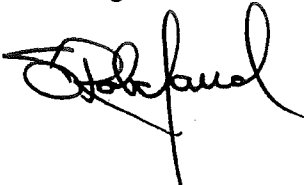




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	January 21, 2022
SUBJECT/REPORT NO:	Heritage Permit Application HP2021-055, Under Part V of the <i>Ontario Heritage Act</i> , to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3)
WARD(S) AFFECTED:	Ward 3
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 HP2021-055, to permit new cladding (Indiana Split Veneer Limestone) installed without a Heritage Permit along the front of the garage structure, for the lands located at 124 St. Clair Avenue, be **approved**.

EXECUTIVE SUMMARY

The subject property at 124 St. Clair Avenue (see Appendix "A" attached to Report PED22044) is designated under Part V of the *Ontario Heritage Act* by By-law No. 86-125 attached as Appendix "B" to Report PED22044.

The Application proposes to permit new cladding (Indiana Split Veneer Limestone) installed without a Heritage Permit along the front of the garage structure to repair damage from a fallen tree. Photographs of the garage indicating the former brick cladding and new Indiana Split Veneer Limestone cladding are included in the Heritage Permit Application report prepared by EFI Global, dated November 11, 2021, and submitted by the Application. This report can be found attached as Appendix "C" to Report PED22044; see pages 5-9.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 2 of 8

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 March 8, 2022.

The Heritage Permit Review Subcommittee of the Hamilton Municipal Heritage Committee (HMHC) reviewed the subject Application on December 14, 2021 and January 18, 2022. At their meeting on January 18, 2022, the Subcommittee recommended denial of the Application as the new cladding is not in keeping with the character of the St. Clair Avenue Heritage Conservation District (HCD). When a Heritage Permit Application is recommended for denial by the Subcommittee, the Application is subject to Council decision.

Should the Application have been received prior to the alterations having occurred, staff would have recommended a more complimentary cladding be installed. Staff are supportive of the Application to permit the installation of the existing new cladding as there is no documentation that speaks to the garage having significant historical value other than its general contribution to the overall character of the property and the HCD, and the garage is located at the rear of the property. As such, staff recommend approval of the Heritage Permit Application.

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,

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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

This Heritage Permit Application (HP2021-055) was received on November 11, 2021 and the Notice of Complete Application was issued on December 8, 2021.

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject Application on December 14, 2021 and deferred it.

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject Application again on January 18, 2022 and recommended denial of the Application.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Urban Hamilton Official Plan

Volume 1, Section 3.4 – General Cultural Heritage Policies of the Rural Hamilton Official Plan (RHOP) 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; and,
- 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 within the City.
- B.3.4.2.1 (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 Urban Hamilton Official Plan (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*.

SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 5 of 8

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject retroactive Application for at a meeting held on December 14, 2021. After a presentation and question and answer period with the Applicant's agent, the Subcommittee passed a motion to recommend deferral of the Application as submitted, to provide the home owner the chance to meet with staff and the opportunity to agree to installing an alternate, compatible cladding material.

"That the Heritage Permit Review Sub-committee advises that Heritage Permit Application HP2021-055 be deferred until a future meeting of the sub-committee to allow the owner to consider removal of the existing limestone veneer cladding and installation of an alternative cladding on the front façade of the garage structure that is in keeping with the character of the St. Clair Avenue Heritage Conservation District."

The Application returned to the Subcommittee on January 18, 2022. The home owner and their agent had the opportunity to meet with staff prior to the Subcommittee meeting and advised they were not in support of removing the existing cladding and installing a new and alternative cladding material.

The home owner provided further details regarding the history of the work completed without a Heritage Permit Application, which was initiated as a result of damage from a tree impact in October 2020. A third party was retained by the home owner's insurance company for the purpose of applying for applicable City of Hamilton permits. The original work was scoped to the roof of the garage structure and a Heritage Permit was not required as the replacement used in-kind materials. The Heritage Permitting approval process was not followed at the time of the alteration to the front cladding of the garage.

