



Hamilton

CITY OF HAMILTON

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division**

TO: Chair and Members Planning Committee	WARD AFFECTED: WARD 5
COMMITTEE DATE: August 8, 2011	
SUBJECT/REPORT NO: Heritage Permit Application HP2011-038 Under Part V of the <u>Ontario Heritage Act</u> for Erection of Structures at 930 Beach Boulevard (Hamilton) (PED11143) (Ward 5)	
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 HP2011-038 be approved for the erection of a new single-detached residence, and attached garage, on the designated property at 930 Beach Boulevard (Hamilton Beach Heritage Conservation District), (Hamilton), as shown on Appendix "A" to Report PED11143, subject to the following conditions:

- (a) That the grading, front and side yard setbacks, and building heights shall be submitted, to the satisfaction and approval of Planning staff, prior to final Site Plan approval and/or submission as part of any application for a Building Permit.
- (b) That the detailed specifications of the cladding, windows, doors, and other building materials for the new house and garage shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (c) That the dimensions and surfacing materials for the new driveway and any walkways, patios, or other hard-surface areas shall be submitted, to the satisfaction and approval of Planning staff, prior to installation.

SUBJECT: Heritage Permit HP2011-038 Under Part V of the Ontario Heritage Act for Erection of Structures at 930 Beach Boulevard (Hamilton) (PED11143) (Ward 5) - Page 2 of 9

- (d) That the dimensions, design, and materials for any new fencing and gates shall be submitted, to the satisfaction and approval of Planning staff, prior to installation.
- (e) That as many existing trees as possible shall be retained, and/or that one to three new trees of a minimum caliper of 55mm and of a species consistent with the City of Hamilton's Tree Species and Recommended Use Index shall be planted within one year of occupancy of the new dwelling.
- (f) That a plan depicting the removed, retained, and new trees, including the caliper size, locations, and species shall be submitted, to the satisfaction and approval of Planning staff, prior to any grading or tree removals.
- (g) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (h) That construction and site alterations, in accordance with this approval, shall be completed no later than August 31, 2013. If the construction and site alterations are not completed by August 31, 2013, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

EXECUTIVE SUMMARY

The subject property, located at 930 Beach Boulevard (Hamilton), is designated as part of the Hamilton Beach 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 structures or buildings on the property. The applicant is applying for the erection of a new single-detached residence and an attached garage on a vacant lot. This application is considered to be worthy of support, in principle, subject to conditions related to grading and landscaping and the detailed review of the proposed construction materials. Construction on the subject property is also subject to site plan control under the Planning Act, and the proposed lot layout and building design may require a successful application to the Committee of Adjustment for minor variances. The Heritage Permit Review Sub-committee and the Hamilton Municipal Heritage Committee have reviewed this application, and have advised conditional approval of the application.

Alternatives for Consideration - See Page 8.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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 Ontario Heritage Act 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,
2. 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 Ontario Heritage Act 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 Ontario Heritage Act 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.”

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.”

SUBJECT: Heritage Permit HP2011-038 Under Part V of the Ontario Heritage Act for Erection of Structures at 930 Beach Boulevard (Hamilton) (PED11143) (Ward 5) - Page 4 of 9

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 930 Beach Boulevard (Hamilton) (see the location map attached as Appendix “A”), is located in the Hamilton Beach Heritage Conservation District (HCD), designated by the former City of Hamilton By-law No. 00-135, approved by the Ontario Municipal Board under Part V, Section 41, of the Ontario Heritage Act in 2001. Under Section 42 of the Ontario Heritage Act, a permit is required for alterations to a property. The power to consent to alterations to property designated under the Ontario Heritage Act was delegated by Council to the Director of Planning under City of Hamilton By-law No. 05-364. However, the Ontario Heritage Act provisions exclude the delegation of Council’s authority to consent to an application for the demolition of existing structures or erection of new structures (see Legal Implications).

