



Chebucto Community Council
December 6, 2010

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY: Andrew Faulkner
Andrew Faulkner - Development Officer

DATE: November 18, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application for a Variance - 1 Craigmere Drive, Halifax, Case No. 16550

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance from the angle control 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 Craigmere Drive, Halifax, at the corner of Craigmere Drive and Joseph Howe Drive (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 building for the IWK Choices Program and medical offices. The 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 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 that indicated our mapping was incorrect and the existing building was deficient in respects to setback and angle controls. A variance of the deficient setback was approved and subsequently upheld on appeal by Council in June 2010.

Since the time of approval, the residents of the Craigmere area have asked that staff review all aspects of the permits issued. During this review, the more recent survey information that was provided indicated that the footprint of the existing structure may be minimally in conflict with the angle control requirements of the By-law. As a precautionary response, the applicant has sought the requested variance.

The variance was approved and those neighbours within 30 metres of the property were notified. As an appeal was received, the matter is now before Council for a decision.

DISCUSSION

The *HRM Charter* 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 (Attachment 2) 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 Craigmere 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 special care home is the first occupancy consistent with the MPS.

The R-4 Zone requires that the portion of a building within twenty feet of a property line be contained within the horizontal arms of an 80 degree angle (Attachment 3). As noted, the area varied is minor and the applicant has indicated it is prepared to alter the building if it is eventually determined that doing so is necessary to be in compliance with the By-law. Although this potential structural alteration work appears minimal in scope, it will be difficult and 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?

The owner obtained a permit prior to renovation of the existing building and has not intentionally contravened the by-law.

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.

