

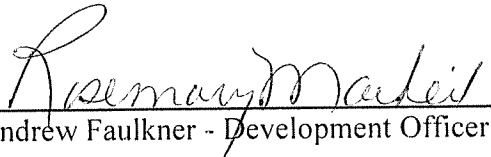


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
June 7, 2010

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY:


for Andrew Faulkner - Development Officer

DATE: May 28, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application for
a Variance - 1 Craigmere Drive, Halifax, Case No. 16153

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance from the angle control and setback requirements of the Mainland Halifax Land Use By-law to permit the conversion of a C-1 Local Business Zone, commercial building to an R-4 Multiple Dwelling Zone, residential building (special care home).

RECOMMENDATION

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

BACKGROUND

The subject property is located at 1 Craigmores Drive, Halifax, at the corner of Craigmores Drive and Joseph Howe Drive (see location plan - Attachment 1). The property is zoned C-1 under the Halifax Mainland Land Use By-law.

On March 17, 2010, a permit was issued for the interior renovation of the existing building for the IWK Choices Program and medical offices. The Choices Program includes 14 bedrooms for program participants and by definition is a "special care home". A Special Care Home is an R-4 Zone use which is permitted in the C-1 Zone and the proposed use is by-right.

The C-1 Zone requires that any building used for R-4 purposes must meet the R-4 Zone requirements. During processing of the application, a review of our in-office mapping found that the existing building complied with the setback and angle control requirements of the by-law. However, survey information was brought to staff's attention by residents of the area that indicated our mapping records were incorrect and the existing building was deficient in respects to setback and angle controls.

The owner was advised of this problem, re-surveyed the property line and subsequently made application for a variance. The variance was approved and those neighbours within 30 metres of the property were notified. An appeal was received and pursuant to section 251(3) of the HRM Charter the appeal is before Council.

DISCUSSION

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

"A variance may not be granted where the:

- (a) variance violates the intent of the land use by-law;*
- (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 by-law."*

An assessment of the proposal relative to these stipulations is set out below.

Does the proposed variance violate the intent of the land use by-law?

The existing building pre-dates land use controls by approximately one year. However, the C-1 Zone was applied to the property with the adoption of the former County Land Use By-law in 1960. That zoning stayed with the property following amalgamation in 1968 and the subsequent re-adoption of the current land use by-law in 1978.

Although the property is zoned for commercial use, it is designated Residential Environments (RE)

in the Halifax Municipal Planning Strategy. The RE designation permits high-, medium- and low-density residential uses and certain non-residential uses, listed as permitted uses, in residential zones. The existing building at 1 Craigmore Drive has been occupied as a municipal office and commercial office since its construction in 1959. For 50 years the use of the building has been commercial and the proposed special care home is the first proposed occupancy consistent with the MPS residential designation.

The R-4 Zone requires a minimum setback of 10 feet from a property line and the existing building is deficient by approximately 6 inches on one corner (see Attachment 2). Angle controls are a function of setback and the application of the 60 degree vertical angle and the 80 degree horizontal angle finds that an upper corner 60 degree wedge does not comply (see Attachment 3).

The applicant has submitted elevations indicating the alterations that would be required to the building to comply with the setback and angle controls (see Attachment 4). The applicant has stated they will alter the building to comply should this variance be unsuccessful. Although the work required is relatively minimal, it will be expensive and the finished elevation is likely to be aesthetically unpleasant to neighbouring properties.

In consideration of the permitted residential uses in the C-1 Zone, the MPS future land use designation and the minor relaxation of setbacks requested, the proposed variance does not violate the intent of the land use by-law and the variance was approved.

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

The C-1 Local Business Zone has only been applied to four properties in the Mainland Halifax Land Use By-law area. There are no other C-1 zoned properties within the neighbourhood or immediate area so this was not a consideration in the application review.

Is the difficulty the result of intentional disregard for the requirements of the land use by-law?

Development Services has issued a permit for renovation of the existing building to accommodate the new tenants. The owner proceeded with construction upon receipt of that permit and has not intentionally contravened the by-law. The majority of the renovation is for office space and permission has been granted to continue with that work. However, an Occupancy Permit will not be granted for the Special Care Home until the building setback problem is corrected, by either this variance or alteration of the existing building.

BUDGET IMPLICATIONS

None.

