

Halifax Regional Council  
July 9, 2002

To: Mayor Kelly and Members of Regional Council

Submitted by:

  
George McLellan, Chief Administrative Officer

  
Dan English, Deputy Chief Administrative Officer

Date: June 18, 2002

Subject: Application for an Encroachment License Agreement at 1599 Grafton  
Street, Halifax

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**ORIGIN:**

Application for an Encroachment License Agreement by J. D. Miller, Architects on behalf of Grafton Developments Inc., at 1599 Grafton Street, Halifax.

**RECOMMENDATION:**

It is recommended that Regional Council:

1. Approve the Encroachment License Agreement at 1599 Grafton Street, presented as Attachment II;

**BACKGROUND:**

Peninsula Community Council approved a development agreement to permit a multiple unit residential building with ground floor commercial space at 1599 Grafton Street, Halifax, at a public hearing held on June 10, 2002. Copies of this staff report are available upon request.

The front elevation of the building is presented as Attachment I. As can be seen from this drawing, the design incorporates a colonnade along the Grafton Street facade. This colonnade encroaches onto the public right-of-way by approximately 5 feet (Schedules "B" and "C" of Attachment II).

The development proposal, including the colonnade, was endorsed by Peninsula Community Council. The Encroachment License Agreement, however, is a matter which must be dealt with by Regional Council, subject to By-law E-200 respecting Encroachments.

**DISCUSSION:**Encroachment

As discussed in the staff report to Peninsula Community Council dated 18 April 2002, the sandstone colonnade will add depth to the storefronts and contribute to the urban-oriented design of the building.

Staff has reviewed the proposed encroachment. There are no significant Engineering or safety concerns. At the time of building permit application, the encroachment will be reviewed for compliance with the Building Code and no permit issued until compliance is achieved.

Subject to By-law E-200 respecting Encroachments, the encroachment will generate a license fee of \$125 and an annual encroachment fee of approximately \$580.

**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 may refuse to grant the encroachment license agreement.

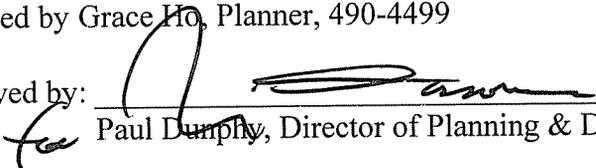
**ATTACHMENTS:**

- I Grafton Street Elevation
  
- II Encroachment License Agreement with
  - Schedule "B": S.W. Corner Elevation Detail
  - Schedule "C": Grafton Street Level

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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 Grace Ho, Planner, 490-4499

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

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Grafton Street, Halifax, to construct, repair, maintain, improve, alter and inspect a colonnade as identified and presented on Schedules "B" and "C".

### **PART 3: RELOCATION**

- 3.1 The colonnade must be relocated within the street if requested by the Municipality which relocation will be at the expense of the Developer. Should the Developer wish to relocate the colonnade, such shall be done only upon receipt of the written consent of the Municipality, which consent shall not be unreasonably withheld and said relocation shall be at the expense of the Developer.

### **PART 4: PERMITS**

- 4.1 The Developer agrees to comply with all Municipal Bylaws and Agreements for the original construction of the works and all subsequent works;
- 4.2 For the purposes of the construction of the original works, the Developer agrees to engage the services of a professional Engineer, licensed to practice in the Province of Nova Scotia;
- 4.3 For the purposes of the construction of the original works, the Developer agrees to deposit with the Municipality a performance security, acceptable to the Engineer, in the amount of 110% of the estimated cost of restoring the municipal infrastructure affected by the project, which security shall be released upon acceptance of the works by the Engineer and a maintenance bond deposited in the amount of 10% of said costs to be valid for a period of one year from the date of the acceptance of said works;
- 4.4 For the purposes of the construction of the original works, prior to release of said performance security, the Developer shall provide the Municipality with a certificate from a professional Engineer certifying that all works and reinstatement of municipal infrastructure are completed according to the approved drawings, any applicable municipal services specifications, standard drawings and approved changes.

### **PART 5: MAINTENANCE**

- 5.1 The Developer shall comply with all applicable regulations of the Nova Scotia Department of Labour and the Municipality to ensure the continued safe use of the street by the public in performing any inspection and maintenance of the colonnade.

