



City of Hamilton Report for Consideration

To: Chair and Members
Planning Committee

Date: February 25, 2025

Report No: PED25044

Subject/Title: Notice of Objection to the Notice of Intention to Designate 21-25 Jones Street, Stoney Creek (The Powerhouse), under Part IV of the *Ontario Heritage Act*

Ward(s) Affected: Ward 5

Recommendations

- 1) That the Notice of Objection to the Notice of Intention to Designate 21-25 Jones Street, Stoney Creek (The Powerhouse), under Part IV of the *Ontario Heritage Act*, attached as Appendix A to Report PED25044, **BE RECEIVED**;
- 2) That Council **NOT WITHDRAW** the Notice of Intention to Designate 21-25 Jones Street, Stoney Creek, under Part IV of the *Ontario Heritage Act*; and,
- 3) That the draft By-law to designate 21-25 Jones Street, Stoney Creek (The Powerhouse), under Part IV of the *Ontario Heritage Act*, attached as Appendix B to Report PED25044, which has been prepared in a form satisfactory to the City Solicitor, **BE ENACTED** by City Council.

Key Facts

- This Report notifies Council of the objection from the owner of 21-25 Jones Street, Stoney Creek to the Notice of Intention to Designate for the subject property and recommends that Council proceed with enacting a by-law to designate the property under Part IV of the *Ontario Heritage Act*.
- On December 27, 2024, the City Clerk received an objection to the Notice of Intention to Designate 21-25 Jones Street, Stoney Creek (The Powerhouse) from legal counsel representing the owner of the property.

- Under Section 29(6) of the *Ontario Heritage Act*, any objection must be considered by Council, who may choose whether or not to withdraw its Notice of Intention to Designate.
- The objection, attached as Appendix A to Report PED25044, disputes the heritage value of 21-25 Jones Street, Stoney Creek but does not provide any documentation to support these claims.
- Staff recommend that Council receive the notice of objection and reaffirm its decision to designate this property by enacting the draft by-law to designate 21-25 Jones Street, Stoney Creek, attached as Appendix B to Report PED25044.

Financial Considerations

N/A

Background

On November 13, 2024, Council approved recommendation 9(b) of Planning Committee report 24-016:

“Recommendation to Designate 21-25 Jones Street, Stoney Creek (the Powerhouse), under Part IV of the Ontario Heritage Act (PED24190) (Ward 5) (Item 8.2)

- (i) That the City Clerk be directed to give notice of Council’s intention to designate 21-25 Jones Street, Stoney Creek, shown in Appendix A attached to Report PED24190, 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 PED24190, subject to the following:
 - (1) 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;
 - (2) 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.”

The Notice of Intention to Designate was published in the Hamilton Spectator on November 28, 2024, and served on the registered owner of 21-25 Jones Street, Stoney Creek, and the Ontario Heritage Trust. On December 27, 2024, the City Clerk received a notice of objection from legal counsel representing the registered owner of 21-25

Jones Street, Stoney Creek, via email. No further notices of objection were received, and the legislated objection period ended on December 28, 2024.

Analysis

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.

Under Section 29(5) of the *Ontario Heritage Act*, a person who objects to a proposed designation shall, within 30 days after the date of publication of the notice of intention, serve on the clerk of the municipality a notice of objection setting out the reason for the objection and all relevant facts. Section 29(8) of the Act requires Council to pass a by-law within 120 days from the date of the notice of intention to designate. Once a designation by-law has been passed, any further objection would be heard before the Ontario Land Tribunal.

Notice of Objection for 21-25 Jones Street (The Powerhouse)

The objection letter dated December 27, 2024, received via email from the legal counsel of the owner of 21-25 Jones Street, Stoney Creek, attached as Appendix A to Report PED25044, states that the owner of the subject property objects to the proposed designation on the grounds that the owner considers the subject property to not meet any of the nine criteria laid out under Ontario Regulation 9/06. Additionally, the objection notes that the owner considers that usage and location of the subject property 'nullifies and negates' the criteria laid out under Ontario Regulation 9/06, and that the proposed designation would cause economic loss to the registered owner of the property. No documentation was provided to support these claims.

Staff Comments on Objection

Staff determined that 21-25 Jones Street, Stoney Creek meets seven of the nine criteria contained in Ontario Regulation 9/06, as amended by Ontario Regulation 569/22, and is therefore worthy of designation under Part IV of the *Ontario Heritage Act* (see Report PED24190). For reference, photographs of the subject property are attached as Appendix C to Report PED25044.