At its meeting on January 18, 2022, the Subcommittee recommended that the Application be denied.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The subject lands at 124 St. Clair Avenue contain a two-and-a-half storey Hipped-Roof Box style dwelling with Tudor elements and detached garage, both constructed in 1915. The detached garage is the subject of the retroactive Heritage Permit Application. The brick cladding on the garage, which was removed prior to installation of the new cladding (Indiana Split Veneer Limestone), dated to the 1990s as stated by the applicant at the January 18, 2022, Subcommittee meeting.

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SUBJECT: Heritage Permit Application HP2021-055, Under Part V of the Ontario Heritage Act, to Permit New Cladding (Indiana Split Veneer Limestone) Installed Without a Heritage Permit Along the Front of the Garage Structure, 124 St. Clair Avenue, Hamilton (PED22044) (Ward 3) - Page 6 of 8

Heritage Permit Application (HP2021-055) proposes the following alterations:

- Permit new cladding (Indiana Split Veneer Limestone) installed without a Heritage Permit along the front of the garage structure.

Staff deemed the Application comprehensive and complete on December 8, 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 objectives and policies of the St. Clair Heritage District Planning Study and District Plan.

Key objectives and policies of the St. Clair Heritage District Planning Study and District Plan include:

- 8.2.1. **Positive Design Features** "The setback and design of most of the private garage structures."
- 10.3.4. **Building** "Restoration of the original features of the building will be encouraged."
- 10.3.4. **Building** "Authentic materials such as brick, stone and wood, to reflect the texture of the area, will be encouraged. Original or similar materials and colours will be used."
- 10.3.4. **Building** "Unauthentic materials such as plastics and aluminium will be discouraged."

There will be minimal "displacement effects" to the subject property as a result of this work. The brick cladding of the garage that has been removed was not a historic cladding material; it was a popular type of brick in the 1970s and 1980s added to the structure in the 1990s, as per the engineer's report provided by the home owner (see Appendix "C" attached to Report PED22044).

Moderate "disruption effects" are expected to the heritage context of the property. The front of the garage structure is not being restored as a best heritage conservation

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practice. There will be the introduction of a new cladding material that is generally incompatible with the texture of the existing house on site, though the brick that was removed from the garage was not a heritage brick. The new cladding is a stone veneer that is more similar to the sills of the existing house than a plastic or aluminium material would be, two materials that are identified as unauthentic in the St. Clair Heritage District Planning Study and District Plan. Though its construction date appears to be in line with the construction date of the dwelling, the garage does not appear to have significant historical value other than its general contribution to the overall character of the property and the HCD. Further, it is located to the rear of the property.

Though the best heritage conservation practice would be to remove the new cladding and restore the original front of the garage structure, staff met with the home owner and their agent to encourage this option, which is not the approach the home owner wishes to take. Staff recommend an approach emphasizing public education around the Heritage Permit approval practice occur in place of denial of the Heritage Permit Application. Of special consideration is that it appears an error was made by the third party overseeing the broader City of Hamilton permitting process in not applying for a Heritage Permit prior to the alterations, and the home owner was not involved due to the nature of the insurance claim context. In addition, though further investigation would be required, it is possible that original historic building materials are preserved under the existing new cladding, and a future alteration could be the removal of the new cladding and restoration of the front façade of the garage structure. As such, staff are not in support of the recommendation of the Heritage Permit Review Subcommittee to deny the Heritage Permit Application.

Conclusions:

Staff are of the opinion that the Heritage Permit Application (HP2021-055) can be supported, though there is deviation from the best practices of the St. Clair Heritage District Planning Study and District Plan, as displacement effects are minimal. Staff acknowledge that approval would result in moderate disruption effects. As such, staff recommend that the Heritage Permit Application be 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 Conditions.

HMHC may advise Council to approve this Application with conditions of approval. This is not being 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.

