



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 HP2023-036, Under Sections 33 and 34 of the <i>Ontario Heritage Act</i> , for the Adaptive Reuse of the Former Delta Secondary School Building (circa 1924), Removal of the Rear Additions (circa 1948-1950), Construction of New Four-Storey Rear Additions and Modifications to the Landscape at 1284 Main Street East, Hamilton (PED23224) (Ward 4)
WARD(S) AFFECTED:	Ward 4
PREPARED BY:	Emily Bent (905) 546-2424 Ext. 6663
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Heritage Permit Application HP2023-036 for the adaptive reuse of the former Delta Secondary School Building (circa 1924), removal of the rear additions (circa 1948-1950), construction of new four storey rear additions and modifications to the landscape at 1284 Main Street East, Hamilton, under Sections 33 and 34 of the *Ontario Heritage Act*, be **refused**.

EXECUTIVE SUMMARY

This Report recommends refusal of Heritage Permit Application HP2023-036, for the adaptive reuse and rehabilitation of the former Delta Secondary School (circa 1924), removal of the rear additions (circa 1948-50), construction of new four-storey rear additions and modification of the landscape to facilitate new residential development at 1284 Main Street East, Hamilton (see Appendix “A” attached to Report PED23224). The subject property is designated under Part IV of the *Ontario Heritage Act* by By-law No. 14-077 (see Appendix “B” attached to Report PED23224).

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The Heritage Permit Application was submitted in conjunction with *Planning Act* applications for redevelopment of the subject property, including Urban Hamilton Official Plan Amendment Application UHOPA-23-006 and Zoning By-law Amendment Application ZAC-23-012. The Heritage Permit Application was being processed in parallel with the *Planning Act* applications, as they are inter-related and have implications on whether they are supportable from a heritage perspective. However, the *Planning Act* applications were appealed for non-decision to the Ontario Land Tribunal on August 31, 2023.

Staff do not support demolition of a Part IV building without the required policy and zoning by-law amendments in place to facilitate a development proposal, without which would see the demolition completed without a Council approved concept in place. As such, staff recommend that Heritage Permit Application HP2023-036 be refused until such time as the appeal of the related *Planning Act* Applications has been resolved.

Alternatives for Consideration – See Page 12

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: The *Ontario Heritage Act* requires that the City make a decision on a Heritage Permit Application 90 days after a Notice of Complete Application is served on the applicant, or after the end of a 60-day period from the day an application is received if it is not deemed complete within that period. The subject Heritage Permit Application HP2023-036 was received on June 29, 2023. A Notice of Complete Application was issued on August 22, 2023.

By-law No. 05-364, as amended by By-law No. 07-322, delegates the power to consent to alterations to designated property under the *Ontario Heritage Act* to the Director of Planning and Chief Planner. However, the delegated powers in Section 1 do not include the power to refuse an application or to approve an application under Section 34(1)1 to demolish or remove any of the property's heritage attributes. The subject application includes scopes of work under Section 33 (alteration of property) and Section 34 (demolition or removal) of the *Ontario Heritage Act* and will therefore require a decision of Council, as advised by the Hamilton Municipal Heritage Committee.

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As per Section 34(4.2), the notice of Council's decision will be required to be served on the owner of the property, the Ontario Heritage Trust and shall be published in a newspaper having general circulation in the municipality. If Council consents to the application subject to terms or conditions, or refuses the application, the owner of the property may appeal Council's decision to the Ontario Land Tribunal within 30 days of receiving notice of Council's decision.

