

## CITY OF HAMILTON

## PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 13
COMMITTEE DATE: January 31, 2012	
SUBJECT/REPORT NO: Heritage Permit Application HP2011-058, Under Part V of the Ontario Heritage Act, for Demolition of a Detached Garage, Construction of a New Detached Three Bay Garage and Workshop, and Construction of Additions to the Existing House at 31 Cross Street (Dundas) (PED12021) (Ward 13)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Meghan House (905) 546-2424, Ext. 1202
SIGNATURE:	

#### RECOMMENDATION

That Heritage Permit Application HP2011-058 be approved for demolition of a detached garage, construction of a new detached, three bay garage and workshop, and construction of additions to the existing house at 31 Cross Street (Cross-Melville Heritage Conservation District) (Dundas), subject to the following conditions:

- (a) That a tree inventory and protection plan shall be submitted for all the trees within the area of construction impact, to the satisfaction and approval of Planning staff, prior to any grading or tree removals.
- (b) That the existing mature tree in the south side yard shall be protected from temporary or permanent construction impacts, as per the submitted tree protection plan, prior to any grading and for the duration of construction, to the satisfaction and approval of Planing staff.

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- (c) That the final details regarding the attachment of the proposed new additions, side porch and porte cochère to the existing stone walls shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (d) That specifications, samples, and/or brochures for the proposed stone foundation, stucco cladding and glazing on the proposed additions shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (e) That the final dimensions, design, and materials for all new doors, windows, and garage doors shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (f) That the dimensions and materials for all new fascia, roof flashings, columns, railings, and other exterior structures shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (g) That the repair methods, materials specifications, and mortar composition shall be submitted, to the satisfaction and approval of Planning staff, prior to any masonry repairs or repointing of the existing stone building walls or the stone wall along the front of the property.
- (h) That the new asphalt surface and paving stones shall be within the limits of the existing gravel driveway, and that no existing shrubs or trees shall be removed or adversely impacted by the resurfacing.
- (i) That the paving materials for the proposed terrace and detailed elevations and/or plans for any outdoor fireplace, walls, railings, or other fixtures/structures shall be submitted, to the satisfaction and approval of Planning staff, prior to installation.
- (j) That the elevation drawings depicting the proposed garage roof(s) shall be revised, to the satisfaction and approval of Planning staff and the Heritage Permit Review Sub-committee, prior to submission as part of any application for a Building Permit.
- (k) That any minor changes to the plans and elevations following Heritage Permit approval shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.

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- (I) That construction and site alterations, in accordance with this approval, shall be completed no later than January 31, 2014. If the alterations are not completed by January 31, 2014, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.
- (m) That the corridor addition between the new porch and rear addition shall be glazed, and revised elevation drawings showing this change shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.

## **EXECUTIVE SUMMARY**

The subject property, located at 31 Cross Street (Dundas) (see the location map attached as Appendix "A"), is designated as part of the Cross-Melville Heritage Conservation District under Part V of the Ontario Heritage Act. A Heritage Permit is required for the alteration of any part of the property, and for the erection or demolition of any buildings or structures on the property. The property currently comprises a one-and-one-half storey stone structure built circa 1846-1851 and a detached brick garage (photographs of the property are attached as Appendix "B").

The applicant has applied for consent to demolish the existing detached garage and to remove an existing entrance porch from the north façade and the remnants of a side porch on the south façade of the house. The applicant proposes to construct a three-bay, detached garage and workshop, a side porch on the south façade of the house, and rear and side additions to the existing house (the plans and elevations for the proposed construction are attached as Appendix "C"). The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee has reviewed this application and has recommended conditional approval provided that the design of the proposed side porch, the corridor linking the porch to the rear addition, and the garage roof are modified (see Relevant Consultation). The Hamilton Municipal Heritage Committee discussed the application on January 19, 2012, and recommended approval, subject to revised conditions of approval (see Recommendations (d) - Revised, and (m) - New, which the applicant is in agreement with. The Hamilton Municipal Heritage Committee advice has been reflected in the recommendations of this Report.

