



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Committee Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	May 13, 2022
SUBJECT/REPORT NO:	Recommendation to Designate 56 York Boulevard, Hamilton (Copley / Commercial Block) Under Part IV of the <i>Ontario Heritage Act</i> (PED22108) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Ken Coit (905) 546-2424 Ext. 7557
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That City Council withdraw the 1979 Notice of Intention to Designate under Part IV, Section 29 of the *Ontario Heritage Act*, for the property at 56 York Boulevard, Hamilton (Copley / Commercial Block);
- (b) That City Council state its intention to designate under Part IV, Section 29 of the *Ontario Heritage Act*, the property at 56 York Boulevard, Hamilton (Copley / Commercial Block) in accordance with the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes of 56 York Boulevard, Hamilton, attached as Appendix “B” to Report PED22108;
- (c) That the Clerk be directed to give notice of intention to designate the property at 56 York Boulevard, Hamilton as a property of cultural heritage value or interest in accordance with the requirements of section 29 of the *Ontario Heritage Act* subject to the following:
 - (i) If there are no objections to the designation in accordance with the *Ontario Heritage Act*, City Council directs staff to introduce the necessary by-law to designate 56 York Boulevard, Hamilton to be of cultural heritage value or interest to City Council;

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

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- (ii) If there are objections in accordance with the *Ontario Heritage Act*, City Council directs staff to report back to Council to allow Council to consider the objection and make a decision on whether or not to withdraw the notice of intention to designate the property.

EXECUTIVE SUMMARY

Council approved the designation of 56 York Boulevard, Hamilton, the Coppley / Commercial Block, (see Appendix “A” attached to Report PED22108), under Part IV of the *Ontario Heritage Act* and issued a Notice of Intent to Designate (NOID) in 1979. The designation was appealed to the Conservation Review Board, who advised in favour of the designation in 1980. This advice was forwarded to City Council however, the designation by-law did not receive a third reading. The property remains protected under the provisions of the *Ontario Heritage Act* under the 1979 Notice of Intention to Designate.

As part of amendments to the *Ontario Heritage Act* in Bill 108 *More Homes, More Choice Act*, 2019, if the council of the municipality has not, before July 1, 2021, passed a by-law designating the property or withdrawn the notice of intention to designate before that day, the notice of intention to designate the property is deemed to be withdrawn on July 1, 2022.

The draft by-law for 56 York Boulevard under the *Ontario Heritage Act* only provides exterior protection for the stone 1856 building, although there are two historic buildings on site. Additionally, the former Notice of Intention to Designate and draft by-law do not meet the current requirements of the *Ontario Heritage Act*. The by-law does not contain a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes.

In December 2021, the City of Hamilton Planning Division retained Archaeological Research Associates Ltd. to prepare a comprehensive Cultural Heritage Assessment for 56 York Boulevard, Hamilton (Coppley / Commercial Block). The historical research, evaluation of the significance of the property, and detailed description of the heritage attributes, were finalized by Archaeological Research Associates Ltd. on April 21, 2022. The Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes was drafted as part of the Cultural Heritage Assessment and is attached as Appendix “B” to Report PED22108; the draft Notice of Intention to Designate is attached as Appendix “C” to Report PED22108; and the full Cultural Heritage Assessment Report by Archaeological Research Associates Ltd. is attached as Appendix “D” to Report PED22108.

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The subject property has been evaluated using both the City of Hamilton's Framework for Evaluating the Cultural Heritage Value or Interest of Property for Designation under Part IV of the *Ontario Heritage Act*, and the Criteria for Determining Cultural Heritage Value or Interest, as defined in Ontario Regulation 9/06 of the *Ontario Heritage Act*, in accordance with the Council-approved Designation Process.

