

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW #330 (1975)

Being a by-law to authorize the Mayor and Clerk to execute a site plan agreement with Mr. V. Battaglioni for the operation of a restaurant on South Pelham Street.

WHEREAS Council deems it desirable to enter into a site plan agreement with Mr. V. Battaglioni for the operation of a restaurant on South Pelham Street;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (1) THAT the agreement attached hereto and made part of this by-law be and the same is hereby approved.
- (2) THAT the Mayor and Clerk be and each of them is hereby authorized and instructed on behalf of the Corporation to execute the said agreement and the Clerk is hereby authorized to affix the Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
18th. DAY OF August, 1975 A.D.

Charles K. Gullett
MAYOR

REED
CLERK

BETWEEN:

VIRGILIO BATTAGLINI,

Hereinafter called the "Owner",
of the FIRST PART,

- and -

THE CORPORATION OF THE TOWN OF PELHAM,

Hereinafter called the "Town",
of the SECOND PART.

1. DEFINITIONS in this agreement:

- (a) "Town Clerk" shall mean the Clerk of the Corporation of the Town of Pelham.
- (b) "Council" shall mean the Council of the Corporation of the Town of Pelham.
- (c) "Town Engineer" shall mean the Engineer of the Corporation of the Town of Pelham.
- (d) "Treasurer" shall mean the Treasurer of the Corporation of the Town of Pelham.

2. WHEREAS the Owner purports to be the Owner of the lands described in Schedule "A" attached to this agreement;

AND WHEREAS the Owner is desirous of operating on the said lands a restaurant in accordance with Schedule "B" and "C" attached hereto, being a plot plan and building elevation of the development;

AND WHEREAS the Town has agreed to permit the said development, subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One (\$1.00) Dollar now paid by the Owner to the Town (the receipt whereof is hereby acknowledged) the Parties hereto mutually covenant and agree as follows:

(1) STORM SEWERS:

(a) The Owner shall, at its own expense, construct a storm sewer system on the lands described in Schedule "A". This storm sewer system is to adequately disperse storm water from the development into the existing municipal storm sewer, in accordance with specifications and a design approved by the Town Engineer and in accordance with a plan to be filed in the office of the Town and signed by the Parties hereto, and the Owner undertakes to repair and maintain the storm sewer system located on the lands described in Schedule "A".

(b) The Owner shall, at its own expense, carry out watercourse improvements in accordance with the requirements of the Town Engineer from time to time.

(c) The Owner shall pay to the Treasurer an impost fee in the sum of \$924.00 to cover the cost of storm drainage from such area; provided however that the Town credit against the said impost fee fifty per cent (50%) of the actual cost of the installation

of storm sewage pipe between property line and existing storm sewer outlet on municipal property and provided further that such credit shall not exceed the aforementioned sum of \$924.00.

(2) SANITARY SEWERS:

The Owner shall, at its own expense, construct a sanitary sewer system on the said lands to adequately serve the building located thereon, such construction to be in accordance with specifications and a design approved by the Town Engineer and undertakes to repair and maintain the sanitary sewer system located on the lands described in Schedule "A" and without limiting the generality of the foregoing, no storm, surface or roof water shall be discharged into the sanitary sewer system.

(3) BUILDING IMPROVEMENT:

(a) The Owner shall make improvements to the exterior facing of the building, which shall be at least painted, or improved to the satisfaction of the Town Building Inspector.

(b) The Owner shall construct a rear entrance to the building, facing east, at a location satisfactory to the Town Building Inspector. This entrance shall be accessible to all public areas of the restaurant.

(4) PARKING:

(a) The Owner shall provide and at all times maintain on the said lands, paved parking areas or structures capable of accommodating a minimum of six (6) parking spaces for motor vehicles.

(b) The Owner shall, at its own expense, construct and maintain paved driveways to serve the said parking areas at such locations and in accordance with specifications approved by the Town Engineer.

(c) The Owner shall, at its own expense, adequately light all driveways and parking areas, with a two-way light, in accordance with Schedule "B" attached hereto.

(d) The Owner shall, at its own expense, plant with #1 Grade Merion Blue Grass the perimeter of all open parking areas so as to enhance the appearance of the parking area.

(5) GRADING AND LANDSCAPING:

(a) The Owner shall, at its own expense, grade the said lands in accordance with the requirements of the Town Engineer and in such a manner as to prevent ponding on the said lands and on lands adjacent thereto.

(b) The Owner shall, at its own expense, and in accordance with plans on file in the office of the Town, adequately landscape, plant and maintain all of the lands described in Schedule "A" attached hereto not required for building, parking or entranceway so as at all times to provide effective green areas enhancing the general appearance of the development.

(c) The Owner shall remove all weeds, and debris, and plant with #1 Grade Merion Blue Grass, all land not required for building, parking of walkway.