**PART 6: RESTORATION**

- 6.1 The Developer agrees to restore the surface of all affected streets in accordance with the Streets and Services permit.

**PART 7: INDEMNITY**

- 7.1 The Developer agrees to indemnify and save the Municipality harmless from all claims, liabilities and expenses of any kind in any way related to or connected with the grants of the rights set forth in this license agreement or from the existence or operation of the colonnade however caused, except to the extent that the loss arises out of the negligence of the Municipality;
- 7.2 The Developer shall purchase and maintain, during the term of this License Agreement, Commercial General Liability insurance in the amount of at least \$2 (two) million in a form and with insurer(s) reasonably acceptable to the Municipality and with the Municipality as an Additional Insured with respect to any occurrence or claim arising out of the maintenance or use of the encroachment or out of this Licence Agreement. Evidence of such insurance shall be provided to the Municipality at the time of applying for the Licence or at any renewal of the insurance and/or Licence.

**PART 8: FEES**

- 8.1 The Developer shall pay the fees set out in the Municipality's By-law E-200(Encroachments) and Administrative Ordinance 15, and for the purpose of the calculation of said fees, it is agreed that the space occupied by the colonnade is 57.83 square metres.

**PART 9: OCCUPATIONAL HEALTH & SAFETY ACT**

- 9.1 The Developer agrees to comply with the requirements of the Occupational Health & Safety Act and all regulations enacted pursuant thereto. Specifically, the Developer agrees to exercise the due diligence required by the Act in ensuring to the extent possible that the requirements of the Occupational Health & Safety Act and its regulations are followed by its contractors or agents.

**PART 10: TERMINATION**

- 10.1 Either party may terminate this license agreement at any time;
- 10.2 Upon termination of the license agreement, the Developer shall at the Municipality's option:

- (a) remove the colonnade and restore the surface of Grafton Street.

**PART 11: NOTICES**

- 11.1 Any written notice or communication relating to the administration of this agreement to be given or delivered by one party to the other shall be deemed to be duly given or delivered by hand, by fax or by courier to the following addresses or such other address that may subsequently be provided:

Halifax Regional Municipality  
Director of Planning & Development Services  
P.O. Box 1749  
Halifax, NS B3J 3A5

and

Nasco Consultants  
c/o Nassim Ghosn  
Suite 800 - 1646 Barrington Street  
Halifax, NS B3J 1Z9

Legal notices in respect of the Municipality must be given in compliance with the Halifax Regional Municipality Act.

**PART 12: ASSIGNMENT**

- 12.1 This agreement shall enure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this agreement on the day and year first above written.

**SIGNED, SEALED AND DELIVERED  
in the presence of**

Per \_\_\_\_\_

) **Grafton Developments Inc.**

)

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) Per \_\_\_\_\_

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) Per \_\_\_\_\_

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**Sealed, Delivered and Attested by the  
proper signing officers of Halifax  
Regional Municipality duly authorized  
on that behalf in the presence of**

Per \_\_\_\_\_

) **Halifax Regional Municipality**

)

