



**SUBJECT: Recommendation to Designate 418 Burlington Avenue  
under the Ontario Heritage Act**

**TO: Committee of the Whole**

**FROM: Department of City Building - Planning Building and  
Culture**

Report Number: PB-49-18

Wards Affected: 2

File Numbers: 501-06.6

Date to Committee: June 4, 2018

Date to Council: June 4, 2018

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**Recommendation:**

Retain the property known as 418 Burlington Avenue on the Municipal Register of Cultural Heritage Resources; and

State an intention to designate the property at 418 Burlington Ave, Burlington, pursuant to Part IV of the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18, Section 29; and

Direct the City Clerk to publish notice of Council's statement of intention to designate;

Authorize the City Clerk to present the designation by-law to Council designating the property at 418 Burlington Ave, Burlington, pursuant to Part IV of the Ontario Heritage Act if there are no objections to the statement of intention to designate in accordance with Section 29(6) of the Act, R.S.O. 1990, Chapter 0.18; and

Authorize the City Clerk to take necessary action in the event that there are any objections in accordance with Section 29(7) of the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18.

**Purpose:**

The purpose of this report is to advise Council that the owner of 418 Burlington Avenue has provided written notice of their intention to demolish the dwelling on the subject property, in accordance with Part IV (section 27) of the Ontario Heritage Act. The property is listed on the Municipal Register but not designated.

This report outlines the cultural heritage value of the property and, based on this value, recommends that Council state an intention to designate the property pursuant to Part IV (section 29) of the Ontario Heritage Act, to protect the dwelling from demolition and ensure its long-term conservation.

The following section of the Strategic Plan is relevant to discussion of this report:

A City that Grows

- Intensification
  - 1.2 (e): Older neighbourhoods are important to the character and heritage of Burlington and intensification will be carefully managed to respect these neighbourhoods.

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## **Background and Discussion:**

The subject property, known as 418 Burlington Avenue, is located on the west side of Burlington Ave, north of Lakeshore Road, as shown in Figure 1. The property has an area of 892 m<sup>2</sup> and is the location of a two-and-a-half storey brick house constructed in 1885. The property is not designated under the Ontario Heritage Act (the Act) but is listed on the Municipal Register of Cultural Heritage Resources (the Register) as a non-designated property under section 27 of the Act.

Prior to inclusion on the Register, the property was identified on the Heritage Inventory with an “A” grade. Properties on the Inventory were assigned grades of A, B, C, or D, based on their perceived level of heritage interest, with “A” being the highest level of interest. After the Heritage Act was amended in 2006 to allow non-designated properties to be included on the Register, all “A” and “B” properties were added to the Register, including the subject property. In 2012, all non-designated “B” properties were removed from the Register but the “A”s remained.

In 2014, Archaeological Research Associates Ltd (ARA) was retained to conduct a review of all non-designated properties on the Register to confirm their heritage value warranted inclusion. A recommendation of this review was that 418 Burlington Ave had cultural heritage value and should remain on the Register.

On April 5, 2018, the Department of City Building received a letter providing written notice that the owner of 418 Burlington Ave intends to demolish the house on this property and construct a new house in its place. Under section 27 of the Ontario Heritage Act, the owner is required to provide 60 days’ written notice of intention to demolish or remove a building or structure on a property that is listed on the Municipal Register but not designated. As the City received such notice on April 5, 2018, the sixtieth day is June 4, 2018.