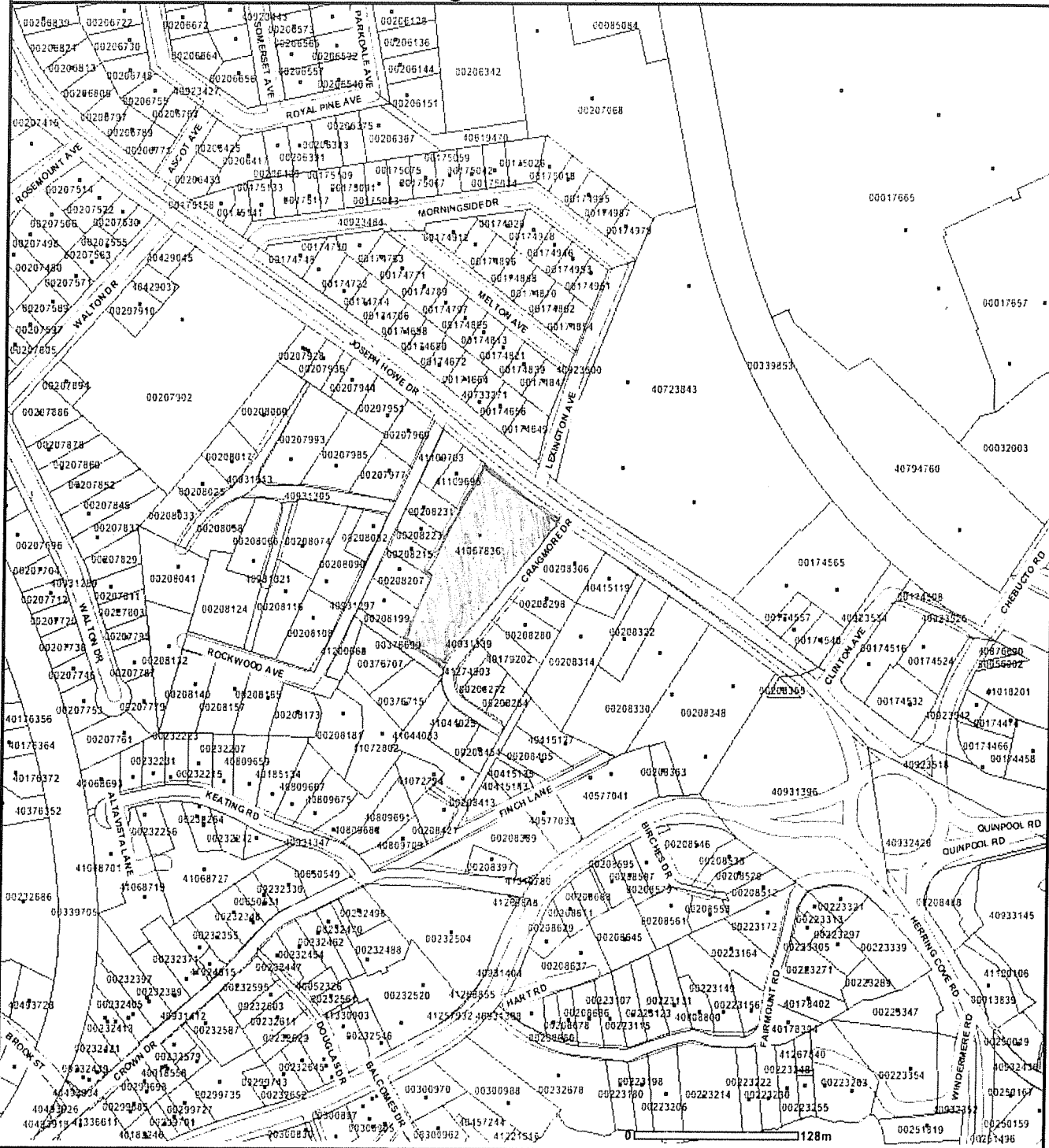
ATTACHMENTS

1. Location Map
2. Site Plan
3. Area of Variance

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)

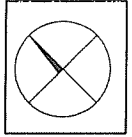
I Craigmore Drive, Halifax



This map was prepared for the internal use of Halifax Regional Municipality (HRM). HRM takes no responsibility for errors or omissions. For further information on Street Name or Community (GSA) data please contact HRM Civic Addressing at 490-5347 or email civicadd@halifax.ca. Date of map is not indicative of the date of data creation.

Scale NOTED
 Date MAY 13, 2010
 Drawn RVS: AM
 Proj: BC1001-01

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 Date MAY 13, 2010
 Drawn RVS: AM
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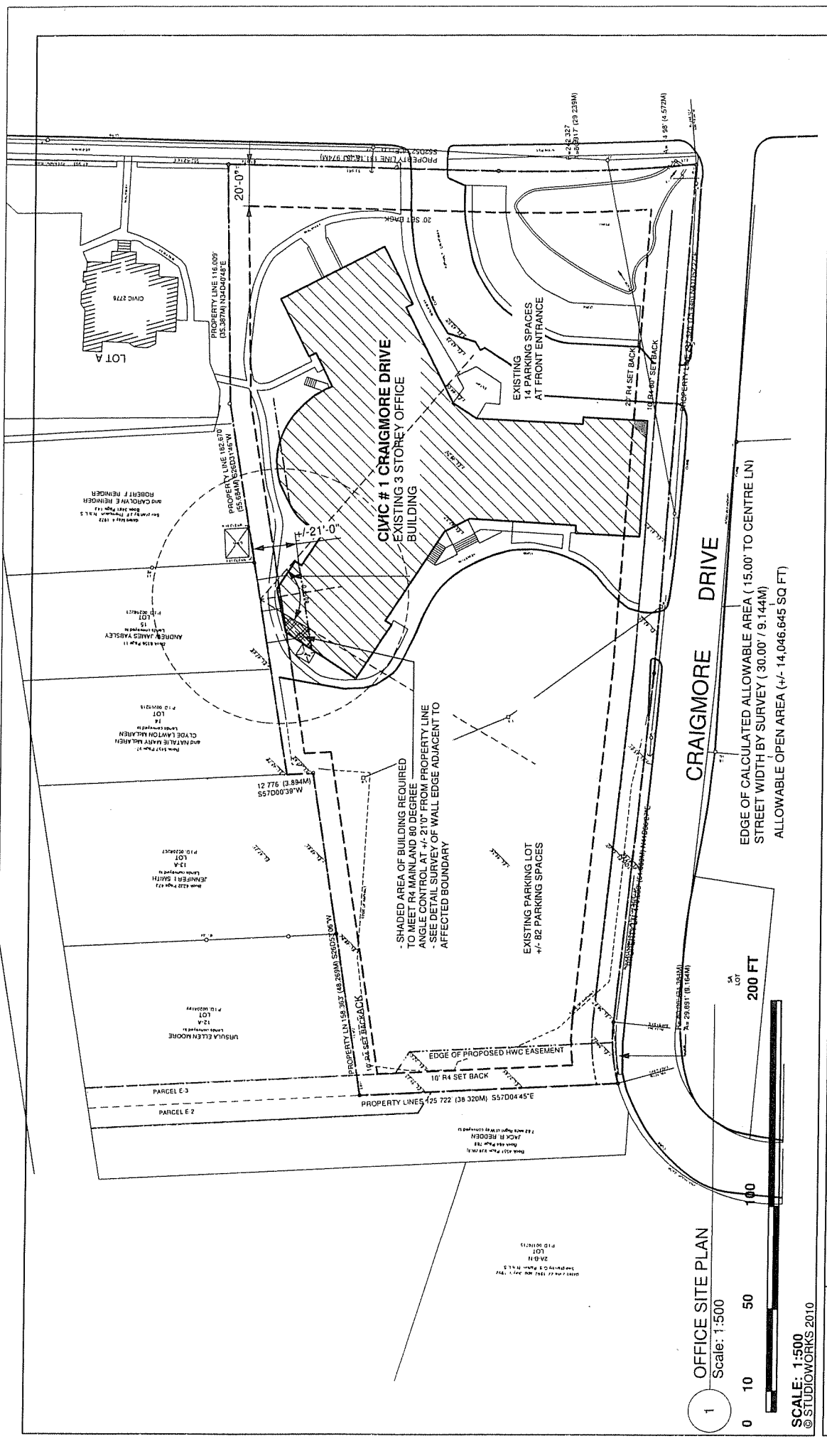


