



SUBJECT: Amendments to Heritage Designation By-law for 2411 Lakeshore Road

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-27-20

Wards Affected: 2

File Numbers: 501-06-02

Date to Committee: May 12, 2020

Date to Council: May 25, 2020

Recommendation:

State an intention to amend By-law 8-1995 pursuant to Part IV of the *Ontario Heritage Act*, section 30.1, as shown in the draft amending by-law attached as Appendix D of this report; and

Direct staff to provide notice of Council's intention to amend By-law 8-1995, in accordance with section 30.1 of the *Ontario Heritage Act*; and

Authorize the City Clerk to present the amending by-law to Council, provided there is no objection to the statement of intention to amend designation By-law 8-1995; and

Authorize the City Clerk to take the necessary actions in the event of any objection to the statement of intention to amend By-law 8-1995 pursuant to Part IV of the *Ontario Heritage Act*, section 29(7).

PURPOSE:

This report recommends amendments to Heritage Designation By-law 8-1995 to correct the legal description for 2411 Lakeshore Road and to comply with legislation in accordance with the *Ontario Heritage Act*.

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture
-

Background and Discussion:

Description of the Property

The subject property known as 2411 Lakeshore Road is located on the north side of Lakeshore Road, between Market Street and St. Paul Street. It currently supports a three-story residence in the Queen Anne style, as demonstrated by the many characteristic architectural features including the irregular façade, multiple surfaces with intricate decorative wooden elements, multiple rooflines and gables, verandah, tall windows, bay windows, and tall chimneys. The subject property also contributes to the character of Lakeshore Road through its setback, historic architecture, mature trees, and massing.



Figure 1: Photo of 2411 Lakeshore Road (left) taken in April 2019.

Relevant Background

Designation By-law 8-1995

The property at 2411 Lakeshore Road was designated under Part IV, section 29 of the *Ontario Heritage Act* in 1995 through By-law 8-1995 (attached to this staff report as Appendix A). The by-law also designates four other properties in addition to 2411 Lakeshore, including 5772 Guelph Line, 6042 Guelph Line, 3077 Lakeshore Road, and 2349 Lakeshore Road. However, the amendments proposed in this report pertain exclusively to the property at 2411 Lakeshore Road.

Schedule A-3 of By-law 8-1995 outlines that the reasons for the designation of 2411 Lakeshore Road include the property's cultural heritage value as a "well preserved

Queen Anne style” home. The by-law primarily protects the heritage attributes of the front (south) and side (west) façade, including the gabled porch with its “dentil and dowel cornice, ornate sun motif, columns and balustrade with turned members”, the bay window, and the oak front doors.

Related Application History and Proposed Amendments to Designation By-law 8-1995

In August 2019, the current property owner of 2411 Lakeshore Road was granted provisional consent to sever the westerly portion of the existing lot by the Committee of Adjustment (see survey attached as Appendix B). The application also required several variances for both the severed and retained parcel to facilitate the severance. The variances for the retained lot related to reduced lot width and front yard setback, which in the latter case recognized and legalized the existing non-conforming setback of the heritage house from the front property line. A further variance was requested and approved to permit an existing accessory structure (gazebo) with a height higher than permitted in Zoning By-law 2020. The variances related to the severed parcel pertained to reduced lot width and increased total hard surface width.

As a condition of approval, Heritage Planning staff noted the requirement to amend the legal description in Schedule B-3 of By-law 8-1995 to reflect the changes to the property parcel. Staff noted that section 30.1(10) of the *Ontario Heritage Act* requires that, because By-law 8-1995 was enacted in 1995 prior to the Heritage Act amendments of 2005, it is not possible to only amend the legal description contained within the by-law. On the occasion of amending the legal description, Council must additionally make the necessary changes to ensure that requirements in section 29 of the Heritage Act “as it read on the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent” are met. For this reason, this report recommends additional technical amendments to Designation By-law 8-1995.

Strategy/process

In order to satisfy the requirements of the *Ontario Heritage Act*, as amended in 2005, it is necessary for Council to demonstrate that the subject property meets criteria for cultural heritage value prescribed by Ontario Regulation 9/06. These criteria are 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, 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.

In order to confirm the subject property’s cultural heritage value in accordance with O. Reg. 9/06, staff retained Archaeological Research Associates Ltd (ARA) to study the property. ARA provided the City with an evaluation report (attached as Appendix C). The report finds that the subject property satisfies two criteria for cultural heritage value, as summarized in Table 1 below, and is therefore eligible for designation under current legislation.

Table 1: Summary of ARA’s Evaluation of Cultural Heritage Value or Interest of 2411 Lakeshore Road

Criteria	Description	ARA Comment
Design or Physical Value	Is a rare, unique, representative or early example of a style, type, expression, material or construction method.	“2411 Lakeshore Road is a representative example of a Queen Anne style residence. It is unique as despite having had a half-storey added to the structure it retains many Queen Anne characteristics.”
Contextual Value	Is important in defining, maintaining or supporting the character of an area.	“In its setback, historic architecture, mature trees and grand massing, 2411 Lakeshore Road contributes to the general historic character of Lakeshore Road.”

