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Peninsula Community Council
February 8, 2010

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: Andrew Faulkner
Andrew Faulkner - Development Officer

DATE: January 27, 2010

SUBJECT: Appeal of the Development Officer's decision to deny an application for
Variance #15806 - 1122 Lucknow St., Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to deny a variance for the lot coverage of the Halifax Peninsula Land Use Bylaw to permit an addition to create a 10 unit apartment building.

RECOMMENDATION

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

BACKGROUND

The subject property is located on the west side of Lucknow street in the south end of the Halifax Peninsula. The zone is R-2A (General Residential Conversion Zone) in the South End Secondary Plan. Lucknow St. is a mix of residential uses ranging from single unit dwellings to apartment buildings (see attachment 1).

This section of Lucknow is designated Medium Density Residential Area in the Halifax Municipal Planning Strategy Generalized Future Land Use map. The R-2A zone was established to encourage infill housing in the South End area by allowing internal conversions to existing buildings and creating additions to existing buildings (Section V South End Area Plan 1. Residential Environments - Halifax MPS).

The subject property is 7534 square feet which is generally in keeping with other properties that contain a multiple unit dwelling. There is an existing single unit dwelling on the property. Permit records indicate that it was in existence prior to 1954.

The application for variance was received December 24, 2009. It proposes an addition to an existing single unit dwelling to create a 10 unit apartment building (see attachment 2). The R-2A zone permits such use.

The applicant was notified in a letter dated January 18, 2010 that the variance was refused. An email from the applicant appealing the Development Officer's decision to refuse was received prior to the January 28, 2010 deadline (refer to attachment 3).

DISCUSSION

The maximum permitted lot coverage in the R-2A zone is 40%. The applicant is proposing a lot coverage of 46% which includes numerous cantilevered projections which are considered as lot coverage.

The *Halifax Regional Municipality Charter* 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 if:

- (a) the variance violates the intent of the land use bylaw;*
- (b) the difficulty experienced is general to the properties in the area;*
- (c) the 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 ?

Lot coverage limits the percentage of lot that can be built on. This allows for a sufficient mix of building footprint and open area, which may consist of green space. The requested variance of 6% from the permitted maximum lot coverage of 40% represents approximately 200 square feet of living space. Furthermore, the R-2A zone provides for very dense development on small parcels of land, that are more typical for one and two unit dwellings. The lot coverage and open space requirements are a means of maintaining an aesthetic similar to the single and two unit dwellings R-2A uses area typically neighbours to. In consideration of the above the Development Officer believes the proposed variance does violate the intent of the land use by-law.

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

The majority of the multiple unit dwellings in the immediate neighbourhood meet the lot coverage requirement. The difficulty experienced is general to properties in the area.

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

As no construction has occurred at this site intentional disregard was not a consideration in refusing this variance.

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

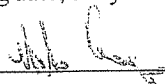
1. Council could uphold the decision of the Development Officer to refuse the variance.
2. Council could overturn the decision of the Development Officer and grant the variance.

ATTACHMENTS

1. Neighbourhood Site plan
2. 1122 Lucknow Site plan
3. Appeal letter

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

Report Prepared by :


[Mike Cowper - Development Technician 490-7455]

