TO: Chair and Members Planning Committee

WARD(S) AFFECTED: WARD 9

COMMITTEE DATE: August 13, 2013

SUBJECT/REPORT NO:
Request to Designate 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church), Under Part IV of the Ontario Heritage Act (PED13129) (Ward 9)

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

PREPARED BY:
Alissa Golden
(905) 546-2424 Ext. 1214
Erin Smith
(905) 546-2424 Ext. 7163

SIGNATURE:

RECOMMENDATION

(a) That Council includes 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) in the Register of Property of Cultural Heritage Value or Interest, and that staff makes the appropriate amendments to the Register of Property of Cultural Heritage Value or Interest;

(b) That Council directs staff to carry out a Cultural Heritage Assessment of 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) to determine whether the property is of cultural heritage value and worthy of designation under Part IV of the Ontario Heritage Act;

(c) That if 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) 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;
SUBJECT: Request to Designate 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) Under Part IV of the Ontario Heritage Act (PED13129) (Ward 9) - Page 2 of 10

(d) That the Cultural Heritage Assessment work be assigned a low priority, and be added to staff’s workplan for completion in 2018, as per Appendix “G” to Report PED13129;

(e) That Report PED13129 be forwarded to the Hamilton Municipal Heritage Committee for information;

(f) That Report PED13129 be forwarded to the owner of 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) for information.

EXECUTIVE SUMMARY

On December 20, 2012, the Hamilton Municipal Heritage Committee (HMHC) requested that the property, located at 2251 Rymal Road East (Stoney Creek), be designated under Part IV of the Ontario Heritage Act (see Appendix “A”). Under the Council-approved designation process (approved October 29, 2008 - Report PED08211, see Appendix “D”), this Report contains background on this request and 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 subject property is located at 2251 Rymal Road East (Stoney Creek) (see location map attached as Appendix “B” and photographs attached as Appendix “C”), known as the former Elfrida Church, and comprises a red-brick building of typical Late Gothic Revival architectural style built in 1865. The former church was renovated and rezoned in the mid-1990s for adaptive reuse as a restaurant. The property is not currently listed 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 is considered to have design/physical value, historical/associative value, and contextual value.

Through this Report, staff recommends that 2251 Rymal Road East (Stoney Creek) be included in the Register of Property of Cultural Heritage Value or Interest.

Furthermore, staff recommends that Council direct staff to carry out a Cultural Heritage Assessment of 2251 Rymal Road East, 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 Planning Committee and Council with adequate information upon which to base a decision regarding designation under the Ontario Heritage Act.

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OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork
The Hamilton Municipal Heritage Committee and 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:** Inclusion in the City of Hamilton 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. Council must consult with their Municipal Heritage Committee prior to including a property in the Register or removing reference to a property from the Register.

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 (see Appendix “D”), 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

At its meeting on December 20, 2012, the Hamilton Municipal Heritage Committee (HMHC) requested to designate the property located at 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) under Part IV of the Ontario Heritage Act (see Appendix “A”). The HMHC expressed concern that the subject property was for sale, and that any future owner may propose to demolish the building without the City having the opportunity to obtain documentation of the building’s history and construction. The former Stoney Creek Local Architectural Conservation Advisory Committee (LACAC) expressed an interest in designating the subject property in 1992, and again in 1996/97, however, the church trustees and the subsequent owners were not interested in designation at the time, and designation of the property was not pursued. The former Elfrida Church underwent a successful adaptive reuse as a result of rezoning and renovation approvals in 1995, and the building has housed a number of catering businesses and restaurants since the early 2000s.

Designation under Part IV of the Ontario Heritage Act allows municipalities to recognize a property’s cultural heritage value of 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 screening has been undertaken through this staff Report (see Analysis/Rationale for Recommendation section of this Report) using the criteria contained in Ontario Regulation 9/06 (see Appendix “E”) to determine if the property warrants inclusion in the municipal Register, and to determine if further Cultural Heritage Assessment work is warranted. Inclusion of the subject property in the Register enables staff to monitor any changes to the property, encourages the retention of its heritage attributes, and ensures adequate documentation prior to demolition.

This Report also identifies a staff recommendation for the work plan priority for further Cultural Heritage Assessment work within the context of a 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/LEGISLATED REQUIREMENTS

Ontario Heritage Act:

Inclusion in the City of Hamilton Register of Property of Cultural Heritage Value or Interest under Section 27 (1.2) of the Ontario Heritage Act 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.
City of Stoney Creek Official Plan:

Section E.5.1.1 of the former City of Stoney Creek Official Plan identifies the goal of preserving, enhancing, and/or rehabilitating those resources with historic and architectural merit.

Urban Hamilton Official Plan:

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” (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, it has been appealed, and is not in force and effect. At the time of preparation of this Report, a decision on the appeals has not been made by the Ontario Municipal Board. However, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources. The recommendations of this Report are consistent with these policies.

