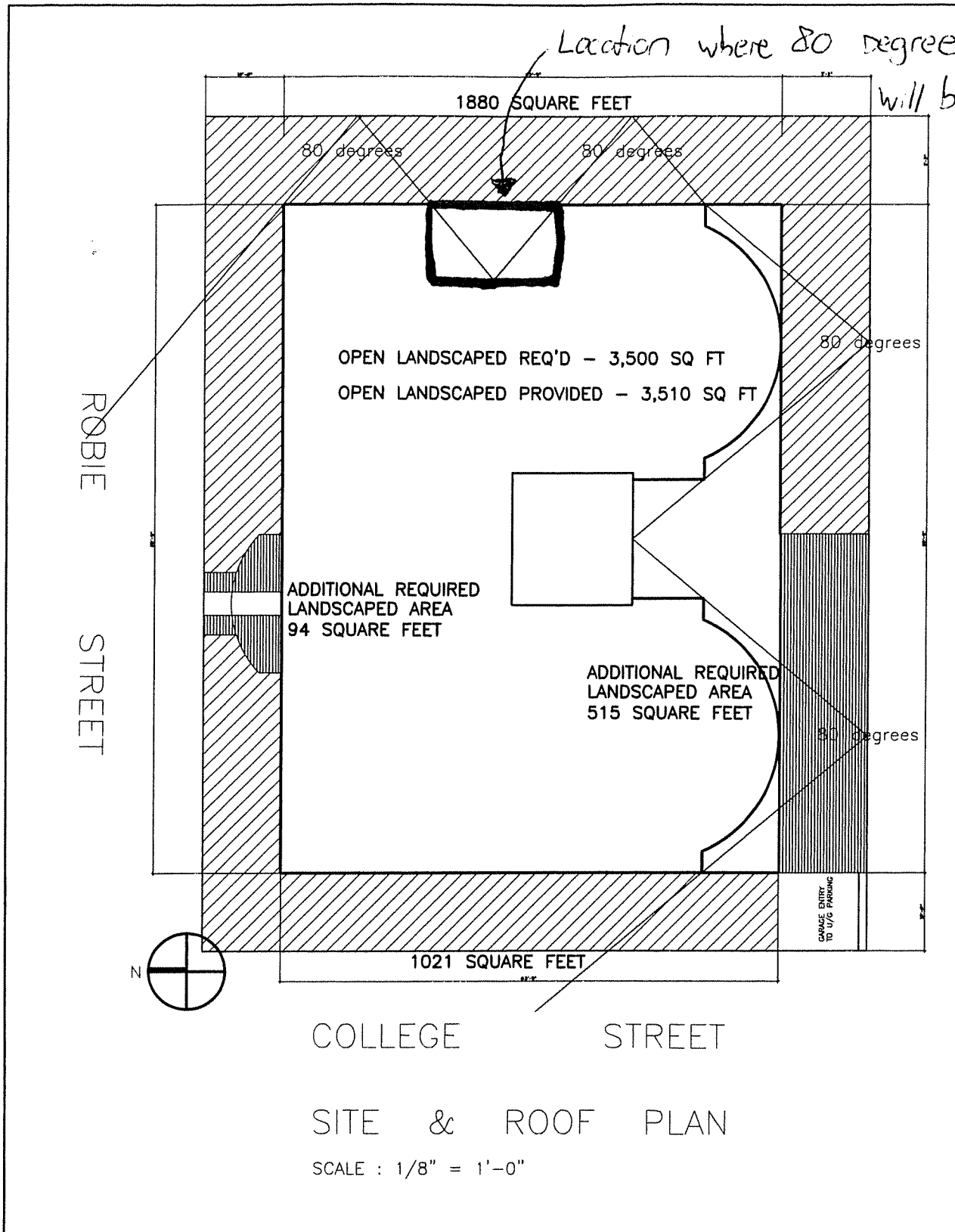
ATTACHMENTS

1. Site Plan and Elevations of proposed construction
2. Location Map
3. Approval Letters
4. Appeal from Alan G. Hayman, owner of 5977 College Street.

