



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Hamilton Municipal Heritage Committee
COMMITTEE DATE:	January 16, 2020
SUBJECT/REPORT NO:	Notice of Intention to Demolish Structures located at 23-25 King Street East, Stoney Creek (PED20042) (Ward 5)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	Miranda Brunton (905) 546-2424 Ext. 1202
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

- a) That no action be taken in response to the notice of intention to demolish the two existing commercial buildings located at 23 and 25 King Street East, Stoney Creek, a property included in the City's Register of Property of Cultural Heritage Value or Interest; and
- b) The property located 23 and 25 King Street East, Stoney Creek, be removed from the Register and the City's Workplan for designation.

EXECUTIVE SUMMARY

The subject property known municipally as 23 and 25 King Street East, Stoney Creek, is located at the northwest corner of King Street East and Mountain Avenue North in Stoney Creek (see Appendix "A" of PED20042). The subject property contains two existing mixed use commercial and residential buildings. Although 23 and 25 King Street East, Stoney Creek, is one property, the building on the west side of the lot is associated with the municipal address 23 King Street East and the building on the east side of the lot is associated with municipal address 25 King Street East.

The subject property is included in the City of Hamilton's Register of Property of Cultural Heritage Value or Interest and included on the City's Workplan for designation. For

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properties included on a Register, as per section Subsection 27 (3) of the *Ontario Heritage Act* (OHA), Council must be given 60 days notice in writing of the intention to demolish or remove any building or structure on the property. Additionally, the demolition and removal of a building or structure is prohibited during this 60 day time period. The 60 days' notice will expire on February 8, 2020.

On December 10th, 2019, the property owner submitted a Notice of Intention to Demolish for the two existing commercial buildings located at 23 and 25 King Street East, Stoney Creek. The applicant has not provided any specific details relating to how the site is proposed to be redeveloped.

The property owner contacted Heritage staff on January 8th, 2020 to determine next steps to proceed with the demolition for a property included on the Register.

Following further evaluation and research conducted by Staff, Staff recommend that no action be taken to prevent the demolition of the two existing commercial buildings located at 23 and 25 King Street East as they do not meet the criteria for designation and have not been identified as having any cultural heritage value.

If the decision is made to designate the subject property, the property would be designated as it stands today. Meaning that the heritage attributes would need to be identified based on current state of the building, not previous iterations. The building is heavily modified and few original features remain, which include the stone foundations and the floor joists.

Alternatives for Consideration – See Page 12

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: If it is decided to pursue designation, the City typically retains outside consultants to support the designation of the subject property immediately, incurring a cost of approximately three thousand dollars.

Staffing: None.

Legal: Continued inclusion in the City's Register of Property of Cultural Heritage Value or Interest under Section 27 (3) of the *Ontario Heritage Act* requires that Council be given 60 days' notice of the intention to demolish or remove any building or structure on the property. Council must consult with the Municipal Heritage Committee prior to including a non-designated property in the Register or removing reference to a property from the Register under Section 27 (1.3) of the Act.

HISTORICAL BACKGROUND

The property located at 23 and 25 King Street East, Stoney Creek, includes two existing commercial buildings that have been merged together over time (see “Appendix C” of PED20042). Currently, 25 King Street East is a commercial building with a residential and office space on main floor and office space on the second floor. 23 King Street East is a commercial building with a commercial space on the main floor and residential space on the second. Historically, 25 King Street East housed a commercial space, with postal pickup, on the ground floor and a residential, possibly mixed-use space, on the second floor. The house located at 23 King Street East was originally a residence.

