




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Committee Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	December 13, 2024
SUBJECT/REPORT NO:	Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Scott Dickinson (905) 546-2423 Ext. 7167 Alissa Golden (905) 546-2423 Ext. 1202
SUBMITTED BY:	Anita Fabac Director, Planning and Acting Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That the non-designated property located at 537 King Street East, Hamilton, be removed from the Municipal Heritage Register.

EXECUTIVE SUMMARY

This Report recommends removing 537 King Street East, Hamilton from the Municipal Heritage Register, which will be demolished in response to an Order to Comply under the *Building Code Act*. The property will also be removed from the City's list of candidates for designation under Part IV the *Ontario Heritage Act*.

A conditionally-approved Site Plan Control application (DA-21-159) for redevelopment of lands, including this property, intended that the significant heritage building at 537 King Street East, known as Rebel's Rock, be retained and adaptively reused. The

SUBJECT: Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) - Page 2 of 6

building has been vacant and, despite measures to secure the building from trespass, has been subject to two separate fires in the last year on April 8 and November 5, 2024.

Staff received a report from a professional engineer on the state of the building and a Documentation and Salvage Report for the subject property on November 11, 2024 (attached as Appendix “A” to Report PED24231). The professional engineer’s review found the building to be structurally unsound and too unsafe to allow workers inside to make it structurally sound. Building Inspection staff were provided a copy of the engineer’s review, agreed with its findings, and issued an Order to Comply to demolish the building on November 14, 2024. At the time of preparing this Report, the building was expected to be demolished before the end of December. Therefore, Cultural Heritage Staff recommend removing the property from the Municipal Heritage Register.

Staff attended the site on November 13 and 21, 2024, and documented the exterior heritage features that had been salvaged from the building prior to demolition, that are intended to be safely stored until they can be integrated into a new development on site. On November 25, 2024, staff received documentation from the owner confirming the list of salvaged items and additional materials (e.g., skids of brick) intended to be salvaged once demolition begins (attached as Appendix “B” to Report PED24231). The City is not able to impose conditions on the owner as part of the process of removing the property from the Municipal Heritage Register or through the Building Permit process. Therefore, staff anticipate including conditions of approval for implementation of the recommendations of the Documentation and Salvage Report, and for appropriate interpretation and commemoration measures, as part of an amended Site Plan application for the subject site.

Alternatives for Consideration – Not applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: Listing on the Register under Section 27 of the *Ontario Heritage Act* requires that Council be given 60-days’ notice of the intention to demolish or remove any building or structure on the property, and the demolition or removal of a building or structure is prohibited during this time period. The 60-day interim period is intended to allow time to consider alternatives and actions for the potential conservation of a property, as applicable. Neither the *Building Code Act* nor the *Ontario Heritage Act* specifically address the consequences of an Unsafe Order to Comply on the *Ontario Heritage Act* requirement for 60-days’ notice of the intention to demolish a listed property. Council must

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SUBJECT: Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) - Page 3 of 6

consult with the Municipal Heritage Committee prior to removing a property from the Register under Section 27 (4) of the Act.

The City of Hamilton's Demolition Control Area By-law No. 22-101 restricts the demolition of residential property in certain situations with the intent of preventing the premature loss of dwelling units and the creation of vacant land. As per Section 4(f) of the By-law, the restriction on demolition does not apply when a residential property has been found to be unsafe under Section 15.9 of the *Building Code Act* and an order to demolish has been issued under that section without any option to repair.

HISTORICAL BACKGROUND

The subject property located at 537 King Street East, Hamilton, was previously comprised of a two-and-a-half-storey brick former dwelling constructed circa 1898. The subject property was first surveyed for potential heritage interest in 2021 in response to a third-party request, resulting in it being listed on the Municipal Heritage Register and added to the City's work plan for designation under the *Ontario Heritage Act*.

In 2021, a Site Plan Control application (DA-21-159) was also submitted for the subject property proposing redevelopment of the five lots municipally addressed as 537, 547, 555, 557 and 561-563 King Street East. Cultural Heritage Planning required that a Cultural Heritage Impact Assessment be submitted in support of the application to review the impacts of the proposal on the heritage resource and recommend measures to mitigate any impacts. The Site Plan Control application was conditionally approved, requiring that the significant heritage building at 537 King Street East, known as Rebel's Rock, be retained, and adaptively reused as part of the redevelopment.

On April 8, 2024, a fire in the subject property damaged the heritage building. On April 9, 2024, Municipal Law Enforcement staff issued an order requiring the property owner to bring the subject property back into compliance with the City's Property Standard to make it safe from trespass. In July 2024, a Building Permit application to demolish the building was submitted. Cultural Heritage Planning staff advised Building staff that a permit to demolish could not be issued until the requirements of the *Ontario Heritage Act* were met for giving Notice of Intention to Demolish, and that demolition was not in compliance with the conditionally-approved Site Plan for the property. In response to being notified of the application, Cultural Heritage staff also conducted an updated cultural heritage evaluation for the subject property in accordance with Ontario Regulation 9/06, in anticipation of proceeding with a recommendation to designate the subject property if a Notice of Intention to Demolish was submitted by the owner.

