



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	August 11, 2022
SUBJECT/REPORT NO:	Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2)
WARD(S) AFFECTED:	Ward 2
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

- (a) That no action be taken in response to the Notice of Intention to Demolish the existing buildings located at 164-168 King Street East, Hamilton, properties included in the City's Register of Property of Cultural Heritage Value or Interest;
- (b) That an Interpretation Plan and a Documentation and Salvage Report be submitted to the satisfaction and approval of the Manager of Heritage and Urban Design prior to any site plan approval;
- (b) The properties located at 164-168 King Street East, Hamilton, be removed from the Register following demolition of the existing buildings.

EXECUTIVE SUMMARY

On July 7, 2022, Malcolm R. Sears (Chair, Building Committee, Philpott Memorial Church) submitted a Notice of Intention to Demolish (NOID) the existing buildings located on the subject properties, 164-168 King Street East, Hamilton (Appendices "A" and "B" attached to Report PED22178). In addition to the Notice, a Cultural Heritage Impact Assessment (CHIA) prepared by Megan Hobson, Built Heritage Consultant, was

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 2 of 12

provided on July 11, 2022 (revised on July 25, 2022) (Appendix “C” attached to Report PED22178).

The subject properties were included as non-designated properties in the City’s Register of Property of Cultural Heritage Value or Interest by Council in September 2014 as part of the Downtown Built Heritage Inventory Project. Section 27(9) of the *Ontario Heritage Act* provides that the owner of a non-designated property on the Register shall not demolish a building or structure on the property unless Council is provided at least 60 days’ notice in writing of the owner’s intention to demolish the building or structure. This provision of the *Ontario Heritage Act* is intended to provide Council with the opportunity to prevent demolition or removal through designation of the property under Part IV of the *Ontario Heritage Act* or to discuss other options with the proponent.

The subject properties are comprised of two-and-a-half storey brick buildings constructed in 1872 as part of a related row. The building features include a rectangular plan with a short façade, and a one-storey rear brick wing with subsequent two-storey brick and one-storey concrete-block additions; the side gable roof has projecting eaves with a plain frieze, a pair of gabled dormers in the front and back with two-over-two hung windows, and brick parapets with stone end brackets and a pair of single-stack brick chimneys in the centre (164 King Street East) and a rectangular plan with a short façade, and a one-storey wood-frame rear wing and a subsequent one-storey wood-frame addition; the side gable roof has projecting eaves with a plain frieze, a gabled dormer in the front and back, and brick parapets with stone end brackets and a pair of single-stack brick chimneys in the centre (168 King Street East).

The subject properties also have historical value or associative value as the buildings were originally constructed in 1872 for merchant John Laws, and contextual value as they are part of the remaining commercial streetscape on the south side of King Street East. The buildings have been subsequently altered, in particular the front façade and interior space.

Through the Downtown Built Heritage Inventory Project, the properties were classified as Character-Supporting Resources (CSR) and were not recommended for designation under Part IV of the *Ontario Heritage Act*. Though the properties contain cultural heritage value or interest (CHVI), Cultural Heritage Planning staff do not recommend pursuing Part IV designation to prevent demolition or removal of the buildings. Cultural Heritage Planning staff concur with the findings of the CHIA submitted with the NOID, that the subject properties have very limited physical or design value and do not make a significant contribution to the adjacent portions of King Street East. Further, the CHIA indicates the applicant will salvage the carved stone blocks from the roof parapets and

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 3 of 12

undertake the installation of an interpretive display to mitigate the loss of CHVI through demolition of the buildings. In addition, urban design measures for the proposed new building have been implemented to reference the brick construction Georgian symmetry of the existing buildings to be demolished as well as to reference adjacent cultural heritage resources.

Alternatives for Consideration – See Page 11

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: Continued inclusion in the City's Register of Property of Cultural Heritage Value or Interest under Section 27 (3) of the *Ontario Heritage Act* requires that Council be given 60 days' notice of the intention to demolish or remove any building or structure on the property. Council must consult with the Municipal Heritage Committee prior to including a non-designated property in the Register or removing reference to a property from the Register under Section 27 (4) of the Act.