Figure 1: Location Sketch

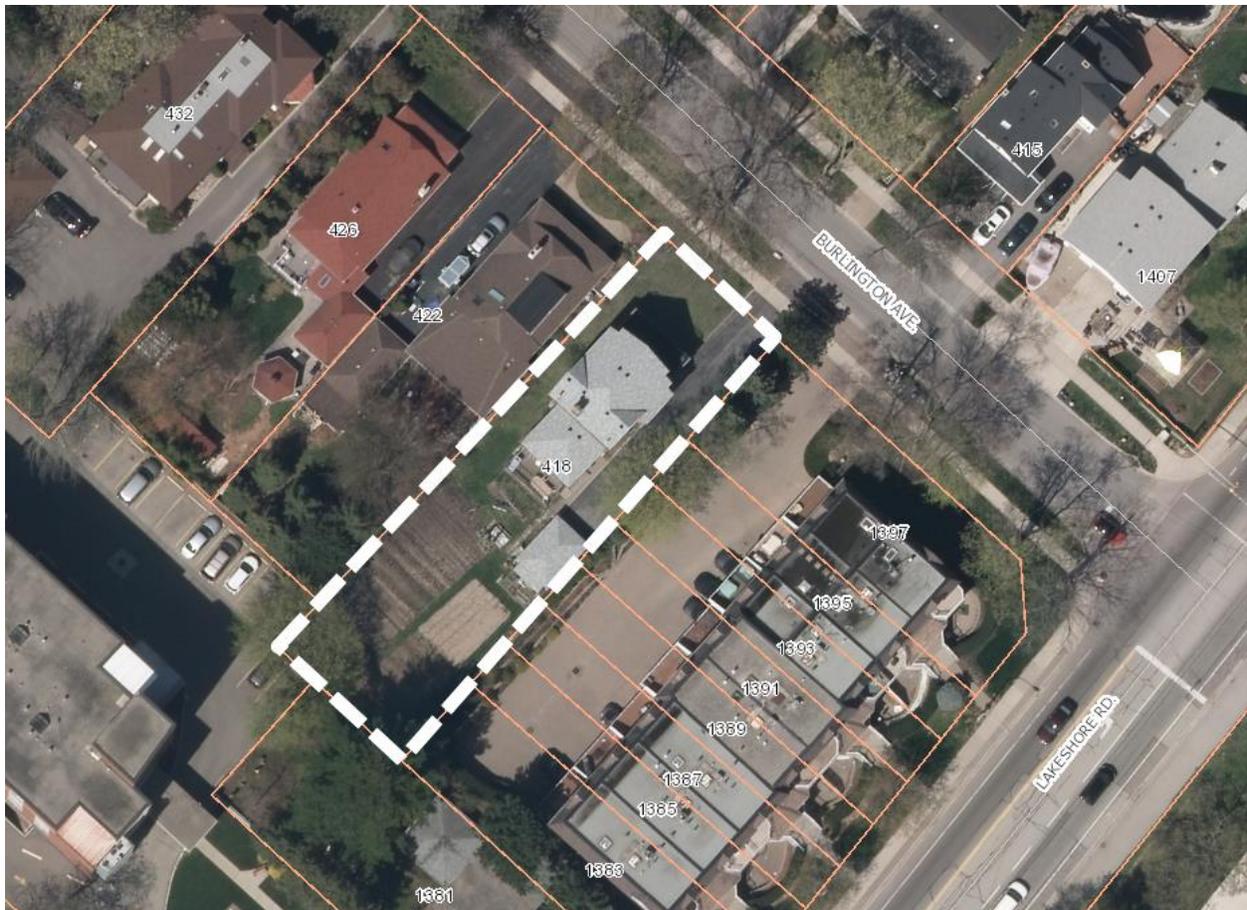


Figure 2: 2017 Air Photo with subject property outlined in white

### Strategy/process

Upon receipt of the owner's notice of intent, staff notified the Chair of Heritage Burlington. Staff visited the subject property from the public right-of-way on May 9 and 10, 2018. Photographs taken during these site visits are attached in Appendix A of this report.

Staff also retained Archaeological Research Associates Ltd. (ARA) to evaluate the cultural heritage value of the subject property using Ontario Regulation 9/06 to determine whether the property is worthy of designation under Part IV of the Heritage Act. ARA had previously studied the subject property along with all other non-designated properties on the Register in 2014. In response to the current notice of intention to demolish, ARA was asked to conduct a more in-depth analysis that could be used by the City to determine whether the property should be designated to prevent demolition.

In assessing a property's cultural heritage value, staff refers to Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value or Interest. The regulation provides nine criteria organized into three categories of cultural heritage value, as listed below. A

property must meet one or more of the criteria in order to be designated under Part IV of the Ontario Heritage Act.

***Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value or Interest***

1. The property has design value or physical value because it,
  - i. is a rare, unique, representative or early example of a style, type, expression, material, or construction method,
  - ii. displays a high degree of craftsmanship or artistic merit, or
  - iii. demonstrates a high degree of technical or scientific achievement.
2. The property has historical value or associative value because it,
  - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
  - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
  - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
3. The property has contextual value because it,
  - i. is important in defining, maintaining or supporting the character of an area,
  - ii. is physically, functionally, visually or historically linked to its surroundings, or
  - iii. is a landmark.

ARA's evaluation of the subject property using Regulation 9/06 is attached in Appendix C, and is summarized below.

***Design or Physical Value***

ARA did not find the property to have design or physical value, noting the following:

- the subject property is not a rare, unique, representative, or early example of a style, type, expression, material, or construction method. It has been modified with new windows, siding in the gables, and a porch addition.
- the subject property “does not display a high degree of craftsmanship or artistic value” (ARA 2018 pg 16).
- the subject property “does not display a high degree of technical or scientific achievement” (ARA 2018 pg 16).

