

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee

From: Scott Mathers, MPA, P. Eng.
Deputy City Manager, Planning and Economic Development

Subject: Heritage Alteration Permit application by P. McCulloch-Squires for 864 Hellmuth Avenue, Bishop Hellmuth Heritage, Ward 6

Date: Tuesday February 21, 2023

Recommendation

That, on the recommendation of the Director, Planning and Development, with the advice of the Heritage Planner, the application under Section 42 of the *Ontario Heritage Act* seeking approval to pave a portion of the front yard for parking on the heritage designated property at 864 Hellmuth Avenue, within the Bishop Hellmuth Heritage Conservation District, **BE REFUSED**.

Executive Summary

The property at 864 Hellmuth Avenue is a significant cultural heritage resource, designated pursuant to Part V of the *Ontario Heritage Act* as a part of the Bishop Hellmuth Heritage Conservation District. The applicant has submitted a Heritage Alteration Permit application seeking approval for the construction of new front yard parking. The Heritage Alteration Permit application was included on a previous agenda of the Community Advisory Committee on Planning (CACP); however, as a result of lack of quorum, the advisory committee was unable to hear the application. The City and the applicant have agreed to extend the legislated timelines pursuant to the *Ontario Heritage Act* to recirculate this application to the CACP. New information related to the Heritage Alteration Permit application and the existing conditions of the subject property was submitted to the City since the previous staff report was published on the CACP agenda in December 2022. Despite the new information, the staff recommendation on this Heritage Alteration Permit remains unchanged. The policies and guidelines of the Bishop Hellmuth Heritage Conservation District strongly discourage paving front yards for parking. The recommended action is to refuse the application.

Linkage to the Corporate Strategic Plan

This recommendation supports the following 2019-2023 Strategic Plan areas of focus:

- Strengthening Our Community
 - Continuing to conserve London's heritage properties and archaeological resources.

Analysis

1.0 Background Information

1.1 Location

The property at 864 Hellmuth Avenue is located on the east side of Hellmuth Avenue between Grosvenor Street and St. James Street (Appendix A).

1.2 Cultural Heritage Status

The property at 864 Hellmuth Avenue is located within the Bishop Hellmuth Heritage Conservation District, designated pursuant to Part V of the *Ontario Heritage Act* by By-Law No. L.S.P-3333-305, which came into force and effect on February 7, 2003.

1.3 Description

The dwelling on the property at 864 Hellmuth Avenue was constructed c.1902. The residential form building is two-and-a-half storeys in height and includes Queen Anne Revival stylistic influences. The painted brick dwelling includes a verandah that spans the front façade supported by rusticated concrete block plinths and wooden posts. The projecting gable includes a pair of wood sash windows flanked and separated by wooden mullions, and shingled imbrication, characteristic of the Queen Anne Revival style.

Much like many of the properties within the Bishop Hellmuth Heritage Conservation District, the property can be accessed through the back laneway, a landscape element that is recognized within the *Bishop Hellmuth Heritage Conservation District Plan*. Many of the properties within the Bishop Hellmuth Heritage Conservation District include rear laneway parking and rear laneway buildings.

The front of the property at 864 Hellmuth Avenue is landscaped with manicured grass, a walkway to the front door, and various trees and vegetation. The rear of the property can be accessed by the rear laneway which includes a parking area, a walkway, and access to a rear door at grade, as well as by steps at the side of the dwelling (See Appendix B).

2.0 Discussion and Considerations

2.1 Legislative and Policy Framework

Cultural heritage resources are to be conserved and impacts assessed as per the fundamental policies in the *Provincial Policy Statement (2020)*, the *Ontario Heritage Act*, and *The London Plan*.

2.2 Provincial Policy Statement

Heritage Conservation is a matter of provincial interest (Section 2.d, *Planning Act*). The *Provincial Policy Statement (2020)* promotes the wise use and management of cultural heritage resources and directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved” (Policy 2.6.1, *Provincial Policy Statement 2020*).

“Significant” is defined in the *Provincial Policy Statement (2020)* as, “resources that have been determined to have cultural heritage value or interest.” Further, “processes and criteria for determining cultural heritage value or interest are established by the Province under the authority of the *Ontario Heritage Act*.”

Additionally, “conserved” means, “the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained.”

2.3 Ontario Heritage Act

The *Ontario Heritage Act* enables municipalities to protect properties of cultural heritage value or interest. Properties of cultural heritage value can be protected individually, pursuant to Section 29 of the *Ontario Heritage Act*, or where groups of properties have cultural heritage value together, pursuant to Section 41 of the *Ontario Heritage Act* as a Heritage Conservation District (HCD). Designations pursuant to the *Ontario Heritage Act* are based on real property, not just buildings.

