




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Tourism and Culture Division / Planning Division**

<b>TO:</b>	Chair and Members Hamilton Municipal Heritage Committee
<b>COMMITTEE DATE:</b>	February 25, 2022
<b>SUBJECT/REPORT NO:</b>	Register Listing Objections in Waterdown Village (PED21201(a)) (Ward 15)
<b>WARD(S) AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	Alissa Golden (905) 546-2424 Ext. 4654
<b>SUBMITTED BY:</b>	Carrie Brooks-Joiner Director Tourism and Culture Planning and Economic Development
<b>SIGNATURE:</b>	

## RECOMMENDATION

- (a) That Council receive the notices of objection, attached as Appendix “A” to Report PED21201(a), from the owners of 296 Dundas Street East, 362 Dundas Street East, 30 Elgin Street, 19 Flamboro Street and 280 Mill Street South, Flamborough, objecting to the notices of Council’s decision to list the non-designated properties on the Municipal Heritage Register under Section 27 of the *Ontario Heritage Act*;
- (b) That Council continue to include 296 Dundas Street East, 362 Dundas Street East, 30 Elgin Street and 280 Mill Street South, Flamborough, on the Municipal Heritage Register as non-designated properties that Council believes to be of cultural heritage value or interest, pursuant to Section 27(8) of the *Ontario Heritage Act*; and
- (c) That Council remove 19 Flamboro Street, Flamborough, from the Municipal Heritage Register, pursuant to Section 27(8) of the *Ontario Heritage Act*.

## EXECUTIVE SUMMARY

This Report addresses five notices of objection under Section 27(7) of the *Ontario Heritage Act* from owners of properties listed on the Municipal Heritage Register (Register) as part of the Waterdown Village Built Heritage Inventory (Waterdown

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OUR Vision: To be the best place to raise a child and age successfully.

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

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

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Inventory), approved by Council on November 10, 2021 (Report PED21201). Register listing objections have been received for 296 Dundas Street East, 362 Dundas Street East, 30 Elgin Street, 19 Flamboro Street and 280 Mill Street South, Flamborough.

Staff recommend that Council keep all the properties on the Register except for 19 Flamboro Street, which has been fully documented by staff and was found to not retain sufficient physical heritage value to remain listed on the Register.

**Alternatives for Consideration - See Page 9**

**FINANCIAL - STAFFING - LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: The *Ontario Heritage Act* enables Council to list non-designated properties that it believes to be of cultural heritage value or interest on the Register, after consultation with the Hamilton Municipal Heritage Committee (HMHC). Under Section 27(7) of the *Ontario Heritage Act*, an owner can object to a property being included on the Register after receiving notice of it being listed. The owner's objection should identify the reasons for the objection and all relevant facts. Council must consider the objection and decide whether to keep the property listed on the Register or to remove it. The owner must be given notice of a Council's decision on the consideration of their objection within 90-days of the decision.

**HISTORICAL BACKGROUND**

Staff reported on the findings of the Waterdown Inventory project as part of Report PED21201, which was considered by the Hamilton Municipal Heritage Committee at their meeting on October 29, 2021. On November 10, 2021, Council approved the project Recommendations, as advised by HMHC, and directed staff to add 209 properties of cultural heritage value or interest in Waterdown on the Register. As required under Section 27 of the *Ontario Heritage Act*, staff notified owners of Council's decision to list their properties in letters dated November 23, 2021.

At the time of writing this Report, staff received five formal listing objections in response to the notices for the properties located at 296 Dundas Street East, 362 Dundas Street East, 30 Elgin Street, 19 Flamboro Street and 280 Mill Street South, Flamborough.

On December 13, 2021, staff conducted a site visit of 19 Flamboro Street to document the exterior and interior of the building and to confirm if any potential heritage attributes

of the building remain.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The Recommendations of this Report are consistent with Provincial and Municipal legislation, policy and direction, including:

- Determining the cultural heritage value or interest of a property based on design/physical value, historical/associative value and contextual value criteria (*Ontario Heritage Act, Ontario Regulation 9/06*);
- Ensuring significant built heritage resources are conserved (*Provincial Policy Statement, 2020, Sub-section 2.6.1*); and
- Identifying cultural heritage resources through a continuing process of inventory, survey and evaluation, as the basis for wise management of these resources (*Urban Hamilton Official Plan, Section B.3.4.2.1(b)*).

