



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Committee Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	December 15, 2016
SUBJECT/REPORT NO:	Heritage Permit Application HP2016-028, under Part IV of the <i>Ontario Heritage Act</i> , for the Demolition of the Buildings at 24 and 28 King Street East, Hamilton (PED16193(a)) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Anita Fabac Manager of Development, Heritage and Design (905) 546 - 2424 Ext.1258 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Heritage Permit Application HP2016-028, for the demolition of buildings at 24 and 28 King Street East, Hamilton, be **approved** subject to the following conditions:

- (a) That a Documentation and Salvage Report in accordance with the City's Official Plan Policy B.3.4.5.5 be submitted to the satisfaction of the Director of Planning and Chief Planner, prior to the issuance of a Building Permit for demolition;
- (b) That any recommendations from the Documentation and Salvage Report submitted to the satisfaction of the Director of Planning and Chief Planner, be implemented to the satisfaction of the Director of Planning and Chief Planner, prior to the issuance of any Occupancy Permit;
- (c) That the applicant apply for and receive final Site Plan Approval for the redevelopment of the subject lands, and that the applicant post any required securities to ensure that redevelopment of the subject lands occurs prior to any demolition, all to the satisfaction of the Director of Planning and Chief Planner.

- (d) That should a Building Permit for the proposed demolition, in accordance with this approval, not be obtained and acted upon by January 31, 2020, then this approval expires as of that date and no demolition shall be undertaken without a new approval issued by the City of Hamilton;
- (e) That the proposed demolition, in accordance with this approval, shall be completed no later than January 31, 2021. If the demolition is not completed by January 31, 2021, then this approval expires as of that date and no demolition shall be undertaken without a new approval issued by the City of Hamilton; and,
- (f) That the Director of Planning and Chief Planner be authorized to approve a request to extend the dates noted in conditions (g) and (h) of this approval, if that request is submitted prior to the expiry and if progress is being made.

EXECUTIVE SUMMARY

The subject properties at 24 and 28 King Street East, Hamilton (see Appendix “A” to Report PED16193(a)) are subject to a Notice of Intention to Designate published on December 11, 2013 under Part IV of the *Ontario Heritage Act* (see Notice of Intention to Designate, attached as Appendix “B” to Report PED16193(a)).

Heritage Permit Application HP2016-028 proposes demolition of 24 and 28 King Street East, two cultural heritage resources constructed in the 1870s facing Gore Park in Downtown Hamilton. A new five storey building is proposed to replace these buildings along with the vacant lot located at 30 King Street East, which was comprised of another 1870s structure until it was demolished in 2011.

A Heritage Permit Application (HP2016-027) for alterations to 18-22 King Street East has been received and is being considered concurrently with the subject Heritage Permit Application (HP2016-028).

The *Ontario Heritage Act* requires that Council make a decision on a Heritage Permit Application within 90 days of the issuance of a Notice of Receipt, unless the applicant and Council agree to extend the timeframe. In this case the applicant submitted a request to extend the timeframe to January 26, 2017 and this was approved by Council on October 26, 2016. If no decision is reached by January 26, 2017, Council shall be deemed to consent to the application.

The Heritage Permit Review Subcommittee (HPRS) of the Hamilton Municipal Heritage Committee (HMHC) reviewed the subject application on July 26, 2016, and recommended denial.

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Also, of note the design was reviewed by the Design Review Panel (DRP) through the Site Plan Application at their meeting on September 8, 2016. The DRP provided several recommendations for the restoration of the 18-22 King Street East and the redevelopment of 24 and 28 King Street East.

At the September 22, 2016 HMHC, the applicant requested that the City consent to an extension of the 90-day timeline as noted above to revise the design to address the HPRS and DRP's comments with respect to the subject Heritage Permit Application (HP2016-028) as well as the Heritage Permit Application for 18-22 King Street East (HP2016-027).

The applicant has submitted revised elevations for the Heritage Permit Application which include slight modifications to the storefronts on the proposed new building located at 24-30 King Street East. The subject application remains consistent with Council's direction for redevelopment of the subject properties.

