



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	July 21, 2023
SUBJECT/REPORT NO:	Heritage Permit Application HP2023-024, Under Part V of the <i>Ontario Heritage Act</i> , for the Erection of a Rear Detached Accessory Structure at 79 Markland Street, Hamilton (PED23035) (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

That Heritage Permit Application HP2023-024, for the erection of a rear detached accessory structure on the designated property at 79 Markland Street, Hamilton (Durand-Markland Heritage Conservation District), as shown in Appendix "A" to Report PED23035, be **approved**, subject to the approval of any required *Planning Act* applications and the following Heritage Permit conditions:

- (a) That the final details of the windows, siding and roofing material be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation;
- (b) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit;
- (c) That construction and site alterations, in accordance with this approval, shall be completed no later than July 31, 2025. If the construction and site alterations are not completed by July 31, 2025, then this approval expires as of that date, and

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.

SUBJECT: Heritage Permit Application HP2023-024, Under Part V of the *Ontario Heritage Act*, for the Erection of a Rear Detached Accessory Structure at 79 Markland Street, Hamilton (PED23035) (Ward 2) - Page 2 of 8

no alterations shall be undertaken without a new approval issued by the City of Hamilton.

EXECUTIVE SUMMARY

The subject property located at 79 Markland Avenue, Hamilton, is designated as part of the Durand-Markland Heritage Conservation District under Part V of the *Ontario Heritage Act* (see the location map attached as Appendix “A” to Report PED23035). A Council decision is required for a Heritage Permit application to erect any new building or structure in a heritage conservation district. The applicant is applying for the erection of a new rear detached accessory structure on the property. Staff recommend approval of Heritage Permit Application HP2023-024, subject to the final details for the windows, siding, and roofing material being submitted to staff’s satisfaction, and to the City’s standard Heritage Permit conditions, as discussed with the applicant and advised by the Heritage Permit Review Sub-committee.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: This Heritage Permit Application has been processed and considered within the context of the applicable legislation. Section 42 (1) of the *Ontario Heritage Act*, states that: “No owner of property situated in a heritage conservation district that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so:

1. Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property.
2. Erect any building or structure on the property or permit the erection of such a building or structure.
3. Demolish or remove, or permit the demolition or removal of, any attribute of the property if the demolition or removal would affect a heritage attribute described in the heritage conservation district plan that was adopted for the heritage conservation district in a by-law registered under subsection 41 (10.1).

4. Demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property.”

The power to consent to alterations to property designated under the *Ontario Heritage Act* was delegated by Council to the Director of Planning under City of Hamilton By-law No. 05-364. However, the *Ontario Heritage Act* provisions exclude the delegation of Council’s authority to consent to an application for the demolition of existing structures or erection of new structures.

In response to an application for a permit, Council may: consent to the permit applied for; provide notice that Council is refusing the application for the permit; or, consent to the permit applied for, with terms and conditions attached. Section 42 (4.1) of the *Ontario Heritage Act* provides that Council must consult with its Municipal Heritage Committee before taking any action with respect to an application to demolish or remove any building or structure on property in a Heritage Conservation District.

The *Ontario Heritage Act* requires that Council make a decision on a Heritage Permit Application within 90 days of the issuance of a Notice of Receipt. If no decision is reached within the 90-day timeframe, Council shall be deemed to consent to the application.

HISTORICAL BACKGROUND

The subject property at 79 Markland Street, Hamilton (see Appendix “A” attached to Report PED23035) is located in the Durand-Markland Heritage Conservation District, designated by former City of Hamilton By-law No. 94-184. The property consists of a two-and-a-half-storey beige stucco dwelling of cross gable Queen Anne style of architecture. On May 23, 2023, a Heritage Permit Application was received requesting approval to erect a new, one storey detached accessory structure at the rear of the property. The supporting materials provided with the Heritage Permit Application are attached as Appendix “B” to Report PED23035.

The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee reviewed this application at their meeting on June 20, 2023, along with the supporting materials submitted with the application (and recommended approval of the application subject to the final design details (e.g. windows, garage doors, siding and roofing material) being submitted to staff’s satisfaction, and the standard conditions regarding minor changes and expiry.

The Notice of Complete application was issued on July 4, 2023.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Recommendation of this Report is consistent with municipal and provincial legislation, including:

- Ensuring significant built heritage resources are conserved (*Provincial Policy Statement*, 2020, Sub-section 2.6.1);
- Protecting and conserving the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes (*Urban Hamilton Official Plan*, Section B.3.4.2.1(a)); and,
- Ensuring that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources (*Urban Hamilton Official Plan*, Section B.3.4.1.3)

The Recommendation of this Report is also consistent with the Council-adopted Durand-Markland Heritage Conservation District Plan and its policies regarding new construction in the District outlined in Section 4.4, including that:

- New buildings should be compatible and sensitive to the character of the established neighbourhood;
- New structures should look new, and not pretend to be historical by replicating or copying older facades;
- The use of traditional roof forms in new construction is encouraged;
- The use of traditional material for window and door construction is encouraged; and,
- Slate, wood or asphalt roofing materials are appropriate for new construction.

RELEVANT CONSULTATION

External

- Heritage Permit Review Sub-Committee of the Hamilton Municipal Heritage Committee

In addition, Planning Staff emailed the Ward Councillor for Ward 2 on July 4, 2023, and provided them with information about the proposed changes and the process for new construction on a Part V designated property within a Heritage Conservation District. Staff also indicated that the applicant received support from the Heritage Permit Review Subcommittee and that a subsequent staff report was forthcoming to the July 21, 2023, Hamilton Municipal Heritage Committee meeting.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Heritage Permit Application HP2023-024 has been submitted to request approval for the following scope of work at 79 Markland Street, Hamilton (location map attached as Appendix “A” to Report PED23035), in accordance with the supporting materials submitted with the application (attached as Appendix “B” to Report PED23035):

- Construction of a detached one-storey pool house at the rear of the property.