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. 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.

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Staff is of the opinion that sufficient consultation under the Ontario Heritage Act has occurred given that the request for designation of the subject property originated from the Hamilton Municipal Heritage Committee. As such, a copy of this Report will be provided to the HMHC for information.

ANALYSIS / RATIONALE FOR RECOMMENDATION

2251 Rymal Road East (Stoney Creek) (Former Elfrida Church):

2251 Rymal Road East is a 0.27 acre property, on the north side of Rymal Road East, west of the intersection of Upper Centennial Parkway, in Stoney Creek. The property is comprised of a one-storey brick building designed in the Late Gothic Revival architectural style and constructed as a church in 1858. The former church was renovated and rezoned in the mid-1990’s for adaptive reuse as a restaurant. The property is considered to be of design/physical value, historical/associative value, and contextual value.

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/Physical Value, Historical/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/Physical Value:**

   2251 Rymal Road East is a one-storey brick building constructed as a Place of Worship in 1858, and is a representative example of the Late Gothic Revival architectural style. The design/physical value of the property lies in its architectural features representative of the Late Gothic Revival style, including: the red-brick façade and stone accents; the symmetrical composition; the picturesque steep roof with decorative wood brackets and brick dentils, pierced by tall brick chimneys; the stone hood-moulds above the pointed lancet windows; the ornamental quatrefoil tracery above the windows; and the large rose window above the main entrance.

   Also contributing to the design/physical value of the property is the distinctive design of the pointed-lancet stained-glass windows etched with floral patterns of rich colours of green, purple, gold, and red.
2. **Historical/Associative Value:**

   The former Elfrida Church, municipally addressed as 2251 Rymal Road East, plays an important role in understanding the history of the development of Stoney Creek, being one of the earliest Places of Worship. The subject property was purchased in 1856 by Philip and Catherine Hendershot in order to establish a church that would serve the small hamlet of Elfrida in the Township of Saltfleet. Constructed in 1858 as a Canadian Methodist Church, it later served the United Church Circuit that included Binbrook, Blackheath, and Trinity. Elfrida United Church served as the only Place of Worship in the area with an active ladies group until the arrival of Our Lady of the Assumption Catholic Parish in the 1950s. The former church was renovated and rezoned in the mid-1990s for adaptive reuse as a restaurant, and continues to serve a commercial purpose in the local community.

3. **Contextual Value:**

   The former Elfrida Church contributes to the Rymal Road streetscape and is important in supporting the overall historic character of the area. It is historically connected to its surroundings, representing the last remaining non-residential building in the old hamlet of Elfrida along the historic transportation corridor and, as such, may be considered a historic landmark for the area.

**Conclusion:**

2251 Rymal Road East (Stoney Creek), known as the Former Elfrida Church, is considered to be of design/physical value, historical/associative value, and contextual value. Staff concludes that the property is of potential cultural heritage value or interest sufficient to warrant its inclusion in the City of Hamilton Register of Property of Cultural Heritage Value or Interest, and 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 2251 Rymal Road East (Stoney Creek) (Former Elfrida Church) be assigned a low priority within the staff work program. Although the property may face potential redevelopment and/or demolition pressure from any future owner, staff recommends that the cultural heritage assessment work be assigned a low priority provided that the property be included in the City of Hamilton Register of Property of Cultural Heritage Value or Interest.
Inclusion on the Register will allow staff the opportunity to obtain documentation of the history and construction of the building should a notice of intention to demolish be received by Council, or if a development application under the Planning Act is received.

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 2018, and would not displace any of the existing priorities (see Appendix “G”).

**ALTERNATIVES FOR CONSIDERATION**

Council, as advised by its Municipal Heritage Committee, may consider the following alternatives:

- 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 assign a different work program priority for further Cultural Heritage Assessment than recommended by staff. Given the consideration of all the factors noted in the Analysis/Rationale for Recommendation section of this Report, staff is of the opinion that the recommended work program priority is warranted.

- Council may decide not to include the subject property in the municipal Register of Property of Cultural Heritage Value or Interest. If the property is not included in the Register, then the municipality would be unable to protect the heritage resource from demolition and/or review any potential redevelopment. This alternative is not considered to be an appropriate conservation alternative.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:**

*Strategic Priority #1 - A Prosperous & Healthy Community*

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

*Strategic Objective*

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).*
Staff Comments:

The inclusion of this property in the Register will allow staff the opportunity to review any proposed demolition, new development, or redevelopment on or adjacent to the subject property to ensure consistency with the City’s approved planning policies. There is demonstrated public interest in the cultural heritage value of this property (inclusion in the City’s Inventory and this request) and its conservation as a community resource. The approval of the recommendations of this Report acknowledges this public interest.

The approval of the recommendations of this Report demonstrates:

- Council’s commitment to the Council-approved designation process and to existing planning policies; and,
- Council’s commitment to conserving cultural heritage resources, as directed by Provincial and Federal level policies.

