



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Committee Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	November 21, 2022
SUBJECT/REPORT NO:	Recommendation to Designate 66-68 Charlton Avenue West, Hamilton, under Part IV of the <i>Ontario Heritage Act</i> (PED22208) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Lisa Christie (905) 546-2424 Ext. 1291
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That City Council state its intention to designate 66-68 Charlton Avenue West, Hamilton, shown in Appendix “A” attached to Report PED22208, as a property of cultural heritage value pursuant to the provisions of Part IV, Section 29 of the *Ontario Heritage Act*, in accordance with the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix “B” to Report PED22208;
- (b) That the City Clerk be directed to give notice of intention to designate the property of cultural heritage value or interest in Recommendation (a) of Report PED22208, in accordance with the requirements of Section 29 of the *Ontario Heritage Act*, subject to the following:
 - (i) If no objections are received to the notice of intention to designate in accordance with the *Ontario Heritage Act*, City Council directs staff to introduce the necessary by-law to designate the property to be of cultural heritage value or interest to City Council;
 - (ii) If an objection to the notice of intention to designate is received in accordance with the *Ontario Heritage Act*, City Council directs staff to report

back to Council to allow Council to consider the objection and decide whether or not to withdraw the notice of intention to designate the property.

EXECUTIVE SUMMARY

This Report recommends designation of the significant built heritage resources located at 66-68 Charlton Avenue West, Hamilton, under Part IV of the *Ontario Heritage Act*. The Report was prepared in response to two Building Permit Applications submitted on October 13 and October 17, 2022, respectively, to demolish collectively all of the buildings and structures on the subject property. The subject property is currently listed on the City's Municipal Heritage Register (Register), which provides 60-day interim protection from demolition to allow Council time to consider designating the property to prevent its demolition. Staff have completed an evaluation of the subject property using *Ontario Regulation 9/06* and determined that it has sufficient cultural heritage value or interest to warrant designation, as per the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes attached as Appendix "B" to Report PED22208.

Alternatives for Consideration – See Pages 7 and 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

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 properties. 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 municipalities 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)).

The City of Hamilton also provides financial incentive programs, including development charge exemption and heritage grants and loans, to assist in the adaptive re-use and continued conservation of properties once they are designated.

HISTORICAL BACKGROUND

The subject property located at 66-68 Charlton Avenue West, Hamilton, as shown in Appendix "A" attached to Report PED22208, is comprised of two formerly detached structures originally constructed as dwellings circa 1903-1904, which were subsequently joined via a two-storey addition circa 1966 when the combined structure was converted for use as a medical building. The subject property was first surveyed for potential heritage interest in the 1970s. In 2017, the subject property was listed on the Register as part of the Durand Neighbourhood Built Heritage Inventory project (PED17092).

In January 2022, Cultural Heritage Planning staff received a complaint that the subject property had been vacated. Municipal Law Enforcement (MLE) staff were also contacted and addressed concerns regarding interior flooding at the subject property. The subject property was added to the Vacant Building Registry on February 3, 2022. In April 2022, Cultural Heritage Planning staff were notified that the utilities and power to the subject property had been disconnected. MLE staff subsequently began their proactive monitoring of the unregistered vacant building and have been conducting visits to this property since May 2022.

In June 2022, an Excavation Permit was issued for the subject property, this permit involved the demolition of water services to the property from Park Street, cuts into the sidewalk, curb and sod were necessary to disconnect the service. Cultural Heritage Planning staff interpreted that a Building Permit Application to Demolish the property was imminent. In a letter dated September 6, 2022, to the property owner, Cultural Heritage Planning staff provided information about the heritage status of the property listed on the Register and the requirement under Section 27 of the *Ontario Heritage Act* for the owner to give notice of their intention to demolish.

The subject property was discussed at the September 15, 2022 meeting of the Hamilton Municipal Heritage Committee (HMHC) and concerns were raised regarding the state of the vacant building and what were perceived as outstanding property standards issues. The HMHC referred the property to its Inventory and Research Working Group (IRWG) for further discussion for potential designation under Part IV of the *Ontario Heritage Act*.

