



SUBJECT: Removal of 5780 Cedar Springs Road from the City of Burlington's Municipal Register of Cultural Heritage Resources

TO: Mayor and Members of Council

FROM: Community Planning Department

Report Number: PB-85-19

Wards Affected: 3

Date to Council: December 16, 2019

Recommendation:

Approve the removal of 5780 Cedar Springs Road from the Municipal Register of Cultural Heritage Resources.

PURPOSE:

The purpose of this report is to advise Council that the owners of 5780 Cedar Springs Road have provided their intention to demolish the existing dwelling and various accessory structures on the subject property in accordance with Part IV (Section 27) of the *Ontario Heritage Act*. The property is listed on the City of Burlington's Municipal Register of Cultural Heritage Resources but is not designated.

This report provides an overview of relevant regulations under the *Ontario Heritage Act*, describes the cultural heritage value of the property and recommends that Council remove the property known as 5780 Cedar Springs Road from the Municipal Register to facilitate demolition.

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

Background and Discussion:

This report concerns a property (5780 Cedar Springs Road) on Burlington's Municipal Register of Cultural Heritage Resources (or simply "the Register"), which is the City's

official list of cultural heritage resources that are subject to regulations under the *Ontario Heritage Act*. As such, this report will also provide information on relevant policies and legislation that guide the conservation of Burlington's heritage in order to contextualize and inform the report's recommendation.

The Ontario Heritage Act

Heritage planning processes in Ontario are governed by the *Ontario Heritage Act*. This is legislation that allows municipalities to protect cultural heritage resources through various tools, several of which are discussed below.

In general, the *Ontario Heritage Act*, at times in tandem with other legislation and tools, protects three categories of cultural heritage resources:

1. **Built heritage resources:** These may include buildings, structures, monuments, installations, or generally any community-identified manufactured remnant that contributes to a property's cultural heritage value or interest.
2. **Cultural heritage landscapes:** These are defined geographical areas identified as having cultural heritage value or interest by a community. These landscapes may have been modified by human activity. Some examples may include parks, cemeteries, viewsheds, battlefields, main streets, and neighbourhoods.
3. **Archaeological resources:** These resources include artifacts, archaeological sites, and marine archaeological sites as defined by the *Ontario Heritage Act*. The Region of Halton is the approval authority for all matters related to archaeology within the City of Burlington.

The *Ontario Heritage Act* requires the City to keep a Register of properties within the municipality that are of cultural heritage value or interest. All properties that are designated under the *Ontario Heritage Act* must be listed on the Municipal Register. Additionally, under section 27 of the *Ontario Heritage Act*, Council may add properties to the Register that are not designated but are believed to be of cultural heritage value or interest. The following sections outline important considerations for both designated and non-designated cultural heritage resources.

Designation of Cultural Heritage Resources

One of the most commonly used tools under the *Ontario Heritage Act* to protect cultural heritage resources is designation. Part IV, section 29 of the *Ontario Heritage Act* gives the City the authority to designate a property to be of cultural heritage value or interest. In order to be designated, a property must meet one of nine criteria prescribed by the province in Ontario Regulation 9/06. These nine criteria are divided into three categories as follows:

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, building, 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.

These criteria are also instructive to the evaluation of properties for the Municipal Register. Council may designate a property by passing a by-law that is registered on title and specifically identifies the property's value and character-defining heritage attributes. Once designated, the property owner(s) must obtain Council's consent prior to demolishing any building or structure on the property, removing any building or structure from the property, or making an alteration to the property that is likely to affect the property's heritage attributes as identified in the designation by-law. The property owner(s) may request consent to alter their property by submitting a heritage permit application, which Planning staff have the authority to approve under the Delegated Authority By-law (99-2012, section 21). Only Council may refuse a heritage permit for alteration or make a decision related to a heritage permit application for demolition or removal of buildings or structures on the property.