HISTORICAL BACKGROUND

The subject property located at 1284 Main Street East, Hamilton (see Appendix "A" attached to Report PED23224) was designated under Part IV of the *Ontario Heritage Act* in 2014 by By-law No. 14-077 (see Appendix "B" attached to Report PED23224). The Heritage Attributes identified in the designation By-law include the exterior of the original 1924 Neo-Gothic school building and its rear auditorium, the exterior of the circa 1948-50 rear additions and landscape features, including the open space of the front lawn. Interior features of the circa 1924 building include the front vestibule's doorways and vaulted plaster ceiling, the front lobby's marble floor and baseboard and doorways to the east-west corridor and to the auditorium, all original features of the auditorium, the ramped corridors running along the auditorium's outer east and west walls, the layout of the other corridors and their marble baseboards, the four cast-iron marble stairways with natural light, the fenestration and layout of the room atop the tower (known as the Alumni Room) and its marble staircase, and the pattern of wood trim in the classrooms. The wood-block floors in the woodworking rooms of the southwest wing of the rear addition are also identified as interior Heritage Attributes.

On November 15, 2022, the Heritage Permit Review Subcommittee considered a preliminary proposal to redevelop the subject property as part of a pre-submission discussion. In 2023, the City received Urban Hamilton Official Plan Amendment (UHOPA-23-006) and Zoning By-law Amendment (ZAC-23-012) applications for residential redevelopment of the subject property, which includes the rehabilitation of the original 1924 school building and its adaptation for residential uses. The proposal contemplates the removal of the designated 1949-1950 rear additions to integrate residential towers into the rear of the original 1924 building connected by new four storey rear additions, as well as the introduction of townhouses on the perimeter of the site fronting onto Graham Avenue South, Maple Avenue and Wexford Avenue South.

The subject Heritage Permit Application HP2023-036 was received on June 29, 2023, including a supporting Cultural Heritage Impact Assessment and Heritage Permit Review Subcommittee presentation slides prepared by ERA Architects (attached as

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Appendix “C” and “D” to Report PED23224). Further to the submitted materials, Cultural Heritage staff and ERA agreed that the Urban Design Brief and Planning Justification Report (attached as Appendix “E” and “F” to Report PED23224) that accompanied the Urban Hamilton Official Plan and Zoning By-law Amendment applications should also be included in the materials circulated to Heritage Permit Review Subcommittee members ahead of the meeting. A Notice of Complete Application was issued on August 22, 2023.

The Heritage Permit Review Subcommittee of the Hamilton Municipal Heritage Committee reviewed the subject application at their meeting on August 29, 2023. After a presentation and question and answer period with the applicant’s agent and consultant, the Heritage Permit Review Subcommittee passed a motion by a vote of 5-3, recommending conditional approval of the Heritage Permit Application. The Heritage Permit Review Subcommittee members noted that a future Conservation Strategy should include details for interim protection, mothballing and stabilization of the original 1924 building following demolition of the 1948-1950 additions designed by renowned Hamilton architects Prack & Prack (see Analysis and Rationale Section). While the Subcommittee voted to approve the Heritage Permit, those who abstained did not want to see the Prack & Prack additions removed.

The related *Planning Act* applications for redevelopment of the subject property were appealed to the Ontario Land Tribunal for non-decision on August 31, 2023.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Recommendations of this Report are consistent with Provincial and Municipal legislation, policy and direction, 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 built heritage resources for present and future generations (Urban Hamilton Official Plan, Volume 1, Chapter B, 3.4.2.1(a)); and,
- Encouraging the retention and conservation of significant built heritage resources in their original locations when considering *Planning Act* applications and heritage permit applications under the *Ontario Heritage Act* (Urban Hamilton Official Plan, Volume 1, Chapter B, 3.4.5.2).

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RELEVANT CONSULTATION

External

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

Internal

- Corporate Services Department, Legal Services Division, Legal and Risk Management Services; and,
- Ward 4 Councillor.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The subject Heritage Permit Application HP2023-036 is for the adaptive reuse of the former Delta Secondary School Building (circa 1924), removal of the rear additions (circa 1948-1950), construction of new four-storey rear additions and modifications to the landscape at 1284 Main Street East, Hamilton, a Part IV designated property. The subject Heritage Permit Application HP2023-036 is required to implement redevelopment of the subject site proposed as part of the related *Planning Act* applications (see Historical Background Section). In support of the Heritage Permit Application, the following documents were submitted:

- Completed Heritage Permit Application Form, dated June 29, 2023;
- Cultural Heritage Impact Assessment, prepared by ERA Architects on June 19, 2023 and revised August 1, 2023, attached as Appendix “C” to Report PED23224;
- Heritage Permit Review Subcommittee Presentation Slides, prepared by ERA Architects on August 15, 2023 and revised August 29, 2023;
- Urban Design Brief, prepared by Whitehouse Urban Design dated November 2022; and,
- Planning Justification Report prepared by GSP Group dated December 2022.

