
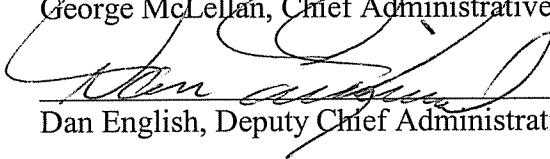


**Regional Council**  
**March 22, 2005**

**To:** Halifax Regional Council

**Submitted by:**

  
George McLellan, Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

**Date:** March 16, 2005

**Subject:** **Case H00108: Kelly Building, 1790 Granville Street, Negotiating to Save the Facade**

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**ORIGIN**

Staff

**RECOMMENDATIONS**

**It is recommended that Regional Council:**

1. Authorize an expenditure not to exceed \$10,000 from HRM's Commercial Heritage Incentives budget (Account # C-730-8004) to provide 50% cost-sharing on a study (see Terms of Reference in Attachment 6) to examine the feasibility of incorporating the Kelly building into a new development on condition that the owner agrees:
  - (a) not to demolish the Kelly building before 17 April, 2005; and
  - (b) not to make a new demolition application until the outcome of the feasibility study is known.
2. Approve in principle the demolition of the Kelly building pending the outcome of the feasibility study, should the owner subsequently make a new application to demolish.

## **BACKGROUND**

### **Building Vacant for 20 Years**

The Kelly building (see photos and location plan in Attachments 1 & 2) has been vacant and at risk of demolition for more than twenty years. It was registered as a heritage property in 1982, shortly after it was vacated by Kelly Luggage Ltd. Since that time, it has gone through six changes of ownership and a series of development and demolition applications (see chronological summary in Attachment 3).

A proposal to redevelop the property with a four storey addition, which included retaining the historic brick facade, was approved through a development agreement in 1983 (see sketch in Attachment 4). The development agreement was not acted upon.

In 1992, the Kelly building and the adjacent Macara-Barnstead building (commonly known now as "The Flower Shop") was sold to Standard Life Assurance, who applied in 1994 to demolish the Kelly building. Demolition was averted, however, through negotiation by City staff and persuasive appeals by others, including the Nova Scotia Heritage Trust and other groups and individuals. Following this, the building was shored up to meet minimum safety standards, and has remained standing since that time, albeit in deteriorating condition.

Both properties were acquired by the present owner, TDB Halifax Holdings Ltd. in 2002.

### **Current Situation: Demolition Permit**

A demolition permit for the Kelly building was applied for once again on 17 April, 2003. One year later the property owner was in a legal position to carry out the demolition, due to the demolition delay provisions of the Heritage Property Act. The permission expires on 17 April, 2005. If the demolition is not carried out by this date, the Act requires that a new application has to be made and a new one-year delay begins unless Council authorizes the demolition. (The provisions of the Heritage Property Act which govern this matter are shown in Attachment 5.)

### **Possibility for New Use**

Negotiations between staff and the owner over the past year led to the preparation of a report on the structural condition of the building by BMR Structural Engineering and G.F. Duffus Architects. The report found that, while the interior framing is in such bad condition that it is impractical to try to save any of it, the facade is perfectly plumb and in restorable condition. The report also noted that the adjacent Flower Shop building, which is vacant in its upper floors, is restorable in its entirety. It also identified an interest on the part of NSCAD in becoming a tenant in a possible redevelopment for use as a student residence, with the Kelly facade and the entire Flower Shop building integrated into it.

A complete summary of recent negotiations is also included in Attachment 3.

## **DISCUSSION**

### **Need for Time and Money to Do Feasibility Study**

Negotiations over the past twenty years have not produced a viable alternative use for the Kelly building and it has deteriorated to the point where it is a liability for the new owner and an embarrassment for the Municipality. Due to the current demolition application we are now at a

critical point and it is time to make a concerted effort to secure a viable use for the building or, failing that, to allow it to be demolished. The emergence of NSCAD as a potential tenant for a student residence provides an excellent heritage preservation opportunity that warrants detailed study. We are at the eleventh hour, however, and it is necessary to secure more time for the feasibility study to be carried out.