A Building Permit Application for the demolition of 66 Charlton Avenue West was received by Building staff on October 13, 2022. A subsequent Building Permit Application was submitted on October 17, 2022 for the remainder of the property comprised of 68 Charlton Avenue West, Hamilton. As per Section 27(9) of the *Ontario Heritage Act*, an owner of a property listed on the Register must provide 60 day's written notice to the Council of their intention to demolish or remove any building or structure on the property. The *Ontario Heritage Act* does not require Council to wait for the property owner to provide notice of intent to demolish before giving Council's notice of intention to designate.

At its meeting on October 25, 2022, the IRWG passed a motion recommending that the subject property be added to staff's designation work plan as a high-emergency priority. In a letter dated November 10, 2022, Cultural Heritage Planning staff notified the owner of the subject property of this Report and the staff recommendation to designate the property under Part IV of the *Ontario Heritage Act*.

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,
- Designating properties of cultural heritage value under Part IV of the Ontario Heritage Act (Urban Hamilton Official Plan, Section B.3.4.2.3).

RELEVANT CONSULTATION

External

- Property Owner
- Inventory and Research Working Group of the HMHC

Internal

- Planning and Economic Development Department, Licensing and By-law Services Division, Municipal Law Enforcement Section;
- Corporate Services Department, Legal Services Division, Legal and Risk Management Services; and,

- Ward Councillor Kroetsch, Ward 2.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The intent of municipal designation, under Part IV of the *Ontario Heritage Act*, is to enable a process for the management and conservation of significant cultural heritage resources. Once a property is designated, the municipality can manage change to a property through the Heritage Permit process to ensure that the significant features of the property are maintained.

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 one or more of the Criteria for Determining Cultural Heritage Value or Interest prescribed in *Ontario Regulation 9/06*, which identifies criteria in three broad categories: Design / Physical Value; Historical / Associative Value; and, Contextual Value. The evaluation of cultural heritage value or interest of the subject property was completed by Cultural Heritage Planning staff based on a site visit of the exterior of the property conducted on October 21, 2022 (see Appendix “C” attached to Report PED22208) and available secondary and primary research sources (see Appendix “D” attached to Report PED22208). As outlined below, based on staff’s cultural heritage evaluation, it was determined that the subject property met 7 of the 9 criteria contained in *Ontario Regulation 9/06* in all three categories.

1. Design / Physical Value

- i. The buildings located at 66 and 68 Charlton Avenue West were originally constructed as two single detached two-and-a-half-storey brick dwellings influenced by the Queen Anne Revival style of architecture in the early-twentieth century. The two buildings were later connected by a circa 1966 two-storey central addition of a sympathetic style. The Queen Anne Revival style of architecture is well represented in both structures through their two-and-a-half storey brick construction, tall hip roofs punctuated with a variety of dormers, bays and chimneys, and the use of a variety of materials and textures.

Number 66 also demonstrates the Queen Anne Revival style through elements such as its pedimented front gable with tripartite window, moulded wood trim and bracketed cornice.

Number 68 features two projecting three-sided, two-and-a-half-story bays with pedimented gables clad in octagonal slate shingles. The south projecting bay is comprised of two round arched windows in the central portion of the bay flanked with segmented arched windows with brick voussoirs, and decorative brick panels

demarcate the first and second storeys. The front facade features a decorative front entrance with half-round transom, decorative keystone and stone surround, a moulded cornice demarcates the first and second storeys.

- ii. The property displays a high degree of craftsmanship, which is apparent in the decorative brick panelling and banding, leaded glass transom, wood mouldings, decorative shingle cladding, dentilated cornices, and wood brackets on the south and west facing facades of 66 and 68 Charlton Avenue West.
- iii. The property does not appear to demonstrate a high degree of technical or scientific achievement.

2. Historical / Associative Value

- i. The buildings at 66 and 68 Charlton Avenue West illustrate the theme of wealth and development in early-twentieth century Hamilton. Their construction at the turn of the twentieth century was commissioned by wealthy local landowners who were establishing the Durand Neighbourhood as a place for upper-class dwellings.

