TO: Chair and Members  
Economic Development and Planning Committee  

WARD(S) AFFECTED: WARD 13

COMMITTEE DATE: ED&P - March 2, 2010

SUBJECT/REPORT NO:  
Request to Designate 104 King Street West, Dundas (Former Dundas Post Office)  
Under Part IV of the Ontario Heritage Act (PED10006) (Ward 13)

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

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

SIGNATURE:

RECOMMENDATION:

(a) That Council direct staff to carry out a Cultural Heritage Assessment of 104 King Street West, Dundas, 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 104 King Street West, Dundas, in the Register of Property of Cultural Heritage Value or Interest, following consultation with the Hamilton Municipal Heritage Committee, as per Recommendation (e) to Report PED10006 and 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 if 104 King Street West, Dundas, 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 high priority, and be added to staff’s work program for completion in 2010, as per the attached Appendix “G” to Report PED10006.

(e) That Report PED10006 be forwarded to the Hamilton Municipal Heritage Committee for information and consultation prior to the Council approved inclusion of 104 King Street West, Dundas, in the Register of Property of Cultural Heritage Value or Interest.

(f) That Report PED10006 be forwarded to the owner of the property for information.

EXECUTIVE SUMMARY

Staff has received a request to designate 104 King Street West, Dundas (known as the former Dundas Post Office), under Part IV of the Ontario Heritage Act (see Appendix “A”). 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 work program priority for this assessment work.

The Hamilton Municipal Heritage Committee has requested that the property known as the former Dundas Post Office, located at 104 King Street West, Dundas (see location map attached as Appendix “B”, and photographs attached as Appendix “C”), be designated under Part IV of the Ontario Heritage Act.

The property is listed in the City’s Inventory of Buildings of Architectural and/or Historical Interest, and was inventoried by the former Town of Dundas. A preliminary assessment of the subject property has been undertaken using the three criteria contained in Ontario Regulation 9/06 to provide the basis for a recommendation to add it to the Register of Property of Cultural Heritage Value or Interest. The property meets all three of the criteria, and is considered to have design and physical value, historical and associative value, and contextual value.

Through this report, staff recommends that the Economic Development and Planning Committee and Council direct staff to carry out a Cultural Heritage Assessment of 104 King Street West, Dundas, to determine whether the property is of cultural heritage value and worthy of designation under Part IV of the Ontario Heritage Act as a high priority within staff’s work program, and that the property be afforded interim protection by inclusion in the Register of Property of Cultural Heritage Value or Interest established under the Ontario Heritage Act. 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 property owner will be consulted during the preparation of the Cultural Heritage Assessment and the staff report.

Alternatives for Consideration - See Page 9

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<th>FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)</th>
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<td><strong>Financial:</strong> None.</td>
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<td><strong>Staffing:</strong> None.</td>
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<td><strong>Legal:</strong> The City’s legal counsel was consulted in the preparation of the original staff report regarding the new designation process (Report PED08211). Planning staff has prepared the following review of the legal implications of the recommendations of this report in consultation with legal counsel:</td>
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The property owner’s consent is not a prerequisite for designation of a property under the Ontario Heritage Act. The role of the property owner in a property designation was considered in Tremblay v. Lakeshore (Town), a 2003 Divisional Court decision where a group of parishioners successfully challenged, by means of judicial review, the Council of Lakeshore’s decision not to designate a church. The court found that the interests of the public, community, and the property owner must all be considered when a Council decides whether or not to designate a property. Further, the court found that the Council of Lakeshore had made the property owner’s consent a condition of designation, effectively preempting any consideration of either the public interest or the community interest. In doing so, the Council actually fettered its discretion to make the designation decision, acting contrary to the Ontario Heritage Act.

Accordingly, a Council may decide, after considering all of the circumstances in regard to the particular property before it - including the staff report, the Cultural Heritage Assessment, the Municipal Heritage Committee recommendation, and any other relevant submissions, such as objections from the property owner - that it is in the public interest and/or community interest to conserve a property, despite objections by the property owner.

