

Report to Community Advisory Committee on Planning

To: Chair and Members
Community Advisory Committee on Planning

From: Jana Kelemen, M.Sc.Arch., MUDS, MCIP RPP, Manager of
Community Planning, Urban Design, and Heritage

Subject: Heritage Alteration Permit Application by A. Franze at 45
Bruce Street, Wortley Village-Old South Heritage
Conservation District

Date: Wednesday July 13, 2022

Summary of Recommendation

Refusal of a Heritage Alteration Permit application (HAP22-037-L) applied for pursuant to Section 42 of the *Ontario Heritage Act* for the property located at 45 Bruce Street, located within the Wortley Village-Old South Heritage Conservation District is being recommended, as the complete removal of the chimney would be contrary to the policies and guidelines of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*.

Executive Summary

The property at 45 Bruce Street is a significant cultural heritage resource, designated as a part of Wortley Village-Old South Heritage Conservation District. The brick chimney, a heritage attribute located on the west side of the dwelling partially collapsed in March 2022, and additional materials were subsequently removed by the property owner further lowering the existing height of the chimney. A Property Standards Officer visited the property in March 2022 and subsequently issued a Property Standards Order to repair and maintain the chimney. The property owner has submitted a Heritage Alteration Permit application seeking approval to remove the chimney. The Heritage Alteration Permit application should be refused as the removal of the brick chimney is not consistent with the policies and guidelines of the Wortley Village-Old South Heritage Conservation District or the Property Standards Order issued for the property.

Analysis

1.0 Background Information

1.1 Location

The property at 45 Bruce Street is located on the south side of Bruce Street between Brighton Street and Edward Street (Appendix A).

1.2 Cultural Heritage Status

The property at 45 Bruce Street is located within the Wortley Village-Old South Heritage Conservation District, which was designated pursuant to Part V of the Ontario Heritage Act by By-law No. L.S.P.-3439-321 in 2015. The property is identified as a “C”-rated property within the Wortley Village-Old South Heritage Conservation District Plan and Guidelines, indicating that the property may have been altered but still contributes to the overall streetscape.

1.3 Description

The dwelling on the property at 45 Bruce Street is a one-and-a-half storey cottage with a hipped roof and a central gable peak, constructed primarily of buff brick with architectural detailing found elsewhere on the south side of Bruce Street. The dichromatic brickwork that can be seen on the side elevations of the dwelling are similar to the adjacent dwellings at 41, 43, and 47 Bruce Street. A front addition on the dwelling clad with vinyl siding, obscures the historic front façade of the dwelling and what is likely detailing, similar to the adjacent properties. Contextually, the adjacent properties all include identical scale, massing, and styles, as well as details including the dichromatic

brickwork, the hipped roofs with central gable peaks, as well as buff brick chimneys on the west sides of the dwellings.

The property is not only physically related to its neighbours but appears to be historically linked to the adjacent properties as well. William Westcott, purchased Lot 19, Block A of Plan 343 in the early 1880s where he constructed 41 Bruce Street, along with 43 Bruce Street with his wife Elizabeth B. (Cole) Westcott. They lived at 41 Bruce Street, and later moved into 43 Bruce Street when it was completed. Lot 18, which would eventually be the lot on which 45 Bruce Street was constructed was also purchased by Elizabeth Westcott in the 1880s. She held the lot, and eventually sold it to William Copp, a local builder responsible for building the properties at 44 and 46 Bruce Street on the north side of the street. Copp appears to have constructed the dwelling or worked with Westcott to construct at 45 Bruce Street (along with 47 Bruce Street) in an identical style and form in 1892. Copp retained ownership of the property at 45 Bruce Street leasing it John MacPherson, a local who was the first occupant of the property.

Although the front addition is a later alteration that obscures some of the details of the dwelling, the property still contributes to the collection of Westcott and Copp dwellings that were constructed in the late-19th century on this portion of Bruce Street.

2.0 Discussion and Considerations

2.1 Legislative and Policy Framework

Cultural heritage resources are to be conserved and impacts assessed as per the fundamental policies in the *Provincial Policy Statement (2020)*, the *Ontario Heritage Act*, and *The London Plan*.

2.1.1 Provincial Policy Statement

Heritage Conservation is a matter of provincial interest (Section 2.d, *Planning Act*). The *Provincial Policy Statement (2020)* promotes the wise use and management of cultural heritage resources and directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved” (Policy 2.6.1, *Provincial Policy Statement 2020*).

“Significant” is defined in the *Provincial Policy Statement (2020)* as, “resources that have been determined to have cultural heritage value or interest.” Further, “processes and criteria for determining cultural heritage value or interest are established by the Province under the authority of the *Ontario Heritage Act*.”

