



Hamilton

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Memorandum

Date: March 19, 2015
To: Chair and Members, Hamilton Municipal Heritage Committee
From: Steve Robichaud, Director of Planning and Chief Planner
Subject: **Designation Status of 56 York Boulevard, also 63-76 MacNab Street North, Hamilton (Copley Building/Commercial Block)**

Council approved the designation of 56 York Boulevard, Hamilton (known as Copley, Noyes and Randall, the "Copley Building") under Part IV of the *Ontario Heritage Act* and issued a Notice of Intent to Designate in 1979. The designation was appealed to the Conservation Review Board, who advised in favour of the designation in 1980. This advice was forwarded to City Council; however, the designation by-law did not receive a third reading. The property remains protected under the provisions of the *Ontario Heritage Act* under the Notice of Intention to Designate.

Since 2012, the Hamilton Municipal Heritage Committee (HMHC) has had numerous discussions with Planning staff regarding the status of the Copley Building, arising from a request to install a designation plaque on the building. On March 15, 2012, HMHC requested that Planning staff further investigate what would be required to finalize the designation and to make contact with the owners to discuss this possibility. Planning staff provided a written update to HMHC in a memorandum dated November 14, 2013, which was discussed by the committee at their meeting on November 21, 2013.

In summary, Planning staff have met with representatives of the property owners on numerous occasions over the past few years to discuss the current status of the property, including the requirement for a Heritage Permit for any alterations to the property, and the potential to take advantage of grant and loan programs if the designation by-law is passed by Council. The representatives have consistently indicated that the owners are not interested in having the City pass the by-law to formally designate the property.

On December 18, 2014, HMHC requested that Planning staff report back with a written update outlining a detailed history of why the designation by-law never received its final reading in 1980 and the alternatives moving forward to address the Notice of Intention

to Designate. The following is a summary of the chronology of events surrounding the heritage status of the property and the alternatives moving forward. Legal Services were consulted in the preparation of this memorandum.

Chronology of Events

April 1978

LACAC considers recommending designation of the property in light of proposed alterations to the exterior of the building, including sandblasting the masonry.

April 1979

The Board of Control approved designation of the property on April 4, 1979. Council ratified the decision on April 24, 1979.

June 1979

The Notice of Intention to Designate was published and sent to the property owners on June 5, 1979.

July 1979

The property owners submitted an objection to the designation on July 4, 1979.

May 1980

The owners objection was heard by the Conservation Review Board (CRB) on May 22, 1980. The CRB found that the property should be designated, including the York Boulevard and MacNab Street North façades, as well as much of the physical structure and land as is necessary for the preservation of such façades (interior and exterior load bearing walls, and a strip of land abutting the west side of the building).

August 1980

The CRB report recommending designation of the property was forwarded to Council for their consideration on August 11, 1980. Owners sent a letter to Council on August 21, 1980, requesting that the by-law be tabled to allow for further discussion, stating concerns over potentially closing down and loss of jobs if the property was designated. The Hamilton and District Labour Council sent a similar letter on August 22, 1980, supporting the owner's concerns. Bill 231/80 (the proposed designation by-law) received its first and second readings by Council on August 26, 1980, and was referred back to the Planning and Development Committee prior to its third and final reading. No further mention of the bill can be found on file and the bill number was not reassigned.

August 1984

LACAC brought the issue back up and requested that Council pass the by-law. The file notes indicate that the recommendation was tabled and staff were directed to have further discussions with the owner as to their feelings about the designation, citing a

Parks and Recreation Committee meeting on August 16, 1984. There is no further correspondence in the file following up on this request.

November 2013

Planning staff met with representatives of the property owners to discuss the current status of the property, including the requirement for a Heritage Permit for any alterations to the property and the potential to take advantage of grant and loan programs if the designation by-law is passed by Council. Staff updated HMHC on this matter in a memo dated November 13, 2013.

September 2014

Planning staff met with the Ward Councillor and representatives of the property owners to discuss passing the designation by-law to allow for the installation of a designation plaque. The owner indicated they would prefer to keep the status quo and would not like to pursue passing the designation by-law for the property.

December 2014

HMHC requested that Planning staff report back with a written update outlining a detailed history of why the designation by-law never received its final reading in 1980 and the alternatives moving forward to address the Notice of Intention to Designate.

Alternatives

1. Status Quo

The property is currently subject to the Notice of Intention to Designate from 1979. By maintaining the status quo, the City would continue to manage change to the property through the Heritage Permit process as if it were designated, as per the provisions of the *Ontario Heritage Act*. However, the property would not be eligible for a City designation plaque, nor would it be eligible for the City's financial incentives for protected heritage properties.

2. Withdraw the Notice of Intention to Designate

City Council could withdraw the 1979 Notice of Intention to Designate and the City would not be able to ensure the long-term protection of this significant cultural heritage resource or manage change to the property through the Heritage Permit process. A majority vote of Council would be required to rescind the Notice.

3. Withdraw the Notice of Intention to Designate subject to inclusion in the Register

City Council could withdraw the 1979 Notice of Intention to Designate, subject to the property being included in the Register of Cultural Heritage Value or Interest.

A majority vote of Council would be required to rescind the Notice and Council would be required to consult with HMHC before including the property in the Register. Inclusion in the Register would provide for interim protection of the property from demolition by requiring the owner to provide 60 days notice of demolition or removal of any building or structure on the property. The City would be unable to ensure the long-term, legal protection of this significant cultural heritage resource or manage change to the property through the Heritage Permit process. The property could also be removed from the Register by a majority vote of Council, following consultation with HMHC.

4. Proceed with Designation under former *Ontario Heritage Act* regulations

The City could proceed with designating the Coppley Building in accordance with the 1980 decision of the CRB, which includes an overview of the cultural heritage value of the property and the features important to its preservation. The previously read Bill 231/80 is not consistent with the revised *Ontario Heritage Act*. A majority vote of Council is required to pass the by-law.

5. Proceed with Designation under updated *Ontario Heritage Act* regulations

The City could proceed with a new Notice of Intention to Designate. A majority vote of Council would be required to direct staff to publish a new Notice and Council would be required to consult with HMHC before giving notice. This would allow staff the opportunity to adapt the previous research and CRB decision into the newly prescribed format under the revised *Ontario Heritage Act*, which includes the Statement of Cultural Heritage Value or Interest and clearly defined Description of Heritage Attributes.

Publishing a new Notice of Intention to Designate would open up the proposed designation to a 30-day appeal period, as required under the *Ontario Heritage Act*. During the appeal period the designation could be opposed and could result in a hearing and withdrawal by Council.

If the designation was withdrawn by Council, the municipality would be unable to provide long-term, legal protection of this significant cultural heritage resource (designation provides protection against inappropriate alterations, new construction and demolition). If no appeals were received during the 30-day period, a designation by-law would be passed.

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CC: Ward 2 Councillor Farr