In accordance with the designation process approved by Council on October 29, 2008, the purpose of this report is to provide staff with initial direction to complete further research and evaluation of the property for a later decision by Council. At this stage of the designation process, the property owner of the property has not been consulted, and Council does
not yet have before it information with respect to the property owner’s, public’s or community’s interests. If staff is directed to proceed, Council will be able to make an appropriate 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  (Chronology of events)

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 request to designate the property located at 104 King Street West, Dundas, under Part IV of the Ontario Heritage Act, has been initiated by the Hamilton Municipal Heritage Committee (see Appendix “A”).

The subject property has been subject to a preliminary evaluation using the criteria contained in Ontario Regulation 9/06 to provide the basis for a recommendation to add it to the Register of Property of Cultural Heritage Value or Interest. Inclusion in the Register 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.

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 the Clerks Department. 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.

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

**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” (Subsection 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.

**Town of Dundas Official Plan**

Section 2.4 - Historic and Architectural Resources of the former Town of Dundas Official Plan encourages the preservation, restoration, or appropriate re-use of historic and architecturally significant landmarks, buildings, and districts throughout the Town (2.4.2.1).
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 not been approved by the Ministry of Municipal Affairs and Housing, and is not in effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources.

RELEVANT CONSULTATION

This is the initial stage in the consideration of a request for designation under the process approved by Council on October 29, 2008. Typically, an owner of property is not consulted in the preparation of this report. 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 property owner will be notified of any future Public Meeting(s) 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. However, in keeping with Council’s intent in approving the designation process, it is recommended that the property owner be forwarded a copy of this report and advised of any further assessment work to be completed (see Recommendation (f)).

This request for designation originated from the Hamilton Municipal Heritage Committee. Although it is assumed that the Hamilton Municipal Heritage Committee would be in agreement regarding inclusion of the subject property in the Register, 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 (see Recommendation (b)).
ANALYSIS / RATIONALE FOR RECOMMENDATION
(include Performance Measurement/Benchmarking Data, if applicable)

104 King Street West, Dundas (former Dundas Post Office)

The Town of Dundas was granted a Post Office in 1814. However, for nearly a century, the Post Office was located in a succession of buildings and there was no dedicated Post Office building. The subject building was completed in 1913, and was used by Canada Post until September 2009, when it was declared surplus.

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: 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:

   The plans for the Post Office were prepared by the Chief Architect’s Branch of the Department of Public Works. David Ewart was the Chief Architect of the Department of Public Works during this time. Construction began in 1911-1912, under the supervision of James Watson, as the Clerk of Works. The building contractors were Nagel & Mills, from Ingersoll, Ontario. A. W. Peene, a prominent Hamilton architect, was hired later in the project to supervise the project. The main building mass is two-and-one-half-storeys in height and built of buff-coloured brick with stone trim detailing. The building has been built in the Romanesque Revival style of architecture and features a slate mansard roof, arched-top dormers, a 100-foot high clock tower, stone balustrades, an enclosed entrance porch, and a rusticated stone foundation (see photos in Appendix “C”).

   The clock was manufactured by J. Smith and Sons, Midland Clock Works of Derby, England. The bell was built by John Taylor of Loughborough, England, and for many years it tolled each hour. The original clock mechanisms and bell are reported to remain inside the tower.

   The subject property has design and physical value as an example of the Romanesque Revival architectural style, its design and construction are associated with nationally and locally known architects, it is constructed of high-quality materials, and displays a high-degree of craftsmanship.
2. **Historical Value or Associative Value:**

The federal government purchased the subject property in 1909, as part of a nation-wide program to construct public buildings in major communities. The property formerly contained a building known as the ‘Campbell Block’, a two-storey frame building containing stores at street level and dwelling units above, which was demolished to make way for the new Post Office. The Dundas Post Office building was opened on October 30, 1913, and at one time, also held the Customs Offices.

Initially, residents would have picked up their mail at the Post Office. Door-to-door postal delivery was introduced in 1948 and, subsequently, the customer service functions of the building were reduced. The building has been closed to the public for several decades, and was used as a sorting facility and letter-carrier depot until August 2009, when Canada Post moved to a larger, centralized depot in Ancaster. Canada Post declared the building to be surplus and placed it on the real estate market in September 2009. The property was transferred into private ownership in December 2009.

The subject property has historical value and associations with early-20th Century federal government infrastructure initiatives, the history and development of Canada Post, and the history and development of the community of Dundas.

