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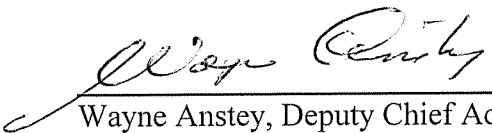
Halifax Regional Council
January 23, 2007

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: January 8, 2007

SUBJECT: Request for Permanent Encroachment - 73 to 79 Alderney Drive

ORIGIN

Application from Chris McNeil, Urchin Holdings Limited on behalf of the property owner.

RECOMMENDATION

It is recommended that Halifax Regional Council **deny** the application for permanent encroachment of a proposed balcony in the street right of way at 73 to 79 Alderney Drive, Dartmouth.

BACKGROUND

La Perla restaurant is located at 73 Alderney Drive. The property owner wishes to build a new second floor balcony which extends over the sidewalk and into HRM's right of way. In June of 2006, Urchin Holdings Limited, on behalf of the owner, submitted a Permit Application for Encroachment on Public Right of Way.

The proposed structure is approximately 16.8 metres (55 feet) long by 2.4 metres (8 feet) wide and is supported by four columns. The outside of the concrete pier support for the columns is about 0.15 metres (6 inches) from the curb face. The proposed layout of the balcony, which will accommodate five two-person tables, is attached.

The request for permanent encroachment was refused by staff on the basis that such encroachment could only be approved by Council. The applicant was advised that HRM staff would recommend that the application be denied should the matter proceed to Council. However, the applicant requested that the issue be presented to Council for a decision.

DISCUSSION

Alderney Drive is a collector roadway with a weekday average traffic count of almost 20,000 vehicles. The existing sidewalk at 73-79 Alderney Drive is only 2.56 metres (8.5 feet) wide and abuts the curb with no grassed area, on-street parking or bicycle lane to provide a space buffer between the sidewalk and the motorist's travelway. Alderney Drive is a Daylight Truck Route (7am to 9pm), making it a main thoroughfare for wide vehicles including road building and maintenance equipment, construction equipment and any vehicle weighing over 3000 kg.

In general, the HRM right of way is required for municipal purposes, that is pedestrian and vehicular traffic, transit and as a utility corridor. An encroachment, for private business purposes, would severely limit HRM's ability to provide these public services and could present a safety hazard. Significant concerns regarding the current application include:

- This section of Alderney Drive is a key pedestrian corridor. Alderney Gate across the street serves as a bus transfer point for the ferry and is served by several bus routes, including a low-floor bus route. This portion of sidewalk on Alderney Drive therefore experiences a significant amount of pedestrian traffic. With the economic business and residential growth of Downtown Dartmouth, this section of sidewalk will become an increasingly important link in the pedestrian system. Any obstruction in the right of way impedes the travel path for pedestrians, especially the visually impaired and wheelchair users.
- For safety reasons, HRM allows only collapsible posts in the right of way. Any non-collapsible posts have a minimum location setback of 1.2 metres (4 feet) from the curb. In the Application for Encroachment, concrete piers to support the balcony are proposed at about 0.15 metres (6 inches) from the curb face. The proposed structure does not meet

HRM's minimum setback guidelines, nor does it conform to Capital District's Urban Design Guidelines. The Capital District Urban Design Project: Volume One (Streetscape Guidelines and Plans) delineates zones for all sidewalks and pedestrian thoroughfares. Section 3.3.1 (p.3-3) states that 'No object should be located within 0.46 metres (18 inches) from the face of the curb.

