



City of
Peterborough

To: Members of the Committee of the Whole

From: Ken Doherty, Director of Community Services

Meeting Date: March 27, 2017

Subject: Report CSACH17-003
Designation of Heritage Properties

Purpose

A report to recommend that Council defer designation of 450 George Street North and 144 Brock Street under Part IV, Section 29 of the **Ontario Heritage Act** as being properties of cultural heritage value or interest to the City of Peterborough.

Recommendations

That Council approve the recommendations outlined in Report CSACH17-003 dated March 27, 2017 of the Director of Community Services, as follows:

- a) That the recommendation of the Peterborough Architectural Conservation Advisory Committee (PACAC) to designate the property at 144 Brock Street as a heritage property under Part IV, Section 29 of the **Ontario Heritage Act** (R.S.O. 1990, c.O.18) being of “cultural heritage value or interest” be deferred;
- b) That the recommendation of PACAC to designate the property at 450 George Street North as a heritage property under Part IV, Section 29 of the **Ontario Heritage Act** (R.S.O. 1990, c.O.18) being of “cultural heritage value or interest” be deferred;
- c) That both of the proposed designations be referred to staff so that they can work with the property owners to explore viable alternatives to demolition and report back to Council.

Budget and Financial Implications

Both of the properties recommended for designation fall within Schedule 'J' of the Official Plan and would be eligible for entry into the Heritage Property Tax Relief Program (HPTRP) if the owner chooses to apply.

Municipal Address	Historical Name	Total Relief	Education Portion	Municipal Portion
144 Brock Street	The Faucher Building	\$2568.12	\$805.75	\$1762.37
450 George St. N		\$2069.81	\$704.86	\$1364.95

The total value of the tax relief for the properties would be \$4637.93 based on 2016 tax rates. The education portion of the tax relief is \$1510.61 and would be reimbursed to the City by the Province. This leaves an annual net cost to the City based on 2016 tax rates of \$3127.32.

Currently the total value of the tax relief under the HPTRP is \$259,978.57. The municipal portion of the tax relief is \$202,944.69, the remainder being the education portion of the taxes which is reimbursed by the Province. With the inclusion of the two eligible properties being recommended for designation, the total value of the tax relief would be \$264,616.50, with the municipal portion being \$206,072.01. For 2017, the City has budgeted \$210,000 for the HPTRP. The value of the heritage property tax relief for the buildings proposed for designation can be accommodated in the current HPTRP budget.

Background

In Support of the Recommendations

The buildings located at 144 Brock Street and 450 George Street, colloquially known as the Pig's Ear and the Black Horse respectively, have strong associations with the community, are integral parts of the 19th century streetscape, and display a high order of architectural design.

After discussing development options with City staff, local developers, as agents for the current owners, applied for and were issued demolition permits for the properties, in February of 2017. Subsequently, at its March 2nd, 2017 meeting, the Peterborough Architectural Conservation Advisory Committee approved the recommendations in Report PACAC17-016 that both properties be recommended to Council for designation, pursuant to Part IV, Section 29 of the **Ontario Heritage Act** as being of cultural heritage value or interest.

In response, City staff met with representatives from the developer on March 8th, 2017. During that meeting, staff agreed to change the designation report to recommend deferring a decision on proceeding with designation at this time and to refer the matter back to staff and the developers to explore viable re-development alternatives to demolition without some form of heritage preservation, provided the developer agreed not to proceed with demolition at this time. At this meeting, the developers indicated they were amenable to this approach; however, time is needed to determine what viable solutions are available. Once this is determined, the matter will be brought back to Council for consideration.

If Council requires more formal confirmation of this direction, then it can either waive the Procedural By-law so that the developer can verbally agree to continue discussions and refrain from demolition during this period; or, it can direct the parties to enter into a more formal “Stand Still” agreement so that negotiations can continue.

Council, however, still retains the right to indicate its intent to designate. To do so, it would need to vote against the recommendations and approve the appropriate motions required to advance the designation process.

The Designation Process

Under Part IV of the **Ontario Heritage Act** (the Act), municipalities may designate individual properties deemed to be of “cultural heritage value or interest” to the community, through the passage of municipal By-laws. The designation process strikes a balance between the freedom of the individual property owner and the recognized need of the community to preserve its heritage resources. Heritage designation prohibits unwarranted demolition and controls major alterations that might otherwise harm specific heritage features. Designation may also make property owners eligible for preservation grants and tax relief, and provides owners access to professional expertise and advice. Since 1975, Peterborough City Council has passed 127 designation By-laws designating individual properties under Part 4 of the Act, although this only represents a portion of the buildings in the City that are eligible for designation. PACAC administers the designation program in partnership with the Arts, Culture and Heritage Division, the Planning Division, and the City Clerk’s Office.

Properties being considered for designation are researched and evaluated in order to determine their cultural heritage significance under Ontario Regulation 9/06 of the **Ontario Heritage Act** R.S.O. 1990. A property is eligible for designation if it has physical, historical, associative or contextual value and meets any one of the nine criteria set out under Regulation 9/06 of the Act. Staff determined that 450 George Street N and 144 Brock Street have cultural heritage value or interest and merit designation under the Act.

Section 29 of the Act sets out the process for the designation of individual properties by Municipalities. It begins with Council receiving the recommendation of its municipal heritage committee if one exists in a municipality. Council then serves notice of its intention to designate to the owner and the Ontario Heritage Trust and by publishing notice in a local newspaper. The content of the notice requires an "adequate description of the property" and a statement of the cultural value or interest of the property, the property's heritage attributes and a statement that objections to the proposed designation must be served on the clerk within 30 days. A notice of objection may subsequently withdrawn at any time.

