



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 31, 2022
SUBJECT/REPORT NO:	Ontario Land Tribunal Report CRB2101 through CRB2107 Respecting the Notice of Intention to Designate (NOID) 110- 122 King Street East, Hamilton (PED20159(a)) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Chloe Richer (905) 546-2424 Ext. 7163
SUBMITTED BY:	Stephen Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the Ontario Land Tribunal Report CRB2101 through CRB2107 in response to the objections to the Notice of Intention to Designate 110-122 King Street East (the former Royal Connaught Hotel) issued November 18, 2021, attached as Appendix “B” to Report PED20159(a), be received;
- (b) That the By-law, attached as Appendix “C” to Report PED20159(a), to designate 110-122 King Street East, Hamilton as a property of cultural heritage value pursuant to the provisions of Part IV of the *Ontario Heritage Act*, be approved.

EXECUTIVE SUMMARY

On November 6, 2020, the City of Hamilton issued a Notice of Intention to Designate (NOID) the property located at 110-122 King Street East in Hamilton (see Location Map attached as Appendix “A” to Report PED20159(a)) under Part IV of the *Ontario Heritage Act*. Objections to the NOID were received by the City on November 23, 2020, November 25, 2020 and December 1, 2020 and were referred to the Conservation Review Board, now the Ontario Land Tribunal (“OLT”), on January 11, 2021 for review. The OLT is an adjudicative tribunal that considers matters under Parts IV, V and VI of the *Ontario Heritage Act*.

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The OLT order known as CRB2101 through CRB2107 dismissing the proceeding related to the objections to the NOID for 110-122 King Street East was issued on November 18, 2021 and is attached as Appendix “B” to Report PED20159(a).

The OLT found that the City of Hamilton complied with the provisions of the *Ontario Heritage Act* when issuing the NOID for 110-122 King Street East. As the proceeding was dismissed, no revisions to the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes were required by the OLT.

Staff concur with the OLT and recommend that Council proceed to designate 110-122 King Street East under Part IV of the *Ontario Heritage Act* by passing the By-law attached as Appendix “C” to Report PED20159(a). In accordance with Ontario Regulation 385/21, the designation by-law must be passed by Council before July 1, 2022.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: Under Section 29(16) of the *Ontario Heritage Act*, the OLT may dismiss all or part of an appeal of the Notice of Intention to Designate (NOID). Under Section 29(18)(a), the by-law comes into force when all of such appeals have been withdrawn or dismissed.

HISTORICAL BACKGROUND

The Royal Connaught Hotel was first constructed in 1914-16 on the east section of the property, with a substantial addition constructed on the west side of the original building in 1931. The hotel was constructed to be a first-class hotel for Hamilton and was for many decades the location of high-profile events and activities. The hotel’s decline began in the 1970s, and it was eventually closed in 2004. The buildings remained vacant until the repurposing of the building into a residential condominium with lower floor commercial units.

On October 14, 2020, Council directed the City Clerk to take appropriate action to designate 110-122 King Street East, Hamilton (former Royal Connaught Hotel) under Part IV of the *Ontario Heritage Act*, in accordance with the Notice of Intention to Designate. The Notice of Intention to Designate was issued on November 6, 2020. The Hamilton Municipal Heritage Committee (“HMHC”) had been consulted at their

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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.

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

meeting on September 17, 2020 and was in support of the designation of the property (see PED20159). The NOID was served on the property owners and the Ontario Heritage Trust on November 3 and 6, 2020 and was published in the newspaper on November 6, 2020, as required by the *Ontario Heritage Act*.

Three separate owners of residential condominium units objected to the NOID on November 23, 2020, November 25, 2020 and December 1, 2020. The objections were referred to the Conservation Review Board, now the Ontario Land Tribunal ("OLT"), on January 11, 2021 for review.

The OLT order known as CRB2101 through CRB2107 dismissing the proceeding related to the objections to the NOID for 110-122 King Street East was issued on November 18, 2021 and is attached as Appendix "B" to Report PED20159(a).