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

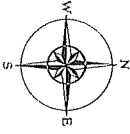
ATTACHMENTS

1. Location Map
2. Site Survey
3. Building Elevations
4. Building Isometrics

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)

'1 Craigmores Dr



1:2,000

User: Brenda Seymour
Print Date: May 28, 2010

This map was produced for the internal use of Halifax Regional Municipality (HRM). HRM takes no responsibility for errors or omissions.

For further information on civic address, street, street name or community (GSA) data please contact HRM Civic Addressing at 490-5347 or email civcad@halifax.ca.

For further information on sewer infrastructure please contact Halifax Water Engineering at 490-5204 or email engineering_dept@halifaxwater.ca.

For further information on zoning data please contact HRM Planning & Development Services at 490-4494 or email zoninginquiries@halifax.ca.

For further information regarding any other aspect of this plot please contact HRM Geographic Information Systems & Services at 490-5558 or email geoinfo@halifax.ca.

Date of map is not indicative of the date of data creation. Scale of map is valid only if printed at 11x8.5 inches.

Projection is Modified Transverse Mercator Zone 5.

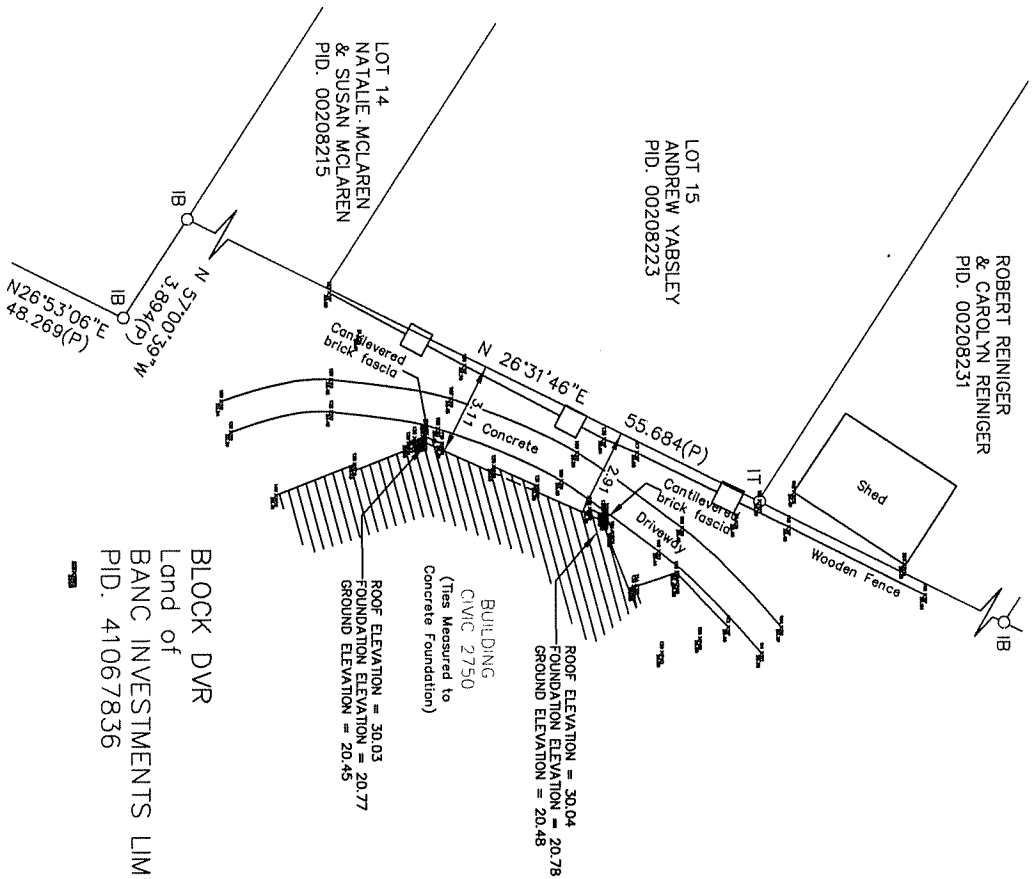


Attachment 1

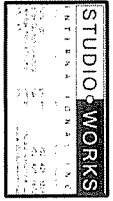
- LEGEND:
- (P) - PLAN
 - IB - FOUND IRON BAR
 - IT - FOUND IRON TUBE
 - FORESHORTENED LINE

DATED: MAY 8, 2010
 SCALE: 1:200 Metric

NOTE:
 1) SUBJECT LANDS ARE LOCATED AT DUTCH VILLAGE ROAD AND CRAIGMORE DRIVE, HALIFAX COUNTY, NOVA SCOTIA.
 2) ELEVATIONS SHOWN HEREON ARE NOT GEO-REFERENCED.



