



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 19, 2014
<b>SUBJECT/REPORT NO:</b>	Recommendation to Designate 52 and 56 Charlton Avenue West, Hamilton (Charlton Hall) Under Part IV of the <u>Ontario Heritage Act</u> (PED14176) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Alissa Golden (905) 546-2424 Ext. 1214
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the designation of 52 and 56 Charlton Avenue West, Hamilton, shown in Appendix "A" of Report PED14176, as a property of cultural heritage value pursuant to the provisions of Part IV of the Ontario Heritage Act, be approved.
- (b) That the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix "B" to Report PED14176, be approved.
- (c) That the City Solicitor be directed to take appropriate action to designate 52 and 56 Charlton Avenue West, Hamilton, under Part IV of the Ontario Heritage Act, in accordance with the Notice of Intention to Designate, attached as Appendix "C" to Report PED14176.
- (d) That staff be directed to add conditions in the agreement of sale of 52 and 56 Charlton Avenue West providing for the erection of a historical plaque and for the purchaser(s) to enter into a heritage conservation easement agreement with the City.

## **EXECUTIVE SUMMARY**

The designation process for 52 and 56 Charlton Avenue West, Hamilton (see location map attached as Appendix “A”), was initiated on April 24, 2007, as part of the protocol for screening City-owned properties that are being considered to be declared surplus. Staff recommended that a cultural heritage assessment be completed for the buildings to determine if they are of cultural heritage value or interest sufficient to warrant potential designation under the Ontario Heritage Act prior to disposal by the City. On October 29, 2008, Council added the property, comprised of 52 and 56 Charlton Avenue West, to the City of Hamilton *Register of Property of Cultural Heritage Value or Interest* (PED08211).

The historical research, evaluation of the significance of the property, and detailed description of the heritage attributes, were prepared by Peter Stewart of George Robb Architect, and Paul Dilse, Heritage Planning Consultant. The detailed documentation is attached to this Report as follows: the recommended Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes as Appendix “B”; the draft Notice of Intention to Designate as Appendix “C”; and the full Cultural Heritage Assessment Report on 52 and 56 Charlton Avenue West (March 2014) as Appendix “D”.

The subject property has been evaluated using both the Council-adopted heritage evaluation criteria, and the Criteria for Determining Cultural Heritage Value or Interest, as defined in *Ontario Regulation 9/06* of the Ontario Heritage Act. It has been determined that the property, comprised of 52 and 56 Charlton Avenue West, has design/physical value, historical/associative value, and contextual value, and staff recommends designation of the property under Part IV of the Ontario Heritage Act prior to disposal by the City. Further, staff recommends additional conditions in the agreement of sale as part of the disposal process if the property is declared surplus including provisions for the erection of a historical plaque on the property and the negotiation of a heritage conservation easement agreement.

***Alternatives for Consideration - See Page 11***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Not applicable.

Staffing: Not applicable.

Legal: The designation process will follow the requirements of the Ontario Heritage Act, and provide for adequate notice of Council’s intention to designate the property. Formal objections may be made under the Ontario Heritage Act, and heard before the Conservation Review Board, prior to further consideration by Council of the designation By-law.

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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, a property 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 financial incentive programs, including grant and loan programs, and development charge exemptions, to assist in the continuing conservation of properties, once they are designated.

Under Sub-section 37(1) of the Ontario Heritage Act, Council may pass By-laws providing for the entering into of easements or covenants with owners of real property for the conservation of property of cultural heritage value or interest. The City of Hamilton does not have a By-law in place that delegates that authority to staff to enter into Easement Agreements. Heritage Conservation Easement Agreements are regularly entered into under other Council authorized actions, such as the disposition of property or under the terms of a Hamilton Community Heritage Fund interest-free loan program.

## **HISTORICAL BACKGROUND**

The subject property, municipally known as 52 and 56 Charlton Avenue West (see Appendix "A") and known as "Charlton Hall", is owned and maintained by the City of Hamilton. Formerly two properties, the multi-addressed parcel is comprised of 52 Charlton Avenue West and 56 Charlton Avenue West; No. 52, constructed as a single-detached residence, and No. 56, constructed as the eastern half of a semi-detached residence, have been consolidated into a single property and are connected via a one-storey link that was built in 1969-1970.