- Additional obstructions at the curb reduce the available area for loading/unloading of people and materials.
- The proposal presents a severe safety hazard and liability if a collision with the encroaching structure were to occur. A collision with one of the concrete piers could damage the integrity of the balcony (collapse) and the building to which it is secured. This presents a safety hazard for drivers, passengers, pedestrians on the sidewalk, and restaurant patrons both on the balcony and in the building. The presence of large vehicles (Truck Route) increases the risk and severity of collision.
- Because the sidewalk extends to the curb without a boulevard strip, this portion of Alderney Drive has no snow storage. Both lanes of snow are brought to the sidewalk, and the sidewalk is plowed concurrently to keep the pedestrian travelway clear. An encroaching structure on the sidewalk would hinder snow clearing operations with high potential for damage and claims. The encroaching structure would also impede the movement of necessary machinery for the replacement and maintenance of the existing sidewalk.
- The encroachment would limit HRM's ability to use the right-of-way for municipal purposes, including potential relocation of poles, signage and utility infrastructure, implementation of bicycle lanes and pedestrian lighting as recommended for this section of roadway in the Urban Design Project (p.12-23).
- Allowing construction of such a permanent encroachment would set an undesirable precedent jeopardizing the integrity of other HRM rights of way. If constructed, Councillors and staff will receive similar requests from other property owners. Given the existing safety concerns, if an encroachment agreement is allowed at this location, there will be minimal grounds to refuse any similar request in the Capital District.

BUDGET IMPLICATIONS

There are no budget implications.

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


Council could choose to approve an Encroachment Agreement to allow permanent encroachment. If approved by Council, the applicant is required to pay a one-time license fee of \$125.00 and, subject to survey, an annual rental fee of approximately \$400.00 (per By-Law E-200 and Administrative Order 15).

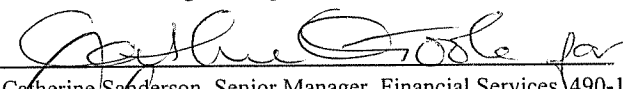
ATTACHMENTS

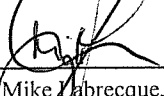
- Sketches of proposed balcony (submitted with Application)
- Pictures of Alderney Drive at Civics 73-79
- Supporting Emails

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Erica Copeland, P.Eng., Transportation Engineer, Traffic & Right of Way Services, 490-5525
Phil Francis, P.Eng., Manager, Right of Way Engineering, 490-6219

Report Approved by: 
Ken Reashor, P.Eng., Manager, Traffic & Right of Way, 490-6637

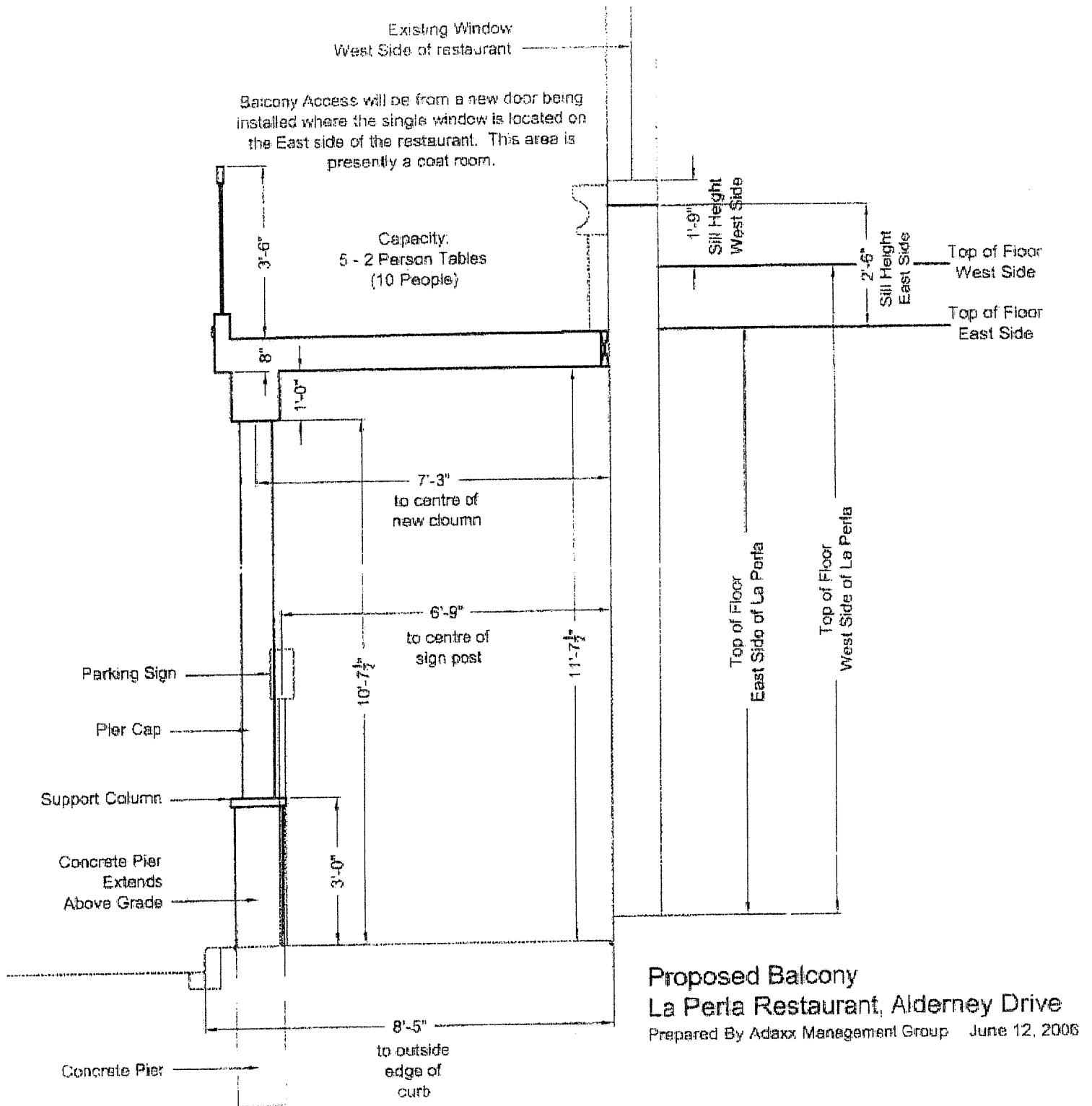
Financial Approval by: 
Catherine Sanderson, Senior Manager, Financial Services, 490-1562