Alternatives for Consideration - See Page 13.

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#### FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

**Legal:** This Heritage Permit application has been processed and considered within the context of the applicable legislation.

Section 42(1) of the <u>Ontario Heritage Act</u> states that: "No owner of property situated in a Heritage Conservation District that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so:

- 1. Alter, or permit the alteration of, any part of the property other than the interior of any structure or building on the property; or,
- Erect, demolish, or remove any building or structure on the property, or permit the erection, demolition, or removal of such a building or structure."

Section 42(4) of the <u>Ontario Heritage Act</u> states that: "Within 90-days after the notice of receipt is served on the applicant under Sub-section (3), or within such longer period as is agreed upon by the applicant and the Council, the Council may give the applicant:

- (a) The permit applied for;
- (b) Notice that the Council is refusing the application for the permit; or,
- (c) The permit applied for, with terms and conditions attached."

Section 42(4.1) of the <u>Ontario Heritage Act</u> states that: "If the Council of a municipality has established a Municipal Heritage Committee under Section 28, the Council shall, before taking any action under Sub-section (4) with respect to an application to demolish or remove any building or structure on property in a Heritage Conservation District, consult with its Municipal Heritage Committee."

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Section 42(5) of the Ontario Heritage Act states that: "If the Council fails to do any of the things mentioned in Sub-section (4) within the time period mentioned in Sub-section (4), the Council shall be deemed to have given the applicant the permit applied for."

Section 42(16) of the Ontario Heritage Act states that: "The Council of a municipality may delegate, by By-law, its power to grant permits for the alteration of property situated in a Heritage Conservation District designated under this Part to an employee or official of the municipality if the Council has established a Municipal Heritage Committee and consulted with it before the delegation." This power to consent to applications was granted to the Director of Planning by City of Hamilton By-law 05-364. However, Sub-section 42(17) of the Ontario Heritage Act further defines the scope of this power as "Council's power to consent to alterations," and does not apply to applications for the demolition of existing structures, or erection of new structures, on a designated property. In addition, By-law No. 05-364 states that: "the delegated powers in Section 1 do not include the power to refuse an application".

#### HISTORICAL BACKGROUND

The subject property at 31 Cross Street (Dundas) (see the location map attached as Appendix "A") is located in the Cross-Melville Heritage Conservation District (HCD), designated by the former Town of Dundas By-law 3899-90, approved by the Ontario Municipal Board under Part V, Section 41, of the Ontario Heritage Act in 1992.

The property currently comprises a one-and-one-half storey stone structure built circa 1846-1851 and a detached brick garage (photographs of the property are attached as Appendix "B"). The applicant has applied for consent to demolish the existing detached garage, to remove an existing entrance porch from the north façade, and to remove the remnants of an existing side porch on the south façade of the house. The applicant proposes to construct a three-bay, detached garage and workshop, a side porch on the south façade of the house, and rear and side additions to the existing house (the plans and elevations for the proposed construction are attached as Appendix "C").

The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee has reviewed this application and has recommended conditional approval provided that the design of the proposed side porch, the corridor linking the porch to the rear addition, and the garage roof are modified (see Relevant Consultation). The Hamilton Municipal Heritage Committee discussed the application on January 19, 2012, and recommended approval, subject to the elevations being revised to incorporate glazing panels along the corridor between the new side porch and the rear addition.

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This advice from the Hamilton Municipal Heritage Committee has been reflected in the recommendations of this Report (see Recommendations (d) - Revised, and (m) - New.

A previous Heritage Permit application for this property was denied by Council in May, 2006, and an appeal to this decision was subsequently dismissed by the Ontario Municipal Board (OMB). The current proposal differs significantly from the previous application and has been considered on its own merits. However, the OMB decision provides interpretation of the policies of the Cross-Melville Heritage Conservation District Plan as related to potential alterations and new construction on the subject property. Therefore, the OMB decision provided principles to guide any future development proposals, such as avoiding overdevelopment of the site, encouraging additions to be towards the rear of the existing house to maintain the symmetry of the original dwelling and the open space in the south side, and an expectation that complex proposals must be accompanied by professionally prepared and complete architectural drawings.