ARA completed a site visit to the subject property on January 22, 2020 in order to conduct an in-depth review of the building. Permission to Enter was provided by the property owner through the City. No interior elements are included in this report.

Staff recommend that Schedule A-3 of By-law 8-1995 be amended by being replaced with the “Statement of Cultural Heritage Value or Interest” contained in section 8.0 of the ARA report (page 29). The Statement of Cultural Heritage Value or Interest satisfies

the requirements of the Act by outlining how the subject property meets the prescribed criteria for designation.

The Statement of Cultural Heritage Value or Interest also includes a list of Cultural Heritage Attributes that are important in defining and supporting the cultural heritage value of the subject property. If the proposed by-law amendment is approved, this list of attributes will be included in Schedule A-3 of the designation by-law and referred to by staff when reviewing future Heritage Permit applications. The by-law will require the listed attributes to be protected so that future changes to the property are managed and do not negatively impact the property's heritage value. The listing of these attributes in the Statement of Cultural Heritage Value or Interest provides improved clarity for the City and the property owner about what attributes must be protected, whereas the current Schedule A-3 of By-law 8-1995 is less explicit in defining these attributes. The list of Cultural Heritage Attributes will also be used in the review of any future applications for financial assistance from the Community Heritage Fund, to determine what attributes are eligible for funding for restoration projects.

As the required amendments outlined in this report pertain to only one of five properties protected by By-law 8-1995, the amendment process is to proceed as a minor amendment in accordance with section 30.1(2) to (10) of the *Ontario Heritage Act*. These sections of the Act allow municipalities to follow an abbreviated process that does not require the public notice required for designation. If Council approves staff's recommendation to amend the relevant schedules to By-law 8-1995, notice will be served on the property owner of 2411 Lakeshore Road regarding the amendments. If no notice of objection is received within the thirty-day period, then Council may proceed to enact the by-law amendment.

If a notice of objection is received within the thirty-day period, the City must refer the matter to the Conservation Review Board (CRB), an adjudicative tribunal that considers matters under the *Ontario Heritage Act*. A hearing will ensue and the CRB will prepare a report back to City Council, who must make the final decision on whether to withdraw or enact the by-law amendments.

Options Considered

Should the by-law not be amended, the designation would continue to include both the retained lot and the severed lot despite the latter not containing elements of cultural heritage value or interest. Maintaining the designated status on the severed lot would present an undue burden to owners of that lot. It is therefore necessary for Council to amend the legal description pertaining to 2411 Lakeshore Road in Designation By-law 8-1995 to reflect property changes resulting from an application to sever the existing lot (along with other amendments required by legislation).

Financial Matters:

Should Council approve the proposed amendments to By-law 8-1995 as recommended, the property owner of 2411 Lakeshore Road will have the opportunity to submit a notice of objection. This would trigger a hearing before the Conservation Review Board, and costs associated with a hearing would be accrued. However, as the proposed amendments are needed to facilitate the applicant's proposed severance, an appeal is unlikely to be received.

Engagement Matters:

Heritage Burlington was consulted on the consent and minor variances application to the Committee of Adjustment at their meeting on July 10, 2019. The Committee passed a motion indicating that they did not object to the proposal. Heritage Burlington was consulted on this report and had no objections to the proposed amendments.

As the required amendments outlined in this report pertain to only one of five properties protected by By-law 8-1995, the amendment process is to proceed as a minor amendment in accordance with section 30.1(2) to (10) of the *Ontario Heritage Act*. These sections of the Act allow municipalities to follow an abbreviated process that does not require the public notice required for designation.

Conclusion:

Pursuant to a decision from the Committee of Adjustment to grant provisional consent to sever the property at 2411 Lakeshore Road, the legal description requires amendment to reflect changes to the property parcel. The *Ontario Heritage Act* requires that on the occasion of correcting the legal description, Council must make additional amendments to ensure the property's designation is in conformity with the 2005 amendments to the Act. Staff therefore recommend that Council state an intention to amend designation By-law 8-1995 as discussed in this report and as attached as Appendix D in order to comply with legislation.

Respectfully submitted,

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Appendices:

- A. Designation By-law 8-1995
- B. Survey of 2411 Lakeshore Road severance proposal
- C. Evaluation of 2411 Lakeshore Road by Archaeological Research Associates Ltd.
(ARA, 25/03/2020)
- D. Draft Amending By-law

Notifications:

Owner of 2411 Lakeshore Road (Planning staff to provide contact information)
Erin Semande, Provincial Heritage Register, Ontario Heritage Trust
Heritage Burlington, c/o Jo-Anne Rudy, Committee Clerk, City of 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.