

The Corporation of the City of Burlington

City of Burlington By-law ##-2022

A by-law to amend By-law Number 49-2009 designating the property located at 38 Frontier Trail (Formerly 398 Mountain Brow Road East) for the purposes of limiting the scope of the heritage designation to the Ice House and excluding all other buildings and structures, particularly the main building that was damaged by fire and then demolished, and of satisfying the requirements of the *Ontario Heritage Act*. File: 501-06, PB-61-22

Whereas Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, Chapter O. 18, as amended, authorizes the Council of a municipality to enact by-laws to designate real property, including all the buildings and structures thereon, to be of cultural heritage value or interest; and

Whereas the Council of The Corporation of the City of Burlington enacted and passed By-law 44-2009 on the 15th day of June, 2009, to designate the property known as 38 Frontier Trail (Formerly 398 Mountain Brow Road East) in the City of Burlington, Regional Municipality of Halton, as having historical and architectural value and interest pursuant to the Ontario Heritage Act, as amended; and

Whereas By-law 49-2009 references a one-and-one-half storey stone building that was extensively fire damaged in 2020 and subsequently demolished; and

Whereas By-law 49-2009 references only one other historic structure on the property, called the "Ice House"; and

Whereas pursuant to subsection 30.1 (16) of the Ontario Heritage Act, if the Council of a municipality proposes to amend a by-law designating property made under section 29 before the day the Ontario Heritage Amendment Act, 2005 received Royal Assent, the Council shall include in the amendment such changes as are necessary to ensure that the by-law satisfies the requirements of section 29, as it read on the day the Ontario Heritage Amendment Act, 2005 received Royal Assent; and

Whereas pursuant to section 30.1 (1) the Council of the Corporation of the City of Burlington may, by by-law, amend a by-law designating property made under section 29 and section 29 applies, with prescribed modifications, to an amending by-law; and

Whereas pursuant to sections 30.1 (5) and 29 (2), the Council of the Corporation of the City of Burlington consulted with its municipal heritage committee before giving notice of its intention to amend designation By-law 49-2009; and

Whereas pursuant to sections 30.1 (3) and 29 (3), the Council of the Corporation of the City of Burlington gave notice of its intention to amend designation By-law 49-2009, and no notice of objection was received; and

Whereas the Council of The Corporation of the City of Burlington now deems it advisable to enact and pass a by-law to amend By-law 49-2009 to replace Schedule "A" and satisfy the requirements of the Ontario Heritage Act, section 30.1 (10);

Now therefore the Council of The Corporation of the City of Burlington hereby enacts as follows:

1. That paragraph 1 of By-law 49-2009, enacted and passed by the Council of the Corporation of the City of Burlington on the 15th day of June, 2009, be deleted, and the following substituted therefore:

"THAT, part of the property at 38 Frontier Trail (Woodhill) being Pt Lot 4, Con 2 EF, designated as PART 1, 20R-18235, City of Burlington, Regional Municipality of Halton, Part of PIN 07194-0069(T), more particularly described in Schedule "A", is hereby designated as being of cultural heritage value or interest pursuant to Part IV of the Ontario Heritage Act."; and

2. That Schedule "A" from By-law 49-2009 be deleted and replaced with the following Schedule "A" – Statement of Cultural Heritage Significance; and
3. That the City Clerk provide a copy of this by-law to the owner of the property and to the Ontario Heritage Trust, and shall cause this by-law to be registered in the Land Registry Office for Halton; and
4. That in all other respects, By-law 49-2009, is hereby confirmed.

