



**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 2
<b>COMMITTEE DATE:</b> April 3, 2012	
<b>SUBJECT/REPORT NO:</b> Request to Designate 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) Under Part IV of the <u>Ontario Heritage Act</u> (PED12039) (Ward 2)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Joseph Muller (906) 546-2424, Ext. 1214  Andrea Mikkila (905) 546-2424, Ext. 7163
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

- (a) That Council direct staff to carry out a Cultural Heritage Assessment of 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) to determine whether the property is of cultural heritage value, and worthy of designation under Part IV of the Ontario Heritage Act.
- (b) That Council include 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) in the Register of Property of Cultural Heritage Value or Interest following consultation with the Hamilton Municipal Heritage Committee, as per the provisions of the Ontario Heritage Act and Recommendation (e) to Report PED12039, and that staff makes appropriate amendments to the Register of Property of Cultural Heritage Value or Interest.
- (c) That if 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) is determined to be of cultural heritage value or interest, a Statement of Cultural Heritage Value and Description of Heritage Attributes be prepared by staff for Council's consideration for designation under Part IV of the Ontario Heritage Act.

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- (d) That the Cultural Heritage Assessment work be assigned a low priority, and be added to staff's workplan for completion in 2017, as per the attached Appendix "F" to Report PED12039.
- (e) That Report PED12039 be forwarded to the Hamilton Municipal Heritage Committee for information and consultation prior to the Council-approved inclusion of 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) in the Register of Property of Cultural Heritage Value or Interest.
- (f) That Report PED12039 be forwarded to the Director of the Water and Wastewater Division of the Public Works Department for information.
- (g) That Report PED12039 be forwarded to the individual who requested the designation of 231 Ferguson Avenue South (Hamilton) for information.

<b>EXECUTIVE SUMMARY</b>
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Staff has received a third party request to designate 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) under Part IV of the Ontario Heritage Act (see Appendix "A"). Under the Council-approved designation process (approved October 29, 2008 - Report PED08211), the following Report contains a preliminary evaluation of the subject property using the criteria contained in *Ontario Regulation 9/06*. This preliminary evaluation of the property provides the basis for a recommendation for continuing Cultural Heritage Assessment work, and for assigning a workplan priority for this assessment work.

The property, located at 231 Ferguson Avenue South (Hamilton) (see Location Map attached as Appendix "B", and photographs attached as Appendix "C"), known as "Ferguson Avenue Pumping Station", comprises a single storey, brick structure, built in 1912 and enlarged in 1929.

The property is included in Hamilton's *Inventory of Buildings of Architectural and/or Historical Interest*. A preliminary assessment of the property has been undertaken by staff using the criteria contained in *Ontario Regulation 9/06*. The property meets all three of the criteria, in that it is considered to have design and physical value, historical and associative value, and contextual value.

Through this Report, staff recommends that the Planning Committee and Council direct staff to carry out a Cultural Heritage Assessment of 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) to determine whether the property is of cultural heritage value and worthy of designation under Part IV of the Ontario Heritage Act as a low priority within staff's workplan. This further research and assessment work will provide Committee and Council with adequate information upon which to base a decision regarding designation under the Ontario Heritage Act. The Hamilton Municipal Heritage Committee and the appropriate City Departments will be consulted during the preparation of the Cultural Heritage Assessment and the staff report.

*Alternatives for Consideration - See Page 8.*

#### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** None.

**Staffing:** None.

**Legal:** The City's Legal Counsel was consulted in the preparation of the original staff Report regarding the new designation process (Report PED08211), the recommendations of which are summarized below:

Owner consent is not required for designation of a property under the Ontario Heritage Act, finding in *Tremblay v. Lakeshore (Town)*, a 2003 Divisional Court decision, that the interests of the public, community, and the owner must all be considered when a Council decides whether or not to designate a property. The court ruled that, by making the owner's consent a condition of designation, the Council fetters its discretion to make the designation decision, contrary to the Ontario Heritage Act. Accordingly, a Council may decide that it is in the public and/or community interest to conserve a property, despite objections by the owner.

