CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members
Planning Committee
WARD(S) AFFECTED: WARD 2

COMMITTEE DATE: October 4, 2011

SUBJECT/REPORT NO:
Request to Designate 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), Under Part IV of the Ontario Heritage Act (PED11165) (Ward 2)

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

PREPARED BY:
Joseph Muller
(906) 546-2424, Ext. 1214
Andrea Mikkila and Rahul Tanna
(905) 546-2424, Ext. 7163

SIGNATURE:

RECOMMENDATION:

(a) That Council direct staff to carry out a Cultural Heritage Assessment of 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), to determine whether the property is of cultural heritage value, and worthy of designation under Part IV of the Ontario Heritage Act.

(b) That Council include 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), in 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 Recommendation (e) to Report PED11165, and that staff makes appropriate amendments to the Register of Property of Cultural Heritage Value or Interest.

(c) That if 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), is determined to be of cultural heritage value or interest, a Statement of Cultural Heritage Value and Description of Heritage Attributes be prepared by staff for Council’s consideration for designation under Part IV of the Ontario Heritage Act.
(d) That the Cultural Heritage Assessment work be assigned a low priority, and be added to staff's workplan for completion in 2015, as per the attached Appendix "G" to Report PED11165.

(e) That Report PED11165 be forwarded to the Hamilton Municipal Heritage Committee for information and consultation prior to the Council-approved inclusion of 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), in the Register of Property of Cultural Heritage Value or Interest.

(f) That Report PED11165 be forwarded to the owner of 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), for information.

EXECUTIVE SUMMARY

Staff has received a third party request to designate 4-12 John Street North (Treble Hall) (Hamilton) under Part IV of the Ontario Heritage Act (see Appendix “A”). 4-12 John Street North has merged on title with 85 King Street East, which was not known to the third party, and so, with consent of the property owner, the entire property is being considered with this Report. Under the Council-approved designation process (approved October 29, 2008 - Report PED08211), the following Report contains a preliminary evaluation of the subject property using the criteria contained in Ontario Regulation 9/06. This preliminary evaluation of the property provides the basis for a recommendation for continuing Cultural Heritage Assessment work, and for assigning a workplan priority for this assessment work.

The property located at 4-12 John Street North (Hamilton) (see Location Map attached as Appendix "B", and photographs attached as Appendix “C”), known as “Treble Hall” comprises a three-and-a-half storey, side gabled brick commercial structure, designed by James Balfour and built in 1879. The building originally comprised four first floor store fronts, second floor offices, and a third floor assembly hall for concerts, public meetings, and theatre. The property located at 85 King Street East (see location map attached as Appendix “B”, and photographs attached as Appendix “C”), known as “Pagoda” comprises a three-storey brick structure.

The property is included in Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest. A preliminary assessment of the property has been undertaken by staff using the criteria contained in Ontario Regulation 9/06 (see Appendix “E”). The property meets all three of the criteria in that it is considered to have design and physical value, historical and associative value, and contextual value.
Through this Report, staff recommends that the Planning Committee and Council direct staff to carry out a Cultural Heritage Assessment of 4-12 John Street North (Treble Hall) (Hamilton), and 85 King Street East (Pagoda) (Hamilton), to determine whether the property is of cultural heritage value and worthy of designation under Part IV of the Ontario Heritage Act as a low priority within staff’s workplan. This further research and assessment work will provide Committee and Council with adequate information upon which to base a decision regarding designation under the Ontario Heritage Act. The Hamilton Municipal Heritage Committee and the appropriate City Departments will be consulted during the preparation of the Cultural Heritage Assessment and the staff report.

Alternatives for Consideration - See Page 9.

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 new designation process (Report PED08211), the recommendations of which are summarized below:

Owner consent is not required for designation of a property under the Ontario Heritage Act, finding in Tremblay v. Lakeshore (Town), a 2003 Divisional Court decision, that the interests of the public, community, and the owner must all be considered when a Council decides whether or not to designate a property. The court ruled that, by making the owner’s consent a condition of designation, the Council fetters its discretion to make the designation decision, contrary to the Ontario Heritage Act. Accordingly, a Council may decide that it is in the public and/or community interest to conserve a property, despite objections by the owner.

As per the designation process approved by Council on October 29, 2008, this Report provides staff with direction to complete further research and evaluation of the property for a later decision by Council. If staff is directed to proceed, Council will make a decision on designation at a subsequent stage in the designation process when it has before it a staff Report, the Cultural Heritage Assessment, a draft designating By-law, advice from the Hamilton Municipal Heritage Committee, and the positions of the property owner and any other interested parties.
HISTORICAL BACKGROUND

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, an 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.