2.3.1 Contravention of the Ontario Heritage Act

Pursuant to Section 69(1) of the *Ontario Heritage Act*, failure to comply with any order, direction, or other requirement made under the *Ontario Heritage Act* or contravention of the *Ontario Heritage Act* or its regulations, can result in the laying of charges and fines up to \$50,000 for an individual and \$250,000 for a corporation.

2.3.2. Heritage Alteration Permit

Section 42 of the *Ontario Heritage Act* requires that a property owner not alter, or permit the alteration of, the property without obtaining Heritage Alteration Permit approval. The

Ontario Heritage Act enables Municipal Council to give the applicant of a Heritage Alteration Permit:

- 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), *Ontario Heritage Act*)

Municipal Council must make a decision on the heritage alteration permit application within 90 days or the request is deemed permitted (Section 42(4), *Ontario Heritage Act*).

2.4 The London Plan

The policies of *The London Plan* found in the Key Directions and Cultural Heritage chapter support the conservation of London's cultural heritage resources for future generations. To ensure the conservation of significant cultural heritage resources, including properties located within a Heritage Conservation District, the policies of *The London Plan* provide the following direction:

Policy 594_ Within heritage conservation districts established in conformity with this chapter, the following policies shall apply:

- 1. The character of the district shall be maintained by encouraging the retention of existing structures and landscapes that contribute to the character of the district.*
- 2. The design of new development, either as infilling, redevelopment, or as additions to existing buildings, should complement the prevailing character of the area.*
- 3. Regard shall be had at all times to the guidelines and intent of the heritage conservation district plan.*

Policy 596_ A property owner may apply to alter a property within a heritage conservation district. The City may, pursuant to the Ontario Heritage Act, issue a permit to alter the structure. In consultation with the London Advisory Committee on Heritage, the City may delegate approvals for such permits to an authority.

2.5 Bishop Hellmuth Heritage Conservation District Plan

The Bishop Hellmuth Heritage Conservation District Plan includes policies and guidelines related to alterations to properties located within the Bishop Hellmuth Heritage Conservation District. The policies of Section 4.4 (Building Conversions – Car Parking), Section 4.5 (New Building Policies – Car Parking), and Section 5.7 (Landscape Policies – Car Parking) are relevant to applications for front yard paving and parking with the Heritage Conservation District.

Section 4.4 (Building Conversions – Car Parking) states:

Car parking should be located to the side or rear of the lot. Where car parking is seen from the street, landscaping should be introduced to provide a visual buffer. Privacy fencing or hedges should be considered where car parking may disturb neighbouring properties. Applicable by-laws shall apply.

Section 4.5 (New Building Policies – Car Parking) states:

A priority is that car parking be accessed off the back lane. If absent, car parking should be located to the side or rear of the new building. The car park should be landscaped or screened with a hedge or a traditional wood fence. The City's fence by-law shall apply.

Section 5.7 (Landscape Policies – Car Parking) states:

Paving over front yard for car parking is strongly discouraged. This destroys the landscape integrity of the historic streetscape.

Where car parks are established to the side or rear of a building, landscape buffers should be planted to visually screen the parked cars.

3.0 Financial Impact/Considerations

None.

4.0 Key Issues and Considerations

4.1. Heritage Alteration Permit application (HAP22-081-L)

The City was first contacted in August of 2022 to inquire about Heritage Alteration Permit approvals for front yard parking and a curb cut on the subject property at 864 Hellmuth Avenue. Staff noted that Heritage Alteration Permit approval was required and that the Bishop Hellmuth Heritage Conservation District Plan strongly discourages paving over front yards for car parking.

A complete Heritage Alteration Permit application was received by the City on November 2, 2022. The application seeks approval to remove a portion of the front yard to install a driveway at the front of the property, to the side of the dwelling. In citing the reasons for the proposed change to the property, the applicant noted accessibility concerns. Staff often work with applicants to plan for sensitive alterations to properties to accommodate accessibility upgrades, including barrier-free entries, and additions. No other accessibility alterations to the property have been proposed. An existing at grade entry appears to currently be in place at the rear of the dwelling.

The proposed front yard driveway will be 9 feet wide, starting from the corner of the property line extending to the side of the dwelling and will consist of concrete and interlocking brick (See Appendix C).

The Heritage Alteration Permit application also notes that there are various driveways elsewhere within the Bishop Hellmuth Heritage Conservation District and on Hellmuth Avenue. In particular, the applicant noted 25 front yard driveways located on Hellmuth Avenue.

