




**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>	August 19, 2024
<b>SUBJECT/REPORT NO:</b>	Melville Street Heritage Conservation District Study (PED24140) (Ward 13)
<b>WARD AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Alissa Golden (905) 546-2424 Ext. 1202
<b>SUBMITTED BY:</b>	Ken Coit Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That the Melville Street Heritage Conservation District Study report, attached as Appendix “A” to Report PED24140, be received;
- (b) That the proposed Melville Street Heritage Conservation District boundary, shown in Appendix “B” attached to Report PED24140, be approved;
- (c) That staff be directed to prepare a Heritage Conservation District Plan for the proposed Melville Street Heritage Conservation District, the boundary of which is shown in Appendix “B” attached to Report PED24140, and report back to Planning Committee for their consideration on a recommendation for designation under Part V of the *Ontario Heritage Act*;
- (d) That staff be directed to consult with the affected property owners and the Hamilton Municipal Heritage Committee, in accordance with the *Ontario Heritage Act*, in the preparation of the Melville Street Heritage Conservation District Plan;
- (e) That the properties located within the proposed Melville Street Heritage Conservation District boundary, shown in Appendix “B” attached to Report PED24140, that have been determined to have cultural heritage interest contributing to the value of the proposed Melville Street Heritage Conservation

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District, as identified in Appendix “C” attached to Report PED24140, be listed on the Municipal Heritage Register in accordance with Section 27 of the *Ontario Heritage Act*;

- (f) That the Cross-Melville Heritage Conservation District Advisory Committee be disbanded and that the review of heritage permit applications in the Cross-Melville Heritage Conservation District continue to be addressed by the Heritage Permit Review Sub-Committee;
- (g) That the membership composition in the Terms of Reference for the Heritage Permit Review Subcommittee be amended to include “One (1) representative from Cross-Melville, Dundas”;
- (h) That the citizen member currently appointed to Cross-Melville Heritage Conservation District Advisory Committee be appointed to the Heritage Permit Review Sub-Committee; and,
- (i) That the funds required to prepare the Melville Heritage Conservation District Plan, as per Recommendation (c) of Report PED24140, be reallocated from Account 8121455500.

## **EXECUTIVE SUMMARY**

A heritage conservation district study, legislated under the *Ontario Heritage Act*, involves reviewing the study area to determine if it has sufficient heritage value to warrant district designation. It involves engaging with the community on the draft findings of the study before reporting to the City’s Heritage Committee and Council for direction on whether a district Plan should be prepared and if the area should be designated as a district under the Act.

Report PED24140 outlines the findings of the Melville Street Heritage Conservation District Study report (attached as Appendix “A” to Report PED24140), which confirms that the proposed district boundary (attached as Appendix “B” to Report PED24140) meets the required criteria for district designation. This Report recommends that Council approve the proposed district boundary and direct staff to proceed with the preparation of a district plan for the purposes of designating the Melville Street area in Dundas under Part V of the *Ontario Heritage Act* as a new heritage conservation district, in accordance with the district objectives identified in the Study. The cost of retaining consultants to prepare a District Plan will be funded from the existing capital account 8121455500.

To provide interim protection from demolition while the district plan is being prepared, it is also recommended that the properties of heritage interest located within the proposed

Melville Street district boundary, identified as the contributing properties in Appendix “C” attached to Report PED24140, be listed on the Municipal Heritage Register.

Finally, this Report recommends that the Cross-Melville Heritage Conservation District Advisory Committee be disbanded, and its responsibilities moved to the current city-wide Heritage Permit Review Subcommittee with a Cross-Melville representative. This addresses the inconsistencies of having a separate advisory committee for the adjacent existing district when a new district is being proposed in Dundas, and in the absence of any other districts having their own separate Advisory Committee.