Staff reviewed the subject application and supporting materials and determined that the proposal is requesting Heritage Permit approval for the following scope of work under Sections 33 and 34 of the *Ontario Heritage Act*:

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1. Retention of the original 1924 school building and its adaptation for residential use, including:
 - a. Rehabilitation and renovation of the doors, windows, masonry and roof of the exterior of the building, including:
 - i. Rehabilitation and reglazing the original main entrance and lobby doors, transoms, and associated hardware, and refinishing wood;
 - ii. Removal of all contemporary windows and replacement with new wood sash windows, similar to original design;
 - iii. Removal of the contemporary steel doors on east and west elevations and replacement with new glazed wood doors, similar to original designs;
 - iv. Introduction of new metal windows in the existing infilled openings, similar to original design (courtyard facing clerestory windows in auditorium that have been bricked in);
 - v. Removal of the contemporary steel windows and replacement with new metal windows, similar to original design (courtyard facing steel windows and tower [alumni room] windows);
 - vi. Masonry cleaning to address areas of soiling, staining, paint, efflorescence and algae;
 - vii. Masonry repointing, including selective repair of damaged, chipped, spalled, or cracked bricks, full repoint mortar joints (at base of all exterior walls, all exterior steps), and selective repointing mortar joints, where required;
 - viii. Rebuilding of masonry at areas of where demolition of the rear wings will occur and in areas with mismatched bricks (courtyard walls) with salvaged bricks;
 - ix. Repair of cracked, spalled, and delaminated stone units;
 - x. Repair of areas of spalled, damaged, or cracked stucco finish;
 - xi. Rehabilitation of metal work, including stripping paint, removing rust and repainting (handrails, gate);
 - xii. Replacement of all raingear, eaves and downspouts with new prefinished metal;
 - xiii. Installation of new metal flashings at copings, reglets, eaves, roofs, cornices and other projections;
 - xiv. Replacement of the existing pitched roof membrane above the auditorium with a new standing seam metal roof;
 - xv. Repair of the existing concrete roof decks, as required;
 - xvi. Replacement of the existing flat roof membrane, in kind;

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- xvii. Restoration of the original exterior light fixtures at the main entrance;
 - xviii. Introduction of new exterior lighting fixtures; and,
 - xix. Introduction of new bird deterrence protection on all exterior projections (entrance portal).
- b. Rehabilitation and renovation of the interior of the building, including:
- i. Rehabilitation of the interior stairwells, including:
 - Striping, rust removal and repainting of the existing metal balustrade pickets, newel posts and stringers;
 - Striping and repainting existing wood handrails;
 - Introducing a new solid metal rod above existing handrails to meet building code height requirements;
 - ii. Introduction of privacy glazing at stairwell windows facing residential suites;
 - iii. Restoration of plaster ceilings and wall elements in the lobby and alumni [tower] rooms;
 - iv. Renovations to the auditorium, including:
 - Rehabilitation of the stage proscenium's decorative arched opening and surround, mezzanine and seating areas;
 - Conservation of the decorative plaster ceilings and mouldings;
 - Installation of a new floating floor system above the existing sloped floor, to be installed in a reversible manner;
 - Removal and salvaging of the existing wood doors and casings and modification of the openings to suit the new floor level;
 - v. Modification of the room layouts, including removal of and salvaging of wood baseboards, trim, moulding for use in repairs and fabrication of new matching trim where needed.
2. Removal of the 1948-1950 rear additions, including:
- c. Dismantling and salvaging of bricks from façades to be demolished in sufficient quantity to facilitate conservation work of retained 1924 portion; and,

