



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Committee Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	October 20, 2023
SUBJECT/REPORT NO:	Heritage Permit Application HP2023-042 to Demolish the Remnant Structure at 1541 Fiddlers Green Road, Ancaster, and Recommendation to Repeal Designation By-law No. 84-55 under Section 31 of the <i>Ontario Heritage Act</i> (PED23220) (Ward 12)
WARD(S) AFFECTED:	Ward 12
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 HP2023-042, for the demolition of the designated property at 1541 Fiddlers Green Road, Ancaster, as shown in Appendix “A” to Report PED23220, be approved, subject to the following Heritage Permit condition:
- (i) That the applicant make every reasonable effort to facilitate salvaging any remaining heritage features as part of the demolition process as may be safely permitted, to the satisfaction and approval of the Director of Planning and Chief Planner;
- (b) That the City Clerk be directed to give notice of Council's intention to repeal By-law No. 84-55, being a by-law designating 1541 Fiddlers Green Road, Ancaster attached as Appendix “B” to Report PED23220, in accordance with the requirements of Section 31(3) of the *Ontario Heritage Act*, subject to the following:

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- (i) If no objections to the notice of intention to repeal are received in accordance with the *Ontario Heritage Act*, City Council directs staff to introduce the necessary by-law to repeal to City Council;
- (ii) If an objection to the notice of intention to repeal 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 repeal.

EXECUTIVE SUMMARY

This Report addresses Heritage Permit Application HP2023-042 to demolish what remains of the circa 1860 structure, known as the Forest Lane Farmers House and the Russel Christie House, located at 1541 Fiddlers Green Road, Ancaster, which is designated under Part IV of the *Ontario Heritage Act* by By-law No. 84-55. The designated heritage building located on the property was abandoned in 2015, suffered a fire in 2017, and is in an advanced state of disrepair. Under Section 34 of the *Ontario Heritage Act*, a Council decision is required for an application to demolish a building or structure on a designated property. A Condition Assessment and a Documentation and Salvage Report were provided in support of the Heritage Permit Application to demolish, indicating that the building is beyond the reasonable limits of repair from a logistical, feasibility and safety perspective, and providing comprehensive photo-documentation of the building. Staff recommend approval of Heritage Permit Application HP2023-042, subject to the applicant making every reasonable effort to facilitate salvaging any remaining heritage features as part of the demolition process as may be safely permitted, to the satisfaction and approval of the Director of Planning and Chief Planner, as discussed with the applicant and advised by the Heritage Permit Review Subcommittee.

This Report also recommends that Designation By-law No. 84-55 be repealed, in light of the recommendation to demolish the remnant circa 1860 structure on the property. Following demolition, the reasons for designation protected by By-law No. 84-55 will no longer be intact and the property will retain no cultural heritage value or interest under the *Ontario Heritage Act*. This Report directs staff to issue notice of Council's intention to repeal the bylaw and, if no objections to the notice are received, directs staff to bring forward the necessary by-law to repeal for Council's consideration. If an objection is received, staff are directed to report back to City Council for their consideration of the objection.

Alternatives for Consideration – See Page 7

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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 34 of the *Ontario Heritage Act* requires an owner of a Part IV designated property to obtain Council approval prior to the demolition or removal of any building or structure on the property. Council, after consultation with its municipal heritage committee shall: consent to the application; consent to the application with conditions; or, refuse the application. Notice of Council's decision is required to be served on the owner and on the Trust and published in a newspaper in accordance with Sections 34(4.3)(b) and (c) of the Act.

Section 31 of the *Ontario Heritage Act* sets out the process for Council to repeal a designation by-law under Part IV of the Act under its own initiative. Following consultation with the municipal heritage committee, as per Section 31(2) of the Act, and a decision of Council to repeal, the clerk shall give notice of Council's intention to repeal a by-law. The notice must be served on the owner of the property and on the Ontario Heritage Trust and published in the newspaper in accordance with Sections 31(3) and 31(4) of the Act.

HISTORICAL BACKGROUND

The subject property located at 1541 Fiddlers Green Road, Ancaster (location map attached as Appendix "A" to Report PED23220) was designated by former Town of Ancaster by By-law No. 84-55 in 1984 (attached as Appendix "B" to Report PED23220). The property consists of a red brick vernacular two-storey rectangular structure constructed circa 1860. In 2015 the property was added to the vacant property list and a property standards order was registered on title. In 2017 the property was subject to a fire, leaving only the exterior perimeter walls standing, and the interior of the property left to the elements. Following the fire in 2017 the property was regularly visited by City of Hamilton's Municipal Law Enforcement Officers to ensure that the property was secured against public entry.

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On August 1, 2023, a Heritage Permit Application was received requesting approval to demolish the structure on the property. Along with the application, staff received a Condition Assessment completed by TACOMA Engineers attached as Appendix “C” to Report PED23220, as well as a Documentation and Salvage Report completed by McCallumSather attached as Appendix “D” to Report PED23220.

The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee reviewed this application at their meeting on September 19, 2023, along with the supporting materials submitted with the application and recommended approval of the application.