### **Alternatives for Consideration – See Page 11**

### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The estimated cost to prepare the recommended plan, including public consultation and notification, may be up to \$75,000. Recommendation (i) of this Report recommends that the funding to prepare the plan be reallocated from account 8121455500, which includes funding previously allocated to the St. Clair Boulevard Heritage Conservation District Plan Update. A significant portion of this work has been completed. The remaining scope of work from this project will be addressed as part of an upcoming city-wide heritage conservation district strategy or by staff as necessary.

**Staffing:** Planning staff do not currently have the capacity to prepare a new heritage conservation district plan in house. As such, a consultant will be retained to complete this work. Staff will also be reporting back with a proposed strategy for new heritage conservation district work as a result of the Bill 23 changes to the *Ontario Heritage Act* and anticipate further budgetary or staffing request requests to conduct this work.

**Legal:** This heritage conservation district study was prepared in accordance with Part V of the *Ontario Heritage Act*, including the scope of review identified in Section 40(2) and consultation with the municipal heritage committee, as per Section 40(3). The proposed district boundary has been determined to meet the provincial criteria for designation, as prescribed by Ontario Regulation 9/06 in accordance with Section 41(1)(b) of the *Ontario Heritage Act*.

The process for preparing a heritage conservation district plan and bringing forward a recommendation to designate will also follow the requirements of Section 41.1 of the *Ontario Heritage Act*. A municipality shall adopt a heritage conservation district plan for each district that is designated by by-law. The affected property owners within the district and any other interested parties shall be served notice of the passing of a by-

law adopting the district plan, in addition to publishing public notice in the newspaper. Prior to the passing of a by-law adopting a district plan, a municipality must consult with the municipal heritage committee, make a copy of the proposed district plan available to the public and hold at least one public meeting, with appropriate notice and timing and opportunity for oral or written submissions with respect to the proposed plan.

Designation under Part V of the *Ontario Heritage Act* allows municipalities to recognize the cultural heritage value or interest of an area, known as a heritage conservation district, and to conserve and manage the properties within the district through the Heritage Permit process enabled under Sections 42(1) (erection, demolition, or removal) and 42(2.1) (alterations) of the Act. Municipalities can also define classes of alterations within a district that do not require a Heritage Permit, as per Section 41(2).

The *Ontario Heritage Act* enables Council to list non-designated properties that it believes to be of cultural heritage value or interest on the Municipal Heritage Register if it is demonstrated that they meet at least one criterion outlined in Ontario Regulation 9/06, as amended by Ontario Regulation 569/22. The Municipal Heritage Committee must be consulted prior to Council deciding to list a non-designated property on the Register. The recently amended *Ontario Heritage Act* now limits how the City can list a property, including a two-year expiry from the time of listing and a five-year restriction on re-listing after expiry.

The *Ontario Heritage Act* requires municipalities to notify owners within 30 days of a Council's decision to list a property on the Register. Under Section 27(7) of the *Ontario Heritage Act*, an owner can object to a property being included on the Register after receiving notice of it being listed. The owner's objection should be served on the Clerk of the municipality and identify the reasons for the objection and all relevant facts. Council must consider the objection and decide whether to keep the property listed on the Register or to remove it. The owner must be given notice of a Council's decision on the consideration of their objection within 90-days of the decision.

## **HISTORICAL BACKGROUND**

In the spring of 2022, the City of Hamilton's Tourism and Culture Division of the Planning and Economic Development Department launched an updated heritage survey of Downtown Dundas as part of the Built Heritage Inventory Strategy. Research and engagement on the Downtown Dundas Inventory were undertaken in 2022, including the preparation of a preliminary Historic Context Statement and the calling of a Downtown Dundas Heritage Focus Group.

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On September 28, 2022, the local Ward Councillor brought forward a motion, which resulted in the passing of a by-law to designate a portion of Melville Street, located in the Downtown Dundas Inventory project area, as a Heritage Conservation District Study Area and directing staff to initiate a heritage conservation district study. By-law No. 22-258 limited change in the study area for a period of one year while the district study was conducted. It expired in September 2023. The initial district study area identified in the by-law consisted of a portion of Melville Street between Sydenham Street to Wellington Street North. The eastern portion of Melville Street, from Sydenham Street to Cross Street, was designated as part of the Cross-Melville Heritage Conservation District in 1990 by the former Town of Dundas By-law No. 3899-90.