APPENDICES / SCHEDULES

- 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 PED13064)
- Appendix “G”: Requests to Designate Properties Under Part IV of the Ontario Heritage Act: Priorities (as Amended by Report PED13129)

:AG
Attachs. (7)
(vii) 3146 Cemetery Road, Binbrook
(viii) 117 Wilson Street East, Ancaster
(ix) 181 Charlton Avenue West, Hamilton

The motion CARRIED on the following vote:

Yeas: Denham-Robinson, Kirk, McHattie, Ferguson, Adkins, Arndt, Furlan, Lei, Nowak, Rosart, Sinclair, Wilson
Total: 13
Nays: Wakeman
Total: 1
Absent: Pearson
Total: 1

(iii) HMHC Award Presentations – February 2013 (no copy) (Item 7.3)

The Committee discussed the use of Soldiers Memorial Hall in Binbrook to hold the awards night.

The update respecting the HMHC Award Presentations – February 2013, was received.

(iv) 2251 Rymal Road East, Stoney Creek (former Elfrida United Church) (Item 7.4)

Kathy Wakeman indicated that 2251 Rymal Road East is for sale, she indicated that the property does not have any protection from demolition.

Staff was requested to being the process of designating 2251 Rymal Road East, Stoney Creek (former Elfrida United Church) under the Ontario Heritage Act.

(v) Proactive Heritage Building Protection Strategy (no copy) (Item 7.5)

Councillor McHattie spoke to the importance of adding buildings to the registry as it would allow more time to examine a property before having to issue a demolition permit. Councillor McHattie indicated that he would like to move the properties identified in the Downtown Built Heritage Inventory to the Municipal Registry of Property of Cultural Heritage Value or Interest. Staff indicated that the inventory is not yet complete.

(a) That the properties identified in the Downtown Built Heritage Inventory (approximately 700) that meet one of the criteria identified
Former Elfrida Church - (Hamilton Public Library, Special Collections, c. 1952)

2251 Rymal Road East, Stoney Creek – Looking northwest from Rymal Road East (2013)
Appendix “C” to Report PED13129
(Page 2 of 4)

2251 Rymal Road East, Stoney Creek – Front (south) façade (2013)

2251 Rymal Road East, Stoney Creek – Side (west) façade (2013)
2251 Rymal Road East, Stoney Creek – Front (south) façade with main entrance fronting onto Rymal Road East (2013)
2251 Rymal Road East, Stoney Creek – Orientation to the street, looking east along Rymal Road East (2013)
DESIGNATION PROCESS

Designation Initiated

Preliminary Staff screening property meets one or more of three Ontario Heritage Act (OHA) criteria

(Yes) Staff Report and Preliminary Screening To EDPC and Council for direction and prioritization

High Place on Current Year Work Plan

Medium Place on Work Plan in 2-3 Years

Low Place on Work Plan in 4-5 Years

Property placed in register after consultation with MHC

Full cultural heritage assessment prepared (full screening with City criteria and OHA criteria)

Assessment reviewed by Inventory and Research Subcommittee of the Municipal Heritage Committee

MHC considers staff assessment

MHC provides advice to EDPC via Staff report and recommendation

Staff Report, Cultural Heritage Assessment, Draft By-law and Statement of Cultural Heritage Value forwarded to EDPC for consideration

Council makes a decision on the proposed designation

(Yes) Proposed designation approved Notice of Intent to Designate served and advertised

(Yes) Designation by-law passed and registered on Title

(No) Proposed designation denied

(Yes) Objection received within 30 days

(No) Proposed designation referred to Conservation Review Board (CRB)

CRB hearing and report

Council considers CRB report and recommendations

(Yes) Notice of Withdrawal

Council Approved on October 29, 2008
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 PED13064)

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<td>262 MacNab Street North, Hamilton</td>
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<tr>
<td>2018</td>
<td>231 Ferguson Avenue South (Ferguson Avenue Pumping Station), Hamilton</td>
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<td>2017</td>
<td>170 Longwood Road North, Hamilton</td>
<td>15-Feb-11</td>
</tr>
<tr>
<td>2017</td>
<td>4-12 John Street North, Hamilton (Treble Hall)</td>
<td>08-Feb-11</td>
</tr>
<tr>
<td>2017</td>
<td>7 Ravenscliffe Avenue, Hamilton</td>
<td>10-Jun-11</td>
</tr>
<tr>
<td>2018</td>
<td>39 Lakeview Drive, Stoney Creek</td>
<td>17-Feb-11</td>
</tr>
<tr>
<td>2018</td>
<td>231 Ferguson Avenue South (Ferguson Avenue Pumping Station), Hamilton</td>
<td>18-Oct-11</td>
</tr>
<tr>
<td>2018</td>
<td>2251 Rymal Road East, Stoney Creek (Former Elfrida Church)</td>
<td>20-Dec-12</td>
</tr>
</tbody>
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