Additionally, “conserved” means, “the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained.”

2.1.2 Ontario Heritage Act

The *Ontario Heritage Act* enables municipalities to protect properties of cultural heritage value or interest. Properties of cultural heritage value can be protected individually, pursuant to Section 29 of the *Ontario Heritage Act*, or where groups of properties have cultural heritage value together, pursuant to Section 41 of the *Ontario Heritage Act* as a Heritage Conservation District (HCD). Designations pursuant to the *Ontario Heritage Act* are based on real property, not just buildings.

2.1.2.1 Contravention of the Ontario Heritage Act

Pursuant to Section 69(1) of the *Ontario Heritage Act*, failure to comply with any order, direction, or other requirement made under the *Ontario Heritage Act* or contravention of the *Ontario Heritage Act* or its regulations, can result in the laying of charges and fines up to \$50,000 for an individual and \$250,000 for a corporation.

2.1.2.2 Heritage Alteration Permit

Section 42 of the *Ontario Heritage Act* requires that a property owner not alter, or permit the alteration of, the property without obtaining Heritage Alteration Permit approval. The

Ontario Heritage Act enables Municipal Council to give the applicant of a Heritage Alteration Permit:

- a) The permit applied for;
- b) Notice that the council is refusing the application for the permit; or,
- c) The permit applied for, with terms and conditions attached. (Section 42(4), *Ontario Heritage Act*)

Municipal Council must make a decision on the heritage alteration permit application within 90 days or the request is deemed permitted (Section 42(4), *Ontario Heritage Act*).

2.1.3 The London Plan

The London Plan is the new official plan for the City of London (Municipal Council adopted, approved by the Ministry of Municipal Affairs and Housing with modifications, and the majority of which is in force and effect).

The policies of *The London Plan* found in the Key Directions and Cultural Heritage chapter support the conservation of London's cultural heritage resources for future generations. To ensure the conservation of significant cultural heritage resources, including properties located within a Heritage Conservation District, the policies of *The London Plan* provide the following direction:

Policy 594_ Within heritage conservation districts established in conformity with this chapter, the following policies shall apply:

- 1. The character of the district shall be maintained by encouraging the retention of existing structures and landscapes that contribute to the character of the district.*
- 2. The design of new development, either as infilling, redevelopment, or as additions to existing buildings, should complement the prevailing character of the area.*
- 3. Regard shall be had at all times to the guidelines and intent of the heritage conservation district plan.*

Policy 596_ A property owner may apply to alter a property within a heritage conservation district. The City may, pursuant to the Ontario Heritage Act, issue a permit to alter the structure. In consultation with the London Advisory Committee on Heritage, the City may delegate approvals for such permits to an authority.

2.1.4 Wortley Village-Old South Heritage Conservation District

The *Wortley Village-Old South Heritage Conservation District Plan and Guidelines* includes policies and guidelines related to alterations to properties included within the Wortley Village-Old South Heritage Conservation District. The policies of Section 5.10.1 of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines* requires that Heritage Alteration Permit approval must be obtained for alterations to heritage attributes visible from the street or public space, including the removal of chimneys.

The guidelines included within Section 8.3.1 (Alterations) and Section 9.3.3 (Chimneys and Parapet Walls) of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines* provide direction on alterations to heritage properties, and guidance on the alterations to chimneys:

8.3.1.1 (Alterations – Recommended Practice and Design Guidelines)

- a) Research the original style and appearance of the building to determine “authentic limits” of restoration or alteration so that the appropriate style is maintained.

- b) In the absence of historical data, use forensic evidence available from the building itself to suggest appropriate restoration or alteration.
- c) Seek similar properties (same age, same design, same builder, same architect) for evidence of details that may still exist as samples for reconstruction.
- d) Avoid “new” materials and methods of construction if the original is still available. In some cases, after careful research, substitute materials may perform better than original materials, but beware of using materials that have not been tested for years in a similar application.

9.3.3 (Chimneys and Parapet Walls)

- Avoid removing original chimneys, even if they are no longer functional, as they provide a design element that contributes as a heritage attribute to the heritage property. If the chimney is no longer used, it should be capped and sealed by a knowledgeable tradesperson.

2.2 Heritage Alteration Permit (HAP22-037-L)

A complaint from the community in mid-March 2022 brought to the City’s attention that the chimney on the dwelling located at 45 Bruce Street had partially collapsed as a result of its deteriorating condition. Approximately one week later, the City was alerted that another portion of the chimney was removed bringing the chimney down closer to the roof line.