(6) WATER:

(a) The Owner, at its own expense, shall construct and install all necessary connections to existing watermains and all internal water supply services necessary to serve the development, such construction to be in accordance with the requirements of and with specifications and a design approved by the Building Department of the Town.

(b) The Owner shall comply with the Ontario Water Resources Commission Act, (1970), and regulations made thereunder, on all internal water supply services which shall be enforced by the Plumbing Inspector of the Town.

(7) SIDEWALK CONTRIBUTION:

(a) The Party of the First Part agrees that, in the event of the Council resolving to construct a sidewalk five feet (5) in width along the entire or any part of the easterly boundary of the lot described in Schedule "A", it will reimburse the Town for the entire cost of such construction in accordance with the Town's specifications for public sidewalks at such time.

(8) TIME ALLOWANCE FOR COMPLETION OF CONDITIONS:

(a) It is mutually agreed by the Parties to this agreement, that the Party of the First Part shall be given until the 15th. day of July, 1976, to commence work on the following conditions of this agreement:

- (i) paving of parking area
- (ii) installation of storm sewer pipe from property line to municipal storm sewer
- (iii) construction of rear entrance to building, as described in Clause 3
- (iv) improvement to exterior of building, described in Clause 3
- (b) It is also mutually agreed by the Parties to this agreement, that the Party of the First Part shall commence work immediately on the following conditions of this agreement:
 - (i) connection to sanitary sewer main
 - (ii) connection to watermain
 - (iii) landscaping of lot
 - (iv) grading of parking area
 - (v) lighting of parking area

(9) GENERAL:

- (a) The Owner agrees that the final building plans will be to the satisfaction of the Town Building Inspector and Town Fire Chief.
- (b) The Owner will at all times indemnify and save

harmless the Town of and from all losses, costs, damages, and injuries which the Town may suffer, be at or be put to for or by reasons of or on account of the construction, maintenance or existence of any work done by the Owner, its contractors, servants or agents on the lands described in Schedule "A" and such indemnity shall constitute a first lien and charge on the said lands of the Owner.

(c) In the event of the failure of the Owner to carry out any of the provisions of this agreement, then the Town, its servants or agents shall, on fifteen (15) days notice in writing of its intention, and forthwith in cases of emergency, have the right to enter on the said land and, at the expense of the Owner, do any such work as contained herein, and further shall have the right to recover the cost thereof by action or in like manner as taxes.

(d) The Owner shall at all times, keep posted in the building or otherwise prominently displayed, a notice indicating the ownership of the said building, a mailing address and a telephone number of a person having authority to deal with all matters relating to the said building.

(e) The Owner shall, not call into question directly or indirectly in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the Town to enter into this agreement and to enforce each and every term, covenant and condition herein contained, and this agreement may be pleaded as an estoppel against the Owner in any such proceedings.

(f) Notwithstanding any of the provisions of this agreement, the Owner shall be subject to all of the by-laws of the Town.

(g) The covenants, agreements, conditions and understanding herein contained on the part of the Owner shall run with the land and shall be binding upon it and upon its successors and assigns as Owner and occupiers of the said lands from time to time and shall be appurtenant to the adjoining highways in the ownership of the Town of Pelham, and the Regional Municipality of Niagara.

(h) The Owner agrees that it shall upon the sale and transfer by it of the lands described in Schedule "A", annexed hereto, or any part or parts thereof, require the purchaser or transferee thereof, as a condition of such sale or transfer to execute an agreement satisfactory in form to the Town Solicitor, agreeing to assume this agreement and to be bound by and to fulfill the terms, conditions and covenants herein set forth and containing a like covenant to this effect. The said assumption

agreement shall be executed by the Town, the said Owner and any such purchaser or transferee.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their Corporate Seals under the hands of their officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED	)	THE CORPORATION OF THE TOWN OF
- In the Presence of -	)	PELHAM
)	)	
)	)	<u><i>Anthony K. Gullett</i></u>
)	)	MAYOR
)	)	
)	)	<u><i>[Signature]</i></u>
)	)	CLERK
)	)	
)	)	<u><i>[Signature]</i></u>
)	)	VIRGILIO BATTAGLINI

SCHEDULE "A"

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the Town of Pelham, in the Regional Municipality of Niagara (formerly in the Village of Fonthill, in the County of Welland) and being composed of Part of Lot 31 according to registered Plan No. 25 for the Village of Fonthill, now Plan 717, and being more particularly described as follows:

THENCE Northerly 35 feet from front to rear of Lot 31 on the east side of South Pelham Street together with a right-of-way for all purposes in connection with the above described lands for vehicles and persons over the Northerly 9 feet of the Southerly 31 feet of said Lot 31 said right-of-way having a depth from the west limit of said Lot 31 being the east limit of South Pelham Street of 66 feet.

