SUBJECT: Request to Designate 71 Claremont Drive, Hamilton (Known as “Claremont Lodge” or the “Auchmar Gatehouse”) Under Part IV of the Ontario Heritage Act (PED09212) (Ward 8)

RECOMMENDATION:

(a) That Council direct staff to carry out a Cultural Heritage Assessment of 71 Claremont Drive, 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 if 71 Claremont Drive, 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.

(c) That the Cultural Heritage Assessment work be assigned a high priority, and be added to staff’s workplan for completion in 2009, as per the attached Appendix “G” to Report PED09212.

(d) That Report PED09212 be forwarded to the Hamilton Municipal Heritage Committee for information.

(e) That Report PED09212 be forwarded to the Owner of 71 Claremont Drive, Hamilton, for information.
EXECUTIVE SUMMARY:

Staff has received a request to designate 71 Claremont Drive, Hamilton (known as “Claremont Lodge” or the “Auchmar Gatehouse”), 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 workplan priority for this assessment work.

The Hamilton Mountain Heritage Society has requested that the property known as “Claremont Lodge” or the “Auchmar Gatehouse”, located at 71 Claremont Drive, Hamilton (see location map attached as Appendix “B” and photographs attached as Appendix “C”), be designated under Part IV of the Ontario Heritage Act. The Auchmar Gatehouse was built by Issac Buchanan in 1855, in its current location near the edge of the Niagara Escarpment and at the entrance to the driveway that once led into the Auchmar Estate, located at the northeast corner of Fennell Avenue East and West 5th Street.

The property is listed in the City’s Inventory of Buildings of Architectural and/or Historical Interest, and is included in the Municipal Register of Properties of Cultural Heritage Value or Interest (approved by Council June 24, 2009), established under Part IV of the Ontario Heritage Act. The property is privately owned, but there is a Provincial plaque (“Claremont Lodge” and “Auchmar”, 1855) on the property that celebrates the provincial heritage value of the lodge, main house, and Issac Buchanan.

Through this report, staff recommends that the Economic Development and Planning Committee and Council direct staff to carry out a Cultural Heritage Assessment of 71 Claremont Drive, 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 high 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 Owner will be consulted during the preparation of the Cultural Heritage Assessment and the staff report.

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” (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.

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 known as the “Auchmar Gatehouse”, or “Claremont Lodge”, located at 71 Claremont Drive, Hamilton, under Part IV of the Ontario Heritage Act has been received (see Appendix “A”). 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.

**Workplan 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 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.

Workplan 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.
ANALYSIS/RATIONALE:

71 Claremont Drive, Hamilton (“Auchmar Gatehouse” or “Claremont Lodge”)

The subject property comprises the building known as the Auchmar Gatehouse, an accessory building and approximately 0.05 ha (0.13 acres) of land. The property is listed in the City’s Inventory of Buildings of Architectural and/or Historical Interest, and is included in the Municipal Register of Properties of Cultural Heritage Value or Interest. The property is privately owned, but there is a Provincial plaque (“Claremont Lodge” and “Auchmar”, 1855) on the property that celebrates the provincial heritage value of the lodge, main house, and Issac Buchanan.

The main building on the property is a one-and-one-half storey stucco building built in 1855, known originally as “Claremont Lodge”, and later as the “Auchmar Gatehouse”. The building displays the architectural detailing of the Gothic Revival style, such as steep gable rooflines, intricate bargeboard on the eaves, and pointed arched windows. The property is located in its original location near the edge of the Niagara Escarpment, at the entrance to the driveway that once led into the Auchmar estate. The Auchmar estate was developed by Issac Buchanan, a prominent Hamilton citizen, who contributed to the early physical, economic, and political development of city.