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Statement (2020)

Section 2.6 of the Provincial Policy Statement pertains to Cultural Heritage and Archaeology. Sub-section 2.6.1 states that "*significant built heritage resources and significant cultural heritage landscapes shall be conserved*". The recommendations of this Report 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) states that the City shall "protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes" (B.3.4.2.1(a)), and "identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources" (B.3.4.2.1(b)). The policies also provide that 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*" (B.3.4.2.3). The recommendations of this Report are consistent with these policies.

RELEVANT CONSULTATION

The HMHC was consulted at their meeting on September 17, 2020 respecting the cultural heritage value or interest of 110-122 King Street East and was in support of the designation of the property. Following review by Council, a copy of this Report will be forwarded to HMHC for their information (as per Recommendation (b) of this Report).

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The City served the NOID on the owners and the Ontario Heritage Trust on November 3 and November 6, 2020, and published it in the newspaper on November 6, 2020, as per Section 29(3) of the *Ontario Heritage Act*.

As the OLT dismissed the objections without a hearing, no Notice of Public Hearing was published.

The Legal Services Division, Office of the City Manager, was consulted in preparation of this Report.

All parties involved in the OLT proceedings (see CRB2101 through CRB2107 attached as Appendix “B” to Report PED20159(a)), including the objectors, were issued a copy of the OLT decision.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The OLT is an adjudicative tribunal that considers matters under Parts IV, V and VI of the *Ontario Heritage Act*. Following the hearing, the OLT shall dismiss the appeal or allow the appeal in whole or in part and,

- “(i) Repeal the by-law,
- (ii) Amend the by-law in such manner as the Tribunal may determine,
- (iii) Direct the council of the municipality to repeal the by-law, or
- (iv) Direct the council of the municipality to amend the by-law in accordance with the Tribunal’s order. 2019, c. 9, Sched. 11, Section 7 (6)” (as per Section 29(15) of the *Ontario Heritage Act*).”

The OLT order known as CRB2101 through CRB2107 dismissing the proceeding related to the three objections to the NOID for 110-122 King Street East was issued on November 18, 2021 and is attached as Appendix “B” to Report PED20159(a).

In summary, the OLT found that the City of Hamilton complied with the provisions of the *Ontario Heritage Act* when issuing the NOID for 110-122 King Street East. As the proceeding was dismissed, no revisions to the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes were required by the OLT.

Staff recommend that Council proceed to designate 110-122 King Street East under Part IV of the *Ontario Heritage Act* by passing the By-law attached as Appendix “C” to Report PED20159(a).

Conclusion

Staff concur that 110-122 King Street East is of cultural heritage value worthy of designation and recommend that Council pass the by-law to designate, attached as Appendix “C” to Report PED20159 which was presented to the September 17, 2020 HMHC and provides additional details regarding why the subject lands are recommended for designation.

ALTERNATIVES FOR CONSIDERATION

Withdraw the NOID

Under Section 29(16) of the *Ontario Heritage Act*, the OLT may dismiss all or part of an appeal. Under Section 29(18)(a), the by-law comes into force when all of such appeals have been withdrawn or dismissed. As the appeals have been dismissed, withdrawing the NOID would not be consistent with Council’s direction at their meeting on October 14, 2020 to proceed with designating the property, and would not fulfil the expectations established by existing Municipal and Provincial policies.

By withdrawing the NOID, the Municipality would be unable to provide long-term, legal protection of this significant heritage resource, as designation provides protection against inappropriate alterations, new construction and demolition.

Without designation, the property would not be eligible for the City’s heritage grant and loan programs.

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 PED20159(a) – Location Map

Appendix “B” to Report PED20159(a) – Ontario Land Tribunal Report CRB2101
through CRB2107, issued November 18, 2021

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Appendix "C" to Report PED20159(a) – By-law to Designate 110-122 King Street East
in Hamilton under Part IV of the *Ontario
Heritage Act*

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