




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Committee Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	September 27, 2024
SUBJECT/REPORT NO:	Recommendation to Designate 265 Mill Street South, Flamborough (Braebourne), under Part IV of the <i>Ontario Heritage Act</i> (PED24169) (Ward 15)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Scott Dickinson (905) 546-2424 Ext. 7167 Meg Oldfield (905) 546-2424 Ext. 7163
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the City Clerk be directed to give notice of Council's intention to designate 265 Mill Street South, Flamborough (Braebourne), shown in Appendix "A" attached to Report PED24169, 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 PED24169, 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.

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EXECUTIVE SUMMARY

This Report recommends designation of the significant built heritage resources located at 265 Mill Street South, Flamborough, known historically as Braebourne, under Part IV of the *Ontario Heritage Act*. The subject property, originally constructed circa 1846, is currently listed on the City's Municipal Heritage Register. 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 PED24169.

Alternatives for Consideration – See Page 8

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)).

The City of Hamilton also provides financial incentive programs, including development charge exemption and heritage grants and loans, to assist in the adaptive re-use and continued conservation of properties once they are designated.

HISTORICAL BACKGROUND

The subject property located at 265 Mill Street South, Flamborough, shown in Appendix “A” attached to Report PED24169, is comprised of a two-storey stone dwelling constructed circa 1846 for John Cummer, designed in a Neoclassical architectural style. The subject property was listed on the Municipal Heritage Register in November 2019 and was reviewed as part of the Waterdown Village Built Heritage Inventory project. In a letter dated August 26, 2020, Cultural Heritage Planning staff notified the property owner of the Register listing and indicated that the property was considered a candidate for designation. Staff deferred their heritage assessment of the property due to the ongoing discussions as part of a *Planning Act* application for redevelopment of the site.

In March 2021, the property owner applied for a Zoning By-law Amendment application to permit the adaptive re-use of the existing single-detached dwelling and accessory structure and to relocate the existing Waterdown Montessori School to the subject lands. A Cultural Heritage Impact Assessment for the subject lands was submitted with the Zoning By-law Amendment application, completed by KSA Architectural Solutions Inc. dated December 2020 and was subsequently revised February 2022. The initial and updated Cultural Heritage Impact Assessment were reviewed by staff and the Policy and Design Working Group of the Hamilton Municipal Heritage Committee. The Policy and Design Working Group and Inventory and Research Working Group recommended to the Hamilton Municipal Heritage Committee that the property be added to the City’s workplan for designation under Part IV the *Ontario Heritage Act* as a low priority. At the Council meeting held on April 27, 2022, Council passed the following:

- “(i) That 265 Mill Street South, Flamborough (Waterdown), be added to the staff work plan for heritage designation under the Ontario Heritage Act as a low priority;
- (ii) That the staff be directed to implement the conservation of internal and external heritage features of the building identified in the CHIA through a conservation plan and employing appropriate zoning and site plan policies, procedures, and processes; and
- (iii) That the property be designated when construction is completed.”

The Zoning By-law Amendment application was approved and went into effect August 12, 2022. A Holding Provision was included in the amending by-law, to be lifted once cultural heritage resources and transportation impacts have been addressed. The Holding Provision includes the following conditions:

- A Conservation Plan and Construction Monitoring Plan has been submitted and approved with any recommendations made in the Conservation Plan and

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- Construction Monitoring Plan being implemented to the satisfaction of the Manager of Heritage and Urban Design; and,
- An updated Cultural Heritage Impact Assessment has been submitted and approved with any recommendations made in the Cultural Heritage Impact Assessment being implemented, to the satisfaction of the Director of Planning and Chief Planner.

As a result of the recent Bill 23 changes to the *Ontario Heritage Act*, the former staff workplan for designation was rescinded and replaced with a new public list of Candidates for Designation under Part IV of the *Ontario Heritage Act* (see Report PED22211(a)), at which time 265 Mill Street South was reprioritized for review for designation by January 1, 2025. In a letter dated July 10, 2023, Cultural Heritage Planning staff notified the property owner of the changes to the City's heritage designation process and the reprioritization of staff's review of the property for designation.