HISTORICAL BACKGROUND

The property located at 164-168 King Street East, Hamilton include two-and-a-half storey brick buildings constructed in 1872. The subject properties were added as non-designated properties in the City's Register of Property of Cultural Heritage Value or Interest by Council in September 2014 as part of the Downtown Built Heritage Inventory Project.

As a Notice of Intention to Demolish for the subject property was submitted to the Cultural Heritage Planning staff on July 7, 2022, the 60-day notice will be reached on September 5, 2022.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement, 2020:

Section 2.6 of the Provincial Policy Statement pertains to Cultural Heritage and Archaeology, and applies to this decision:

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 4 of 12

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

The recommendations of this Report comply with this statement as the existing two buildings located on the subject property are not considered to have sufficient cultural heritage value to warrant designation under the *Ontario Heritage Act*. As such, the buildings located on the subject property are not considered to be significant built heritage.

Ontario Heritage Act:

Section 27 of the *Ontario Heritage Act* outlines requirement of a Municipality for the demolition or removal of a structure on a property included in the Register. The following applies to this decision:

- “27 (3) In addition to the property listed in the register under Subsection (2), the register may include property that has not been designated under this Part but that the council of the municipality believes to be of cultural heritage value or interest and shall contain, with respect to such property, a description of the property that is sufficient to readily ascertain the property. 2019, c. 9, Sched. 11, S. 6.
- (4) If the council of a municipality has appointed a municipal heritage committee, the council shall, before including a property that has not been designated under this Part in the register under Subsection (3) or removing the reference to such a property from the register, consult with its Municipal Heritage Committee. 2019, c. 9, Sched. 11, s. 6.”

As the subject lands are included on the City’s Register Council must consider the designation within the 60-day notice period for a Notice of Intent to Demolish to prevent demolition of the building should it warrant designation.

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 the property meets the criteria prescribed by Provincial regulation. The following policies, amongst others, apply:

- “29 (1) The council of a municipality may, by by-law, designate a property within the municipality to be of cultural heritage value or interest if,
- (a) Where criteria for determining whether property is of cultural heritage

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 5 of 12

value or interest have been prescribed by regulation, the property meets the prescribed criteria.

(2) Where the council of a municipality has appointed a municipal heritage committee, the council shall, before giving notice of its intention to designate a property under Subsection (1), consult with its Municipal Heritage Committee.”

As part of the Downtown Built Heritage Inventory Project, the heritage value or interest of the subject property was evaluated. While it has been determined that the property does have cultural heritage value or interest (CHVI), the property was not identified as a candidate for designation under Part IV of the *Ontario Heritage Act*.

The Hamilton Municipal Heritage Committee was consulted regarding the findings and recommendations of the Downtown Built Heritage Inventory Project.

The recommendations of this report are consistent with these policies.

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; and,
- 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 purpose of the above policies is to protect tangible cultural heritage through continuing process of inventory, survey, and evaluation. The subject property is not considered to have sufficient cultural heritage value to warrant designation under the OHA. As such, the recommendations of this Report comply with these policies.

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 6 of 12

- B.3.4.2.7 The City shall ensure these non-designated and non-registered *cultural heritage properties* are identified, evaluated, and appropriately *conserved* through various legislated planning and assessment processes, including the *Planning Act*, R.S.O., 1990 c. P.13, the *Environmental Assessment Act* and the *Cemeteries Act*.
- B.3.4.2.8 To ensure consistency in the identification and evaluation of these non-designated and non-registered *cultural heritage properties*, the City shall use the criteria for determining cultural heritage value or interest established by provincial regulation under the *Ontario Heritage Act* and set out in Policy B.3.4.2.9.”