The Notice of Receipt of complete application was issued on September 21, 2023.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Recommendations of this Report are consistent with Provincial and Municipal legislation, including:

- Identifying cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources (Urban Hamilton Official Plan, Volume 1, B.3.4.2.1 b)); and,
- Maintaining the Municipal Heritage Register, pursuant to the *Ontario Heritage Act* (Urban Hamilton Official Plan, Volume 1, B.3.4.2.4).

RELEVANT CONSULTATION

External

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

In addition, Planning Staff advised the Councillor (Cassar) for Ward 12 on September 5, 2023, and provided them with information about the proposed changes and the process for demolition of a Part IV designated property. Staff also indicated that a staff report was forthcoming to the October 24, 2023, Hamilton Municipal Heritage Committee meeting.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. Heritage Permit Application HP2023-042 has been submitted to request approval to demolish what remains of the designated structure located at 1541 Fiddlers Green Road, Ancaster, in accordance with the supporting materials submitted with the application, including a:

- Condition Assessment, prepared by TACOMA Engineers, dated August 17, 2023, attached as Appendix “C” to Report PED23220; and,
- Documentation and Salvage Report, prepared by mcCallumSather, dated July 31, 2023, revised August 18, 2023, attached as Appendix “D” to Report PED23220.

In consideration of any Heritage Permit Application, staff must assess the impact of the displacement and disruption effects on the heritage resources. The designation By-law for this property, attached as Appendix “B” to Report PED23220, identifies the reasons for designation subject to the provisions of the *Ontario Heritage Act*.

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.

The Condition Assessment submitted with this Heritage Permit Application provides a detailed assessment of the existing conditions of the property and outlines issues compromising the building’s structural integrity. The report notes that the cost and scale of work necessary for the conservation of this property is beyond the reasonable limits of conservation, including safety and logistical challenges for retaining and shoring the building. Staff are satisfied with the findings of the Condition Assessment.

The Documentation and Salvage Report provided as part of this application indicates that many of the designated features on this property are no longer intact and interior features have been entirely lost by the fire and subsequent exposure to the elements. Many of the heritage features located on the exterior have been damaged or lost in the fire and subsequent exposure to the elements.

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While this proposal would result in significant displacement of the original structure, the only remaining tangible features referenced in the reasons for designation are the exterior bricks. As indicated in the Condition Assessment and Documentation and Salvage reports, the remaining brick walls are in poor condition and no longer have any lateral supports, as both the roof and interior floors were consumed in the fire. The Documentation and Salvage report recommends that 10% of the bricks from the lower level of the front façade be salvaged and recommends storage of materials on site. Staff recommend salvage of the masonry material indicated in the Documentation and Salvage report, however will not require the material to be stored for reuse on site.

The demolition of the remnant brick structure will result in the permanent loss of all remaining cultural heritage value or interest of the property. It should also be noted that the structure is not visible from the public right of way due to its deep set back and densely-treed lot. Therefore, minimal disruption effects are expected to the overall heritage context of the property, though the relationship of the structures to the landscape is not a protected heritage feature.

2. The subject property is protected by By-law No. 84-55 under the *Ontario Heritage Act*. This Report recommends that Designation By-law No. 84-55 be repealed, in light of the recommendation to demolish the remnant circa 1860 structure on the property. Following demolition, the reasons for designation will no longer be intact and the property will retain no cultural heritage value or interest under the *Ontario Heritage Act*. Staff recommend that By-law No. 84-55 be repealed in accordance with Section 31 of the Act.

Recommendations

This application is for the demolition of the structure on the subject property and requires a decision of Council, as advised by the Hamilton Municipal Heritage Committee. Staff are satisfied with the findings of the Condition Assessment and its findings that restoration of the fire-damaged structure is not reasonable or feasible. Staff are also satisfied that the Documentation and Salvage Report adequately photo-documents the remaining heritage structure. Therefore, staff recommend approval of Heritage Permit Application HP2023-042, subject to the applicant making every reasonable effort to facilitate salvaging any remaining heritage features as part of the demolition process as may be safely permitted, to the satisfaction and approval of the Director of Planning and Chief Planner, as discussed with the applicant and advised by the Heritage Permit Review Sub-committee, (as per Recommendation (a)(i) of Report PED2322).

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Staff also recommend that designation By-law No. 84-55 be repealed since the property will no longer have any cultural heritage value or interest after the remnant structure is demolished in accordance with the Heritage Permit Application.

ALTERNATIVES FOR CONSIDERATION

- 1. Refuse the Heritage Permit Application.**
Hamilton Municipal Heritage Committee may advise Council to refuse this application in its entirety. This is not being recommended as the application is to demolish a structure that no longer demonstrates intact cultural heritage value or interest.

- 2. Approve the Heritage Permit Application without conditions.**
Hamilton Municipal Heritage may advise Council to approve this application without conditions of approval. This is not being recommended as staff feel that salvage of the remnant structure where feasible is an appropriate course of action.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23220 - Location Map
Appendix "B" to Report PED23220 - Designation By-law Number 84-55
Appendix "C" to Report PED23220 - Condition Assessment
Appendix "D" to Report PED23220 - Documentation and Salvage Report

LC/sd