## **POLICY IMPLICATIONS**

## **Town of Dundas Official Plan**

The Town of Dundas Official Plan provides the policy basis for the designation of Heritage Conservation Districts (2.4.3.1 e)), and that "all infilling situations, construction of new buildings or the renovation of existing buildings shall be sympathetic to and consistent with the existing heritage environment in terms of building materials, colour, scale, and design" (2.4.3.5). The recommendations of this Report do not conflict with these policies.

## **Urban Hamilton Official Plan**

Volume 1, Section 3.4 - Cultural Heritage Resources Policies of the Council-adopted (adopted July 9, 2009) Urban Hamilton Official Plan states that the City shall "protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes" (Volume 1, 3.4.2.1(a)), and "identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources" (Volume 1, 3.4.2.1(b)). The policies also provide that the "City may, by By-law, designate individual and groups of properties of cultural heritage value under Parts IV and V, respectively, of the Ontario Heritage Act" (Volume 1, 3.4.2.3). The Urban Hamilton Official Plan has been approved by the Ministry of Municipal Affairs and Housing, but has been appealed in its entirety to the Ontario Municipal Board (OMB). While the plan is not in full force and effect, these policies demonstrate Council's

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commitment to the identification, protection, and conservation of the cultural heritage resources, and the recommendations of this Report do not conflict with these policies.

## <u>Cross-Melville Heritage Conservation District Plan</u>

The original one-storey stone structure on the subject property was built circa 1846-1851. Since the original construction the roof, upper level windows, and portico have been modified (1878), a side porch has been added to the south façade, and a stone addition has been added to the rear. The existing detached brick garage was built circa 1920's and is accessed by a side shared driveway. The property, together with 35 and 32 Cross Street, was described in the Cross-Melville Heritage Conservation District Study: Background Report (1988) as being "part of an important nucleus of early stone buildings in the Cross-Melville area".

Staff has evaluated the proposal using the policies of the Council-approved Cross-Melville Heritage Conservation District Plan (1988). The District Plan sets out several *District Conservation Principles*, including as follows:

- "The distinguishing characteristics of a heritage property should not be destroyed and the alteration or removal of historical fabric or distinguishing architectural features should be avoided."
- "Contemporary design of alterations and additions will be encouraged where they
  do not destroy significant historical, architectural, or cultural features" and where
  "they are of a size, location, colour, and material that is compatible with the
  prevailing character of the building, streetscape, and district".

Section 6.0 of the District Plan provides more detailed guidance for the construction of alterations, additions, and new construction. The intent of the guidelines "is not to stop change but to manage change in a way that will protect valued heritage features, as well as encourage sensitive new design". The guidelines that are applicable to the subject application are as follows:

## Alterations to existing buildings:

- Ensure that historical building materials and architectural features are protected.
- Ensure that character defining elevations, especially those that face the street, are not radically changed.
- Attempt to preserve and maintain driveways, walkways, fences, and walls that contribute to the special character of the space around a heritage building.

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- Design and locate new parking spaces so that they are as unobtrusive as possible, ensuring that front lawns and tree plantings are maintained.
- Minimize soil disturbance around buildings in order to protect or reduce the possibility of damaging unknown archaeological remains.

## Additions to existing buildings:

- New additions should be constructed in a way that clearly differentiates them from original historical fabric and ensures the continued protection of distinguishing architectural features.
- Exterior additions are encouraged to be located at the rear or on an inconspicuous side of the building, limited in size and scope to complement the existing building and neighbourhood properties.
- Addition to structures with symmetrical façades should avoid creating imbalance and asymmetrical arrangement in building form.

## New buildings:

• Ancillary buildings should be located towards the rear of the lot. Garages, in particular, are best located away from front façades.

The recommendations of this Report do not conflict with the policies of the Cross-Melville Heritage Conservation District Plan.