In the fall of 2022, staff engaged MHBC Planning Ltd. to conduct the Melville Street Heritage Conservation District Study. Preliminary results of the Study lead to the initial study area being expanded to include the surrounding residential neighbourhood generally bound by Sydenham Street to the east, Park Street to the south, Brock Street to the west and the Escarpment to the north. Inventory work, including taking photographs and completing survey forms for buildings in the study area, was conducted in the fall of 2022 and winter of 2023.

A public open house was held on June 14, 2023, to introduce the Melville Street District Study to the property owners and interested community members in the area. Post cards giving notice of the open house were sent to residents in the study area in advance of the event. The open house materials were posted on the project webpage, an Engage Hamilton project page was created, and an online survey was posted to gather feedback on the draft Study report and project. A summary of the feedback received from participants is included in Section 5.2.4 of the final Melville Street Heritage Conservation District Study, attached as Appendix “A” to Report PED24140. Staff also followed up with a number of participants requesting further information following the open house and online survey.

The consultants, MHBC Planning Ltd., considered the community and owner comments and the results of the online survey, and incorporated this feedback in the final Melville Street Heritage Conservation District Study report, attached as Appendix “A” to Report PED24140. In letters dated June 17, 2024, Cultural Heritage Planning staff notified the affected property owners of the final Melville Street Heritage Conservation District Study being posted on the project website ([www.hamilton.ca/melvillehcd](http://www.hamilton.ca/melvillehcd)) and of the anticipated timing for consideration of the Study by the Hamilton Municipal Heritage Committee. At the time of preparing this report, staff received one formal response from a property owner in the study area (attached as Appendix “D” to Report PED24140).

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENT**

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

- Designation of a defined area as a heritage conservation district where the area meets the prescribed provincial criteria (*Ontario Heritage Act*, Section 41(1)(b); Ontario Regulation 9/06);
- Ensuring significant built heritage resources are conserved (Provincial Policy Statement, 2020, Sub-section 2.6.1); and,
- Designating groups of properties of cultural heritage value under Part V of the *Ontario Heritage Act* (*Ontario Heritage Act*, Section 41(1)(a); Urban Hamilton Official Plan, Section B.3.4.2.3).

## **RELEVANT CONSULTATION**

### **External**

- Property owners;
- Neighbourhood residents;
- Hamilton Wentworth District School Board;
- Downtown Dundas Built Heritage Inventory - Heritage Focus Group; and,
- Dundas Museum and Archives.

### **Internal**

- Sustainable Communities Section, Planning Division, Planning and Economic Development Department;
- Parks and Cemeteries Section, Environmental Services Division, Public Works Department;
- Legislative Services, Office of the City Clerk, Corporate Services;
- Forestry and Horticulture Section, Environmental Services Division, Public Works Department; and,
- Councillor A. Wilson, Ward 13.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The intent of district designation, under Part V of the *Ontario Heritage Act*, is to enable a process for the management and conservation of an area of cultural heritage value, including buildings and the landscape features that connect them.

The Melville Heritage Conservation District Study report, attached as Appendix “A” to Report PED24140, includes the required scope of study outlined in Section 40(2) of the *Ontario Heritage Act*, as follows:

- (a) examine the character and appearance of the area that is the subject of the study, including buildings, structures and other property features of the area, to determine if the area should be preserved as a heritage conservation district (see Sections 3 through 6 of the Study);
- (b) examine and make recommendations as to the geographic boundaries of the area to be designated (see Section 7 of the Study);
- (c) consider and make recommendations as to the objectives of the designation and the content of the heritage conservation district plan (see Section 8.2 of the Study);
- (d) make recommendations as to any changes that will be required to the municipality's official plan and to any municipal by-laws, including any zoning by-laws (see Section 8.4 of the Study).