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) Per \_\_\_\_\_

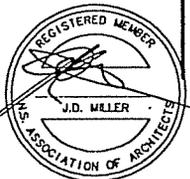
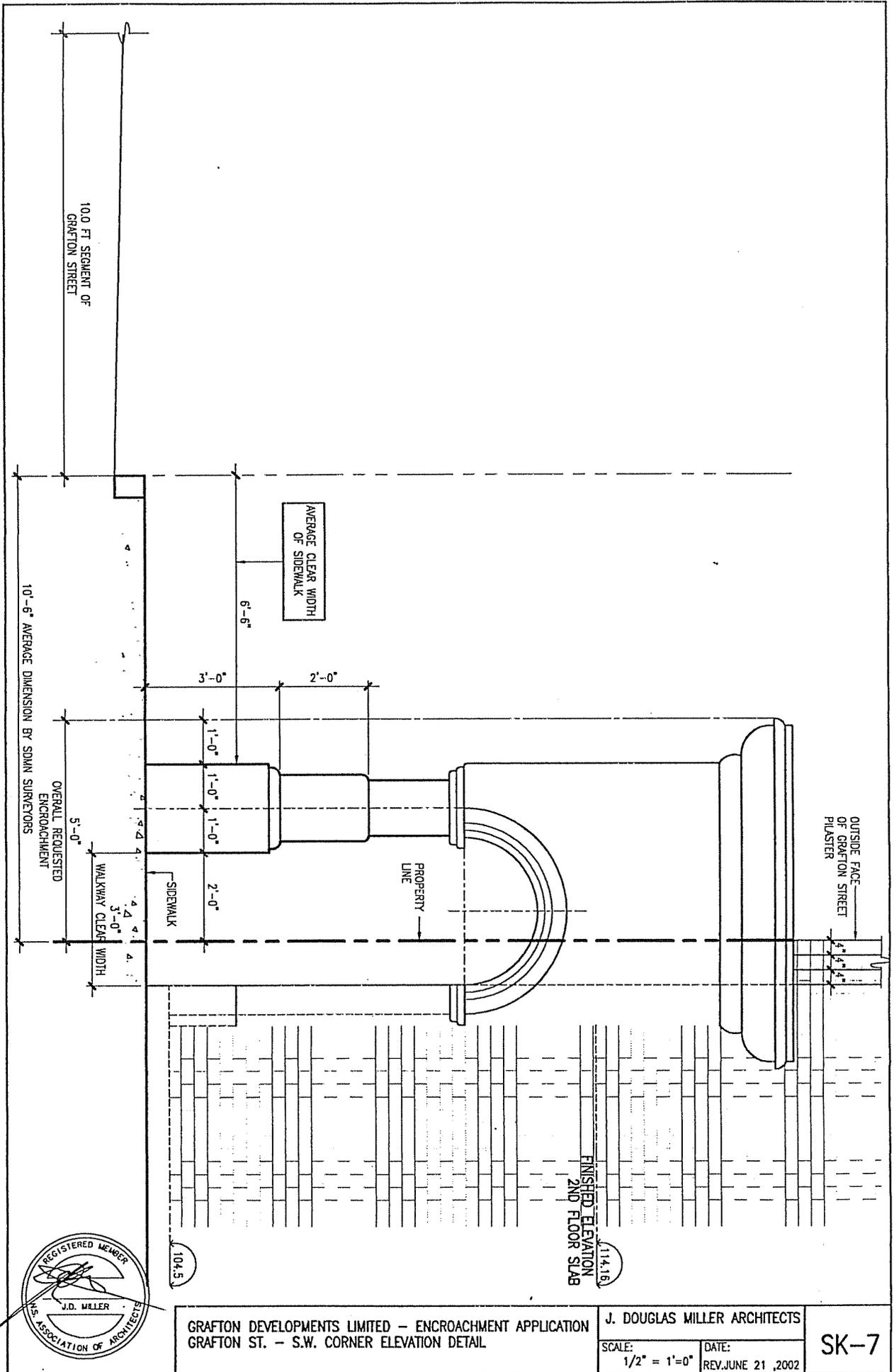
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Mayor

)

)