## **RELEVANT CONSULTATION**

### **External**

- Property owners in Flamborough

### **Internal**

- Solicitor, Legal and Risk Management Services, Legal Services Division, Corporate Services Department
- Cultural Heritage Planner, Rural Team, Heritage and Urban Design Section, Planning Division, Planning and Economic Development Department
- Councillor, Ward 15

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

When considering a property owner's objection to listing, it is important to consider the purpose of the Register. The Register is a heritage conservation management tool under the *Ontario Heritage Act*. It is an administrative record that includes non-designated properties identified by Council as being of cultural heritage value or interest. Consultation with the Hamilton Municipal Heritage Committee and a Council resolution is required to include, or remove, a property from the Register.

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Listing on the Register is a way to recognize a property's heritage value or interest to a community. From a property owner's perspective, listing on the Register does not prevent an owner from making changes or constructing additions to existing buildings, nor does it require any additional heritage approvals (like heritage permits) to do so as part of the regular Building Permit process.

The main intent of listing is to flag properties of heritage interest to promote their conservation and retention. An owner of a listed property is required to give 60-days notice to the City of their intention to demolish or remove a building or structure on their property, as per Section 27(1.2) of the *Ontario Heritage Act*. The demolition or removal of any building or structure is prohibited during this time period.

Listing on the Register does not prevent demolition, but the 60-day period allows staff the opportunity to discuss conservation options for the property should a notice of intention to demolish be received, including discussions with the owner respecting retention, adaptive re-use and financial incentives, and photo-documentation of the property prior to demolition. In the case of significant heritage buildings, the 60-day delay could allow Council time to consider issuing a notice of intention to designate to prevent demolition. Additionally, if demolition of a listed property is proposed as part of a development application under the *Planning Act*, staff may require that a Cultural Heritage Impact Assessment be completed in support of the application in order to confirm the cultural heritage value or interest of the property, assess the impact of the proposed demolition and explore alternatives for conservation.

Heritage buildings are finite resources. Once they are demolished they cannot be recovered. To remove a property from the Register without further consideration of the property's cultural heritage value would be not be consistent with intent of the Register.

### **Register Objections**

Staff have received five formal notices of objection to Council's decision to list properties on the Register as part of the Waterdown Inventory. Staff also spoke with a number of other owners who reached out in response to staff's notice of Council's decision. Owners cited concerns that listing would depreciate their property value and impact their ability to sell, redevelop in the future or obtain insurance. Staff spoke to these owners at length about their concerns and provided additional information and resources dispelling these common misconceptions, including the recent staff Report PED20030 addressing the lack of empirical evidence that heritage registration or designation negatively affects property value.

Staff do not Recommend that any properties be removed from the Register based on an owner's concerns of resale value or redevelopment impacts alone. To warrant removal from the Register, staff are of the opinion that it must be demonstrated that the property

no longer retains any tangible cultural heritage value or interest as per *Ontario Regulation 9/06*. This provincial regulation sets out the criteria for determining cultural heritage value or interest based on three categories: design or physical value; historical or associative value; and contextual value.

All five subject properties were added to the Register because they were classified as Character-Supporting Resources as part of the Waterdown Inventory. Council believed them to be of cultural heritage value or interest because they supported the historic character of Waterdown (see Report PED21201). Additional criteria were also identified in the preliminary evaluations for each property, including design/physical value and historical/associative value, attached as Appendix “B” to Report PED21201(a). For additional historical background and context, please refer to the Waterdown Village Historic Context Statement prepared as part of the Waterdown Inventory (see Report PED21201).

The following is a summary of the owners’ reasons for the listing objections, the staff assessment of the reasons for objection and staff’s Recommendation for each property.

#### **1. 296 Dundas Street East, Flamborough**

##### **Owner Objection**

The notice of objection from the owner of the property, dated December 6, 2021, is attached on page 1 of Appendix “A” to Report PED21201(a). The owners state that they do not believe the property meets the criteria for “historical status” for a number of reasons, including that it does not have any historical value due to its various additions and modifications; the possible historical associations to George Allison are weak and irrelevant (e.g. he should not be a person of interest); and the building has no contextual value and new buildings like Copper Kettle contribute more to the streetscape.

##### **Staff Assessment and Recommendation**

The subject property is comprised of a circa 1910 vernacular brick bungalow with a low-pitched side gable roof, paired front dormers, a wide side brick chimney and a covered full-length front porch (now enclosed). The primary cultural heritage value or interest of the property lies in its contextual value, supporting the historic character of the area. Specifically, the early twentieth century single-detached building contributes to the early residential character at the west end of Dundas Street in the Village of Waterdown. Like other former residential single-detached buildings in this stretch of Dundas Street East, the building has been sympathetically converted for commercial use, and it currently houses a real estate office. Although the building has been subject to a number of renovations, these do not obscure the physical value of the bungalow design and may be reversible in the future if the building were to be renovated or restored. The

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preliminary heritage evaluation for the property prepared as part of the Waterdown Inventory is attached on page 1 of Appendix “B” to Report PED21201(a).