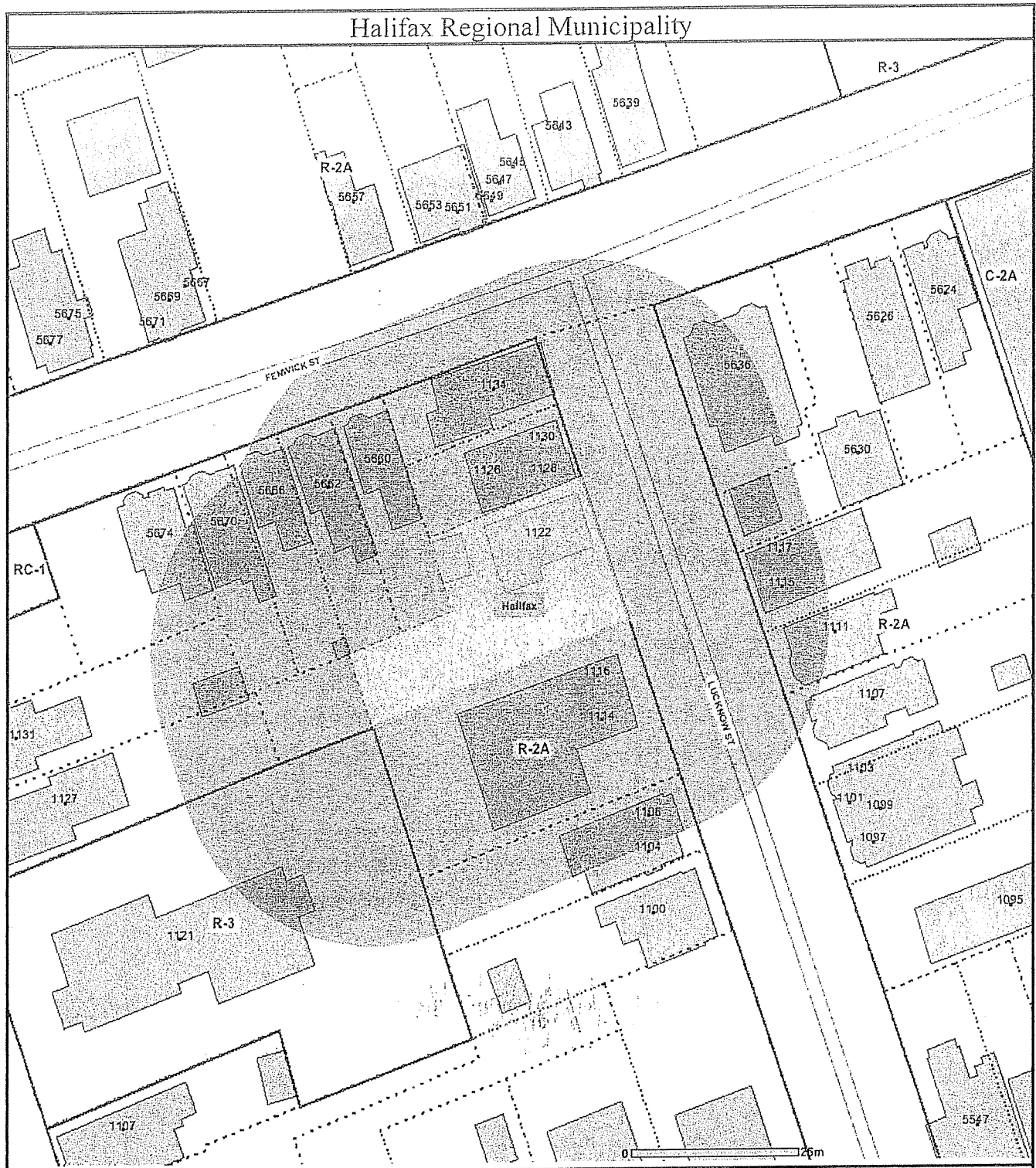
Report Approved by:


[Andrew Faulkner - Development Officer 490-4402]

DATE: February 8, 2010

SUBJECT: Development Officer's decision to refuse an application for a variance -
1122 Lucknow St. The applicant is proposing to vary lot coverage for 10
unit addition.

