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Date December 13, 2022 **Report No.** 2022-706

To Chair and Members
Committee of the Whole – Planning and Administration

From Nicole Wilmot, MCIP, RPP
Chief Planner and Director of Planning and Development Services
People, Legislated Services and Planning

1.0 Type of Report

Consent Item ☐
Item For Consideration ☒

2.0 Topic Notice of Intention to Demolish a Non-designated, Listed Property on the City's Heritage Register and Concurrent Demolition Control Application for 93 West Street [Financial Impact – None]

3.0 Recommendation

- A. THAT Report 2022-706, titled "Notice of Intention to Demolish a Non-designated, Listed Property on the City's Heritage Register and Concurrent Demolition Control Application for 93 West Street" BE RECEIVED; and
- B. THAT 93 West Street BE REMOVED from the City of Brantford's Heritage Register; and
- C. THAT the Demolition Control Application for 93 West Street BE APPROVED.

4.0 Executive Summary

The City received a Notice of Intention to Demolish 93 West Street (**Appendix D**) on November 10, 2022, concurrent with a Non-routine Demolition Application

under the City's Demolition Control By-law (Chapter 433 of the City of Brantford Municipal Code).

93 West Street is a non-designated, listed property on the City of Brantford's Heritage Register. The location of the property is shown on the map attached as **Appendix A** and the Aerial Photo attached as **Appendix B**. 93 West Street was added to the Heritage Register in accordance with Council's decision on August 25, 2020 as part of Part 1 of the Heritage Register Project. The property information sheet for 93 West Street is attached to this Report as **Appendix E**. 93 West Street was evaluated and found to satisfy the following project criteria:

- The property pre-dates the incorporation of the City of Brantford in 1877;
- The property is associated with a mayor (William Watt, who served as mayor from 1882 to 1883); and
- The property is a representative example of its architectural style (Italianate).

As a non-designated, listed property, the *Ontario Heritage Act* sets out a requirement that the City must be given 60-days' notice of any intention to demolish a building or structure on the subject property. This requirement gives additional time for the City to determine if the subject property warrants designation under the *Ontario Heritage Act*.

93 West Street is also within the Demolition Control Area (**Appendix C**) established by the City's Demolition Control By-law (Chapter 433 of the City of Brantford Municipal Code). Demolition Control is a tool available under the *Planning Act* which is used by the City to achieve the following goals:

- Preventing the premature loss of housing stock and the creation of vacant land;
- Retaining existing residential units until new uses have been considered;
- Maintaining the integrity of residential neighbourhoods; and,
- Preventing the premature loss of municipal assessment.

Staff has considered the information submitted in support of the Notice of Intention to Demolish and the Non-routine Demolition Application, and is of the opinion that 93 West Street:

- No longer warrants designation under the *Ontario Heritage Act* in its current condition; and
- That the Non-routine Demolition Application be approved despite the lack of a redevelopment proposal as the retention of the building does not prevent the premature loss of housing stock, nor does it retain existing residential units.

Staff has consulted with the Brantford Heritage Committee regarding these applications and the Committee's comments are included in Section 8.2 of this Report.

5.0 Purpose and Overview

The purpose of this Report is to provide Council with information regarding the Notice of Intention to Demolish 93 West Street, a non-designated listed property on the City's Heritage Register and the concurrent Non-routine Demolition Application.

6.0 Background

The City has received a Notice of Intention to Demolish 93 West Street, which is included on the City's Heritage Register as a non-designated, listed property; a Non-routine Demolition Control application has been submitted concurrently. The subject property is shown on the Location Map attached as **Appendix A** and the Aerial Photo attached as **Appendix B**.

93 West Street was added to the City's Heritage Register as a non-designated, listed property as part of Part 1 of the Heritage Register Project which included properties throughout the City. The timeline for Part 1 of the Heritage Register Project was as follows:

- A public information centre (PIC) was held in-person on November 4, 2019 at T. B. Costain/SC Johnson Community Centre. The Notice of PIC was included in the Civic News of October 17, 2019 and was mailed out to all Priority Group A property owners on October 22, 2019.
- The Brantford Heritage Committee reviewed and considered Part 1 of the Heritage Register Project, consisting of the Recommendations Report and the Priority Group A properties, at its meeting on July 6, 2020.

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- Committee of the Whole – Community Development reviewed and considered Part 1 of the Heritage Register Project at its meeting on August 11, 2020.
 - Council approved the addition of 98 properties, including 93 West Street, to the Heritage Register at its meeting on August 25, 2020.

