

REPORT

Planning and Development Council

Meeting Date: November 13, 2023

FROM: Planning Services Department

DATE: October 31, 2023

SUBJECT: Consideration of Objection to Notice of Intention to Designate –
Turner House at 356 Watson Avenue – By-law 2023-129

LOCATION: 356 Watson Avenue

WARD: Ward 3

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RECOMMENDATION:

1. That the notice of intention to designate the Turner House at 356 Watson Avenue under Section 29, Part IV of the *Ontario Heritage Act* be maintained despite the notice of objection received from the property owner; and,
2. That By-law 2023-129 to designate the Turner House at 356 Watson Avenue as a property of cultural heritage value or interest, attached as Appendix “B”, be passed.

KEY FACTS:

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

- Town Council resolved to issue a notice of intention to designate the Turner House at 356 Watson Avenue under Part IV of the *Ontario Heritage Act* at the August 14, 2023 Planning and Development Council meeting.
- A notice of objection to the designation was received by the Town within the required timeframe as set out in the *Ontario Heritage Act*.
- Staff has reviewed the notice of objection provided, and despite the objection, remains of the opinion that the property meets the criteria for determining cultural value or interest and continues to merit heritage designation.
- It is recommended that Town Council not withdraw its notice of intention to designate and pass the attached by-law to designate the property under Section 29, Part IV of the *Ontario Heritage Act*.

BACKGROUND:

Town Council approved a staff recommendation to issue a notice of intention to designate the Turner House at 356 Watson Avenue at the August 14, 2023 Planning and Development Council meeting (Item 4.5). This staff recommendation was previously recommended to be approved on July 25, 2023 by the Heritage Oakville Advisory Committee.

The subject property at 356 Watson Avenue contains a detached two-and-a-half storey brick and frame Craftsman style house built circa 1915, known as the Turner House.

As the basis for the recommendation to issue the notice of intention to designate, staff completed a cultural heritage evaluation report on the subject property and determined that it met the criteria for determining cultural heritage value or interest prescribed in Ontario Regulation 9/06 and therefore warranted designation under Section 29, Part IV of the *Ontario Heritage Act*. The property's heritage value and reasons for designation were described in a Statement of Cultural Heritage Value or Interest (SCHVI) that was included as part of the issued notice of intention to designate.

A notice of objection outlining the reasons for objection to the proposed designation was served on the town by the owner on September 11, 2023. The objection was received within thirty days after the date of publication of the notice of intention to designate as required by the *Ontario Heritage Act*. The notice of objection is included as Appendix "A" to this report.

Recent amendments to the *Ontario Heritage Act* updated the process for objecting to a proposed designation. In June 2019, *Bill 108, More Homes, More Choice Act, 2019* received Royal Assent and came into force on July 1, 2021. Schedule 11 to this *Act* introduced changes to the *Ontario Heritage Act* that included the requirement for any objection to a notice of intention to designate to be considered by Council, upon which Council must decide whether or not to withdraw the notice of intention to designate.

OPTIONS:

According to Section 29 of the *Ontario Heritage Act*, the options for Town Council to consider in response to the notice of objection are to either withdraw the notice of intention to designate or to not withdraw the notice of intention to designate and pass the by-law designating the property.

Should Town Council elect to withdraw the notice of intention to designate, it would be withdrawn by serving a notice of withdrawal on the property owner, any person who objected, and the Ontario Heritage Trust, and also by publishing the notice of withdrawal in the town's online News and Notices.

Should Town Council decide to not withdraw the notice of intention to designate, a designation by-law may be passed by Council to designate the property. Any person who objects to the by-law would then have the right to appeal to the Ontario Land Tribunal within thirty days of publication of the notice of the by-law.

The time period for Council to make a decision on a notice of objection is within 90 days after the end of the 30-day objection period to the notice of intention to designate. In this case, Town Council has until December 14, 2023 to make a decision on this notice of objection and also to pass a designation by-law, if it chooses to proceed with designation.