As per the designation process approved by Council on October 29, 2008, this Report provides staff with direction to complete further research and evaluation of the property for a later decision by Council. If staff is directed to proceed, Council will make a decision on designation at a subsequent stage in the designation process when it has before it a staff Report, the Cultural Heritage Assessment, a draft designating By-law, advice from the Hamilton Municipal Heritage Committee, and the positions of the property owner and any other interested parties.

#### **HISTORICAL BACKGROUND**

Designation under Part IV of the Ontario Heritage Act allows municipalities to recognize a property's cultural heritage value or interest, and to conserve and manage the property through the Heritage Permit process enabled under Sections 33 (alterations) and 34 (demolition or removal) of the Act. Where alterations to designated properties are contemplated, an owner is required to apply for, obtain, and comply with a Heritage Permit for any alteration that "is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes" (Sub-section 33(1)).

Designation does not restrict the use of a property, prohibit alterations or additions, or restrict the sale of a property. The City of Hamilton also provides heritage grant and loan programs to assist in the continuing conservation of properties once they are designated.

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A process for considering requests for designation was approved by Council on October 29, 2008 (see Appendix “D”), and recognizes the Divisional Court decision *Tremblay v. Lakeshore (Town)*.

A third party request to designate the property located at 231 Ferguson Avenue South (Ferguson Avenue Pumping Station) (Hamilton) under Part IV of the Ontario Heritage Act was received on October 24, 2011 (see Appendix “A”). Under the Council-approved process for considering requests for designation, preliminary screening has been conducted (see Analysis section of this Report) referencing the criteria contained in *Ontario Regulation 9/06* (see Appendix “E”) to determine if further Cultural Heritage Assessment work is warranted. This Report also identifies a staff recommendation for the workplan priority of this further Cultural Heritage Assessment work within the context of a four- to five-year timeframe, as per the Council-approved designation process.

### **Work Program Priority**

The Council-approved designation process provides for the prioritization of detailed research and assessment work. Within the annual work program, Heritage staff can typically process three to four properties through the designation process, including the preparation of the comprehensive Cultural Heritage Assessment reports and the processing of the designation By-laws in conjunction with Clerks. According to the Council-approved process, Committee and Council may assign a high, medium, or low priority to a designation request. These priorities generally fall within the following time frames:

- A high priority would direct staff to prepare the Cultural Heritage Assessment within the current year’s work program;
- A medium priority would direct the designation request to the 2<sup>nd</sup> or 3<sup>rd</sup> year of the work program; or,
- A low priority would direct the request to the 4<sup>th</sup> or 5<sup>th</sup> year of the work program.

Work program priorities are assigned based on a number of factors, including:

- Risk to the property with respect to demolition or removal;
- Funding eligibility;
- Heritage value associated with the property;
- Current level of property maintenance;
- City-ownership of the property; and,
- Work program/Staff resources.

## **POLICY IMPLICATIONS**

The following policies apply:

### **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).

### **Urban Hamilton Official Plan**

Section 3.4 - *Cultural Heritage Resources Policies* of the Council-adopted Hamilton Urban Official Plan (adopted July 9, 2009) 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” (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” (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” (3.4.2.3). Although the Urban Hamilton Official Plan has been approved by the Ministry of Municipal Affairs and Housing, it has been appealed and is not in force and effect. However, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources.

## **RELEVANT CONSULTATION**

This Report is the initial stage in the consideration of a request for designation under the process approved by Council on October 29, 2008. Council does not have enough information at this time to determine whether it is in the public interest and/or community interest to conserve the property (see Legal Implications). The purpose of this Report is to provide staff with direction to complete further research and evaluation of the property in order to assemble the information for a later decision by Council. The Director of the Water and Wastewater Division of the Public Works Department has been advised about the designation request, will be contacted when consideration of the potential designation of the subject property is to be discussed, and would be notified of Council’s intent to designate and the passing of any By-laws under the public notification provisions of the Ontario Heritage Act. However, in keeping with Council’s intent in approving the designation process, it is recommended that the Director of the Water and Wastewater Division of the Public Works Department be forwarded a copy of this Report and advised of any further cultural heritage assessment work to be completed.