The subject property is also located within the Demolition Control Area as shown in **Appendix C**. Demolition Control is a tool enabled by Section 33 of the *Planning Act* to help prevent the premature loss of dwelling units within the Demolition Control Area. The City of Brantford implements this tool through the Demolition Control By-law (Chapter 433 of the Municipal Code), which sets out two types of applications: “routine” and “non-routine”. “Routine” Demolition Control applications are applications where development approvals are substantially completed and there is a reasonable level of assurance that the development will occur (e.g. conditional Site Plan approval or conditional Draft Plan of Subdivision approval has been issued; or if no *Planning Act* applications are required, a complete Building Permit application has been submitted to replace the number of dwelling units). “Non-routine” Demolition Control applications are those which do not meet the required threshold for pending or completed development approvals and/or where a residential property is designated under the *Ontario Heritage Act* or listed on the City’s Heritage Register.

Approval (but not denial) of routine applications is delegated to the Chief Building Official. As 93 West Street is a non-designated, listed property on the City’s Heritage Register and there is no redevelopment proposal before the City at this time, the application is deemed non-routine and therefore, the authority to approve or deny the application remains with Council in consultation with the Brantford Heritage Committee.

7.0 Corporate Policy Context

7.1 Council Priorities, 2021-2022

This Report is consistent with Desired Outcome 1: All neighbourhoods in the City are safe, vibrant, attractive, and inclusive, as outlined in City Council’s priorities for 2021-2022. Despite its identified cultural heritage value, the current condition of 93 West Street does not contribute to a safe, vibrant, or attractive neighbourhood.

7.2 Ontario Heritage Act

As noted in Section 6 of this Report, 93 West Street has been included on the City's Heritage Register under the *Ontario Heritage Act* as a non-designated, listed property. The Act provides these properties with interim protection from demolition for 60 days to give the municipality time to assess whether to begin the designation process so as to stop the demolition process.

The Notice of Intention to Demolish was provided to the City on November 10, 2022 in accordance with subsection 27(9) of the *Ontario Heritage Act*. Based on the date of submission, the 60-day notice period will end on January 9, 2023. Staff has circulated this Notice of Intention to Demolish to the Brantford Heritage Committee as noted in Section 8.0 of this Report and included the Heritage Committee's resolution for Committee of the Whole – Planning and Administration and Council's consideration.

Council has the option to initiate the designation process (a Notice of Intention to Designate under Part IV of the *Ontario Heritage Act*) should it wish this property not be demolished; alternatively, Council would not need to take any action under the *Ontario Heritage Act*. The designation process includes an option for the property owner to object to Council, and if a designation by-law is subsequently passed by Council, to appeal the designation by-law to the Ontario Land Tribunal (OLT) for a decision.

8.0 Input From Other Sources

8.1 Staff in other Departments

Planning and Development Services Staff have consulted with Building Services, Finance and Brantford Fire in the preparation of this Report.

8.2 Brantford Heritage Committee

The *Ontario Heritage Act* does not require Council to consult the Brantford Heritage Committee on Notices of Intention to Demolish listed properties, but it does require that the Brantford Heritage Committee be consulted prior to Council issuing a Notice of Intention to Designate or the removal of a property from the City's Heritage Register. On the foregoing basis, Staff provide the Brantford Heritage Committee the opportunity to comment on Notices of Intention to Demolish buildings and structures on listed properties as it provides a more efficient process.

The Brantford Heritage Committee is consulted when a Non-routine Demolition Application involves a building that is older than 40 years. The consultation gives the Brantford Heritage Committee the opportunity to consider whether the property in question meets criteria to warrant designation under the *Ontario Heritage Act* and to provide Council with its recommendation.

At its meeting on December 5, 2022, the Brantford Heritage Committee considered both the Notice of Intention to Demolish and the Non-routine Demolition Control Application for 93 West Street and passed the following resolution:

“THAT the following comments of the Brantford Heritage Committee regarding the concurrent Notice of Intention to Demolish a Non-designated, Listed Property on the City’s Heritage Register and Non-routine Demolition Control Application for 93 West Street BE INCLUDED in Staff’s future report to Committee of the Whole – Planning and Administration:

- i. The Brantford Heritage Committee suggest that the significance of the former Mayor should be acknowledged;*
- ii. The Brantford Heritage Committee emphasizes if this home is demolished this is demolition through neglect;*
- iii. The Brantford Heritage Committee urges the owner to repair the building and avenues to do so should be further explored;*
- iv. The Brantford Heritage Committee Highlights that the owners of the property had an opportunity to object to the property being added to the listing and did not do so;*
- v. The Brantford Heritage Committee notes that the building is a substantial structure however there appears to be no regard for the property, by allowing the eaves and roof to decay and was not maintained to ensure water would not damage home;*
- vi. The Brantford Heritage Committee notes that the assertion that William Watts ownership does not align is incorrect;*
- vii. The Brantford Heritage Committee recommends all owners explore opportunities to use salvaged materials to restore the property including this property owner.”*

9.0 Analysis

The property at 93 West Street is presently vacant and, as of the writing of this Report, was generally secured against entry with the exception of access to the porch (Building Services Staff have, however, been in contact with the property owner regarding this concern). The Notice of Intention to Demolish (refer to **Appendix D**) sets out a rationale for the proposed demolition that can be summarized as follows:

- The owner disputes the applicable criteria as being valid.
- The owner is of the opinion that the property has low material integrity.
- The condition of the property is a health and safety risk, due to ongoing water entry and deteriorating structural or external elements.
- That the property has been vacant since November 2021.
- That a fire at the property caused significant damage, further negatively affecting structural integrity.

