



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	August 22, 2023
SUBJECT/REPORT NO:	Recommendation for Designation of 215 King Street West, Dundas under Part IV of the <i>Ontario Heritage Act</i> (PED23148) (Ward 13)
WARD(S) AFFECTED:	Ward 13
PREPARED BY:	Lisa Christie (905) 546-2424 Ext. 1291 Meg Oldfield (905) 546-2424 Ext. 7163
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the City Clerk be directed to give notice of Council's intention to designate 215 King Street West, Dundas, shown in Appendix "A" attached to Report PED23148, 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 PED23148, subject to the following;

- (a) 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;
- (b) 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 resource located at 215 King Street West, Dundas, under Part IV of the *Ontario Heritage Act*. The subject property is currently listed on the City's Municipal Heritage Register (Register). This Report was prepared in response to a request to designate the property and active applications for redevelopment of 215-219 King Street West, Dundas, under the *Planning Act*, including Zoning By-law Amendment Application ZAC-23-029, Draft Plan of Subdivision Application 25T-2023-03 and Draft Plan of Condominium Application 23CDM-2023-04).

The Zoning By-law Amendment and Draft Plan of Subdivision Applications are prescribed events under the *Ontario Heritage Act* and the City will not be able to issue a Notice of Intention to Designate until after the prescribed event is complete, or unless the owners enter into a mutual agreement to eliminate or extend the prescribed event timelines.

A Cultural Heritage Impact Assessment (CHIA) was submitted in support of the above mentioned applications, which propose retention and integration of the heritage building located on the subject property at 215 King Street West (attached as Appendix "C" to Report PED23148). Staff are of the opinion that the subject property 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 PED23148.

Alternatives for Consideration – See Page 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.

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 215 King Street West, Dundas, as shown in Appendix "A" attached to Report PED23148, is comprised of a one-and-a-half storey brick cottage, built circa 1851-1853. The property was first surveyed for potential heritage value or interest in the 1970s as part of the Canadian Inventory of Historic Building and was subsequently surveyed in the 1990s by the Dundas Local Architecture Conservation Advisory Committee (LACAC).

On April 26, 2021, the Inventory and Research Working Group of the Hamilton Municipal Heritage Committee considered the heritage value or interest of the subject property and recommended that it be listed on the Municipal Heritage Register and be reviewed for designation under the *Ontario Heritage Act*. In a letter dated May 27, 2021, Cultural Heritage Planning staff notified the owner of these recommendations.

On September 26, 2022, Cultural Heritage Staff provided comments on Formal Consultation Application FC-22-121. As part of the application comments, staff required that a Cultural Heritage Impact Assessment be submitted in support of any further *Planning Act* applications for the property.

In February 2023, Draft Plan of Subdivision (25T-202303), Zoning By-law Amendment (ZAC-23-039) and Draft Plan of Condominium (25CDM-202304) Applications were submitted proposing retention of the listed heritage building located at 215 King Street West, demolition of the listed building located at 219 King Street West, and redevelopment of the remainder of the site. A Cultural Heritage Impact Assessment dated October 7, 2022 and prepared by Archaeological Research Associates Ltd., was

submitted in support of the applications (see Appendix “C” attached to Report PED23148). The Cultural Heritage Impact Assessment includes an evaluation of the property at 215 King Street West in accordance with *Ontario Regulation 9/06* and a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes for the subject property. The Cultural Heritage Impact Assessment included an evaluation of the property at 219 King Street West in accordance with *Ontario Regulation 9/06*, while the property did meet two criteria, the report indicated that it was not a strong candidate for designation under the *Ontario Heritage Act*. As such the property located at 219 King Street West is not being recommended for designation in this report.

On March 20, 2023, the Cultural Heritage Impact Assessment submitted with the application was reviewed by the Hamilton Municipal Heritage Committee’s Policy and Design Working Group. The Working Group provided comments on the Cultural Heritage Impact Assessment which were included in staff’s final submission of comments on the planning applications in April 2023.

Staff confirmed the City’s intention to pursue designation of 215 King Street West as part of the comments for the above-noted applications and requested that the owner enter into a mutual agreement with the City to eliminate the 90-day prescribed event timeline in which the City would be able to issue a Notice of Intention to Designate the property under the *Ontario Heritage Act*. At this time, the property owner has not entered into the requested mutual agreement. Staff have indicated to the owner that the City would be bringing forward a recommendation to designate in parallel to the *Planning Act* application process, which may negate the need for any additional restrictive zoning to ensure the long-term conservation of the property, provided the owner and the City can come to a mutual agreement to waive the prescribed event restrictions.