INFORMATION BLOCK

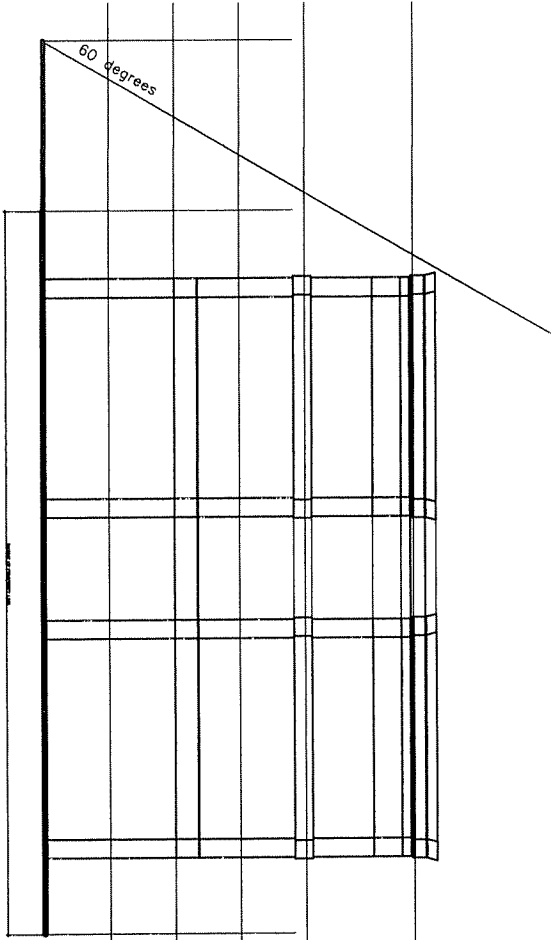
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Andrew Faulkner - Development Officer (490-4402)



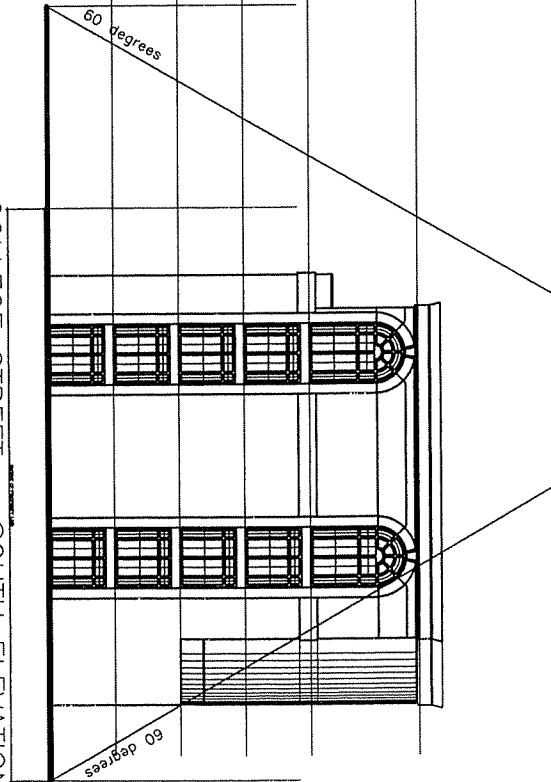
EAST ELEVATION

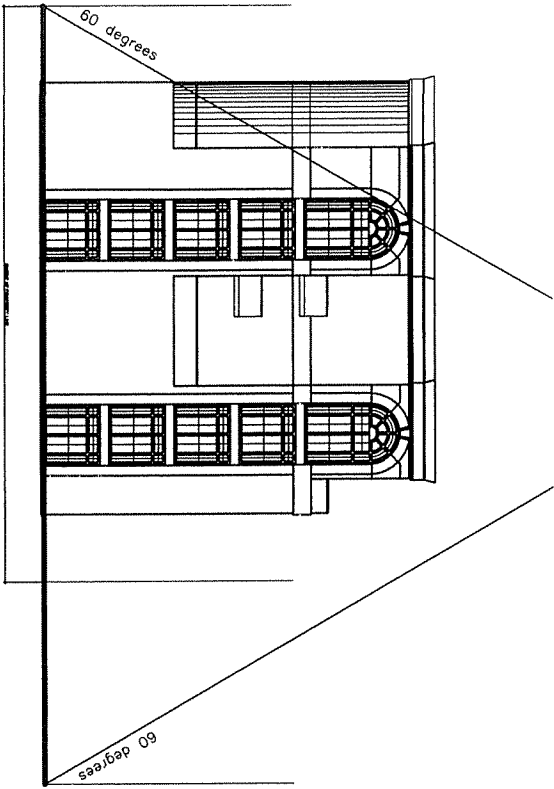
SCALE · 1/8" = 1'-0"



