



CITY OF HAMILTON

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division**

TO: Chair and Members Planning Committee	WARD AFFECTED: WARD 13
COMMITTEE DATE: September 7, 2011	
SUBJECT/REPORT NO: Heritage Permit Application HP2011-045 Under Part V of the <u>Ontario Heritage Act</u> for the Demolition of a Detached Garage and the Construction of New Additions to the Existing House at 18 Melville Street (Dundas) (PED11153) (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 HP2011-045 be approved for the demolition of a detached garage and the construction of new additions to the existing house at 18 Melville Street (Cross-Melville Heritage Conservation District), (Dundas), as shown on Appendix "A" to Report PED11153, subject to the following conditions:

- (a) That the design for any lighting on the front and side façades are submitted, to the satisfaction and approval of Planning staff, prior to installation.
- (b) That any minor changes to the plans and elevations following approval are submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.
- (c) That the previous Heritage Permit HP2011-039 for alterations to the existing house and garage, approved by the Director of Planning on July 15, 2011, is revoked as of the approval of Heritage Permit HP2011-045.

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- (d) That construction and site alterations, in accordance with this approval, shall be completed no later than September 30, 2013. If the construction and site alterations are not completed by September 30, 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 18 Melville Street (Dundas), 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 structures or buildings on the property. The applicant is applying for the demolition of a detached garage and the construction of a new front porch and rear and second-storey additions to the existing house. A similar Heritage Permit Application (HP2011-039) was approved under delegated approval. The previous Heritage Permit did not include the complete demolition of the garage, and will be rescinded through the recommendations of this Report. This application is considered to be worthy of support, subject to the conditions in the staff recommendation. 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,

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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.”

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 18 Melville 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. 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 property currently comprises a one-and-one-half-storey house and had a single-car detached garage (photographs of the property as it exists in June, 2011, are attached as Appendix “B”). The applicant applied for consent to demolish the detached garage and to construct a new front porch and rear and second-storey 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 first reviewed this proposal on June 22, 2011, and the Sub-committee supported the proposed plans and elevations subject to revisions to the roof slope and the location of window and carriage door openings, which the applicant has agreed to, and the drawings have been amended. Staff also identified that the application involved the demolition of the garage which is outside of the scope of delegated approval. The application was amended to bring it within the scope of delegated approval.

Accordingly, staff circulated the revised plans to the Sub-committee by email, including the recommended changes and showing the retention of portions of the garage within the new additions to avoid the changes being deemed “demolition” under the Ontario Heritage Act. A Heritage Permit (HP2011-039) was issued under delegated approval on July 15, 2011. Subsequently, the applicant determined that the garage was not constructed on proper footings and does not comply with the side yard setback. The applicant demolished the garage contrary to the existing Heritage Permit approval. The applicant has now reapplied for a Heritage Permit for a similar proposal, but the scope of the current application includes the complete demolition of the detached garage. The garage was a contemporary addition to the property, and did not contribute significantly to the heritage character of the District. At its meeting on August 18, 2011, the Hamilton Municipal Heritage Committee affirmed the Sub-committee’s recommendation, and advised conditional approval of the application.

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

Cross-Melville Heritage Conservation District Plan

The existing structures on the subject property were built after the 1940’s and are not the same time period or style as the majority of the buildings in the area. However, the existing house was described in the Cross-Melville Heritage Conservation District Study - Background Report as respecting the established character of the area and “fitting well with its neighbouring homes”. Given the age and character of the existing buildings, and the extent of the changes proposed, staff has evaluated the proposal using the policies of the Cross-Melville Heritage Conservation District Plan that pertain to the Construction of New Buildings (Section 6.4).

- New residential infill should maintain existing setbacks, and the width should be less than the depth of the building.

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- Ancillary buildings should be located towards the rear of the lot. Garages, in particular, are best located away from front façades.
- Building height should maintain the predominant building heights of adjacent properties and the immediate streetscape.
- Roof shapes are to be in keeping with existing roofscapes. Flat or mono pitched roofs should be avoided in new buildings.
- Window designs should reflect traditional proportions and avoid the use of “snap-in” muntins.