The current owner is willing to incorporate the building into a redevelopment if this is economically feasible. However, there is an increased cost of about \$20,000 if the feasibility study is to include retaining the facade rather than demolishing the building entirely. Staff are proposing that HRM should share 50% of this additional cost to a maximum of \$10,000.

There are also conditions that need to be satisfied for the feasibility study to be carried out.

#### **Owner's Condition: Need for Extension of Permission to Demolish**

The major condition emerging from recent negotiations is that, before proceeding with the feasibility study, the owner needs assurance from HRM that the legal permission to demolish will be extended beyond the April 17, 2005 deadline. From the owner's perspective, this is necessary to avert further delays should the student residence/facade retention project prove not to be feasible.

Extension of permission to demolish beyond two years from the date of application is not permitted by the Heritage Property Act but Council could choose not impose a further one-year delay (i.e., to approve demolition) should a new application be made after the current demolition deadline has passed.

Bearing this in mind, it appears reasonable for HRM to cost share on preparation of the feasibility study on condition that the owner agrees not to exercise his right to demolish before 17 April 2005, while concurrently agreeing that HRM will not impose any further demolition delay should the feasibility study show that redevelopment and facade retention is not feasible and should the owner subsequently make a new demolition application.

#### **HRM Condition: Consideration of Other Development Scenarios**

While the NSCAD student residence proposal is a good possibility for adaptive re-use, it may not be the only development scenario in which the Kelly building could be saved, and it is reasonable for HRM to require that the feasibility study should examine other development scenarios as well, should the NSCAD proposal not come to fruition.

#### **Owner's Development Interest**

From the owner's perspective, the development value of this site lies in its potential to accommodate a future hi-rise extension of the Toronto Dominion Bank tower. There is presently no market for this scale of new office space, but, in the long term view, there is an expectation that market conditions will become more favourable. To this extent, any use such as a student residence is regarded as an interim use, tenable for a period of perhaps 15 or 20 years through a long term lease but uncertain thereafter. For this reason, it is proposed that the interim use (the student residence) would be built in a way that it could be converted to office use in the future. The structure would also be designed and reinforced to enable additional upward extension of the building if market conditions for hi-rise office development improve.

### **HRM's Heritage Preservation Interest**

HRM's interest is to save the Kelly building, either in its entirety or incorporated into a new development in a way that retains its character defining elements. It might be possible, for example, for the Kelly building and the Macara Barnstead building to be restored at their existing scale and height, with reinforcement for future upward development built into the rehabilitated structures, and with interim uses such as mixed commercial and residential, or retail at street level and small professional offices upstairs. Alternatively, a mid-rise development of, say, four storeys above the existing buildings could also accommodate retail and office use, similar to the scale of development that was proposed and approved in 1983 (again, see Attachment 4).

### **Feasibility**

The feasibility of any development scenario will be a function of:

- Development costs - construction, facade retention, etc.;
- Economic returns - rents, profit, etc.;
- Technical design considerations - structural issues, floor area, exterior design, etc.; and
- Commercial market forces - rentability of space, availability of tenants, etc.

A balanced decision regarding the future of these buildings can only be made if a variety of development scenarios are fully investigated for their architectural and economic feasibility. Terms of reference for the feasibility study are included in Attachment 6.

### **Development Agreement**

The feasibility study will not be required to include a detailed, fully articulated building design. Any significant development, however, will require approval by Council through a development agreement. This will be evaluated on its merits, once a complete development application is made.

### **BUDGET IMPLICATIONS**

Cost sharing of the feasibility study will be paid for from existing budgeted funds. The cost of the feasibility study pertaining to facade retention is \$20,785. A municipal contribution of \$10,000 would amount to slightly less than 50% of this amount. Budgeted funds have been recommended through Heritage C730 and exist within C730-8004 as a funding source up to a maximum contribution of \$10,000.

### **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.

### **ALTERNATIVES**

1. Council could take no action. This is not recommended, because it will most likely lead to demolition of the Kelly building before April 17, 2005.