Subsequently, a Property Standards Officer visited the property to conduct a site inspection and issued a Property Standards Order advising that the current condition of the property does not conform with the standards prescribed in the City of London Property Standards By-law CP-24. The schedule of repairs set in the order note that the chimney was in a state of disrepair and needed to be maintained to address the non-conformance with the Property Standards By-Law. The order directed that “Appropriate measures shall be taken to ensure that the Chimney is repaired and maintained.”

Lastly, the order directed that for properties that are designated pursuant to the *Ontario Heritage Act*, Section 2.7 of the Property Standards By-law is applicable and Heritage Alteration Permit approval is required.

A complete Heritage Alteration Permit application was received by the City on June 6, 2022 seeking approval to remove the chimney in its entirety. Pursuant to Section 42(4) of the *Ontario Heritage Act*, Municipal Council must make a decision on the property within 90 days or the request is deemed permitted. The 90-day period for this application expires on September 4, 2022.

The Planning and Environment Committee (PEC) will consider this Heritage Alteration Permit application at its meeting to be held on July 25, 2022. Municipal Council Decision is anticipated on August 2, 2022.

3.0 Financial Impact/Considerations

None.

4.0 Key Issues and Considerations

The property at 45 Bruce Street contributes to the cultural heritage value of the Wortley Village-Old South Heritage Conservation District. As one of four nearly identical brick cottages on Bruce Street, the property is historically and contextually linked to its surroundings. Although the dwelling has been altered primarily with a front addition that has obstructed its original historic appearance, the building’s form and remaining details still retain heritage attributes. The brick chimney on the dwelling is a heritage attribute of the property.

Removal of a chimney visible from the street on a heritage-designated property located within the Wortley Village-Old South Heritage Conservation District is identified as a class of alteration that requires Heritage Alteration Permit approval.

Due to deteriorating property standards, the existing chimney on the dwelling at 45 Bruce Street partially collapsed and was further dismantled, lowering the overall height of the chimney.

The review of the proposed chimney removal included within this Heritage Alteration Permit application considers the direction in Section 8.3.1.1 and Section 9.3.3 of the *Wortley Village-Old South Heritage Conservation District Plan and Guidelines*. The direction directs chimneys be repaired rather than removed. If the chimney is no longer functional and is a design element that contributes as a heritage attribute, the chimney is to be capped and sealed.

The proposed chimney removal would result in adverse impacts to the heritage attributes of the property and the Wortley Village-Old South Heritage Conservation District. Further, removing the chimney would not address the Property Standards Order to repair and maintain the chimney. The applicant is encouraged to retain, repair, and/or cap the chimney in order to conserve the heritage attribute of the property.

Conclusion

The proposed chimney removal at the heritage-designated property at 45 Bruce Street is not consistent with the policies and guidelines of the Wortley Village-Old South Heritage Conservation District Plan and Guidelines, nor does it address the Property Standards Order issued to the property owner. An application that seeks to retain, repair, and/or cap the chimney would conserve the heritage attributes of the property and would better address the existing property standards for the property. The application seeking approval to remove the chimney in its entirety should not be permitted.

