




**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>	July 22, 2024
<b>SUBJECT/REPORT NO:</b>	Recommendation to Designate 85 King Street East, Dundas, under Part IV of the <i>Ontario Heritage Act</i> (PED24124) (Ward 13)
<b>WARD(S) AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Maryssa Barras (905) 546-2424 Ext. 6126 Meg Oldfield (905) 546-2424 Ext. 7163
<b>SUBMITTED BY:</b>	Anita Fabac Acting 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 85 King Street East, Dundas, shown in Appendix "A" attached to Report PED24124, 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 PED24124, 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 Planning Committee 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 85 King Street East, Dundas, under Part IV of the *Ontario Heritage Act*. The subject property is currently listed on the City's Inventory of Heritage Properties. Staff have completed an evaluation of the subject property using Ontario Regulation 9/06 and determined that it 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 PED24124. The owner of the property requested its designation and is supportive of the staff recommendation.

### **Alternatives for Consideration – See Page 7**

## **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 property. 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)).

## **HISTORICAL BACKGROUND**

The subject property located at 85 King Street East, Dundas, shown in Appendix "A" attached to Report PED24124, is comprised of a one-storey stone structure built circa 1846-48 and two frame outbuildings built in the twentieth century. The subject property was first surveyed for potential heritage interest in the 1970s.

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Between 1979 and 1980, the subject property was a focal point for community heritage organizations and the issue of designation was discussed by the Dundas Town Council. In 1981 the Local Architectural Conservation Advisory Committee of Dundas identified the subject property as a property of interest and issued a notice expressing interest in designating the property. A recommendation for designation document was completed by the Local Architectural Conservation Advisory Committee again in 1987 but was not acted on by the Town of Dundas.

On January 17, 2024, staff received a request from the owner to designate the property. Staff conducted a site visit of the property on March 12, 2024, at which time the owner expressed their continued interest in the designation of the property. On April 22, 2024, staff advised the owner of the recommendation to designate the property, provided them with a copy of the proposed Statement of Cultural Heritage Value or Interest and on May 27, 2024 staff advised them of the Hamilton Municipal Heritage Committee meeting that the recommendation would be considered.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The Recommendation of this Report is 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 Owner;
- Dundas Museum and Archives; and,
- Joanna Chapman.

In addition, on June 11, 2024, Cultural Heritage Planning staff emailed the Ward Councillor (Councillor A. Wilson) for Ward 13 to advise of the staff recommendation to designate the 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 in three broad categories: Design / Physical Value; Historical / Associative Value; and Contextual Value. The evaluation of cultural heritage value or interest of the subject property was completed by Cultural Heritage Planning staff based on a site visit of the exterior of the property conducted on March 12, 2024 (see photographs attached as Appendix “C” to Report PED24124) and available secondary and primary research sources (attached as Appendix “D” to PED24124). As outlined below, based on staff’s cultural heritage evaluation, it was determined that the subject property meets 5 of the 9 criteria contained in Ontario Regulation 9/06 in all three categories.

### **Design / Physical Value**

1. The property at 85 King Street East, Dundas, has physical value as a representative example of a nineteenth-century stone cottage influenced by the Regency style of architecture, and one of the earliest dwellings to have been constructed in the area. The property’s one-storey stone dwelling was constructed circa 1846-48 with a rear stone wing believed to have been the summer kitchen. The dwelling has an additional rear (northwest) brick addition housing stairs to the basement, which is believed to have originally dated to the nineteenth century before it was reconstructed in 1987 using reclaimed brick from the original extension. A sympathetic covered front porch was added in the early-twentieth century, sometime prior to 1930. Key features of the building include its: one-storey massing; rectangular footprint with rear wing; low hip roof with a brick chimney to the east and end-gable roof over the rear wing; cut-stone even-course front façade with corner quoins; broken-course fieldstone side and rear walls; symmetrical three-bay front façade; flat-headed openings with decorative brickmoulds with rounded trim, stone voussoirs and tooled stone lug sills; central front entrance with a four-panel solid wood door, four-pane wooden transom and flanking sidelights with three upper glass panes and wood panels below; six-over-six wooden sash windows with wooden storms and functional wood shutters; and a covered front porch with a low hip roof supported by Ionic wood columns atop concrete block piers.

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The property also features a modern detached accessory building constructed using reclaimed materials in 2016 to serve as an art studio and workshop. The frame accessory building features: a metal roof; a transom window over the doorway; wood shingle cladding; and sash windows.

2. The property does not display a high degree of craftsmanship.
3. The property does not demonstrate a high degree of technical or scientific achievement.

### **Historical / Associative Value**

4. The property has historical value for its association with prominent contemporary and historical Dundas community members, organizations, and events.

The stone dwelling on the property was originally built for John Fairgrieve (circa 1813/1811-1875), a Scottish immigrant who is believed to have come to Canada in 1832. Fairgrieve obtained the property at 85 King Street East circa 1846-48, with the earliest confirmed records of his presence on the property dating to 1848 at which point the present-day stone building had already been constructed. Fairgrieve was an active citizen in the area, working as a wharfinger likely with an interest in the Desjardins Canal and who served as a Town Councillor for Dundas in 1850. By the mid-1850s Fairgrieve had moved to dissolve his business interests in the Desjardins Canal and moved to Hamilton. It is believed Fairgrieve did this in response to the development of a rail line passing through Hamilton, which was completed in 1855 and led to Hamilton surpassing Dundas as a shipping and distribution centre. By 1855, Fairgrieve had left the property and was renting it to a tenant, eventually selling it in 1856 to a miller.