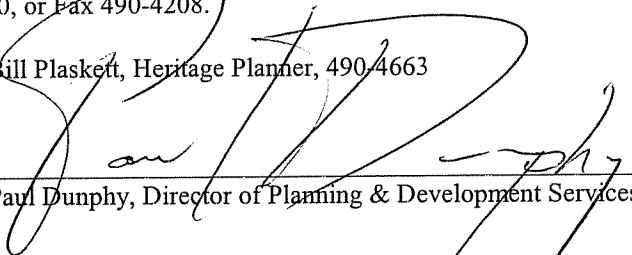
2. Council could approve cost-sharing for the feasibility study but not agree to approve demolition, should the feasibility study show that the project is not viable and the owner follow through with a new demolition application. This is not recommended, because it will also most probably lead to demolition of the Kelly building before April 17, 2005.
  
3. Council could refuse to approve cost-sharing for the feasibility study. This is also not recommended. Negotiations over the past year have been based on the property owner and the Municipality working together to preserve the Kelly building. At this point, Council's regulatory power to save the building through the provisions of the Heritage Property Act is minimal due to the limitations of the one-year demolition delay. Cost sharing in the feasibility study will be an expression of good faith in the negotiation process and the possibility of a positive outcome that will meet the needs of both the Municipality and the property owner.

**ATTACHMENTS**

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|--------------|---|
| Attachment 1 | Photo   |
| Attachment 2 | Location Plan   |
| Attachment 3 | Chronology of Ownership, Applications, and Negotiations, 1982 - Present |
| Attachment 4 | Approved development above Kelly Building, 1983                         |
| Attachment 5 | Applicable provisions of Nova Scotia Heritage Property Act              |
| Attachment 6 | Terms of Reference for Feasibility Study                                |

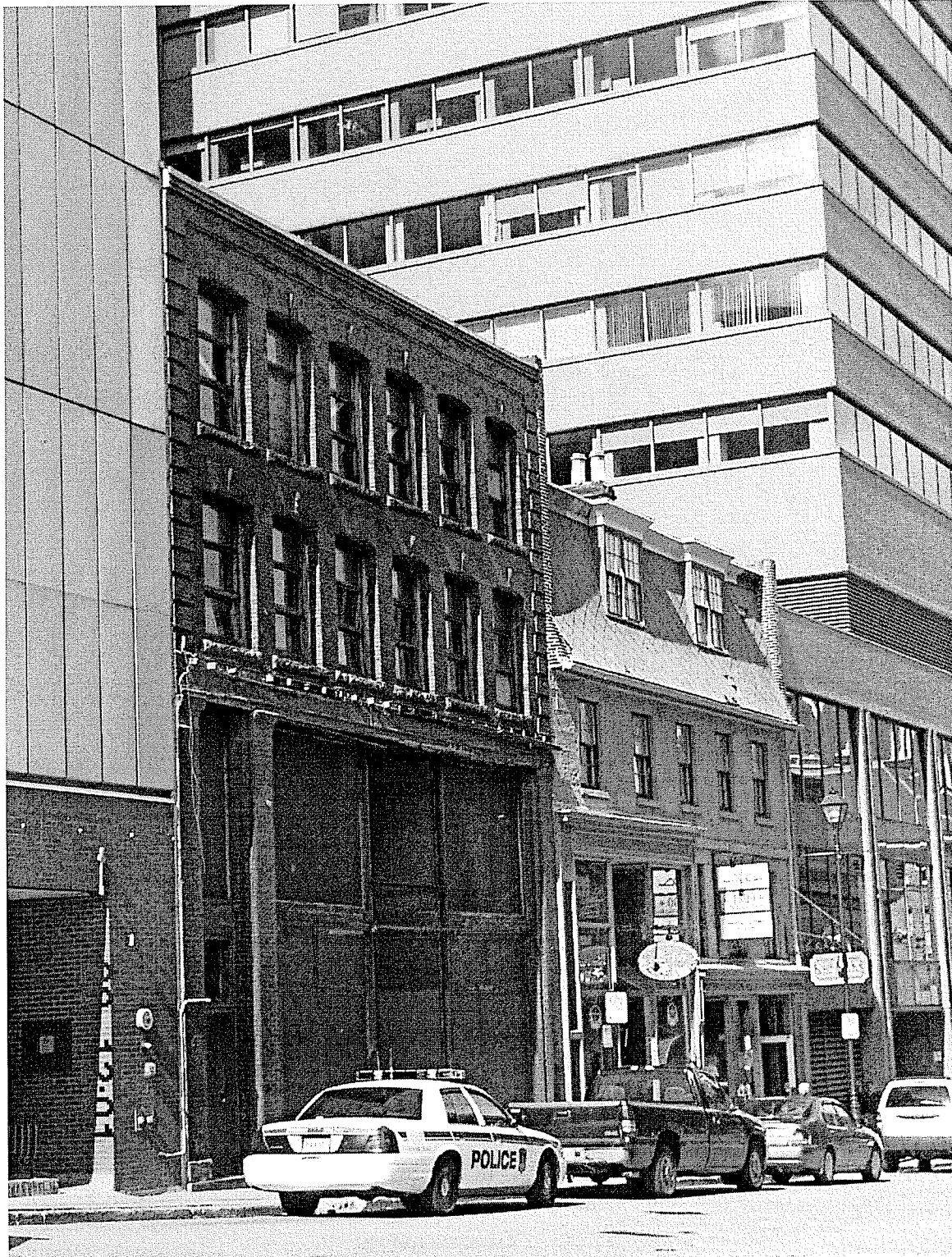
Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Bill Plaskett, Heritage Planner, 490-4663