Staff reviewed the Cultural Heritage Impact Assessment submitted with the application and, based on an additional review, made minor revisions to the proposed Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, as per Appendix “B” attached to Report PED23148). Over the course of late-June and early-July 2023, staff had a number of detailed email communications with the owner about the details of the designation process and anticipated timing of bringing forward a recommendation to designate and advised them of the timing of this Report. On July 19, 2023, staff provided the owner with a copy of the revised document for their consideration and feedback and explained the scope of heritage attributes proposed to be protected as part of the designation. Feedback was received by the applicant and their consultant on August 10, 2023, which has been incorporated into this Report.

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*, as amended by *Ontario Regulation 569/22*);
- 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;
- Policy and Design Working Group of the Hamilton Municipal Heritage Committee; and,
- Inventory and Research Working Group of the Hamilton Municipal Heritage Committee.

Internal

In addition, Planning staff have emailed the Ward Councillor (Councillor A. Wilson) for Ward 13 and provided an overview of the reasons for designation and the process for designating a property.

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 two or more of the Criteria for Determining Cultural Heritage Value or Interest prescribed in *Ontario Regulation 9/06*, as amended by *Ontario Regulation 569/22*, which identifies

nine criteria related to three broad categories: Design / Physical Value; Historical / Associative Value; and, Contextual Value. A Cultural Heritage Impact Assessment was prepared by Archaeological Research Associates Ltd., dated October 7, 2022, as part of the *Planning Act* application process (see Appendix “C” attached to Report PED23148). The Cultural Heritage Impact Assessment evaluated the subject property using *Ontario Regulation 9/06* and determined that it has cultural heritage value or interest.

Cultural Heritage Planning staff are of the opinion that the subject property has sufficient cultural heritage value to warrant designation under Part IV of the *Ontario Heritage Act* and have prepared a comprehensive Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes attached as Appendix “B” to Report PED23148. The Statement of Cultural Heritage Value or Interest reflects the recommendations of the applicant-submitted Cultural Heritage Impact Assessment with minor revisions resulting from additional research conducted by staff, attached as Appendix “E” to Report PED23148.

As outlined below, based on the Cultural Heritage Impact Assessment and staff’s cultural heritage evaluation, it was determined that the subject property met six of the nine criteria contained in *Ontario Regulation 9/06* in all three categories:

Design / Physical Value

1. The subject property has design and physical value as a representative example of a Georgian style cottage residence, with a unique locally-known variation of being asymmetrical. The property features a three-bay façade, box like massing, brick cladding, a side gable roof and rectangular window openings, which reflect the Georgian style of architecture. It is one of numerous late-Georgian cottages of this form built for working class families throughout Dundas.
2. The subject property has design or physical value because it displays a high degree of craftsmanship. The property features brick cladding laid in the Flemish bond with English corner details, which is a more difficult bond-type to execute. The property also features decorative cross brickwork in a decorative band below the eaves.
3. The property does not appear to demonstrate a high degree of technical or scientific achievement.

Historical / Associative Value

4. The subject property has historical or associative value because it has direct associations with the settlement of the Town of Dundas and its tradespeople. The structure is representative of the conditions in which working families lived. The house has been both rented out to single families and functioned as a boarding house.
5. The property contributes to an understanding of working-class immigrants in Dundas and the greater Hamilton area, particularly tradespeople.
6. The property does not appear to reflect the work of a significant architect, artist, builder, designer or theorist.

Contextual Value

7. The property has contextual value as it helps maintain the historic residential character of downtown Dundas.
8. The property is historically and visually linked to its surroundings, located along the prominent historic transportation corridor of King Street, and having been historically rented out to local tradespeople.
9. The property is not considered to be a landmark.

Staff have determined that 215 King Street West, Dundas is of cultural heritage value or interest sufficient to warrant designation under Part IV of the *Ontario Heritage Act* and recommend designation according to the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix “B” to Report PED23148.

Staff note that the ongoing Zoning By-law Amendment and Draft Plan of Subdivision Applications are prescribed events under the *Ontario Heritage Act*, and if recommended for designation, the City will not be able to issue a Notice of Intention to Designate until after the prescribed events are complete, or unless the owners enter into a mutual agreement to eliminate or extend the prescribed event timelines. At the time of preparing this Report, staff were working with the property owner to finalize the mutual agreement.

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 the property to be an appropriate conservation alternative.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23148 – Location Map

Appendix "B" to Report PED23148 – Statement of Cultural Heritage Value or Interest
and Description of Heritage Attributes

Appendix "C" to Report PED23148 – Cultural Heritage Impact Assessment Report

Appendix "D" to Report PED23148 – Photographs

Appendix "E" to Report PED23148 – Sources

LC:MO/sd