It has been determined that 56 York Boulevard, Hamilton, has design / physical value, historical / associative value and contextual value, and meets 10 of the City's 12 criteria and six of nine criteria as defined in Ontario Regulation 9/06. Therefore, staff recommend proceeding with the designation of the property under Part IV of the *Ontario Heritage Act*, as amended by Bill 108.

Alternatives for Consideration – See Page 11

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not applicable.

Staffing: Not applicable.

Legal: The designation process will follow the requirements of the *Ontario Heritage Act* and provide for adequate notice of Council's intention to designate the property. Formal objections may be made under the *Ontario Heritage Act* and considered by Council before either withdrawing the notice of intention to designate or passing a designation by-law. Once a designation by-law has been passed, any further objection would be heard before the Ontario Land Tribunal (OLT).

Designation under Part IV of the *Ontario Heritage Act* allows the City of Hamilton to recognize a property's cultural heritage value or interest and to conserve and manage the property through the Heritage Permit process enabled under Sections 33 (alterations) and 34 (demolition or removal) of the *Act*.

Where alterations to designated properties are contemplated, a property owner is required to apply for, obtain, and comply with a Heritage Permit, for any alteration that "is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes" (Sub-section 33(1)). Designation does not restrict the zoning use of a property, prohibit alterations or additions, or restrict the sale of a property. The City of Hamilton also provides heritage grant and loan programs to assist in the continuing conservation of properties, once they are designated.

As part of amendments to the *Ontario Heritage Act* in Bill 108 *More Homes, More Choice Act*, 2019, if the council of the municipality has not, before July 1, 2021, passed a by-law designating the property or withdrawn the notice of intention to designate before that day, the notice of intention to designate the property is deemed to be withdrawn on July 1, 2022.

HISTORICAL BACKGROUND

56 York Boulevard contains two buildings, a stone commercial building from 1856, known as Coppley, Noyes and Randall, the “Coppley Building” or “Commercial Block”, and a red-brick building from 1911, also used as part of the Coppley clothing company (see Appendix “A” attached to Report PED22108).

Council approved the designation of 56 York Boulevard, Hamilton (known as Coppley, Noyes and Randall, the “Coppley Building” or “Commercial Block”) under Part IV of the *Ontario Heritage Act* and issued a Notice of Intent to Designate (NOID) in 1979. The designation was appealed to the Conservation Review Board, who advised in favour of the designation in 1980. This advice was forwarded to City Council however, the designation by-law did not receive a third reading. The property remains protected under the provisions of the *Ontario Heritage Act* under the Notice of Intention to Designate.

The draft 1980 designation by-law (Bill 231/80) limits protection to the following:

1. The York Street and MacNab Street facades of the Commercial Block;
2. So much of the physical structure and land as is necessary for the preservation of the facades including;
 - a. The exterior and interior load bearing walls;
 - b. The land upon which the building is erected; and,
 - c. A ten-foot wide strip of land abutting to the west of the building.

The above text from the draft 1980 by-law only pertains to the stone 1856 building on the site. Additionally, the existing draft by-law does not meet the current requirements of the *Ontario Heritage Act*, as it does not contain a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes.

The following is a summary of the chronology of events surrounding the heritage status of the property:

Chronology of Events

April 1978

LACAC considers recommending designation of the property in light of proposed alterations to the exterior of the building, including sandblasting the masonry.

April 1979

The Board of Control approved designation of the property on April 4, 1979. Council ratified the decision on April 24, 1979.

June 1979

The Notice of Intention to Designate was published and sent to the property owners on June 5, 1979.

July 1979

The property owners submitted an objection to the designation on July 4, 1979.

May 1980

The owners objection was heard by the Conservation Review Board (CRB) on May 22, 1980. The CRB found that the property should be designated, including the York Boulevard and MacNab Street North façades, as well as much of the physical structure and land as is necessary for the preservation of such façades (interior and exterior load bearing walls, and a strip of land abutting the west side of the building).