The existing lot is vacant with several mature trees (a photograph of the existing lot is attached as Appendix “B”). The applicant has applied to erect a new, 2-storey, single-detached dwelling, with an attached 1-storey garage with loft, to the rear (the plans and elevations for the proposed new construction are attached as Appendix “C”). The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee reviewed this application on June 22, 2011. The Sub-committee supported the proposed site plan and the design of the new house, in principle, subject to several conditions. At its meeting on July 21, 2011, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the application.

POLICY IMPLICATIONS

City of Hamilton Official Plan

Section C.6 - Heritage Resources of the former City of Hamilton Official Plan encourages the preservation, maintenance, reconstruction, restoration, and

management of property considered to have historic, architectural, or aesthetic value (C.6.1). The recommendations of this Report do no conflict with this policy.

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 commitment to the identification, protection, and conservation of the cultural heritage resources, and the recommendations of this Report do no conflict with these policies.

Hamilton Beach Heritage Conservation District - Guidelines for Conservation and Change

The Council-adopted Hamilton Beach Heritage Conservation District Guidelines for Conservation and Change (Section 5.0 - Design Guidelines for New Infill Construction) specifies that new construction be compatible with the character of adjoining properties and the streetscape. However, new construction should be of a modern design sympathetic to, but not attempt to replicate, existing heritage buildings or styles (Sub-section 5.3). Sub-section 5.4 provides detailed guidance for new construction, summarized as follows:

- New residences are intended to be 2-storeys or less in height, relatively narrow, and set back slightly further from the road than the earlier pre-1900 houses (to a setback similar to those for the post-1900 buildings).
- Suitable construction is frame with horizontal facades and cladding in wood (clapboard, board-and-batten, or shingle), stucco, pebble-dash, or rough-cast, with no or minimal brick or stone. Small areas of high-quality synthetic cladding may be permitted.
- Roof forms are encouraged to be well proportioned front-gable, cross-gable, centre-gable, hipped, or truncated hip roofs.

SUBJECT: Heritage Permit HP2011-038 Under Part V of the Ontario Heritage Act for Erection of Structures at 930 Beach Boulevard (Hamilton) (PED11143) (Ward 5) - Page 6 of 9

- Windows of vertical and rectangular orientation that reflect traditional proportions and do not overwhelm the front façade (i.e. avoid large, full-length, multi-storey, or picture windows) are appropriate.
- Front entrances are intended to be prominent and easily identifiable and can be recessed or projecting and/or accentuated by door surrounds or porches.
- Parking and other outbuildings are intended to be in the rear yard.

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. At its meeting of June 22, 2011, the Heritage Permit Review Sub-committee of the HMHC considered this application, together with comments from staff and the applicant. The Sub-committee supported the proposed site plan and the design of the new house, in principle, but advised that a greater front yard setback could reduce the impact of the overall height of the new house on the neighbouring one-and-one-half storey houses and the streetscape.

Accordingly, the Sub-committee recommended approval of the subject application provided that the height of the house (currently shown as 2'-0" over the height allowed by the Zoning By-law) and the front yard setback would be subject to further review once the grading and drainage requirements of the site had been confirmed. The Sub-committee supported staff's review and approval of detailed specifications for the proposed construction materials and finishes, such as cladding, windows, doors, porch railings and columns, driveway and walkway surfacing, fencing, and the stone veneer at the foundation, subsequent to the Heritage Permit approval. At its meeting on July 21, 2011, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the application.

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).

Displacement: The existing lot is currently vacant, except for several mature trees. These trees are primarily non-native and invasive species; however, the existing trees screen the Skyway and contribute to the landscape character of the area. Most of the existing trees will be displaced by the grading and construction. Staff recommends that a Tree Management Plan, or similar plan, depicting the removed, retained, and new

SUBJECT: Heritage Permit HP2011-038 Under Part V of the Ontario Heritage Act for Erection of Structures at 930 Beach Boulevard (Hamilton) (PED11143) (Ward 5) - Page 7 of 9

trees, including the caliper size, locations, and species shall be submitted and reviewed as a condition of any Heritage Permit approval to ensure retention of some of the existing trees and/or appropriate planting of new trees (see Recommendations (e) and (f)).