Enacted and passed this ##th day of ##### 2022

Mayor Marianne Meed Ward

Deputy City Clerk

## **SCHEDULE "A"**

Statement of Cultural Heritage Value or Interest: The "Woodhill Ice House"

### **Legal Description:**

Pt Lot 4, Con 2 EF, designated as PART 1, 20R-18235, City of Burlington, Regional Municipality of Halton, Part of PIN 07194-0069(T)

### **Description of Historic Place:**

The property historically known as "Woodhill" is situated on the edge of the Niagara Escarpment, located east of Waterdown Road in North Aldershot. As the property's name implies, the site of "Woodhill" is a wooded hill. The landscape is rural and has sweeping views of Burlington Bay and Hamilton Harbour. The access drive from Frontier Trail winds down the escarpment to a plateau. The property supports a one-storey stone ice house building (the "Woodhill Ice House") dug into the escarpment. The Woodhill Ice House is the last remaining historically significant structure from 1833, when advocate, statesman and agriculturalist Adam Fergusson developed the property with a one and one-half-storey farmhouse. In June 2020, the farmhouse was heavily damaged by fire and then demolished.

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

The property at 38 Frontier Trail is recommended for designation pursuant to Part IV of the Ontario Heritage Act based on its historical and associative value; its contextual value; and its physical value.

#### *Design and Physical Value*

The Woodhill Ice House has design value as a rare surviving example of a unique type of purpose-built structure intended to store ice all year long. The building is thought to have been constructed in 1833, before artificial refrigeration was commercially or domestically viable. The building's thick stone walls and depth of excavation into the slope of the Niagara escarpment are features that reflect its original purpose. The structure has physical value for its construction method, in which a mason used locally available fieldstone and rubble to economically construct load-bearing, uncoursed random rubblestone exterior walls. The stone is visible on both the outside and inside of the building. Expert mason Craig Beattie describe uncoursed rubblestone construction as follows:

*"Vertical joints are interrupted as often as possible, stones are placed with their greatest depth into the wall, and sedimentary stones are laid along their natural bedding plane. The modern appreciation for random rubble represents a cultural shift, and would likely have been amusing to early masons; it was the most economical style since it utilized whatever material was available and required the least amount of labour and skill on the mason's part."*

The stone walls support a simple gable roof with coved, drop siding and an eight-pane window in the gable end. A November 2008 Heritage Assessment of the Woodhill Fergusson House by ATA Architects Inc. states that the “upper wooden portion of the structure and the roof are not original”, however the report does not elaborate on this finding.

*Historical and Associative Value:*

The Woodhill Ice House is significant as the last building associated with the estate of Adam Fergusson, an advocate, statesman and agriculturalist who was the original founder of the Woodhill Estate. It is also significant for its association with his son, Adam Johnson Fergusson Blair, advocate and statesman.

Born in 1783 at Woodhill, Perthshire, Scotland, Adam Fergusson, established himself early in life as a learned gentleman-advocate. A founding director of the Highland Agricultural Society as well as a founder of the first Scottish Veterinary School at Edinburgh, Fergusson first visited Upper Canada in 1831. The purpose of his visit was to investigate, on behalf of the Highland Agricultural Society, the state of agriculture in Upper Canada and the potential for emigration for Scottish farmers and crofters.

Fergusson's findings were published in 1832 and reprinted in 1833 as an appendix to his own work, Practical notes made during a tour in Canada, and a portion of the United States. A reform-minded individual, Fergusson was impressed with the opportunities for immigrants, and at the age of 50 brought his second wife, Jessie Tower, his seven sons and one daughter, a manservant and tutor to Upper Canada in the summer of 1833 (Fergusson's first wife and mother of his children, Jemima Johnson Blair, died at age 30 following the birth of her eighth child in 1824). The Fergusson family settled on 122 acres near the village of Waterdown in East Flamborough Township where he built his home, "Woodhill". During the same year, Fergusson and James Webster purchased 7,367 acres in Nichol Township on part of which they established the Town of Fergus. The pair established grist and saw mills, the management of which was transferred to Fergusson's son George. Fergusson, however, maintained his principal residence at "Woodhill". A staunch supporter of Britain, Fergusson commanded the Gore Regiment during the Rebellion of 1837. Fergusson is credited with having had a moderating effect on William Lyon Mackenzie and his rebellion against the Family Compact. In 1839, Fergusson was appointed for life to the Legislative Council of Upper Canada (and later the Legislative Council for United Canada). Fergusson further demonstrated his loyalty to the British crown when he opposed annexation to the United States in 1850. Fergusson was chairman of the Reform conventions of 1857 and 1859 and together, with George Brown, William McDougall, and others, Fergusson prepared the resolutions for the 1859 convention which condemned the union as a failure and advocated constitutional changes leading to confederation. A farmer by avocation, Fergusson's commitment to improving the conditions and quality of Upper Canadian agriculture by encouraging selective livestock breeding, the development of new feeds, crop rotation, soil analysis, and improved drainage techniques did not wane. He was one of the first to import pure-bred, short-horned cattle from Britain. Later, "Woodhill" became a "model" farm, introducing East Flamborough farmers to grains other than wheat. As early as 1843 he advocated a central agricultural society for Canada West and served as the first president of the