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Staff will follow the Council-approved process (see Appendix “D”) and formally consult with the Hamilton Municipal Heritage Committee, prior to inclusion of the subject property in the Register.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

**231 Ferguson Avenue South (Hamilton)**

The subject property is located at 231 Ferguson Avenue South (Hamilton), Part of Lot 13, Concession 3, Township of Barton. The Crown Patent for Lot 13, Concession 3, Township of Barton, was granted to Richard Springer in 1801. The subject lands comprise 0.8 hectares (2 acres) of the original 40.5 hectare (100 acre) lot. In 1806, Springer sold 7.7 hectares (19 acres) of the original lot to James Durand, who then sold the parcel to George Hamilton in 1815. An additional 2.8 hectares (7 acres) were purchased by George Hamilton from Springer in 1818. Ownership of these 10.5 hectares (26 acres) was transferred to Robert J. Hamilton after George Hamilton’s death in 1836. The City of Hamilton purchased the 0.8 hectares (2 acres) on which the Pumping Station is located from Robert Hamilton in 1847. The 1912 building is a one-storey, brick structure, with a flat roof hidden by a decorative pediment. Built in the Neoclassical style for the City of Hamilton Engineering Department, the building’s Ferguson Street facade comprises a ground floor featuring decorative cornices and pilasters.

**Preliminary Evaluation - Ontario Regulation 9/06**

In 2006, the Province issued criteria for determining cultural heritage value or interest under the Ontario Heritage Act. The regulation identifies three broad categories of criteria: Design or Physical Value, Historical or Associative Value, and Contextual Value, under which three subsets of criteria are further identified (see Appendix “E”). The following provides a preliminary evaluation using the criteria contained in *Ontario Regulation 9/06 - Criteria for Determining Cultural Heritage Value or Interest*.

1. **Design Value or Physical Value**

The 1912 pump-house is considered to have design and physical value as an example of Neoclassical architecture demonstrated by the following architectural characteristics: wide-arched entry; arched windows; decorative pediment; keystone on doorway; date-stone on pediment; pilasters; dentils on pilasters, and cornices.

Recent (2010-2012) infrastructure upgrades to the pumping station retained the integrity of the 1912 pump house by placing modern structures to the rear of the building and maintaining the streetscape.

2. **Historical Value or Associative Value**

The City of Hamilton initiated modernization of its municipal water supply in response to public health and safety concerns arising from cholera epidemics in the early 1850's. Existing well-based municipal water supplies were identified as the source of these disease outbreaks, and in response, Lake Ontario was identified as a safer source. The City had a steam-powered pump-house constructed in 1857-1859 near the shore of Lake Ontario, on what is now Woodward Avenue in the east end of Hamilton. At the time, this was a remote location.

The first Ferguson Avenue pumping station was built in 1878 to provide supplementary pumping within the City, for a water reservoir facility, and originally comprised a single-storey, brick structure, equipped with a Killey steam pump. In 1912, an additional pumping station was constructed to the north of the 1878 pump house, using electric pumps five times more efficient than the Killey steam pump. Both stations operated into the 1920's, when the 1878 pumping station was demolished and the 1912 Pumping Station was expanded. Further alterations and additions to the south of the 1912 pumping station in the 1940's and 1950's resulted in its current configuration.

The property is considered to have historical and associative value with direct connections to the development of Hamilton's modern water supply system, used continually for this purpose since 1878. The subject property was also successively owned by prominent Hamilton families.

3. **Contextual Value**

The Pumping Station at 231 Ferguson Avenue South (Hamilton) remains in its original location since its construction in 1912 and the property has been the site of a water pumping facility since construction of the original pump house in 1878. One property adjacent to the subject property is designated under Part IV of the Ontario Heritage Act, and additional nearby heritage resources are listed on the City's *Inventory of Buildings of Architectural and/or Historical Interest*. The subject property contributes to and is linked with the heritage character of the area, forming a landmark feature with contextual value.