August 1980

The CRB report recommending designation of the property was forwarded to Council for their consideration on August 11, 1980. Owners sent a letter to Council on August 21, 1980, requesting that the by-law be tabled to allow for further discussion, stating concerns over potentially closing down and loss of jobs if the property was designated. The Hamilton and District Labour Council sent a similar letter on August 22, 1980, supporting the owner's concerns. Bill 231/80 (the proposed designation by-law) received its first and second readings by Council on August 26, 1980 and was referred back to the Planning and Development Committee prior to its third and final reading. No further mention of the bill can be found on file and the bill number was not reassigned.

August 1984

LACAC brought the issue back up and requested that Council pass the by-law. The file notes indicate that the recommendation was tabled and staff were directed to have further discussions with the owner as to their feelings about the designation, citing a

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Parks and Recreation Committee meeting on August 16, 1984. There is no further correspondence in the file following up on this request.

November 2013

Planning staff met with representatives of the property owners to discuss the current status of the property, including the requirement for a Heritage Permit for any alterations to the property and the potential to take advantage of grant and loan programs if the designation by-law is passed by Council. Staff updated HMHC on this matter in a memo dated November 13, 2013.

September 2014

Planning staff met with the Ward Councillor and representatives of the property owners to discuss passing the designation by-law to allow for the installation of a designation plaque. The owner indicated they would prefer to keep the status quo and would not like to pursue passing the designation by-law for the property.

December 2014

HMHC requested that Planning staff report back with a written update outlining a detailed history of why the designation by-law never received its final reading in 1980 and the alternatives moving forward to address the Notice of Intention to Designate.

June 2021

56 York Boulevard acquired by TAS.

July 2021

Bill 108 *More Homes, More Choice Act*, 2019 comes into effect. As part of amendments to the *Ontario Heritage Act* from Bill 108, if the council of the municipality has not, before July 1, 2021, passed a by-law designating the property or withdrawn the notice of intention to designate before that day, the notice of intention to designate the property is deemed to be withdrawn on July 1, 2022.

November 2021

Planning staff discusses property heritage status with TAS and TAS indicated support of updated heritage designation for 56 York Boulevard.

December 2021

The City of Hamilton Planning Division retained Archaeological Research Associates Ltd. to prepare a comprehensive Cultural Heritage Assessment for 56 York Boulevard, Hamilton (Coppley / Commercial Block) containing a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

As part of amendments to the *Ontario Heritage Act* from Bill 108 *More Homes, More Choice Act*, 2019, if the council of the municipality has not, before July 1, 2021, passed a by-law designating the property or withdrawn the notice of intention to designate before that day, the notice of intention to designate the property is deemed to be withdrawn on July 1, 2022.

The draft 1980 designation by-law (Bill 231/80) that has protected 56 York Boulevard under the *Ontario Heritage Act* only provides exterior protection for the stone 1856 building. Additionally, the existing draft by-law does not meet the current requirements of the *Ontario Heritage Act*, as it does not contain a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes.

Issuing a new Notice of Intention to Designate (NOID) would open up the proposed designation to appeal, as required under the *Ontario Heritage Act*. If there are objections to the NOID in accordance with the *Ontario Heritage Act*, staff will report back to Council to allow Council to consider the objection and make a decision on whether or not to withdraw the notice of intention to designate the property. If there are no objections to the NOID in accordance with the *Ontario Heritage Act*, staff will introduce the necessary by-law to designate 56 York Boulevard to be of cultural heritage value or interest to City Council. Upon Council passing a designation by-law for 56 York Boulevard under the *Ontario Heritage Act*, any person who objects to the designation by-law may appeal to the OLT within 30 days of the Notice of Passing of the designation by-law. However, by not proceeding, the existing 1979 NOID will be null and void effective on July 1, 2022 and the existing heritage protection for the building will no longer have any legal status.