Report approved by:   
Paul Dunphy, Director of Planning & Development Services

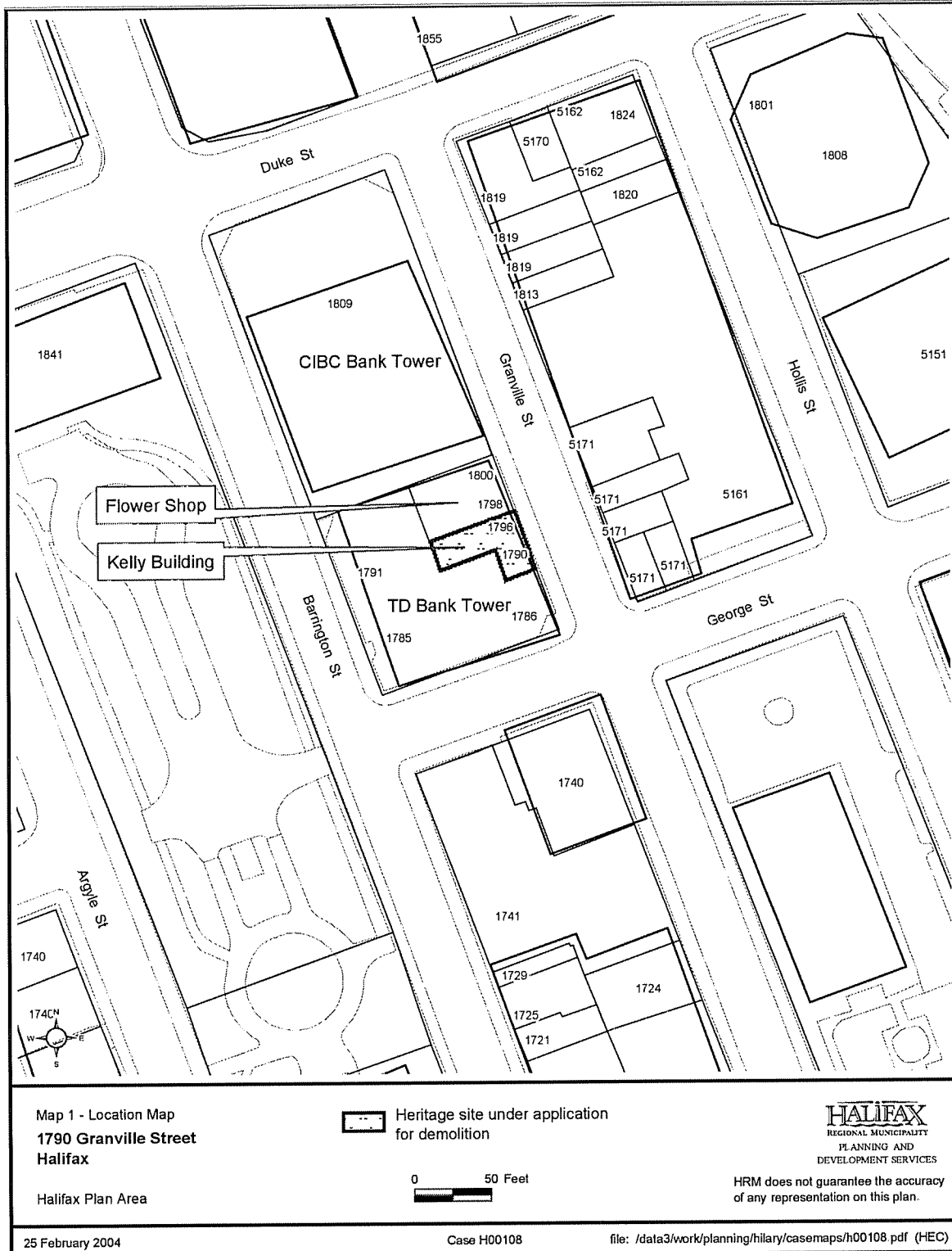
ATTACHMENT 1

KELLY BUILDING & MACARA BARNSTEAD BUILDING



## ATTACHMENT 2

### LOCATION PLAN



### ATTACHMENT 3

## CHRONOLOGY OF OWNERSHIP, APPLICATIONS, AND NEGOTIATIONS 1982 - PRESENT

- 1982 The Kelly Building (owned by Kelly Luggage Ltd.) was registered as a heritage property in March 1982. The adjacent Macara-Barnstead building (1796 Granville, owned by CreaTosh Holdings) was registered at the same time.
- 1983 - Kelly building sold to BV Property Management.  
- BV Property Management applied and Council approved a development agreement for four additional storeys above the Kelly facade on condition that construction must be carried out within 18 months. (See sketch in Attachment 4). The development agreement was not acted upon.
- 1985 BV Property Management obtained an extension of the development agreement until Nov 1987 and sold the property to Philip Levangie.
- 1986 Philip Levangie sold the property to Armour Group (a successor to CreaTosh Holdings, who owned the adjacent Macara Barnstead building).
- 1987 The Development Agreement expired. The building was not constructed.
- 1992 Armour Group sold both buildings (the Kelly building and the Macara Barnstead building) to Standard Life (represented by Edgcombe Group).
- 1994 - Report by Brandys MacBride to Edgcombe Group that the Kelly Building was in poor structural condition and recommending demolition.  
- Owner applied for deregistration and demolition (July 94).  
- Council refused the application subject to the one year demolition delay under the Heritage Property Act.  