Importantly, the intent of designation under the *Ontario Heritage Act* is not to prevent change, but rather to ensure it is managed in a way that continues to conserve community-valued heritage attributes of a property identified to have cultural heritage value or significance. The *Ontario Heritage Act* does not require the City to obtain the consent of a property owner in order to designate their property. Property owners have the right to object to a designation through an appeal process that is heard before the Conservation Review Board (CRB), an adjudicative tribunal that considers disputes over matters under the *Ontario Heritage Act*.

The Municipal Register

In accordance with section 27 of the *Ontario Heritage Act*, Council may add properties to the Municipal Register that are not designated but are believed to be of cultural heritage value or interest. A non-designated property listed on the Register is not subject to any restrictions on alteration, except for demolition. According to subsection 27(3), a property owner of a non-designated property listed on the Register must give the City 60 days' prior written notice of any intention to demolish a building or structure on the property or remove a building or structure from the property. The 60-day period allows Council an opportunity to intervene, if desired, by designating the property under Part IV of the *Ontario Heritage Act*, thereby preventing demolition.

While the listing of a non-designated property on the Municipal Register does not enact the same protections as designation, it does introduce several benefits. In addition to the delay placed on demolition, a property's listing on the Municipal Register is an important and proactive step to signal the City's potential interest in the heritage value of a subject property. It also is a demonstration of the City's commitment to heritage conservation in Burlington. The Register is used by staff and residents to study and understand the City's heritage, and is referred to by residents, real estate agencies, business owners, and developers to inform decisions related to purchasing property, assembling land, and/or preparing concepts for a development proposal. Staff refer to the City's Municipal Register when advising developers of application requirements, particularly whether a heritage impact assessment study is needed as part of their proposal.

As of December 2019, Burlington's Municipal Register includes 257 properties, of which 75 are designated and 182 are non-designated cultural heritage resources.

Other Ontario Heritage Act Tools

Briefly, the *Ontario Heritage Act* also provides other tools to municipalities for the protecting of heritage properties, such as the authority to enter into easements or covenants with property owners, and to designate an area as a Heritage Conservation District (HCD).

Heritage Burlington Citizen Advisory Committee

Heritage Burlington is a citizen advisory committee appointed by Council that fulfills the role of a "municipal heritage committee" as defined in section 28 of the *Ontario Heritage Act*. Section 28 requires the City to consult with the committee before designating properties or districts, or adding properties to or removing them from the Register. The committee's statutory role is to advise and assist Council on matters related to the implementation of the *Ontario Heritage Act*. Further, Heritage Burlington also has an additional, non-statutory mandate to advise Council on other heritage matters, promote

appreciation and conservation of Burlington's heritage, and act as a resource for owners of heritage properties in the community.

5780 Cedar Springs Road

The subject property at 5780 Cedar Springs Road is located at the southwest corner of the intersection of Cedar Springs Road and Britannia Road (see Figure 2). The property has a lot area of approximately 16 ha, and currently supports a single dwelling (known as the 'Foster-Coverdale House'), a small shed, and multiple accessory buildings. The dwelling faces Cedar Springs Road, and the small shed is located directly north of the dwelling. There is a secondary access to the property from Britannia Road to the north. The main dwelling is built on a hillside overlooking Cedar Springs Road and is divided from the shed by the main tree-lined driveway. The accessory buildings are located to the west of the main building. The property is not designated pursuant to the *Ontario Heritage Act*; however, it is listed on the Municipal Register as a non-designated heritage resource in accordance with section 27 of the *Ontario Heritage Act*.



Figure 1: Air photo with subject property outlined in yellow

Further, the property is located within an area that is regulated by the Niagara Escarpment Commission (NEC), who is the approval authority for any proposed development within the regulated area. In June 2019, City of Burlington Planning staff were circulated on an NEC Development Permit application to approve the construction of a two-storey single dwelling, an accessory building, and a swimming pool among other site alterations. To facilitate the proposed development, the applicants seek to demolish an existing Quonset hut, horse barn, grain silo, modular home, and farm house (the 'Foster-Coverdale House').