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- d. Panelize and salvaging of the wood block floor from the woodworking shop for future interpretive reuse;
2. Reduction of the rear yard open space to two publicly-accessible parkettes at the southeast and southwest corners to accommodate the construction of new townhouses and residential towers, including the retention and integration of the arched canopy at the northwest corner of Graham Avenue South and Maple Avenue;
3. Construction of two new rear east and west wings to be attached to the rear of the 1924 building by contemporary four storey connections; and,
4. Removal of the side yard surface parking to allow for construction of new townhomes and additional grassed open space, to enhance views to the east and west side façades of the 1924 building.

Recommendation for Refusal

As mentioned, Heritage Permit Application HP2023-036 was submitted in conjunction with *Planning Act* applications for redevelopment of the subject property, including Urban Hamilton Official Plan Amendment Application UHOPA-23-006 and Zoning By-law Amendment Application ZAC-23-012. The intention was for the Heritage Permit to be processed in parallel with the related development applications to ensure that the overall proposal was supportable from a heritage perspective.

However, given that both *Planning Act* applications were appealed for non-decision to the Ontario Land Tribunal on August 31, 2023, and that these applications were intended to facilitate the proposal for Heritage Permit Application HP2023-036, processing the Heritage Permit Application at this time is now considered to be premature. Staff do not support the demolition of this Part IV building without the required policy and zoning amendments in place. As such, staff recommend that Heritage Permit Application HP2023-036 be refused, until such time as the appeal of the related *Planning Act* Applications has been resolved.

Analysis of Alternative for Consideration: Approval of the Heritage Permit Application with Conditions

Should the alternative to approve the Heritage Permit Application with conditions be considered, the following provides an analysis of that alternative (see Alternatives for Consideration on Page 12 of Report PED23224).

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Key factors that are considered in the evaluation of any changes affecting a heritage resource are:

- Displacement effects: those adverse actions that result in the damage, loss, or removal of valued heritage features; and,
- Disruption effects: those actions that result in detrimental changes to the setting or character of the heritage feature.

Adaptive Reuse of the 1924 Building and New Rear Connections

Minimal displacement effects are expected for the 1924 school building, designed by distinguished Hamilton architects Gordon Hutton and William Souter, which will be retained in-situ. Given the existence of the 1948 rear additions, portions of the south façades of the original 1924 building have already been removed to facilitate the previous extension, and the proposal contemplates a connection to the 1924 building using the existing openings. The proposal maintains all of the exterior heritage attributes, proposing to repair features that are in disrepair, to make in-kind replacements for existing metal windows, and to replace less sympathetic windows and doors with new wood windows and doors. Interior features requiring rehabilitation, such as plaster ceilings, are proposed to be restored. Although modifications are proposed to the auditorium's heritage attributes, such as the installation of a new floating floor, these modifications will be made in a manner that is reversible. Cultural Heritage Staff are supportive of this approach given that these interventions will allow for the auditorium to be adaptively reused as an amenity space and that the interventions could be reversed in the future.

The construction of the two new four-storey rear east and west wings propose similar footprints and siting as the existing 1948-1950 rear additions. The Cultural Heritage Impact Assessment notes that a contemporary and sympathetic interface is proposed between the retained 1924 school building and the new additions, including a material palette of predominately dark grey aluminum and glass that is set back from the east and west elevations of the original building to maintain its legibility. The new additions will function as four storey podiums for the proposed towers. The four storey additions are intended to be clad in sympathetic masonry, with window openings and datum lines that respond to the fenestration patterns and height of the retained 1924 building. The Cultural Heritage Impact Assessment also notes that the design of the towers above the podium have not been finalized and that compatibility with the retained 1924 building will be prioritized. Therefore, the contemporary integration of the two new wings with the original 1924 building, together with a sympathetic four storey podium, attempts to

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minimize disruption effects on the retained heritage attributes and achieve a balance of the proposal's intensification and heritage objectives. Staff are supportive of the consultant's approach to further revise the design of the towers and encourage a sympathetic materiality and fenestration pattern.