The subject property was added to the City’s Register of Property of Cultural Heritage Value or Interest (“the Register”) and added to the City’s Workplan for designation in June of 2019. A chronology of key events is provided below:

Register Addition

Date	Summary of Events
March 25, 2019	Inventory and Research Working (IRWG) group recommended that the subject land be included on the Register and added to the City’s Workplan for designation.
April 10, 2019	Notice of the IRWG recommendation was mailed out to the property owners for the subject land.
April 18, 2019	HMHC reviewed the IRWG recommendations. Bruce Tucker, one of the owners of the subject property, delegated at the HMHC expressing his concerns with adding his property to the register. The HMHC received the delegation, and supported IRWG’s recommendations to add the subject property to the Register.
April 30, 2019	The HMHC recommendation to include the subject land on the Register and add to the City’s Workplan for designation was reviewed by Planning Committee Meeting. The recommendation was tabled to allow further consultation with the property owners and the Ward Councillor.
June 18, 2019	Planning Committee approved HMHC’s recommendation to add the subject property to the Register and to the City’s Workplan for designation.
June 26, 2019	City Council approved recommendation to add the subject

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	property to the Register and to the City's Workplan for designation.
December 10, 2019	Notice of Intention to Demolish submitted to the Building Division.
February 8, 2020	60 Day Notice expires.

As a Notice of Intention to Demolish for the subject property was submitted to the Building Division on December 10th, 2019, the 60 day notice expires on February 8th, 2020.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement:

Section 2.6 of the Provincial Policy Statement pertains to Cultural Heritage and Archaeology, apply to this decision:

“2.6.1 significant built heritage resources and significant cultural heritage landscapes shall be conserved”

The recommendations of this Report comply with this statement as, the commercial buildings located on the subject property are not considered to have sufficient cultural heritage value to warrant designation under the OHA. As such, the commercial building located on the subject property are not considered to be significant built heritage.

Urban Hamilton Official Plan:

The Urban Hamilton Official Plan (UHOP) was approved by Council on July 9, 2009 and the Ministry of Municipal Affairs on March 16, 2011. The UHOP outlines specific policies related to Cultural Heritage Resources that apply to this decision:

“B.3.4 Cultural heritage resources may include tangible features, structures, sites, or landscapes that, either individually or as part of a whole, are of historical, architectural, archaeological, or scenic value. Cultural heritage resources represent intangible heritage, such as customs, ways-of-life, values, and activities. The resources may represent local, regional, provincial, or national heritage interests and values.

3.4.2.1 The City of Hamilton shall, in partnership with others where appropriate:

- a) 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) Identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources.

The purpose of the above policies is to protect tangible cultural heritage through continuing process of inventory, survey, and evaluation. The subject property is not considered to have sufficient cultural heritage value to warrant designation under the OHA. As such, the recommendations of this Report comply with these policies.

Protection of Non-Designated or Non-Registered Heritage Properties

- “3.4.2.6 The City recognizes there may be *cultural heritage properties* that are not yet identified or included in the Register of Property of Cultural Heritage Value or Interest or designated under the Ontario Heritage Act, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated but are still worthy of conservation.
- 3.4.2.7 The City shall ensure these non-designated and non-registered *cultural heritage properties* are identified, evaluated, and appropriately *conserved* through various legislated planning and assessment processes, including the Planning Act, R.S.O., 1990 c. P.13, the Environmental Assessment Act and the Cemeteries Act.
- 3.4.2.8 To ensure consistency in the identification and evaluation of these non-designated and non-registered *cultural heritage properties*, the City shall use the criteria for determining cultural heritage value or interest established by provincial regulation under the Ontario Heritage Act and set out in Policy B.3.4.2.9.”

Inclusion of non-designated property in the Register, established under Subsection 27 (1.2) of the OHA requires that Council be given 60 days notice in writing of the intention to demolish or remove any building or structure on the property, and the demolition and removal of a building or structure is prohibited during this time period (subsection 27 (3) of the OHA). Inclusion of a property on the Register does not automatically indicate a property should be designated under the OHA. Rather, the intent is to provide Council with an opportunity to consider if the property should be designated to prevent the

demolition of the building and to issue the Notice of Intention to Designate (NOID) if designation is deemed appropriate or to discuss other options with the proponent.