Once a notice of intention to designate a property is given, any permit which allows for the alteration or demolition of the property is void. In addition any new permit applications are processed as if the building is already designated until all objections have been dealt with. These provisions are designed to give Council the time it needs to extend protection to a heritage property if that is its intent.

If there is no objection filed, Council passes a by-law designating the property and notifies the owner and the Ontario Heritage Trust. Under the Act, Council can also withdraw its Intention to Designate if it wishes to reconsider its original decision to designate a property.

If a notice of objection is received, Council refers the matter to the Conservation Review Board (CRB) for a hearing and report. The CRB will hold a meeting, open to the public, "as soon as is practicable". The owner, the municipality and any person who has filed an objection are parties to the hearing. Within 30 days after the hearing the CRB will issue a report to Council setting out its findings of fact and a recommendation as to whether the property should be designated. Under the Act, Council is required to consider the report but is not bound by its findings. It is free to either pass a by-law designating the property or withdraw the notice of Designation. At this point the decision of Council is final and is not subject to further review by the CRB or an appeal to the OMB.

Municipalities are expected to designate properties that they think have cultural heritage value or interest. An owner's consent is not required for a property to be designated. The Ontario Superior Court of Justice has ruled that municipalities must not make owner consent a requirement for designation because the **Ontario Heritage Act** has within it, ways to address objections by owners. If designation is not pursued, those tools, like an owner's right to appeal to the Conservation Review Board, cannot be brought into play.

Once designated, an owner cannot demolish or remove a building unless they apply to and receive consent from the council of the municipality. When Council receives an application to demolish a designated building it can: consent, consent with terms, or refuse the application entirely. If Council denies consent, the owner has the right to appeal to the OMB. The decision of the OMB is final.

Significance- 450 George Street North

450 George Street N was constructed in 1882 for George A. Cox and James Stevenson as an addition to 442-448 George Street (the Morrow Building), the Second Empire structure designed by John Belcher for Robert A. Morrow in 1880. The second floor is a precise continuation of Belcher's design for the Morrow Building, but the ground floor used a single masonry pier instead of a series of load bearing masonry arches to open up the storefronts and create a lighter feel to the frontage.

The building is associated with two of Peterborough most prominent businessmen of the 19th century George Cox and James Stevenson. At the height of his career, Cox was one of the richest men in Canada. He was president of the Midland Railway of Canada, Central Canada Loan and Savings Company, Canada Life Assurance and the Canadian Bank of Commerce. Cox served seven years as mayor of Peterborough and accumulated significant real estate in the area. He was appointed to the Senate of Canada in 1896 by Sir Wilfrid Laurier. James Stevenson served ten terms as Peterborough's mayor. He served as the MP for Peterborough West Riding from 1887 to 1896 and was a personal friend of Sir John A. MacDonald. He was chairman of the school board, chairman of the Town Trust and a justice of the peace, president of the Peterborough Gas Company and a director of the Port Hope Midland Railway.

The building housed several long term tenants including James Carey a shoemaker, F. R. J. MacPherson's plumbing company and George Dormer's Sugar Bowl Grill.

The subject property is historically and physically linked to its surroundings as a continuation of the three storey commercial row of buildings which includes the Morrow Building and is an integral part of the urban, commercial landscape of the historic downtown of the City.

Significance- 144 Brock Street

144 Brock Street is a very early example of urban commercial architecture in the Second Empire style in Peterborough. The design of the front elevation is well executed featuring several key components of the Second Empire style and displays a high degree of craftsmanship in the ornate brickwork. Originally the building had a mansard roof with three ornate dormers and large ground floor double hung windows flanking the central entrance.

The building has long historical associations for the community as a tavern in continuous operation for over 150 years. Opened by Dolphus Faucher about 1865, the establishment began as the St. Maurice Saloon and over the next century and a half the property has had many owners operating under a range of names including the St. James Hotel, the Club House, Cardwell's Hotel, the Little Windsor Hotel, the Windsor House and finally the Pig's Ear, as it is known today. The property is associated with a number of people of note including Albert Smoke the First Nations Olympian from Curve Lake who was one of Canada's top marathon runners and Hank Williams who is

believed to have drunk at the hotel during an infamous show at the Brock Ballroom when he became too inebriated to play.

144 Brock Street is historically and physically linked to its surroundings as a continuation of the three storey commercial row of buildings now defined by the Morrow Building on the corner of Brock and George Streets and is an integral part of the urban, commercial landscape of the historic downtown.

Summary

144 Brock Street and 450 George Street North have strong associations with the community, are integral parts of the 19th century streetscape and display a high order of architectural design. While both buildings merit consideration for designation, approval of the recommendations to defer the designation process and to refer the matter back to staff and the developers to explore viable re-development alternatives to demolition without some form of heritage preservation will provide time to determine what viable solutions may be available.

Submitted by,

Ken Doherty, Director
Community Services Department

Contact Name:

Erik Hanson

Heritage Resources Coordinator

Phone: 705-742-7777 Ext. 1489

Toll Free: 1-855-738-3755

Fax: 705-748-8824

Email: ehanson@peterborough.ca

Attachments:

Appendix A - Heritage Designation Brief 144 Brock Street

Appendix B - Heritage Designation Brief 450 George Street North