Additionally, staff recommend that the Heritage Permit approval be conditional upon the applicant obtaining a building permit within three years of the approval and that the work be completed within four years of the approval (see conditions (g) and (h)). Should the applicant submit a request prior to the expiration dates noted in conditions (g) and (h), staff recommend that the Director of Planning and Chief Planner be authorized to extend the approval expiry dates if progress is demonstrated.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: This Heritage Permit application has been processed and considered within the context of the applicable legislation.

Section 34 (1) of the *Ontario Heritage Act* states that: "No owner of property designated under Section 29 shall demolish or remove a building or structure on the property, or permit the demolition or removal of a building or structure on the property, unless the owner applies to the Council of the municipality in which the property is situate and receives consent, in writing, to the demolition or removal."

Section 34 (2) of the *Ontario Heritage Act* states that: "Within 90-days after the notice of receipt is served on the applicant under Subsection (1), or

within such longer period as is agreed upon by the owner and the Council, the Council, after consultation with its Municipal Heritage Committee, if one is established,

- (a) May,
 - (i) Consent to the application;
 - (ii) Consent to the application, subject to such terms and conditions as may be specified by the Council; or,
 - (iii) Refuse the application;
- (b) Shall give notice of its decision to the owner and to the Trust; and,
- (c) Shall publish its decision in a newspaper having general circulation in the municipality.”

With respect to the delegation of Council’s approval authority, Section 33 (15) of the *Ontario Heritage Act* states that:

“The power to consent to alterations to property under this Section may be delegated by By-law by the Council of a municipality to an employee or official of the municipality if the Council has established a Municipal Heritage Committee, and has consulted with the Committee prior to delegating the power.”

The *Ontario Heritage Act* does not allow for the delegation of Council’s authority to consent to demolition or removal of a building or structure.

HISTORICAL BACKGROUND

24 King Street East was constructed in 1875-1876 for James A. Skinner. Skinner was a crockery merchant who opened his “China Palace” at another location around 1850 and the current building was built as an expansion. James A. Skinner and Co. was recognized as “the largest importer of crockery, glassware, etc. and largest shippers to Manitoba, British Columbia and the Northwest”. Later, Minden’s Ladies Wear operated in this location between 1924 and 1951.

The building at 24 King Street East was originally designed and constructed in the Victorian Style of architecture with vertical brick coursing, stone window sills, metal hood mouldings and a metal cornice. Several alterations have been undertaken to the

building and only the brick façade (painted), three window openings on the fourth level and the cornice and brackets remain.

28 King Street East was constructed in 1874 for William H. Glassco & Sons to house their furrier business, established in 1843 and first located in a building further to the east along King Street East. The building housed a large cold storage vault that was considered to be advanced at the time. G.F. Glassco & Co. operated in this location until 1931 and a succession of other furrier businesses subsequently operated out of the building.

The composition, design and materials of the building at 28 King Street East provide a representative example of Victorian architecture. At the time of its construction, the building was less elaborate than the buildings on either side; however, the building has retained most of its original architectural features on the upper levels of its front façade.

The buildings face Gore Park and are integral components of the King Street East streetscape and the character of the 'Gore' area. Gore Park is surrounded by largely intact groupings of three to four storey commercial row buildings, many displaying early architectural styles and high levels of craftsmanship in both design and construction (see photos attached as Appendix "C" to Report PED16193(a)).

The City of Hamilton issued a Notice of Intention to Designate 24-28 King Street East as well as a Notice of Intention to Designate 18-22 King Street East, under Part IV of the *Ontario Heritage Act* on December 13, 2013. The Notices of Intention to Designate had the effect of voiding the Demolition Permit that had been issued for 18-22, 24 and 28 King Street East on January 25, 2013. The property owner jointly appealed the Notices of Intention to Designate to the Conservation Review Board and these appeals have not been resolved.