Disruption: The new construction will impact the Beach Boulevard streetscape and the character of the Hamilton Beach HCD. However, the site plan and general design of the new structures are consistent with the character of the HCD and previously approved new buildings within the District in terms of width, massing, and setbacks. The design of the new dwelling does not replicate a historical style, but incorporates sympathetic features, such as front gables, a front porch, and vertically-oriented windows, and the garage will be located behind the proposed dwelling.

The applicant has proposed stucco cladding on the front and sides of the house, a stone veneer along the foundation, and vinyl board-and-batten style cladding on the garage and the rear elevation of the house. The detailed specifications and colours for many of the construction materials, such as windows, doors, eaves, porch railings and columns, stone veneer, driveway surfacing, and fencing have not been submitted. Therefore, staff recommends that these details will be reviewed and approved by staff, as per Recommendations (b), (c), and (d).

The height of the proposed house, as shown on the submitted drawings, is 31'-6". The Zoning By-law permits 9 metres or 29'-6", which represents a proposed roof height that is 2'-0" over the maximum permitted height. This increased roof height may be acceptable provided that the front yard setback and grading are implemented in a manner that visually minimizes the increased height in relation to the adjacent houses. In addition, the grading and drainage of the site will be reviewed through Site Plan Control, and changes to the grading could result in changes to the roof height, as defined by the Zoning By-law. Accordingly, staff recommends that the grading, side and front yard setbacks, and the roof height will be reviewed as a condition of approval, as per Recommendation (a).

It is also recommended that staff be authorized to approve minor amendments to the plans and elevations (Recommendation (g)), and that the Heritage Permit have an expiry date of August 31, 2013 (Recommendation (h)). An expiry date of two years after approval is standard on all approved Heritage Permits, and the August 31, 2013 date will reflect the expected end date of the new construction.

Accordingly, staff recommends conditional approval of Heritage Permit Application HP2011-038, as per the recommendations of this Report.

Construction on the subject property is also subject to site plan control under the Planning Act, and the proposed lot layout and building design may require a successful application to the Committee of Adjustment for minor variances (e.g. for the increased height).

ALTERNATIVES FOR CONSIDERATION:

1. **Refuse the heritage permit application.**

Refusal of the Heritage Permit to erect the new structure does not contribute to the built heritage landscape of the Hamilton Beach Heritage Conservation District (HCD), and does not advance the Hamilton Beach HCD Guidelines that permit the erection of new buildings and other site alterations which are sympathetic to the existing building fabric and maintain the character of the Hamilton Beach HCD.

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

Council may approve this application with additional or amended conditions of approval. 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.
- ◆ Staff Comment: The approval of the recommendations of this Report demonstrates Council's commitment to the Council-approved Hamilton Beach Heritage Conservation District - Guidelines for Conservation and Change, and to the City's Official Plan policies.

Financial Sustainability

- ◆ Generate assessment growth/non-tax revenues.
- ◆ Staff Comment: The approval of the recommendations of this Report will permit new construction on an existing vacant lot and will increase the property's assessed value. The existing lot is located in an area that is already serviced by municipal infrastructure.

Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies.
- ◆ Staff Comment: 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.

Environmental Stewardship

- ◆ Reduced impact of City activities on the environment.
- ◆ Staff Comment: The approval of the recommendations of this Report will permit new construction on an existing vacant lot that is already serviced by municipal infrastructure.