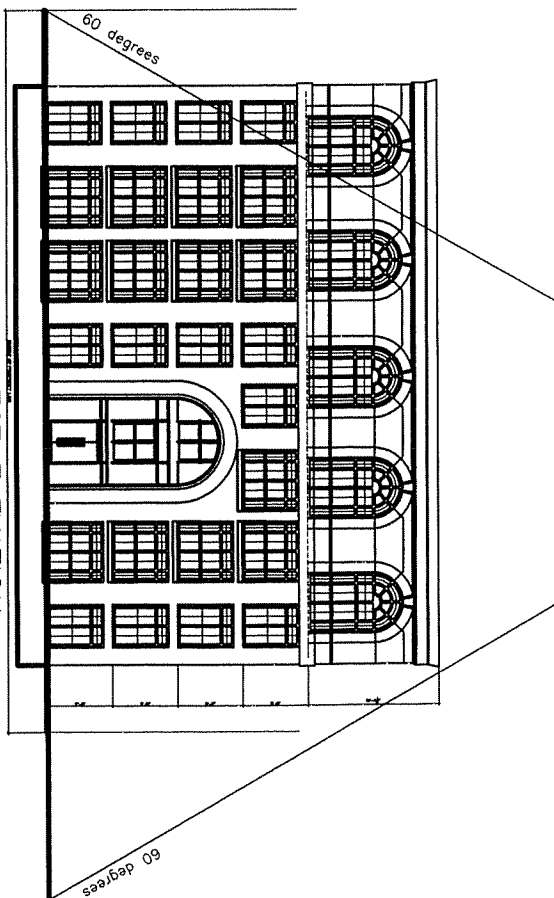
COLLEGE STREET - SOUTH ELEVATION

SCALE · 1/8" = 1'-0"