Report Approved by: 
Mike Labrecque, P.Eng, Director, Transportation & Public Works, 490-4855

Existing Window
West Side of restaurant

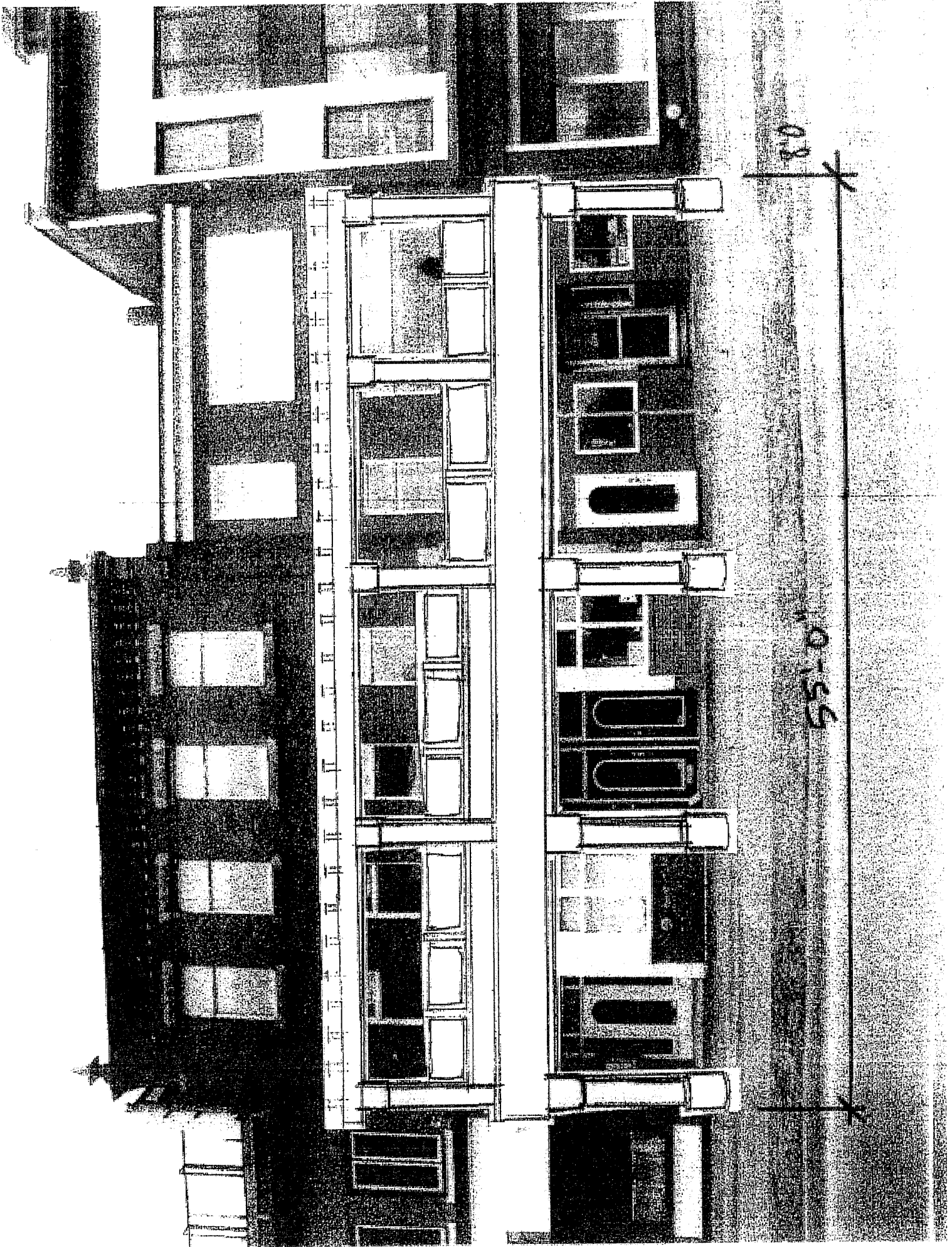
Balcony Access will be from a new door being installed where the single window is located on the East side of the restaurant. This area is presently a coat room.