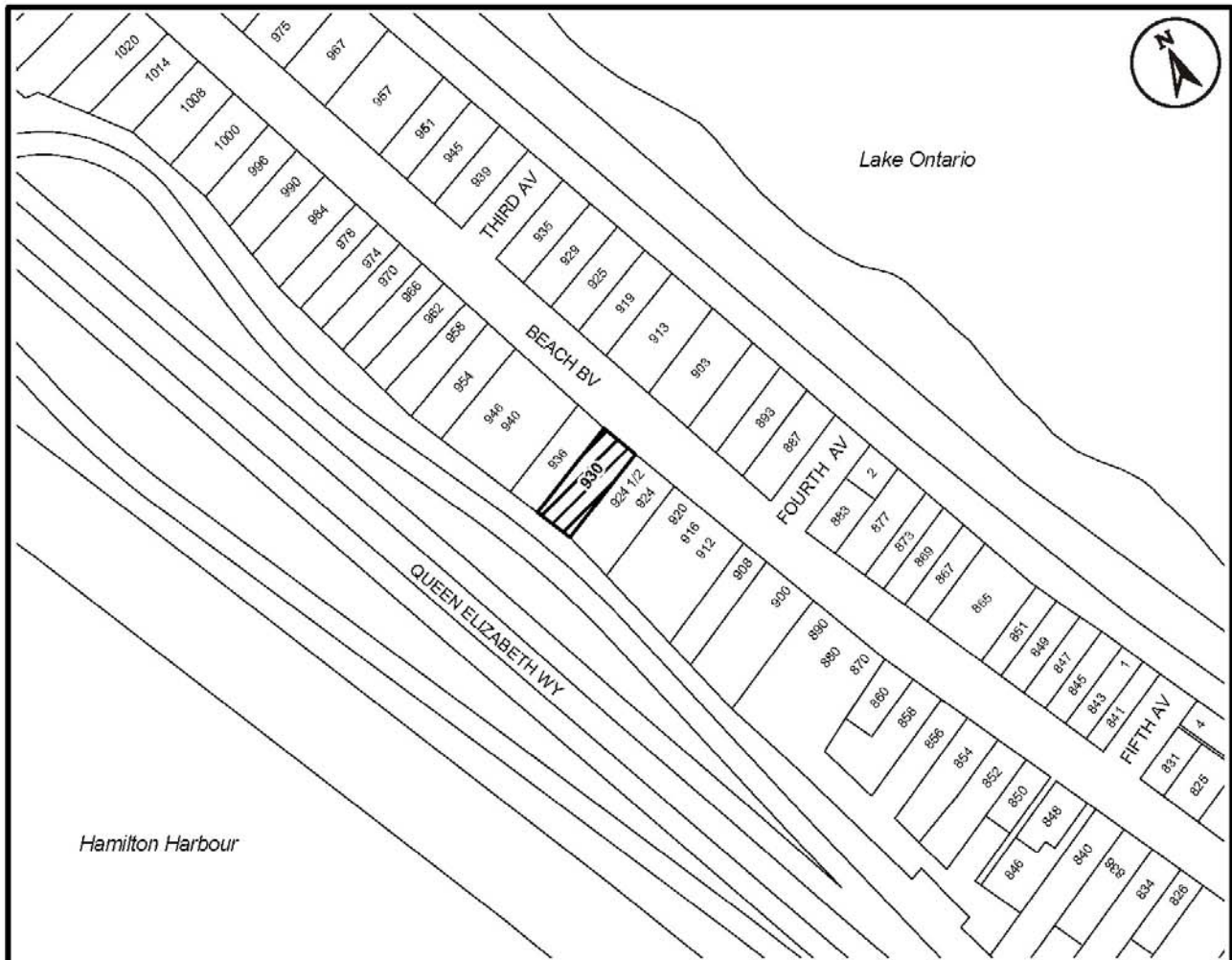
Healthy Community

- ◆ Plan and manage the built environment.
- ◆ Staff Comment: The proposed new construction will conserve and enhance the character of an existing neighbourhood.

