



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Committee Members Hamilton Municipal Heritage Committee
<b>COMMITTEE DATE:</b>	September 26, 2023
<b>SUBJECT/REPORT NO:</b>	Recommendation to Designate 54 and 56 Hess Street South, Hamilton, under Part IV of the <i>Ontario Heritage Act</i> (PED23218) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Meg Oldfield (905) 546-2424 Ext. 7163 Alissa Golden (905) 546-2423 Ext. 1202
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the City Clerk be directed to give notice of Council's intention to designate 54 and 56 Hess Street South, Hamilton, shown in Appendix "A" attached to Report PED23218, as properties 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 PED23218, subject to the following:

- (a) For each property that receives no objections 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) For each property that receives any objection to the notice of intention to designate 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 54 and 56 Hess Street South, Hamilton, comprised of a circa 1852 semi-detached stone building, under Part IV of the *Ontario Heritage Act*. The Report was prepared in response to a request to designate the properties and an unsafe Order to Comply for the vacant half of the semi at 54 Hess Street South. The subject properties are currently listed on the City's Municipal Heritage Register (Register).

Staff have completed an evaluation of the subject properties using *Ontario Regulation 9/06* and determined that they have 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 PED23218. Should the properties be designated, they would be eligible for the City's financial incentives for heritage properties and subject to the City's Built Heritage Emergency Protocol, as well as the policies for vacant designated properties in the City's consolidated Property Standards By-law No. 10-221.

### **Alternatives for Consideration – See Page 6**

## **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)).

Designated heritage properties are also subject to additional provisions under the City of Hamilton's Property Standards By-law No. 10-221 intended to prevent demolition by neglect and the Council-adopted Built Heritage Emergency Management Protocol (see Report PD05122), which outlines procedures for the management of heritage buildings in situations subject to an Emergency Order or Unsafe Order under the *Ontario Building Code Act*.

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 properties located at 54 and 56 Hess Street South, Hamilton, shown in Appendix "A" attached to Report PED23218, are comprised of a semi-detached two-and-a-half storey stone building constructed circa 1852. The subject properties were first surveyed for potential heritage interest in the 1980s.

In 2014, as part of the Downtown Hamilton Built Heritage Inventory project (see Report PED14191), 54 and 56 Hess Street South were identified as having cultural heritage value or interest and were listed on the Register. At its meeting on May 28, 2021, the Hamilton Municipal Heritage Committee approved the recommendation made by the Inventory and Research Working Group that 54 and 56 Hess Street South be added to staff's designation work plan as a high priority. On June 23, 2021, City Council approved the recommendation as part of Planning Committee Report 21-010.

As a result of the *Bill 23* changes to the *Ontario Heritage Act*, the former staff workplan for designation was rescinded and replaced with a new public list of Candidates for Designation under Part IV of the *Ontario Heritage Act* (see Report PED22211(a)), at which time 54 and 56 Hess Street South were reprioritized for review for designation by January 1, 2025. In a letter dated July 26, 2023, Cultural Heritage Planning staff notified each of the property owners of the changes to the City's heritage designation process and the reprioritization of staff's review of the properties for designation.

On September 1, 2023, Building staff issued an Order to Comply for 54 Hess Street South to address the unsafe condition of the building, requiring the owner to take action to make the building safe by September 15, 2023.

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On September 13, 2023, staff notified each of the property owners of 54 and 56 Hess Street South of the recommendation to designate and the Hamilton Municipal Heritage Committee meeting date that the recommendation would be considered.

## **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 Owners.

### **Internal**

- Planning and Economic Development Department, Building Division, Building Inspections; 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 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 in three broad categories: Design / Physical Value; Historical / Associative Value; and, Contextual Value. The evaluation of cultural heritage value or interest of

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the subject properties were completed by Cultural Heritage Planning staff based on a site visit of the exterior of the properties conducted on August 30, 2023 (see photographs attached as Appendix “C” to Report PED23218) and available secondary and primary research sources (attached as Appendix “D” to Report PED23218). As outlined below, based on staff’s cultural heritage evaluation, it was determined that the subject properties meet 6 of the 9 criteria contained in *Ontario Regulation 9/06* in all three categories.

### **Design / Physical Value**

1. The properties are comprised of a semi-detached two-and-one-half-storey stone building constructed circa 1852 in the Second Empire architectural style. The properties have design value as an early and representative example of residential Second Empire style of architecture. The architectural features typical of, and influenced by, Second Empire architectural style include the: concave Mansard roof with octagonal dichromatic slate tiles, truncated chimneys, segmental dormers with pressed-metal hoods and keystones, and wood cornice with dentils, decorative brackets and moulded frieze.
2. The properties display a high degree of craftsmanship as demonstrated by the concave Mansard roof with octagonal dichromatic slate tiles, pressed metal window hoods and keystones, wood cornice with dentils, decorative brackets and moulded frieze.
3. The properties do not appear to demonstrate a high degree of technical or scientific achievement.

### **Historical / Associative Value**

4. The properties have historical value for their association with the original owner, Robert McElroy (1810-1881). McElroy, a contractor by trade, owned a stone quarry on the Mountain and in the 1850s was awarded a contract to construct a section of the Great Western Railway. McElroy served as alderman between 1849-1851, 1853-1855, and 1861, and as mayor of Hamilton between 1862 and 1864. While McElroy himself resided in the southern half of the semi-detached dwelling between circa 1854 and circa 1864, the properties remained in the family for over 70 years until 1929. This continuous ownership is significant and has played a part in maintaining the historic integrity of the building over time.
5. The properties do not appear to yield or have the potential to yield, information that contributes to the understanding of a community or culture.

6. The properties do not appear to demonstrate or reflect the work or ideas of an architect, artist, builder, designer, or theorist significant to the community.

### **Contextual Value**

7. The properties are considered important in defining the character of the area. The setting of the properties helps define the historic and distinctive character of Hess Street South, standing out from the surrounding mid-twentieth century mixed-use streetscape.
8. The properties are historically and visually linked to their surroundings as part of the surviving mid-nineteenth to early-twentieth century residential Hess Street South streetscape that was redeveloped for commercial purposes in the late-twentieth century.
9. The properties are considered to be local landmarks due to their prominent location on the corner of Hess Street South and Main Street West, with a shallow setback and at the high point of Main Street.

Staff have determined that 54 and 56 Hess Street South, Hamilton are 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 PED23218.

### **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, one or both of the properties, 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 properties 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 either of the properties to be an appropriate conservation alternative.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED23218 – Location Map

Appendix "B" to Report PED23218 – Statement of Cultural Heritage Value or Interest  
and Description of Heritage Attributes

Appendix "C" to Report PED23218 – Photographs

Appendix "D" to Report PED23218 – Research Sources

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