On April 6, 2016, a presentation was made to the General Issues Committee (GIC) by the applicant for information purposes demonstrating a draft of the current development proposal. A similar presentation was also made to the Hamilton Municipal Heritage Committee (HMHC) on April 21, 2016 for information purposes. At the GIC meeting on April 6, 2016, staff were directed to report back to identify a process for the Committee's consideration to implement the proposed development which included the retention of the buildings at 18-22 King Street East and the demolition of the buildings at 24 and 28 King Street East. In accordance with Council's direction, an Information Report (PED16116) identifying a process to follow was considered by GIC on June 1, 2016. This process identified the requirement for the proposed development to go through the Heritage Permit Application process and a Site Plan Control application process. In response to the Information Report (PED16116) the following motion was passed at the GIC meeting on June 1, 2016:

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“WHEREAS, at its meeting on April 13, 2016, Council passed a motion directing staff to report back to the General Issues Committee on a process for Committee's consideration respecting the designation and retention of 18-22 King Street East, Hamilton and redevelopment of 24-28 King Street East, Hamilton (Gore Park Apartments);

WHEREAS, the proposal is to redevelop 18-22 King Street East and 24-28 King Street East as a five storey, multiple dwelling to replace the properties at 24-28 King Street East as well as a penthouse to be constructed above the properties at 18-22 King Street East; and,

WHEREAS, staff has proposed a process to address the direction outlined for the consideration of General Issues Committee through Report PED16116;

THEREFORE BE IT RESOLVED:

That staff be directed to request the owners of 18-22 and 24-28 King Street East to provide written confirmation to the City that they concur that this process is appropriate and that they will withdraw their objection to the Notice of Intent to Designate after Building Permits have been issued for the development proposal in order to give effect to the process outlined in Report PED16116.”

This Heritage Permit application was received on July 18, 2016 and included the submission of an architectural package with floor plans and elevations and a Cultural Heritage Impact Assessment prepared by GBCA architects. A Notice of Receipt was issued on August 2, 2016.

The Heritage Permit Review Subcommittee reviewed the Heritage Permit application at their meeting on July 26, 2016 (see relevant consultation section). The elevations were also reviewed by the Design Review Panel on September 8, 2016 as pre-consultation for a future Site Plan Control application.

At the September 22, 2016 HMHC meeting, the applicant requested that the City consent to an extension of the 90-day timeline required to consider Heritage Permits under s.33 of the *Ontario Heritage Act* to allow for revisions to the proposed elevations to address some of the concerns from HPRS and DRP. On October 26, 2016 Council approved the request to extend consideration of the Heritage Permit application to January 26, 2017.

On November 17, 2016, the applicant submitted revised elevations for the Heritage Permit application (see Appendix “D” to Report PED16193(a)). The only change made to the elevations for 24-30 King Street East is reconfiguration of the storefront level, breaking it into three windowed sections rather than one large windowed section.

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Urban Hamilton Official Plan

Volume 1, Section 3.4 - Cultural Heritage Resources Policies of the Urban Hamilton Official Plan (UHOP) states that the City shall:

- “B.3.4.2.1(a) Protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes for present and future generations.
- B.3.4.2.1 (i) Use all relevant provincial legislation, particularly the provisions of the Ontario Heritage Act, the Planning Act ...and all related plans and strategies in order to appropriately manage, conserve and protect Hamilton's cultural heritage resources.
- B. 3.4.5.2 The City shall encourage the retention and conservation of significant built heritage resources in their original locations. In considering planning applications under the Planning Act and heritage permit applications under the Ontario Heritage Act, there shall be a presumption in favour of retaining the built heritage resource in its original location.
- B. 3.4.5.5 Where a significant built heritage resource is to be unavoidably lost or demolished, the City shall ensure the proponent undertakes one or more of the following mitigation measures, in addition to a thorough inventory and documentation of the features that will be lost:
- a. preserving and displaying of fragments of the former buildings' features and landscaping;
 - b. marking the traces of former locations, shapes, and circulation lines;
 - c. displaying graphic and textual descriptions of the site's history and former use, buildings, and structures; and,
 - d. generally reflect the former architecture and use in the design of the new development, where appropriate and in accordance with Section B.3.3 - Urban Design Policies.”