Inclusion of non-designated property in the Register, established under Subsection 27 (3) of the *Ontario Heritage Act* requires that Council be given 60 days’ notice in writing of the intention to demolish or remove any building or structure on the property, and the demolition and removal of a building or structure is prohibited during this time period (subsection 27 (4) of the *Ontario Heritage Act*). Inclusion of a property on the Register does not automatically indicate a property should be designated under the *Ontario Heritage Act*. Rather, the intent is to provide Council with an opportunity to consider if the property should be designated to prevent demolition of the building and to issue the Notice of Intention to Designate (NOID) if designation is deemed appropriate or to discuss other options with the proponent.

The recommendations of this Report comply with the above policy as the heritage value or interest of the subject property was evaluated as part of the Downtown Built Heritage Inventory Project and the property was not identified as a candidate for designation under Part IV of the *Ontario Heritage Act*.

Downtown Hamilton Secondary Plan:

The Downtown Hamilton Secondary Plan contains the following policies related to the conservation of cultural heritage resources:

- B.6.1.3.1 (a) “Conserve and enhance the built heritage resources and cultural heritage landscapes of Downtown Hamilton.”
- B.6.1.3.1(b) “Ensure that new development is compatible with the design of surrounding built heritage resource buildings.”
- B.6.1.11.1(d) “Conservation of existing cultural heritage resources shall be a priority in all development. New development shall be compatible with on-site

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 7 of 12

and adjacent cultural heritage resources. Adaptive re-use will be given priority for all built heritage resources.”

As part of Formal Consultation Application FC-22-022, Cultural Heritage Planning staff encouraged the applicant to consider development alternatives which will preserve the buildings, such as its adaptive reuse or their full or partial integration into the new addition. However, the property owner has the right to provide Council with given 60 days’ notice in writing of the intention to demolish or remove any building or structure on the property, and the demolition and removal of a building or structure is prohibited during this time period (Subsection 27 (4) of the *Ontario Heritage Act*).

Staff have reviewed the architectural plans submitted with the CHIA and find the design of the new building to be generally compatible in scale, material and design with the adjacent cultural heritage resources. As such, the recommendations of this Report comply with the above policies.

RELEVANT CONSULTATION

The property owners have been informed by Cultural Heritage staff of the property’s listed heritage status and the requirements for the 60-day notice if the building or structure is proposed for demolition.

The Hamilton Municipal Heritage Committee was consulted regarding the findings and recommendations of the Downtown Built Heritage Inventory Project to list properties on the Register of Property of Cultural Heritage Value or Interest on August 21, 2014.

The CHIA submitted as part of the NOID was reviewed by the Policy and Design Working Group (P&DWG) at their meeting on July 18, 2022. The P&DWG members provided the following feedback regarding the CHIA:

- These are the only surviving examples of this type of early commercial architecture in the area and they could be preserved for that reason;
- Could the facades of the Lincoln Alexander Centre and the two other buildings be renovated to a design similar to that proposed, but restoring 164-168 King Street East and keeping them at two storeys?
- The Working Group liked the proposed design, especially as it included changes to the façade of the Lincoln Alexander Centre to bring all three properties together;
- The Working Group did not reach a consensus on whether to support or oppose the proposal to demolish the two buildings; and,

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 8 of 12

- The Working Group had no issues with the CHIA itself but felt that more discussion is needed to come to a consensus regarding the proposed demolition.

Staff have advised the Ward Councillor of the recommendation made in this Report.

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.

As outlined in the Preliminary Evaluation conducted as part of the Downtown Built Heritage Inventory Project, the property may be classified as a Character-Supporting Resource and contains cultural heritage value or interest (CHVI). Please find below the separate Preliminary Value Statements for the two properties.

164 King Street East:

Preliminary Design Value: 164 King Street East is a two-and-a-half storey brick building constructed in 1872 as part of a related row also consisting of 168 King Street East. The building, laid in Common bond, has a rectangular plan with a short façade, and a one-storey rear brick wing with subsequent two-storey brick and one-storey concrete-block additions. The side gable roof has projecting eaves with a plain frieze, a pair of gabled dormers in the front and back with two-over-two hung windows, and brick parapets with stone end brackets and a pair of single-stack brick chimneys in the centre.