On November 5, 2024, a fire further damaged the heritage building. On November 11, 2024, the property owner provided staff with a report from a professional engineer on

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SUBJECT: Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) - Page 4 of 6

the state of the building and a Documentation and Salvage Report for the subject property (attached as Appendix “A” to Report PED24231). The professional engineer’s review found the building to be structurally unsound and too unsafe to allow workers inside to undertake temporary support work to make it structurally sound. The review therefore recommended the demolition of the building. Building Inspection staff were provided a copy of the engineer’s review, agreed with its findings, and issued an Order to Comply to demolish the building on November 14, 2024, requiring the owner to obtain a Building Permit to demolish and commence demolition immediately. At the time of preparing this Report, the building was expected to be demolished before the end of December.

The Documentation and Salvage Report, prepared by AECOM and dated October 2024, identified heritage attributes to be removed prior to demolition, and suggested options for the commemoration of the heritage building following demolition (see Appendix “A” to Report PED24231). Staff attended the site on November 13 and 21, 2024, and documented the exterior heritage features that had been salvaged from the building prior to demolition, that are intended to be safely stored until they can be integrated into a new development on site (see photographs attached as Appendix “C” to Report PED24231). On November 25, 2024, staff received documentation from the owner confirming the list of salvaged items and additional materials (e.g., skids of brick) intended to be salvaged once demolition begins (attached as Appendix “B” to Report PED24231).

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Recommendation of this Report is consistent with Provincial and Municipal legislation, policy, and direction, including the following relevant policies from the Urban Hamilton Official Plan, Volume 1:

- Identifying cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources (B.3.4.2.1 b));
- Maintaining the Municipal Heritage Register, pursuant to the *Ontario Heritage Act*, and seeking advice from the Municipal Heritage Committee when considering additions and removals of non-designated properties from the Register (B.3.4.2.4); and,
- Requiring mitigation measures, in addition to a thorough inventory and documentation of lost features, when a significant built heritage resource is unavoidably lost or demolished, including (Urban Hamilton Official Plan, Volume 1, Chapter B. 3.4.5.5):
 - Preserving and displaying fragments of the former buildings’ features;

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SUBJECT: Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) - Page 5 of 6

- Displaying graphic and textual descriptions of the site's history and former use, buildings, and structures;
- Incorporating salvaged material in the design of the new development; and,
- Generally reflecting the former architecture and use in the design of the new development, where appropriate.

RELEVANT CONSULTATION

Internal

- Planning and Economic Development Department, Building Division, Building Inspections;
- Planning and Economic Development Department, Licensing and By-law Services Division, Enforcement; and,
- Ward 3 Councillor Nann.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Listing a property on the Municipal Heritage Register as a non-designated property of cultural heritage value or interest provides 60 days interim protection from demolition. The 60-day interim period is intended to allow staff time to discuss alternatives for conservation of a property with the owner, including opportunities for retention, adaptive re-use and financial incentives, and photo-documentation of the property prior to demolition. In the case of significant heritage properties, like those identified as candidates for designation, the 60-day delay could allow Council time to consider issuing a notice of intention to designate the property to prevent demolition.

The subject property at 537 King Street East, Hamilton, was identified as a candidate for individual designation under Part IV of the *Ontario Heritage Act*. Following receipt of a professional engineer's review confirming the unsafe state of the building, Building Division staff consulted with Cultural Heritage staff and indicated that the brick building should be demolished immediately and issued an Order to Comply. At the time of preparing this Report, the building was expected to be demolished before the end of December. Therefore, Cultural Heritage staff determined that the designation of the historic building would not be pursued.

The Documentation and Salvage Report, Section 7.1, (attached as Appendix "A" to Report PED24231) identifies heritage features recommended for salvage prior to demolition, including: the existing terra cotta detailing, stained glass windows, terra cotta brick, rusticated concrete lintels and sills. Section 8 of the Documentation and Salvage Report outlines potential commemoration options and examples to inform a commemoration and interpretation plan as part of future redevelopment of the site. The

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SUBJECT: Demolition of 537 King Street East, Hamilton, Being a Non-Designated Property Listed on the Municipal Heritage Register with an Unsafe Order to Comply (PED24231) (Ward 3) - Page 6 of 6

City is not able to impose conditions on the owner for salvage, commemoration, or interpretation measures as part of the process of removing the property from the Municipal Heritage Register or through the Building Permit process to demolish. However, many of these key exterior heritage features have already been salvaged from the building, which are intended to be safely stored until they can be integrated into a new development on site, as confirmed in a letter from the owner and documented in staff's photographs attached as Appendices "B" and "C" to Report PED24231. Therefore, staff anticipate including conditions of approval for implementation of the recommendations of the Documentation and Salvage Report (attached as Appendix "A" to Report PED24231), and for appropriate interpretation and commemoration measures, as part of an amended Site Plan Control application for the subject site. Staff also request a copy of a completed Salvage Record Form (provided as Appendix C of the Documentation and Salvage Report) following demolition.

ALTERNATIVES FOR CONSIDERATION

Not applicable.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24231 – 537 King Street East: Cultural Heritage Documentation and Salvage Report
Appendix "B" to Report PED24231 – Letter from Owner dated November 25, 2024
Appendix "C" to Report PED24231 – Photographs

SD/AG/mb