Agricultural Association of Upper Canada organized in 1846. From its inception in 1850 until his death in 1862, Fergusson was a leading member of the Board of Agriculture of Upper Canada. It was through this organization that an annual exhibition was developed: the forerunner to the Canadian National Exhibition. In 1852, an Act of Parliament established the Bureau of Agriculture with Fergusson as the inaugural chair (official predecessor of the Minister of Agriculture).

A senator of the University of Toronto from 1856 until his death, Fergusson encouraged the establishment of a chair of agriculture at the university and was credited with bringing Dr Andrew Smith from Scotland to found the veterinary school at Guelph which opened in 1863. Fergusson died at "Woodhill" in 1862. The family burial plot is located at St. Luke's Anglican Church in Burlington.

Fergusson's second son, Adam Johnson Fergusson Blair, was born in Perthshire in 1815. Following the emigration of his family to Upper Canada, Fergusson Blair was called to the Canadian Bar in 1839. Not unlike his father, Fergusson Blair established himself early in life as a statesman. Appointed in 1842 as the first judge of the County of Wellington, he later ran successfully as a Reform candidate for the District of Waterloo (unseating his father's former business partner, James Webster). He served in this position until 1854. From 1860 until his death in 1867, Fergusson Blair served as Legislative Councillor, Brock division. It was in 1862, following the death of his father, that Fergusson Blair returned to Woodhill to take up residence. A vocal supporter of the Great Coalition between George Brown and John A. MacDonald, Fergusson Blair was rewarded for his support of Confederation by John A. MacDonald with appointment to the first Senate of the Dominion of Canada in 1867. It was later that year, at the age of 52, that Fergusson Blair died. Fergusson Blair is buried in the family plot at St. Luke's Anglican Church in Burlington. Given the important role that both men played in the North American experiment that later became the Dominion of Canada, it is not surprising that "Woodhill" itself is reputed as having been a "busy spot":

*Woodhill was a busy spot... After the Union of Upper and Lower Canada in 1841, Woodhill became part of Canada West in the Province of Canada. Many meetings were held there and high-ranking dignitaries were entertained including Premier Robt. Baldwin, Wm. Blake, and W.L. MacKenzie (Dyer, Laird of Woodhill, p. 69).*

#### *Contextual Value*

The Ice House has contextual value for its location dug into the slope of the Niagara Escarpment. To keep ice cold all year, ice houses typically had a substantial amount of their volume underground, with a drain to take away meltwater. Similarly, the stone walls of the Woodhill Ice House are dug into the slope of the escarpment and much of its volume is below ground.

*Heritage Attributes*

- Siting of the Woodhill Ice House excavated into the escarpment, which is a unique feature of the building that helps convey its original purpose. The siting contributes to both the contextual and physical value of the building.
- The uncoursed, random rubblestone construction of the exterior walls, which reflects the Woodhill Estate's Scottish heritage and contributes to the design value of the building.
- The single glazed, eight-pane window, which contributes to the design value of the building through its purposeful placement. The window lights the interior of the Ice House without introducing an additional thermal break in the stone walls
- The gable roofed form of the building, which contributes to its historical and associative value of the building by matching the gable roof profile of the (now demolished) main building
- The location of the doorway centered in the front wall of the building, which contributes to the design value of the building by creating a symmetrical façade that was a design characteristic of the regency style original house