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 Auchmar Gatehouse (1855) has design value as an example of the Gothic Revival style of architecture, displaying a high degree of craftsmanship characteristic of this style and its construction period. The detailing of the building is similar to that of the Auchmar manor house (designated by By-law No. 2000-37 under Part IV of the Ontario Heritage Act), including steep gable rooflines, intricate bargeboard on the eaves, and pointed arched windows. Some alterations to the original design have occurred, but overall, the structure has maintained its architectural integrity.
2. **Historical value or associative value.**

The Auchmar Gatehouse was built as part of the larger Auchmar Estate, once owned by the Honourable Issac Buchanan. Issac Buchanan was a prominent citizen, who contributed to the physical, economic, and political development of Hamilton. Buchanan was a successful grocery wholesaler and helped to establish Hamilton as an important goods distribution hub. Buchanan was also active in politics, and was one of the supporters of the development of the Great Western Railway.

3. **Contextual value.**

The Auchmar Gatehouse is located near the edge of the Niagara Escarpment, at the entrance to the long, formal driveway that once led to the Auchmar manor house. Since its original construction, the Gatehouse has become physically separated from the Auchmar manor house through land severances and residential development. Although the contextual link between the two buildings no longer exists, the Gatehouse remains in its original location, and provides a historical datum point marking the extent of the original land holding and the linkage between the Escarpment setting and the Auchmar Estate, located at the northeast corner of Fennell Avenue East and West 5th Street.

**Conclusion**

Staff concludes that the property located at 71 Claremont Drive, Hamilton (known as “Claremont Lodge” or the “Auchmar Gatehouse”), 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.

**Work Program Priority**

Staff recommends that further research and cultural heritage assessment work for 71 Claremont Drive, Hamilton, be assigned a high priority within the staff workplan. Staff believes that this work is a high priority owing to the potential heritage value of the property, strong community interest in the property, uncertainty with regards to the future conservation of the property, the current level of property maintenance, and eligibility for funding programs to support the Owner.

The assignment of a high priority to the subject designation request would place the research and preparation of a Cultural Heritage Assessment on the workplan for the current year, and would require that one of the existing priorities for 2009 be moved into the workplan for 2010 (see Appendix “F”). Accordingly, the assessment of 82-112 King Street East, Hamilton (Royal Connaught), will be moved into the workplan for 2010, and the other priorities further down the list will be adjusted to reflect this move (see Appendix “G”).
SUBJECT: Request to Designate 71 Claremont Drive, Hamilton (Known as “Claremont Lodge” or the “Auchmar Gatehouse”) Under Part IV of the Ontario Heritage Act (PED09212) (Ward 8) - Page 6 of 8

**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 workplan 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 workplan priority is warranted.

**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). Planning staff has prepared the following review of the legal implications of the recommendations of this report in consultation with legal counsel:

The Owner’s consent is not a prerequisite for designation of a property under the Ontario Heritage Act. The role of the 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 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 Owner’s consent a condition of designation, effectively pre-empting 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 an Owner’s objections - that it is in the public interest and/or community interest to conserve a property, despite objections by the Owner.
SUBJECT: Request to Designate 71 Claremont Drive, Hamilton (Known as “Claremont Lodge” or the “Auchmar Gatehouse”) Under Part IV of the Ontario Heritage Act (PED09212) (Ward 8) - Page 7 of 8

In accordance with the designation process approved by Council on October 29, 2009, 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 Owner of the property has not been consulted, and Council does not yet have before it information with respect to the 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.

POLICIES AFFECTING PROPOSAL:

The following policies apply:

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).

Section 3.4 - Cultural Heritage Resources Policies of the Council-approved 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 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, 2009. The Owner of the property has not been 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 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.

At this stage in the process, no consultation has been undertaken with the Hamilton Municipal Heritage Committee. Once the Cultural Heritage Assessment has been completed, the Hamilton Municipal Heritage Committee will be consulted for advice, as required under Section 29(2) of the Ontario Heritage Act.

**CITY STRATEGIC COMMITMENT:**

The identification and assessment of the cultural heritage value and significance of the property is consistent with the 2008-2011 City of Hamilton Corporate Strategic Plan - Strategic Theme of promoting the City's image. Specifically, this due diligence is consistent with several of the Focus Areas, such as promoting effective inter-governmental relations, demonstrating a commitment to established policies and goals, protecting public health and safety, conserving resources, and managing the built environment in a sustainable manner.

