



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	October 20, 2023
SUBJECT/REPORT NO:	Heritage Permit Application HP2023-041, Under Part V of the <i>Ontario Heritage Act</i> , for the Erection of a New Front Detached Accessory Structure at 79 Markland Street, Hamilton (PED23223) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Lisa Christie (905) 546-2424 Ext. 1291
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Heritage Permit Application HP2023-041, for the erection of a front detached accessory structure on the designated property at 79 Markland Street, Hamilton (Durand-Markland Heritage Conservation District), as shown in Appendix "A" attached to Report PED23223, be approved, subject to the approval of any required *Planning Act* applications and the following Heritage Permit conditions:
- (i) That the final details for the proposed stucco be submitted to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation;
 - (ii) 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 and / or the commencement of any alterations;
 - (iii) That construction and site alterations, in accordance with this approval, shall be completed no later than November 30, 2025. If the construction

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and site alterations are not completed by November 30, 2025, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

EXECUTIVE SUMMARY

The subject property located at 79 Markland Street, 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 PED23223). 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 front detached accessory structure.

Staff recommend approval of Heritage Permit Application HP2023-041, subject to the final details for the proposed stucco 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); and,

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 PED23223) 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, detached accessory structure at the front of the property in place of the existing surface parking area.

The Heritage Permit Review Sub-committee of the City’s Hamilton Municipal Heritage Committee reviewed this application at their meeting on June 20, 2023, along with the supporting materials submitted with the application and did not recommend approval. The Heritage Permit Review Sub-committee moved a motion to recommend approval

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subject to an added condition that would seek an improved design to the original proposal, which failed in a vote of 2-6. The concerns about the application raised by the Heritage Permit Review Sub-committee members during the meeting were primarily related to the height and scale of the proposed new construction.

Subsequently the owner withdrew their application on July 6, 2023. On August 1, 2023, a new Heritage Permit Application (HP2023-041) was submitted requesting approval to erect a new, detached accessory structure at the front of the property in place of the existing surface parking area. The supporting materials provided with the Heritage Permit Application are attached as Appendix “B” to Report PED23223.

The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee reviewed HP2023-041 at their meeting on September 19, 2023, along with the supporting materials submitted with the application (attached as Appendix “B” to Report PED23223) and recommended approval.

The Notice of Receipt of complete application was issued on September 21, 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;

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- 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

- Property owner/applicant; and,
- Heritage Permit Review Sub-Committee of the Hamilton Municipal Heritage Committee.

In addition, Planning Staff emailed the Councillor (Kroetsch) for Ward 2 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 application, as submitted, was supported by the Heritage Permit Review Subcommittee and that a subsequent staff report was forthcoming to the October 24, 2023, Hamilton Municipal Heritage Committee meeting.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Heritage Permit Application HP2023-041 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 PED23223), in accordance with the supporting materials submitted with the application (attached as Appendix "B" to Report PED23223):

- Construction of a detached garage structure at the front yard of the property, including:
 - Removal of existing parking pad;
 - New concrete pad and foundation;
 - New hip roof on north elevation with a hip roofed dormer and a west facing gable, clad in asphalt shingles; and,
 - New stucco siding to match existing house.

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 HP2023-041 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 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 on front north-east corner of the property, as shown in the site plan drawing attached as part of Appendix “B” to Report PED23223 and will not result in the displacement or removal 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 be visible from the street when looking south at the property. The proposed accessory structure will block views of the historic home from the public right of way within the Heritage Conservation District Plan from Markland Street. Staff are of the opinion that the proposed accessory structure will change the setting of the Durand Markland Heritage Conservation District, however modifications to the original design have been made to mitigate impacts to the setting of the Durand-Markland Heritage Conservation District.

The proposed design of the accessory structure, as submitted, features a height of 4.5 metres (14.9 feet), a hip roof with a west facing gable and a hipped dormer on the north elevation, stucco siding and paired, fixed windows. Staff consider the overall height of the structure to be compatible with the Heritage Conservation District Plan guidelines for accessory structures. Changes have been made to the original design submission which help to mitigate visual impacts that might impede the view of the principal historic dwelling. To further mitigate visual impacts staff would be supportive of removing the north facing dormer.

The style of the proposed windows and siding materials incorporate features that are sympathetic to the character of the area and respect the District’s guidelines that new buildings do not attempt to replicate historical facades. The applicant has provided a description and samples of the proposed style of the windows and garage door to be installed on the accessory structure.

Recommendation

Heritage Permit Application HP2023-041 is for the construction of a new detached accessory structure at the front of the subject property and requires a decision of Council, as advised by the Hamilton Municipal Heritage Committee. The Heritage Permit Review Subcommittee recommended approval of the application.

Staff recommend that final details of the stucco siding be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation and 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 and / or the commencement of any alterations (as per Recommendation (a)(i) and (ii) of Report PED23223). Staff also recommend that the Heritage Permit have an expiry date of November 30, 2025 (see Recommendation (a) (iii) of Report PED23223). This expiry date reflects the expected end date of the new construction.

Finally, staff recommend that the application be approved subject to the approval of any *Planning Act* applications required for its implementation (see Recommendation (a) of Report PED23223).

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 staff are recommending conditions of approval to ensure that the proposal minimizes any disruptive impacts to the character of the Durand-Markland Heritage Conservation District Plan and conforms to the Durand-Markland Heritage Conservation District Plan Guidelines for the erection of new structures.

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 Heritage Permit conditions sufficiently address the potential disruptive impacts of the proposal and the feedback received by the Heritage Permit Review Subcommittee during their review of the application.

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 requiring changes to the proposal as part of the conditional approval to ensure that the massing, height and design details are addressed to minimize the potential disruptive impacts of the new construction on the character of the Durand-Markland Heritage Conservation District Plan.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23223 - Location Map

Appendix "B" to Report PED23223 - Application Submission Materials (Personal Information Redacted)

LC/sd