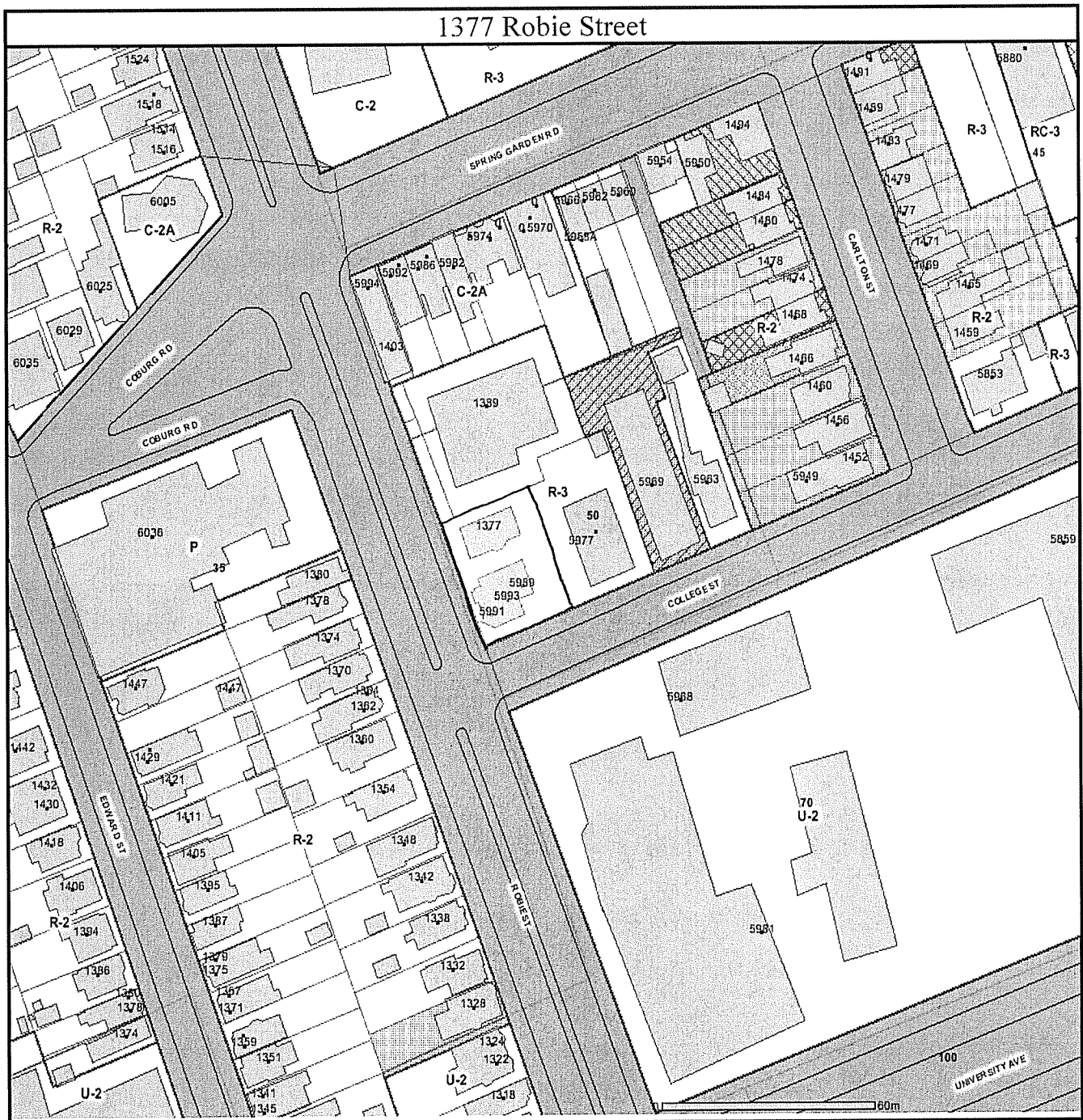




NORTH ELEVATION
SCALE 1/8" = 1'-0"



ROBIE STREET - WEST ELEVATION
SCALE 1/8" = 1'-0"



Location Map

May 29, 2006

Re: Case No. 13017 - Variance at 1377 Robie Street, Halifax

As the Development Officer for the Halifax Regional Municipality, I have approved your request for a variance from the requirement(s) of the land use bylaw as follows:

Location: 1377 Robie Street, Halifax

Project proposal: Construct a 43 unit multi-unit dwelling

Required: Setbacks are determined by applying a theoretical 60 & 80 degree vertical angle over the lot from the side property line. The 60 degree angle can be viewed on all the elevations, and the 80 degree angle can be viewed on the site plan.

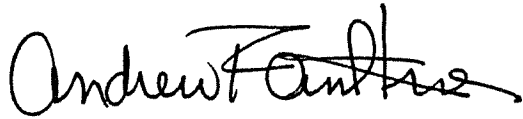
Approved: The approved variance allows the addition to be built without meeting the 80 degree angle on the North side of the property, as displayed on the site plan.

Pursuant to Section 236 of the Municipal Government Act, assessed property owners within 30 meters of the property have been notified of this variance. Those property owners have the right to appeal and must file their notice, in writing, to the Development Officer on or before **4:30p.m. June 13, 2006**

PERMITS WILL NOT BE ISSUED UNTIL ANY APPEAL HAS BEEN DISPOSED OF OR THE APPEAL PERIOD HAS EXPIRED.

If you have any questions or require clarification of any of the above, please contact this office at 490-4402.

Yours truly,

A handwritten signature in black ink that reads "Andrew Faulkner". The signature is written in a cursive style with a large initial 'A'.