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 on June 22, 2011, and the Sub-committee supported the proposed plans and elevations subject to changes to the roof slope (8:12 to 5:12), the location of a carriage door, and breaking up the continuous siding on the west elevation using a contrasting molding. The applicant agreed to make the changes, as suggested. Staff also identified that the application involved the demolition of the garage, which is outside of the scope of delegated approval. The application was amended to bring it within the scope of delegated approval.

Accordingly, staff circulated the revised plans to the Sub-committee by email, including the recommended changes and showing the retention of portions of the garage within the new additions. The scope of the current application includes the complete demolition of the detached garage, and the Heritage Permit Review Sub-committee has been advised of this change to the application by email. At its meeting on August 18, 2011, the Hamilton Municipal Heritage Committee affirmed the Sub-committee’s 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).

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Displacement: The detached garage and the roof/second storey of the existing house will be displaced. The house was built in the 1940's, and the garage was built later. Although these structures are generally compatible with the character of the District, they are not consistent with the time period and style of the other buildings and structures within the District, which were mostly constructed between 1850 and 1900.

The garage has been demolished. Staff and the Heritage Permit Review Sub-committee initially recommended approval of the complete demolition of the garage. The garage was a contemporary addition to the property, and did not contribute significantly to the heritage character of the District. The recommendation was changed, to approval of the retention of portions of the garage, so that the Heritage Permit could be issued under the Director of Planning's delegated authority. Staff continues to recommend approval of the complete demolition, which requires Council approval of the Heritage Permit.

Disruption: The proposed additions will increase the footprint and mass of the existing house. The front yard setback and location and width of the existing driveway will remain the same. Staff and the Heritage Permit Review Sub-committee were of the opinion that the height, roof line, and massing of the proposed additions in the first submission (8:12 slope) were not consistent with the character of the District. The applicant has reduced the roof slope to 5:12, which will result in a roof height that is the same height as the existing roof. The additions will be primarily located behind and/or be stepped back from the front façade of the existing house. The HCD Guidelines state that garages should be detached and located to the rear of the lot. The applicant originally proposed carriage doors on the front of the addition for access to a storage/work shop area, but has revised the plans so that there are windows on the front elevation of the addition and access to the storage area will be from the side. Therefore, staff is of the opinion that the height, roof line, and massing of the revised design are consistent with the character of the District.

The applicant has proposed to use primarily wood or pre-finished wood products for the doors, porch detailing, cladding and trim, which is consistent with the character of the District and the HCD Guidelines. The submitted drawings are missing details regarding the porch railings and steps and any front yard and porch lighting; staff will require that these details are submitted as a condition of approval.

Accordingly, staff recommends conditional approval of Heritage Permit Application HP2011-045, as per the recommendations of this Report.

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ALTERNATIVES FOR CONSIDERATION:

1. Refuse the heritage permit application.

Refusal of the Heritage Permit to demolish the garage and complete alterations 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.
- ◆ Staff Comment: 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.
- ◆ Staff Comment: 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.
- ◆ 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.