The dwelling at 66 Charlton Avenue West was constructed circa 1904 for Adam Henry Hope (1852-1920), Accountant / Auditor, formerly of the Canadian Steel and Wire Company, then Brennen Manufacturing Company and then briefly the manager of the Hamilton Dustless Housecleaning Company Limited.

The property at 68 Charlton Avenue West was owned by Annie Bryson Osbourne (1824-1912), and she was responsible for commissioning the circa 1903 dwelling from F.J. Rastrick & Sons. Annie lived in the dwelling with her son William Woodburn Osborne (1867-1915) and his wife and their two children. William was a Barrister at Gibson, Osborne, O' Reilly and Levy in the 1900's (affiliated with Sir John Morrison Gibson, 10th Lieutenant Governor of Ontario) and later ran his own firm by 1911.

- ii. The property yields an understanding of the domestic tastes of affluent Hamiltonians at the turn of the century and demonstrates the capacity of Hamilton-based architects and craftsmen to offer high style to their patrons.
- iii. The property reflects the work and ideas of prominent architects who are significant to the Hamilton community. The building constructed at 68 Charlton Avenue West, is attributed to F. J. Rastrick and Sons architectural firm and is one of the few known surviving buildings designed by the two sons of the noted Hamilton architect, Frederick J. Rastrick. Frederick James Rastrick (1819-1897) was a prominent nineteenth-century Hamilton architect. He was an active partner

in a various of Hamilton firms and designed a number of well-known buildings in Hamilton.

Rastrick opened a firm with his son Edward Llewellyn Rastrick (1861-1931) in 1881 and they practised together until his death in 1897, at which time his other son Francis Reginald Rastrick (1864-1932) joined the firm as a partner. Edward and Francis Rastrick of F. J. Rastrick & Sons were in partnership together from 1898 until 1931. During their partnership the Rastrick sons designed a number of residential buildings, however their best-known works are the Twentieth Century Club on Locke Street South and the Stoney Creek Battlefield Monument, a National Historic Site of Canada.

The building constructed at 66 Charlton Avenue West, Hamilton is not attributed to a prominent architect. However, the property does represent the work of the local Hamilton building company – Donaldson and Patterson. Hugh Donaldson (1847-1928) and J. L. Patterson (1852-1930) were local builders in the City of Hamilton.

3. Contextual Value

- i. The property is considered important in supporting the character of the area. The Durand neighbourhood is one of Hamilton's oldest residential neighbourhoods, known for its architecture. The dwellings constructed at 66 and 68 Charlton Avenue were constructed for upper class families in the turn of the twentieth century and are largely unchanged supporting the historic character of the overall neighbourhood.
- ii. The property is physically, historically and visually linked to its surroundings. The setting of the property defines the northeast corner of Charlton Avenue West and Park Street, with two elevations featuring notable architectural details, and a large stone wall along the western boundary fronting onto Park Street. Located in the Durand Neighbourhood, this property blends into the turn-of-the twentieth century residential streetscape and buildings of this era are prevalent along the north side of Charlton Avenue West from Park Street east to MacNab Street.
- iii. The property is not considered to be a local landmark.

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, as advised by its Municipal Heritage Committee, may decide 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 cultural heritage resource (designation provides protection against inappropriate alterations and demolition) and would not fulfil the expectations established by existing municipal and provincial policies.

Without designation, the property would not be eligible for the City's financial incentives for heritage properties, including development charge exemption and grant and loan programs. Designation alone does not restrict the legal use of property, prohibit alterations and additions, nor does it restrict the sale of a property, or been demonstrated to affect its resale value. However, designation does allow the municipality to manage change to the heritage attributes of a property through the Heritage Permit process. Staff does not consider declining to designate any of the properties to be an appropriate conservation alternative.

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 PED22208 – Location Map

Appendix "B" to Report PED22208 – Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes

Appendix "C" to Report PED22208 – Photographs

Appendix "D" to Report PED22208 – Research Sources

LC/sd