In 1859 the property was sold to Margaret Grafton (1807-1890) who was affiliated with a prominent Dundas business, Grafton & Co. Ltd. department store, as the mother of the store's co-founder James Beatty Grafton (1826-1909). Margaret's other son, who was also a Grafton & Co. Ltd. business partner, John Stewart Grafton (1828-1906), was also a prominent historic businessperson is also listed in city directories at this address in the 1870s before the sale of the property in 1880. The property continued to be affiliated with Grafton & Co. Ltd until it was sold in 1880.

85 King Street East was sold several times in the mid-twentieth century before being purchased by Yield Investments in 1977 as part of a block from 79-85 King Street East to allow for the construction of a 44-unit residential building. This proposed development, which included the demolition of three historic buildings, became a central concern for community heritage advocates. Community advocates affiliated with the Architectural Conservancy of Ontario, the Dundas

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Heritage Association, and the King Street East Citizens Group were active in their efforts to preserve the properties and the green space they provide, proposing alternative designs to Yield Investments. Members of these groups wrote many opinion editorials, participated in town council meetings, and hosting several community meetings, even drawing the attention of notable Canadian Historian Pierre Burton who made an appearance in Dundas to express support for saving the properties. Following the demolition of 79 King Street East, Joanna Chapman (born 1939) purchased 85 King Street East from Yield Investments in 1980 for \$60,000 with intent to preserve and protect the property. Chapman, who is a prominent Dundas resident who served on Dundas's town council from 1980-1985, owned Chapman and Prince Booksellers (a local bookstore), founded the Urquhart Butterfly Garden, and has been active in Dundas's environmental and historic conservation movements, purchased the property with intent to conserve and maintain the historic dwelling. Chapman has been an important figure in the conservation of historic Dundas structures, with her bookstore being located at 11 Cross Street, another significant heritage resource in Dundas. Chapman never lived on the property, but instead rented it to Catherine Gibbon (1949-2021), who was a notable community advocate, landscape artist, student and teacher at the Dundas Valley School of Art, and co-founder of the Carnegie Gallery.

Catherine Gibbon first moved into 85 King Street East in 1980 and cared for the property for the next 41 years, until her death in 2021. Gibbon eventually purchased the property from Chapman in 1988 or 1989 and was responsible for the reconstruction of the dwelling's rear brick extension sometime around 1987. In 2016 Gibbon had an accessory building constructed using reclaimed materials constructed to serve as her art studio, where she produced many of her works near the end of her life.

5. The property has the potential to yield information that contributes to an understanding of the Desjardins Canal's impact on nineteenth-century business in Dundas, of the nineteenth-century business community, and of twentieth-century Dundas community organizing and heritage conservation movements.
6. The property does not demonstrate or reflect the work or ideas of an architect, artist, builder, designer, or theorist who is significant in the community.

### **Contextual Value**

7. The property at 85 King Street East has contextual value due to its proximity to the Desjardins Canal, relationship as part of town development connected with the early Cootes Survey, and wooded character with mature trees, and is important in defining the character of this area. The nineteenth-century stone dwelling is located on King Street East, called North Street in the nineteenth

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century, and is connected to the town planning initiated by the early Cootes Paradise Survey. The area surrounding 85 King Street East and the Cootes Paradise Survey was originally intended to develop as Dundas's urban core, centred around the Desjardins Canal. The Desjardins Canal's full potential was never realized as the nineteenth-century expansion of rail diverted shipping and travel routes away from water routes, and as a result Dundas's urban core developed further west around its emerging industrial and manufacturing businesses. As one of the oldest remaining dwellings in the east end of Dundas, the stone building at 85 King Street East contributes to the historic industrial landscape connected to the development of the Desjardins Canal and early town planning centred around it.

The unique topography of the site, including the deep setback of the stone dwelling located towards the back of the property at the top of an incline, and the wooded character of the property with an abundance of mature trees, maintains the historic character of the area as an early settlement area. 85 King Street East is not immediately visible from the public right of way, but it defines the historic character of its immediate surroundings with its well-preserved stone façade, which stands out as an immediately recognizable nineteenth-century heritage structure.

8. The property is visually and historically linked to its surroundings due to its proximity to the Desjardins Canal, relationship as part of town development connected with the early Cootes Paradise Survey, and its status as the oldest building in the immediate historic streetscape.
9. The property is not considered to be a local landmark.

Based on the foregoing, staff have determined that 85 King Street East, Dundas is of cultural heritage value or interest sufficient to warrant designation under Part IV of the *Ontario Heritage Act*. Heritage attributes of value include contextual attributes and the exterior of the building as seen from the public right of way, as outlined in Appendix "B" to Report PED24124. Staff recommend designation according to the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix "B" to Report PED24124.

## **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 PED24124 – Location Map

Appendix "B" to Report PED24124 – Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes

Appendix "C" to Report PED24124 – Photographs

Appendix "D" to Report PED24124 – Research Sources

MB/MO:sd