Staff have determined that the property retains physical cultural heritage value or interest and Recommend that it remain listed on the Register.

## **2. 362 Dundas Street East, Flamborough**

### **Owner Objection**

The notice of objection from the owner of the property, dated December 12, 2021, is attached on page 2 of Appendix “A” to Report PED21201(a). The owner states that their house does not support the historic character of Waterdown and that there is no cultural heritage value or interest to justify it being listed on the Register. In terms of context, the owner states that the setting has been degraded over time by the tree removals and taking of frontages for the widening of Dundas Street. Further, the owner contends that recent work like the modern glass addition to Memorial Hall and allowing large modern two-storey houses in the Village do not support its historic character. The owner confirms that their family business is an excavating company, not builders, as suggested in the property evaluation. Micky Rockett did not help build this house; it is not an 1890s dwelling; and the current design of the house is not the original and the house was rebuilt and remodelled in the 1960s and 1970s. The owner does state that the property does have historical value for being located within the area known as Vinegar Hill.

### **Staff Assessment and Recommendation**

The subject property is comprised of a one-and-one-half storey dwelling believed to have been constructed circa 1890 in the Regency Cottage design and later remodelled in the style of a vernacular bungalow, including the side gable roof, front shed-roofed dormer and covered porch. The primary cultural heritage value or interest of the property lies in its contextual value, supporting the historic character of the area known as Vinegar Hill. The estimated date of construction of 1890 comes from Municipal Property Assessment Corporation (MPAC) data and its existence in the early twentieth century may be substantiated by an extant building in the same location in the 1937 Fire Insurance Plan map and 1909 and 1915 topographic maps of Waterdown. Further research is required to confirm exactly when the building was built, who it was built for and how its design has changed over time.

The property is also associated with a potentially significant family and organization in the history of the village, specifically George Copp (1870-1955) and George Copp and Sons. Although the current operation focuses on excavation, as pointed out by the owner in their objection, research indicates that previous iterations of this family

business were major builders in Waterdown during the early twentieth century. Along with Wallace “Mickey” Rockett, George Copp is believed to have constructed several prominent homes in Vinegar Hill, including 357, 359 and 360 Dundas Street. Staff have not found evidence of their hand in building the subject building nor is that being contended. The preliminary heritage evaluation for the property prepared as part of the Waterdown Inventory is attached on page 2 of Appendix “B” to Report PED21201(a).

Staff have determined that the property retains physical cultural heritage value or interest and Recommend that it remain listed on the Register.

### **3. 30 Elgin Street, Flamborough**

#### **Owner Objection**

The notice of objection from the owners of the property, dated December 8, 2021, includes a cover letter and supporting materials attached on pages 3 to 38 of Appendix “A” to Report PED21201(a). The owners state that, while they do not have any plans to renovate or sell the property in the near future, they are concerned that listing on the Register will make re-sale and future renovations difficult. The letter also raises concerns regarding the potential impact on insurance and the lack of advantages to having their property listed on the Register. The owners do not feel as though their home has any heritage value or importance. However, they do indicate that they bought this property because they loved the character of the home and the historic neighbourhood it is located in. The supporting material provided in their objection package includes newspaper and web articles with sections highlighted by the owners that discuss considerations for owning a heritage home. The articles primarily focus on properties that have been designated under the *Ontario Heritage Act*, not properties listed on the Register.

#### **Staff Assessment and Recommendation**

The subject property is comprised of a one-and-one-half storey dwelling constructed circa 1952 and a detached gable roofed garage. The style of the dwelling is reflective of a vernacular post-war cottage, including the high side gable roof with flush verges, side chimney and flat-headed window openings. The primary cultural heritage value or interest of the property lies in its contextual value, supporting the historic character of the area. Of particular interest is its location on the corner of Victoria Street, a historic transportation corridor in the Village consisting of late nineteenth and early twentieth century dwellings. Although the building has been subject to a number of renovations, including replacement of the horizontal siding with board-and-batten, modern window replacements and a sunroom addition, these changes do not obscure the physical value of the post-war cottage design. The preliminary heritage evaluation for the property prepared as part of the Waterdown Inventory is attached on page 3 of Appendix “B” to

Report PED21201(a).