3. **Contextual Value:**

The subject property is located in its original location in downtown Dundas. The property has frontage on King Street West, and is bounded on the east side by Foundry Street and the west side by McMurray Street (see Appendix “B”). The rear (south) and west sides of the building have several entrances and loading areas. The building is set back slightly from King Street West, with landscaped spaces and pedestrian pathways at the front and sides and a paved parking and loading area along the rear. Despite some changes to the paved areas and loading docks, the building has retained its contextual integrity.

The subject property has contextual value as an integral part of the Town of Dundas and as a prominent landmark in downtown Dundas.

**Conclusion**

Staff concludes that the property located at 104 King Street West, Dundas (known as the former Dundas Post Office), is of cultural heritage interest, sufficient for the property to warrant further research and assessment for purposes of possible designation under the Ontario Heritage Act, and to warrant inclusion in the municipal Register of Property of Cultural Heritage Value or Interest.
Work Program Priority

Staff recommends that further research and cultural heritage assessment work for 104 King Street West, Dundas, be assigned a high priority within the staff work program. Staff believes that this work is a high priority because the property has recently changed ownership, and is subject to planning applications to change its use from institutional to commercial. In addition, the Hamilton Municipal Heritage Committee requested that the research and evaluation of this property be assigned a high priority. Designation of the property would assist in ensuring that the redevelopment of the property occurs in such a way as to conserve the property’s heritage attributes, and the redevelopment project may be eligible for the City’s heritage funding programs.

The assignment of a high priority to the subject designation request would place the research and preparation of a Cultural Heritage Assessment on the staff work program for 2010, and would displace several of the existing priorities to later years (see Appendices “F” and “G”).

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

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/Rationale section of this report, staff is of the opinion that the recommended work program priority is warranted.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


**Skilled, Innovative & 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.

**Growing Our Economy**
- Newly created or revitalized employment sites.
- A visitor and convention destination.
- Staff comment: The approval of the recommendations of this report may contribute to the conservation of an important community landmark and the heritage character of downtown Dundas, ensuring it long-term viability as an area of economic activity.

**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 / SCHEDULES**

Appendix “A” to Report PED10006 - Request for Designation
Appendix “B” to Report PED10006 - Location Map
Appendix “C” to Report PED10006 - Photographs
Appendix “D” to Report PED10006 - Council Approved Designation Process
Appendix “E” to Report PED10006 - Ontario Regulation 9/06

Appendix “F” to Report PED10006 - Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities (as amended by Report PED09314)

Appendix “G” to Report PED10006 - Requests to Designate Properties under Part IV of the Ontario Heritage Act: Priorities (as amended by Report PED10006)

:MH
Attachs. (7)
Excerpt from the Minutes of the Hamilton Municipal Heritage Committee meeting
September 24, 2009

(Thorp-Neufeld/Wakeman)

(a) That Council be advised that staff be directed to prepare a cultural heritage assessment of the Dundas Post Office to determine whether the property is worthy of designation, and present their recommendations to the Economic Development and Planning Committee for consideration;

(b) That Council be advised that the cultural assessment of this property be considered as a high priority in the staff work program.

CARRIED
Appendix "B" to Report PED10006

Location Map

File Name/Number: 104 King Street West
Date: January 14, 2010
Appendix "B" Scale: N.T.S.
Planner/Technician: MH/IF

Subject Property

104 King Street West, Dundas

Ward 13 Key Map N.T.S.
Post Office - west elevation

Post Office - rear (south) and east elevations
Appendix “C” to Report PED10006 (Page 3 of 3)

Post Office (1947) - front (north) and east elevations

King Street West (1922)
DESIGNATION PROCESS

Designation Initiated

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

(Yes)

Council
MHC
Owner
Third Party

(No)

Property does not move forward and person/body that initiated request informed

Staff Report and Preliminary Screening
To EDPIC and Council for direction and prioritization

(No)

Violation. Request does not move forward

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 consider staff assessment

MHC provides advice to EDPIC via Staff report and
recommendation

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

Council makes a decision on the proposed designation

(Yes)

Proposed designation approved
Notice of Intent to Designate served and advertised

(No)

Proposed designation referred to
Conservation Review Board (CRB)

CRB hearing and report

Council considers CRB report
and recommendations

(No)

Notice of Withdrawal

(Yes)

Designation by-law passed and registered on Title

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 Subsection (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 PED09314)

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