### **Heritage Evaluation**

The *Ontario Heritage Act* requires that at least 25% of the properties within a district study area satisfy 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.

An evaluation of cultural heritage value or interest of the properties located in proposed Melville Street Heritage Conservation District boundary was completed by MHBC Planning Ltd., in consultation with Cultural Heritage Planning staff, and was informed by input from the community. It was determined that the study area is of sufficient cultural heritage value or interest to warrant designation under Part V of the *Ontario Heritage Act*, with at least 25% of the properties in the study area satisfying at least three of the nine criteria in Ontario Regulation 9/06, exceeded the required threshold of 2 criteria, as outlined below:

- **Design / Physical Value – Criteria 1:** The properties have design or physical value because they are rare, unique, representative, or early examples of a style, type, expression, material, or construction method (45.3% of the properties meet this criteria).
- **Historical / Associative Value – Criteria 5:** The properties have historical or associative value because they yield or have potential to yield information that contributes to an understanding of a community or culture (69% of the properties meet this criteria).
- **Contextual Value – Criteria 7:** The properties have contextual value because they define, maintain, or support the character of the district (69% of properties meet this criteria).

Draft property evaluations were prepared and presented to the public for feedback in the summer of 2023. After incorporating feedback from the public open house and online survey on the project, the property evaluations were updated, and additional contributing heritage properties were identified in two categories ('A' and 'B'). This recategorization of levels of contribution allowed for more vernacular heritage buildings to be recognized for their contribution to the heritage character of the area.

The methodology for evaluation of the properties is described in Section 6.4 of the Melville Street Heritage Conservation District Study, attached as Appendix "A" to Report PED24140 and the full evaluation under Ontario Regulation 9/06 can be found in Appendix H of the attached Study report. The contributing properties identified in the proposed district boundary are identified in Appendix "C" to Report PED24140. In total, 250 properties in the proposed boundary (76%) are identified as contributing properties, well exceeding the minimum threshold of 25%. Based on this evaluation, staff recommend that a district plan be prepared for the purposes of designating the Melville Street area in Dundas under Part V of the *Ontario Heritage Act* as a new heritage conservation district.

### **Recommended Boundary**

Originally, two alternative district boundaries were proposed and presented as part of the public open house and online survey in the summer of 2023. The feedback received from the public and property owners was considered, along with the revised property evaluations, and the district boundary was reconsidered. The final proposed district boundary, identified in Appendix "B" attached to Report PED24140, includes most of the expanded study area, except for properties on Alma and Witherspoon Streets.

### **Character Statement**

A Statement of Cultural Heritage Value or Interest, also known as a Character Statement, was prepared that summarizes the significance of the proposed Melville Street Heritage Conservation District area, which can be found on page 109 of the Study, attached as Appendix "A" to Report PED24140. This Statement is required to be included in a future district plan, as per Section 41.1 of the *Ontario Heritage Act*. The following is a list of the identified heritage attributes in the proposed district:

- Concentration of building stock constructed between 1880 and 1930 which include a collection of prevalent representative architectural styles including Late Victorian (including Queen Anne Revival), Edwardian Classicism (including the American Foursquare variation); and Cottages (including Worker's Cottages, Ontario Cottages, Gothic Revival Cottages);
- Concentration of supportive architecture constructed within historic era including: modest vernacular architecture, Colonial Revivals, Period Revivals and Bungalows;
- Building cladding primarily includes brick, stone, and stucco;
- General massing of one to two-and-a-half storeys of buildings;

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- Pre-confederation survey areas and their lotting patterns and streets (1837-51-RP-1443, Pt 2, Hatt Plan and 1855-RP-1446\_Plan for Allan and Mathieson); applies to Melville Street, Park Street West, Victoria Street, Elgin Street, Albert Street, Princess Street, Market Street North, Matilda Street, Napier Street, Peel Street, Wellington Street and Brock Street;
- Interrelationship between historic residential dwellings, educational institutions, places of worship and places of work;
- Collection of landmarks including: the Dundas Central Public School, the St. James Anglican Church, Dundas Baptist Church, and Sunday School and the Dundas Museum and Archives;
- Unique junction of Witherspoon Street, Victoria Street and Market Street North;
- Narrow treed boulevard along Melville Street between Sydenham Street, Albert Street and Matilda Street;
- Modest front yard landscaping including low-lying plantings, hedgerows and small fencing (on corner or double wide lots) and hardscaped walkways; and,
- Narrow, one laneway driveways with parking located to the rear.

