



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

<b>TO:</b>	Chair and Members Hamilton Municipal Heritage Committee
<b>COMMITTEE DATE:</b>	February 21, 2019
<b>SUBJECT/REPORT NO:</b>	Heritage Permit Application HP2018-046, Under Part V of the Ontario Heritage Act, for the erection of a single detached dwelling at 47 Markland Street, Hamilton (PED19035) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Miranda Brunton (905) 546-2424 Ext. 1202 David Addington (905) 546-2424 Ext. 1214
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That Heritage Permit Application HP2018-046, for the erection of a new single detached dwelling on the designated property at 47 Markland Street, Hamilton (Durand-Markland Heritage Conservation District), as shown in Appendix "A" to Report PED19035, be **approved** subject to the following Heritage Permit conditions:

- a) That the dimensions and surfacing materials for the new driveway and any walkways, patios or other hard-surface areas visible from the street, shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation;
- b) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit; and,
- c) That construction and site alterations, in accordance with this approval, shall be completed no later than March 31, 2021. If the construction and site alterations are not completed by March 31, 2021, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

- d) That the proposed development shall comply with all of the applicable provisions of Zoning By-law No. 6593 and Minor Variance Application HM/A-18:431, to the satisfaction of the Director of Planning and Chief Planner.

## **EXECUTIVE SUMMARY**

The subject property is proposed to be severed from the existing lot at 51 Markland Street, Hamilton. The applicant has applied to the Committee of Adjustment (CofA) to sever the property to facilitate the construction of a single detached dwelling (file # HM/B-18:159) and is scheduled to be considered on February 21, 2019 by the CofA. Should the Severance Application be approved, the severed lot will be identified as 47 Markland Street, Hamilton. The applicant is applying for the erection of a new single detached dwelling on the vacant lot. The property is designated as part of the Durand-Markland Heritage Conservation District (HCD) under Part V of the *Ontario Heritage Act* (see the location map attached as Appendix "A" to Report PED19035). 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. This application is being supported, subject to conditions, as agreed to by the applicant in discussions with staff and the Heritage Permit Review Sub-committee (HPRSC).

The Heritage Permit Application was received on December 12, 2018 and the Notice of Receipt was issued on the same day. The *Ontario Heritage Act* requires that Council make a decision on a Heritage Permit Application within 90 days of the issuance of a Notice of Receipt or within such longer period as is agreed upon by the applicant and Council. If no decision is reached within the 90 day timeframe or within the agreed upon extension, Council shall be deemed to consent to the application. The subject application's 90 day timeline will expire on March 11, 2019. The applicant has agreed to extend the review timeline an additional 30 days, until April 10, 2019.

***Alternatives for Consideration – See Page 8***

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

**Financial:** N/A

**Staffing:** N/A

**Legal:** This Heritage Permit Application has been processed and considered within the context of the applicable legislation.

Section 42 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.
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 subsection (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.”

With respect to the delegation of Council’s approval authority, 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.”

The *Ontario Heritage Act* does not allow for the delegation of Council’s authority to consent to demolition or removal of a building or structure, nor Council’s authority to deny an application.

## **HISTORICAL BACKGROUND**

The subject property at 47 Markland Street (see Appendix “A” to Report PED19035) is located in the Durand-Markland HCD, designated by former City of Hamilton By-law No. 94-184, approved by the Ontario Municipal Board under Part V, Section 41, of the *Ontario Heritage Act* in 2001.

The proposed lot is vacant with low-lying vegetation and mature trees (see Appendix “B” to Report PED19035). The applicant has applied for consent to facilitate the construction of a new, two storey, single detached brick dwelling (see Appendix “C” to Report PED19035). The HPRSC of the City of Hamilton Municipal Heritage Committee (HMHC) reviewed this application on December 18, 2018. The HPRSC supported the Site Plan (see Appendix “D” of Report PED19035) and the design of the new house, subject to the conditions recommended by staff.