Capacity:
5 - 2 Person Tables
(10 People)



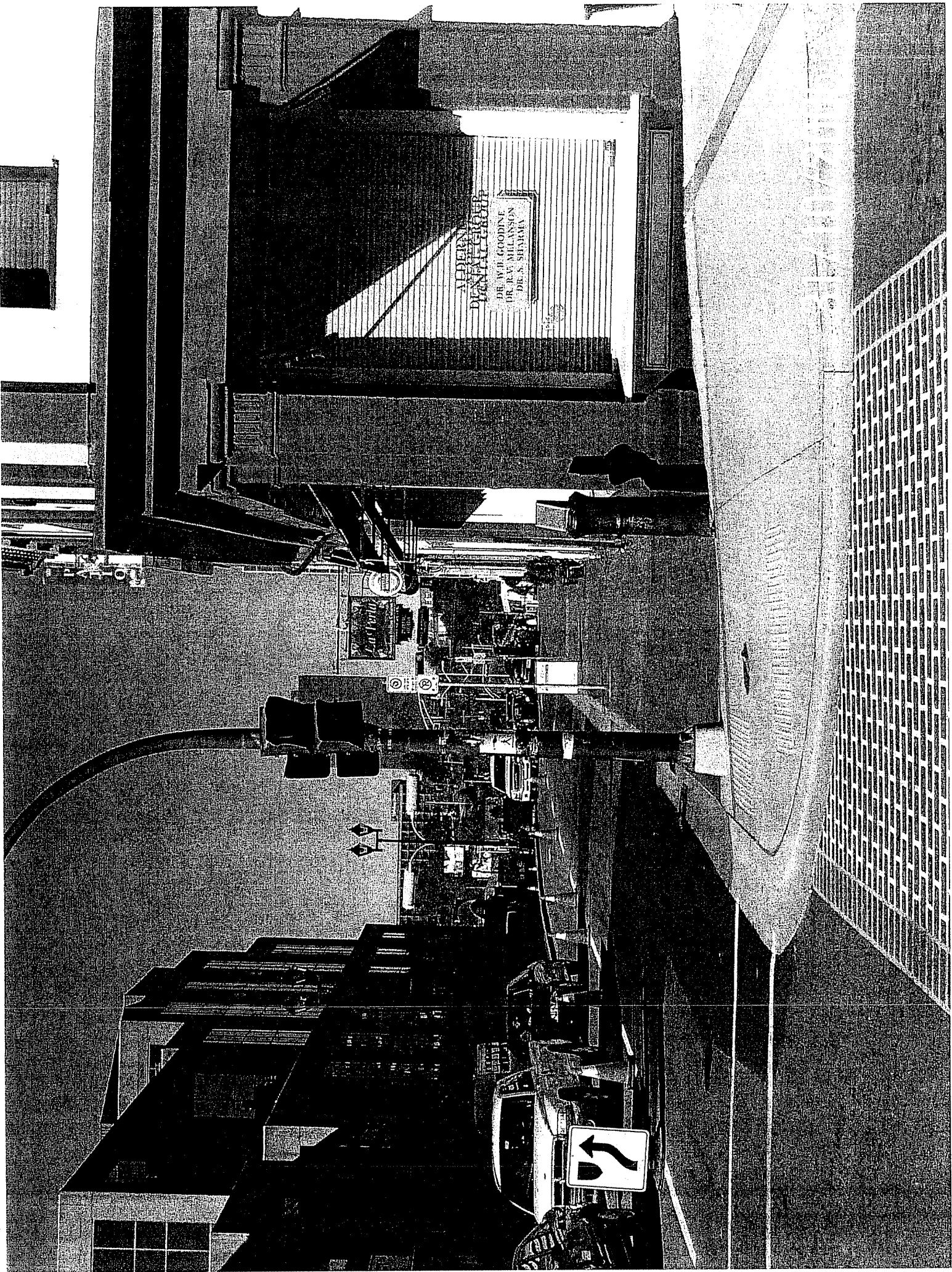
Proposed Balcony
La Perla Restaurant, Alderney Drive