Heritage Planning staff reviewed the NEC Development Permit application and provided comments dated June 18, 2019. In summary, these comments noted the following:

- Under section 27 of the *Ontario Heritage Act*, the property owners are required to provide 60 days' formal written notice of intention to demolish or remove a building or structure on a property that is listed on the Register but not designated.
- At the time of providing initial comments, heritage planning staff noted that they were not in possession of adequate information to determine the cultural heritage value or significance of the structures proposed to be demolished. Heritage planning staff subsequently requested that the Niagara Escarpment Commission require a cultural heritage assessment study as part of the Develop permit application review.
- As per "Schedule C – Comprehensive Land Use Plan – Rural Planning Area", the subject property is located within the City's Rural Planning Area, and holds land use designations of Escarpment Protection Area, Escarpment Area, and Greenlands (Escarpment Plan Area). The proposed two-storey dwelling, accessory building, and swimming pool are all proposed exclusively within the Escarpment Protection Area designation. The City's Official Plan (Part IV, Section 2.6.2b(xix)) and the Niagara Escarpment Plan (Part II, Section 2.2(7)) both contain policies that indicate, within this land use designation, it may be possible to construct a second dwelling on the subject property if existing cultural heritage resources are designated pursuant to the *Ontario Heritage Act*.

In accordance with these comments, the NEC required the submission of a cultural heritage assessment study as part of the application's review. The applicants retained ATA Architects to complete this required study (dated October 2019), and it was submitted to the City on October 22, 2019. Immediately following this submission, the City was formally in receipt of the owners' letter outlining their intention to demolish the existing farmhouse (the Foster-Coverdale House) in addition to the other identified accessory structures on October 23, 2019. In accordance with section 27 of the *Ontario Heritage Act*, 'Day 60' is therefore December 21, 2019.

Upon review of the provided Cultural Heritage Assessment (CHA), heritage planning staff deemed it necessary to have the report peer-reviewed due to inconsistencies noted between the analysis and conclusions reached regarding the cultural heritage value or interest of the property. Staff noted, with respect, that the report's conclusions did not appear to fully match the assessment that was presented.

As such, Heritage Planning staff retained Archaeological Research Associates (ARA) to conduct a peer-review of ATA Architect's CHA. In 2014, ARA conducted a review of all non-designated properties on the City's Register, including the subject site, to assess their heritage value and confirm whether they continued to warrant inclusion on the Register. Due to their familiarity with the property, ARA was retained by the City to conduct the peer-review of ATA Architects' CHA.

This report will summarize the recommendations outlined in the CHA prepared by ATA Architects and the subsequent peer-review report prepared by ARA, and based on ARA's assessment, will provide a recommendation to remove the subject property from the Municipal Register to facilitate demolition.

ATA Architects' Cultural Heritage Assessment

The final recommendations of ATA Architects' report indicated that the property does not possess cultural heritage value or interest. In terms of design or physical value, ATA Architects found that the farmhouse dwelling had limited architectural value: "The original house and its additions were vernacular architecture that lacked details of interest or of craftsmanship. Due to the various additions, the original house has been visually lost among the three sections. The addition of modern cladding of vinyl siding and vinyl stone along with modifications that have occurred regarding windows, doors and trims has further reduced the home's architectural value" (ATA 2019, p. 60). The report notes that the only heritage attributes that remain include its massing, six-over-six windows, and the shiplap siding, the condition of which is unknown.