The recommendations of this Report comply with the above policy as the commercial buildings located on the subject property were evaluated against Ontario Regulation 9/06 (Appendix "C" or PED20042) and were found not to have sufficient cultural heritage value to warrant designation under the OHA.

Ontario Heritage Act

Section 27 of the OHA outlines requirement of a Municipality for the demolition or removal of a structure on a property included in the Register. The following applies to this decision:

- "27(3) If property included in the register under subsection (1.2) has not been designated under section 29, the owner of the property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner gives the council of the municipality at least 60 days notice in writing of the owner's intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure
- 27(5) The notice required by subsection (3) shall be accompanied by such plans and shall set out such information as the council may require."

As the subject lands are included on the City's Register Council must consider the designation within the 60 day notice period for a Notice of Intent to Demolish to prevent demolition of the building should it warrant designation.

RELEVANT CONSULTATION

Heritage staff consulted with Bruce Tucker, one of the property owners, and conducted a site visit on January 9th, 2020.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

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 (see Appendix “C” to Report PED20042). The following presents the analysis and rationale for the recommendations within the Ontario Regulation 9/06.

To note, the following analysis and further evaluation is based on documentation provided as part of the preliminary assessment to add the subject property to the Register (included in the HMHC Agenda Package for meeting 19-003). Staff conducted additional archival research including historical sources, such as directory references for Stoney Creek, archival photographs, aerial photographs, historic maps and documentation regarding historical building techniques and materials.

1. **Design / Physical Value:**

- i. The two existing commercial buildings do not appear to be a rare, unique, representative or early example of a style, type, expression, material or construction method.

The preliminary evaluation of the subject property for inclusion on the Register indicated that the style of the structures was rare. To note, the structures located on the subject property were once separate and over the years and modification appear to have been attached. It is not clear who constructed the structures and the exact date of construction. Based on documentary sources and building techniques, the structures may have been constructed during the first half of the 19th Century.

Both structures were constructed in a local vernacular style with Victorian influences, two stories, with rough cased wood frames with thick stone rubble foundations. The thickness of the stone foundation, ranging between 0.5 and 0.75 metres, is typical of structures constructed during the first half of the 19th century. The building on the east, 25 King Street East, was purposely built with a commercial retail space on the main floor and residential space on the second floor. While the building on the west, 23 King Street East, was originally built as a residence and the first floor was converted for retail use during the second half of the 20th century. When constructed, the structures were not attached and 23 King Street East constructed slightly set back from 25 King Street East.

25 King Street East, the property colloquially known as the Millen’s store, originally had enclosed glazed bays that flanked the recessed entrance way to the general store. Based on researched documentation, the second floor space was accessed with an exterior staircase and the building was originally been clad in stucco, but the building had been reclad multiple times. 23 King Street East was originally constructed with an open air front veranda on the ground level and was probably clad in wooden board and batten. The veranda has been replaced

with a single storey addition to the ground floor of the front of the building, used for a commercial space.

Since construction, both buildings on the subject property have been significantly altered on the interior and the exterior (see Appendix “B” of Report PED20042), impacting the integrity, both culturally and structurally, of the buildings. Currently, the buildings are mostly clad in vertical metal siding, with the exception of the enclosed veranda and the east elevation of 25 King Street East, which is clad in stucco. An addition has been added to the main floor of the street facing elevation of 23 King Street East in the later half on the 20th Century. The front elevation of this addition is glazed and is used as commercial space. The enclosed veranda of 25 King Street East has been significantly redesigned and now includes two arched windows flanking an arched, recessed entranced way. On the back elevation of the 25 King Street East there are two single storey additions, the first addition appears to have been added around the turn of the 20th century and the second small addition possibly added in the mid-20th century. Due to the significant modifications to the building, the existing buildings are not a rare, unique, representative or early example of a style, type, expression, material or construction method.