Removal of the 1948-1950 rear additions

The removal of the 1948-1950 additions will result in the permanent loss of all listed heritage attributes of the portion of the building designed by renowned Hamilton architects Prack & Prack. The Conservation Strategy in the Cultural Heritage Impact Assessment notes that "good quality bricks from the façades to be demolished in sufficient quantity" will be dismantled and salvaged to facilitate the conservation work on the retained 1924 structure. Further, the woodblock floor will be panelized and salvaged for future interpretative reuse, details of which will be included in the forthcoming Conservation Plan.

The removal of the 1940-1950 additions will result in the ultimate displacement effect, permanent loss of identified heritage attributes. It is staff's understanding that the removal of these additions is the only way to facilitate the quantity of below grade parking identified for the residential intensification proposal, as per the supporting documentation from the applicant. In the Cultural Heritage Impact Assessment, ERA notes that it is their professional opinion that "the additions designed for Delta Collegiate do not exemplify the quality of [Prack & Prack's] work to the extent that they must be retained," supporting their recommendation to remove the 1948-1950 additions. Staff acknowledge the attempt to balance residential intensification of a site with access to transit, while adaptively reusing and rehabilitating an underutilized heritage resource. Ultimately, while Cultural Heritage staff are of the opinion that a proposal to adaptively reuse the existing buildings without any demolition would also add residential density to the site while maintaining the integrity of the Prack & Prack additions, staff recognize that striking a balance between the planning rationale for the related development applications with the desire to retain the on-site cultural heritage resource requires a compromise. However, staff respectfully disagree with the assessment of the 1948-1950 additions designed by Prack & Prack within the Cultural Heritage Impact Assessment.

During its consideration of Heritage Permit HP2023-036, the Heritage Permit Review Subcommittee raised concerns regarding the temporary hoarding measures to seal the building once demolition of the 1948-1950 additions were removed. Proposed Condition (i) identified in the Alternatives for Consideration Section of Report PED23224 would address those concerns by requiring a fulsome Conservation Plan be submitted

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to the satisfaction of staff. Further, Condition (ii) requires securities prior to issuance of a demolition permit for the 1948-1950 additions, ensuring that the City will have the finances to administer the recommended conservation measures outlined in the forthcoming Conservation Plan should the owner fail to complete the required works.

Modifications to the Landscape

The front lawn open space will be fully retained to preserve the siting of the existing 1924 building and its relationship to the street, thereby mitigating any disruption effects from the public realm along Main Street East. Further, portions of the protected open space in the westerly and easterly side yards that are currently being used as parking lots will be grassed, with a subset of the protected side yards removed to facilitate the proposed development. Given that this intervention will eliminate the existing paved areas and increase the grassed open space connected to the front lawn, staff consider this disruption effect to be minimal.

Regarding the rear yard open space, a listed heritage attribute, displacement effects are intended to be minimized by the preservation of publicly-accessible space in the form of two parkettes at the southeast and southwest corners of the site, as well as retaining the arched canopy at the northwest corner of Graham Avenue South and Maple Avenue. As part of the Cultural Heritage Impact Assessment, ERA performed a cultural heritage evaluation using *Ontario Regulation 9/06* to use their own professional opinion to evaluate the site's heritage attributes, with their findings pointing to a lack of perceived heritage value in the publicly accessible open space in the rear yard. While Cultural Heritage staff disagree with this evaluation, upholding the list of attributes in the 2014 designation by-law, given the nuance of this application, the removal of parking lots to be partially returned to greenspace in the side yards as well as the proposed outdoor amenity space at the centre of the site, staff are supportive of the proposal.

Disruption effects are intended to be minimized through the proposed publicly accessible parkettes which will preserve the existing landscaped access to the site from the southeast and southwest corners. While the proposed townhouses will replace the previous open space used by the public, their low-rise form and sympathetic materials provide an appropriate transition to the surrounding neighbourhood, thereby minimizing impacts to the retained 1924 building, its grounds and neighbouring heritage resources. Portions of the protected open space in the westerly and easterly side yards that are currently used for parking lots will be grassed, which will increase greenspace on the site and the connection from the side yards to the front lawn along Main Street East.