Staff has addressed matters of Heritage in subsection 9.1 of this Report, and matters of Demolition Control in subsection 9.2.

9.1 Heritage

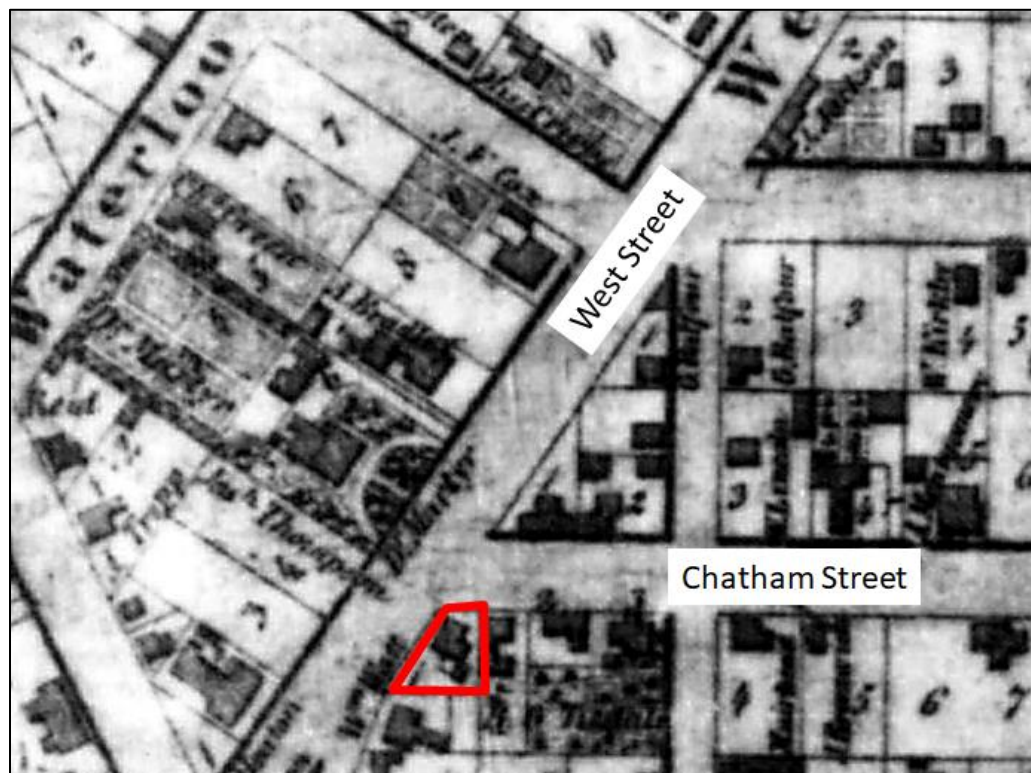
93 West Street was evaluated through the Heritage Register Project and found to meet three criteria to warrant listing through Part 1 of the Project. The property information sheet for 93 West Street is attached to this Report as **Appendix E**. 93 West Street was evaluated and found to satisfy the following project criteria:

- The property pre-dates the incorporation of the City of Brantford in 1877;
- The property is associated with a mayor (William Watt, who served as mayor from 1882 to 1883); and
- The property is a representative example of its architectural style (Italianate).

With respect to the first and second criteria identified on the Property Information Sheet, the 1852 Marcus Smith map of Brantford shows the

property and an annotation for William Watt. The footprint shown on the 1852 map generally corresponds to the current footprint of the building. An excerpt of the map is shown in Figure 1.

Figure 1: Excerpt of 1852 Marcus Smith map, with 93 West Street identified. An annotation of "Wm Watt" exists on the map, beside the property.



The 1852 Marcus Smith map demonstrates that the bulk of the dwelling was built prior to 1852, supporting the date of construction and the appropriateness of the “pre-1852” criteria. Additionally, the association with William Watt is further supported; Staff note that the criteria of a property being associated with a Mayor of Brantford applies to properties where former Mayors resided not only during their period of public service, but may include any period during their lifetime. On the foregoing basis, Staff is of the opinion that the first two criteria are appropriate.