- Heritage staff negotiated with Edgcombe Group and offered cost-sharing for independent structural study but negotiations failed.
- 1995 - Heritage Staff recommended that City pay full cost of structural study.  
- Council refused the demolition permit.  
- One year demolition delay expired in July 95.  
- Heritage Trust, Heritage Canada, and others wrote to Standard Life, exercising moral suasion, and urging them not to demolish the building.  
- Standard Life requested extension of time to comply with minimum standards.  
- Building remained standing with internal structure reinforced with wood.
- 2002 Property (both buildings) sold to TDB Halifax Holdings Ltd., the present owner.
- 2003 April 17 On behalf of the owner, Compass Commercial Realty applied for permission to demolish the Kelly building. Staff notified the applicant of the one-year demolition delay required by the Heritage Property Act and the procedure for



a public meeting and negotiation of alternatives to demolition; however, due to staff changes and vacancies no further action was taken until early 2004.

2004 - Mar/Apr New heritage staff reviewed the application and organized a public information meeting on March 25, 2004. Subsequent meetings between staff and Compass Realty led to an agreement that the owner would carry out a structural integrity and re-use feasibility study and that HRM would explore ways to financially assist in this.

*The one year delay expired on April 17, 2004*, putting the owner in a legal position to demolish within the subsequent year, i.e., until April 17, 2005.