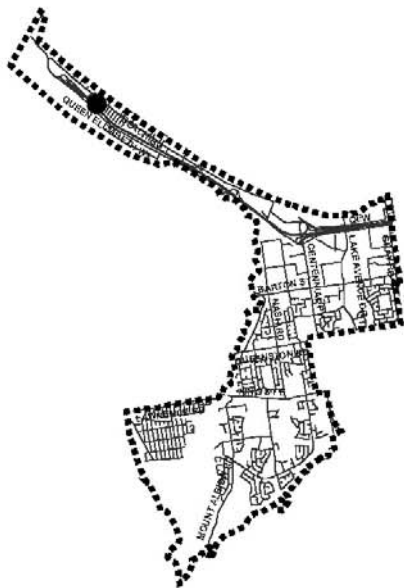
APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Photograph of the Existing Lot
- Appendix "C": Plans and Elevations for the Proposed New Construction

:MH
Attachs. (3)



● Site of the Application



Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
HP2011-038


Date:
July 11, 2011

Appendix "A"


Scale:
N.T.S.

Planner/Technician:
MH/AL

Subject Property

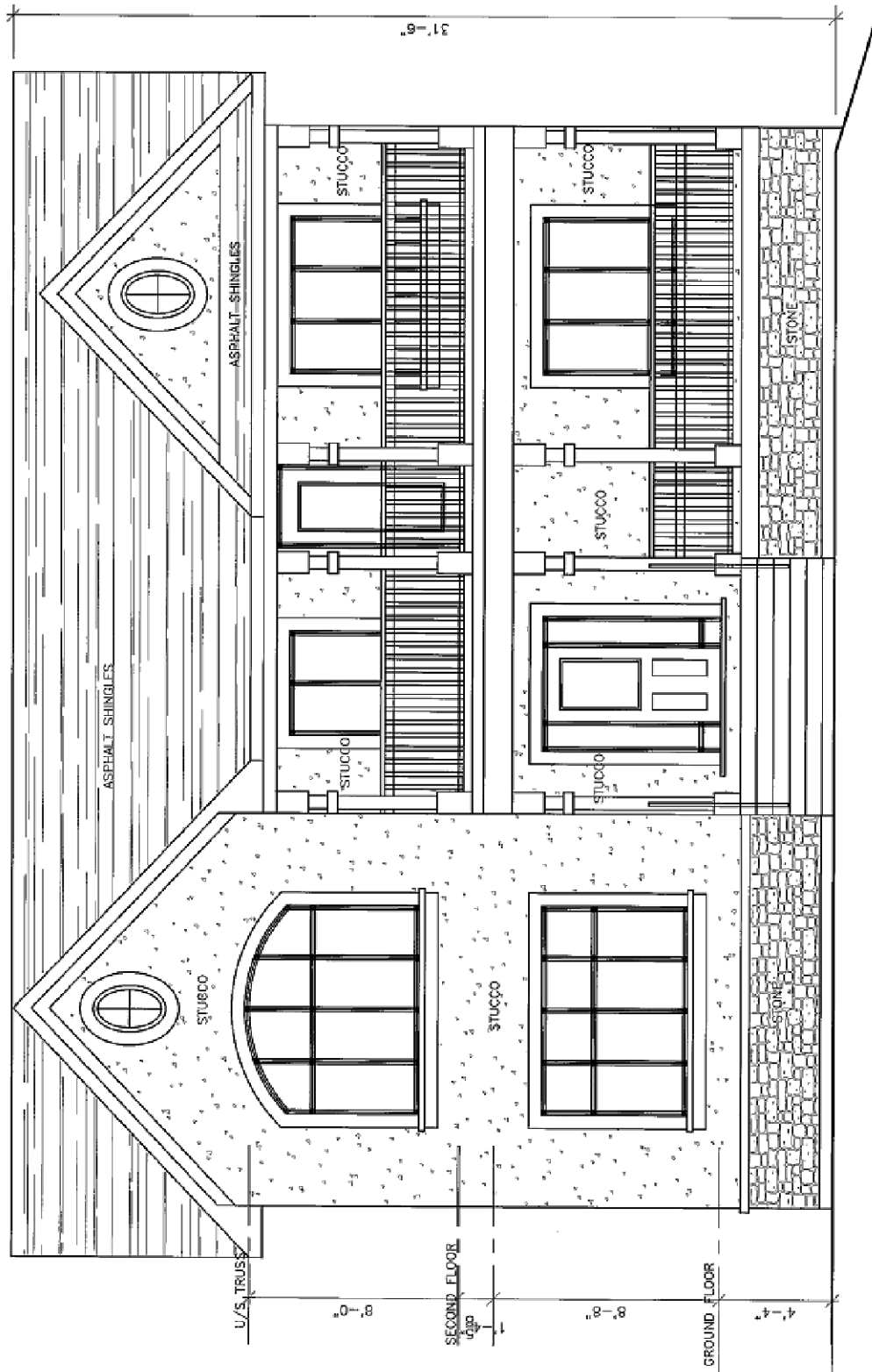