Additionally, Staff notes that the third criteria (that the property is a representative example of its architectural style) was applied as the property possesses the following features of the Italianate style:

- Two storey height with 3-bay façade;

- Low-pitched hipped roof with deep projecting eaves, with eaves supported by ornate cornice brackets;
- L-shaped plan;
- Brick construction and exterior finish; and,
- Tall, narrow, round-headed windows.

While the southern portion of the building does not follow the same architectural style as the main building (see Figure 2), Staff note that a similar layout of an Italianate main dwelling with a projecting wing could be seen on the designated property at 477 West Street (see Figure 3). Staff's opinion is that the presence of a less-ornate wing does not invalidate the findings of the Heritage Register Project's evaluation.

Figure 2: 93 West Street, as seen in November 2020. Source: Google Street View.



Figure 3: 477 West Street, seen in November 2020, for comparison. The comparable layout of Italianate main-building with architecturally-different wing can be seen. Source: Google Street View.



Based on the foregoing, Staff is of the opinion that the Heritage Register Project criteria were appropriately assigned to 93 West Street. Should the property have been evaluated further, as a candidate for designation, it is reasonable to anticipate the property would satisfy criteria in Ontario Regulation 9/06 and thus, merit designation.

Despite the foregoing, Staff acknowledges that the ongoing deterioration of the property, and the recent fire, does also need to be considered. As noted in the Notice of Intention to Demolish attached as **Appendix D**, due to a combination of fire damage and other deterioration, the structural integrity of the property is deteriorating. Brantford Fire has confirmed that the fire damage is not only to internal finishes, but has resulted in damage to both the ceiling on the second floor and through the roof via the attic. This damage, together with damage to eaves and gutters, allows for water entry into the building during storms. The ongoing entry of water will further deteriorate the structure of 93 West Street.

While the loss of a property with cultural heritage value is unfortunate, Staff recommends that 93 West Street should not be designated under the

Ontario Heritage Act for the reasons outlined above. Additionally, though not required in response to a Notice of Intention to Demolish, Staff would recommend that reference to 93 West Street be removed from the Heritage Register at this time.

9.2 Demolition Control

The purpose of the Demolition Control By-law is to prevent premature loss of housing stock. It does not apply to non-residential uses and it is not a heritage conservation tool. When reviewing Non-routine Demolition Control applications, Staff considers the following objectives of the Demolition Control By-law:

- Preventing the premature loss of housing stock and creation of vacant land;
- Retaining existing residential units until new uses have been considered;
- Maintaining the integrity of residential neighbourhoods; and
- Preventing the premature loss of municipal assessment.

The City's position is that usable dwelling units should be maintained until the replacement of the dwelling units is reasonably assured. In the context of major redevelopment, this would be the achievement of a Conditional Site Plan Approval – the stage at which most of the detailed design has been contemplated and is ready to be implemented. In the case of smaller redevelopment, the ideal timing would be after the submission of a building permit application. In this instance, there is currently no redevelopment proposal. As demonstrated photos provided in the Notice of Intention to Demolish (**Appendix D**), the building on 93 West Street is suffering from ongoing deterioration, including recent fire damage. On that basis, the loss of dwelling units is not premature and there are currently no usable dwelling units to retain until a new use is considered. Furthermore, the retention of the building would not reliably maintain the integrity of the neighbourhood.

Planning and Development Services Staff has consulted with Finance Staff regarding the premature loss of municipal assessment. Finance Staff indicated the vacant residential properties do not typically see tax reductions for vacant buildings. There were also no applications submitted

to the City to reduce the assessment for 93 West Street due to the condition of the building.

On the basis that 93 West Street has been subject to ongoing and extensively documented deterioration as shown in the Notice of Intention to Demolish attached as **Appendix D**, as well as a more recent fire which exacerbated the deterioration, Staff recommends that the Non-routine Demolition Control for 93 West Street be approved.

10.0 Financial Implications

There are no financial implications to the City arising from this Report.

11.0 Climate and Environmental Implications

There are no climate and environmental implications to the City arising from this Report.

12.0 Conclusion

The Applicant is proposing to demolish the building at 93 West Street. The building is currently vacant, generally secured against entry, and has been subject to ongoing deterioration and a recent fire (August, 2022). Based on the condition of the building, as documented by the Notice of Intention to Demolish attached as **Appendix D** to this Report, Staff is of the opinion that the property no longer warrants designation under the *Ontario Heritage Act*. Additionally, the retention of the building would not achieve the goals of the City's Demolition Control By-law. For those reasons, Staff recommends that the property be removed from the City's Heritage Register and that the Non-routine Demolition Application be approved.



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Attachments:

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Demolition Control Area

Appendix D – Notice of Intention to Demolish

Appendix E – Property Information Sheet

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required ☐ yes ☒ no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk ☐ yes ☒ no

Is the necessary by-law or agreement being sent concurrently to Council? ☐ yes ☒ no