A process for considering requests for designation was approved by Council on October 29, 2008 (see Appendix “D”), and recognizes the Divisional Court decision Tremblay v. Lakeshore (Town).

A third party request to designate the property located at 4-12 John Street North (Treble Hall) (Hamilton) under Part IV of the Ontario Heritage Act was received on February 8, 2011 (see Appendix “A”). Unbeknownst to the party requesting designation, 4-12 John Street North and 85 King Street East have merged on title, and so the designation By-law would apply to the entire property. To clarify this issue, staff consulted with the property owner, and with their consent, the entire property is being considered in this Report. Under the Council-approved process for considering requests for designation, preliminary screening has been conducted (see Analysis section of this Report) referencing the criteria contained in Ontario Regulation 9/06 (see Appendix “E”) to determine if further Cultural Heritage Assessment work is warranted. This Report also identifies a staff recommendation for the workplan priority of this further Cultural Heritage Assessment work within the context of a four- to five-year timeframe, as per the Council-approved designation process.

Work Program Priority

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 one- 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.

The currently approved work program priorities are contained in Appendix “F”.

### POLICY IMPLICATIONS

The following policies apply:

**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).

**Urban Hamilton Official Plan**

Section 3.4 - *Cultural Heritage Resources Policies* of the Council-adopted Hamilton Urban 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” (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” (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*” (3.4.2.3). Although, the Urban Hamilton Official Plan has been approved by the Ministry of Municipal Affairs and Housing, but is not yet in full legal effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources.
RELEVANT CONSULTATION

This Report is the initial stage in the consideration of a request for designation under the process approved by Council on October 29, 2008. Although this request for designation originates from a third party, the owner of the property was consulted in the preparation of this Report, and is in favour of its recommendations. Regardless of the owner’s acceptance or objection to designation, Council does not have enough information at this time to determine whether it is in the public interest and/or community interest to conserve the property (see Legal Implications). The purpose of this Report is to provide staff with direction to complete further research and evaluation of the property in order to assemble the information for a later decision by Council. The owner will be contacted when consideration of the potential designation of the subject property is to be discussed, and would be notified of Council’s intent to designate and the passing of any By-laws under the public notification provisions of the Ontario Heritage Act. In keeping with Council’s intent in approving the designation process, it is recommended that the owner be forwarded a copy of this Report and advised of any further assessment work to be completed.

Staff will follow the Council-approved process (see Appendix “D”) and formally consult with the Hamilton Municipal Heritage Committee, prior to inclusion of the subject property in the Register.

ANALYSIS / RATIONALE FOR RECOMMENDATION

4-12 John Street North (Hamilton)

The subject property, municipally known as 4-12 John Street North (Hamilton), was designed by noted Hamilton architect, James Balfour, and built in 1879, for Henry J. Larkin, a local barrister and developer. The building is a three-and-a-half storey brick structure with a side gable roof containing dormers in the roof storey. Built in the Renaissance Revival style, the building’s principal John Street facade comprises a ground floor, with four commercial store fronts separated by panelled Corinthian pilasters, (see Appendix C). The upper two floors are divided into nine symmetrically arranged bays, distinguished by rectangular windows with pedimented pressed-metal surrounds on the second floor, and square pressed-metal surrounds on the third floor with a scrolled, bracketed cornice above. All decorative features are classically detailed.

Henry J. Larkin sold “Larkin Hall” to haberdasher Samuel Treble in 1893, who installed the “Treble Hall” pressed metal name plate on the roof. Following Samuel Treble's death in 1899, "Treble Hall" remained in the family until the mid-1940's.
Preliminary Evaluation - *Ontario Regulation 9/06*

In 2006, the Province issued criteria for determining cultural heritage value or interest under the *Ontario Heritage Act*. The regulation identifies three broad categories of criteria: Design or Physical Value, Historical or Associative Value, and Contextual Value, under which three subsets of criteria are further identified (see Appendix “E”). The following provides a preliminary evaluation using the criteria contained in *Ontario Regulation 9/06 - Criteria for Determining Cultural Heritage Value or Interest*:

1. **Design Value or Physical Value.**
   
   Designed by the prominent Hamilton architect James Balfour, Treble Hall is one of the best examples of Renaissance Revival architecture in the City. Balfour, known best for his design of the old Hamilton City Hall (1887-90, demolished 1962), along with other projects like Erskine Presbyterian Church (1884), Tuckett Mansion (1892-93), Wesley Methodist Church (1877-88, demolished 1975), and the Institute of Fine Arts, Detroit (1887-88, demolished 1921), designed this commercial block using the sculptural and ornate style popular at the time for commercial buildings. The window surrounds, roof cornice, shop front cornice, columns and pilasters are notable for their use of pressed metal, which allowed architects to employ elaborate and unique detailing in a material much less expensive than stone.