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Other portions of the side yards used for parking will be removed and replaced with the new four storey podiums. Given that the areas for the new podiums are not removing existing landscaping and the proposal for the new wings and additional landscaping is sympathetic to the retained 1924 building, staff consider the disruption and displacement effects of this intervention to be minimal.

Conclusion of Analysis of Alternative for Consideration

Should the alternative to approve the Heritage Permit Application subject to conditions be considered, staff proposed conditions of the approval to ensure that the outstanding concerns of staff and the Heritage Permit Review Subcommittee are addressed, as identified in Conditions (i) through (iii) in the Alternatives for Consideration Section of this Report. Condition (i) would ensure that a Conservation Strategy is prepared to the satisfaction of staff prior to the application for any building permits. Further, Condition (ii) would allow for the taking of securities for the proposed conservation works prior to the issuance of any building permits. The proposed conditions for the alternative for consideration also include the standard Heritage Permit Conditions (iv) through (vi), that would allow for any minor changes to be submitted through staff for approval, would have the permit expire if a building permit for demolition is not issued and acted upon within two years, and would allow for the extension of the conditional approval of the permit if requested before it expires, at the discretion of the Director of Planning and Chief Planner. The additional recommendations would ensure that the Director of Planning and Chief Planner has the authority to enter into the necessary agreements to implement the conditions of Heritage Permit approval.

ALTERNATIVES FOR CONSIDERATION

- **Recommend Approval of the Heritage Permit with Conditions**

The Hamilton Municipal Heritage Committee may recommend that Council approve the Heritage Permit Application, subject to conditions of approval. Staff do not recommend this alternative because the related *Planning Act* applications for this proposal have been appealed to the Ontario Land Tribunal for non-decision. Should this alternative be considered, staff propose the following recommendations and conditions of approval to address the outstanding concerns raised by staff in the analysis of alternatives above and by the Heritage Permit Review Subcommittee:

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RECOMMENDATIONS

- (a) That Heritage Permit Application HP2023-036, under Sections 33 and 34 of the *Ontario Heritage Act*, for the adaptive reuse of the former Delta Secondary School Building (circa 1924), removal of the rear additions (circa 1948-1950), construction of new four storey rear additions and modifications to the landscape at 1284 Main Street East, Hamilton, be **approved** in accordance with the submitted Heritage Permit Application, subject to the following conditions:
- (i) That a Conservation Strategy prepared in accordance with the recommendations of the Cultural Heritage Impact Assessment prepared by ERA Architects, dated August 1, 2023, including a Conservation Plan, Interpretation Plan, Documentation and Salvage Report and Heritage Lighting Plan, be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to implementation of any of the related conservation measures or the application of any related Building Permit Application;
- (ii) That the following conditions with respect to cost estimates and security shall be satisfied prior to the issuance of a Building Permit to demolish the circa 1948-1950 rear additions:
- (1) The applicant shall provide cost estimates for 100% of the total cost of securing, protecting and stabilizing the retained circa 1924 building, the cost of monitoring and security for a period of four years and the total cost of restoration work and conservation measures of the retained designated portions. Such cost estimates shall be in the form satisfactory to the Director of Planning and Chief Planner, or be prepared in accordance with the Guides for estimating security requirements for landscaping and engineering;
- (2) The applicant shall calculate the lump sum security payment satisfactory to the City Solicitor for works to the satisfaction of the Director of Planning and Chief Planner;
- (3) The applicant shall provide a Financial Instrument for the security that is satisfactory to the City Solicitor such as the Letter of Credit (Policy), Surety Bond (Policy), or Certified

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Cheque/Bank Draft to the Director of Planning and Chief Planner for 100% of the total estimated cost as per condition (1) in a form satisfactory to the City's Finance Department (Development Officer, Development Charges, Programs and Policies) to be held by the City as security for the completion of the on-site development works required in these conditions. Alternatively, the owner may choose to provide a lump sum payment for on-site works in accordance with condition (2) above;