Provincial Policy Statement, 2020:

Section 2.6 of the Provincial Policy Statement pertains to Cultural Heritage and Archaeology and provides that:

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

The recommendations to designate the subject lands under Part IV of the *Ontario Heritage Act* of Report PED22108 are consistent with this policy.

Urban Hamilton Official Plan:

Volume 1, Section B.3.4 - Cultural Heritage Resources Policies of the Urban Hamilton Official Plan (UHOP) include the following:

- “B.3.4.2.1(a) The City of Hamilton shall, in partnership with others where appropriate, 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.3.4.2.1(b) The City of Hamilton shall, in partnership with others where appropriate, identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources.
- B.3.4.2.3 The City may by By-law designate individual and groups of properties of cultural heritage value under Parts IV and V respectively of the *Ontario Heritage Act*, including buildings, properties, cultural heritage landscapes, heritage conservation districts, and heritage roads or road allowances.”

The recommendations to designate the subject lands under Part IV of the *Ontario Heritage Act* of Report PED22108 comply with these policies.

RELEVANT CONSULTATION

Pursuant to Sub-section 29 (2) of the *Ontario Heritage Act*, Council is required to consult with its Heritage Committee respecting designation of property under Sub-section (1) of the Act. Typically, Cultural Heritage Assessments are reviewed by the Inventory and Research Working Group of the HMHC in accordance with the Council approved process attached as Appendix “E” to Report PED22108.

A draft Cultural Heritage Assessment prepared by Archaeological Research Associates Ltd. was presented to the Inventory and Research Working Group of the HMHC at their meeting of March 28, 2022. The Inventory and Research Working Group recommended that staff proceed with the recommendation to designate the subject property under the *Ontario Heritage Act* and provided areas for revision and further exploration within the report which were consistent with those identified by staff. Archaeological Research Associates Ltd. addressed the revisions and submitted a final report dated April 21, 2022 (attached as Appendix “D” to Report PED22108).

Throughout the process, Planning staff have been in regular consultation with the new owners of the site, TAS, who have indicated their overall support for the updated

heritage designation for 56 York Boulevard. TAS's intention to adaptively reuse the structures requires an extensive amount of work throughout the building and to ensure compliance with the requirements of the Building Code. They have expressed concerns with including the wooden floors (where exposed) and the metal fire doors in both the stone and brick buildings, as listed in the list of heritage attributes identified by ARA. TAS noted the floors have suffered a significant amount of damage, are not consistent throughout and will require extension repairs, while the metal fire doors pose issues for meeting today's Building Code. Heritage staff understand and appreciate the concerns expressed by TAS and are of the opinion that the remaining interior heritage attributes, being the wood and cast-iron pillars and vaults with metal doors, maintain the overall sense of a former industrial/manufacturing building. Heritage staff strongly encourage TAS to incorporate the metal fire doors in a fixed position, where possible, to act as a visual representation and commemoration to the original conditions.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The intent of a designation under Part IV of the *Ontario Heritage Act*, is to enable a process for the management and conservation of cultural resources. Once a property is designated, the municipality is enabled to manage alterations to the property through the Heritage Permit process and to ensure that the significant features of the property are maintained through the provision of financial assistance programs and the enforcement of Property Standards By-laws.

Cultural Heritage Evaluation:

Designation is guided by the process of cultural heritage evaluation and assessment. The evaluation process, as documented in the Cultural Heritage Assessment, attached as Appendix "D" to Report PED22108, identifies those heritage values associated with the property.

Council-Adopted Evaluation Criteria:

A set of criteria were endorsed by the City of Hamilton's Municipal Heritage Committee on June 19, 2003 and were adopted by Council as The City of Hamilton: Cultural Heritage Evaluation Criteria on October 29, 2008 (Appendix "B" attached to Report PED08211). The criteria are used to identify the cultural heritage values of a property, and to assess their significance. This evaluation assists in determining a property's merit for designation under the *Ontario Heritage Act*, as well as deriving a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes.