### **Objectives for a District Plan**

Section 8.2 of the Melville Street Heritage Conservation District Study, attached as Appendix “A” to Report PED24140, proposes objectives for designating the area as a new district, as required by Section 40(2)(c) of the *Ontario Heritage Act*. Generally, district plans aim to maintain and conserve the cultural heritage character and heritage attributes of the designated area. A few key takeaways from the proposed objectives include direction to:

- Maintain the low-profile built form within the area, which is generally a 1.5- to 2.5-storey building height, and to permit greater heights where it is compatible with the district objectives;
- Support existing uses and the appropriate adaptive re-use of heritage buildings;
- Prevent the demolition of existing buildings, natural features, or structures which are contributing to the identified heritage character, unless necessary for matters related to public safety; and,
- Facilitate appropriate new development, infill, and alterations (such as secondary dwelling units), that is sensitive to, compatible with, and distinguishable from the character of the district.

### **Content for a District Plan**

As per Section 40(2)(c) of the *Ontario Heritage Act*, the Melville Street Heritage Conservation District Study includes recommended content to be incorporated in a future heritage conservation district plan, which is outlined in Section 8.3 of the Study attached as Appendix “A” to Report PED24140. In addition to the required content of a district plan, it is also proposed that a future plan includes policies for both contributing and non-contributing resources in order to provide a balance between the conservation

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of the heritage character of the area, while guiding compatible new development (including infill, redevelopment, and secondary or accessory dwelling units).

### **Recommendations for Changes to City Policies and By-laws**

As per Section 40(2)(d) of the *Ontario Heritage Act*, the Study considered the City's existing policies and by-laws and recommended changes that may be required should the Melville Street study area be designated as a district. Feedback from the Sustainable Communities Section of the Planning Division recommended changes to how the City's official plan policies are summarized and described in the Study. Although these do not impact the outcome of the Study or the recommendations of this Report, they are noted for future reference should staff be directed to proceed with the preparation of a district plan.

The only required change identified by the consultants was a clerical amendment of the City's Tree Preservation By-law 4513-99 to include any new Heritage Conservation District boundaries. Any required changes to the by-law would be addressed at the time the district is designated, following the preparation and consideration of a draft Heritage Conservation District Plan. A full summary of considerations is included in Section 8.4 of the Study, attached as Appendix "A" to Report PED24140.

### *Heritage District Advisory Committees*

Staff also identified the need to address the inconsistencies of having a separate advisory committee for the adjacent existing Cross-Melville Heritage Conservation District when a new district is being proposed in Dundas, and in the absence of any of the other existing 7 districts having their own separate advisory committee. The Cross-Melville Heritage Conservation District Advisory Committee, re-established by Council in 2011, is the only active district-specific advisory committee. Its mandate is to function as a sounding board for residents in the Cross-Melville HCD and reviews and comments on heritage permit applications under Part V of the *Ontario Heritage Act* through the Heritage Permit Review Subcommittee. All heritage permit applications for the Cross-Melville District are both currently considered by the Cross-Melville Advisory Committee and the Heritage Permit Review Subcommittee for advice to staff in processing the applications. The membership of the Cross-Melville Advisory Committee includes cross-appointed members from the Hamilton Municipal Heritage Committee and the Heritage Permit Review Subcommittee. Additionally, recruitment for the current term of the Cross-Melville Heritage Conservation District Advisory Committee has been unsuccessful after two public calls for membership, resulting in amendments to the Committee's terms of reference to reflect a reduced membership number and representation. Therefore, staff recommend that the Cross-Melville Heritage Conservation District Advisory Committee be disbanded, that the Terms of Reference for the Heritage Permit Review Subcommittee be amended to include representation from Cross-Melville, and that the City put a call out for a Cross-Melville representative to sit on the Heritage Permit Review Subcommittee, as per Recommendations (f), (g) and (h) of this Report.