Both addresses are listed in the City of Hamilton *Inventory of Buildings of Architectural and/or Historic Interest*. In February of 2007, Real Estate staff circulated Planning staff for comment as part of the Property Disposition Protocol in considering 52 and 56 Charlton Avenue West to be declared surplus property. Staff recommended that a cultural heritage assessment be completed for the buildings to determine if they are of cultural heritage value or interest sufficient to warrant potential designation under the Ontario Heritage Act prior to disposal by the City.

On October 28, 2008, the subject property was included in the City of Hamilton *Register of Property of Cultural Heritage Value or Interest* and further cultural heritage

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assessment work was assigned to staff's work program, as per the recommendations of Report PED08211. The historical research, evaluation of the significance of the property, and detailed description of the architectural features of the property are contained in the Cultural Heritage Assessment (March 2014), prepared by Peter Stewart of George Robb Architect and Paul Dilse, Heritage Planning Consultant (the full Report is attached as Appendix "D"). The cultural heritage assessment contains an evaluation using the City's Council-adopted heritage evaluation criteria and the criteria contained in *Ontario Regulation 9/06*.

Through the consultants' evaluation, it has been determined that both buildings on the subject property have design/physical value, historical/associative value, and contextual value, and the buildings are now being recommended for designation under Part IV of the Ontario Heritage Act (see Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix "B", and the draft Notice of Intention to Designate, attached as Appendix "C").

At the time of preparing this Report, the property has not been declared surplus. The Real Estate Section is coordinating the disposition of 52 and 56 Charlton Avenue West concurrent to the designation process. Planning staff has coordinated with Real Estate staff in the preparation of this Report.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Policy Statement (2014):**

Section 2.6 of the Provincial Policy Statement pertains to Cultural Heritage and Archaeology. Sub-section 2.6.1 states that:

*"Significant built heritage resources and significant cultural heritage landscapes shall be conserved".*

The recommendations of this Report are consistent with this policy.

### **Urban Hamilton Official Plan:**

Volume 1, Section B.3.4 - Cultural Heritage Resources Policies of the Urban Hamilton Official Plan (UHOP) 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 for present and future generations." (B.3.4.2.1(a)), and;*

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*“Identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources.”*  
(B.3.4.2.1(b))

Sub-section B.3.4.2.3 also states 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, including buildings, properties, cultural heritage landscapes, heritage conservation districts, and heritage roads or road allowances.”*

The recommendations of this Report are consistent with these policies.

**Portfolio Management Strategy – Real Estate Management Plan:**

City Council, at its meeting of November 24, 2004, adopted the City’s Portfolio Real Estate Strategy Plan, which established a formalized process to be consistently applied across all areas of the City to guide the management of the City’s real property owned, leased, to be sold and acquired. Section 4.6 of the Plan states that, as part of the City’s standard Disposal Process and due diligence, Heritage Planning staff should review properties proposed for sale to identify appropriate protection measures where a heritage interest is identified.

Principle 2(a) identified in Section 4.9 – *Procedures for Dealing with Heritage Properties*, indicates that the City is “a key public authority charged with protecting and conserving local cultural heritage properties. The City will act accordingly to safeguard its recognized heritage buildings, structures and places, on behalf of the community in accordance with the powers delegated to it by the Ontario Heritage Act, the Planning Act, the Environmental Assessment Act and the Municipal Act. In Ontario, it is primarily the local municipal government that is empowered to provide legal protection for all heritage properties, whether in public or private ownership. It is, therefore, incumbent on the City to provide a good example by being a responsible custodian of its own heritage buildings.”

Further, Policy Objective 3(d) states that “[g]iven that all buildings, structures and places owned by the new City of Hamilton have not as yet been assessed in terms of their heritage value, the policies and protocol for the disposition of municipally-owned properties will include first a referral of all properties declared surplus to the Heritage Planning staff for heritage evaluation and, where appropriate, to the Municipal Heritage Committee. An appropriate schedule will be built into the disposition process to allow sufficient time for the heritage review and, if approved by Council, for designation.”

The recommendations of this Report are consistent with these policies.