Prepared By Adaxx Management Group June 12, 2006



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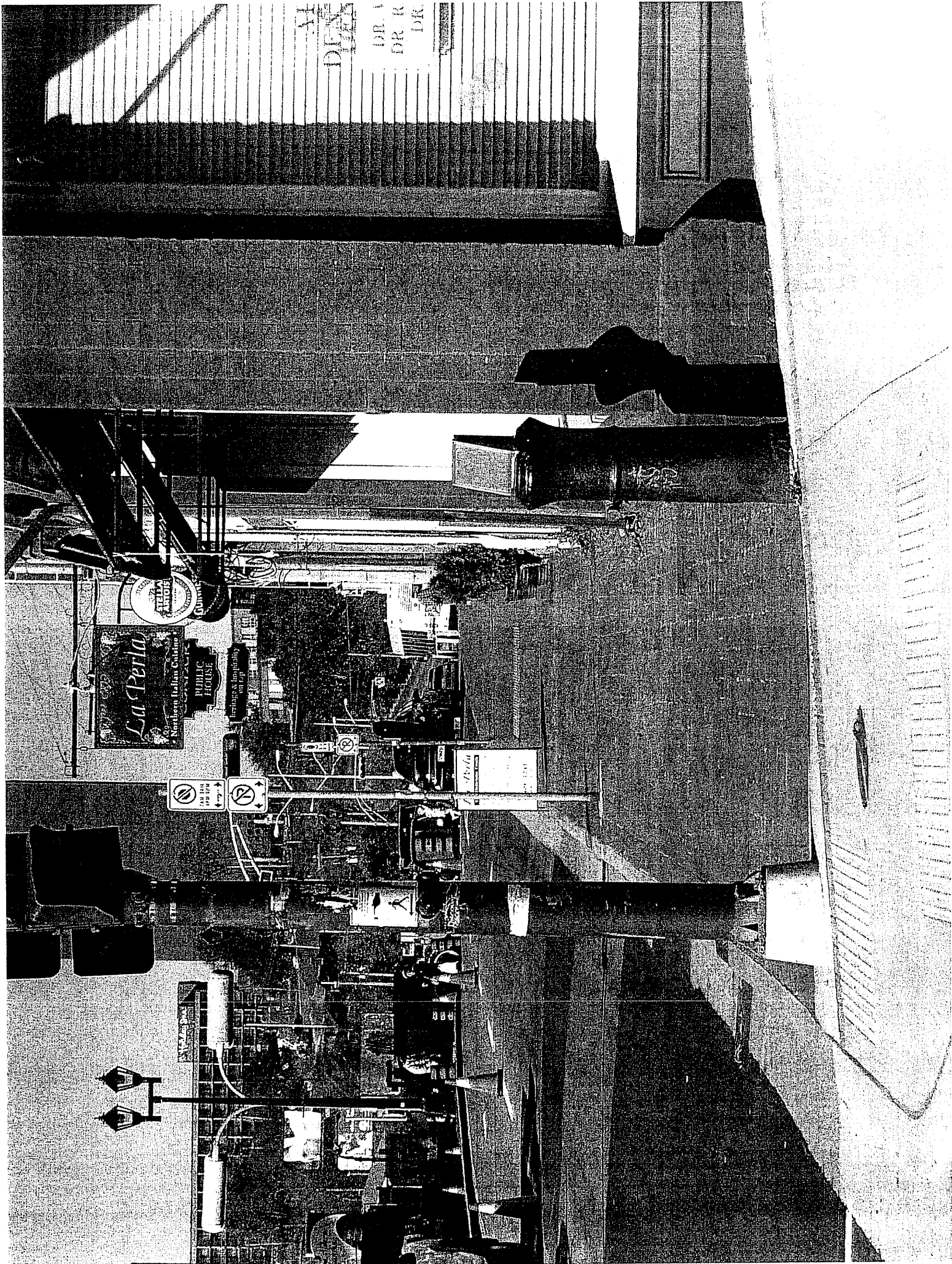
55'-0"