**Conclusion**

Staff concludes that the property located at 231 Ferguson Avenue South (Hamilton) is of potential cultural heritage value or interest, sufficient for the property to warrant inclusion in the City's *Register of Property of Cultural Heritage Value or Interest* and further research and assessment for purposes of possible designation under the Ontario Heritage Act.

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**Work Program Priority**

Staff recommends that further research and cultural heritage assessment work for 231 Ferguson Avenue South (Hamilton) be assigned a low priority within the staff work program. Staff recommends that this work is a low priority because the property does not appear to be subject to pressure for alteration, demolition, vacancy, or other threats to the cultural heritage value of the property that could be prevented or delayed by the provisions of the Ontario Heritage Act.

The assignment of a low priority to the subject designation request would place the research and preparation of a Cultural Heritage Assessment on the staff work program for 2017, and would not displace any of the existing priorities (see Appendix “F”).

**ALTERNATIVES FOR CONSIDERATION:**

The Ontario Heritage Act enables a Council to include properties that it believes to be of cultural heritage value in the municipal *Register of Properties of Cultural Heritage Value or Interest*. Council may decide not to include the subject property in the Register. If the property is not included in the municipal Register, then the municipality would be unable to protect these heritage resources from demolition and/or review any potential redevelopment. This alternative is not considered to be an appropriate conservation alternative.

Council may direct staff to not complete a Cultural Heritage Assessment, and no further work will be completed by staff. This alternative is contrary to the Council-approved process for considering requests for designation whereby legitimate requests for designation must be addressed, and cannot be dismissed without complete consideration of all the issues (see Legal Implications section of this Report).

Council may also assign a different work program priority than recommended by staff. Given the consideration of all the factors noted in the Analysis section of this Report, staff is of the opinion that the recommended work program priority is warranted.

**CORPORATE STRATEGIC PLAN:**

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**

- ◆ 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 designation process and to existing planning policies.



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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.
- ◆ An engaged Citizenry.
- ◆ Staff Comment: The inclusion of this property in the Register will allow staff the opportunity to review any proposed demolition, new development, or re-development on or adjacent to the subject property to ensure consistency with the City's approved planning polices. There is demonstrated public interest in the cultural heritage value of this property (past inclusion in the City's Inventory and this request) and its conservation as a community resource. The approval of the recommendations of this Report acknowledges this public interest.

**APPENDICES**

- Appendix "A": Request for Designation
- Appendix "B": Location Map
- Appendix "C": Photographs
- Appendix "D": Council Approved Designation Process
- Appendix "E": Ontario Regulation 9/06
- Appendix "F": Requests to Designate Properties Under Part IV of the Ontario Heritage Act: Priorities (as amended by Report PED12039)

:AMK/JPM  
Attachs. (6)

OCT 24 2011

Meghan House, MCIP, RPP  
Cultural Heritage Planner  
Planning and Economic Development Department  
City of Hamilton  
71 Main Street West, 6th Floor  
Hamilton ON L8P 4Y5

October 18, 2011

Dear Ms House,

I am writing to you to submit a request for designation of Heritage Status for the Ferguson Avenue Pumping Station, located at 229 Ferguson Ave South in Hamilton Ontario. As you know the city is currently in the construction phase of a new facility located directly behind the Pumping Station so I feel that it would be timely to begin the process of heritage protection for this important piece of our city's industrial past.

To quote the GENIVAR 'Ferguson Avenue Pumping Station Upgrades Class Environmental Assessment Project File Report'