Staff have determined that the property retains physical cultural heritage value or interest and Recommend that it remain listed on the Register.

#### **4. 19 Flamboro Street, Flamborough (Former Carson Construction building)**

##### **Owner Objection**

The notice of objection from the owner of the property, dated December 1, 2021, is attached on page 39 of Appendix “A” to Report PED21201(a). The owner states they are objecting to property being listed because the type of cement block construction of the building is common by modern standards; the building has undergone countless renovations leaving little of the original building; and the property the building is located on is a large underutilized site in the core of the Village that is well-suited for redevelopment in the future.

##### **Staff Assessment and Recommendation**

The subject property is comprised of a utilitarian commercial building constructed in the early twentieth century. The concrete-block building was originally constructed circa 1930 with a red brick facade, which has since been clad in modern stucco. The front facade is dominated by two large garage door openings. There are one-storey rear additions constructed in the late twentieth century that are also clad with stucco. The primary cultural heritage value or interest of the property lies in its historical associations with a significant family and organization in the Village’s history, the Carson Family and Carson Construction. Despite the substantial modifications to the building, its scale and location close to the street help maintain the historic character of the area. The preliminary heritage evaluation for the property prepared as part of the Waterdown Inventory is attached on page 4 of Appendix “B” to Report PED21201(a).

Upon consideration of the owner’s listing objection, staff requested an opportunity to visit the site and document the exterior and interior of the building to confirm if any potential heritage features or attributes remained. Attached as Appendix “C” to Report PED21201(a) is the photo documentation of the property including photographs from staff’s site visit, as well as the historic images of the site that have been discovered to date. Staff identified only two remaining heritage features of interest in the building, a hung wood window in the first-floor bathroom with modified glazing and an exterior aluminium storm, and an interior six-panel wood door. Staff have determined that the property does not retain sufficient physical cultural heritage value or interest for protection and Recommend that it be removed from the Register. Staff note that the property is a candidate for interpretive plaquing to tell the history Carson Construction and their role in the evolution of the Village of Waterdown, which should be considered



as part of any future redevelopment proposal.

## **5. 280 Mill Street South, Flamborough**

### **Owner Objection**

The notice of objection from the owner of the property, dated November 29, 2021, is attached on page 40 of Appendix “A” to Report PED21201(a). The owner states that their preference is to not have their property listed on the Register. They believe that the house on the property no longer resembles the physical description included in the design/physical value identified in the preliminary evaluation prepared as part of the Waterdown Inventory. An updated image of the front view of the dwelling is provided in the objection email provided.

### **Staff Assessment and Recommendation**

The subject property is comprised of a one-and-one-half storey post-war cottage dwelling constructed circa 1946. The building recently underwent substantial renovations by the current owner, including removal of the shutters and Colonial-Revival influenced door surround; introduction of a central dormer, replacement windows and new siding; construction of a rear addition; and landscaping. Despite the renovations, the building’s key design features remain visible as viewed from the public right-of-way, including the one-and-one-half storey massing, side gable roof with front dormers, side chimney, window openings and central entrance with sidelights. The primary cultural heritage value or interest of the property lies in its contextual value, supporting the historic character of the Village, primarily consisting of late nineteenth and early twentieth century dwellings. The property is located on Mill Street South, a historic transportation corridor in the Village, in what was historically part of the Smokey Hollow mill site. The preliminary heritage evaluation for the property prepared as part of the Waterdown Inventory is attached on page 5 of Appendix “B” to Report PED21201(a).

Staff have determined that the property retains physical cultural heritage value or interest and Recommend that it remain listed on the Register. The preliminary evaluation and description of the property will be updated to reflect the changes from the recent renovations.

## **ALTERNATIVES FOR CONSIDERATION**

Under Section 27 of the *Ontario Heritage Act*, listing a property on the Register is a discretionary activity on the part of Council. Council, as advised by its Municipal Heritage Committee, must consider an owner’s notice of objection to a Register listing and decide whether it should continue to be included on the Register or whether it should be removed.

### **Removing from the Register**

Council may decide to remove one or more properties from the Register. By removing a property of cultural heritage value or interest from the Register, it would no longer have interim protection from demolition under the *Ontario Heritage Act* which requires the owner to give 60-days advance notice to the municipality of their intention to demolish or remove a building or structure from the property. Staff do not recommend this alternative.

### **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.

#### **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” - Notices of Objection

Appendix “B” - Preliminary Heritage Evaluations

Appendix “C” - Photo-documentation of 19 Flamboro Street, Flamborough

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