BLOCK DVR
 Land of
 BANC INVESTMENTS LIMITED
 PID. 41067836



Address: CIVIC #1 CRAIGMORE DRIVE (PID# 0017646)
 MINOR VARIANCE REVIEW- SITE PLAN
 Location: HALIFAX, NOVA SCOTIA

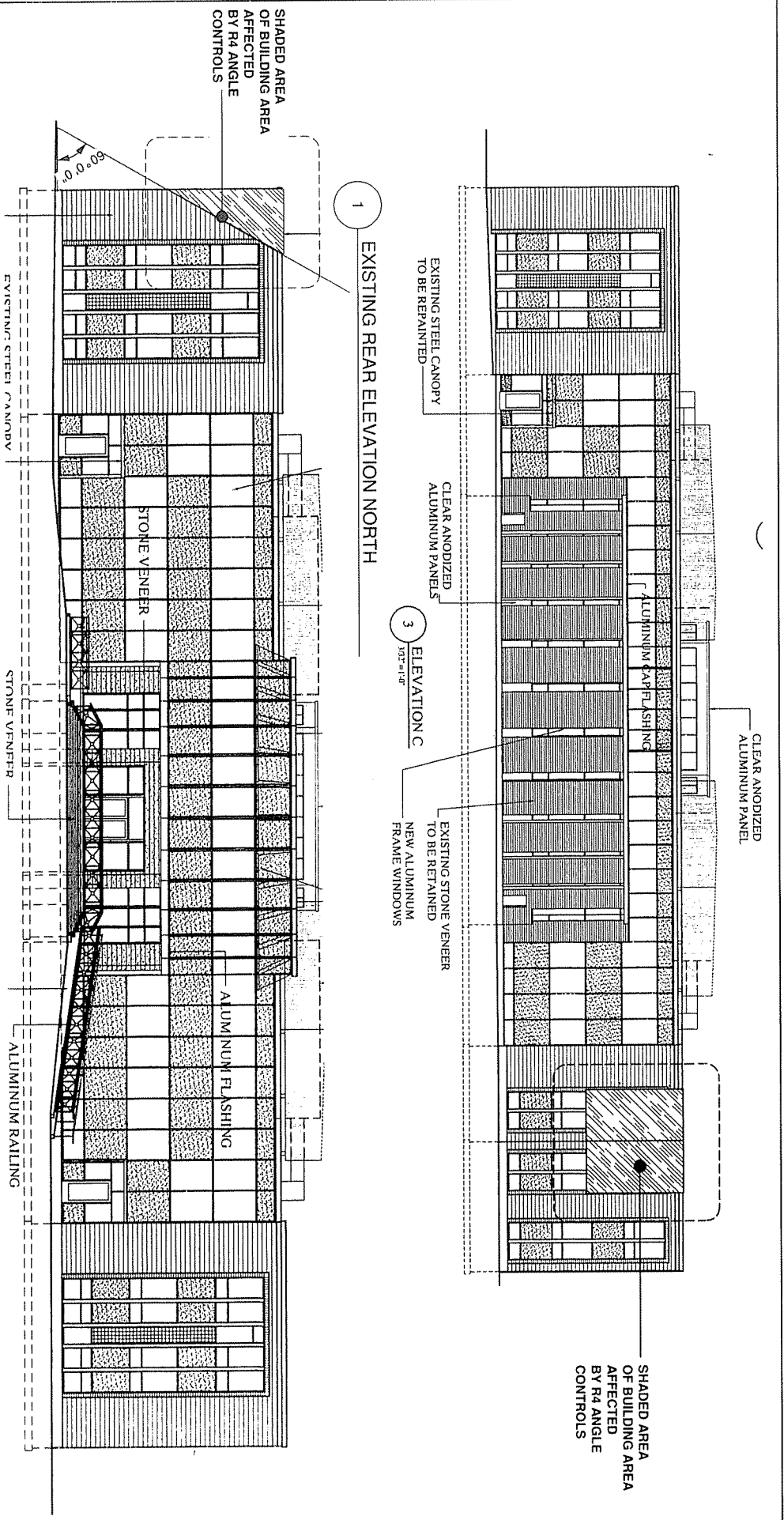
BANC PROPERTIES LIMITED

Scale:	NOT TO SCALE
Date:	MAY 13, 2010
Drawn:	RVS/SM
PID#:	BC1001-01

Drawn no.:	
Rev.:	REV. 14 MAY 2010

Attachment 2

Attachment 3



1 EXISTING REAR ELEVATION NORTH

2 EXISTING REAR ELEVATION WEST

STUDIO WORKS
 INTERNATIONAL INC.
 1000 ...
 ...

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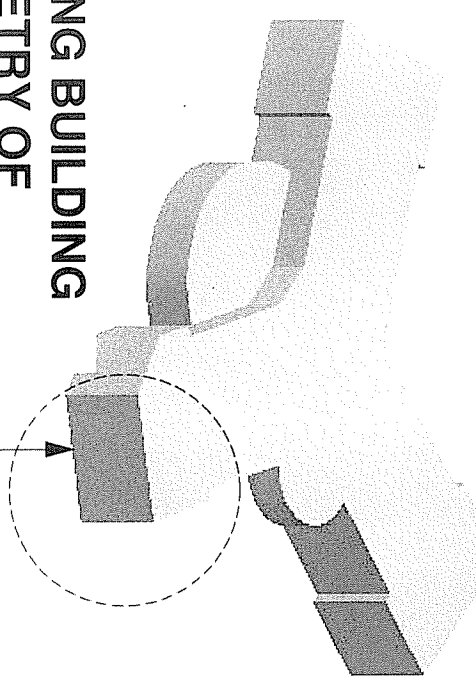
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 Civic # 1 CRAIGMORE DRIVE (PID# 0017646)
 MINOR VARIANCE REVIEW - R4 ANGLE CONTROL ADJUSTMENT
 HALIFAX, NOVA SCOTIA

BANC PROPERTIES LIMITED

