



City of Hamilton Report for Consideration

To: Chair and Members
Planning Committee

Date: July 8, 2025

Report No: PED24077(b)

Subject/Title: Recommendation to Pass a By-law to Designate 84 York Boulevard, Hamilton, (Philpott Memorial Church) under Part IV of the *Ontario Heritage Act*

Ward(s) Affected: Ward 2

Recommendations

- 1) That the draft By-law to designate 84 York Boulevard, Hamilton (Philpott Memorial Church) under Part IV of the *Ontario Heritage Act*, attached as Appendix A to Report PED24077(b), which has been prepared in a form satisfactory to the City Solicitor, **BE ENACTED** by City Council.

Key Facts

- This Report recommends that Council pass a By-law to designate 84 York Boulevard, Hamilton (Philpott Memorial Church) under Part IV of the *Ontario Heritage Act* before the Notice of Intention to Designate period ends on July 31, 2025, and the property is removed from the Municipal Heritage Register. Once the Notice period ends, the property will no longer have protections under the *Ontario Heritage Act*.
- On July 12, 2024, Council directed staff to work with the owner (The Trustees of Philpott Memorial Church) and prospective purchaser (Developer) of the property to negotiate a heritage conservation easement agreement or covenant as an alternative to designation of 84 York Boulevard as a means to ensure that the existing heritage building was maintained, and the cultural heritage attributes were protected until such time that the required *Planning Act* applications for a large mixed use project proposing 600 housing units on the site was processed and approved.
- To ensure the heritage value of the property was protected during negotiations, the City entered into an agreement with the Trustees of Philpott Memorial Church

and the Developer on July 12, 2024, to extend the Notice of Intention to Designate expiry by 120 days, until December 11, 2024, and, on November 27, 2024, agreed to extend the expiry again to July 31, 2025.

- To date, the City has been unable to negotiate a heritage conservation easement agreement or covenant with the Trustees of Philpott Memorial Church or the Developer. Without passing a designation by-law, an active Notice of Intention to Designate, or an executed heritage easement or covenant, the City does not have any mechanism to manage change and conserve the identified heritage attributes of this heritage property.
- Therefore, staff recommend proceeding with passing the by-law to designate 84 York Boulevard, Hamilton, attached as Appendix A to Report PED24077(b), under Part IV of the *Ontario Heritage Act*. Once a designation by-law has been passed, any further appeal would be heard before the Ontario Land Tribunal.

Financial Considerations

Not applicable.

Background

On March 27, 2024, Council directed staff to issue a Notice of Intention to Designate the significant heritage property located at 84 York Boulevard, Hamilton, known as Philpott Memorial Church, comprised of a brick church building originally constructed in two phases in 1901 and 1906, in accordance with Part IV of the *Ontario Heritage Act* (see Report PED24007, Hamilton Municipal Heritage Committee Report 23-009 and Planning Committee Report 24-003).

The Notice of Intention to Designate was published in the Hamilton Spectator on April 15, 2024, and served on the registered owners of 84 York Boulevard (The Trustees of Philpott Memorial Church) and the Ontario Heritage Trust. During the legislated objection period, the City Clerk received five notices of objection to the Notice of Intention to Designate, which were presented to Planning Committee on June 18, 2024 (see Report PED24077, Planning Committee Report 24-003). Staff's assessment of these objections in Report PED24077 found that the property still met criteria for designation under Part IV of the *Ontario Heritage Act*, and staff recommended that Council pass a designation by-law.

On June 26, 2024, Council resolved to hold the passing of a designation by-law in abeyance until such time as staff had further discussion with the Trustees of Philpott Memorial Church and the Developer and reported back about reaching a multi-party agreement that would: allow for residential development on the site; recognize and include heritage features of the existing structure; address the financial interests of the Church; and, secure the City's interest that development is achieved within a reasonable timeline.

On July 12, 2024, Council considered staff's report back (Report PED24077(a)) and directed staff to, in lieu of passing a designation by-law, pursue the negotiation of a heritage conservation easement agreement or covenant under Section 37(1) of the *Ontario Heritage Act* to ensure that the existing heritage building would be maintained, and the cultural heritage attributes protected while the required *Planning Act* applications for the site were processed. Council directed that the provisions including monitoring, securities and conservation plan be included in a heritage conservation easement agreement or covenant negotiated for 84 York Boulevard and that it is not released until such time that a *Planning Act* application for 600 residential units including requirements for larger units and a number of other design conditions was approved.

To help facilitate the negotiation and further discussions, on July 12, 2024, the City of Hamilton entered into an agreement with the Trustees of Philpott Memorial Church and the Developer to extend the 120-day legislated timeframe for the City to put forth a designation by-law following the issuance of a Notice of Intention to Designate to December 11, 2024. The intention was for Council to preserve its right to designate the property if negotiations for a heritage easement agreement or covenant on the terms set out above were unsuccessful.

A draft copy of the Heritage Covenant Agreement was provided to the Developer's consultant and The Trustees of Philpott Memorial Church on September 4, 2024, for their review.

Having received no response from the Developer, staff contacted the Developer and the Trustees of Philpott Memorial Church in October 2024 and were informed that the purchase agreement had not been resolved. In order to allow more time for discussions with the Developer, a new agreement to extend the 120-day legislated timeframe for the City to put forth a designation by-law following the issuance of a Notice of Intention to Designate, was executed by the City and the Trustees of Philpott Memorial Church extending the timeframe to July 31, 2025.