Andrew Faulkner, Development Officer
Halifax Regional Municipality

copy to: Jan Gibson, Municipal Clerk
 Councillor Dawn Sloane

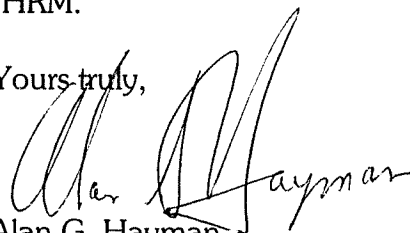
June 8, 2006

Municipal Clerk
c/o Andrew Faulkner
HRM Planning and Development
Western Region
PO Box 1749
Halifax, NS B3J 3A5

Re: Case No. 13017 - Variance ~ 1377 Robie Street, Halifax

This letter is my formal appeal to a variance in connection with the above case number. I own property at 5977 College Street that abuts the property at 1377 Robie Street. I am opposed to the granting of the variance that was approved by Andrew Faulkner, Development Officer for HRM.

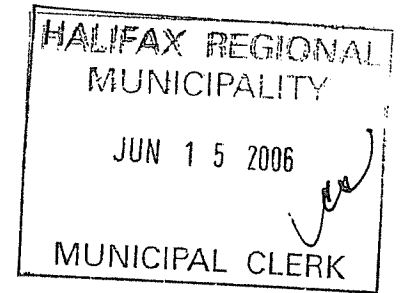
Yours truly,


Alan G. Hayman

CC Jennifer Weagle



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada



June 15, 2006

Geoff Keddy & Associates

Dear Tyler:

RE: Variance App. 13017 at Civic 1377 Robie Street, Halifax

Subject to the appeal provisions of the Municipal Government Act, your application for a variance has been appealed by the owner of 5977 College Street.

This is to advise that the appeals will be presented to the Peninsula Community Council on Monday, July 10, 7:00p.m., at the Council Chambers at City Hall, 1841 Argyle Street, Halifax.

Should you require further information, please do not hesitate to contact this office at 490-4402

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Faulkner".

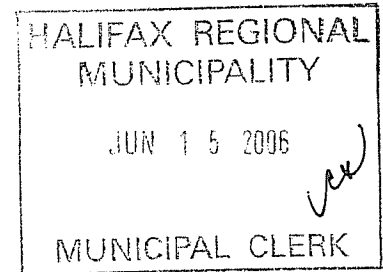
Andrew Faulkner
Development Officer

cc: Jan Gibson, Municipal Clerk
Councillor Dawn Sloane

cc Jennifer Weagle



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada



June 13, 2006

Alan Hayman

Dear Mr. Hayman:

RE: Case No. 13017 - Variance at Civic No 1377 Robie Street, Halifax

This is to confirm that your appeal of the above variance application has been received by this office.

Your objection may be presented to the Peninsula Community Council on Monday, July 10 at 7:00p.m. at the Council Chamber at City Hall, 1841 Argyle Street, Halifax.

Should you require further information, please do not hesitate to contact this office at 490-4402

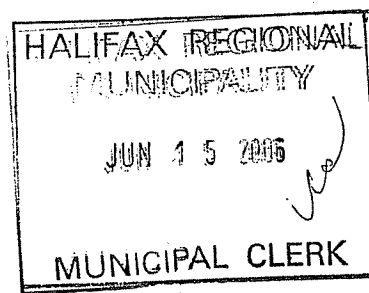
Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Faulkner".

Andrew Faulkner,
Development Officer

cc: *Councillor Dawn Sloane*
Jan Gibson, Municipal Clerk

cc Jennifer Weagle



6307 Oakland Road
Halifax, NS B3H 1P4

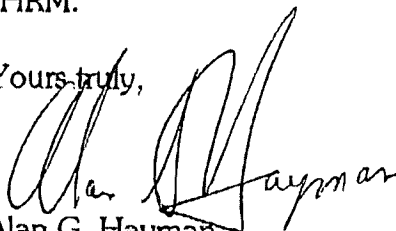
June 8, 2006

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c/o Andrew Faulkner
HRM Planning and Development
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Yours truly,


Alan G. Hayman