On December 24, 2018, the applicant submitted applications to the Committee of Adjustment to sever the property to facilitate the construction of the proposed single detached dwelling (file # HM/B-18:159) and for a minor variance (file # HM/A-18:431) to reduce the parking space length and manoeuvring space requirements of the Zoning By-law. These applications are scheduled to be considered at the February 21, 2019 meeting of the Committee of Adjustment. At the time of preparation of this report, Planning staff, in addition to other commenting Divisions, Departments and Agencies have not completed their review of the severance application. Planning staff will provide an update at the Municipal Heritage Committee as to the staff comments and recommendations to the CofA on the proposed severance.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Urban Hamilton Official Plan (UHOP)**

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” (Policy B.3.4.2.1(a)). The UHOP also states the following relevant policy goal: “ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources” (Policy B.3.4.1.3). The application conforms to the relevant UHOP policies.

### **Durand-Markland Heritage Conservation District - Guidelines for Conservation, Design and Landscaping**

The Council-adopted Durand-Markland Heritage Conservation District Conservation, Design and Landscaping Guidelines (Section 4.4 – Construction of New Buildings) specifies that the construction of new buildings in the Durand-Markland HCD area should be confined to the construction of buildings on vacant lots and that new buildings must be designed to look appropriate and to be compatible in the midst of the established neighbourhood. However, new construction should be of contemporary design sympathetic to, but not attempt to replicate, existing heritage buildings or styles

(Sub-Section 4.4.1). Sub-Sections 4.4.2 – 4.4.9 provide detailed guidance for new construction, as follows:

*“Height:* Two-and a-half storey dwellings are the most dominate in the Durand-Markland HCD; however, the height of the new dwelling should maintain the building height of adjacent properties and the immediate streetscape.”

*“Width:* The width of new build should be proportional to the lot size and style of the building while respecting the building width and side yard spaces of adjacent properties and the immediate streetscape.”

The application meets the requirements of the Durand-Markland HCD, Design and Landscaping Guidelines.

## **RELEVANT CONSULTATION**

Pursuant to Sub-sections 42(1) and 42(4.1) of the *Ontario Heritage Act*, the HMHC advises and assists Council on matters relating to Part V of the *Ontario Heritage Act*. At its meeting of December 18, 2018, the HPRSC considered this application, together with comments from staff and the applicant. The Sub-Committee supported the Site Plan (attached as Appendix “D” of Report PED19035), and the design of the new dwelling, subject to conditions (see Appendix “C” of Report PED19035).

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

A Heritage Permit Application has been submitted to permit the erection of a new two storey dwelling with driveway on a vacant lot fronting onto Markland Street.

Two key factors that are considered in the evaluation of any change affecting a heritage building, or its setting, are:

**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.

### Displacement Effects:

The subject lot is currently vacant except for mature trees and a manicured garden consisting of shrubs, other low-lying vegetation and grass. The Site Plan (attached as Appendix “D” to Report PED19035) proposed as part of this application indicates that the mature tree located in the City boulevard on the west side of the proposed lot will

remain while one mature tree located on the City boulevard on the east side of the lot will be removed. Additionally, one tree located in the east yard of the subject property will also be removed. This tree was recommended to be removed by an arborist as it is in poor health and poses a safety risk. The mature trees in the middle and rear of the property will be retained. The existing front yard and side yard manicured gardens will be removed and replaced with a side yard planting strip running along the east property line. Raised planting beds are proposed along the width of the dwelling on either side of the central walkway.

The overall displacement effects of the proposal are minimal and are not expected to have an impact on the heritage character of the streetscape.

Disruption Effects:

The new infill construction will impact the Markland streetscape and the Durand-Markland HCD through the addition of a new single detached dwelling in a previously landscaped open space. However, the proposed design and siting of the new dwelling is consistent with the character of the Durand-Markland HCD in terms of lot layout, building width, height, roof pitch and massing.

The proposed design and materials of the new dwelling will be contemporary in nature and will not replicate a style from a different historical era. The design will incorporate features that are sympathetic to the character of the area including:

- copper shingled side gable roof;
- dark grey brick façade;
- wood front door with transom and sidelight;
- stone foundation and landscape wall;
- central walkway leading to the front door;
- vertically oriented windows with radiating voussoirs and lintel; and,
- copper recessed gutters and downspout.

The style of the proposed dwelling has a simple, symmetrical Georgian appearance that does not compete with the detailed ornamentation and prominence of neighbouring homes within the Durand-Markland HCD. Similarly, the proposed height of two storeys is less than the two and a half storey neighbouring dwellings and the proposed front yard setback is equivalent to the front yard setback of the neighbouring home at 45 Markland Street. The front portion of the dwelling that is visible from the street has a rectangular plan with a width that is similar to neighbouring properties along Markland Street (see Appendix “D” to Report PED19035).