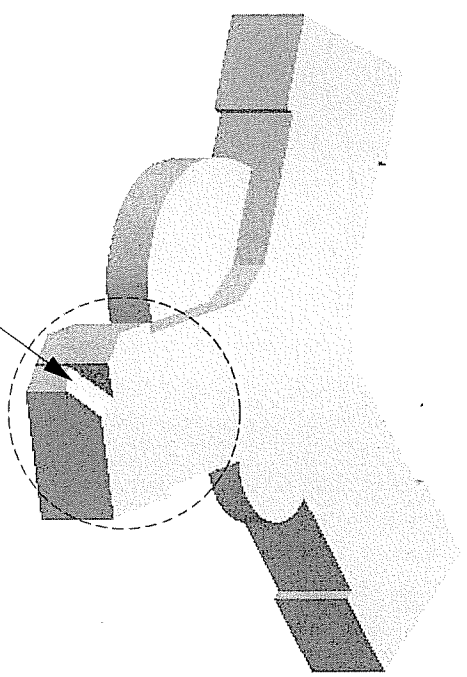
Scale	NOTED	Drawn no.
DATE	MAY 13, 2010	
Drawn	RVS: AM	
Proj.	BC1001-01	
REV	14 MAY 2010	

PROJECTED VIEWS OF EXISTING OFFICE BUILDING

EXISTING BUILDING GEOMETRY OF SOUTH WEST CORNER



BUILDING AREA AFFECTED BY R4 ANGLE CONTROL



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STUDIO WORKS
INTERNATIONAL INC.
1000 WEST 10TH AVENUE
SUITE 200
VANCOUVER, BC V6H 2E6
TEL: 604.681.1111
FAX: 604.681.1112
WWW.STUDIOWORKS.COM

file	Civic # 1 CRAIGMORE DRIVE (PID# 0017646)
location	MINOR VARIANCE REVIEW - R4 ANGLE CONTROL ADJUSTMENT
	HALIFAX, NOVA SCOTIA

BANC PROPERTIES LIMITED

scale	NOTED
date	MAY 13, 2010
drawn	RVS/AM
prof.	BC1001-01

dwg no.	REV. 14 MAY 2010
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