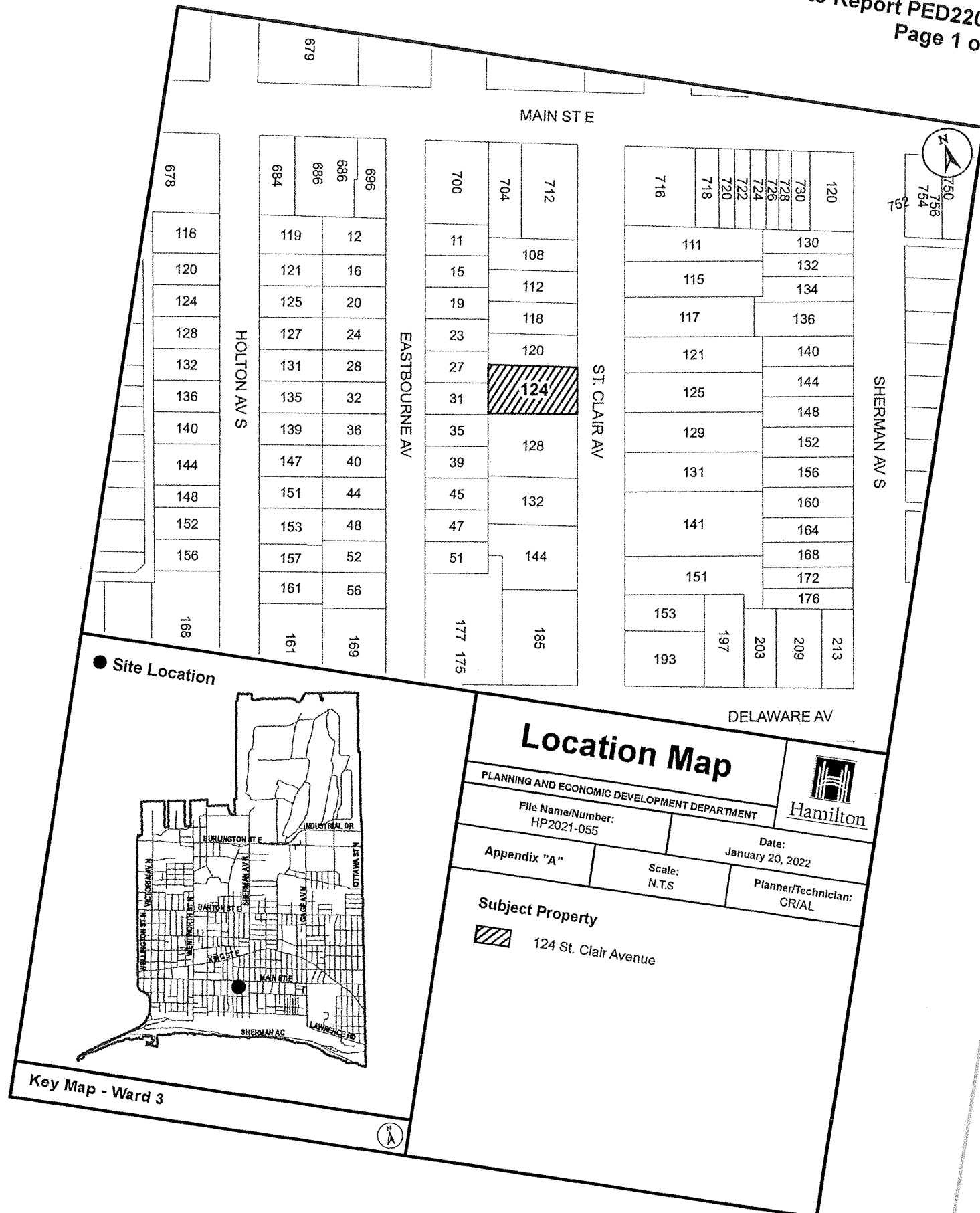
APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Location Map

Appendix "B" - By-law No. 86-125

Appendix "C" - Heritage Permit Application Report Prepared by EFI Global, Dated November 11, 2021

CR:sd



Bill No. D-41

The Corporation of the City of Hamilton

BY-LAW NO. 86-125

To Designate:

