

REPORT

Planning and Development Council

Meeting Date: June 12, 2023

FROM: Planning Services Department

DATE: May 30, 2023

SUBJECT: Cultural Heritage Landscape Conservation Plan Policy - By-law 2023-085

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That By-law 2023-085, a by-law to repeal By-law 2018-019, 'a by-law to govern cultural heritage landscape conservation plans within the Town of Oakville and to delegate certain powers to designated officials', be passed; and
2. That the Conservation Plans for Cultural Heritage Landscapes Policy be endorsed.

KEY FACTS:

The following are key points for consideration with respect to this report:

- By-law 2018-019 requires conservation plans to be created (either by the owner or Town) for protected cultural heritage landscapes in Oakville;
- Conservation plans for cultural heritage landscapes provide information and tools on how to evaluate the heritage impact of proposed changes to the property;
- Enforcement of the By-law 2018-019 has resulted in significant implementation issues where property owners do not cooperate in the preparation of the conservation plan;
- Preparation of conservation plans through a Council endorsed Policy is an alternative approach to the use of a regulatory by-law that may help achieve intended objectives while addressing the challenges presented by uncooperative landowners

BACKGROUND:

Livable Oakville includes objectives and policies pertaining to the conservation of "cultural heritage resources," including cultural heritage landscapes ("CHLs"). Consistent with provincial policy, conservation requires the identification, protection, management and use of CHLs in a manner that ensures their cultural heritage value or interest is retained. In January 2014, the Town adopted a CHL Strategy, which required the Town to identify significant CHLs. As part of the continued implementation of the CHL Strategy, the Town adopted By-law 2018-019 (attached as Appendix A), which requires conservation plans to be created for protected CHLs in Oakville. Conservation plans for CHLs may be completed by the property owner or the Town. The legality of By-law 2018-019 was challenged in 2019 and ultimately upheld by the Ontario Court of Appeal.

A conservation plan for a CHL provides staff, Council and the property owner with additional information and guidance on how to evaluate the heritage impact of any proposed alternations to a designated property to ensure that the cultural heritage value or interest and the heritage attributes are conserved. Conservation plans for CHLs are not intended to be a management plan for a property or guidance tool for a specific development.

Under sections 33 and 34 of the *Ontario Heritage Act* (OHA), town consent must be obtained for any proposed alteration of a designated property that would affect or remove heritage attributes, subject to appeal to the Ontario Land Tribunal (OLT) if consent is not granted.

Requirements for heritage permits under the OHA arise from the heritage designation of a property, rather than the existence of a conservation plan. A conservation plan does not create or redefine the cultural heritage value or interest and heritage attributes of a property; it relies on the designation by-law that has set those things out already.

TECHNICAL & PUBLIC COMMENTS:

In addition to requiring the preparation of conservation plans, the town's CHL Conservation Plan By-law 2018-019 also sets out the town's process to make and assess applications to alter heritage attributes. However, enforcement of the town's By-law 2018-019 has resulted in significant resource and cost implementation issues where property owners refuse to cooperate in the preparation of the conservation plan.

Staff believe conservation plans for CHLs have merit as they provide transparency and guidance on how the town intends to approach the evaluation of proposed

alterations to a designated CHL property to ensure that the cultural heritage value or interest and the heritage attributes are conserved.

An alternative approach to By-law 2018-019 is to prepare conservation plans, and recognize existing plans that were prepared in accordance with By-law 2018-019, under a Council endorsed Policy, as opposed to through a regulatory by-law. Conservation plans prepared or recognized through a Council adopted Policy would provide a tool (as was always intended) on how to evaluate the potential heritage impact of proposed alterations to the CHL property. Any requirements in those existing conservation plans for condition monitoring or references to penalties (outside of those set out in the OHA) would no longer apply.

Landowners would continue to be invited to participate in the preparation of new conservation plans.

Importantly, unauthorized alterations to a CHL that would affect its heritage attributes will still be addressed through the enforcement of the OHA, which is fundamentally what protects designated heritage properties. The Draft Policy is attached as Appendix B and the proposed repealing by-law is attached as Appendix C.

CONSIDERATIONS:

(A) PUBLIC

Staff will continue to work with property owners to conserve cultural heritage landscapes.

(B) FINANCIAL

None

(C) IMPACT ON OTHER DEPARTMENTS & USERS

None

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- enhance our cultural environment
- be the most livable town in Canada

(E) CLIMATE CHANGE/ACTION

A Climate Emergency was declared by Council in June 2019 for the purposes of strengthening the Oakville community commitment in reducing carbon

footprints. The designation and conservation of properties of cultural heritage value contributes to the town's initiatives to reduce carbon footprints.

APPENDICES:

Appendix A – By-law 2018-019

Appendix B – Draft Conservation Plans for Cultural Heritage Landscape Policy

Appendix C – By-law 2023-085

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