- ii. The commercial buildings do not display a high degree of craftsmanship or artistic merit.

The preliminary evaluation of the subject property for inclusion on the Register indicated that the structures displayed a high degree of craftsmanship. Although well-constructed, the significant alterations and modifications have replaced much of the original work and original materials have been replaced with modern materials. As such from cultural heritage perspective, the structures do not display a high degree of craftsmanship as the craftsmanship related to the initial construction as been completely replaced by modern materials and construction methods.

- iii. The commercial buildings do not demonstrate a high degree of technical or scientific achievement.

The two commercial buildings are examples of a regular house buildings constructed during the first part of the 19th Century. As such they do not demonstrate a high degree of technical or scientific achievement.

2. Historical / Associative Value:

- i. The commercial buildings may be considered to have direct associations with a theme, event, belief, person, activity, organization or institution that

is significant to a community.

As part of the preliminary evaluation to include the subject property on the Register, it was indicated that the subject met this criteria. 25 King Street East, the 'Millen's Store', has passed through many hands and housed a variety of business for varying lengths of time. Located within the historic core area of Stoney Creek, as depicted on the 1875 Wentworth Atlas, research documentation indicates that the subject property has been used for commercial purposes since the early 19th century and possibly the very late 18th century.

Following a treaty between the Mississaugas and the Crown in 1792, thousands of Empire Loyalists started to settle the land between Lake Erie and Lake Ontario. The first Loyalists who came to the area now known as Stoney Creek started farms and mills along the many waterways flowing through the area. The commercial historic core area of Stoney Creek started to develop amongst the vast and hearty farmland to help serve the needs of the community. The historic core had merchants for trade, goods and services and postal pickup. Following the Battle of Stoney Creek, which took place on the night of June 5-6, 1813, and proved to be the turning point for the British during the war of 1812, the Stoney Creek community started to steadily grow. The location of the battlefield and the Battlefield House Museum and Park National Historic Site is located just west of the subject property.

During the early 19th century a general store, which also served as a 'post office', was established on the subject property and may have been the first general store in the historic core. Throughout the mid and late 19th century there were many different storekeepers and postmasters including Alva Jones, William Jones, Charles Moore, and Isaac Corman. As part of the historic core of the Village of Stoney Creek, the general store with a postal pick-up would have played an important role in the developing community. The residents in the area would have come to the store to send and pick mail, as well as purchase goods. As such, due to the nature of the business and service located on the subject property, there was an intrinsic value to the growing community. Postal service was available onsite until 1899.

Just after the turn of the 18th century, A.J. Millen purchased the business and building located at 25 King Street East, as well as the house located at 23 King Street East. The Millen's family continued to serve the community with their family run general store for six decades. The general store was located on the main level of 25 King Street East, while the second storey contained a multi-use space with an exterior access that was rented out to a variety of tenants for a variety of uses. A.J. Millen and his large family lived in 23 King Street East. It is also noted that the Millen's store had the first public telephone in Stoney Creek.

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After A.J. Millen's death in 1955, his wife Mary-Jane continued to run the general store. The Millen's son Richard took over family store when his mother retired. During Richard's management, he made great efforts to modernize the store, which included significant renovations and alterations to the building. In September of 1967, 23 and 25 King Street East, was sold out of the family.

Since the 1970s, the subject property has been further altered. The first floor of 23 King Street East was turned into a retail spaces with tenants above and 25 King Street East has house a variety of tenants, from private offices to restaurants. Although the Millen's General Store and home is still in living memory, the changes in the businesses and physical appearance have altered the character of the building. As such, this obstructs the historical role this property played in the social, economical, and historic development of Stoney Creek.

- ii. The commercial buildings are not considered to have the potential to yield information that contributes to an understanding of a community.

The initial evaluation of the subject property for the inclusion on the City of Hamilton's Register, identified this property to meet this criterion. From a general historical perspective, the story of property and the previous owners and their businesses helps us to better understand the social, economical and historic develop of Stoney Creek. However, much of this information can be obtained through other means of research than through the structures.