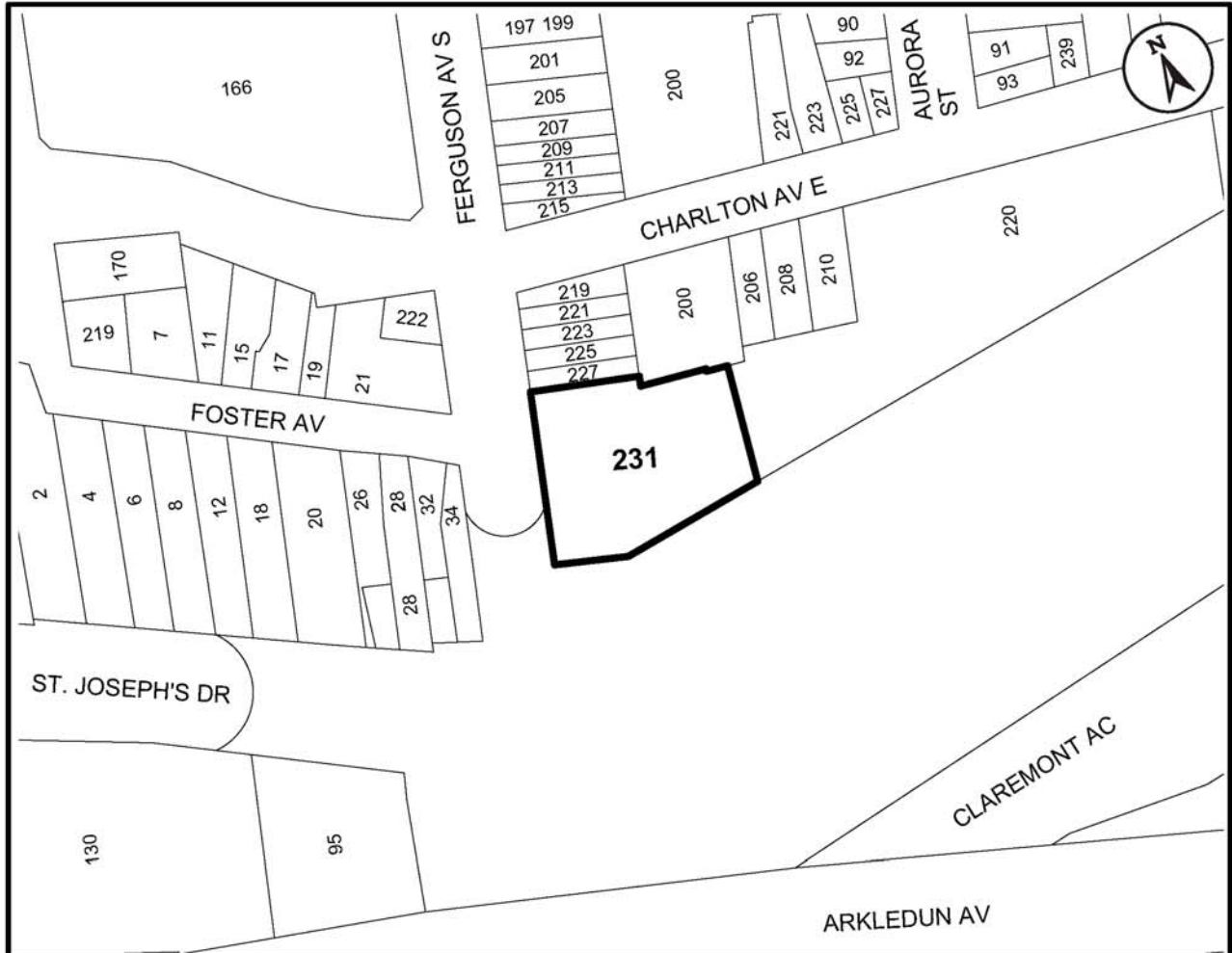
'The Ferguson Avenue Pumping Station was constructed in 1912 by the City of Hamilton's Engineering Department. The building featured a brick exterior, poured concrete foundation, a flat roof line concealed by a decorative pediment, engaged columns, decorative cornices, arched window and door openings on the front façade, large rectangular window openings on the northern, eastern, and southern elevations, and an internal chimney. This building is listed on the City's Heritage Inventory and was constructed in the early 20th century to increase the pumping capacity of the original Ferguson Avenue Pumping Station.'