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

**Community Well-Being is enhanced.** ☒ Yes  ☐ No
Arts, culture, archaeological and cultural heritage are supported and enhanced.

This initiative promotes the conservation of Hamilton’s heritage. Protecting cultural heritage strengthens the community’s identity and distinctiveness.

**Environmental Well-Being is enhanced.** ☒ Yes  ☐ No
Waste is reduced and recycled.

**Economic Well-Being is enhanced.** ☒ Yes  ☐ No
A skilled, innovative, and diverse workforce is attracted and retained.

**Does the option you are recommending create value across all three bottom lines?** ☒ Yes  ☐ No
Cultural heritage resources are conserved and enhanced, resulting in strengthened community identity.

**Do the options you are recommending make Hamilton a City of choice for high performance public servants?** ☐ Yes  ☒ No
The creation of a respectful, desirable, and supportive workplace.

This initiative demonstrates the City's commitment to implementing Council approved cultural heritage policies.

:MH

Attachs. (7)
May 26, 2009.

Heritage Planning,
Community Planning and Design Section,
71 James Street North,
Hamilton, ON.

Attention: Meghan House

Designation of Auchmar Gatekeeper's Lodge

The Hamilton Mountain Heritage Society is requesting the designation, under Part 4, Section 39, of the Ontario Heritage Act of the Auchmar Gatekeeper's Lodge (also referred to as the Auchmar Gatehouse) located at 71 Claremont Drive.

The Auchmar Gatekeeper's Lodge is an important and integral part of the cultural landscape of the Auchmar Estate and of Claremont Park which is now being considered for Infrastructure Funding from both the Federal Government and Provincial Governments.


The Auchmar Gatekeeper's Lodge is also highlighted in *Victorian Architecture in Hamilton*, editorial board, Alexander G. McKay, Gillian Simmons, and A.W. Wallace. Published by the Architectural Conservancy of Ontario (Hamilton-Niagara Branch), 1967.

We feel that there is some urgency to this request because we believe that the current tenant may have development plans for the property. We believe that this is a building that is deserving of preservation and so we would ask that our request be accorded careful consideration.

Should you have any questions or concerns the Hamilton Mountain Heritage Society would welcome an opportunity to respond to them. You may contact me by phone at 905-574-0096 or via e-mail at bernhardt.r@gmail.com. Supportive photographs can be supplied if desired.
In the light of what we believe may be imminent risks to the Auchmar Gatekeeper's Lodge, the Hamilton Mountain Heritage Society would like to make three additional requests.

a) If it would expedite the process we would request an opportunity to speak to our concerns about the urgency of this request for designation.

b) Since it is our understanding that the property in question is already on Hamilton’s Municipal Heritage Committee’s Endangered Buildings List, we would request that the property be flagged on the City of Hamilton’s Building Department database so that any request for a permit to make alterations to the building would not be granted until the HMHC members and staff have an adequate opportunity to discuss the request.

c) The Hamilton Mountain Heritage Society would respectfully request notification via e-mail should any application be received for a permit to make alterations to the Auchmar Gatekeeper’s Lodge.

Respectfully submitted,

Robert J. Bernhardt,
President, Hamilton Mountain Heritage Society

c.c. Hamilton Municipal Heritage Committee
    T. Whitehead, Councillor Ward 8
    Sophia Aggelonis, MPP (Hamilton Mountain)
Appendix “B” to Report PED09212

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: AUCHMAR GATEHOUSE
Date: June 24, 2009

Appendix “A”

Scale: N.T.S.
Planner/Technician: JM/SL

Subject Property

71 Claremont Drive, Hamilton

Ward 8 Key Map
N.T.S.
Auchmar Gatehouse - Ontario Heritage Trust Plaque

Auchmar Gatehouse – West Elevation
Auchmar Gatehouse – North Elevation

Auchmar Gatehouse – East Elevation
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 approved by Council on October 29, 2008)