AS A HERITAGE CONSERVATION DISTRICT THE AREA COMPRISED OF
ST. CLAIR AVENUE BETWEEN MAIN STREET EAST AND DELAWARE AVENUE

WHEREAS subsections 41(1) and 41(3) of The Ontario
Heritage Act, R.S.O. 1980, Chapter 337 provide as follows:

41. (1) Subject to subsection (2), where
there is in effect in a municipality an official
plan that contains provisions relating
to the establishment of heritage conservation
districts, the council of the municipality
may by by-law designate the municipality or
any defined area or areas thereof as a heritage
conservation district.

(2) A by-law passed under subsection
(1) does not come into force without the approval
of the Board.

AND WHEREAS By-law No. 85-199, passed on the 24th
day of September, 1985, defined the area shown on Schedule
"A" thereto as a Heritage Conservation District to be examined
for future designation;

AND WHEREAS such examination has been completed;

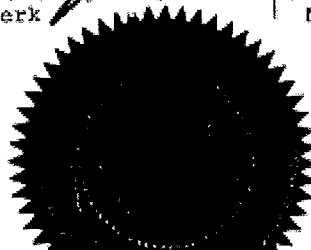
AND WHEREAS the Official Plan of the City of
Hamilton contains provisions relating to the establishment
of heritage conservation districts;

AND WHEREAS it is intended to designate the area
defined by the said by-law.

NOW THEREFORE the Council of The Corporation of
the City of Hamilton enacts as follows:

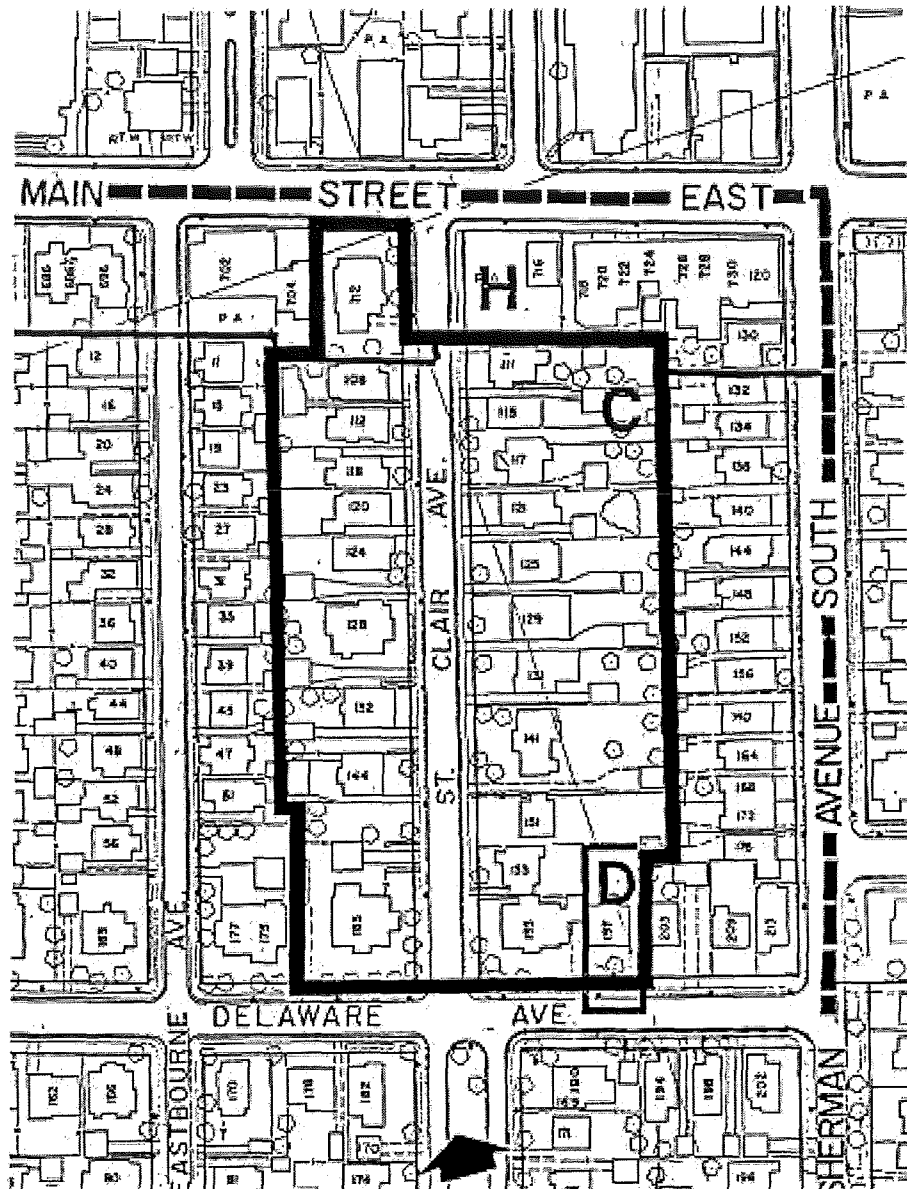
1. The area shown on Schedule "A" hereto annexed
and forming part of this by-law, and comprised in the
area defined by By-law No. 85-199, is hereby designated
as a Heritage Conservation District.