### **RELEVANT CONSULTATION**

Pursuant to Sub-sections 42(1) and 42(4.1) of the Ontario Heritage Act, the City of Hamilton Municipal Heritage Committee (HMHC) advises and assists Council on matters relating to Part V of the Ontario Heritage Act. The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee reviewed this proposal, both prior to the submission of a complete application and once the application was deemed complete. The Sub-committee expressed overall concerns with the scale of the proposed additions and impact to original heritage fabric. The plans and elevations have not been amended in response to the Sub-committee's comments. However, through discussions with the applicant's agent, additional details were provided regarding the impact to the existing heritage fabric, including how the additions will be attached to the existing structures and materials and which features will be displaced (e.g. window openings and glazing).

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The Sub-committee has recommended approval of the application subject to the conditions recommended by staff, and provided that specific amendments to the design are undertaken as follows:

- That the new side porch on the south façade not extend to the rear past the
  existing basement opening or extend any further into the south side yard than the
  existing porch footprint. The Sub-committee was of the opinion that this design
  modification will minimize the impact of the porch on the streetscape and maintain
  more of the existing open space in the south side yard.
- That the corridor linking the rear addition to the south side porch be deleted from the plans. The Sub-committee was of the opinion that the proposed new construction will be visible from the street and result in the enclosure of the southeast (rear) corner of the original house and the entire south wall of the existing stone rear wing. The elimination of this corridor will also facilitate moving the outdoor terrace and berm further behind the existing structures to reduce potential impacts on the character of the side yard and the existing tree.
- That the roof type, height, and slope for the new detached garage be redesigned so that the roof massing and visibility is reduced.

The Hamilton Municipal Heritage Committee discussed the application on January 19, 2012, and considered the advice from staff and the Heritage Permit Review Sub-committee, as well as comments from the applicant. The Hamilton Municipal Heritage Committee recommended approval, subject to revised conditions of approval, specifically that the corridor between the new porch and the rear addition be clad using glazing panels instead of solid stucco walls. The applicant indicated at the HMHC meeting that he was in agreement with this amendment. The HMHC recommendation has been reflected in Condition (m), included in the recommendations of this Report.

#### **ANALYSIS/ RATIONALE FOR RECOMMENDATION**

Key factors that are considered in the evaluation of any change affecting a heritage building, or its setting, are: consideration of "displacement effects" (those adverse actions that result in the damage, loss, or removal of valued heritage features); and, "disruption effects" (those actions that result in detrimental changes to the setting or character of the heritage feature).

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## **Displacement**:

The front yard, front and north façades of the original stone structure will not be impacted by the proposal. The existing brick garage (circa 1920's), remnants of an existing side porch, and the existing north side entrance (circa 1970's) will be removed. The garage and north entrance were not part of the original construction. The foundation for a side porch is visible in a photograph from 1896, but the date of construction for the existing side porch is unknown, and the porch is in poor repair.

The first storey of the southeast (rear) corner of the original house and all three façades of the stone rear wing will be enclosed within the new construction and physically impacted by the attachment of the new structures. One window opening at the rear of the original house and two window openings in the rubble stone rear wing will be altered - resulting in the displacement of stone and the wood window sashes and frames. One original window opening in the rubble stone rear wing will be retained within the new corridor, and one basement window opening on the south façade of the original house will be closed in.

The District Plan policies seek to "ensure that historical building materials and architectural features are protected". Although some displacement of heritage fabric will occur on the rear façades, damage to the original heritage fabric (i.e. coursed and rubble stone) where the new roof and floors will be attached may be minimized through the design and detailing of the new construction. Preliminary installation details have been submitted with the application, and staff is of the opinion that the impact of the attachment of the new structures to the original heritage fabric has been minimized and will facilitate the future removal of the new structures. Staff recommends that the final structural attachment details be submitted for review and approval prior to submission of an application for a Building Permit (see Recommendation (c)), and that any minor changes subsequent to the Heritage Permit approval as result of Building Code review may be approved by staff (see Recommendation (l)).