- (4) The Security shall be kept in force, whether or not the ownership of 1284 Main Street East, Hamilton, changes at any time, until the completion of the required site development works in conformity with this Heritage Permit, and securities may be reduced in accordance with the approved Financial Instrument Policies by the City Solicitor. If the Security is about to expire without renewal thereof and the works have not been completed in conformity with their approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion unless the City Solicitor is provided with a replacement or renewal of the Security forthwith;
- (5) In the event that the Owner fails to complete, to the satisfaction of the Director of Planning and Chief Planner, the required site development works in conformity with this Heritage Permit within the time required, then the Owner shall permit the City, its employees, agents or contractors, at the City's sole option and in addition to any other remedies that the City may have, to enter on the lands and so complete the required site development works to the extent of monies received as Security. The cost of completion of such works shall be deducted from the monies obtained from the Security. In the event that there is a surplus, the City shall pay it forthwith to the Owner. In the event that there are required site development works remaining to be completed, the City may exercise its authority under (Section 446 of the *Municipal Act*) to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes and the Owner shall enter an agreement with the City to give effect to

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this Condition (5) and shall register this Agreement on title to the Property at the Owner's own expense;

- (iii) That the applicant shall provide the City with copies of any monitoring reports of the original 1924 building prepared in accordance with the Conservation Plan required as per Condition (a)(i), until the time of project completion, and that the scope of any remedial actions required to be taken shall be submitted to the satisfaction and approval of the Director of Planning and Chief Planner prior to implementation;
 - (iv) 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;
 - (v) That should a Building Permit for the demolition of the 1948-1950 additions, in accordance with this approval, not be obtained and acted upon 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;
 - (vi) That the Director of Planning and Chief Planner be authorized to approve a request to extend the dates noted in Condition (v) of this approval, if that request is submitted prior to the expiry and if progress is being made; and,
 - (vii) That the owner receives approval of an Official Plan Amendment, Zoning By-law Amendment and Site Plan Control Application, and any other required *Planning Act* applications, for the redevelopment of 1284 Main Street East prior to the issuance of a Building Permit to demolish the circa 1948-1950 rear additions.
- (b) That the Director of Planning and Chief Planner be authorized to execute an Agreement with the owner(s) of 1284 Main Street East, Hamilton, satisfactory to the City Solicitor, to be registered on title by the owner(s) and to give effect to Recommendation (a) (ii) (5) of Report PED23224;

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- (c) That the Director of Planning and Chief Planner is authorized to execute any required Agreements with the owner(s) and other necessary parties with respect to the Security required by Recommendation (a) (ii) of Report PED23224; and,
 - (d) That staff be directed to amend Designation By-law No. 14-077, being a by-law to designate 1284 Main Street East, Hamilton under Part IV of the *Ontario Heritage Act*, in accordance with subsection 30.1(2) of the *Ontario Heritage Act*, to update the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, as required, following the implementation of Heritage Permit Application HP2023-036.
- **Recommend Approval of the Heritage Permit with No Conditions**

The Hamilton Municipal Heritage Committee may recommend that Council approve the Heritage Permit Application with no conditions of approval. Staff do not recommend this alternative because the related *Planning Act* applications for this proposal have been appealed to the Ontario Land Tribunal for non-decision and, if approval were contemplated, the conditions outlined in the alternative above would address the outstanding concerns raised by staff and the Heritage Permit Review Subcommittee.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A” to Report PED23224 – Location Map
- Appendix “B” to Report PED23224 – Designation By-law No. 14-077
- Appendix “C” to Report PED23224 – Cultural Heritage Impact Assessment
- Appendix “D” to Report PED23224 – Heritage Permit Review Subcommittee Presentation Slides
- Appendix “E” to Report PED23224 – Urban Design Brief
- Appendix “F” to Report PED23224 – Planning Justification Report

EB:sd