PASSED this 8th day of APRIL A.D. 1986.


City Clerk
Mayor

04/08/86

- 307 -



THIS IS SCHEDULE "A" TO BY-LAW NO 86-125
PASSED THE 8th DAY OF APRIL 1986

[Signature]
Clark

[Signature]
Mayor

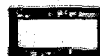
CITY OF HAMILTON

SCHEDULE "A"

MAP FORMING PART OF
BY-LAW NO. 86-125
TO AMEND BY-LAW NO. 6593

Regional Municipality of Hamilton-Wentworth
Planning and Development Department

Legend



LANDS SUBJECT TO BY-LAW NO 86-125

North



Scale

N.T.S.

Reference File No.

P5-6-4-5

Date

FEBRUARY 1986

Drawing No.

86-H-29

46 Jackson Street East
Hamilton, ON, L8N 1L1
(905) 524-1523

Heritage Permit Application

EFI Global File No.: 9496 6034 7028

November 11, 2021

Original Building Permit: 20 197441 00 R9: Impact Damage – Accessory Structure

Peter McMillan

Loss Location: 124 St. Clair Avenue, Hamilton, ON

Date of Loss: October 8, 2020

Claim No.: 4033598100

Prepared For:

City of Hamilton

71 Main Street West

Hamilton, ON, L8P 4Y5

Attention: Amber Knowles

Email: Amber.knowles@hamilton.ca

cc. Adam.mancini@intact.net; 3033125748@cc.intact.net

INTRODUCTION:

EFI Global Canada (EFI) was retained by Intact Insurance to assist with a heritage permit for an accessory structure located on the subject address.

We attended site on October 29, 2021 for the purpose of conducting our inspection and reviewing restoration. For the purpose of directional reference, the front of the building is presumed to face due east, toward St. Clair Avenue. We have included an appendix illustrating photographs from our assessment. We have included the original building permit drawings which illustrate a site plan of the property.

BACKGROUND:

The incident building was a detached, single storey accessory building (Photograph 1). The building was constructed using dimensionally framed lumber.

The subject structure was damaged by a tree impact occurrence in October of 2020. EFI global was retained to provide drawings and apply for permit to repair the structure. A permit (Permit No. 20 197441 00 R9) was issued by the City of Hamilton on January 29, 2021. Original repairs for the structure did not include removal and replacement of the front brick masonry.

It was reported to EFI Global in August of 2021 that repairs to the building included replacement of brick masonry along the front face of the building.

The following document serves as a retroactive permit application to accept repairs of the front façade of the accessory structure within the subject address.

