



OAKVILLE

REPORT

Planning and Development Council

Meeting Date: June 10, 2024

FROM: Planning Services Department

DATE: May 28, 2024

SUBJECT: Application to Demolish – 42 Lakeshore Road West

LOCATION: 42 Lakeshore Road West

WARD: Ward 2

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RECOMMENDATION:

1. That the proposed demolition of the McCraney-Robertson House at 42 Lakeshore Road West be approved subject to the following:
 - a. That the property owners work with Heritage Planning staff and members of the Heritage Oakville Advisory Committee and/or members of Council, to design a commemorative strategy and structure to be rebuilt on the property that more adequately reflects the statement of cultural heritage value and interest and the heritage attributes as set out in By-law 2009-074, and the importance of the site as a gateway to Tannery Park and the lake, and the collective importance of the site, tree and house as well as using any salvaged material from the McCraney-Robertson House;
 - b. That a Heritage Easement Agreement for the commemoration of the McCraney-Robertson House at 42 Lakeshore Road West, be entered into between the town and the owner in keeping with the content of this report, with the Agreement to be in form and content satisfactory to the Town Solicitor and the Director of Planning Services or their designate;
 - c. That the Heritage Easement Agreement be executed in accordance with Executions By-law 2013-057 and be registered on title to the lands on which the McCraney-Robertson House is located; and
 - d. That the Town Solicitor be authorized to discharge the Heritage Easement Agreement from title to the lands on which it is registered, at the expense of the owner, once the requirements in the Heritage

Easement Agreement have been fully satisfied to the satisfaction of the Director of Planning Services or their designate.

KEY FACTS:

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

- The property at 42 Lakeshore Road West is designated under section 29, Part IV of the *Ontario Heritage Act* by By-law 2009-074 for its 1 ½ storey frame house known as the McCraney-Robertson House.
- The applicants have applied to demolish the existing heritage house under section 34, Part IV of the *Ontario Heritage Act* and construct a new commemorative structure and garden courtyard in its place.

BACKGROUND:

The property at 42 Lakeshore Road West is located on the southwest corner of Lakeshore Road and Chisholm Street. The property is designated under section 29, Part IV of the *Ontario Heritage Act* (OHA or the Act) as a property of cultural heritage value and interest. A Location Map is attached as Appendix A. A Heritage Impact Assessment (HIA) has been completed by heritage consultants ERA Architects Inc. and is attached as Appendix B. A further Memorandum from the heritage consultants is attached as Appendix C and includes a new structural assessment provided by a structural engineer with demonstrated experience working with heritage buildings.

The proposed demolition of the McCraney-Robertson House is part of a proposal to develop the entire property. This development proposal was denied by Town Council at the Planning and Development Council meeting on January 22, 2024. The applicants have appealed Council's decision to the Ontario Land Tribunal (OLT). The Heritage Oakville Advisory Committee provided comments regarding the proposed Official Plan Amendment and Zoning By-law Amendment for 42 Lakeshore Road West at their meeting on November 28, 2023.

The application to demolish was deemed complete on April 8, 2024. In accordance with s. 34 (4) of the OHA, the 90-day deadline for Council to make a decision on this application is July 8, 2024.

The proposed demolition and commemorative strategy were discussed by the Heritage Oakville Advisory Committee at their meeting on May 28, 2024. They requested that Committee members and/or Councillors be provided the opportunity to participate in the process to revise the commemorative strategy and that the importance of the site, magnolia tree and house be emphasized for their collective importance and also the site's importance as a gateway to Lake Ontario. This report reflects the input of the Heritage Oakville Advisory Committee and their recommendations to Council.

COMMENT/OPTIONS:

Process

When an application to demolish a property designated under section 29, Part IV of the OHA is submitted under section 34 (1) of the Act, Heritage Planning staff reviews the application to determine that the information submitted meets the requirements for this process as set out by the Town of Oakville. A notice of complete application is then provided to the property owner and Council is required to make a decision regarding the application within 90 days of that notice. Council has the following options as set out in section 34 (4.2) of the Act:

(4.2) The council, after consultation with its municipal heritage committee, if one is established, and within the time period determined under subsection (4.3),

- (a) shall,*
 - (i) consent to the application,*
 - (ii) consent to the application, subject to such terms and conditions as may be specified by the council, or*
 - (iii) refuse the application;*

(b) shall serve notice of its decision on the owner of the property and on the Trust; and

(c) shall publish its decision in a newspaper having general circulation in the municipality.

This report satisfies the condition to consult with the municipal heritage committee.

Site History

The property at 42 Lakeshore Road West has a long history of proposed developments that have not been successful. There is also a history of numerous property standards issues. It has been the subject of four different development proposals over more than a decade. The original developer, JRB Group, was fully supportive of the heritage designation of the property to include both the McCraney-Robertson House and the adjacent magnolia tree.