The new location of the garage will result in alterations to the existing slope and removal of trees. The proposed terrace and berm have the potential to impact an existing mature Maple tree in the south side yard. The terrace paving stone and berm have been cut back away from the tree's drip line, and the implementation of tree protection measures during construction is recommended as a condition of any approval to prevent loss of the tree (see Conditions (a) and (b)).

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## **Disruption**:

The front yard, front (west) and north façades of the original stone structure will not be impacted by the proposal. Therefore, the character defining elevations (i.e., those that face the street) will not be radically changed. The District Plan encourages exterior additions "to be located at the rear or on an inconspicuous side of the building, limited in size and scope to complement the existing building and neighbourhood properties". The additions and new construction will be primarily located to the rear of the original house, with the exception of the new side porch.

The new side porch will have the same front setback as the existing porch, but will have an enlarged footprint to the side and rear (east). The front (west) façade and massing of the original house is symmetrical. The enlarged side porch will be located on one side of the house. However, staff is of the opinion that the proposed porch will be sufficiently setback and appropriately designed to be perceived as distinct from the main building mass and avoid creating an imbalance on the front façade. The existing side porch is constructed of wood support columns with open sides - the new porch will be comprised of wood columns and enclosed with aluminium-framed glazing. The glazing frames will be dark to minimize the visibility of the glazing and frames to create the impression of an open porch and minimize the substantiality of the structure.

The District Plan encourages new additions to be constructed in a way that clearly differentiates them from original historical fabric. The new additions to the sides and rear, as well as the new garage, will be clad in stucco and with a stone foundation. The proposed materials will be able to be differentiated from the original materials, but are expected to be sympathetic with the materials and textures historically present on the subject property and within the District. Staff recommends that the submission of samples and/or brochures for the selected materials and finishes be submitted for review and approval prior to the commencement of construction to ensure that they are sympathetic to the character of the existing structures and the District (see Conditions (d), (e), and (f)). While the Heritage Permit Review Sub-committee has expressed concerns related to the location and size of the proposed side porch and the corridor, and staff is not in opposition to the conditions recommended by the Sub-committee, staff is of the opinion that the porch and corridor, as proposed by the applicant, are in keeping with the intent of the District Plan and will result in minimal disruption to the character of the District.

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The District Plan policies articulate that "ancillary buildings should be located towards the rear of the lot" and that "garages, in particular, are best located away from front façades". The proposed new detached garage will be located towards the rear of the lot and behind the other structures. Staff concurs with the Heritage Permit Review Sub-committee that the mass of the proposed garage roof should be reduced and/or broken into smaller components, as reflected by Condition (j). The parking and manoeuvring space will be located behind the other structures and inside the new garage to be as unobtrusive as possible and ensure that landscape areas and tree plantings are maintained. The existing shared driveway, the existing trees and shrubs, and the stone wall along the front of the property will be maintained and will continue to contribute to the character of the District. The applicant has indicated their intent to restore the stone wall along the front of the property, and staff recommends that the specifications for this repair be submitted prior to the commencement of work (see Condition (g)).

The gravel driveway is proposed to be paved with asphalt with a paving stone border to the limits of the current driveway (see Condition (h)). Staff is of the opinion that a paved driveway is consistent with neighbouring properties, and will not produce adverse impacts to the character of the District provided that the width of the driveway will remain the same. A separate Heritage Permit Application (HP2011-059) has been approved under delegated approval for the resurfacing of the portion of the shared driveway that is on 35 Cross Street.

The front yard of the original house and the existing south side yard will remain as open space. The enlarged side porch and the terrace with berm will encroach further into the south side yard than the existing porch; however, the large side yard that is characteristic of the property and the rhythm of open spaces between buildings will be maintained. The drawings show a proposed outdoor fireplace on the terrace, and additional details are required regarding the design and materials for this new feature prior to construction (see Condition (i)).

Staff is of the opinion that the proposed alterations, demolition, and new construction are consistent with the policies of the District Plan, and that the heritage attributes of the Cross-Melville Heritage Conservation District will be conserved. Accordingly, staff recommends conditional approval of Heritage Permit Application HP2011-058, as per the recommendation of this Report.