As identified in the Cultural Heritage Assessment attached as Appendix "D" to Report PED22108, the property was determined to have met 10 of the City's 12 criteria

pertaining to built heritage value.

Ontario Regulation 9/06: Criteria for Determining Cultural Heritage Value or Interest:

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.

As outlined in the attached Cultural Heritage Assessment (Appendix "D" attached to Report PED22108), the subject property at 56 York Boulevard satisfies six of the nine criteria contained in Ontario Regulation 9/06 in all three categories.

(1) Design/Physical Value:

- (i) Together, the brick and stone building create a representative example of turn-of-the-century industrial/manufacturing building; and,
- (ii) The three-storey plus mansard roof building constructed of limestone displays a high degree of craftsmanship or artistic value expressed through its hand carved stone finishes with scrollwork, varying arches and vermiculated detailing;

(2) Historical/Associative Value:

- (i) 56 York Boulevard represents the direct associations with the textiles and clothing production theme that was and remains significant to the growth of Hamilton; and,
- (ii) The stone building is associated with Frederick James Rastrick, a prominent Hamilton architect who practised in the area in the 19th century. The brick building is associated with the architect Alfred Wavell Peene, a notable late 19th century and early 20th century architect who practiced extensively in Hamilton and is credited with civic, commercial and residential buildings throughout the city.

(3) Contextual Value:

- (i) The three-storey plus mansard stone building is a prominent part of the streetscape aids in defining the historic character of downtown Hamilton. The four-storey brick building supports the evolving character of downtown Hamilton as an early 20th century commercial building placed along 19th century structures; and,
- (ii) Prominently placed at the southwestern and southeastern property boundaries on the northwest corner of the busy intersection of York Boulevard and MacNab Street the three-storey plus mansard limestone building is a preeminent feature of the streetscape that helps communicate the historic nature of the area and is considered a landmark.

Conclusion:

Archaeological Research Associates Ltd., have determined that 56 York Boulevard, Hamilton (Coppley / Commercial Block), is of cultural heritage value or interest, sufficient to warrant designation under Part IV of the *Ontario Heritage Act*. Staff concur with the findings of the Cultural Heritage Assessment and recommend designation of 56 York Boulevard, Hamilton (Coppley / Commercial Block), under Part IV of the *Ontario Heritage Act* according to the Statement of Cultural Heritage Value or Interest and the Description of Heritage Attributes, attached as Appendix “B” to Report PED22108 and the draft Notice of Intention to Designate attached as Appendix “C” to Report PED22108.

The Statement of Cultural Heritage Value or Interest and the Description of Heritage Attributes aligns with the current requirements for designation under Part IV of the *Ontario Heritage Act* and will provide further protection of heritage features on the property than the existing and expiring protection under the 1979 NOID.

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, after receiving advice from its Municipal Heritage Committee, may consider two alternatives: agree to designate property, or decline to designate property.

Decline to Designate:

By declining to designate, the municipality would be unable to provide long-term, legal protection to this significant heritage resource (designation provides protection against

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inappropriate alterations, new construction and demolition), and would not fulfil the expectations established by existing municipal and provincial policies.

Designation does not restrict the zoning use of property, prohibit alterations and additions, nor does it restrict the sale of a property, or affect its resale value. Staff do not consider declining to designate the property to be an appropriate conservation alternative.

The property can no longer continue to be protected by the current Notice of Intention to Designate which will be deemed to be withdrawn on July 1, 2022, as per the Bill 108 *More Homes, More Choice Act*, 2019, changes to the *Ontario Heritage Act*.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

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 PED22108 - Location Map

Appendix “B” to Report PED22108 - Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes

Appendix “C” to Report PED22108 - Notice of Intention to Designate

Appendix “D” to Report PED22108 - Cultural Heritage Assessment Report on Coppley / Commercial Block

Appendix “E” to Report PED22108 - Council-Adopted Heritage Designation Process

KC:sd