In terms of historical or associative value, the report notes the association of the property to previous owners, the first being the Fosters. Henry Foster served on the Halton County Council for 18 years (12 years as Deputy Reeve and four as Reeve) and served several years as a Justice of the Peace for the Township and was a Director of the Halton County Agricultural Society. The Coverdales, who were the following owners, were also a significant family in the area, as George Robert Coverdale was a pioneer of the Quarter Horse industry in Ontario and founded the Quarterama horse show and the Ontario Quarter Horse Association. The subject property was the first Quarter Horse breeding facility in Ontario. Since it was first settled in 1832, the property is reflective of Halton Region's agricultural past. ARA suggests that these findings indicate the property possesses historical or associative value (i.e., it has met one or more of the

criteria of Ontario Regulation 9/06), which was not reflected in ATA Architects' final recommendations.

Finally, in terms of contextual value of the property, the report discusses the subject property's importance in establishing the dominant rural agriculture character of the area. The CHA identifies five adjacent or nearby properties that have been designated or listed under the *Ontario Heritage Act*, some of which are directly associated with the subject property (i.e., Bethel Chapel, Dakota Schoolhouse, Flynn-Raspberry House). The CHA notes that, in 1953, half an acre was donated from the subject property at 5780 Cedar Springs Road to build the Bethel Chapel and cemetery, and the Coverdales and Fosters are among the pioneer families buried there. ARA suggests that this research indicates the property possesses contextual value, however this was not reflected in the final recommendations of ATA Architects' report.

Overall, in the report's final assessment, ATA Architects noted the following: "The existing farmhouse and associated farm structures do not meet the test for heritage designation, based on historical, architectural and contextual value. The site however, has significant historical and contextual value in itself and the front portion of the lot...should be designated as a cultural heritage landscape to be protected and development controlled" (ATA 2019, p. 62). The report did not explicitly detail the attributes of the property that should be conserved through designation, nor did it provide a Draft Statement of Significance and List of Heritage Attributes that would inform such a designation by-law. Further, in Ontario, designation under the *Ontario Heritage Act* is applied to complete property parcels and not to individual resources located on a subject property. As such, if a property is found to meet any of the prescribed criteria outlined in Ontario Regulation 9/06, then it possesses cultural heritage value or interest and may be worthy of designation. Despite the lack of design or architectural value of any of the built heritage resources, ATA Architects' research and assessment indicated that 5780 Cedar Springs Road possesses historical/associative value and contextual value, which was not reflected in the final conclusions.

Based on noted inconsistencies, ARA was retained to conduct a peer-review of the CHA.

Peer Review by Archaeological Research Associates Ltd. (ARA)

The City of Burlington retained ARA to complete a Peer Review of the CHA prepared by ATA Architects Inc. on November 6, 2019. Staff and ARA agreed to the following scope of work for the peer review:

- A review of the CHA and its conclusions;
- An examination of whether the subject property merits designation under the *Ontario Heritage Act*, which may require additional research (i.e., into property

owner's significance and architectural comparative analysis) to determine the cultural heritage value or interest of the property; and,

- If the property is deemed to merit designation, a draft Statement of Significance and list of heritage attributes to be used in a by-law supporting such a designation.

ARA conducted a site visit to the subject property on November 13, 2019 and provided a final report on November 26, 2019.

ARA's 2019 report agreed with the findings of ATA Architects' report related to the design or physical value of the farmhouse at 5780 Cedar Springs Road. The report confirmed that individually none of the structures on the subject property possess design or physical value according to Ontario Regulation 9/06: "the farmhouse is of vernacular architecture, as are the other buildings on the property, many of which are of contemporary and/or utilitarian construction. As such, they are not rare, unique representative or early examples of a style, type, expression, material or construction method" (ARA 2019, p. 3).

ARA's 2019 peer review report suggested that ATA Architects have established that the property possesses both historical/associative and contextual value and agrees with the research that is presented. As such, ARA suggests, with respect, that the report's conclusions do not appear to fully match the assessment presented.

Based on the research described in the report, it is ARA's opinion that the property does possess cultural heritage value or interest and may be worthy of designation under section 29 of the *Ontario Heritage Act* due to its associations with the Foster and Coverdale families, and its connection with the settlement, community, and agricultural practices in the area. However, ARA agrees that the farmhouse is not architecturally significant, and that the property possesses cultural heritage value or interest with or without the existing dwelling. ARA's full Statement of Significance is attached as Appendix A to this report. Photos of the subject property are attached as Appendix B.