INSPECTION:

October 20, 2020

The front façade of the accessory structure consisted of a brown brick installed between door openings. This brick was a type of "Meridian Brick - Heritage Brown" and approximately 36 square feet of brick was installed along the front façade. Images of the original brick have been appended for review (photographs 1-2). At the time of inspection, the structure was damaged. Review of the brick consistency, color and texture provided evidence the brick is not original to the structure / property. The observed brick was a

popular type of brick in the 1970s – 1980s. The brick did not match the brick currently on the primary residential structure, which appears to be original to the building (photograph 3). Further, the method of installation of the accessory structure's original brick is not consistent with historical construction since the brick is installed in a "veneer" type application with the brick being tied back to the superstructure. While not confirmed by EFI Global, it was reported by the installing contractor, ProBert Construction Inc. that the brick was overhanging the supporting foundation by a substantial amount of brick thickness.

October 29, 2021

The new front façade brick was installed using "Indiana Split Veneer Limestone". The veneer was approximately 1" thick and was installed using wire mesh lathe backing. Images of the new front façade have been provided (photographs 4-5). As confirmed by the installing contractor, ProBert Construction Inc., the reasoning for choosing the installed materials was that the material was thinner than the original and could be better supported by the foundation. Further, the new material closely matched the existing primary structure's foundation walls. Additional fascia installation, trim and painting was also performed for the building.

It is unclear why a heritage permit was not applied for prior to conducting the work along the front of the structure. However, it is suspected that the installing contractor is not located in the Hamilton region and would not be aware of any heritage permit requirements. EFI Global was not aware that construction of new materials along the front face of the building occurred until after installation. Further clarification would need to be made by the homeowner and the installing contractor with respect to not obtaining heritage approval.


CLOSURE:

We trust that this letter report meets your immediate requirements with respect to heritage application. Should you require more information, please do not hesitate to contact us.