MODERN
DENTAL GROUP

DR. W.F. GOODINE
DR. R.V. MELANSON
DR. S. SHIRAI

→



From: Gordon Hayward
To: Don Pellerine; Erica Copeland
Date: 30/10/2006 8:38:29 am
Subject: Re: Fwd: Encroachment - Alderney Dr.

Erica, Don asked me to comment on this.

That portion of Alderney Dr has no snow storage at all. This is further compounded in that you are bringing over 2 full lanes of snow onto the sidewalk and then trying to get the sidewalk plowed at the same time. Any additional obstruction on the sidewalk would be a hinderance to our operations with high potential for damage

Gordon Hayward
Snow Control and Training Coordinator
490-4956
haywarg@region.halifax.ns.ca

>>> Don Pellerine 10/30/06 8:31 am >>>
Gord - can you comment on this one. Thank you.

>>> Erica Copeland 10/27/06 2:01 pm >>>
Hi Don,

Right of Way Services has refused an encroachment application to build a balcony into the right of way at LaPerla (Civic 73) on Alderney Dr. The applicant is appealing to Regional Council and I'm preparing the Report to Council defending our decision. Could you provide any input from an operations perspective (ie, snow removal, or difficulties with other similar structures in HRM)? Appreciated.

Erica

Erica Copeland, P.Eng.
Transportation Engineer
Halifax Regional Municipality
Traffic & Right-of-Way Services

Ph: 902-490-5525
Fx: 902-490-6727
Email: copelae@halifax.ca

From: Jeff Spares
To: Erica Copeland
Date: 01/11/2006 3:27:18 pm
Subject: Re: Proposed balcony in ROW - Alderney Dr.

I agree with ROW's recommendations. From a design perspective I really cannot think of any additional reasons for denying the application with the exception that it would make the future replacement of this sidewalk more difficult and costly as machinery couldn't easily work under the balcony and the posts would be difficult to work around.

From a winter maintenance perspective, I suspect Operations would not be in favour of the balcony as snow clearing and salting would be difficult and the potential for damage to the structure exists - who would pay for this, HRM or the owner. If the owner was responsible for any damage to the balcony it still creates winter maintenance problems. Another "far out" negative reason is perhaps the balcony would shade the sidewalk thus creating a greater potential of ice build up on the sidewalk.

Hope the above helps.

>>> Erica Copeland Wednesday, November 01, 2006 >>>
Hi Jeff,

Per my phone message, the property owner at 73 to 79 Alderney Drive has applied to build a balcony which extends into HRM's right-of-way. ROW Services has refused the application for several reasons, including safety and the setting of a precedent. I'm attaching a couple of files from the application and a couple of pictures. Let me know if you have any comments from a Design/Construction perspective.

Thanks in advance.
Erica

Erica Copeland, P.Eng.
Transportation Engineer
Halifax Regional Municipality
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