In reviewing aerial photography coverage from 2002, the majority of the existing front yard driveways appear to be pre-existing, and therefore installed prior to the Bishop Hellmuth Heritage Conservation District coming into force and effect in 2003. A review of the Heritage Alteration Permits over the last 8 years also indicated that no Heritage Alteration Permits had been approved for front yard parking within the Bishop Hellmuth Heritage Conservation District.

The policies and guidelines of the Bishop Hellmuth Heritage Conservation District Plan strongly discourage paving of front yards for vehicle parking. Considering the policies, staff encourage the continued rear laneway and rear yard parking and any landscaping alterations that can be undertaken to address accessibility concerns.

4.2 New Information and Extension of Timeline Under Section 42 of the *Ontario Heritage Act*

The Heritage Alteration Permit application (HAP22-081-L) was previously included on the agenda for the Community Advisory Committee on Planning (CACP) for the meeting scheduled for December 14, 2022. The advisory committee meeting was unable to proceed as there was not enough members present to reach quorum. As a result, the meeting was adjourned, and the applicant was unable to speak to the item at the CACP meeting.

The Staff Report for the Heritage Alteration Permit application for the CACP scheduled for December 14, 2022 can be found at the following link: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=96133>

A decision on a Heritage Alteration Permit application must be made within 90 days or the request is deemed permitted. However, Section 42(4) of the *Ontario Heritage Act* enables a municipality and applicant to extend the timeline to an agreed-upon period. Following the CACP meeting scheduled for December 14, 2022, the City received a written request from the applicant to extend the 90-day timeline pursuant to Section 42 of the *Ontario Heritage Act* to March 8, 2023. As per the Delegated Authority By-law (C.P.-1502-129), the Manager, Community Planning, Urban Design, and Heritage agreed to extend the timeline. The staff report on this Heritage Alteration Permit application was recirculated on the agenda for the CACP for its meeting held on February 8, 2023.

New information related to the Heritage Alteration Permit application and existing conditions of the subject property was submitted to the City since the previous staff report was published on the CACP Agenda for December 2022. Please see the Heritage Alteration Permit application package, and correspondence attached separately.

Staff have conducted an additional review of the Heritage Alteration Permit applications with regard to parking within the Bishop Hellmuth Heritage Conservation District. The previous staff report included a review of the Heritage Alteration Permits over the last 8 years (2015-2022), the most accessible HAP application data. The review indicated that no Heritage Alteration Permits had been approved for front yard parking within the Bishop Hellmuth Heritage Conservation District. Since then staff have reviewed all HAP applications from 2003, when the Bishop Hellmuth Heritage Conservation District came into force and effect, to the present. Since its designation, 1 HAP application for parking within the Bishop Hellmuth Heritage Conservation District was received and approved. This application was received in 2009 for the property located at 270 St. James Street, a corner property located at the northwest corner of St. James Street and Wellington Street. The property does not have access to a rear laneway, and the parking was located on the Wellington Street frontage, away from the primary façade of the dwelling.

The Register of Cultural Heritage Resources indicates that there are 120 properties located within the boundaries of the Bishop Hellmuth Heritage Conservation District that have access to rear laneways. Of the 120 properties, 56 (46%) were identified as having a driveway.

Despite the new information, the staff recommendation on this Heritage Alteration Permit application remains unchanged. Staff are more supportive of providing alterations at the rear of the property, including an extension of the existing rear parking area to permit parking closer to the side entry that is being considered for a removable ramp.

Conclusion

The property at 864 Hellmuth Avenue is a significant cultural heritage resource designate pursuant to Part V of the Bishop Hellmuth Heritage Conservation District. The proposed front yard parking space on the heritage designated property at 864 Hellmuth Avenue is not consistent with the policies and guidelines of the Bishop Hellmuth Heritage Conservation District Plan. The application seeking approval for front yard parking should not be approved.

Prepared by: Michael Greguol, CAHP
Heritage Planner

Reviewed by: Kyle Gonyou, MCIP, RPP, CAHP
Manager, Heritage

Submitted by: Heather McNeely, MCIP, RPP
Director, Planning and Development

Recommended by: Scott Mathers, MPA, P.Eng.
Deputy City Manager, Planning and Economic
Development

Appendices

Appendix A Property Location

Appendix B Images

Appendix C Supporting Documentation for HAP Application

Appendix A – Property Location



Figure 1: Location of the subject property at 864 Hellmuth Avenue, located within the Bishop Hellmuth Heritage Conservation District.