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#### ALTERNATIVES FOR CONSIDERATION

1. Refuse the heritage permit application.

Refusal of the Heritage Permit to demolish the existing garage, construct a new garage/workshop, and construct additions to the existing house does not satisfy the applicant's request to make sympathetic changes within an existing residential area.

2. Approve the heritage permit with additional or amended conditions.

Council may approve this application with additional or amended conditions of approval other than the staff recommendations. This is not being recommended.

3. Approve the heritage permit with no conditions.

Council may approve this application with no conditions. This alternative is not recommended, as it would prevent the review by staff of additional details to ensure that the Heritage Permit approval will result in high-quality construction and the implementation of the project design, as submitted.

## **CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

## Skilled, Innovative, and Respectful Organization

- A culture of excellence.
- Council and SMT are recognized for their leadership and integrity.
- <u>Staff Comment</u>: The approval of the recommendations of this Report demonstrates Council's commitment to the Council-approved Cross-Melville Heritage Conservation District - District Plan, and to the City's Official Plan policies.

## Financial Sustainability

- Generate assessment growth/non-tax revenues.
- <u>Staff Comment</u>: The approval of the recommendations of this Report will permit additions to an existing building and may increase the property's assessed value.

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## Intergovernmental Relationships

- Maintain effective relationships with other public agencies.
- <u>Staff Comment</u>: The approval of the recommendations of this Report demonstrates Council's commitment to conserving cultural heritage resources, as directed by provincial and federal level policies.

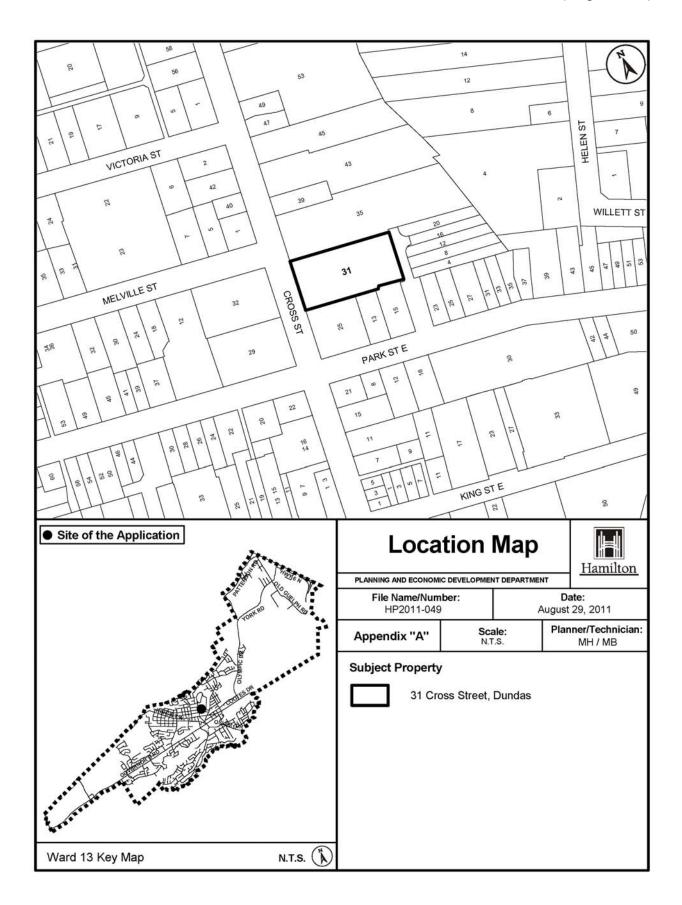
## **Healthy Community**

- Plan and manage the built environment.
- <u>Staff Comment</u>: The proposed new construction will conserve the character of an established residential neighbourhood.

## APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Photographs of the Existing Buildings and Site
- Appendix "C": Plans and Elevations for the Proposed Alterations and New Construction

:MH Attachs. (3)



## Photographs of Existing Buildings and Site



Front façade of the existing house and stone wall.



Front and north side elevation of the existing house.



South side yard and side elevation of the existing house.