Respectfully submitted,



Ryan Sneek
Professional Engineer



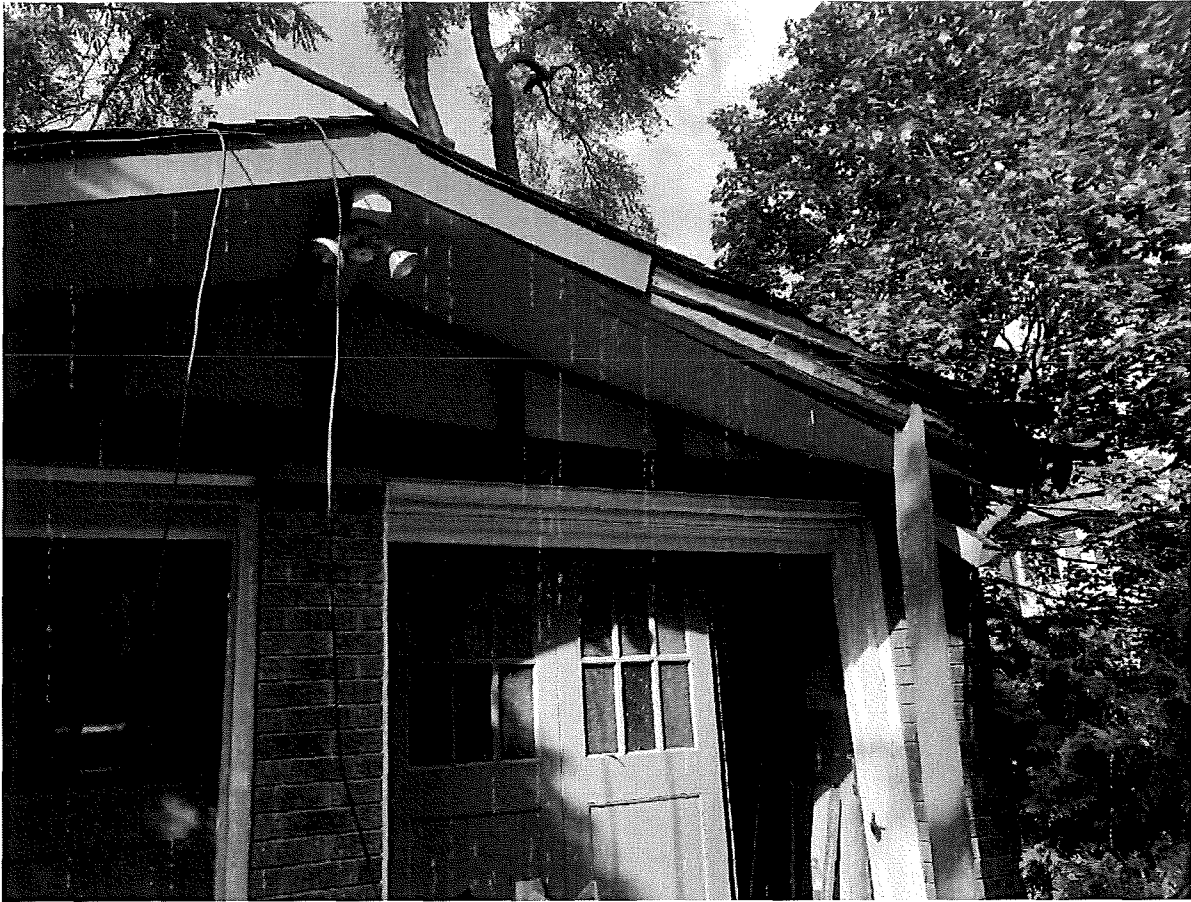
Richard E. Nellis
Senior Reviewer

APPENDIX A

Photographs from Examination



Image 1: Front of Building – Original Brick (October 20, 2020)



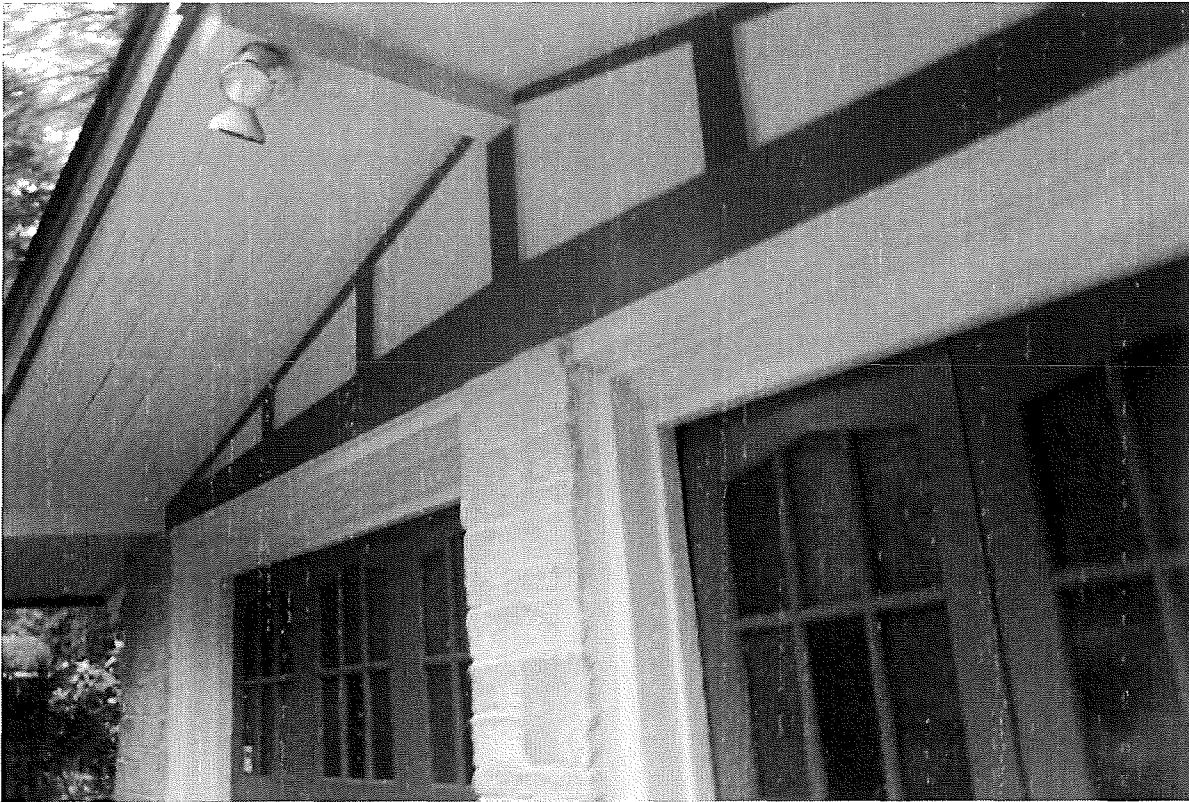
Photograph 2: Front Elevation - Original Brick (October 20, 2020)