NEIGHBOURHOOD SITE PLAN

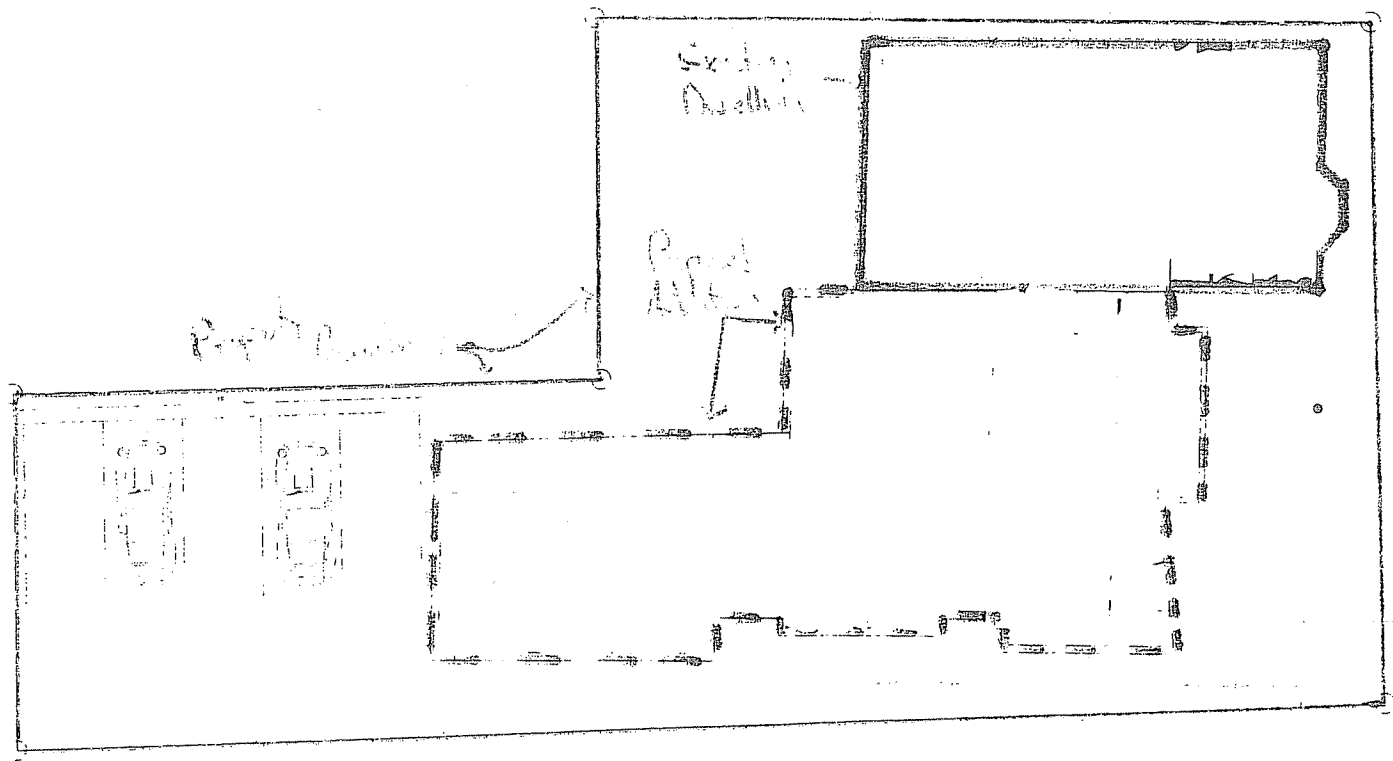


This map was prepared for the internal use of Halifax Regional Municipality(HRM) HRM takes no responsibility for errors or omissions. For further information on Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicaadd@halifax.ca. Date of map is not indicative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

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SITE PLAN



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APPEAL LETTER

From: Mike Cowper
To: Geoff Keddy
Subject: Re: 1122 Lucknow St Variance #15806

>>> Geoff Keddy <geoffkeddy@gmail.com> 18/01/2010 10:31 am >>>
Andrew Faulkner, I hereby appeal your decision to refuse my request for the 6% lot coverage increase over the allowable 40%. I understand your reasoning for the refusal. There was a time when the max. lot coverage allowable was 50%. I will be prepared to meet with Council on the 8th. of February. Geoff Keddy