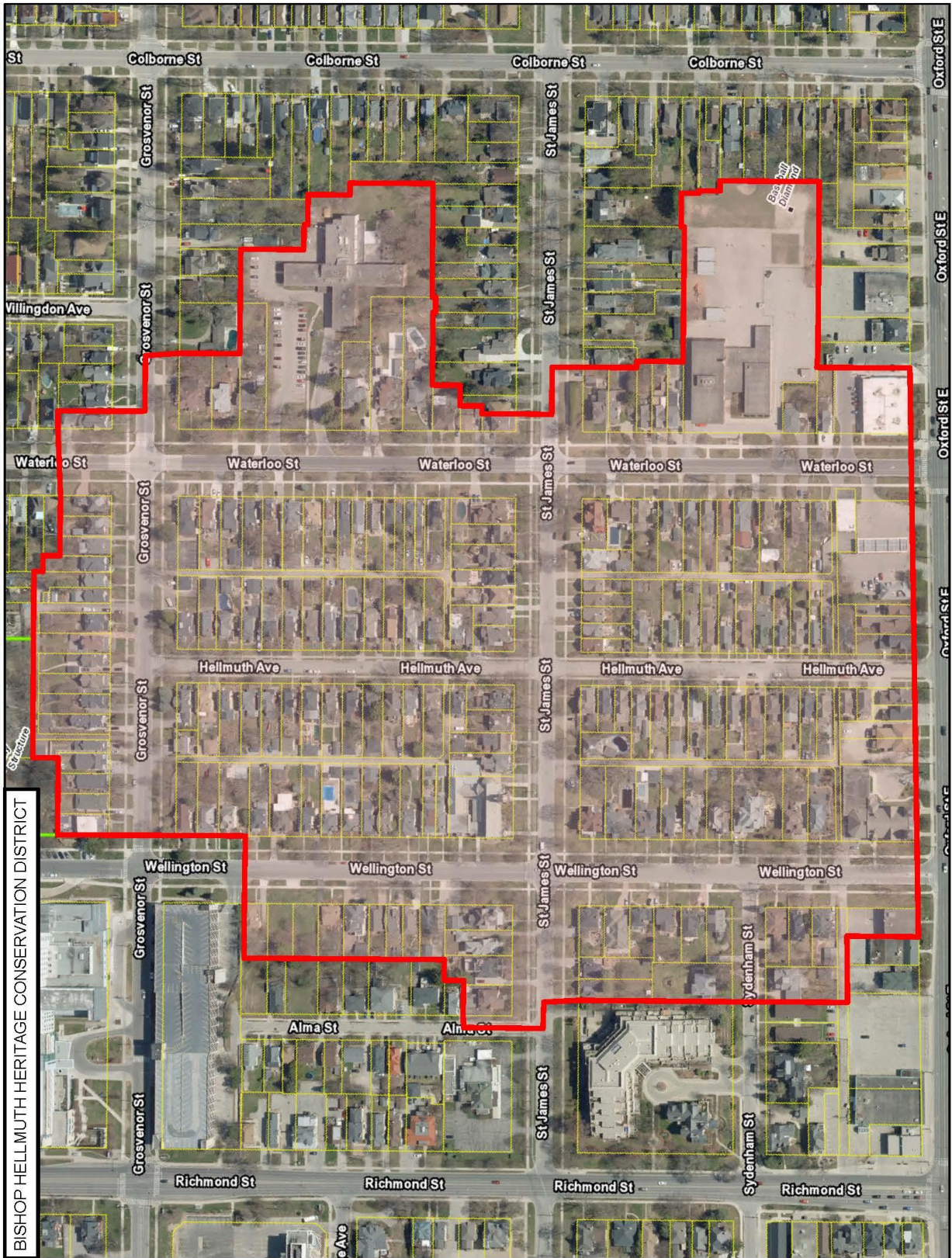


Figure 2: Aerial map, showing the boundaries of the Bishop Hellmuth Heritage Conservation District.

Appendix B – Images



Image 1: Photograph showing the dwelling located at 864 Hellmuth Avenue.



Image 2: Photograph showing the front yard of the property at 864 Hellmuth Avenue.



Image 3: Photograph showing the dwelling on the property at 864 Hellmuth Avenue.



Image 4: Photograph showing existing walkway and landscaping in front yard at 864 Hellmuth Avenue.



Image 5: Photograph showing rear yard parking and entry to the dwelling at 864 Hellmuth Avenue from laneway.



Image 6: Photograph showing at grade entry to the rear of the property at 864 Hellmuth Avenue.