This report can be found online at <http://www.hamilton.ca/NR/rdonlyres/ADE8BE33-E939-4B39-ABB1-AD0D3C9A34D2/0/FergusonPSProjectFileReportTEXT.pdf>

The Pumping Station is also an important part of the Ferguson Ave streetscape, which includes a number of protected row houses. Next year (2012) is also notably the centenary of the Pumping Station's construction, a good opportunity to further celebrate this local landmark.

I look forward to hearing from you in regards to this request.

Sincerely,



<h2>Location Map</h2>		 <b>Hamilton</b>
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: 231 Ferguson Ave S		Date: February 2, 2012
Appendix "A"	Scale: N.T.S.	Planner/Technician: AM / MB
<b>Subject Property</b>		
 231 Ferguson Avenue South (Pumping Station)		
N.T.S. 		



West façade



Front door and windows

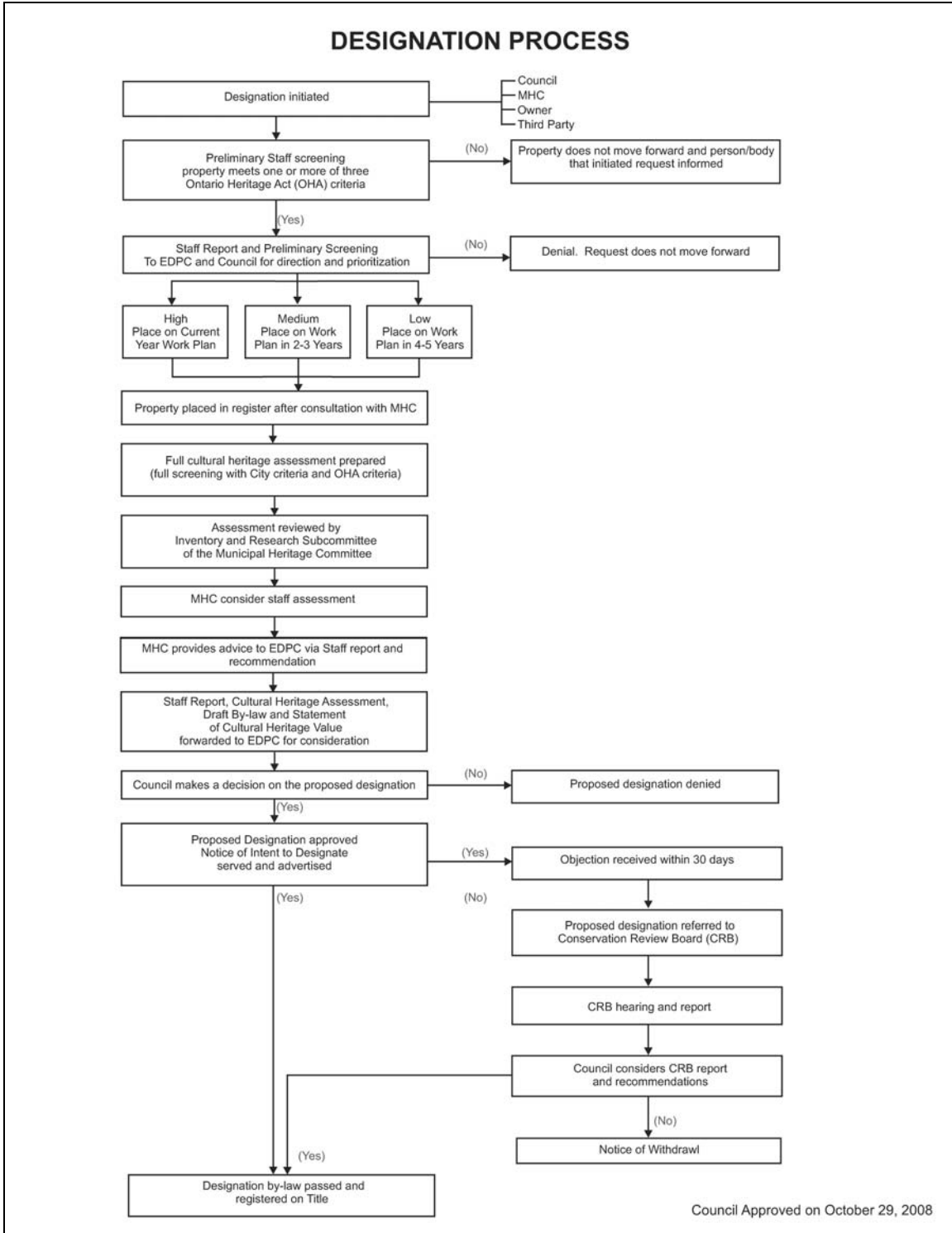




Rear façade



Southerly addition (ca. 1929)