WALKWAY TO
BE KEPT CLEAN
OF WEEDS AND
DEBRIS

SCHEDULE 'B'

1 STOREY CONCRETE
BLOCK BUILDING

48'

35'

REAR ENTRANCE

SHRUBS

CONIFEROUS SHRUBS

SHRUBS

1/4" GRADE
MEMPHIS BLUE GRASS

TWO WAY LIGHTS

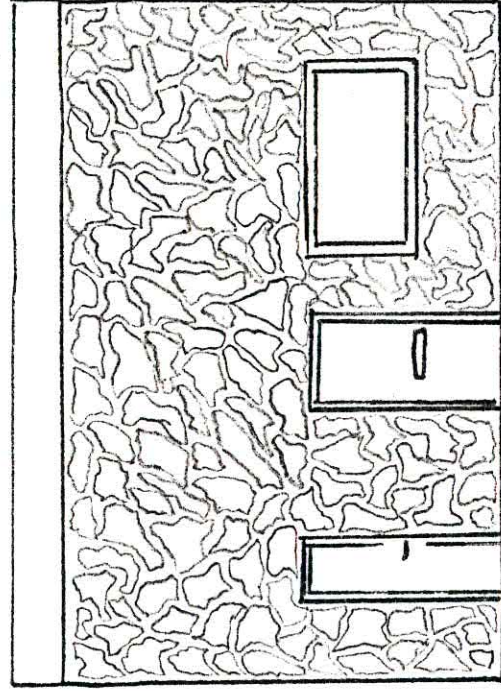
SIDEWALK

CAR
STOPPERS

PARKING
LOT

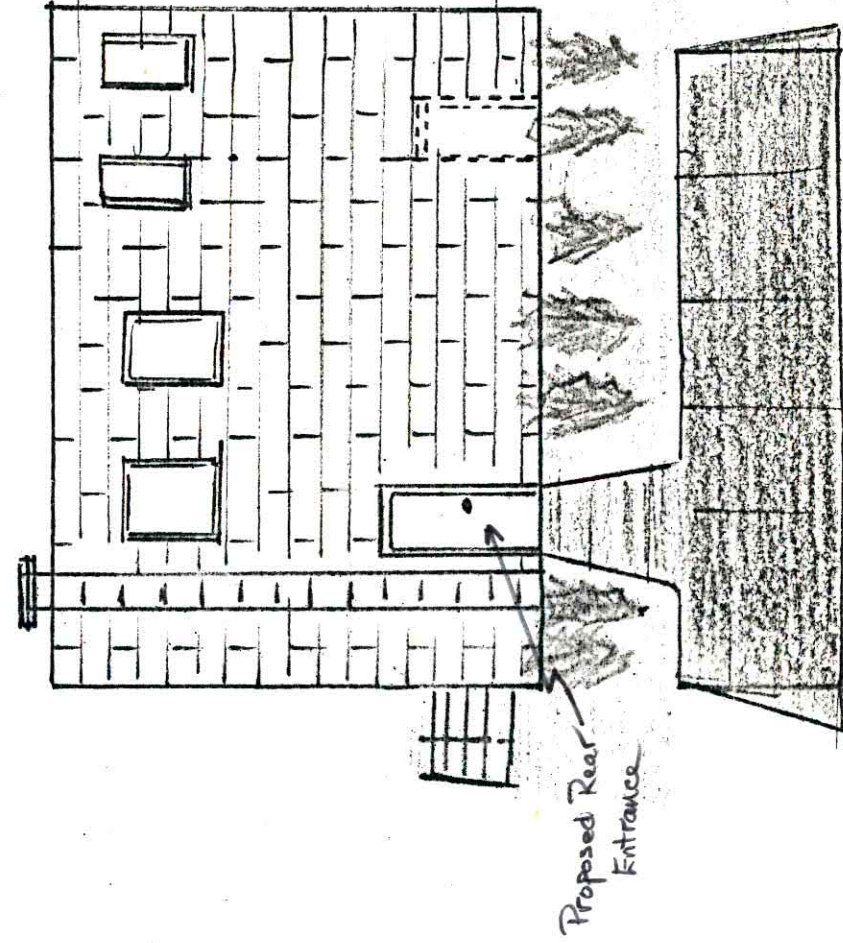
LOT TO BE GRADED
SO THAT ALL
STORM DRAINAGE
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FRONT ELEVATION