Existing shared driveway, landscaping and garage.



Front elevation of the existing garage (to be demolished)



South side elevation of the existing garage (to be demolished)

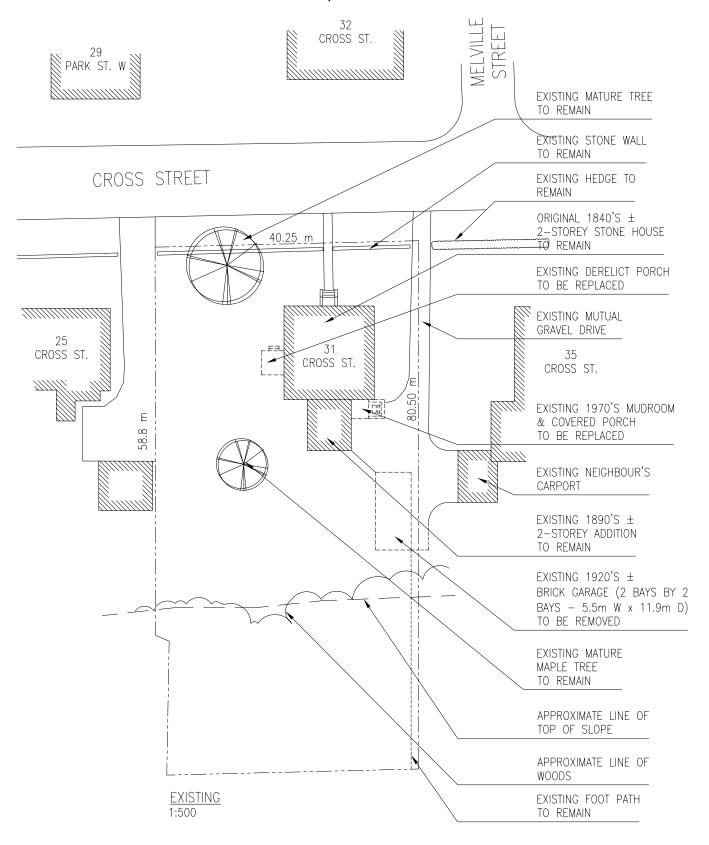


Rear elevation of the existing house.