 930 Beach Boulevard

Ward 5 Key Map

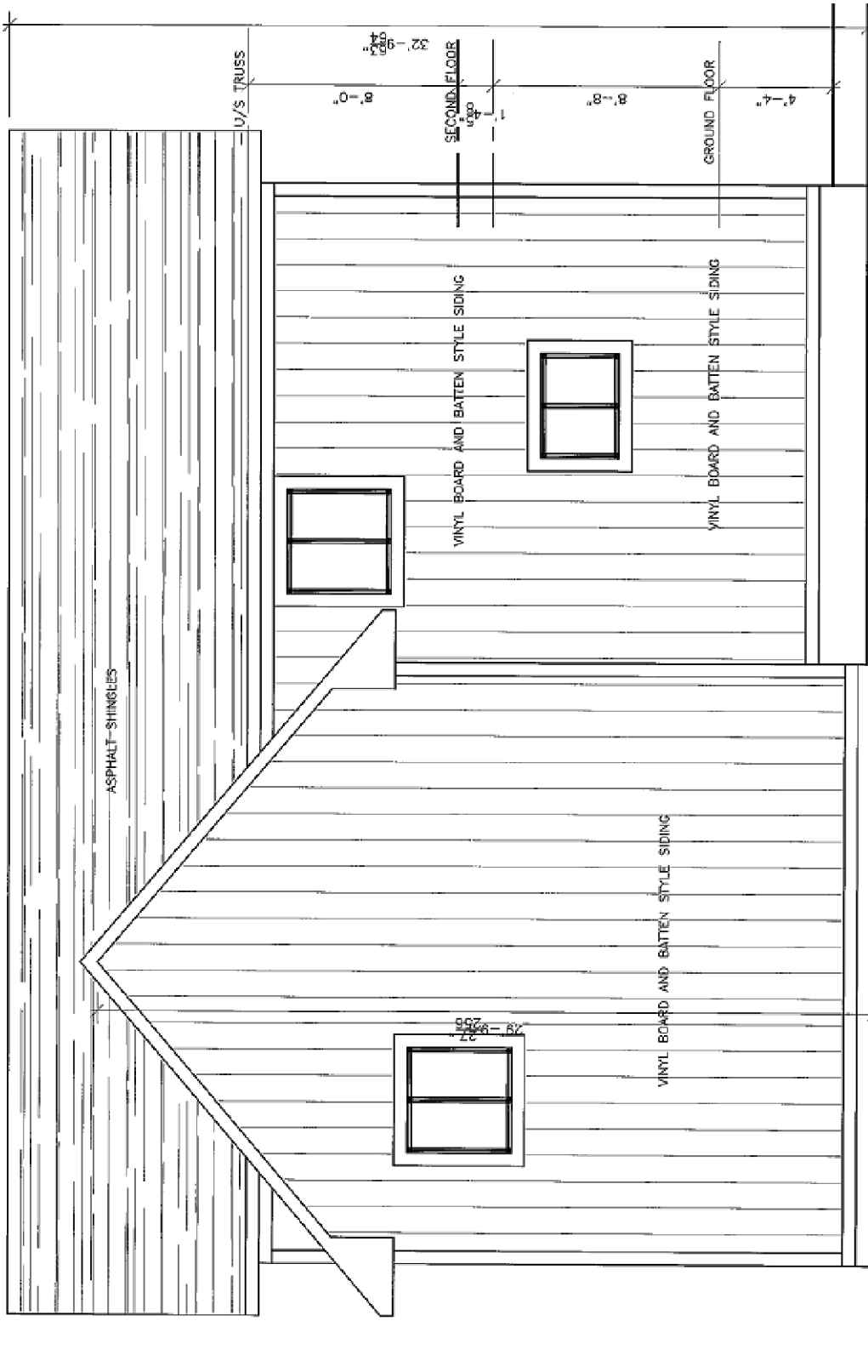
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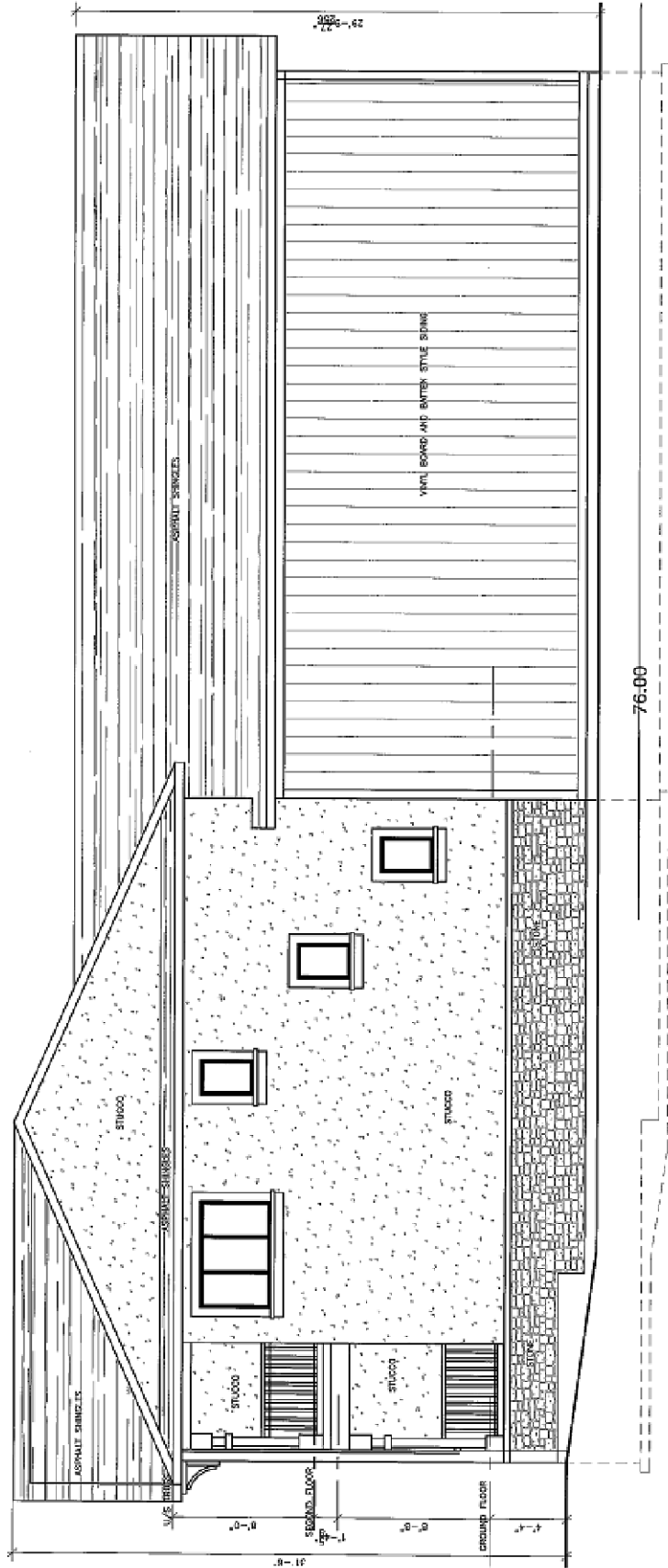
930 Beach Boulevard – vacant lot