REAR ELEVATION



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)	)	<u>R. J. D.</u>
)	)	CLERK
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)	)	<u>Virgilio Battaglioni</u>
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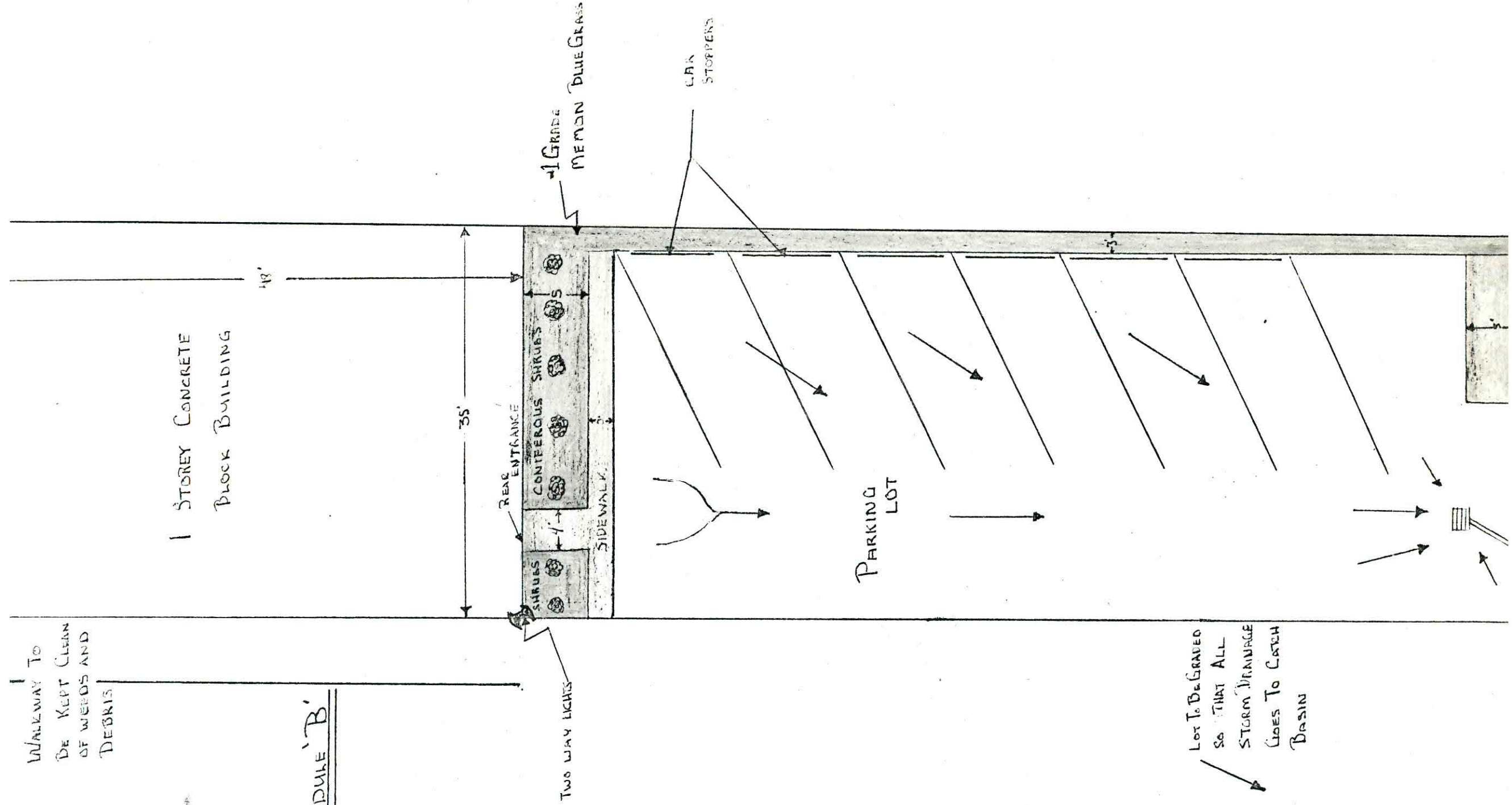
MEMORIAL BLUE GRASS

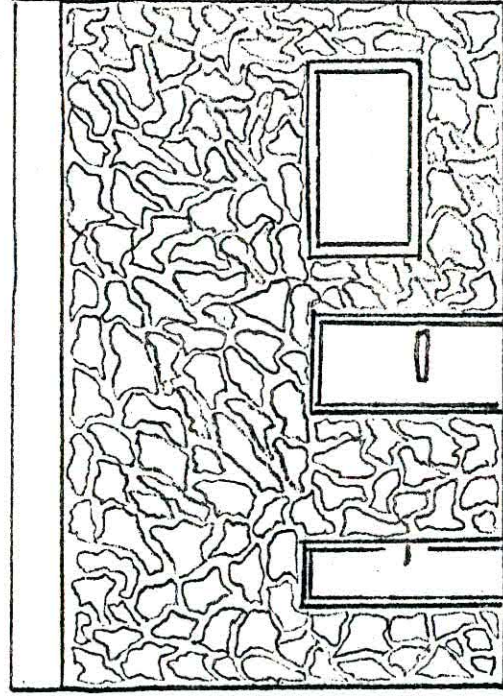
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