- iii. The commercial buildings on the property are not attributed to a prominent builder.

The initial evaluation of the property and two structures for the inclusion on the City of Hamilton's Register, identified this property and two structures to meet this criterion though its association with a prominent builder. Upon further evaluation and consideration, it is unclear who designed the building and who originally construct the structures. As such, this property does not meet his criteria.

3. **Contextual Value:**

- i. The commercial buildings are not considered important in defining, maintaining and supporting the character of the area.

The initial evaluation of the subject property for the inclusion on the City of Hamilton's Register identified this property to meet this criterion and future

indicated that the property is important in defining, maintaining and supporting the character of the area.

Over the 19th and 20th Centuries, the built environment and context of the section of King Street East, Stoney Creek, around the subject property has significantly changed. Notable in early 20th Century maps and aerial photographs, this area contained house structures similar to the subject property. Moving forward in the 20th Century, within this historic core area of Stoney Creek there is movement away from two storey residential building and the introduction of taller commercial and industrial buildings in the immediate King Street East area and development of subdivisions in the surrounding areas. As the built context changed, the modifications to the subject property were an attempt to keep the building relevant and meet the needs of commercial tenants in an evolving built and economic context. Although once important to defining, maintaining and supporting the character of the area, the subject property no longer meets this criterion.

- ii. The commercial buildings are not considered to be physically, functionally, visually and historically linked with the surrounding properties.

The initial evaluation of the subject property for the inclusion on the City of Hamilton's Register identified this property to meet this criterion and future indicated that the property is physically, visually and historically linked to its surroundings.

The subject property is physically and historically linked to its surroundings as the early post office and general store located on the subject property played a role in the overall development of Stoney Creek. Due to the significant modifications, which were attempts to keep the structures relevant in an evolving context, the subject property is no longer visually or physically linked to the surrounding area. As such, it no longer meets this criterion.

- iii. The commercial buildings are not considered a landmark.

Landmarks are statement buildings that stand out amongst their surrounding context and can be used for such things as wayfinding. Although located on a corner lot, the commercial buildings do not stand out in their existing context and are not considered to be a landmark.

Conclusion:

Noted in the introduction of this section, if a property meets one or more of the criteria outline in Regulation 9/06 property may be designated under the *Ontario Heritage Act*.

Although the subject property may meet one of the 9/06 criteria, is not considered to have sufficient cultural heritage value to warrant designation under the *Ontario Heritage Act*.

In addition to the discussion above, if the decision is made to designate the subject property, the property would be designated as it stands today. Meaning that the heritage attributes would need to be identified based on current state of the building, not previous iterations. The building is heavily modified and few original features remain, which include the stone foundations and the floor joists.

Under the umbrella of heritage, designation and in situ physical retention of a structure is only one means of preserving the historical significance of a property. Due to the rich history of the site, a more suitable and impactful means of preservation would be a commemoration approach. This could include public interpretative display, such as an historic plaque, telling the history and refreshing the public memory of the people, business and structures that once occupied this space.

For the subject property, there are:

- a wide variety of archival photographs available;
- Historical documentation in the form of directly listings, tax assessment records and newspaper articles and advertisements; and,
- salvageable materials from the building, including the hand shaped wooden floor joists, stone from the foundation and an Anthes-Imperial Fire King furnace.

All of the above can be used for an interpretive display. Alternatively, the salvaged material can be incorporated into a future development on site. The property owner indicated a willingness to salvage the above mentioned materials and some form of commemoration.

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 the HMHC, may consider the alternative to designate the property immediately. HMHC can advise that Council make designation of the subject property an immediate priority.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Built Environment and Infrastructure

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

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A" - Location Map
- Appendix "B" - Photographs
- Appendix "C" - Ontario Regulation 9 / 06: Criteria for Determining Cultural Heritage Value or Interest