



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	October 29, 2021
SUBJECT/REPORT NO:	Heritage Permit Application HP2021-043, Under Part V of the <i>Ontario Heritage Act</i> , for Demolition of a Circa 1980 Detached Garage, 19 Mill Street South, Waterdown (PED21205) (Ward 15)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Chloe Richer (905) 546-2424 Ext. 7163
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Heritage Permit application HP2021-043, for the demolition of a circa 1980 detached garage (wood construction with vinyl siding), for the lands located at 19 Mill Street South, be **approved**, subject to the following conditions:

- (a) Implementation of the alterations, in accordance with this approval, shall be completed no later than November 30, 2023. If the alterations are not completed by November 30, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton;
- (b) That the property owner shall submit a fencing option, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to any application for a Building Permit and / or the commencement of any alterations;
- (c) That appropriate notice of the Council decision be served on the owner of 19 Mill Street South, Waterdown, as required under Section 42 of the *Ontario Heritage Act*.

EXECUTIVE SUMMARY

The subject property is located at 19 Mill Street South (see Appendix “A” attached to Report PED21205) and designated under Part V of the *Ontario Heritage Act* by By-law No. 96-34-H (Mill Street Heritage Conservation District), attached as Appendix “B” to Report PED21205.

A Heritage Permit application (HP2021-043) was received on August 24, 2021 and the Notice of Complete Application was issued on September 17, 2021. The application proposes to demolish a circa 1980 detached garage (wood construction with vinyl siding). No replacement garage is proposed as part of HP2021-043. Photographs of the existing garage taken by staff can be found attached as Appendix “C” to Report PED21205.

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 Complete Application. If no decision is reached within the 90-day timeframe, Council shall be deemed to consent to the application. The subject application’s 90-day timeframe will be reached on December 16, 2021.

The Heritage Permit Review Subcommittee of the Hamilton Municipal Heritage Committee (HMHC) reviewed the subject application on September 21, 2021 and recommended approval. Applications to demolish buildings on designated properties is not delegated to City staff under By-law No. 05-364, therefore, the application is subject to Council approval.

Staff are of the opinion that the proposed scope of work will not impact the circa 1875-1890 Built Heritage Resource on site and removal of a contemporary accessory structure conforms with the Mill Street Heritage Conservation District Plan. As such staff recommend approval of the Heritage Permit application, subject to the recommended conditions to ensure that additional concerns, such as view of the rear of the property from the public realm, will be addressed through an appropriate fencing option.

Alternatives for Consideration – See Page 7

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 (1) 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; and,
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. 2005, c. 6, s. 32 (1).”

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. 2005, c. 6, s. 32 (3).”

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. 2005, c. 6, s. 32 (6).”

HISTORICAL BACKGROUND

The subject lands at 19 Mill Street South contain a Built Heritage Resource (a one-and-a-half storey, vernacular frame residence) that was constructed circa 1875-1890. The property also contains a garage constructed circa 1980, as per the Heritage Permit application. The Waterdown Heritage Conservation District Study, Heritage Building Inventory, notes “The present garage is reputed to have been the former tailor shop of a Mr. Stewart in the 1900s.” The year of demolition of the previous garage is unknown,

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OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

however, staff conducted a site visit to verify the existing garage proposed for demolition is contemporary. For photographs taken by staff, see Appendix “C” attached to Report PED21205.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Urban Hamilton Official Plan (UHOP)

Volume 1, Section 3.4 – General Cultural Heritage Policies of the UHOP states that the City shall:

- “B.3.4.2.1 (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;
- (e) Encourage the ongoing care of individual cultural heritage resources and the properties on which they are situated together with associated features and structures by property owners, and provide guidance on sound conservation practices;
- (h) Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas; and,
- (i) Use all relevant provincial legislation, particularly the provisions of the *Ontario Heritage Act*, the *Planning Act* R.S.O., 1990 c. P.13, the *Environmental Assessment Act*, the *Municipal Act*, the *Niagara Escarpment Planning and Development Act*, the *Cemeteries Act*, the *Greenbelt Act*, the *Places to Grow Act* and all related plans and strategies in order to appropriately manage, conserve and protect Hamilton’s cultural heritage resources.”

These policies from the UHOP demonstrate Council’s commitment to the identification, protection, and conservation of cultural heritage resources, and the recommendations of this Report meet the intent of these policies.