2. **Historical Value or Associative Value.**
   
   The building was commissioned by the barrister and developer, Henry J. Larkin, and was a symbol of progress and prosperity that was capturing the City of Hamilton at the end of the 19th Century. When opened in 1879, the stores and offices were referred to as “first class” with its plate glass front, water, and gas. The building also housed a large assembly hall (Larkin Hall) with seating for up to 400 persons. This was the site of many early concerts and events, including the first Hamilton meeting of the Salvation Army. Larkin sold the building to Samuel Treble in 1893, and the building remained in the Treble family until the 1940’s. Treble was a well-known businessman, operating a men’s clothing store, “Treble’s Ltd.”, which had been established in 1865, at the corner of King Street and James Street.

3. **Contextual Value.**
   
   The major streets through the City’s core (King, Main, James, and John) were once lined with commercial buildings from the Georgian and Victorian periods. Treble Hall contributes to the John Street streetscape, and is especially notable due to its ornate architecture and robust presence, making it a prominent landmark. The surrounding buildings adjacent and across the street are also listed in the *Inventory of Buildings of Architectural and/or Historical Interest*. 
85 King Street East (Hamilton)

The subject property, municipally known as 85 King Street East (Hamilton), is adjacent to and historically associated with Treble Hall, located at 4-12 John Street North (Hamilton). The three-storey brick rowhouse was constructed in 1842, and was originally owned by John Erwin, who is also believed to be the architect/builder. Built in the vernacular 1840’s Victorian style, the building’s principal King Street facade comprises Flemish-bond brickwork, sash windows, flared window lintels, and a hip roof at the end of the row with a gabled roof over the rest.

In 1852, John Erwin sold the property to Henry J. Larkin, who commissioned “Larkin Hall” in 1879. The Larkin family sold the property in 1893, to the Treble family, who owned the adjacent property at 4-12 John Street North. The Treble family retained 85 King Street East until 1945. The Pagoda Restaurant was established in this location in 1942, where it remains on the second floor.

1. **Design Value or Physical Value.**

   As a three-storey brick commercial rowhouse, 85 King Street East represents a good example of building type formerly common in the downtown area, incorporating two to three storey brick structures, with evenly spaced sash windows, a hip roof at the end of the row with a gabled roof over the rest, and covered walkways. These are all present in the subject building. This style of rowhouse remained prevalent in the district until the end of the 19th Century.

2. **Historical Value or Associative Value.**

   The building was commissioned by the builder, John Erwin. Built in the 1840’s, this is one of the oldest buildings in the area. The property accommodated some of Hamilton’s primary businesses. In the early 20th Century, Samuel Treble re-established his business there (Treble’s Ltd., Gents’ Furnishings), demonstrating the building’s importance for business ventures. Other uses throughout the late 19th, early 20th Century included: Robert Campbell and Son, dry goods, from 1871-1882, and Sanders Connell Ltd., Men’s Wear, from 1924-1935.

3. **Contextual Value.**

   The subject property is historically linked with Treble Hall both in proximity and historic ownership. It is also historically connected to its surroundings due to these buildings adjacent and across the street also being listed in the *Inventory of Buildings of Architectural and/or Historical Interest.*
Conclusion

Due to the subject property's distinctive Renaissance Revival architecture, commercial history, and presence as a landmark, staff concludes that the property located at 4-12 John Street North and 85 King Street East (Hamilton) is of potential cultural heritage value or interest, sufficient to warrant further research and assessment for purposes of possible designation under the Ontario Heritage Act.

Work Program Priority

Staff recommends that further research and cultural heritage assessment work for 4-12 John Street North and 85 King Street East (Hamilton), be assigned a low priority within the staff work program. Staff recommends that this work is a low priority because the property is currently owned by an individual supportive of local built heritage, is not subject to any significant pressure for alteration or loss, is in the process of being restored, and does not appear to be substantially deteriorating or facing immediate threat requiring immediate protection under the Ontario Heritage Act.

The assignment of a low priority to the subject designation request would place the research and preparation of a Cultural Heritage Assessment on the staff work program for 2015, and would not displace any of the existing priorities (see Appendices “F” and “G”).

