

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: FEBRUARY 08, 2021

FROM: Planning Services Department

DATE: January 26, 2021

SUBJECT: Repeal of By-law 1991-074 - 1086 Burnhamthorpe Road East

LOCATION: 1086 Burnhamthorpe Road East

WARD: 6

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RECOMMENDATION:

That a notice of intention for repeal for By-law 1991-074 be issued.

KEY FACTS:

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

- On April 22, 1991, Oakville Town Council passed By-law 1991-074 to designate 1086 Burnhamthorpe Road East as a property of historical and architectural significance. The by-law, while registered on the entire parcel of property, only recognized the cultural heritage value of the historic residence on the property in its description of architectural significance.
- In 2014, the Town of Oakville adopted the Cultural Heritage Landscape Strategy, which recognizes, amongst other things, heritage properties can include more than buildings as heritage attributes.
- On May 15, 2017, Oakville Town Council recognized the property at 1086 Burnhamthorpe Road East as having a significant cultural heritage landscape and directed staff to proceed to Phase Three of the Cultural Heritage Landscape Strategy Implementation.
- On October 9, 2018, Council passed By-law 2018-136 by-law to designate the Joshua Creek Heritage Arts Centre/William Bowbeer Farm on Part 1 of Plan 20R-21170, being a portion of 1086 Burnhamthorpe Road East, as a property of cultural heritage value or interest.
- This report recommends the repeal of By-law 1991-074, which should be removed as it is no longer required. The repeal of By-law 1991-074 will not impact the new By-law 2018-136 that remains in place.

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BACKGROUND:

On April 22, 1991, Oakville Town Council passed By-law 1991-074 to designate 1086 Burnhamthorpe Road East as a property of historical and architectural significance. The by-law, while registered on the entire parcel of property, only recognized the cultural heritage value of the historic residence on the property in its description of architectural significance.

Cultural Heritage Landscapes Strategy

In January 2014, the Town of Oakville endorsed the Cultural Heritage Landscapes Strategy (the Strategy), which set the foundation to identify, inventory and assess candidate cultural heritage landscapes and to conserve significant cultural heritage landscapes. It also developed a formal process for addressing the conservation of cultural heritage landscape resources in the Town of Oakville.

While the property at 1086 Burnhamthorpe Road East was already designated by By-law 1991-074, the only feature recognized on the property for its historic or architectural value was the historic residence, as was the standard for heritage designation under the *Ontario Heritage Act* in the early 1990s. The Joshua Creek Heritage Art Centre was reassessed and then recognized as a significant cultural heritage landscape, which includes, but is not limited to, the historic residence.

COMMENT/OPTIONS:

On October 9, 2018, Council passed By-law 2018-136 by-law to designate the significant cultural heritage landscape of the Joshua Creek Heritage Arts Centre/William Bowbeer Farm on Part 1 of Plan 20R-21170, being a portion of 1086 Burnhamthorpe Road East, as a property of cultural heritage value or interest. This by-law included all features of the historic building described in By-law 1991-074, as well as other structures and landscape features of the property that combine to create the significant cultural heritage landscape.

When By-law 2018-136 was passed, the old By-law 1991-074 remained in place in case of any applications to quash By-law 2018-136 within the one year period following the passage of the by-law. This is due to the provisions of the *Municipal Act*, 2001 s. 273 (5) which states: *An application to quash a by-law in whole or in part, subject to section 415, shall be made within one year after the passing of the by-law.* 2001, c. 25, s. 273 (5). No applications to quash By-law 2018-136 have been made and the property owner has requested that the old by-law be repealed.

Under the *Ontario Heritage Act*, s. 32 (1), a request from a property owner to repeal a designation by-law must be considered within 90 days of the receipt of the request. As the request was received on November 25, 2020, Council must reach a

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resolution and issue the notice of their decision to refuse or intention to repeal before February 23, 2021.

The Heritage Oakville Advisory Committee was consulted regarding the proposed designation repeal on January 19, 2021 and endorsed the recommendation to repeal the by-law.

CONCLUSION:

As no applications have been made to quash By-law 2018-136 and over one year has passed since Council's passage of said by-law, Council may safely repeal the outdated By-law 1991-074, as it is no longer required. The new By-law 2018-136 provides more accurate and thorough protection of the property than By-law 1991-074, as it recognizes the entire significant cultural heritage landscape.

CONSIDERATIONS:

(A) PUBLIC

Notice of intention to repeal a designating by-law is required to be published in a local newspaper with a 30 day objection period.

(B) FINANCIAL

None

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report has been reviewed by the Legal Department, who will work with Heritage Planning staff to register a repealing by-law (subject to receiving no objections/any objections being resolved).

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do
- enhance our cultural environment
- be the most livable town in Canada

(E) COMMUNITY SUSTAINABILITY

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 of the Joshua Creek Heritage Art Centre/ William Bowbeer Farm as a cultural heritage landscape has protected a valuable natural space that includes mature trees and vegetation and a

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habitat for wildlife. This report does not impact the heritage designation of the significant cultural heritage landscape.

APPENDICES:

Appendix A – By-law 1991-074

Appendix B – By-law 2018-136

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