***Historical or Associative Value***

In the 2014 review, ARA found the subject property to have historical or associative value due to its associations with the Bell family, who were early local farmers, and the fact that it was likely built by George Blair, “one of Burlington’s most eminent builders” (ARA 2014). ARA’s 2018 evaluation explores the property in greater detail and

concludes that the property does not have historical or associative value, noting the following:

- “Although [the subject property] is associated with the Bell family, no information about the Bell family member who resided here (John Bell) was found during research conducted, suggesting he was not a prominent community member” (ARA 2018 pg 16).
- “418 Burlington Ave does not yield information that contributes to the understanding of a community or culture” (ARA 2018 pg 16).
- “418 Burlington Avenue was constructed by George Blair, a prominent local builder. Blair typically constructed red brick Queen Anne residential structures. However, a review of other houses constructed by Blair in Burlington with Queen Anne detailing demonstrates that the subject property is not the best representation of his work” (ARA 2018 pg 16).

### ***Contextual Value***

ARA found that the subject property meets one of the criteria for contextual value, namely criterion (3)(i): “is important in defining, maintaining or supporting the character of an area”. ARA notes that the subject property “is part of a row of historic homes and contributes to the historic streetscape of Burlington Avenue” (ARA 2018 pg 16).

### ***Statement of Cultural Heritage Value or Interest and Cultural Heritage Attributes***

As the subject property meets one of the criteria established in Ontario Regulation 9/06, it is eligible for designation under Part IV of the Heritage Act. ARA provides the following statement of cultural heritage value or interest that could be used in a designation by-law should Council choose to designate the property:

“418 Burlington Avenue is set back from the road on the southwest side of Burlington Avenue located just north of Lake Ontario. The property is part of a row of historic homes and contributes to the historic streetscape of Burlington Avenue. Other historic homes on Burlington Avenue date from the 1870s through to the early 1900s. The houses have similar setbacks and their varying architectural styles add to the character of the street. The street is part of a larger residential neighbourhood west of the City’s downtown that has ‘distinct historical character’” (ARA 2018 pg 17).

ARA identifies the following cultural heritage attributes that contribute to the cultural heritage value or interest of 418 Burlington Avenue:

- Two-and-a-half-storey red brick house;
- Situation set back from the road on a narrow lot; and
- Location on a street with other historic homes.

Should Council choose to designate the subject property, the above attributes may be listed in the designation by-law as attributes to be conserved and protected. Staff note that the list of attributes provided by ARA is limited in scope, and would not preclude significant alterations to the house or any other part of the subject property. The owner would be required to obtain approval from the City, in the form of a heritage permit, for any alterations that could have an impact on the property's heritage attributes as identified in the designation by-law.

### ***Planning Act Considerations***

The subject report responds to a notice that was submitted by the property owner in accordance with the Heritage Act; however, there are Ontario Planning Act policies that are also relevant for consideration by Council.

The Provincial Policy Statement (PPS) (2014) states that "significant built heritage resources and significant cultural heritage landscapes shall be conserved" (2.6.1). The PPS defines a significant cultural heritage resource as one that has been determined to have cultural heritage value or interest for the important contribution it makes to our understanding of the history of a place, event, or a people. ARA has identified that the subject property "does not yield information that contributes to the understanding of a community or culture". Therefore, while the subject property has cultural heritage value and is eligible for designation under the Heritage Act, it does not meet the significance test that would trigger a PPS requirement for conservation.

The Growth Plan for the Greater Golden Horseshoe (GGHP) (2017) states that "cultural heritage resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas" (4.2.7.1). The subject property is not located within a strategic growth area, although it is located adjacent to the boundary of the Downtown Burlington Urban Growth Centre, which runs along the rear and south side lot lines of the subject property. The GGHP supports the conservation of the subject property.

Halton Region's Official Plan (ROP) states an objective to promote and facilitate the public and private stewardship of Halton's heritage (ROP 166.2). Designation of 418 Burlington Avenue would ensure stewardship of the cultural heritage resource in the long term.

Burlington's current Official Plan (OP) contains objectives and policies related to cultural heritage resources in Part II, section 8. One of these objectives is "to control the demolition, destruction, deterioration, and inappropriate alteration and/or use of cultural heritage resources in accordance with legislative authority" (OP Part II, s. 8.2a). The plan states that "the designation of individual cultural heritage properties and cultural heritage landscapes under the provisions of the Ontario Heritage Act shall be pursued

to implement the cultural heritage conservation objectives and policies of this Plan” (OP Part II, s. 8.3.4a).