COMMENTS:

The notice of objection provided by the owner includes two primary reasons for objection, italicized below. Additional details are provided in the notice of objection. These have been summarized by staff and responded to in this report. However, it should be noted that staff has recommended designation based on the criteria outlined in Ontario Regulation 9/06 (O. Reg 9/06) which are the only criteria under which staff can recommend that a property be designated. Some of the reasons for objection included in the notice of objection are outside of the scope of O. Reg 9/06.

- 1) *That Council did not duly consider the arguments advanced by the owner at both the Heritage Oakville Advisory Committee meeting and the Planning and Development Council meeting that the property does not fulfill the criteria outlined in Ontario Regulation 9/06.*
- 2) *That the proposed designation violates principles of procedural fairness and does not strike the appropriate balance between the preservation of cultural heritage and individual property rights.*

Regarding reason 1, the notice of objection disputes the significance of the property's design/physical, historical/associative and contextual value as expressed in the property's Statement of Cultural Heritage Value or Interest (SCHVI). The specific objections under each criterion are noted and addressed below. The SCHVI is included as "Schedule B" to the proposed designation by-law that is attached as Appendix "B" to this staff report.

Design/Physical Value

Regarding the design/physical value of the property, the notice of objection states that the designation lacks precision as to whether the property is an "early" or "representative" example of a Craftsman style home. Staff has clarified this through a minor revision to the SCVHI in the designation by-law by noting that the property "has design and physical value as a representative example of an early 1900s Craftsman style house".

The notice of objection further notes that the property is “not a suitable or convincing representative example given the many changes and alterations to the property” and lists a number of changes made to the building. Staff notes that the majority of these changes is to the rear of the house which has not been included in the designation by-law, as the goal of the designation is to protect the portion of the heritage house that most contributes to the Brantwood streetscape. Further, the changes that impact the front of the building, including new window and door units and a second storey balcony railing, have not resulted in the loss of the overall cultural heritage value of the building.

It is therefore staff’s opinion that the property meets the following criterion in O. Reg 9/06: “The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction”.

Historical/Associative Value

Regarding the historical/associative value criteria, the notice of objection states that the property does not have any direct associations with a theme, event, belief, person, activity, organization or institution that is significant to the community. Further, it notes that if the development of the Brantwood subdivision is considered a “theme”, that there is no explanation as to how Brantwood is significant to the community.

Staff has confirmed that the property has cultural heritage value for its direct associations with the theme of the development of the local residential area known as “Brantwood”. This wording is included in the SCHVI in the designation by-law which further describes the history of the Brantwood subdivision development and its impact on the growth and development of Oakville.

It is therefore staff’s opinion that the property meets the following criterion in O. Reg 9/06: “The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.”

Contextual Value

Regarding the contextual value of the property, the notice of objection notes that “Brantwood’s historic character has been so significantly eroded...that there is little that the preservation of the Property can do to support or maintain the complexion of a neighbourhood that has fundamentally changed, especially in the last 10 years”. The notice further explains that

many of the older homes in the neighbourhood have been demolished and replaced with new homes.

Staff agrees that many new homes have been constructed in Brantwood and subsequently the area is not being recommended for designation as a heritage conservation district. Further, the loss of homes over the years underscores the importance of conserving the heritage houses that remain. It is also important to note that when Brantwood was initially developed in the early 1900s, homeowners tended to build their large Arts and Crafts era homes on multiple lots with large, expansive green space and gardens. Over time, the empty lots were sold off and subdivided and new homes were built throughout the 20th century. This evolution is part of Brantwood's history. Staff's goal is to conserve the original Arts and Crafts era homes, including the subject house, which act as important architectural and historical anchors in the Brantwood subdivision.

It is therefore staff's opinion that the property meets the following criteria in O. Reg 9/06: "The property has contextual value because it is important in defining, maintaining or supporting the character of an area" and "The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings".