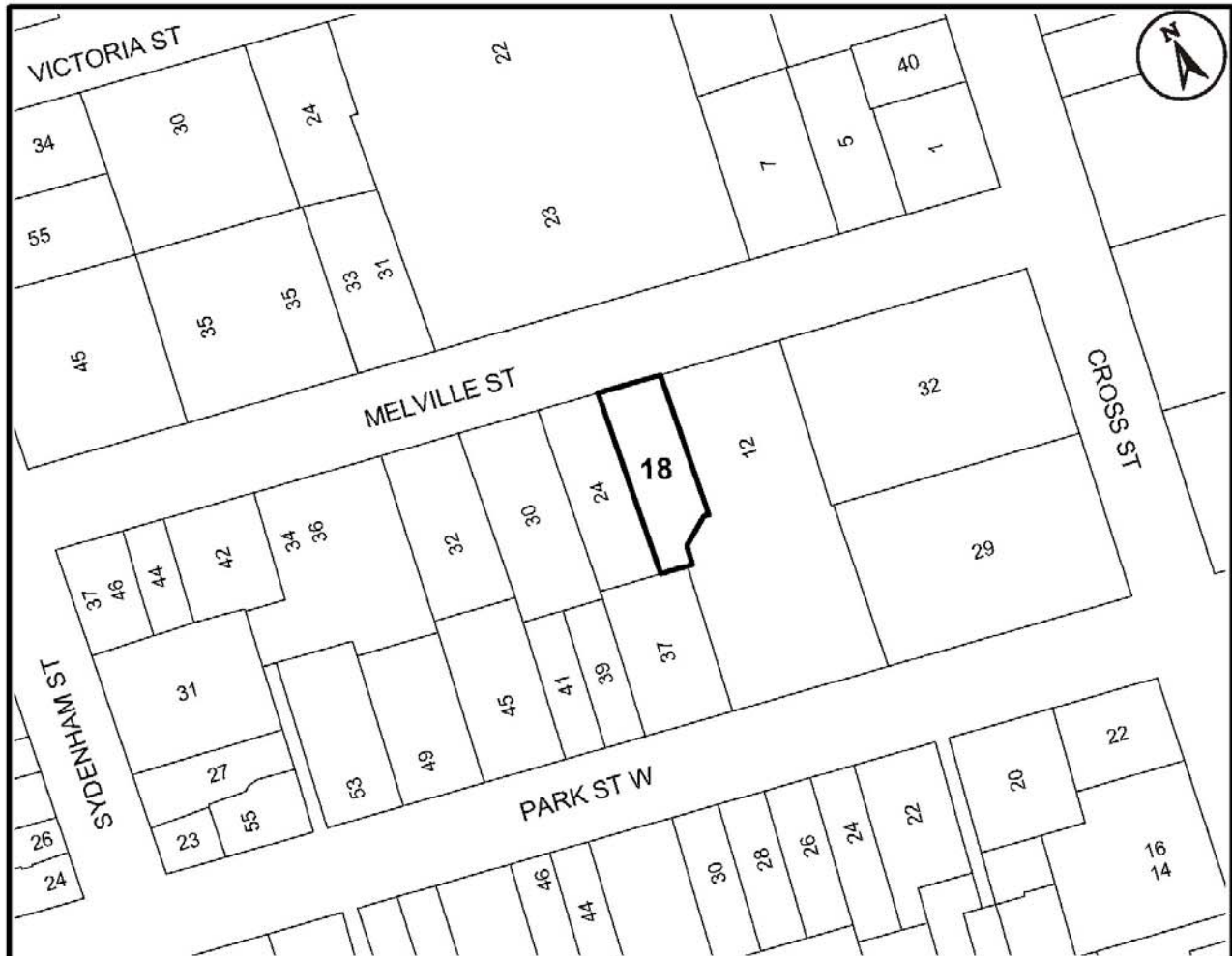
Healthy Community

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

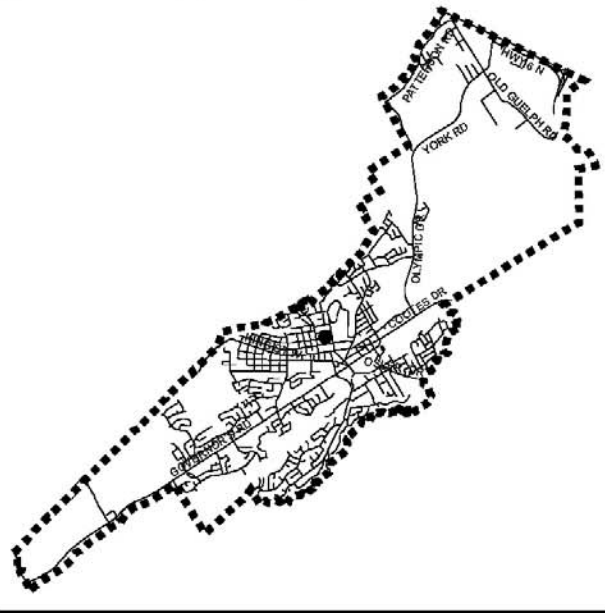
APPENDICES / SCHEDULES

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

:MH
Attachs. (3)



● Site of the Application



Ward 13 Key Map

N.T.S.