Photograph 3: Property (October 20, 2020)



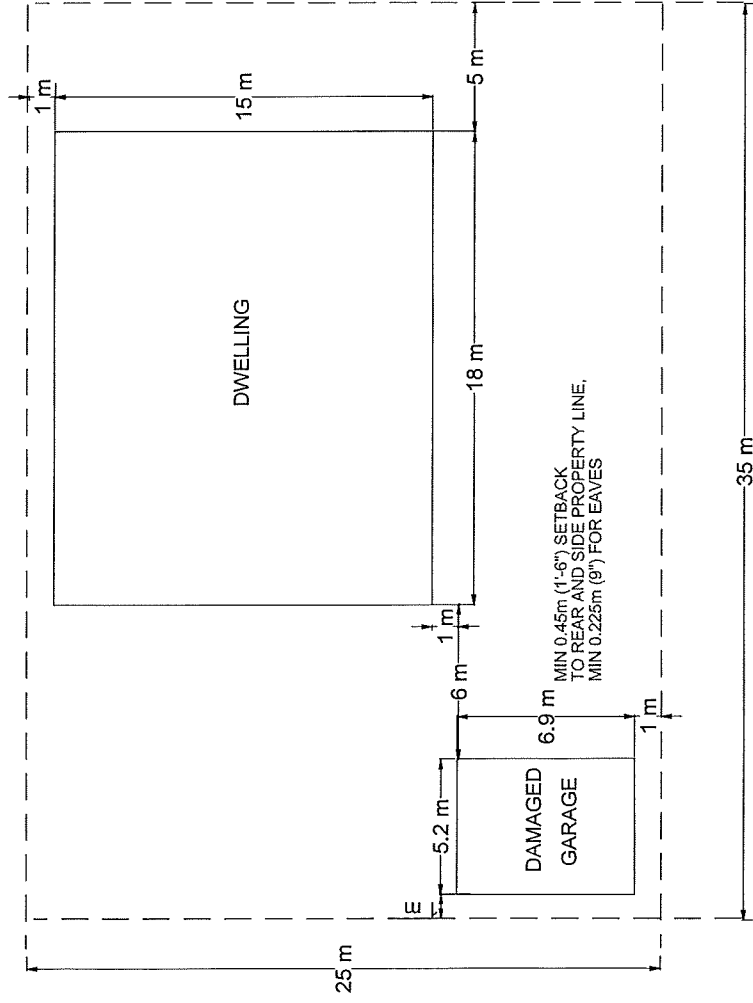
Photograph 4: New Wall Application (October 29, 2021)



Photograph 5: New Wall Application Close-up (October 29, 2021)

SITE PLAN FOR 124 ST CLAIR AVE, HAMILTON

REPAIRS TO DAMAGED GARAGE ARE IN PLACE, WITH 1-1 REPLACEMENT OF DAMAGED 4-5 ROOF RAFTER TAILS



SAME SIZE, SAME LOCATION, SAME VOLUME



Building Division

**Reviewed for Ontario
Building Code Compliance.**

Subject to Corrections Noted
on Plans and Field Inspections.

Permit
20 197441 000 00 R9

Date: 01/29/21

Name: Julie Facey-Crowther

Approved by: