TO: Chair and Members  
   Economic Development and Planning Committee  
WARD(S) AFFECTED:  
   Wards 2, 8, and 11  

COMMITTEE DATE: May 17, 2011  

SUBJECT/REPORT NO:  
Amendments to the Requests to Designate Properties Under Part IV of the Ontario Heritage Act: Priorities and the Register of Property of Cultural Heritage Value or Interest (PED11098) (Wards 2, 8, and 11)  

SUBMITTED BY:  
   Tim McCabe  
   General Manager  
   Planning and Economic Development Department  

PREPARED BY:  
   Meghan House  
   (905) 546-2424, Ext.1202  

SIGNATURE:  

RECOMMENDATION:  

(a) That 9300 Airport Road (Mount Hope) (RCAFA 447 Wing) be removed from the Council-approved “Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities”, as per the attached Appendix “B” to Report PED11098.  

(b) That 9300 Airport Road (Mount Hope) (RCAFA 447 Wing) be removed from the Register of Property of Cultural Heritage Value or Interest, following consultation with the Hamilton Municipal Heritage Committee, as per the provisions of the Ontario Heritage Act, and that staff make appropriate amendments to the Register of Property of Cultural Heritage Value or Interest.  

(c) That 1 Balfour Drive (Hamilton) (Chedoke House) be removed from the Council-approved “Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities”, as per the attached Appendix “B” to Report PED11098.
EXECUTIVE SUMMARY

Council approved a process for the consideration of requests for designation under Part IV of the Ontario Heritage Act on October 29, 2008 (Report PED08211). Through the recommendations of that Report, 9300 Airport Road (Mount Hope) (RCAFA 447 Wing), and 1 Balfour Drive (formerly 654 Garth Street) (Hamilton) (Chedoke House) were added to the Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities and to the Register of Property of Cultural Heritage Value or Interest (the “Register”). Subsequently, other properties have been added to the “Priorities” list and constitute the staff work program through which staff reports back to Planning Committee and Council. The current Council-approved staff work program is attached as Appendix “A”.

The RCAFA 447 Wing building, located at 9300 Airport Road (Mount Hope), was demolished in May 2010, and no longer warrants designation under the Ontario Heritage Act. Therefore, staff recommends that Council remove 9300 Airport Road (Mount Hope) from staff’s work program and the municipal Register of Property of Cultural Heritage Value or Interest. As per the requirements of the Ontario Heritage Act, removal of properties from the Register requires consultation with the Hamilton Municipal Heritage Committee.

Chedoke House, located at 1 Balfour Drive (formerly 654 Garth Street) (Hamilton), is owned by the Ontario Heritage Trust, an agency of the Ontario Government. Under Sub-section 26.1(1) of the Ontario Heritage Act, the municipality does not have the authority to designate property that is owned by the Crown. However, the Ontario Heritage Act does permit Crown-owned lands to be included in the municipal Register of Property of Cultural Heritage Value or Interest. Therefore, staff recommends the removal of 1 Balfour Drive (Hamilton) from staff’s work program, but that the property remains on the municipal Register of Property of Cultural Heritage Value or Interest.

In addition, staff and the Hamilton Municipal Heritage Committee have received correspondence from the owner of 91 John Street South (Hamilton) and 262 MacNab Street North (Hamilton) requesting that the designation of these properties be moved ahead. Staff does not recommend any additional changes to the work program in response to this request.

The amended work program, as per the recommendations of this Report, is attached as Appendix “B”.

Alternatives for Consideration - See Page 8.
FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: The City’s legal counsel was consulted in the preparation of the original staff report regarding the designation process (Report PED08211), which included the addition of the subject properties in the staff work program and to the Register of Property of Cultural Heritage Value or Interest.

Under Section 26.1 (1) of the Ontario Heritage Act, the municipality is not permitted to pass a municipal heritage designation By-law or a By-law amending a pre-existing municipal designation By-law with respect to Crown-owned property.

As an example, the City of Toronto issued their intention to designate 90 Harbour Street in Toronto, and the Ontario Realty Corporation (ORC) objected to the intent on jurisdictional grounds. The issue went to a pre-hearing at the Conservation Review Board where Toronto City Legal concurred that under changes to the Ontario Heritage Act (2005), municipalities cannot designate provincially-owned properties. Section 26.1(1) of the Act states that municipal designation does not apply to property that “is owned by the Crown in right of Ontario or by a prescribed public body”, as described in Section 25.2 (2)(a). Subsequently, the City of Toronto withdrew its notice of its intent to designate.

However, under Sub-section 26.1 (3) of the Ontario Heritage Act, the property may be included in the municipal Register of Property of Cultural Heritage Value or Interest.

HISTORICAL BACKGROUND

Council approved a process for the consideration of requests for designation under Part IV of the Ontario Heritage Act on October 29, 2008 (Report PED08211). Through the recommendations of that Report, several properties were added to the Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities, forming the basis for staff’s long-term work program, and to the municipal Register of Property of Cultural Heritage Value or Interest (the “Register”), including 9300 Airport Road (Mount Hope) (RCAFA 447 Wing) and 1 Balfour Drive (formerly 654 Garth Street) (Hamilton) (Chedoke House). Subsequently, other properties have been added to the staff work
program through staff reports to Planning Committee and Council. The current Council-approved work program is attached as Appendix “A”.

**RCAFA 447 Wing**

9300 Airport Road (Mount Hope)

The subject property is located at 9300 Airport Road (Mount Hope) on the Hamilton International Airport property (see location map and photographs attached as Appendix “C”). A request for designation of the RCAFA 447 (Hamilton) Wing building was received from the Royal Canadian Air Force Association (RCAFA) and was forwarded to the Heritage LACAC (Municipal Heritage Committee) on November 22, 2007. The property was added to the Council-approved staff work program (see Appendix “A”) and to the Register of Property of Cultural Heritage Value or Interest on October 29, 2008 (PED08211).

The Hamilton International Airport was established in 1940 as the Mount Hope Airport, a Royal Canadian Air Force (RCAF) base. The ‘H’-shaped building complex that was subject to the request for designation was built in 1940 for use as offices and sleeping quarters for the British Commonwealth Training Plan. The buildings were one-storey and built of frame construction with no basement. The RCAFA 447 Wing was formed in 1962 and used the buildings as a meeting hall and banquet facility until 2009.

The building complex was demolished in May, 2010. A demolition permit from the City of Hamilton was not obtained as the property is Federally-regulated as an airport. The heritage attributes of the property have been removed and the property no longer meets the criteria for designation under the Ontario Heritage Act.

**Chedoke House**

1 Balfour Drive (formerly 654 Garth Street) (Hamilton)

The subject property is located at 1 Balfour Drive (Hamilton), along the brow of the Niagara Escarpment, and comprises a stone house known as Chedoke House and a portion of the original estate lands. The property has been owned by the Ontario Heritage Trust since 1979, but is currently managed by the City of Hamilton under a long-term lease. The Hamilton LACAC (Municipal Heritage Committee) passed the following motion at their March 22, 2007 meeting:

> That staff be requested to contact the Ontario Heritage Trust to investigate the possibility of designation, and if permission is granted, to take the necessary steps to start the process.
Staff contacted the Ontario Heritage Trust, and did not receive any objections to the municipal designation of the property. The property was added to the Council-approved Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities and to the Register of Property of Cultural Heritage Value or Interest on October 29, 2008 (PED08211). Subsequent review of the provisions of the Ontario Heritage Act and legal precedent have led to the conclusion that the municipality is not permitted to pass a municipal heritage designation By-law with respect to Crown-owned property. However, under Sub-section 26.1 (3) of the Ontario Heritage Act, the property can be included in the municipal Register of Property of Cultural Heritage Value or Interest.

Other Properties on the Work Program Priority List

The Council-approved designation process provides for the prioritization of detailed research and assessment work. Within the annual work program, Heritage staff can typically process three to four properties through the designation process, including the preparation of the comprehensive Cultural Heritage Assessment Reports and the processing of the designation By-laws in conjunction with Clerks. According to the Council-approved process, Committee and Council may assign a high, medium, or low priority to a designation request in the context of a four- to five-year timeframe. These priorities generally fall within the following time frames:

- A high priority would direct staff to prepare the cultural heritage assessment within the current year’s work program;
- A medium priority would direct the designation request to the 2nd or 3rd year of the work program; or,
- A low priority would direct the request to the 4th or 5th year of the work program.

Work program priorities are assigned based on a number of factors, including:

- Risk to the property with respect to demolition or removal;
- Funding eligibility;
- Heritage value associated with the property;
- Current level of property maintenance;
- The property is City-owned; and,
- Work program/Staff resources.

Staff and the Hamilton Municipal Heritage Committee have received correspondence from the owner of 91 John Street South (Hamilton) and 262 MacNab Street North (Hamilton) (delegation at January 20, 2011 meeting). Both properties are currently on staff’s Council-approved work program, but the owner has requested that the consideration of these properties for designation be moved ahead.
The currently approved work program priorities are contained in Appendix “A”, and the proposed work program priorities are contained in Appendix “B”.

**POLICY IMPLICATIONS**

**Ontario Heritage Act**

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)).

Designation does not restrict the use of a property, prohibit alterations or additions, or restrict the sale of a property. The City of Hamilton also provides heritage grant and loan programs to assist in the continuing conservation of properties once they are designated.

Inclusion in the municipal *Register of Property of Cultural Heritage Value or Interest* 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 and removal of any building or structure is prohibited during this time period.

The recommendations of this Report are in keeping with the provisions of the *Ontario Heritage Act*.

**City of Hamilton Official Plan**

Section C.6 - *Heritage Resources* of the former City of Hamilton Official Plan encourages the preservation, maintenance, reconstruction, restoration, and management of property considered to have historic, architectural, or aesthetic value (C.6.1). The recommendations of this Report do no conflict with this policy.

**Township of Glanbrook Official Plan**

Section A.10 - *Heritage Conservation* of the former Township of Glanbrook Official Plan “encourage the preservation, conservation and rehabilitation of buildings, structures and/or lands of architectural, historical and/or archaeological value to enhance the character and heritage of the Township” (A.10.1). The recommendations of this Report do no conflict with this policy.
Urban Hamilton Official Plan

Volume 1, Section 3.4 - Cultural Heritage Resources Policies of the Council-adopted Urban Hamilton Official Plan (adopted July 9, 2009) states that the City shall “protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes” (Volume 1, 3.4.2.1(a)), and “identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources” (Volume 1, 3.4.2.1(b)). The policies also provide that the “City may, by By-law, designate individual and groups of properties of cultural heritage value under Parts IV and V, respectively, of the Ontario Heritage Act” (Volume 1, 3.4.2.3). The Urban Hamilton Official Plan has been approved by the Ministry of Municipal Affairs and Housing, but has been appealed in its entirety to the Ontario Municipal Board. While the plan is not in full force and effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources, and the recommendations of this Report do no conflict with these policies.

RELEVANT CONSULTATION

The Hamilton Municipal Heritage Committee has been informally advised of the information and recommendations contained in this Report on December 16, 2010, and January 20, 2011. The Hamilton Municipal Heritage Committee did not express any objections regarding removal of 9300 Airport Road (Mount Hope) from the Register; however, as per the requirements of the Ontario Heritage Act, staff will undertake formal consultation with the Hamilton Municipal Heritage Committee prior to removal of the subject property from the Register (see Recommendation (b)). Staff also recommends through this Report that the Hamilton Municipal Heritage Committee receive a copy of this Report for information (see Recommendation (d)).

ANALYSIS / RATIONALE FOR RECOMMENDATION

The RCAFA 447 Wing building complex, formerly at 9300 Airport Road (Mount Hope), was demolished in May, 2010, and the heritage attributes of the property have been removed. Therefore, the property no longer meets the criteria for designation under the Ontario Heritage Act and staff recommends that Council remove 9300 Airport Road (Mount Hope) from the staff work program and the municipal Register of Property of Cultural Heritage Value or Interest. Under Sub-section 27 (1.3) of the Ontario Heritage Act, consultation is required with the Hamilton Municipal Heritage Committee prior to the removal of any property from the Register. As per Recommendations (b) and (d) of this Report, consultation will be undertaken to fulfil this requirement.
Chedoke House, located at 1 Balfour Drive (formerly 654 Garth Street) (Hamilton), is owned by the Ontario Heritage Trust. Crown-owned property cannot be designated by the municipality. However, under Sub-section 26.1 (3) of the Ontario Heritage Act, the property may be included in the municipal Register of Property of Cultural Heritage Value or Interest. Therefore, staff recommends that 1 Balfour Drive (formerly 654 Garth Street) (Hamilton), be removed from the Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities, but remain in the municipal Register of Property of Cultural Heritage Value or Interest. There is no consultation requirement under the Council-approved designation process for removal of properties from the staff work program; however, the Hamilton Municipal Heritage Committee will be advised of this matter through Recommendation (d).

91 John Street South (Hamilton) and 262 MacNab Street North (Hamilton) are currently on the Council-approved staff work program, and the owner has requested that the consideration of these properties for designation be moved ahead. These properties will move up following the removal of Chedoke House and RCAFA 447 Wing from staff's work program. Also, the designation of 281 Book Road West (Ancaster) (Book Cemetery) has been approved by Council and removed from the staff work program, and the research and evaluation for 104 King Street West (Dundas) (former Dundas Post Office) has been completed. Furthermore, the existing work program priorities have been Council-approved based on the criteria contained in Report PED08211, which established the designation process. Based on these criteria, staff is of the opinion that the existing priorities for property designation still warrant their respective placement on the work program. Staff does not recommend any changes to the work program in response to the request by the owner of 91 John Street South and 262 MacNab Street North.

The staff work program, as amended by the recommendations of this Report, is attached as Appendix “B”.

**ALTERNATIVES FOR CONSIDERATION:**

Council may approve none of the recommendations or only select recommendations of this Report. However, the recommendations of this Report respond to specific physical and legal circumstances on the subject properties, and taking no action on the recommendations would not address these circumstances.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Skilled, Innovative and Respectful Organization

• Council and SMT are recognized for their leadership and integrity.
• **Staff Comment:** The approval of the recommendations of this Report demonstrates Council’s commitment to the Council-approved designation process.

Intergovernmental Relationships

• Maintain effective relationships with other public agencies.
• **Staff Comment:** The approval of the recommendations of this Report demonstrates Council’s commitment to conserving cultural heritage resources in a legally responsible manner, as directed by provincial and federal level policies.

Healthy Community

• Plan and manage the built environment.
• An engaged Citizenry.
• **Staff Comment:** The approval of the recommendations of this Report will demonstrate Council’s commitment to a coordinated and efficient process for considering heritage designations.

APPENDICES / SCHEDULES

• Appendix “A”: Requests to Designate Properties under Part IV of the **Ontario Heritage Act:** Priorities (as amended by Report PED10169).
• Appendix “B”: Requests to Designate Properties under Part IV of the **Ontario Heritage Act:** Priorities (as amended by Report PED11098).
• Appendix “C”: Location maps and photographs.

:MH
Attachs. (3)
Requests to Designate Properties under Part IV of the Ontario Heritage Act:
Priorities (as amended by Report PED10169)

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## Requests to Designate Properties under Part IV of the Ontario Heritage Act:
### Priorities (as amended by Report PED11090)

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Appendix “C” to Report PED11098

Location Map

File Name/Number: 9300 Airport Road
Date: March 30, 2011

Appendix “C” Scale: N.T.S.

Planner/Technician: MH / SW

Subject Property

9300 Airport Road, Mount Hope, Hamilton International Airport

Ward 11 Key Map N.T.S.
RCAFA 447 Wing (circa 1985)

RCAFA 447 Wing (2007)
Chedoke House, central portion (built 1836)

Chedoke House, east wing (built 1836 and mid-1850s)
Chedoke House, west wing (built mid-1850s)

Stable and garage.