ALTERNATIVES FOR CONSIDERATION:

Council may direct staff to not complete a Cultural Heritage Assessment, and no further work will be completed by staff. This alternative is contrary to the Council-approved process for considering requests for designation whereby legitimate requests for designation must be addressed, and cannot be dismissed without complete consideration of all the issues (see Legal Implications section of this Report).

Council may also assign a different work program priority than recommended by staff. Given the consideration of all the factors noted in the Analysis section of this Report, staff is of the opinion that the recommended work program priority is warranted.
CORPORATE STRATEGIC PLAN:


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 and to existing planning policies.

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, as directed by Provincial and Federal level policies.

Healthy Community

- Plan and manage the built environment.
- An engaged Citizenry.
- **Staff Comment:** There is demonstrated public interest in the cultural heritage value of this property and its conservation as a community resource. The approval of the recommendations of this Report acknowledges this public interest.

APPENDICES

- Appendix “A”: Request for Designation
- Appendix “B”: Location Map
- Appendix “C”: Photographs
- Appendix “D”: Council Approved Designation Process
- Appendix “E”: Ontario Regulation 9/06
- Appendix “F”: Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities (as amended by Report PED11096)
- Appendix “G”: Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities (as amended by Report PED11165)

:RT/AMK/JPM
Attachs. (7)
House, Meghan

From: Robert Hamilton
Sent: February 8, 2011 2:46 PM
To: Cumming, David; Muller, Joseph; House, Meghan
CC: McHattie, Brian
Subject: Treble Hall, 6-12 John Street North, Hamilton (L)
Importance: High

David Cumming
Phone: 905-546-2424 Ext.1215
Email: David.Cumming@hamilton.ca

Joseph Muller
Phone: 905-546-2424 Ext.1214
Email: Joseph.Muller@hamilton.ca

Meghan House
Phone: 905-546-2424 Ext.1202
Email: Meghan.House@hamilton.ca

Re: Treble Hall, 6-12 John Street North, Hamilton (L)

This property has been on the City of Hamilton MHC endangered buildings list as reported monthly in the minutes of the MHC since 2003.

I am formally requesting that this property be Designated under the Ontario Heritage Act.

I believe that there already exists a report prepared on this address, or information about is contained in a broader report for an abortive heritage district initiative. This information will need to be brought up to date with regard to what has / or has not happened to this property since it was written, as well as to have the information presented in a manner consistent with present day reporting standards. This should certainly expedite preliminary evaluation of the property using the criteria outlined in Ontario Regulation 9/06, and the preparation of a staff report.

This property was designed by the prominent architect James Balfour, who was responsible for Old City Hall, Tuckett Mansion and Ravenscliffe. For the definitive scholarship on Balfour, see.


I have also attached several newspaper articles on the building.

Respectfully,

Robert D. Hamilton, MLIS
1296 West 18th Street
10/02/2011
4-12 John Street North – Tin ceilings throughout first floor deluxe storefronts

4-12 John Street North – unique Ornate sculptural windows (west façade)
85 King Street East – South Elevation

85 King Street East – West Elevation
Appendix “C” to PED11165
(Page 4 of 4)

85 King Street East – View of eaves on South façade

Shared wall between Treble Hall and Pagoda
Ontario Heritage Act

ONTARIO REGULATION 9/06

CRITERIA FOR DETERMINING CULTURAL HERITAGE VALUE OR INTEREST

Criteria

1.(1) The criteria set out in Sub-section (2) are prescribed for the purposes of Clause 29 (1) (a) of the Act. O. Reg. 9/06, s. 1 (1).

(2) A property may be designated under Section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:

1. The property has design value or physical value because it:
   i. Is a rare, unique, representative or early example of a style, type, expression, material, or construction method;
   ii. Displays a high degree of craftsmanship or artistic merit; or,
   iii. Demonstrates a high degree of technical or scientific achievement.

2. The property has historical value or associative value because it:
   i. Has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community;
   ii. Yields, or has the potential to yield, information that contributes to an understanding of a community or culture; or,
   iii. Demonstrates or reflects the work or ideas of an architect, artist, builder, designer, or theorist who is significant to a community.

3. The property has contextual value because it:
   i. Is important in defining, maintaining, or supporting the character of an area;
   ii. Is physically, functionally, visually, or historically linked to its surroundings; or,
   iii. Is a landmark. O. Reg. 9/06, s. 1 (2).
Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities (as amended by Report PED11096)

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