On April 26, 2018, the City of Burlington adopted a new Official Plan (New OP). Although this Plan will not come into effect until it is approved by Halton Region, its policies are instructive. The New Official Plan continues the policy of the current plan that “designation of cultural heritage resources under the provisions of the Ontario Heritage Act will be pursued to implement the objectives and policies of this Plan” (New OP 3.5.2.4a). An objective of the new Official Plan is “to minimize the demolition, destruction, deterioration, and inappropriate alteration and/or use of cultural heritage resources in accordance with legislative authority and sound heritage conservation practices” (New OP s. 3.5.1d).

The City’s current OP and recently adopted new OP both emphasize the importance of minimizing the demolition of cultural heritage resources, and promote the designation of cultural heritage resources to ensure their long-term conservation. Both Official Plans support the designation of the subject property.

### ***Summary/Recommendation***

Based on ARA’s evaluation of the subject property, staff have prepared a draft statement of significance for the subject property, which is attached in Appendix B of the subject report. Staff recommend that Council state an intention to designate the subject property under Part IV of the Heritage Act, using the statement of significance contained in Appendix B as the basis of the designation.

### **Options considered**

In considering the owner’s statement of intention to demolish the building at 418 Burlington Ave, the City has three options:

1. State an intention to designate the property under Part IV of the Heritage Act, thereby preventing demolition; or
2. Remove the property from the Municipal Register to facilitate demolition; or
3. Take no action.

### ***Option to state an intention to designate***

Should Council choose to state an intention to designate, the City will be required to publish notice of Council’s intention in the newspaper and notify both the property owner and the Ontario Heritage Trust. Within thirty days after the publication in the newspaper of Council’s statement of intention to designate, any person may state their objection to the proposed designation. If no notice of objection is received, Council may then pass a by-law designating the property and provide notice of the designation in accordance with section 29 of the Heritage Act.

If a notice of objection is received within the thirty days, the City shall refer the matter to the Conservation Review Board (CRB) for a hearing and report. The CRB will then conduct a hearing and make a report to Council with a recommendation for Council's consideration. Council must then consider the CRB report and either designate the property or withdraw its intention to designate. Council's decision on this matter cannot be appealed to the CRB a second time.

Staff note that ARA's 2018 report has determined the subject property's cultural heritage value to be limited to contextual value. Based on ARA's assessment of the cultural heritage value of the subject property, staff have prepared a draft statement of significance that may be used in a designation by-law, which is attached in Appendix B of the subject report. The statement of significance identifies a limited range of heritage attributes that may be protected by a designation by-law. Such a designation by-law would ensure the continued existence of a two-and-a-half-storey red brick house on a narrow lot on Burlington Avenue, but would not prevent significant alterations to the property. The owner would still have the ability to renovate the interior of the house, remove or replace the existing two-level verandah on the front elevation, or construct an addition to the house.

If designated, the subject property would become eligible for grants or loans from the Community Heritage Fund. The Fund would provide grants for 25% of project costs to a maximum of \$15,000, or loans for 50% of project costs to a maximum of \$15,000. Eligible projects would include work to restore those attributes described in the designation by-law: in this case, only the red brick exterior of the building.

The subject property would also become eligible for the Heritage Property Tax Rebate Program. This program provides an annual property tax rebate of 40% to owners of designated properties with a residential tax assessment.

***Option to remove the property from the Municipal Register***

Should Council choose to remove the subject property from the Municipal Register, the property owner can then proceed to obtain permits under the Ontario Building Code Act to demolish the house on the property. This would represent the loss of a cultural heritage resource, the contextual value of which is outlined in the statement of significance contained in Appendix B of this report. The loss of this resource would contribute to incremental degradation of the heritage streetscape of Burlington Avenue.

***Take no action***

If no action is taken by Council within 60 days of receipt of the owner's statement of intention to demolish, the owner may apply for and obtain a permit under the Ontario Building Code Act to demolish the house on the property. As stated under "Background and Discussion" above, the City received the owner's notice on April 5, 2018, and the

sixtieth day thereafter is June 4, 2018. Taking no action would have the same effect as removing the property from the Register.

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### **Financial Matters:**

If the property is designated, it will become eligible for the Community Heritage Fund and the Heritage Property Tax Rebate Program. These programs are described under “Options Considered” above.