Planning Act Considerations

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

The Provincial Policy Statement (PPS, 2014) requires the conservation of cultural heritage resources that are significant for their important contribution to our understanding of the history of a place, event, or a people. While the subject property meets criteria for designation under the *Ontario Heritage Act*, staff do not feel that the house itself makes an important contribution to the understanding of the value of the Foster and Coverdale families to Burlington's culture and community. The property's significance is not sufficient to make conservation a requirement in terms of the PPS.

The Growth Plan for the Greater Golden Horseshoe (GGHP, 2019) 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 in a strategic growth area.

The Niagara Escarpment Plan (NEP, 2017) is particularly relevant in this case as the subject property falls within an area that is regulated by the Niagara Escarpment Commission. The NEP establishes policies to balance development with the protection of the Niagara Escarpment and the resources it supports. Section 2.10 of the NEP contains policies requiring the conservation of cultural heritage resources and guiding the mitigation of impacts on heritage resources from development. The Niagara Escarpment Commission is the approval authority for all development that is proposed and occurs within these regulated areas and imposes strict criteria to ensure that only such development occurs that is compatible with the natural environment. Staff are satisfied that future development on the subject site will be regulated in a way that preserves the agricultural character and contextual value of the subject site.

Halton Region’s Official Plan (ROP) states an objective to promote and facilitate the public and private stewardship of Halton Region’s heritage (166.2). Burlington’s current Official Plan (OP) contains objectives and policies related to cultural heritage resources, including an objective to “control the demolition, destruction, deterioration, and inappropriate alteration and/or use of cultural heritage resources in accordance with legislative authority” (OP Part II, 8.2a). In the case of the subject property, the heritage building in question is not architecturally significant and has been altered insensitively over the years such that staff do not feel that designation would accomplish the ROP objective of facilitating private stewardship of Halton’s heritage.

Staff are of the opinion that designation of the subject property is not necessary to comply with provincial, regional, or municipal policies. Designation is an option but is not advisable due to the property’s lack of architectural significance. The property’s heritage value lies only in its associations with previous owners who were prominent members of the community as well as contextual associations with the rural community. ARA’s peer-review report confirmed that the cultural heritage value or interest of the property “has been demonstrated to exist with or without the current residence” (p. 5). Further, as the property is located in an area regulated by the NEC, staff are confident that the site is already subject to protections that will ensure future site development is done in a way that is compatible with the surrounding landscapes and community character, thereby conserving the contextual value of the property.

Summary/Recommendation

The subject property at 5780 Cedar Springs Road possesses cultural heritage value as defined by Ontario Regulation 9/06 criteria, due to its historic associations with

prominent pioneer families and its connections to the rural Halton community. It is therefore eligible for designation under Part IV of the *Ontario Heritage Act*.

Staff are of the opinion that designation of the subject property is not necessary to comply with provincial, regional, or municipal policies. The property's heritage value lies only in its associations with previous owners and its contextual relationship with the rural community character, and staff feel that it is possible to conserve this heritage through means other than retention of the house on the subject property. For instance, ATA Architects suggested that the stone from the house foundation be salvaged and a commemorative display, such as an obelisk/pylon with a plaque visible from Cedar Springs Road with the history of the site, be incorporated into the development.

Further, as the property is located in an area regulated by the NEC, staff are confident that the site is already subject to protections that will ensure future site development is done in a way that is compatible with the surrounding landscapes and community character, thereby conserving the contextual value of the property.

The design/physical value of the farmhouse at 5780 Cedar Springs Road is not significant and does not meet Ontario Regulation 9/06 criteria. Staff recommend that the subject property be removed from the Municipal Register, which will facilitate the owners' intention to demolish the dwelling and other identified accessory structures.