Date	Developer	Proposal
2008-2009	JRB Group	4 Storey, mixed use, house and magnolia tree in situ

2013-2016	Del Ridge West Harbour	4 storey, mixed use, retained and relocated house, propagated magnolia tree
2019-2021	Hirsch Development Group	5 Storey, mixed use, retained and relocated house, propagated magnolia tree
2023	Format Lakeshore Inc.	10 Storey, mixed use, commemorative structure, non-propagated magnolia tree

In late 2013, during the review of a development application for the property, the magnolia tree, a designated heritage attribute of the property, was altered without heritage permit approval. A large donut-shaped hole was dug around the magnolia tree, which had its roots cut and a 20-foot diameter ‘root ball’ covered in burlap and rope. The property owner was prosecuted under the OHA for failure to obtain Council’s permission to alter a heritage attribute. As a result, the hole around the tree was eventually backfilled. However, the seriously cold winter and the stress from the root balling left the tree vulnerable to infection and in January 2016, an arborist determined that the tree was succumbing to a canker fungus that it would not survive. As a condition of the approval to remove the tree, the owner was required to undertake propagation of the magnolia tree, which was confirmed to have been done later in 2016.

Since that time, Heritage Planning staff has worked with two additional developers who had different concepts for development on the property which were brought forward to the Heritage Oakville Advisory Committee for review.

Property Standards for Designated Heritage Properties

Heritage Planning staff working with Municipal Enforcement staff has dealt with six separate property standards complaints over the past eight years, not including the charge laid under the OHA for the illegal attempt to relocate the magnolia tree. Town staff has attempted to work directly with the appropriate property owner at each time regarding property standards issues before issuing formal Property Standards Orders. In the case of 42 Lakeshore Road West, there has been work completed at the request of staff and also through orders. The most significant issues appear to have occurred since the remediation work was started in 2020 and was abruptly halted by the COVID-19 pandemic. The property has transferred ownership since that time.

Demolition and Commemoration Proposal

The demolition application proposes that the McCraney-Robertson House be demolished and replaced with a new commemorative courtyard facing Lakeshore Road. The proposed courtyard would include:

- Commemoration of the McCraney-Robertson House through a metal frame structure that interprets the scale and form of the house, an explanatory

plaque/panel, and paving that indicates the existing historic footprint of the house;

- Setbacks of new construction from the commemorative courtyard, to enhance visibility and accessibility from the public realm;
- A replanted magnolia tree within the proposed courtyard, reinstating the treed interface with the McCraney-Robertson House;
- Step-backs of uppermost floors (nine and ten) to mitigate impacts associated with increased height;
- Distinguishably contemporary design, creating a deferential visual relationship with nearby existing heritage resources;
- Articulated commercial storefronts to reference the existing context of the streetscape;
- Use of a compatible material palette, including masonry materiality and maintaining solid-to-void ratios that reference the heritage context.

Review of Applicable Planning and Heritage Policies for Purposes of Reviewing a Demolition Application

When a complete demolition application is received under the OHA, the municipality is required to make a decision regarding that application within 90 days or it is deemed approved. The OHA does not provide guidance for municipality to use when reviewing a demolition application. However, Heritage Planning staff has reviewed provincial and town policies that are generally applicable to the conservation of cultural heritage resources.

Provincial Policy

The Province of Ontario has made a clear commitment to the conservation of significant cultural heritage resources through its legislation and policies, including the *Ontario Heritage Act* (2021), *Planning Act* (1990, as amended), Provincial Policy Statement (2020), and the Growth Plan for the Greater Golden Horseshoe (2019).

The PPS (2020) and Growth Plan (2019) both state that cultural heritage resources shall be conserved. They are silent on policy or guidance for demolition or commemoration.

As noted above, the OHA prescribes the process for demolition or removal of properties that are designated under section 29, Part IV of the Act. This is set out in Section 34 of the Act and it does not provide criteria for considering a proposed demolition nor an evaluation framework for determining if a Council should permit demolition.

Town Policy – Livable Oakville Plan

Section 5 of the Livable Oakville Plan states, “Conservation of cultural heritage resources forms an integral part of the town’s planning and decision making.

Oakville’s cultural heritage resources shall be conserved so that they may be experienced and appreciated by existing and future generations, and enhance the Town’s sense of history, sense of community, identity, sustainability, economic health and quality of life.”

In specific reference to demolition applications for designated properties, Section 5.3.8 states:

Where the Town is considering a proposal to alter, remove, or demolish a cultural heritage resource that is protected or registered under the Ontario Heritage Act, or repeal a designating by-law under that Act, it shall ensure that it has before it any required heritage impact assessment or sufficient information to review and consider:

- a) how the proposal affects the heritage attributes and the cultural heritage value and interest of the cultural heritage resource; and,*
- b) options that reduce, minimize or eliminate impacts to the cultural heritage resource.*

The Standards & Guidelines for the Conservation of Historic Places in Canada

The Town of Oakville adopted the Standards & Guidelines to provide conservation guidance for its designated heritage properties in April 2013. This document does not cover demolition or replication of historic buildings stating: “Reconstruction, or reconstitution of a disappeared historic place, is not considered conservation and is therefore not addressed in this document”.