If an objection is received to Council’s statement of intention to designate, costs associated with a Conservation Review Board hearing may ensue.

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### **Public Engagement Matters:**

The Ontario Heritage Act (section 28) and the City’s Official Plan (Part II, section 8.3.2) require the City to consult with the Council-appointed municipal heritage committee, Heritage Burlington prior to stating an intention to designate a property or removing a property from the Municipal Register. Due to timing constraints related to report submission deadlines and the 60-day time period established by the Act, it was not possible for staff to formally consult with Heritage Burlington prior to submitting the subject report.

Staff notified the Chair of Heritage Burlington upon receipt of the owner’s notice of intention to demolish. Subsequently, Heritage Burlington members had an opportunity to visit and evaluate the subject property from the public right-of-way. At the time of preparing this report, the owner’s notice of intention to demolish was listed on the agenda for discussion at the May 15<sup>th</sup>, 2018 meeting of Heritage Burlington. Heritage Burlington will provide advisory comments on this matter directly to Council, under separate cover from the staff report, by June 4, 2018.

The property owner was notified of staff’s recommendation to Council at least ten days prior to the meeting where staff’s report was to be considered, in accordance with Council’s direction.

Staff does not consult the general public with respect to applications or notices received under the Ontario Heritage Act. Rather than requiring the City to conduct advanced public consultation when considering a notice of intention to demolish a Register property, the Act provides for Council to consider the matter and state an intention to designate. Council’s intention must be published in a newspaper of general circulation within the municipality, after which the public has thirty days to state any objections. Council may only proceed to designate the property if no objections are received within the thirty days.

Staff further note that the subject report was included in the Committee of the Whole agenda, which was published in advance of the meeting where the report was to be considered.

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**Conclusion:**

418 Burlington Avenue is a property of cultural heritage value and its inclusion on the Municipal Register is therefore justified. Based on assessment of the property's cultural heritage value relative to Ontario Regulation 9/06, the property is worthy of designation pursuant to Part IV (section 29) of the Ontario Heritage Act. The property satisfies one of the required criteria established in Regulation 9/06 and its designation is consistent with provincial, regional, and city policies.

Staff are of the opinion that the demolition of the subject property would represent the loss of a cultural heritage resource and would detract from the heritage character of Burlington Avenue. Staff therefore recommend that Council state an intention to designate the property under Part IV (section 29) of the Ontario Heritage Act to ensure the conservation of the property in the long term.

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Respectfully submitted,

Thomas Douglas

Heritage Planner

(905) 335-7600 ext 7811

**Appendices:**

- A. Photos of 418 Burlington Ave
- B. Draft Statement of Significance
- C. ARA cultural heritage evaluation of 418 Burlington Ave

**Notifications:**

Owner of 418 Burlington Avenue; and  
Mr. Harold Ripley, Agent for the owner

**Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.

**Appendix A: Photos of 418 Burlington Ave**



**Figure 3: 418 Burlington Ave (centre) in neighbourhood context**



**Figure 4: 418 Burlington Ave front and south side**

## **Appendix B: Draft Statement of Significance for 418 Burlington Ave**

### ***Description and Reasons for Designation of 418 Burlington Avenue***

418 Burlington Avenue is recommended for designation pursuant to Part IV of the Ontario Heritage Act as a property of cultural heritage value or interest, as described in the following Statement of Cultural Heritage Value or Interest.

### ***Legal Description***

PLAN 74 PT LOT 13

### ***Description of Property***

418 Burlington Avenue is located on the southwest side of Burlington Avenue in the City of Burlington. The property consists of a two-and-a-half storey three-bay red brick vernacular house with Queen Anne elements. The residence was constructed in 1885.

### ***Statement of Cultural Heritage Value or Interest***

#### ***Contextual Value***

418 Burlington Avenue is important in supporting the character of the Burlington Avenue streetscape. The house on the property is set back from the road on the southwest side of Burlington Avenue located just north of Lake Ontario. The property is part of a row of historic homes and contributes to the historic streetscape of Burlington Avenue. Other historic homes on Burlington Avenue date from the 1870s through to the early 1900s. The houses have similar setbacks and their varying architectural styles add to the character of the street. The street is part of a larger residential neighbourhood west of the City's downtown that has a distinct historical character.

### ***Cultural Heritage Attributes***

The heritage attributes that contribute to the cultural heritage value or interest of 418 Burlington Avenue include, but are not limited to:

- Two-and-a-half-storey red-brick house;
- Situation set back from the road on a narrow lot; and
- Location on a street with other historic homes.