RELEVANT CONSULTATION

Heritage Permit Review Subcommittee

Pursuant to Sub-sections 28 (1) of the *Ontario Heritage Act* and the Council approved Heritage Permit Process (PED05096), the HMHC advises and assists Council on matters relating to Part IV and V of the *Ontario Heritage Act*.

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject application at a special meeting held on September 21, 2021. After a presentation and question and answer period with the applicant's agent, the Subcommittee passed a motion to recommend approval of the application as submitted, subject to the following conditions:

- (a) Implementation of the alterations, in accordance with this approval, shall be completed no later than December 31, 2023. If the alterations are not completed by December 31, 2023 then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

In addition, the Subcommittee recommended a fence be erected at the location of the garage to screen the transportation vehicles visible on site. The Subcommittee did not wish to make design recommendations regarding fencing options and are satisfied with staff making appropriate suggestions to the applicant regarding fencing options.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Heritage Permit application HP2021-043 proposes the following alterations:

- Demolition of a circa 1980 detached garage.

Staff deemed the application comprehensive and complete on September 17, 2021.

Key factors that are considered in the evaluation of any change affecting a heritage resource are consideration of:

- **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.

In the consideration of any Heritage Permit application, staff must assess the impact of the displacement and disruption effects on the heritage resource, particularly in relation

to the heritage attributes mentioned in the Mill Street Heritage Conservation District Plan.

The Mill Street Heritage Conservation District Plan summarizes heritage attributes, including:

- “The development of Mill Street South, Griffin and Union Streets attests to the development interests of Ebenezer Griffin;”
- “The buildings comprise an array of types and styles and include dwellings, stores, and churches;”
- “The predominant building character is one of vernacular construction with a variety of stylistic embellishments borrowed from the *Gothic Revival* and the *Italianate*,” and,
- “The landscape of the Heritage Conservation District contains... a range of building types and ages, sited on building lots with a variety of setbacks, attesting to the evolution of the area over a long period of time...”

Regarding garages and parking locations, the Mill Street Heritage Conservation District Plan includes the following:

- **“4.2.2 Features and Spaces Around Buildings**
Keep parking areas and outbuildings including garages and utilities such as heat pumps and satellite dishes to the side or rear in traditional service areas;” and,
- **“4.4 Alterations to Non-Heritage Buildings**
Locate new garages and parking spaces in unobtrusive areas, normally to the rear and side yards.”

There will be minimal “displacement effects” to the subject property as a result of this work. The original accessory structure which contained the former tailor shop of a Mr. Stewart in the 1900s was previously demolished at an unknown time. Though contemporary, the existing garage has been documented by photographs for future reference.

Minimal “disruption effects” are expected to the heritage context of the property. The demolition of the existing garage will open views to the rear of the property where transportation vehicles are parked. Staff support the suggestion of the Heritage Permit Review Subcommittee to introduce new fencing at the location of the garage as an appropriate screening measure to minimize the disruption effects. Recommendation (b) of Report PED21205 requires that a fencing option be submitted to the satisfaction and approval of the Director of Planning and Chief Planner prior to any application for a Building Permit and / or the commencement of any alterations. Staff would note that the existing fences found in the Mill Street Heritage Conservation District are typically

characterized as low ornamental fences of wood or iron, and would recommend a complimentary material and design of the new fence.

Staff further recommend that the applicant must complete the alterations within two years after the Heritage Permit is issued, which is expected to be November of 2021 (Recommendation (a) of Report PED21205). An extension to the deadlines noted above can be approved by the Director of Planning and Chief Planner.

Conclusions:

Staff are of the opinion that Heritage Permit application HP2021-043 can be supported as the proposed alterations are in keeping with the Mill Street Heritage Conservation District Plan, and displacement and disruption effects are minimal.

Additional concerns such as appropriate screening of the transportation vehicles parked on site can be addressed by introducing new fencing, as required by Recommendation (b) of Report PED21205. As such, staff recommend that the Heritage Permit application be conditionally approved.

ALTERNATIVES FOR CONSIDERATION

(1) Refuse the Heritage Permit Application.

HMHC may advise Council to refuse this application. This is not being recommended.

(2) Approve the Heritage Permit with Additional or Amended Conditions.

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

(3) Approve the Heritage Permit with No Conditions.

HMHC may advise Council to approve this application with no conditions. This alternative is not recommended.

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" to Report PED21205 - Location Map

Appendix "B" to Report PED21205 - By-law No. 96-34-H

Appendix "C" to Report PED21205 - Photographs Taken by Staff, September 27, 2021

CR:sd