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### **Interim Protection for Contributing Properties in the Study Area**

Staff recommend that the contributing properties located in the proposed district boundary, as identified in Appendix “C” of Report PED24140, be listed on the Municipal Heritage Register in accordance with Section 27 of the *Ontario Heritage Act*. Listing on the Register under Section 27 of the *Ontario Heritage Act* recognizes value of the property to the community, provides properties with interim protection from demolition, and can help facilitate informed decision-making and priority-based planning from staff and Council. By Council deciding to proactively list these contributing properties on the Register, staff will be able to take appropriate action should a Prescribed Event be triggered under the *Planning Act*, or if demolition or significant alteration is proposed as part of a Building Permit application in the next two years before the Register listings expire and while a district plan is being prepared. Should Council decide to list these properties on the Register, staff will provide notice of the listing to the owners and outline the legislated process for objecting to the listing, as per the requirements of the *Ontario Heritage Act*.

### **Planning Context**

Recent changes to the *Planning Act*, implemented as part of Bill 23, *More Homes Built Faster Act, 2022*, have limited the City’s ability to control design features of development. This, in addition to as-of-right zoning that permits much needed intensification in existing neighbourhoods, may result in an increase in demolitions and new unsympathetic development in historic neighbourhoods. The designation of new heritage conservation districts allows the City to guide compatible new development and facilitate intensification that is sympathetic to, and enhances, the heritage character of these areas.

### **Conclusion**

Staff have determined that the proposed Melville Street Heritage Conservation District area is worthy of designation under Part V of the *Ontario Heritage Act* and recommend that staff be directed to proceed with the preparation of a District Plan and further consultation with property owners, as per Recommendations (a) through (d) of this Report. Recommendation (e) of this Report would ensure that the properties identified as having cultural heritage value or interest, contributing to the character of the proposed district, would have interim protection while the district plan is being prepared. Recommendations (f), (g) and (h) will address inconsistencies in the City’s district advisory committees until the new Melville Street Heritage Conservation District area is considered.

### **ALTERNATIVES FOR CONSIDERATION**

Under Part V of the *Ontario Heritage Act*, the designation of a heritage district is a discretionary activity on the part of Council. Council, as advised by the Municipal Heritage Committee, may direct staff to designate a district, in accordance with the

findings of a heritage conservation district study and the provisions of the *Ontario Heritage Act*.

### **Decline to Proceed with the Preparation of a District Plan**

By declining to proceed with the preparation of a district plan, the municipality would be unable to provide long-term, legal protection to this significant cultural heritage landscape and the contributing properties located within the proposed district boundary (designation provides protection against inappropriate alterations and demolition) and would not fulfil the expectations established by existing municipal and provincial policies.

Without designation, the contributing heritage properties in the proposed district boundary 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 a property or has not been demonstrated to affect its resale value. However, district designation does allow the municipality to manage change to the heritage attributes of the district through the Heritage Permit process. Staff does not consider declining to proceed with the preparation of a district plan to be an appropriate conservation alternative. The district designation process under Part V of the *Ontario Heritage Act* provides additional opportunities for property owners to participate in plan preparation process and to object to designation when the district plan and designation by-law are considered by Heritage Committee and Council.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24140 – Melville Street Heritage Conservation District Study

Appendix "B" to Report PED24140 – Melville Street Heritage Conservation District Boundary

Appendix "C" to Report PED24140 – Contributing Properties

Appendix "D" to Report PED24140 – Property Owner Feedback

AG:sd