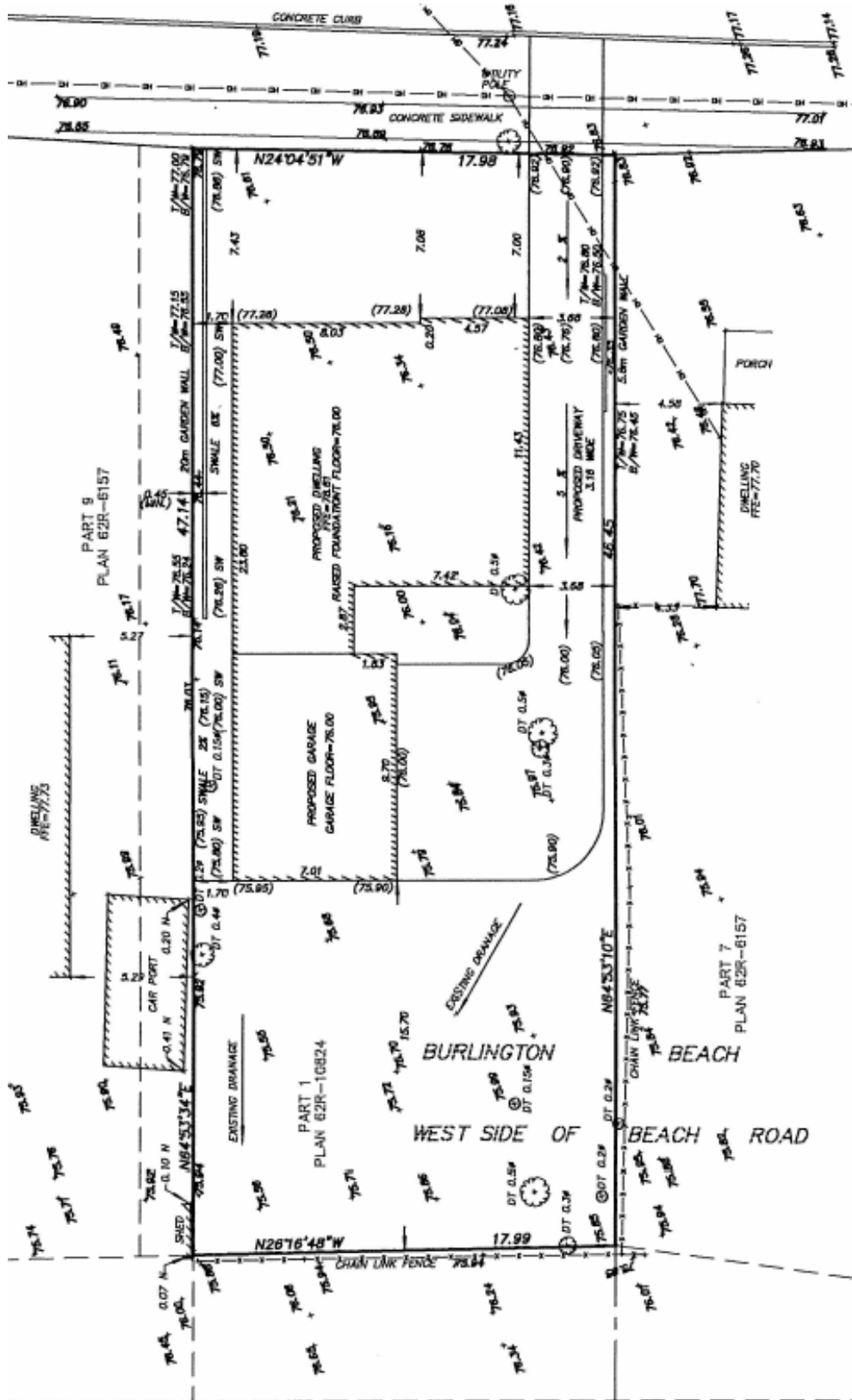
Front (East) Elevation



Rear (West) Elevation



Side (North) Elevation



Site Plan