To date, staff have received no indication that the proposed redevelopment of the subject property is still ongoing, and, as such, are moving forward with designation at this time. The scope of the heritage attributes recommended by staff to be designated takes into account the scope of impacts for the proposed adaptive reuse and development of the property. In an email dated August 8, 2024, staff advised the owner of the recommendation to designate the property. In a subsequent letter, dated August 9, 2024, sent by registered mail and email, staff provided the owner with a copy of the proposed Statement of Cultural Heritage Value or Interest and advised them of the Hamilton Municipal Heritage Committee meeting date that the recommendation would be considered. At the time of preparing this report, staff had not received a formal response to the proposed designation from the property owner.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The recommendations of this Report are 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).

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RELEVANT CONSULTATION

External

- Property Owner;

The Ward Councillor (Councillor T. McMeekin) for Ward 15 has been advised that this matter was to be considered by the Hamilton Municipal Heritage Committee and has been provided an overview of the reasons for designation and the process for designating a 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 July 26, 2019 (see photographs attached as Appendix "C" to Report PED24169) and available secondary and primary research sources (attached as Appendix "D" to Report PED24169), including the Cultural Heritage Impact Assessment completed by KSA Architectural Solutions Inc. in support of the Zoning By-law Amendment application for the property. Staff also considered the feedback provided by the Inventory and Research Working Group on the consultants Cultural Heritage Impact Assessment.

As outlined below, based on staff's cultural heritage evaluation, it was determined that the subject property meets six of the nine criteria contained in Ontario Regulation 9/06 in all three categories.

Design or Physical Value

1. The property is comprised of a two-storey stone dwelling constructed circa 1846, with additions made in the 1860s and in the early- and mid-twentieth century. Though modified, the original portion of the stone structure has design and

physical value as a representative example of the Neoclassical style of architecture as applied to a private dwelling. The features typical of this style include the: symmetrical, three-bay front elevation; hip roof with wooden cornice under projecting eaves; the Venetian window in the second storey with wooden surround with pilasters and brackets supporting moulded cornice; window openings with stone voussoirs, six-over-six hung wooden windows and tooled stone lug sills; and, the central entrance with panelled door flanked by sidelights and wooden surround with pilasters and brackets supporting moulded cornice.

2. The property displays a high degree of craftsmanship, as demonstrated by the wooden surround on second-storey Venetian window with pilasters and carved brackets supporting moulded cornice, and the paneled wooden front door with sidelights and moulded cornice supported by pilasters and carved brackets.
3. The property does not demonstrate a high degree of technical or scientific achievement.

Historical or Associative Value

4. The property has historical value for its association with several prominent Waterdownians who were former owners. This stone dwelling was originally built in 1846 for John Cummer (1797-1868). John was the son of Loyalist and miller Jacob Cummer (1767-1841), who settled in what is now the Toronto neighbourhood of Willowdale. John became both a miller and a millwright, constructing a variety of mills in York County including a grist mill and a woolen mill to compliment his father's sawmill. This mill complex, known as the Reading Mills, attracted settlement to what became the village of Willowdale.

John, looking to expand his business operations, purchased land along with a grist mill and sawmill in Smokey Hollow in 1845. His son, Abram Lockman Cummer (1827-1907), then just nineteen, was sent in to supervise the construction of the subject property, a house which would overlook the family's new mills in Smokey Hollow. John, looking to retire from business, placed his older son Jacob (1823-1904) in charge of the mills at Willowdale and Abram (who seems to have gone by his middle name) in charge of the newly purchased enterprises in Waterdown.

In addition to operating his own mills, Lockman also had interests in several other local grist and sawmills and was responsible for constructing the millworker's cottages at 40-42 Mill Street South, now known as the Cummer Stone Row. In partnership with William Gill, he established Cummer, Gill and Co., to operate a new flour mill and an iron foundry where they produced steam engines and a wide range of milling machinery.