) Per \_\_\_\_\_



GRAFTON DEVELOPMENTS LIMITED - ENCROACHMENT APPLICATION  
 GRAFTON ST. - S.W. CORNER ELEVATION DETAIL

J. DOUGLAS MILLER ARCHITECTS

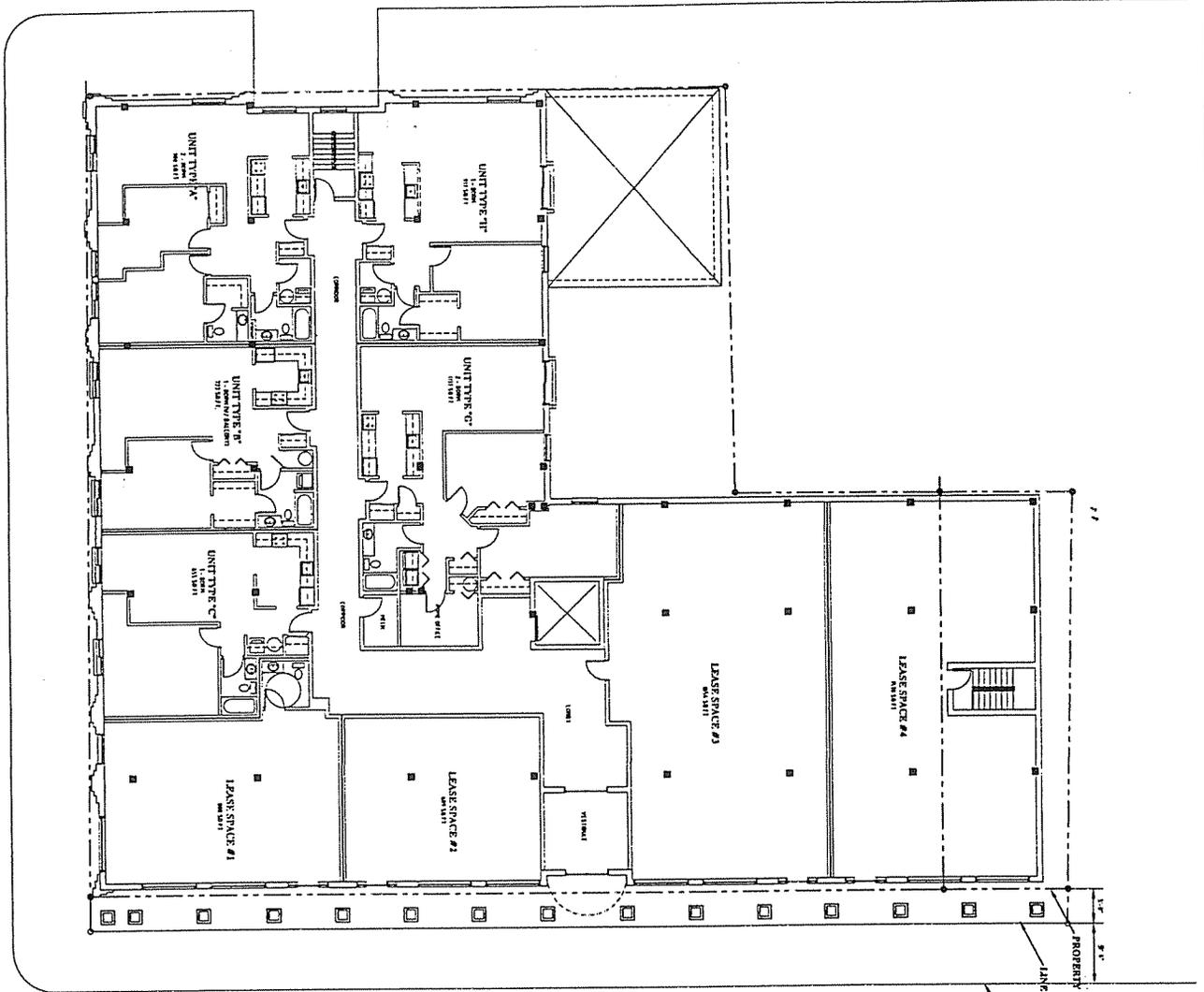
SCALE:  
 1/2" = 1'-0"

DATE:  
 REV. JUNE 21, 2002

SK-7

Schedule "B"

ARGYLE STREET



GRAFTON STREET

PROPERTY LINE  
 LINE OF OVERALL REQUESTED ENCROACHMENT  
 LINE OF OUTSIDE OF GRAFTON STREET CURB

L. DOUGLAS MILLER  
 ARCHITECTS

101 St. John Street  
 Halifax, Nova Scotia  
 B3H 2Y9  
 Phone: (902) 426-1111  
 Fax: (902) 426-1112

NOT TO SCALE  
 GENERAL INFORMATION: A 10% SCALE  
 DRAWING: 10% SCALE  
 DATE: NOV/09/2001  
 DRAWN BY: JDM  
 CHECKED BY: JDM  
 APPROVED BY: JDM  
 ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

GRAFTON SUITES  
 1599 GRAFTON STREET  
 1599 GRAFTON STREET

1599 GRAFTON STREET  
 HALIFAX,  
 NOVA SCOTIA

GRAFTON STREET LEVEL  
 ELEVATION 104.5'



DATE: NOV/09/2001  
 SCALE: 1/8" = 1'-0"  
 DRAWN BY: JDM  
 CHECKED BY: JDM  
 APPROVED BY: JDM

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