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Appendices

Appendix A Property Location

Appendix B Images

Appendix A – Property Location

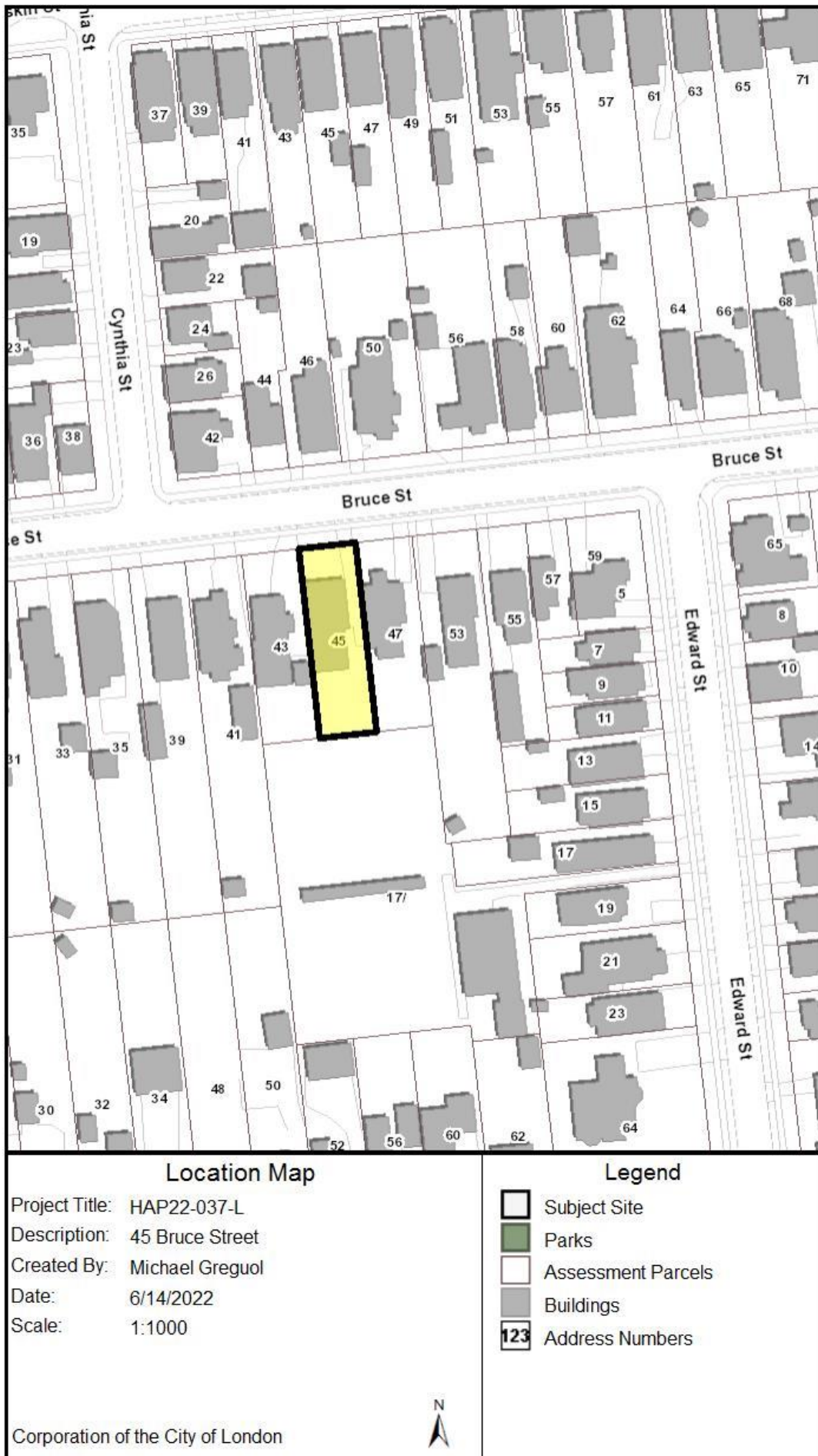


Figure 1: Location map of the subject property at 45 Bruce Street, located within the Wortley Village-Old South Heritage Conservation District.

Appendix B – Images



Image 1: Photograph showing the subject dwelling at 45 Bruce Street (centre) within its context on Bruce Street. Note, the adjacent properties at 47 Bruce Street (left) and 43 Bruce Street (right) share similar design and details (2022).



Image 2: Photograph showing the dwelling at 41 Bruce Street, one of the four nearly identical dwellings on the south side of Bruce Street, located within the Wortley Village-Old South Heritage Conservation District (2020).



Image 3: Photograph showing 41 Bruce Street (centre) and 43 Bruce Street (left), two of the four nearly identical dwellings on the south side of Bruce Street, located within the Wortley Village-Old South Heritage Conservation District (2022).



Image 4: Photograph showing the dwelling at 43 Bruce Street, one of the four nearly identical dwellings on the south side of Bruce Street, located within the Wortley Village-Old South Heritage Conservation District (2020).



Image 5: Photograph showing the dwelling at 47 Bruce Street, one of the four nearly identical dwellings on the south side of Bruce Street, located within the Wortley Village-Old South Heritage Conservation District (2016).



Image 6: Photograph of the subject dwelling at 45 Bruce Street. Note, the front elevation has is obscured by a later addition that has been clad in vinyl, however, the dwelling still retains its cultural heritage value and various heritage attributes, including the scale and mass, and design details including the roof shape, gable peak, brick details visible on side elevations, and brick chimney (2016).



Image 7: Photograph of the subject dwelling at 45 Bruce Street, shortly after the partial collapse of the chimney (2022).



Image 8: Photograph of the subject dwelling at 45 Bruce Street, shortly after the partial collapse of the chimney. Note, the decorative dichromatic brick on the side elevations of the dwelling can be observed in this photograph as well as on the adjacent properties (2022).



Image 9: Photograph showing the partially collapsed chimney on the subject dwelling at 45 Bruce Street (2022).



Image 10: Photograph showing the chimney further removed on the subject dwelling at 45 Bruce Street. Note, the chimney was further lowered shortly after the initial partial collapse (2022).



Image 11: Photograph of the chimney following its further removal in March 2022.



Image 12: Photograph of the subject dwelling and lowered chimney in June 2022, following submission of the Heritage Alteration Permit application.