The facades of the related row are comprised of flat windows with stone lintels and lug sills.

164 King Street East has three bays of two-over-two hung windows with wooden muntins in the second storey with stucco-cladding below, and a glazed storefront with recessed entrances to the east and west.

Preliminary Associative Value: 164 King Street East was constructed in 1872 for merchant John Laws, who also constructed 168 King Street East to the east. John Laws' flour and feed store was the first tenant of 164 King Street East in 1872 and continued to occupy the building until 1881. 164 King Street East has housed a variety

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 9 of 12

of other businesses including George Roth's furniture store (1882-1886), butcher John R. Cambden (1886-1896), confectioner Henry Grierson (1901-1916), confectioner George Baker (1919-1930), a series of hairdressers (1940s), and Radio Grill/Radio Lunch (1948-1961). Public Optical operated out of the building from 1963 until the late-19th century. In 2012, 164 King Street East was occupied by Hamilton Vision Centre.

Preliminary Contextual Value: 164 King Street East is located on the south side of King Street East between Catharine and Walnut Streets, fronting directly onto the public right-of-way. 164 King Street East is part of a related row with 168 King Street East and is part of the remaining commercial streetscape on the south side of King Street East with a consistent streetwall spanning from James and Wellington Streets.

168 King Street East:

Preliminary Design Value: 168 King Street East is a two-and-a-half storey brick building constructed in 1872 as part of a related row also consisting of 164 King Street East. The building, laid in Common bond, has a rectangular plan with a short façade, and a one-storey wood-frame rear wing and a subsequent one-storey wood-frame addition. The side gable roof has projecting eaves with a plain frieze, a gabled dormer in the front and back, and brick parapets with stone end brackets and a pair of single-stack brick chimneys in the centre.

The facades of the related row are comprised of flat windows with stone lintels and lug sills. 168 King Street East has two bays of windows in the second storey with parging below, and a glazed storefront with a recessed entrance to the east and wood cladding flanking either side.

The two-over-two hung windows with wooden muntins have been replaced.

Preliminary Associative Value: 168 King Street East was constructed in 1872 for merchant John Laws, who also constructed 164 King Street East to the west. 168 King Street East has housed a variety of businesses including plumber Donald McPhie (1870s), machinist H.D. Bassett (1881-1897), machinists George and William F. Webster (1898-1918), Williams Sewing Machines (1907-1915), White Sewing Machine Company (1916-1924), Beatty Brothers Washer Store (1928-1946), Cheshire Appliances (1947-1955), Radio Shack (1975-1980s), and Super Bargain (1990s). In 2012, 168 King Street East was occupied by Boy's Toyz second-hand store.

Preliminary Contextual Value: 168 King Street East is located on the south side of King Street East between Catharine and Walnut Streets, fronting directly onto the public right-of-way. 168 King Street East is part of a related row with 164 King Street East and

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 10 of 12

is part of the remaining commercial streetscape on the south side of King Street East with a consistent streetwall spanning from James and Wellington Streets.

Cultural Heritage Impact Assessment:

A Cultural Heritage Impact Assessment (CHIA) prepared by Megan Hobson, Built Heritage Consultant, was provided on July 11, 2022 (revised July 25, 2022) (Appendix “C” attached to Report PED22178). The key findings of the CHIA are that the two buildings at 164 and 168 King Street East are in very poor condition and have been heavily altered; original fabric has been lost; the buildings have very limited physical or design value; and do not make a significant contribution to the adjacent portion of King Street East heavily impacted by 20th century development and demolition.