Downtown Hamilton Secondary Plan

Volume 2, Section 6.1- Downtown Hamilton Secondary Plan of the Urban Hamilton Official Plan (UHOP) states that:

- “B 6.1.7.6 The City / Council may require that as part of the *development* or *redevelopment* of land in the downtown that heritage properties are

retained on-site and incorporated, used or *adaptively re-used* as appropriate to the proposed *development* and land use. Retention of a heritage feature on lands subject to *development* may be a requirement as a condition of *development* approval. Specifically, heritage easements under subsection 37(1) of the *Ontario Heritage Act*, may be required and negotiated, as well as development agreements, respecting the care and conservation of the affected heritage property.

- B.6.1.7.8 Where alterations are proposed to the heritage buildings, the following principles shall be followed:
- a. Maintain the basic relations to the horizontal divisions of the building;
 - b. Maintain original façade components and materials wherever possible;
 - c. Replicate the original parts and materials where possible or substitute with similar materials and colours; and,
 - d. Remove elements that are not part of the original design and / or hide the original design, for example signage, siding or root treatments.”

RELEVANT CONSULTATION

Heritage Permit Review Subcommittee

Pursuant to Sub-sections 28 (1) of the *Ontario Heritage Act* and the Council approved Heritage Permit Process (PED05096), the HMHC advises and assists Council on matters relating to Part IV and V of the *Ontario Heritage Act*.

The Heritage Permit Review Subcommittee of the HMHC reviewed the subject application at their scheduled meeting on July 26, 2016. After a presentation and question and answer period with the applicant’s agent and consultant, the Subcommittee passed a motion to recommend denial of the application as submitted. The advice of the subcommittee did not include any reasons for their recommendation to deny the application.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The application proposes to demolish two four-storey buildings constructed in the 1870s located at 24 and 28 King Street East, Hamilton.

A Cultural Heritage Impact Assessment (CHIA), prepared by GBCA and dated June 16, 2016, was submitted with the Heritage Permit application in support of the application. This report was considered by staff and the Heritage Permit Review Subcommittee in the review of the subject Heritage Permit application.

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Additionally, the following relevant documents were not submitted with the Heritage Permit application but as part of the appeal of the Notice of Intention to Designation to the Conservation Review Board. These reports were considered by staff and the Heritage Permit Review Subcommittee in the review of the subject Heritage Permit application:

1. Heritage Attribute Confirmation and Condition Assessment for the Facades of #18 to #28 King Street East, dated October 9, 2013 prepared by Steven Burgess Architects (SBA).

In deliberation of designating the subject properties under the *Ontario Heritage Act*, SBA was retained by the City of Hamilton in 2013, to prepare this report to confirm the cultural heritage attributes identified by staff and to assess their as-is condition.

2. Building Condition Assessment 18 to 28 King Street East, Hamilton Ontario, dated April 2, 2015 prepared by GBCA Architects and Ojdrovic Engineers.

This Assessment was submitted in April 2015 as part of ongoing discussions with respect to the appeals of the Notices of Intention to Designate to the Conservation Review Board.

3. Peer Review of GBCA Building Condition Assessment Report #18 to #28 King Street East, Hamilton ON, dated June 10, 2015 prepared by Steven Burgess Architects Ltd. (SBA) and Tacoma Engineers.

SBA was retained by the City of Hamilton in 2015 to complete a Peer Review of the Building Condition Assessment completed by GBCA Architects.

4. Structural Assessment, dated July 14, 2015 prepared by Tacoma Engineers. Tacoma Engineers was retained for the City of Hamilton by SBA to conduct a structural assessment of 24 and 28 King Street East in 2015.

Note: Due to the size and bulk of the documentation relevant to the subject application, it has not been attached to this Report. The documentation listed above is available for viewing in the Development Planning, Heritage and Design Section of the Planning Division, Hamilton City Hall, 71 Main Street West, 5th Floor.

