



MOTION

Committee Date: May 18, 2006

MOVED BY COUNCILLOR McHATTIE

SECONDED BY

WHEREAS, the landlord was required to submit a heritage impact study, construction drawings, and heritage rehabilitation plans prepared by a qualified heritage restoration professional and failed to do so, despite advice to the contrary from the Hamilton LACAC (Municipal Heritage Committee); and,

WHEREAS, the all three members of the City's Independent Peer Review team, working independently of each other, felt that the heritage impact assessment was inadequate and incomplete; and,

WHEREAS, the Permit Review Sub-Committee of the Hamilton LACAC (Municipal Heritage Committee) has conducted a thorough analysis and has recommended against issuing a demolition permit (see appendix F to Item 4.1 on LACAC (MHC) agenda); and,

WHEREAS, the proposal is contrary to the Ontario Heritage Act and does not satisfy the heritage policies of the City of Hamilton's Official Plan, nor the heritage policies of the Downtown Secondary Plan; and,

WHEREAS, the landlord did not make the case that the option of building conservation and adaptive reuse was not economically viable, as they failed to conduct a proper heritage assessment and thorough cost analysis of alternatives and options; and,

WHEREAS, the proposed demolition can be viewed as being contrary to sustainable development under the Ontario Heritage Act; and,

WHEREAS, Parks Canada notes that the loss of heritage commercial buildings weakens the distinctiveness of our communities and our sense of attachment to the past.

- (a) Therefore, the Hamilton LACAC (Municipal Heritage Committee) recommends that the request for Heritage Permit (HP2006-017), for the demolition of the designated property at 28-44 James Street North (known as the Lister Block), Hamilton, be denied.
- (b) That the statement (attached) be forwarded to Committee of the Whole along with this motion, for consideration.

Dear Council,

After a long and difficult process of evaluation, the Hamilton LACAC (Municipal Heritage Committee) has decided to recommend against issuing a Heritage Permit (Application HP2006-017) concerning the Lister Block as it is currently submitted.

It was with great optimism that this project was announced about one year ago. The Lister Block is a significant piece of our history and as such it is recognized and protected under Provincial legislation. As the Committee of Council charged with the task of providing you with recommendations on matters dealing with heritage, we looked forward to working with the applicants to see this building renewed.

The process outlined in the City report of April 21, 2005 articulated a clear and fair set of criteria to which the applicants should abide in order to receive a significant commitment of taxpayers dollars to rent space in the renovated building. Essentially, the applicant was to demonstrate that "it is not economically viable or structurally possible or practical" to restore the Lister Block in order to be able to demolish and build a new structure. The applicant was to prepare a Heritage Impact Assessment (HIA) within which options for redevelopment were considered and evaluated. Further, a peer review process was agreed to in order to provide an independent evaluation of whether the HIA was complete and valid.

While our formal motion outlines our recommendation, there are important and significant questions that remain unanswered:

1. How can the Heritage Impact Assessment be considered credible and acceptable for the current permit review process concerning the Lister?

The City report outlining the arrangement between the municipality and the proponent states that, "as a requirement of obtaining a heritage permit, the Landlord must complete a heritage impact assessment, to be peer reviewed by the City," and that this requirement must be undertaken,"by a qualified heritage restoration professional." All three independent peer review reports deem the Heritage Impact Assessment (HIA) to be incomplete or inadequate.

2. Two of the three Peer Review reports contend that the HIA is not a thorough examination, but a means to justify a predetermined decision that was made up front by the proponents. How does this demonstrate that the proponents are acting in good faith in evaluating restoration options for a designated historic building?

HIA Excerpts:

"Overall the case appears to be being made that despite the fact that a high percentage of the façade cladding is sound (brick, copper spandrels and areas of terra cotta) as well as that of the full concrete structure (never questioned in the H.I.A.) the optimum solution is to demolish the building and rebuild. Clearly it is not the integrity of the heritage materials or existing structure that is driving the decision making." (Andy Huctwith, P. Eng.)

"The reader is left to surmise the proponent's intent; demolition and pseudo replication. There is not a clear evaluation of the heritage attributes and little

assessment of the impact on the heritage attributes of other buildings of historical interest on the site, or the neighborhood.” (Jane Burgess, OAA, CAPHC)

3. How can there be sufficient information to determine whether restoration is possible or not if this option was never considered and fully analyzed?

The City report outlining the arrangement between the municipality and the proponent states that, “The City of Hamilton recognizes that development of the Lister Block property is vital to the rejuvenation of the downtown core. The Landlord will use its best efforts to maintain the architectural detail of the existing building.” However, the proponents never fully considered the option of preserving the building in their HIA. As one of the peer review reports states, “It is completely possible that the project is not viable for other reasons but a clear illustration that this [restoration] is not viable is warranted before a designated building is demolished.”

4. At a meeting with the policy review sub-committee of the Municipal Heritage Committee on April 19, 2006, the proponents stated that restoration of the Lister Block is possible, but the economics of doing business in Hamilton would not justify it. However, the City report outlining the arrangement between the municipality and the proponent states that the rental rate to be paid by the City is significantly above the current market rate in Hamilton. **Wasn't this premium rental rate specifically offered by the city in order to compensate for the “market conditions” in Hamilton in order to make redevelopment and restoration possible?**

5. If Council approves the permit to demolish the Lister Block based on an inadequate HIA and an unwillingness by the proponent to honour public process, does this not set a dangerous precedent that the rules do not need to be followed in Hamilton?

Further, there have been recent attempts to discredit our Committee of Council and the open suggestion that councillors should ignore any decision made by the committee before the public process is complete. Also, there have been suggestions that LACAC has caused significant delays. However, it should be clearly noted that it was the applicants, not any Committee of Council, that delayed this process by choosing to submit the HIA some 2 and a half months late. Additionally, it was the independent opinion of three outside experts, not any Committee of Council that determined that the applicant's documentation was inadequate.

The applicants agreed to abide by a public process outlined in the City report of April 21, 2005, and now appear to see fit to opt out of that process as they disagree with how it is unfolding. Specifically, they have not undertaken the necessary analysis to substantiate their position that restoration of the Lister Block is economically unfeasible. They have essentially asked our Committee, and Council, to take their word for it. It is not in the public interest to make a decision without the facts, especially when there is significant taxpayers dollars that will be invested in this project. We urge Council to consider this fact when rendering a decision.

We would also like to emphasize that while we are recommending against issuing the demolition permit as currently submitted, we would like to stress that we hope the applicants will provide additional information so that they are in fulfillment of their obligations outlined in the original arrangement with Council announced in April 2005.

Sincerely,

Diane Dent, PhD
Chair, Hamilton LACAC (Municipal Heritage Committee)