The CHIA also includes an analysis of the proposed development and architectural plans, including design measures to reference the brick construction and Georgian symmetry of the buildings proposed for demolition; traditional stone lintel and sill details of the upper floor window openings; and a projecting cornice with decorative brackets. Staff concur that the proposed design is generally sympathetic in scale, material and design with the historic context of the King Street East Cultural Heritage Landscape and the Beasley Established Historical Neighbourhood.

Further, the CHIA recommends installation of an interpretive display in a publicly accessible area of the new building and that the carved stone end blocks on the roof parapets should be salvaged for reuse in the new building. As such, staff require that an Interpretation Plan and a Documentation and Salvage Report be submitted to the satisfaction and approval of the Manager of Heritage and Urban Design prior to any site plan approval.

Structural Assessment:

A Structural Assessment prepared by Kalos Engineering Inc., dated May 2022 and revised June 2022, forms Appendix D of the CHIA. The Structural Assessment explores four options for the buildings: 1) Do nothing; 2) Provide temporary support until further decisions are made; 3) Restore the buildings; and 4) Remove the buildings. Option 1) is not recommended due to structural concerns, Option 2) is recommended for 164 King Street East for the roof support system, Option 3) is possible but deemed not feasible by the proponent (see the Notice of Intention to Demolish (NOID) the existing buildings (Appendix “B” attached to Report PED22178)); and Option 4) is possible. Though Option 3) Restore the buildings is possible and was previously encouraged by Cultural Heritage Planning staff, the proponent has shared the following rationale for why they do not find the existing buildings to be adaptable for the proposed new use:

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 11 of 12

- The structures are in a state of serious disrepair;
- Their internal configuration is inappropriate for the intended use; and,
- The floor levels do not match those of 160 King Street East (the Lincoln Alexander Centre, also owned by Philpott Memorial Church).

As such, with the loss of historic fabric and heavy alteration of the buildings, staff concur there would not be significant value in adding two additional storeys to the existing structures to integrate them into the Lincoln Alexander Centre structure.

Though the property contains cultural heritage value or interest (CHVI), Cultural Heritage Planning staff do not recommend pursuing Part IV designation to prevent demolition or removal of the two buildings as they have been heavily altered and original fabric has been lost. The proposed design of the development is generally sympathetic in scale, material and design, and appropriate design measures will be implemented which mitigate the loss of the existing heritage buildings. In addition, further documentation of the property will be required for archival and salvage purposes, and the history of the buildings will be commemorated through an interpretive display to further mitigate the loss of CHVI through demolition of the buildings.

Conclusion:

It has been determined that 164-168 King Street East, Hamilton, does have cultural heritage value or interest (CHVI), however, it is not considered to have sufficient cultural heritage value to warrant Part IV designation under the *Ontario Heritage Act*. For the subject properties, staff will require a Documentation and Salvage Report and a Commemoration Plan be prepared prior to demolition to sufficiently document and commemorate the buildings. The CHIA recommends features to be salvaged for reuse as well as commemoration through an interpretive display to mitigate the loss of CHVI through demolition of the buildings.

ALTERNATIVES FOR CONSIDERATION

(1) Direct staff to Designate Subject Property

That staff be directed to designate the subject properties under Part IV of the *Ontario Heritage Act*.

If it is decided to pursue designation, the City typically retains outside consultants to support the designation of the subject properties immediately, incurring a cost of approximately three to six thousand dollars.

SUBJECT: Notice of Intention to Demolish the Buildings Located at 164-168 King Street East, Hamilton, being Non-designated Properties Included in the Register of Property of Cultural Heritage Value or Interest (PED22178) (Ward 2) - Page 12 of 12

(2) Direct staff to Remove Property from Municipal Heritage Register

That staff be directed to immediately remove the subject properties from the City's Register of Property of Cultural Heritage Value or Interest as non-designated properties.

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 PED22178 – Location Map

Appendix "B" to Report PED22178 – Notice of Intention to Demolish the Buildings
located at 164-168 King Street East, Hamilton

Appendix "C" to Report PED22178 – Cultural Heritage Impact Assessment

CR:sd