Options Considered

In considering the owner's statement of intention to demolish the farmhouse and accessory structures at 5780 Cedar Springs Road, the City has three options:

1. State an intention to designate the property under Part IV of the *Ontario Heritage Act*, thereby preventing demolition; or,
2. Remove the property from the Municipal Register, thereby facilitating 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. If no objections are received after thirty days, Council may proceed to pass a by-law designating the property under section 29 of the *Ontario Heritage Act*. If a notice of objection is received within 30 days, the City shall refer the matter to the Conservation Review Board (CRB) for a hearing and report.

If designated, the subject property would be subject to Part V of the Property Standards By-law, which includes requirements for designated buildings that are vacant to be secured and their heritage attributes protected.

If designated, the subject property would also become eligible for grants or loans from the Community Heritage Fund. The Fund provides grants for 25% of project costs to a maximum of \$15,000, or loans for up to 50% of project costs of a maximum of \$15,000. Eligible projects include work to restore heritage attributes of the property. The subject property would also become eligible for the Heritage Property Tax Rebate Program, which provides an annual property tax rebate of 40% to owners of designated heritage properties that are assessed as residential.

As discussed above, staff do not recommend that Council state an intention to designate the subject property.

Option to remove the property from the Municipal Register (Recommended)

Should Council decide to remove the subject property from the Municipal Register as recommended, the property owner can then proceed with their process to obtain a Development Permit from the Niagara Escarpment Commission to demolish the house and accessory structures on the subject property.

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 will have satisfied the requirements under the *Ontario Heritage Act* and may continue in the process of obtaining the required permits from the Niagara Escarpment Commission. Taking no action would have the same effect as removing the property from the Register, except that the property would remain listed on the Register despite the demolition of the house. Considering the only protection that listing on the Register provides to properties is a delay on demolition, staff recommend that Council remove the property from the Register rather than do nothing.

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 Council states an intention to designate the subject property and an objection is received, costs associated with a CRB hearing may be accrued.

Climate Implications

Not applicable.

Enterprise Risk:

Not applicable.

Engagement Matters:

Heritage Burlington is the City of Burlington's municipal heritage committee. Along with the Heritage Act, the City's Official Plan (Part II, section 8.3.2) requires the City to consult with this committee prior to stating an intention to designate a property or removing a property from the Municipal Register.

The notice of intention to demolish was first discussed at the November 13, 2019 Heritage Burlington meeting. Due to the fact that the City had identified a need to have ATA Architects' study peer reviewed, this meeting was for informational purposes and to provide an opportunity for Heritage Burlington to identify any initial concerns. Heritage Burlington was advised that they would have a chance in the future to review the ARA peer review study and provide comments directly to Council for their consideration. Heritage Burlington was consulted formally with the additional information from ARA at their meeting on December 10, 2019. If the Committee has any concerns regarding this recommendation report, they will provide comments to Council under separate cover.

Conclusion:

5780 Cedar Springs Road is eligible for heritage designation due to its historic associations with prominent pioneer families in the community and contextual associations to the rural community; however, staff feel that it is possible and preferable to conserve this heritage through means other than retention of the house on the subject property. The existing dwelling does not possess design/physical value as defined by Ontario Regulation 9/06 criteria. Staff recommend that the subject property be removed from the Municipal Register, which will facilitate the owners' intention to demolish the building and associated accessory structures.

Respectfully submitted,

Danika Guppy

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Appendices:

- A. Draft Statement of Significance and List of Heritage Attributes prepared by ARA
- B. Photographs of 5780 Cedar Springs Road taken during ARA's site visit

Notifications:

Owners of 5780 Cedar Springs Road and owners' agent (Planning staff to provide contact information)

Registrar, Ontario Heritage Trust

Jo-Anne Rudy, Committee Clerk – Heritage Burlington

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Council. Final approval is by the City Manager.