The Site Plan (attached as Appendix “D” to Report PED19035) indicates that there will be a planting strip along the eastern property line. This is a common front yard

treatment on many of the properties along Markland Street which will be effective in providing a clear definition of the property extent from the street and in creating interest to the pedestrian environment.

It is common for existing properties along Markland Street to have driveways that are located to one side of the dwelling, leaving approximately two-thirds of the front yard width as softscaping. The softscaping is typically bisected by a central walkway leading to the front entrance. The Site Plan (attached as Appendix "D" to Report PED19035) for the subject proposal shows a 6.1 metre, two car wide driveway located along the east half of the dwelling next to a one metre central walkway. As a result, approximately half the front yard width on the east side is hardscaping.

At its meeting of December 18, 2018, the HPRSC considered the application and supported the proposed Site Plan and design of the new dwelling. The HPRSC expressed concern that the proposed two car driveway will have a significant visual impact on the character of the heritage streetscape due to the driveway width and an overall large area of grey hardscaping concentrated on the east side of the property. The HPRSC recommended that the applicant work with Staff to mitigate the impact of the paved, double car driveway at the front of the dwelling.

The applicant has met with Staff and is proposing to reduce the driveway width from 6.1 metres to 5.4 metres which is the minimum permitted in the Zoning By-law. A revised rendering of the front elevation was submitted by the applicant (attached as Appendix "E" to Report PED19035). In order to break up the concentration of hardscaping formed by the driveway and abutting pathway, the applicant is proposing to reduce the width of the front pathway to introduce additional landscaping in between the east side of the driveway and pathway. The applicant is also proposing to reduce the degree of grey tones by utilizing an asphalt surface treatment with an earth tone instead of concrete. Recommendation (a) of Report PED19035 is consistent with the HPRSC advice and recommendation.

This application is for the construction of a new dwelling on a vacant lot and requires approval by the Planning Committee and Council, as advised by the HMHC. Staff recommend that any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit (see Recommendation (b)). It is also recommended that the Heritage Permit have an expiry date of March 31, 2021 (see Recommendation (c) of Report PED19035). An expiry date of two years after approval is standard on all approved Heritage Permits, and the March 31, 2021, date will reflect the expected end date of the new construction.

The construction of the proposed dwelling as presented in this application is dependent on the approval of the severance application (file # HM/B-18:159) and minor variance

application (file # HM/A-18:431) scheduled to be considered by the Committee of Adjustment on February 21, 2019. Should either of these Committee of Adjustment applications be denied or approved with conditions that would result in changes to the subject proposal, a revised or new Heritage Permit application may be required.

Staff recommend approval of Heritage Permit Application HP2018-046, as per the recommendations of Report PED19035.

## **ALTERNATIVES FOR CONSIDERATION**

### **1. Deny the Heritage Permit Application.**

HMHC may advise Council to deny this application in its entirety. This is not being recommended as the application is in character with the built heritage landscape of the Durand-Markland HCD and conforms to the Durand-Markland HCD Guidelines that permit the erection of new dwellings and other site alterations which are sympathetic to the existing building fabric and maintain the character of the Durand-Markland HCD.

### **2. Approve the Heritage Permit Application with additional or amended conditions.**

HMHC may advise Council to approve this application with additional or amended conditions of approval, as appropriate. This is not being recommended.

### **3. Approve the Application with No Conditions.**

HMHC may advise Council to approve this application with no conditions. This alternative is not recommended, as it would prevent staff review of additional details to ensure that the application approval will result in high-quality construction and the implementation of the project design, as submitted.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Built Environment and Infrastructure**

*Hamilton* is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

### **Culture and Diversity**

*Hamilton* is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” - Location Map

Appendix “B” - Image of Subject Property



**SUBJECT: Heritage Permit Application HP2018-046, Under Part V of the Ontario  
Heritage Act, for the erection of a single detached dwelling at 47  
Markland Street, Hamilton (PED19035) (Ward 2) - Page 9 of 9**

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Appendix "C" - Elevations – Submitted by Applicant, Dec. 12, 2018

Appendix "D" - Site Plan – Submitted by Applicant, Dec. 12, 2018

Appendix "E" - Revised Front Rendering – Submitted by Applicant. Jan. 22, 2019

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*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

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