<table>
<thead>
<tr>
<th>Year</th>
<th>Property</th>
<th>Date of Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>167 Book Road, Ancaster</td>
<td>24-May-07</td>
</tr>
<tr>
<td>2009</td>
<td>397 King Street West, Dundas (Dundas District High School)</td>
<td>24-May-07</td>
</tr>
<tr>
<td>2009</td>
<td>Book Cemetery, Ancaster</td>
<td>16-Dec-04</td>
</tr>
<tr>
<td>2009</td>
<td>82-112 King Street East, Hamilton (Royal Connaught)</td>
<td>09-Apr-08</td>
</tr>
<tr>
<td>2010</td>
<td>52-56 Charlton Avenue West, Hamilton</td>
<td>24-Apr-07</td>
</tr>
<tr>
<td>2010</td>
<td>654 Garth Street, Hamilton (Chedoke House)</td>
<td>28-Jun-07</td>
</tr>
<tr>
<td>2010</td>
<td>91 John Street South, Hamilton</td>
<td>25-Oct-07</td>
</tr>
<tr>
<td>2010</td>
<td>9300 Airport Road, Mount Hope (RCAF 447)</td>
<td>22-Nov-07</td>
</tr>
<tr>
<td>2011</td>
<td>3027 Homestead Drive, Mount Hope</td>
<td>24-Jan-08</td>
</tr>
<tr>
<td>2011</td>
<td>1062 Golf Club Road, Binbrook (Woodburn)</td>
<td>27-Mar-08</td>
</tr>
<tr>
<td>2011</td>
<td>Gage Park, Hamilton</td>
<td>23-Mar-06</td>
</tr>
<tr>
<td>2011</td>
<td>Gore Park, Hamilton</td>
<td>24-Apr-08</td>
</tr>
<tr>
<td>2012</td>
<td>Tisdale House, Ancaster</td>
<td>16-Aug-01</td>
</tr>
</tbody>
</table>
### Requests to Designate Properties under Part IV of the Ontario Heritage Act:
#### Priorities (as amended by Report PED09212)

<table>
<thead>
<tr>
<th>Year</th>
<th>Property</th>
<th>Date of Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>71 Claremont Drive, Hamilton</td>
<td>28-May-09</td>
</tr>
<tr>
<td>2009</td>
<td>167 Book Road, Ancaster</td>
<td>24-May-07</td>
</tr>
<tr>
<td>2009</td>
<td>397 King Street West, Dundas (Dundas District High School)</td>
<td>24-May-07</td>
</tr>
<tr>
<td>2009</td>
<td>Book Cemetery, Ancaster</td>
<td>16-Dec-04</td>
</tr>
<tr>
<td>2010</td>
<td>15 Queen Street South, Hamilton (All Saints Church and Rectory)</td>
<td>25-Jun-09</td>
</tr>
<tr>
<td>2010</td>
<td>82-112 King Street East, Hamilton (Royal Connaught)</td>
<td>09-Apr-08</td>
</tr>
<tr>
<td>2010</td>
<td>52-56 Charlton Avenue West, Hamilton</td>
<td>24-Apr-07</td>
</tr>
<tr>
<td>2010</td>
<td>654 Garth Street, Hamilton (Chedoke House)</td>
<td>28-Jun-07</td>
</tr>
<tr>
<td>2011</td>
<td>91 John Street South, Hamilton</td>
<td>25-Oct-07</td>
</tr>
<tr>
<td>2011</td>
<td>9300 Airport Road, Mount Hope (RCAF 447)</td>
<td>22-Nov-07</td>
</tr>
<tr>
<td>2011</td>
<td>3027 Homestead Drive, Mount Hope</td>
<td>24-Jan-08</td>
</tr>
<tr>
<td>2011</td>
<td>1062 Golf Club Road, Binbrook (Woodburn)</td>
<td>27-Mar-08</td>
</tr>
<tr>
<td>2012</td>
<td>Gage Park, Hamilton</td>
<td>23-Mar-06</td>
</tr>
<tr>
<td>2012</td>
<td>Gore Park, Hamilton</td>
<td>24-Apr-08</td>
</tr>
<tr>
<td>2012</td>
<td>Tisdale House, Ancaster</td>
<td>16-Aug-01</td>
</tr>
</tbody>
</table>