- May /July Compass's consultants, BMR Structural Engineering and G.F. Duffus Architects, prepared cost estimates for technical studies, as follows:

- Studies for structural review: \$3000
- Studies relating to facade retention: \$34,000
- Studies relating to total demolition: \$16,250

They also prepared guesstimates of demolition costs, as follows:

- Demolish building but retain facade: \$350,000
- Demolish building and facade: \$165,000

- July Heritage staff met with Compass and referred them to the Provincial Heritage Property Program, which provides grants for professional conservation advice. Compass later applied for and received this funding to defray part of the cost of the structural review.

- October The structural review was prepared by BMR Structural Engineering and G.F. Duffus Architects. It found that the "interior framing ... of the Kelly building ... is in such bad condition that it is impractical to try to save any of it" but the facade is "perfectly plumb" and in deteriorated but restorable condition. The report also noted that the adjacent Flower Shop building, which is vacant in its upper floors, is in restorable condition in its entirety. It also identified an interest on the part of NSCAD in becoming a tenant in a possible redevelopment of the two buildings as a student residence, with the restored Kelly facade and the entire Flower Shop building integrated into it.

2005 - January Staff met with Compass Realty, G.F. Duffus, and NSCAD vice-president Peter Fleming. The structural review was presented and Compass reported that the owner is willing to explore the development potential raised by the NSCAD interest by carrying out a full feasibility study.

- Feb 05 Compass prepared revised estimates for the cost of a feasibility study, which identified a difference of \$20,875 between the study costs for retention of the Kelly facade (\$37,100) and the study costs for total demolition (\$16,225).

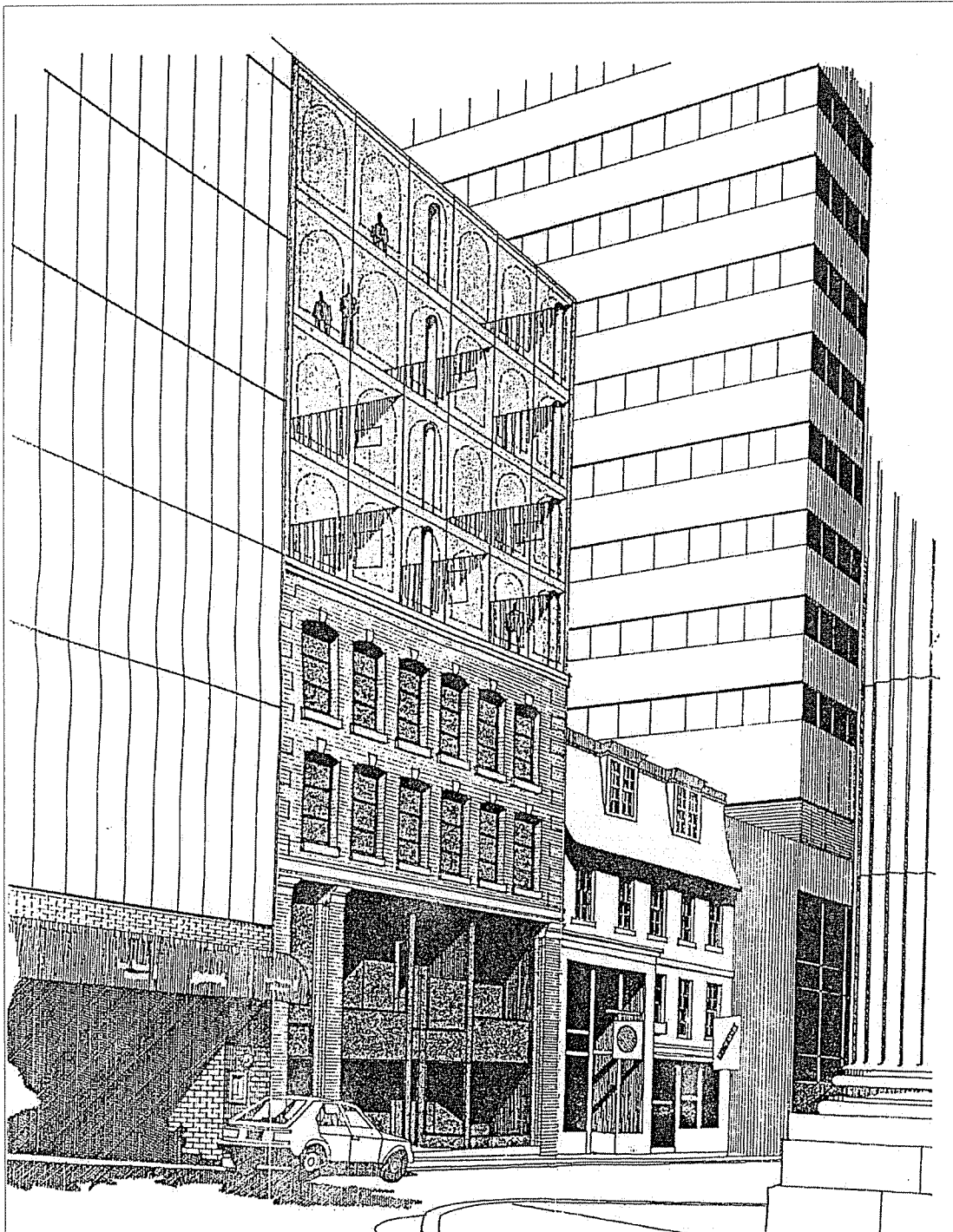
- March            At the time of writing (March 15) NSCAD is preparing a document outlining its requirements for a student residence.