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Following the death of John Cummer in 1868 and his wife, Sarah (1806-1870), in 1870, the subject property was purchased by William Pearce Howland (1811-1907), one of the wealthiest millers in Canada. Howland was already well-known to the Cummer family, having taken a mortgage on the property when Cummer, Gill and Co., failed in the wake of the financial crisis known as the Panic of 1857. Howland would also purchase Lockman's grist mill in Smokey Hollow and the Stone Row in 1871.

William Pearce Howland engaged in a wide range of business ventures, owning multiple mills and general stores in the Toronto area, along with interests in wholesaling, lumbering, insurance and banking. His large resources allowed him to expand the Cummer's small mill operation until it became one of the largest and most important at the Head of the Lake. The Waterdown Flouring Mill, also known as the Torrid Zone Mill, was built with four runs of millstones capable of producing 150 barrels of flour a day. Next to the mill building, Howland constructed a barrel factory to produce the barrels he needed to ship his flour. The mill proved to be a success and was in operation until it was destroyed by fire in 1910.

Howland, who was American born, became a naturalized Canadian in 1841 and was first elected to the legislative assembly of Canada in 1857. A powerful and influential politician, Howland was appointed on several occasions to England as a delegate to speak to Canadian interests. As one of the 16 delegates to the London Conference of 1866, William Pearce Howland is considered today to be the only American-born Father of Confederation. Howland would serve as Lieutenant-Governor of Ontario between 1868 and 1873. The subject property was used as a summer home before being sold in 1900.

Robert Livingston Innes (1872-1935) owned the property from the early 1900s to 1938. Livingston, a prominent Hamilton industrialist, had been heavily involved in Canada's canning industry, at one point being president of the massive Dominion Canners Limited conglomerate which produced 80% of Canada's canned foods and vegetables, as well as being the president of "Zimmerknit", a well-known Hamilton textile company.

Frances Farwell (1894-1966), who gave the name "Braebourne" to the subject property, was its owner from 1939 to 1966. He was one of the founders of Canada Coach Lines and was the first chairperson of Hamilton's original transit commission. Mr. and Mrs. Farwell commissioned famed Canadian landscape architects Lorrie and Howard Dunington-Grubb to redesign the grounds of the property. Dunington-Grubb's plan called for multiple stone terraces, hedge walls, a large perennial garden and separate service and entrance courtyards for arriving vehicles. Little of this design is visible today.

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5. The property has the potential to contribute to an understanding of Waterdown as a nineteenth-century industrial community. The owners of the subject property were heavily involved in the development of Waterdown's mills and factories which were central to Waterdown's historic growth as a community.
6. This property does not demonstrate or reflect the work or ideas of an architect, artist, builder, designer, or theorist who is significant to the community.

Contextual Value

7. The property is important in defining the historic former industrial character of the surrounding area. Though the long-vanished mills and workshops of Smokey Hollow have left few traces, the subject property, a mill-owner's house a short walk from those former mill sites, now the site of Smokey Hollow Park, is a physical reminder of Waterdown's industrial past.
8. The property is historically, visually, and physically linked to the surrounding area. Still on its original location close to the former mill sites of Smokey Hollow, this house allowed the millowners to keep a close eye on their business while still enjoying some separation from the noise and smoke of industry.
9. The property is not considered to be a local landmark.

Staff have determined that 265 Mill Street South, Flamborough, 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 facades of the two connected structures, and the key interior heritage attributes of the original dwelling, as outlined in Appendix "B" to Report PED24169. Staff recommend designation according to the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix "B" to Report PED24169.

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.

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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 directly 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 any of the properties to be an appropriate conservation alternative.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24169 – Location Map

Appendix "B" to Report PED24169 – Statement of Cultural Heritage Value or Interest
and Description of Heritage Attributes

Appendix "C" to Report PED24169 – Photographs

Appendix "D" to Report PED24169 – Research Sources

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