On March 25, 2025, staff met with representatives of the Trustees of Philpott Memorial Church and were informed that the purchase agreement had not been resolved.

Staff contacted the Developer's consultant on April 4, 2025, and offered to meet to review and consider changes to the conditions to release the Heritage Easement or Covenant that may improve the viability of the proposed development recognizing the current downturn in the market. Staff requested a response by April 18, 2025. The Developers' Consultant confirmed that the information was provided to their client and on May 16, 2025, informed staff that they have received no instructions on staff's offer to meet.

Analysis

Despite active communication with the Trustees of Philpott Memorial Church and the Developer and two extensions to the Notice of Intention to Designate timelines, the City has been unable to negotiate a heritage conservation easement agreement or covenant for 84 York Boulevard, as directed by Council.

In the absence of a signed heritage conservation easement agreement or covenant, the expiry of the existing Notice of Intention to Designate on July 31, 2025, would result in the removal of the property from the City's Municipal Heritage Register, and would also remove all existing protections to the property's heritage attributes provided by the Notice under Part IV of the *Ontario Heritage Act*.

The only action available to the City to continue the uninterrupted protection of the subject property under the *Ontario Heritage Act* is to pass the by-law to designate under Part IV of the *Ontario Heritage Act*. The intent of municipal designation 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. Protected heritage properties that are designated under the *Ontario Heritage Act* are required to be conserved through the *Planning Act* development application process, as the conservation of significant heritage property is a provincial interest. Designated properties are also eligible for the City's heritage grant and loan programs to assist with heritage conservation and restoration work.

Therefore, staff recommend that the draft by-law to designate 84 York Boulevard, Hamilton (Philpott Memorial Church) under Part IV of the *Ontario Heritage Act*, attached as Appendix A to Report PED24077(b), be enacted.

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)).

Alternative

Under Part IV of the *Ontario Heritage Act*, the designation of property is a discretionary activity on the part of Council. Council, after its consultation with the Municipal Heritage Committee, may decide to take no action by receiving the report resulting in a deemed withdrawal of the notice of intention to designate on July 31, 2025, or choose to not enact the designation by-law.

Either alternative will result in the removal of the property from the Municipal Heritage Register for five years and it will therefore not have the 60-day protection from demolition provided by the register. Staff do not recommend this as the City would be unable to protect the heritage attributes of the property in the interim while redevelopment of the site is being considered and it would not fulfil the expectations established by existing municipal and provincial policies. It would also result in the property not being subject to the requirement for an alteration permit under the *Ontario Heritage Act*, nor would it be subject to the elevated property maintenance standards for a designated property in the property standards by-law leaving heritage attributes without a clear level of protection. As an undesignated property it would also not be eligible for the City's financial incentives for heritage properties, including development charge exemption and grant and loan programs.

Deemed Withdrawal by Taking No Action

If Council does not wish to enact the designation by-law it could either take no action on the staff recommendation or make a decision not to enact the by-law. Of these two non-designating options, staff believe it is preferable to take no action on the staff recommendation. The *Ontario Heritage Act* is clear that where Council takes no action to designate (deemed withdrawal situation) Council is not precluded from designating the property in the future.

After a deemed withdrawal, Council may issue a new Notice of Intention to Designate. Staff do not consider this a preferred conservation alternative because it would leave the property without any heritage protections from a building permit to demolish in the period between notices. It could permit the demolition or loss of heritage attributes as timelines to issue a new Notice of Intention to Designate would be constrained.

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

- [PED24007 - Recommendation to Designate 84 York Boulevard, Hamilton \(Philpott Memorial Church\), under Part IV of the *Ontario Heritage Act* \(Ward 2\)](#)
- [PED24077 - Notices of Objection to the Notice of Intention to Designate 84 York Boulevard, Hamilton, under Part IV of the *Ontario Heritage Act* \(Ward 2\)](#)
- [PED24077\(a\) - Recommendation to Enter into a Heritage Conservation Easement or Covenant for 84 York Boulevard, Hamilton \(Philpott Memorial Church\), under Part IV of the *Ontario Heritage Act* \(Ward 2\)](#)
- [PED25041 - Extension Agreement for the Notice of Intention to Designate 84 York Boulevard, Hamilton \(Philpott Memorial Church\) \(Ward 2\)](#)

Consultation

- The Trustees of Philpott Memorial Church.
- The Developer through their agent, Armstrong Planning and Project Management.
- Legal and Risk Management Services, Corporate Services.
- Hamilton Municipal Heritage Committee.
- Planning staff have emailed the Ward Councillor (Councillor C. Kroetsch) for Ward 2 and provided an overview of the reasons for this recommendation.
- Planning staff have emailed the Office of the Mayor and provided an overview of the reasons for this recommendation.

Appendices and Schedules Attached

Appendix A to Report PED24077(b) – Draft By-law to Designate 84 York Boulevard

Prepared by: Scott Dickinson, Cultural Heritage Planner
Planning and Economic Development, Planning Division

Submitted and recommended by: Anita Fabac, Acting Director of Planning and Chief Planner
Planning and Economic Development, Planning Division