## **RELEVANT CONSULTATION**

### **Hamilton Municipal Heritage Committee:**

Pursuant to Sub-section 29 (2) of the Ontario Heritage Act, Council is required to consult with its Municipal Heritage Committee respecting designation of property under Sub-section (1). The Inventory and Research Sub-committee of the HMHC reviewed the Cultural Heritage Assessment prepared by the consultants at its meeting on April 28, 2014, as per the Council-adopted Heritage Designation Process (attached as Appendix "E"). The Sub-committee was supportive of designation under Part IV of the Ontario Heritage Act, as outlined in the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes (attached as Appendix "B").

Further, the Inventory and Research Sub-committee recommended the inclusion of 64 Charlton Avenue West, Hamilton, in the *Register of Property of Cultural Heritage Value or Interest*. The privately-owned residence at No. 64 is the western half of the semi-detached building also comprised of No. 56 and is listed on the *Inventory of Buildings of Architectural and/or Historical Interest*.

At its regular meeting on May 15, 2014, the HMHC supported the designation of 52 and 56 Charlton Avenue West, Hamilton under Part IV of the Ontario Heritage Act, as per the recommendations of this Report. In addition, HMHC endorsed the Inventory and Research Sub-committee's recommendation to include 64 Charlton Avenue West in the *Register of Property of Cultural Heritage Value or Interest*, which was passed by Planning Committee at their meeting on July 8, 2014, and ratified by Council on July 11, 2014.

### **Corporate Assets and Strategic Planning Division (Public Works Department) and the Economic Development Division (Planning and Economic Development Department):**

The Facilities Management and Capital Program Section of the Corporate Assets and Strategic Planning Division of the Public Works Department has been notified of the designation process and has assisted in coordinating site visits of the property as part of the cultural heritage assessment process.

The Real Estate Section of the Economic Development Division has been notified of the designation process and Planning staff have coordinated with Real Estate staff in the preparation of this Report.

Planning staff presented the findings of the Cultural Heritage Assessment of Charlton Hall (see Appendix "D") and the recommendations of this Report to the Portfolio Management Committee (PMC) at their regular meeting on June 19, 2014, and engaged in a discussion regarding options for disposing of the subject property (see

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Analysis and Rationale for Recommendation Section on pages 9 and 10 of this Report for further discussion).

**Other Relevant Stakeholders:**

Copies of the Cultural Heritage Assessment were circulated to the Ward 2 Councillor and the President of the Durand Neighbourhood Association on May 12, 2014. The Durand Neighbourhood Association expressed their support for designation of Charlton Hall in an e-mail dated May 15, 2014, addressed to the Chair of the Hamilton Municipal Heritage Committee.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The intent of municipal designation, under Part IV of the Ontario Heritage Act, is to enable a process for the management and conservation of cultural resources. Once a property is designated, the municipality is enabled to manage alterations to the property through the Heritage Permit process, and to ensure that the significant features of the property are maintained through the provision of financial assistance programs and the enforcement of Property Standards By-laws.

Designation is guided by the process of cultural heritage evaluation and assessment. The evaluation process, as documented in the Cultural Heritage Assessment, attached as Appendix “D”, attempts to clearly identify those heritage values associated with a property. Properties with clearly defined and distinctive heritage attributes are considered to be more worthy of designation, than those where heritage attributes are poorly demonstrated or non-existent.

**Council-Adopted Evaluation Criteria:**

A set of criteria were endorsed by the City of Hamilton Municipal Heritage Committee on June 19, 2003, and were adopted by Council as The City of Hamilton: Cultural Heritage Evaluation Criteria on October 29, 2008 (Appendix “B” of PED08211). The criteria are used to identify the cultural heritage values of a property, and to assess their significance. This evaluation assists in determining a property’s merit for designation under the Ontario Heritage Act, as well as deriving a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes.

Archaeology and Cultural Heritage Landscapes are not considered to be cultural heritage values exhibited at this site. Through the consultants’ evaluation, the property fully meets 8 of the City’s 12 criteria pertaining to built heritage value and partially meets two additional criteria, “built integrity” and “setting”.