Appendix C – Supporting Documentation for HAP Application

**Property drawing for Curb Cutting for
864 Hellmuth Ave, London ON N6A3T8**

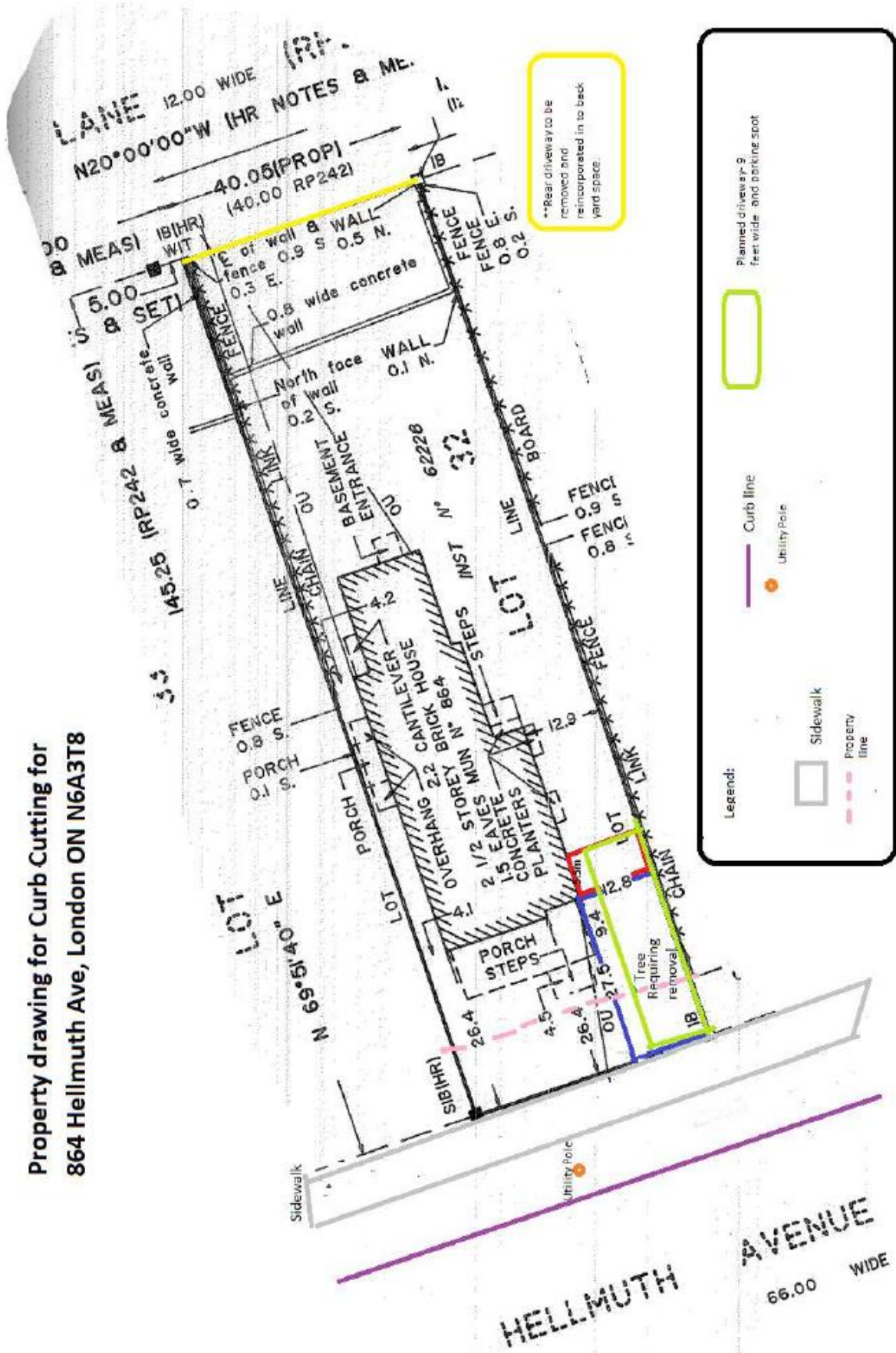


Image 7: Property drawing submitted with the Heritage Alteration Permit application showing the location of the proposed front yard driveway.



Front of house

Image 8: Photograph submitted by applicant as a part of the Heritage Alteration Permit application.

Path to access house from back



Image 9: Photographs submitted by the applicant as a part of the Heritage Alteration Permit application.



Right of house (when facing), location
of proposed parking spot

Image 10: Photograph submitted by the applicant as a part of the Heritage Alteration Permit application.