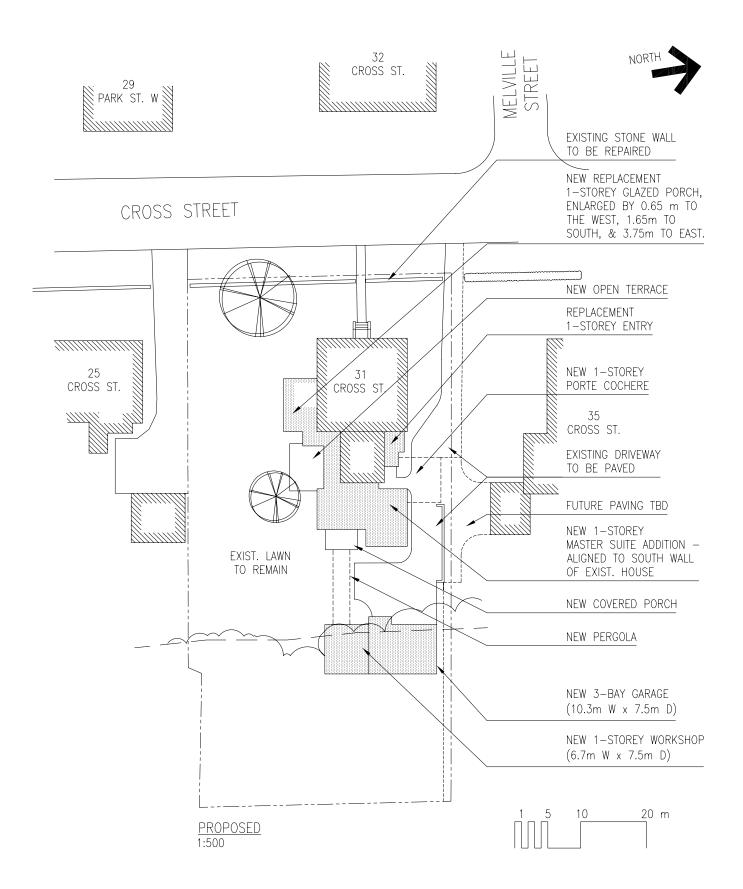


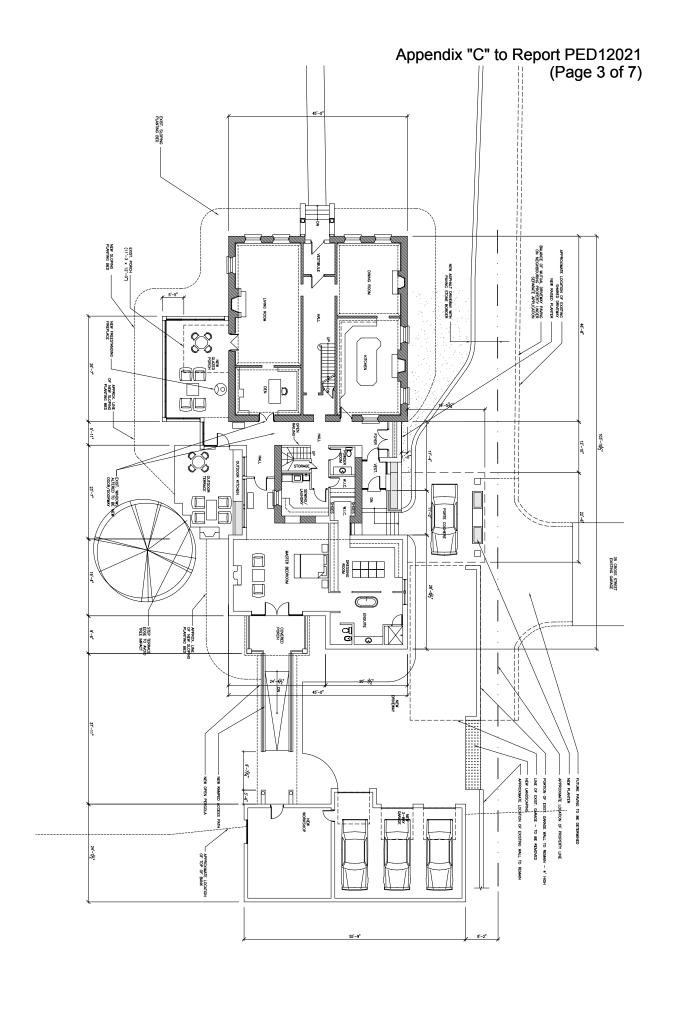
Existing north side entrance (to be removed)

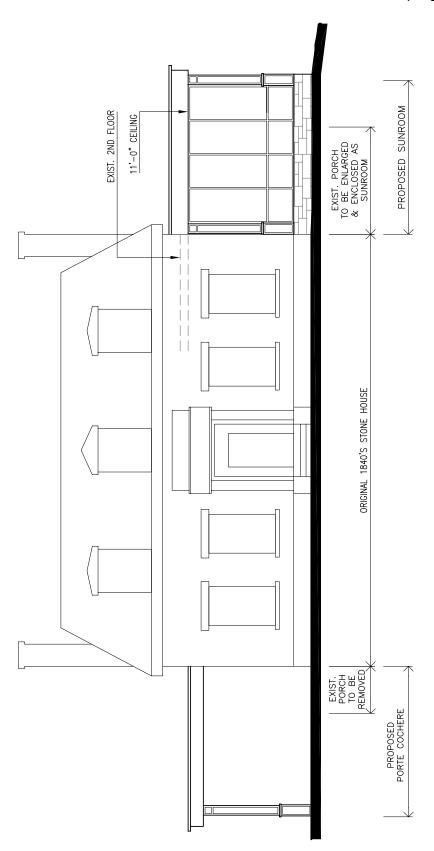
## Plans and Elevations for the Proposed Alterations and New Construction



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