Heritage Planning Staff Assessment

The McCraney-Robertson House has been vacant for many years, since before its designation under the OHA in 2009. Heritage Planning staff has worked with various owners regarding property standards issues over the past decade to attempt to safeguard the heritage attributes of the property. Each time, the owners would complete the minimum required work under the Property Standards By-law and advise they were waiting to proceed with the full restoration during their proposed future development of the property.

As the house has changed ownership over the years, at least four different concepts for adaptive reuse have been considered by staff and the Heritage Oakville Advisory Committee, with each owner promising to be the one to restore the house. The previous owner to the current applicant began a significant undertaking to shore up the structural components of the house from the inside, while also removing the damaged stucco from the exterior. Unfortunately, this work was halted by the COVID-19 pandemic in March 2020 and the exterior has remained exposed to the elements since that time.

In support of the application to demolish the building, the applicants have retained a structural engineer to provide an assessment of the existing condition. The structural assessment letter is part of Appendix C, which is the Memorandum dated March 27, 2024. The structural assessment concludes that while some remediation work was completed inside the structure (and is likely the only reason the building has not collapsed), even that work has failed to prevent even more damage from occurring, including the new plywood exterior cladding, the foundation, the entire west wall and the rear addition. The report notes that the only original materials left (attached to the building) are a single pilaster and bracket and the framing of the side porch. Staff notes that additional historic materials appear to have been stored inside the building.

The structural assessment is new information that was not available during the consideration of the planning applications for the property when they were reviewed by the Heritage Oakville Advisory Committee in November 2023. Heritage Planning staff has reviewed the structural assessment and based on that information, recommend approval of the demolition of the McCraney-Robertson House, with conditions.

Staff Recommendations

Due to the condition of the existing materials and the failure of the remediation work to prevent further deterioration, it does not appear that there is any alternative to demolition. The McCraney-Robertson House would require complete reconstruction as a replica.

As noted in the Standards & Guidelines, reconstruction of a historic place does not constitute conservation. Unfortunately, the damage to the McCraney-Robertson House is the result of over a decade of failed intentions and is irreversible. The loss of heritage fabric has resulted in the loss of cultural heritage value that cannot be replaced with a replica structure.

The applicants have proposed a commemorative strategy as part of their mitigation of the demolition of the McCraney-Robertson House. While this is not in any way ideal, commemoration remains the only alternative to losing all the collective memory of this building. The proposed strategy includes the construction of a metal skeletal frame on a masonry platform and other landscaping treatments as described earlier in this report.

Heritage Planning staff recommends that this commemorative strategy be reconsidered to include meaningful representation of the heritage attributes of the McCraney-Roberston House, which include:

- The rectangular form of the house
- A floor plan that has greater depth than width
- Front gable roof with steep slope

- Side porch with decorative columns and brackets
- Wood windows and wood trim
- Wood shutters; and
- Stucco cladding and wood trim

Heritage Planning staff proposes working with the property owner, members of the Heritage Oakville Advisory Committee and/or members of Council and the heritage consultants to arrive at a commemorative strategy that references more than the form/location of the historic structure. Any historic materials salvaged from the house should be considered for reuse in the commemoration.

Staff recommends that the revised commemorative strategy would then be incorporated into a Heritage Easement Agreement. The agreement will require financial securities to be submitted to cover the cost of the overall project. This HEA should be executed in accordance with the Executions By-law 2013-057 and be registered on title to the lands on which the house is located. The third and final recommendation authorizes staff to discharge the HEA from all lands on which it was registered once the agreement has been fully implemented to the satisfaction of the Director of Planning Services. Included in the list of items required to remove the HEA from title will be the completion of all commemorative elements and the amendment of the Part IV designation by-law.

CONSIDERATIONS:

(A) PUBLIC

Section 34 (4.2) of the *Ontario Heritage Act* requires that Council's decision regarding the application to demolish 42 Lakeshore Road West be published on the town's website in accordance with the town's Alternative Notice Policy.

(B) FINANCIAL

At this time, there are no financial considerations.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Should Council support the staff recommendation to enter into a Heritage Easement Agreement, Heritage Planning staff will work with the Legal Department to do so.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's strategic priorities: 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 subject report has no impact on climate change/action.

APPENDICES:

Appendix A – Location Map

Appendix B – Heritage Impact Assessment by ERA

Appendix C – ERA Memorandum dated March 27, 2024

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