The proposed demolition of 24 and 28 King Street East will result in the removal of two buildings that possess cultural heritage value for their historical association and longstanding contextual relationship with Gore Park and the King Street East streetscape.

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Notwithstanding that the properties are of cultural heritage value in accordance with the Notice of Intention to Designate (Appendix B of Report PED16193(a)), Council has provided direction to implement the proposed redevelopment of 24 and 29 King Street East which will include demolition of the two existing buildings. The revised elevations include a slight change to the storefront configuration on the ground floor, however, this remains consistent with Council's direction. The recommendations of this report are consistent with the Direction of Council.

ALTERNATIVES FOR CONSIDERATION

1. Refuse the Heritage Permit Application.

Council may deny this application. This alternative is contrary to Council's direction to implement the proposed redevelopment.

2. Approve the Heritage Permit Application with Additional or Amended Conditions

Council may approve this application with additional or amended conditions. This is not being recommended.

3. Approve the Heritage Permit Application with no conditions.

Council may approve this application with no conditions. This alternative would not allow for complete documentation and salvage of any significant features of the buildings prior to demolition and is contrary to Council's direction to implement the proposed redevelopment of 24 and 28 King Street East.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Notice of Intention to Designate 24-28 King Street East, Hamilton
- Appendix "C": Photos of 24-28 King Street East, Hamilton
- Appendix "D": Revised Elevations

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● Site Location



Key Map - Ward 2

N.T.S. 

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
HP2016-028

Date:
August 18, 2016

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
CT/VS

Subject Property



24 & 28 King Street East

CITY OF HAMILTON

NOTICE OF INTENTION TO DESIGNATE

24-28 King Street East, Hamilton

IN THE MATTER OF THE ONTARIO HERITAGE ACT and the property in the City of Hamilton known municipally as 24-28 King Street East, Hamilton.

NOTICE IS HEREBY GIVEN that the City of Hamilton intends to designate this property as being a property of cultural heritage value.

Statement of Cultural Heritage Value or Interest

The four storey buildings located at 24-28 King Street East, Hamilton possess cultural heritage value due to their historical associations with the growth and commercial prosperity of the City of Hamilton in the nineteenth century and contextual associations with Gore Park and the King Street East streetscape. 28 King Street East also has physical design value as an example of the Victorian Style of architecture.

24 King Street East was constructed in 1875-6 for James A. Skinner. Skinner was a crockery merchant who opened his "China Palace" at another location around 1850 and the current building was built as an expansion. James A. Skinner and Co. was recognized as "the largest importer of crockery, glassware, etc. and largest shippers to Manitoba, British Columbia and the Northwest". Later, Minden's Ladies Wear operated in this location between 1924 and 1951.

The building at 24 King Street East was originally designed and constructed in the Victorian Style of architecture with vertical brick coursing, stone window sills, metal hood mouldings and a metal cornice. Several alterations have been undertaken to the building and only the brick façade (painted), three window openings on the fourth level and the cornice and brackets remain.

28 King Street East was constructed in 1874 for William H. Glassco & Sons to house their furrier business, established in 1843 and first located in a building further to the east along King Street East. The building housed a large cold storage vault that was considered to be advanced at time. G.F. Glassco & Co. operated in this location until 1931 and a succession of other furrier businesses subsequently operated out of the building.

The composition, design and materials of the building at 28 King Street East provide a representative example of Victorian architecture. At the time of its construction, the building was less elaborate than the buildings on either side; however, the building has retained most of its original architectural features on the upper levels of its front façade.

The buildings face Gore Park and are integral components of the King Street East streetscape and the character of the 'Gore' area. Gore Park is surrounded by largely

intact groupings of three to four storey commercial row buildings, many displaying early architectural styles and high levels of craftsmanship in both design and construction.

Description of Heritage Attributes

24 King Street East:

The heritage attributes of the four storey building are derived from its historical and contextual value. The heritage attributes include the upper levels of the front façade of 24 King Street East, including, but not limited to:

- The brick façade of the third and fourth levels of the front façade;
- The window openings and stone sills on the third and fourth levels of the front façade;
- The cornice, stone end brackets and metal flashings;
- All surviving original brick and stone materials and features remaining under the existing storefront cladding and signage on the ground and second levels; and,
- The parapet walls.