**Ontario Heritage Act**

**ONTARIO REGULATION 9/06**

**CRITERIA FOR DETERMINING CULTURAL HERITAGE VALUE OR INTEREST**

**Criteria**

- 1.(1) The criteria set out in Sub-section (2) are prescribed for the purpose of Clause 29 (1) (a) of the Act. O. Reg. 9/06, s. 1 (1).
- (2) A property may be designated under Section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:
  1. The property has design value or physical value because it:
    - i. Is a rare, unique, representative or early example of a style, type, expression, material or construction method;
    - ii. Displays a high degree of craftsmanship or artistic merit; or,
    - iii. Demonstrates a high degree of technical or scientific achievement.
  2. The property has historical value or associative value because it:
    - i. Has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community;
    - ii. Yields, or has the potential to yield, information that contributes to an understanding of a community or culture; or,
    - iii. Demonstrates or reflects the work or ideas of an architect, artist, builder, designer, or theorist who is significant to a community.
  3. The property has contextual value because it:
    - i. Is important in defining, maintaining, or supporting the character of an area;
    - ii. Is physically, functionally, visually, or historically linked to its surroundings; or,
    - iii. Is a landmark. O. Reg. 9/06, s. 1 (2).

**Requests to Designate Properties under Part IV of the Ontario Heritage Act:  
Priorities (as amended by Report PED12039)**

<b><u>Year</u></b>	<b><u>Property</u></b>	<b><u>Date of Request</u></b>
<b>2012</b>	104 King Street West, Dundas (Dundas Post Office)	24-Sep-09
<b>2012</b>	71 Claremont Drive, Hamilton	28-May-09
<b>2012</b>	167 Book Road, Ancaster	24-May-07
<b>2012</b>	397 King Street West, Dundas (Dundas District High School)	24-May-07
<b>2012</b>	82-112 King Street East , Hamilton (Royal Connaught)	09-Apr-08
<b>2013</b>	52-56 Charlton Avenue West, Hamilton	24-Apr-07
<b>2013</b>	91 John Street South, Hamilton	25-Oct-07
<b>2013</b>	140 Locke Street South, Hamilton	03-Jun-09
<b>2013</b>	3027 Homestead Drive, Mount Hope	24-Jan-08
<b>2014</b>	1395-1401 King Street East, Hamilton	04-Aug-09
<b>2014</b>	1062 Golf Club Road, Binbrook (Woodburn)	27-Mar-08
<b>2014</b>	Gage Park, Hamilton	23-Mar-06
<b>2014</b>	Gore Park, Hamilton	24-Apr-08
<b>2015</b>	Tisdale House, Ancaster	16-Aug-01
<b>2015</b>	111 Kenilworth Access, Hamilton (Barton Reservoir)	26-Feb-09
<b>2015</b>	262 MacNab Street North, Hamilton	18-Dec-08
<b>2015</b>	Desjardins Canal, Dundas	26-Feb-09
<b>2016</b>	1065 Highway 8, Stoney Creek	27-Aug-09
<b>2016</b>	170 Longwood Road North, Hamilton	15-Feb-11
<b>2016</b>	4-12 John Street North, Hamilton (Treble Hall)	08-Feb-11
<b>2016</b>	7 Ravenscliffe Avenue, Hamilton	10-Jun-11
<b>2017</b>	39 Lakeview Drive, Stoney Creek	17-Feb-11
<b>2017</b>	231 Ferguson Avenue South (Ferguson Avenue Pumping Station), Hamilton	18-Oct-11