While the objection states that the owner of the subject property believes that it does not meet any of the criteria laid out in Ontario Regulation 9/06, the objection does not provide any documentation to support these claims.

Should Council reaffirm its decision to designate the property and enact the designation by-law, any future appeals of the designation by-law would be heard by the Ontario

Land Tribunal. The Ontario Land Tribunal considers a number of matters, such as the proposed designation of a property as having cultural heritage value or interest, however, according to the Ontario Land Tribunal Appeal Guide:

“The OLT does not hear matters on costs of physical maintenance, repairs, or any proposed work related to the actual condition of the property (or structure), as these are outside the scope of the evaluation of cultural heritage value or interest.”

Any concerns regarding the cost of repairs to the building or any potential economic losses are not relevant to the objection of whether the property is worthy of designation under the *Ontario Heritage Act*. However, it is important to note that designated properties are eligible for financial incentives, such as development charge exemption for adaptive reuse within the building envelope, as well as grant and loan programs.

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

- Implementing proactive strategies for conserving significant built heritage resources (Provincial Planning Statement, 2024, Sub-section 4.6.4(b));
- Designating properties of cultural heritage value under Part IV of the *Ontario Heritage Act* (Urban Hamilton Official Plan, Section B.3.4.2.3);
- Encouraging the rehabilitation, renovation, and restoration of built heritage resources so that they remain in active use (Urban Hamilton Official Plan, Section B.3.4.1.5); and,
- Using all relevant provincial legislation and all related plans and strategies to appropriately manage, conserve and protect Hamilton’s cultural heritage resources (Urban Hamilton Official Plan, Section B.3.4.2.1(i)).

Therefore, staff recommend that the notice of objection to the designation of 21-25 Jones Street, attached as Appendix A to Report PED25044, be received, that Council not withdraw its Notice of Intention to Designate, and that the draft by-law to designate the property, attached as Appendix B to Report PED25044, be enacted.

Alternatives

Under Section 29(6) of the *Ontario Heritage Act*, Council shall consider the objection and make a decision whether or not to withdraw the Notice of Intention to Designate the property within 90 days after the end of the 30-day objection period. Section 29(7) requires that a notice of withdrawal be issued should Council decide to withdraw the notice of intention to designate the property in response to the objection.

Notice of Withdrawal

By withdrawing the Notice of Intention to Designate, the municipality would be unable to provide long-term, legal protection to this significant cultural heritage resources (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. Staff does not consider withdrawing the Notice of Intention to Designate the property to be an appropriate conservation alternative.

Relationship to Council Strategic Priorities

- Priority 1: Sustainable Economic & Ecological Development
 - 1.2: Facilitate the growth of key sectors.
- Priority 3: Responsiveness & Transparency
 - 3.2: Get more people involved in decision making and problem solving.

Previous Reports Submitted

- [Recommendation to Designate 21-25 Jones Street, Stoney Creek \(the Powerhouse\), under Part IV of the Ontario Heritage Act \(PED24190\) \(Ward 5\) – REVISED.](#)

Consultation

As noted in Report PED24190, prior to bringing forward the staff report recommending designation of the subject property, staff met with representatives for the owner to discuss the potential designation and answer their questions about its implications. The owner of the property was advised of when the staff report recommending designation was being considered by the Hamilton Municipal Heritage Committee and Planning Committee in the fall of 2024 and how to delegate at the meetings, if so desired.

Planning staff have emailed the Ward Councillor (Councillor M. Francis) for Ward 5 and provided an overview of the notice of objection to designate 21-25 Jones Street, Stoney Creek, and the recommendations of this Report.

Appendices and Schedules Attached

Appendix A: Notice of Objection to the Notice of Intention to Designate 21-25 Jones Street, Stoney Creek, dated December 27, 2024

Appendix B: Draft By-law to Designate 21-25 Jones Street, Stoney Creek under Part IV of the *Ontario Heritage Act*

Appendix C: Photographs of 21-25 Jones Street, Stoney Creek, taken February 9, 2024

**Notice of Objection to the Notice of Intention to Designate 21-25 Jones Street,
Stoney Creek (The Powerhouse), under Part IV of the *Ontario Heritage Act***

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