Notwithstanding the above list of heritage attributes any alterations to the existing storefronts, entrances and signage on the ground and second levels and any structural changes to the building that are likely to affect the heritage attributes shall be regulated through the City's Heritage Permit process.

28 King Street East:

The heritage attributes of the four storey building are derived from its built heritage value as an example of the Victorian Style of architecture. The heritage attributes include the upper levels of the front façades of 28 King Street East, including, but not limited to:

- All stone masonry walls and pilasters on the second, third and fourth levels of the front façade;
- All window openings and sills on the second, third and fourth levels of the front façade;
- The original two-over-two wood window sashes and frames in the third and fourth level window openings;
- The wood framed picture windows and leaded-glass transoms in the second level window openings;

- The projecting horizontal mouldings between the second and third levels and the third and fourth levels;
- The cornice and parapet walls;
- A stone pilaster at the northeast corner of the ground level; and,
- All surviving original stone materials and features remaining under the existing storefront cladding and signage on the ground level.

Notwithstanding the above list of heritage attributes any alterations to the existing storefronts, entrances and signage on the ground level and any structural changes to the building that are likely to affect the heritage attributes shall be regulated through the City's Heritage Permit process.

Any person may, within 30 days after the date of publication of the Notice, serve written notice of his or her objection to the proposed designation, together with a statement for the objection and all relevant facts.