BANC PROPERTIES LIMITED

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

STUDIO WORKS INTERNATIONAL INC.
 1000 ...
 Halifax, Nova Scotia

Rev. 14, MAY 2010



1 OFFICE SITE PLAN
 Scale: 1:500



SCALE: 1:500
 © STUDIOWORKS 2010

CRAIGMORE DRIVE

EDGE OF CALCULATED ALLOWABLE AREA (15.00' TO CENTRE LN)
 STREET WIDTH BY SURVEY (30.00' / 9.144M)
 ALLOWABLE OPEN AREA (+/- 14,046.645 SQ FT)

CIVIC # 1 CRAIGMORE DRIVE
 EXISTING 3 STOREY OFFICE BUILDING

- SHADED AREA OF BUILDING REQUIRED TO MEET R4 MAINLAND 80 DEGREE ANGLE CONTROL AT +/- 21.0" FROM PROPERTY LINE
 - SEE DETAIL SURVEY OF WALL EDGE ADJACENT TO AFFECTED BOUNDARY

EXISTING PARKING LOT +/- 82 PARKING SPACES

EXISTING 14 PARKING SPACES AT FRONT ENTRANCE

LOT A
 CIVIC 2776

ANDREAS JAMES MARLEY
 1105 BISH Pkwy 11
 Lot 15
 P10 0000213

CLYDE LANTON MCKEN
 and MARGIE MARY MCKEN
 1005 BISH Pkwy
 Lot 14
 P10 0000213

UNSLA EILEEN BOONE
 1204
 Lot 13
 P10 0000213

JENNIFER L SMITH
 1204
 Lot 12
 P10 0000213

ROBERT F RENNERT
 and CAROLYN E RENNERT
 1005 BISH Pkwy 14
 Lot 11
 P10 0000213

PROPERTY LINE 116.009' (35.307M) NS40°08'48"E

PROPERTY LINE 145.870' (45.364M) S80°01'45"W

PROPERTY LINE 158.363' (48.220M) S65°05'06"W

PROPERTY LINES 425.722 (38.320M), 557.004 (45.5'E

PROPERTY LINE 116.009' (35.307M) NS40°08'48"E

PROPERTY LINE 116.009' (35.307M) NS40°08'48"E

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21'-0"

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DATE: November 12, 2010

SUBJECT: Approved Variance – 80 degree angle control, 1 Craigmore Drive, Halifax

SITE PLAN

Area of variance: 