**Ontario Regulation 9/06: Criteria for Determining Cultural Heritage Value or Interest:**

Section 29 (1) of the Ontario Heritage Act permits the Council of a municipality to designate property to be of cultural heritage value or interest where property meets the criteria prescribed by provincial regulation. In 2006, the Province issued *Ontario Regulation 9/06: Criteria for Determining Cultural Heritage Value or Interest*. According to Sub-section 1(2) of *Ontario Regulation 9/06*, a property may be designated under Section 29 of the Ontario Heritage Act where it meets one or more of the identified criteria. *Ontario Regulation 9/06* identifies criteria in three broad categories: Design/Physical Value, Historical/Associative Value and Contextual Value.

As outlined in the attached Cultural Heritage Assessment (Appendix “D”), the subject property satisfies 7 of the 9 criteria contained in *Ontario Regulation 9/06* in all three categories.

**1. Design/Physical Value:**

- i. 52 and 56 Charlton Avenue West exhibit architectural features representative of fine Queen Anne dwellings of the late-nineteenth century, including quality interior features. The buildings demonstrate how the Queen Anne style was expressed in two housing types for the upper class – a single-detached house at No. 52 and a semi-detached dwelling at No. 56.
- ii. The property displays a high degree of craftsmanship, including the effective handling of brick construction, large curving windows and interior features demonstrated in the rounded turreted bay of No. 52, and well-crafted brick walls, red sandstone window sills and lintels, wood window sash, decorative cornices and dormer windows of No. 56.
- iii. The property does not demonstrate a high degree of technical or scientific achievement.

**2. Historical/Associative Value:**

- i. The property illustrates two themes of significance to the history of Hamilton, including: the construction of the two buildings at the turn of the twentieth century by wealthy local landowners who were developing the Durand neighbourhood as a place for upper-class dwellings; and, their adaptation in the mid-twentieth century by a non-governmental association and the City for innovative social housing geared to teenaged girls.



- ii. The property yields an understanding of the domestic tastes of affluent Hamiltonians at the turn of the century and demonstrates the capacity of Hamilton-based architects and craftsmen to offer high style to their patrons.
- iii. The property reflects the work and ideas of architect William Palmer Witton whose career in Hamilton lasted from 1895 to 1937. 52 and 56 Charlton Avenue West were early commissions for Witton and the original interior plan of No. 56 and the plan that No. 52 is assumed to have had bear a resemblance to the interior plans of important American architects, Adler & Sullivan, with whom Witton worked in 1893-94.

**3. Contextual Value:**

- i. The property, comprised of 52 and 56 Charlton Avenue West, supports the historic character of the Durand neighbourhood, which was prized as the most desirable community in Hamilton before the Second World War.
- ii. The property is physically and visually linked to its surroundings. The mid-block buildings at No. 52 and 56 blend harmoniously into the turn-of-the-twentieth-century, red-brick, residential streetscape extending along the north side of Charlton Avenue West from Park Street South eastward.
- iii. The property is not considered a landmark in the Durand neighbourhood.

**Conclusion:**

The consultants have determined that 52 and 56 Charlton Avenue West, Hamilton, are of cultural heritage value or interest, sufficient to warrant designation under Part IV of the Ontario Heritage Act. Staff concurs with the findings of the cultural heritage assessment and recommends designation of 52 and 56 Charlton Avenue West under Part IV of the Ontario Heritage Act.

The Real Estate Section is coordinating the disposition of 52 and 56 Charlton Avenue West concurrent with the designation process. At the time of preparing this Report, the property has not been declared surplus and how the property will be disposed of has not been determined (i.e., whether the property will be severed before disposal). The one-storey link between No. 52 and No. 56 has no identified cultural heritage value or interest and, as a result, staff recommends that the link be removed and that the property be severed to restore the two original lots prior to disposal. The consultants have prepared a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes that provide for either designating the property as it currently stands, or designating No. 52 and No. 56 individually should the link between the buildings be removed and the property severed prior to disposal.

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The consultants have also recommended additional protection measures for the property, which may include: adding conditions in the agreement of sale with the purchaser(s) of the property(ies); or, the negotiation of a heritage conservation easement agreement between the City and purchaser(s). A conservation easement is an agreement registered on title to the property in perpetuity that can provide for more comprehensive protection than designation, including requirements for proper maintenance of heritage features, adequate insurance and stronger protection against demolition. A property can be protected by both an easement and designation. The negotiation of a heritage conservation easement agreement, in addition to designation, reflects the employment of the full range of protection measures available to the municipality to ensure the long-term protection of these resources. Further, an easement agreement is often negotiated between the City and prospective purchasers of surplus properties containing significant cultural heritage resources.