Regarding reason 2, the owner notes that "there has never been any communication from the Town of Oakville indicating that the Property might be a candidate for heritage designation". The owner also states that it is too late to preserve Brantwood's once historic character and that too many historic buildings in the neighbourhood have been demolished, including the house directly adjacent to the subject property. The owner further notes that the adjacent house at 350 Watson Avenue was permitted to be demolished and a nearby historic house at 343 Watson Avenue was permitted to be renovated.

While these reasons for objection are outside of the scope of O. Reg 9/06, staff has provided a response below for Council's information.

Regarding the communication from the town, the subject property has been listed on the Oakville Heritage Register as a non-designated property since 2009, at which time the owners would have been notified of this new status by mail. The listed status afforded by the *Ontario Heritage Act* allows municipalities to essentially place a 'hold' on properties that are potentially worthy of designation. The status allows municipalities to have 60 days to examine the property upon receipt of a notice of intention to demolish to determine if it is worthy of heritage designation or not. By adding this property to the Oakville Heritage Register in 2009, and publicly including this status on the town's website and internal data systems, the town has

established that the subject property has been a candidate for designation for 14 years.

In most years, Staff bring forward recommendations for heritage designations based on staff time and resources. However, as part of the current Designation Project, there are additional staff to address the designations of listed properties, contributing to the large number of listed properties that are now finally being considered for designation, including the subject property. For the subject property, staff sent a letter to the owners about the potential designation of the property and followed up with a site visit and subsequent emails.

Regarding the property at 350 Watson Avenue, this property once contained an older house that was demolished in 2005. This was prior to the establishment of the 60-day notice of intention to demolish requirement for listed properties added to the *Ontario Heritage Act* in 2006 and the building therefore would not have had any heritage restrictions related to demolition.

Regarding the property at 343 Watson Avenue, this property is listed on the Oakville Heritage Register and has had cosmetic changes as there are no restrictions under the listed status for these types of renovations. As these kinds of renovations can impact the cultural heritage value of a property, it is even more important to designate Oakville's cultural heritage resources to ensure that renovations and additions are in keeping with the heritage character of a property.

CONCLUSION:

Staff has re-examined the reasons for designation outlined in the SCHVI in light of the specific reasons of objection provided in the notice of objection and remain of the opinion that, despite these reasons of objection, the subject property meets four of the criteria prescribed in Ontario Regulation 9/06. Therefore, the subject property continues to merit designation under section 29, Part IV of the *Ontario Heritage Act*.

Should Town Council decide not to withdraw its notice of intention to designate the Turner House at 356 Watson Avenue, staff recommends that the designation by-law, By-law 2023-129 attached as Appendix "B" to this report, be passed. According to section 29(11) of the *Ontario Heritage Act*, any person who objects to the by-law may appeal to the Ontario Land Tribunal within thirty days of publication of the notice of the by-law.

CONSIDERATIONS:

(A) PUBLIC

If the designation by-law is passed, then a notice of the by-law will be issued for the property in accordance with section 29, Part IV of the *Ontario Heritage Act*.

(B) FINANCIAL

There are no financial considerations in this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The Legal Department will be consulted on the designation as necessary.

(D) CORPORATE STRATEGIC GOALS

This report addresses Council's strategic priorities of Community Belonging, Environmental Sustainability and Accountable Government.

(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 retention and conservation of the Turner House would contribute to the town's initiatives to reduce carbon footprints.

APPENDICES:

Appendix A – Notice of Objection for 356 Watson Avenue

Appendix B – Designation By-law 2023-129

Prepared by:

Carolyn Van Sligtenhorst, CAHP, MCIP, RPP
Supervisor, Heritage Conservation

Recommended by:

Kirk Biggar, MCIP, RPP
Manager, Policy Planning and Heritage

Submitted by:

Gabe Charles, MCIP, RPP
Director, Planning Services