Two key factors that are considered in the evaluation of any change affecting a heritage building, or its setting, are displacement and disruption effects. The analysis of the effects related to HP2023-024 are outlined below.

Displacement Effects

Displacement effects are those adverse actions that result in the damage, loss or removal of valued heritage features.

The existing property is comprised of a two-and-a-half-storey beige stucco dwelling in cross gable Queen Anne style of architecture. Its features include: the steep cross gabled roof; the slight overhang of the front gable above the rounded bay window; and a two-storey five-sided bay window on the east façade. The principal dwelling has a deep setback from the front lot line and there is a driveway on the west side of the property and an existing three-car parking pad on the east side of the front yard of the property. There is an existing in-ground pool and deck directly behind the existing dwelling in the rear yard.

The new detached accessory structure is proposed to be located along the east side of the lot in the rear yard, as shown in the site plan drawing attached as part of Appendix “B” to Report PED23035. As the new detached accessory structure will be located in the rear, south-east corner of the property, it will not result in the displacement of any of any the heritage features on the property.

Disruption Effects

Disruption effects are those actions that result in detrimental changes to the setting or character of the heritage feature.

The new detached accessory structure will not be visible from the street when looking south down the existing driveway. The accessory structure will be blocked from view by the existing dwelling on the property. The accessory structure may be visible in some seasons from Bay Street, when looking across the side yard of 311 Bay Street South. However, this view is not located within the Durand-Markland Heritage Conservation District and is not considered to be a significant view of the Heritage Conservation

SUBJECT: Heritage Permit Application HP2023-024, Under Part V of the *Ontario Heritage Act*, for the Erection of a Rear Detached Accessory Structure at 79 Markland Street, Hamilton (PED23035) (Ward 2) - Page 6 of 8

District. Staff are of the opinion that the proposed accessory structure will not result in any detrimental changes to the setting of the Durand-Markland Heritage Conservation District.

Furthermore, the accessory structure has been designed to be compatible with the existing dwelling on the property and the surrounding properties. This is evidenced by the location of the structure, the subservient scale of the building, and the choice of distinct, but historically appropriate, building materials that clearly demonstrate that the accessory building is new.

The proposed design of the structure includes a hip roof, horizontal composite wood cladding (Hardie board), asphalt shingles, and casement windows with black trim. The proposed design and materials incorporate features that are sympathetic to the character of the area and respect the guidelines in the District Plan that new buildings do not attempt to replicate historic facades. Staff are generally supportive of the proposed styles, however, final details for the windows, siding, and roof material are still pending. Staff recommend these details be submitted for review prior to installation.

Recommendation

Heritage Permit Application HP2023-024 is for the construction of a new detached accessory structure at the rear of the subject property and requires a decision of Council, as advised by the Hamilton Municipal Heritage Committee. Staff recommend that the final details and design of the proposed windows, siding, and roofing material shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation (see Recommendation (a)(i) of Report PED23035). Staff also recommend that any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit (see Recommendation (a)(ii) of Report PED23035). It is also recommended that the Heritage Permit approval have an expiry date of July 31, 2025 (see Recommendation (a)(iii) of Report PED23035). A two-year expiry date is standard on all approved Heritage Permits, and the July 31, 2025, date will reflect the expected end date of the new construction.

The proposed accessory structure is anticipated to require a Minor Variance Application to implement. However, a comprehensive review of the proposal has not yet occurred. The proposed height of the building will be 4.84 m (16 ft) and its proposed location is along the property line. Staff are of the opinion that the proposed height of the accessory structure is not out of character with the area and that any visual impacts from the height will be mitigated by its placement to the rear of the property. Staff

recommend that the application be approved subject to the approval of any *Planning Act* applications (see Recommendation (a) of this Report).

Staff recommend approval of Heritage Permit Application HP2023-024, as per the recommendations of this Report.

ALTERNATIVES FOR CONSIDERATION

1. Deny the Heritage Permit Application.

Hamilton Municipal Heritage Committee may advise Council to deny this application in its entirety. This is not being recommended as the application is in character with the built heritage landscape of the Durand-Markland Heritage Conservation District and conforms to the Durand-Markland Heritage Conservation District Guidelines that permit the erection of new buildings and other site alterations which are sympathetic to the existing building fabric and maintain the character of the Durand-Markland Heritage Conservation District.

2. Approve the Heritage Permit Application with additional or amended conditions.

Hamilton Municipal Heritage Committee may advise Council to approve this application with additional or amended conditions of approval, as appropriate. This is not being recommended as staff feel that the four Heritage Permit conditions are sufficient.

3. Approve the Application with No Conditions.

Hamilton Municipal Heritage Committee may advise Council to approve this application with no conditions. This alternative is not recommended, as it would prevent staff from reviewing any additional details to ensure that the application approval will result in high-quality construction and the implementation of the project design, as submitted.

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.

SUBJECT: Heritage Permit Application HP2023-024, Under Part V of the *Ontario Heritage Act*, for the Erection of a Rear Detached Accessory Structure at 79 Markland Street, Hamilton (PED23035) (Ward 2) - Page 8 of 8

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23035 - Location Map

Appendix "B" to Report PED23035 - Application Submission Materials (modified to remove personal information)

LC/sd