In addition, the consultants have recommended that a plaque be erected in the front yard of the property describing the buildings' history, including the construction and the story of the adaptation to the Charlton Hall residence. Provisions for the erection of a plaque on the property could be included as a condition in the agreement of sale.

At their meeting on June 19, 2014, the Portfolio Management Committee (PMC) received a presentation from Planning staff outlining the findings of the Cultural Heritage Assessment (Appendix "D") and the recommendations of this Report. The PMC discussed removing the one-storey link between No. 52 and No. 56 and severing the lots in order to sell them separately. The Committee acknowledged that private residential buildings would not be subject to the same building codes and standards (e.g. Accessibility for Ontarians with Disabilities Act) as public and institutional buildings, which may significantly reduce the capital budget costs for prospective purchasers (see Report PED12106/PW12045 for an overview of the 2011 Building Condition Assessment Report and 10-year projected capital investment costs).

In addition, the City offers a variety of financial incentives for properties designated under the Ontario Heritage Act, including grant and loan programs, and development charge exemptions, which may assist prospective purchasers with the conservation and/or adaptive reuse of the buildings. The PMC recommended eliminating the one-storey link between the buildings and directed Real Estate staff to prepare a highest and best use assessment for the property, including any severance and rezoning requirements.

Staff recommend that the Statement of Cultural Heritage Value or Interest and the Description of Heritage Attributes, attached as Appendix "B" and the draft Notice of Intention to Designate attached as Appendix "C" be approved in principle and that staff be directed to designate 52 and 56 Charlton Avenue West in coordination with the Real Estate Section prior to the property being disposed of by the City as surplus (see Recommendations (a) through (c)).

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It is further recommended that, as a condition of sale of 52 and 56 Charlton Avenue West, any prospective purchaser shall be required to enter into a Heritage Conservation Easement Agreement with the City based on the Heritage Attributes, attached as Appendix "B", including provisions for the erection of a plaque.

**ALTERNATIVES FOR CONSIDERATION**

Under Part IV of the Ontario Heritage Act, the designation of property is a discretionary activity on the part of Council. Council, as advised by its Municipal Heritage Committee, may consider two alternatives: agree to designate property, or decline to designate property.

**Decline to Designate:**

By declining to designate, the municipality would be unable to provide long-term, legal protection to these significant heritage resources (designation provides protection against inappropriate alterations, new construction and demolition), and would not fulfil the expectations established by existing municipal and provincial policies.

Without designation, the property would not be eligible for the City's heritage grant and loan programs. Designation does not restrict the use of property, prohibit alterations and additions, nor does it restrict the sale of a property, or affect its resale value. Staff does not consider declining to designate the property to be an appropriate conservation alternative.

**Decline Additional Protection Measures:**

By declining to include additional protection measures, either as a condition of sale or as an easement agreement negotiated between the City and purchaser, the municipality would not be employing the full range of protection measures available to provide comprehensive protection of these significant heritage resources, including requirements for proper maintenance of heritage features, adequate insurance and stronger protection against demolition. Staff considers the additional measures to be a reasonable and effective means for comprehensive protection of these resources.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

**Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn*

## **Strategic Objective**

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

### Staff Comments:

Designation of this property under Part IV of the Ontario Heritage Act will provide for the long-term, legal protection of this significant heritage resource. The approval of the recommendations of this Report demonstrates:

- Council's commitment to the Council-approved designation process and to existing planning policies; and,
- Council's commitment to conserving cultural heritage resources, as directed by Provincial and Federal level policies.

## **APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes
- Appendix "C": Notice of Intention to Designate
- Appendix "D": Cultural Heritage Assessment Report on 52 & 56 Charlton Avenue West, known as Charlton Hall, By Paul Dilse, Heritage Planning Consultant, and Peter Stewart, Principal, George Robb Architect (March 2014).
- Appendix "E": Council-Adopted Heritage Designation Process

:AG/tp