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
HP2011-045

Date:
August 3, 2011

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
MH / MB

Subject Property



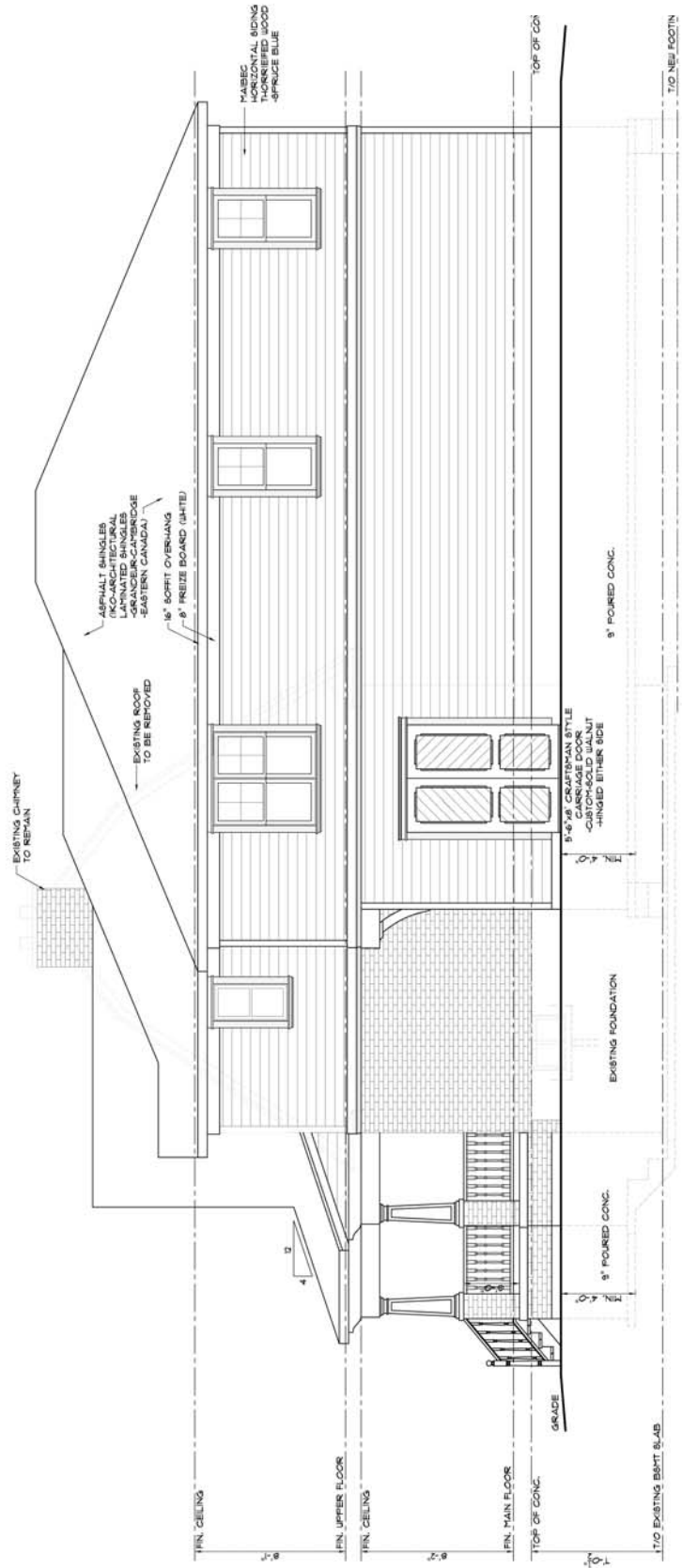
18 Melville Street, Dundas



Front (north) façade of the existing house



Front (north) and side (west) of the existing house,
showing the detached garage and driveway



RIGHT ELEVATION
 SCALE 1/4"=1'-0"