Dated at Hamilton, this 11th day of December, 2013

R. Caterini
City Clerk
Hamilton, Ontario



Photographed July 2015



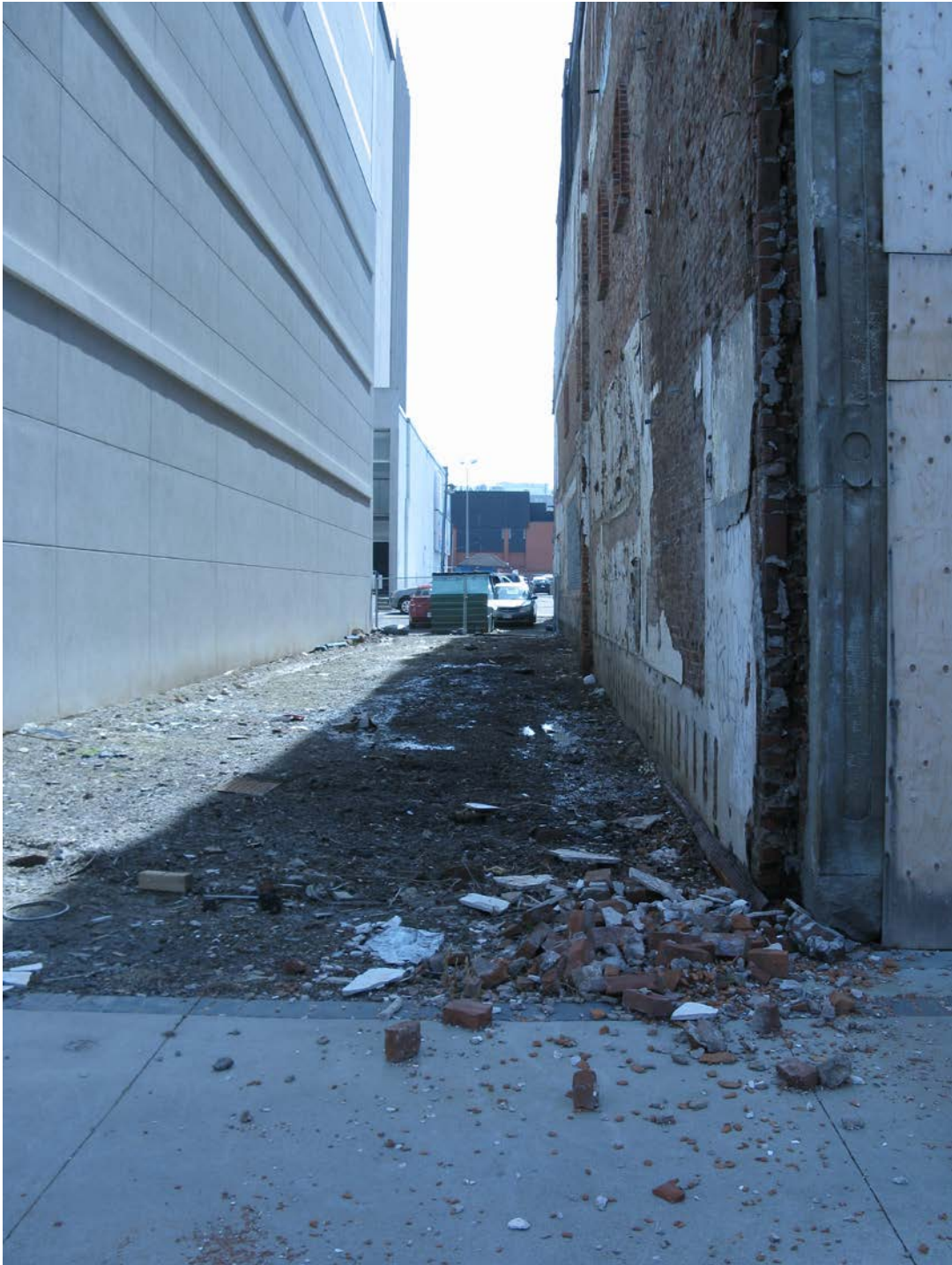
Photographed July 2015



Photographed April, 2015



Photographed April, 2015



Photographed April, 2015



Photographed in December 2012



Photographed in December 2012



Photographed in December 2012



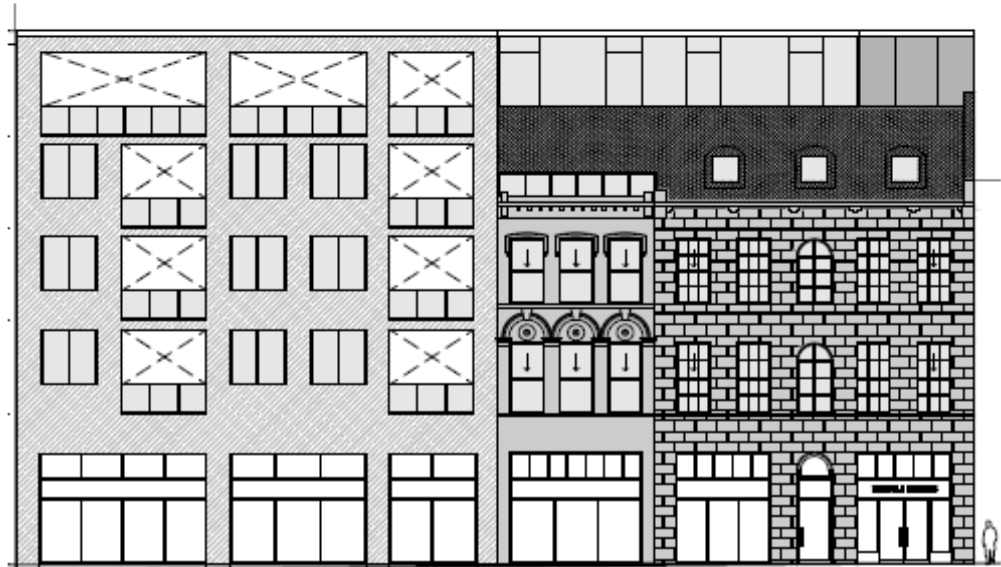
Photographed in December 2012

**Design Submitted
with Heritage
Permit Application
on July 18, 2016**



24 & 28 King Street East

**Revised Design
Submitted on
November 17, 2016**



24 & 28 King Street East



Rendering of Revised Design

NORTH ELEVATION