Compass is preparing documentation needed to complete its application for a formal demolition permit ... technical specifications, safety measures, etc., .... in readiness to demolish the building by the deadline of April 17, 2005.

At the same time, the owner, is prepared to hold off on the demolition to enable the feasibility study to be carried out.

ATTACHMENT 4

APPROVED DEVELOPMENT ABOVE KELLY BUILDING 1983



## ATTACHMENT 5

### APPLICABLE PROVISIONS OF NOVA SCOTIA HERITAGE PROPERTY ACT

#### Approval to alter or demolish

17 (1) Municipal heritage property shall not be substantially altered in exterior appearance or demolished without the approval of the municipality.

#### Application to alter or demolish

(2) An application for permission to substantially alter the exterior appearance of or demolish municipal heritage property shall be made in writing to the municipality.

#### Referral of application

(3) Upon receipt of the application, the municipality shall refer the application to the heritage advisory committee for its recommendation.

#### Report and recommendation to municipality

(4) Within thirty days after the application is referred by the municipality, the heritage advisory committee shall submit a written report and recommendation to the municipality respecting the municipal heritage property.

#### Determination by municipality

(5) The municipality may grant the application either with or without conditions or may refuse it.

#### Notice of determination

(6) The municipality shall advise the applicant of its determination. R.S., c. 199, s. 17.

#### Exception to Section 17

18 Notwithstanding Section 17, where the owner of municipal heritage property has made an application for permission to alter the exterior appearance of or demolish the property and the application is not approved, the owner may make the alteration or carry out the demolition at any time after one year from the date of the application, provided that the alteration or demolition shall not be undertaken more than two years after the date of the application. R.S., c. 199, s. 18.

## ATTACHMENT 6

### TERMS OF REFERENCE FOR FEASIBILITY STUDY

#### **Purpose**

To examine the technical and economic feasibility of integrating the Kelly Building facade (1790 Granville Street) and the Macara-Barnstead building (1798 Granville Street) into a new development on the site.

#### **Scope**

The study will examine the feasibility of various development scenarios, including:

- A student residence, approximately 5-10 storeys above the existing building height, based on current negotiations with NSCAD;
- Four storeys above the existing building height, similar to the scale of development that was approved 20 years ago (see Attachment 4), with mixed commercial and residential or office use;
- Rehabilitation and re-use of the buildings at their existing height, again with mixed commercial and residential or office use.

#### **Elements**

The study will examine the feasibility of the above development scenarios based on factors including:

- Technical design considerations - structural issues, floor area, exterior design, retention of facades and heritage character-defining elements, etc;
- Development costs - construction, facade retention, etc;
- Commercial marketability - rentability of space, availability of tenants, etc;
- Economic returns - rents, profit, etc
- Funding sources - private / public.