

Subject: Heritage Easement Agreement - 50 The Driveway

File Number: ACS2022-PIE-RHU-0038

Report to Built Heritage Sub-Committee on 3 October 2022

and Council 5 October 2022

**Submitted on September 20, 2022 by Court Curry, Manager, Right of Way,
Heritage and Urban Design Services, Planning, Real Estate and Economic
Development Department**

Contact Person: MacKenzie Kimm, Planner III, Heritage Planning Branch

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Ward: SOMERSET (14)

Objet : Entente de servitude patrimoniale – 50, The Driveway

Dossier : ACS2022-PIE-RHU-0038

Rapport au Sous-comité du patrimoine bâti

le 3 octobre 2022

et au Conseil le 5 octobre 2022

**Soumis le 20 septembre 2022 par Court Curry, Gestionnaire, Services des
emprises, du patrimoine et du design urbain, Direction générale de la
planification, de l'immobilier et du développement économique**

Personne ressource : MacKenzie Kimm, Urbaniste III, Planification du Patrimoine

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Quartier : Somerset (14)

REPORT RECOMMENDATIONS

That the Built Heritage Sub-Committee recommend that Council:

- 1. Enact a by-law providing for the entering into of a Heritage Easement Agreement with the owners of 50 The Driveway under Section 37 of the**

Ontario Heritage Act for the purposes of conserving the cultural heritage values of the property;

2. **Direct staff to finalize, execute and register a Heritage Easement Agreement for the property at 50 The Driveway on title, with substantially the same terms as contained in the draft Heritage Easement Agreement, 50 The Driveway attached as Document 3; and**
3. **Delegate authority to the General Manager, Planning, Real Estate and Economic Development Department to make necessary minor changes to the Heritage Easement Agreement and its associated plans and drawings as described in Section 11.9 of the draft Heritage Easement Agreement in Document 3.**
4. **Suspend the notice required under Subsections 29(3) and 34(1) of the Procedure By-law to consider this report at its meeting on October 5, 2022 in order to decide this matter within the legislated timeline**

RECOMMANDATIONS DU RAPPORT

Que le Sous-comité du patrimoine bâti recommande ce qui suit au Conseil :

1. **Adopter un règlement municipal régissant la conclusion d'une entente de servitude patrimoniale avec les propriétaires du 50, The Driveway, en vertu de l'article 37 de la *Loi sur le patrimoine de l'Ontario*, afin de conserver la valeur de la propriété sur le plan du patrimoine culturel;**
2. **Enjoindre au personnel de finaliser, signer et inscrire au titre foncier une entente de servitude patrimoniale visant le 50, The Driveway, selon des modalités sensiblement identiques à celles figurant dans le document 3 (entente provisoire de servitude patrimoniale, 50, The Driveway); et**
3. **Déléguer au directeur général de Planification, Immobilier et Développement économique le pouvoir d'autoriser les modifications mineures nécessaires à l'entente de servitude patrimoniale et aux plans et croquis qui s'y rapportent, comme le décrit la section 11.9 de l'entente provisoire de servitude patrimoniale (document 3).**
4. **La suspension de l'avis requis en vertu des paragraphes 29(3) et 34(1) du Règlement de procédure afin qu'il examine le présent rapport lors de sa**

réunion du 5 octobre 2022 pour trancher à cet égard dans les délais prévus par la loi.

BACKGROUND

The property at 50 The Driveway currently contains a three-storey red brick and concrete building constructed in 1965 as the headquarters of the Canadian Nurses Association (CNA) and is located at the edge of the Centretown neighbourhood in the area known as the Golden Triangle. Situated at the intersection of The Driveway and Lewis Street (see Documents 1 and 2, Location Map and Photos), the building is set into the landscape and includes a paved parking lot area on its west side. The property is separated on its east from the Rideau Canal World Heritage Site by the Queen Elizabeth Driveway and its landscaped buffer area.

In response to a demolition permit received in July 2020, staff initiated the review of the property at 50 The Driveway for its potential designation under Part IV of the *Ontario Heritage Act* (OHA). Staff determined that the property has significant cultural heritage value for its architectural quality and innovative design by local architect James Strutt, association with the Canadian Nurses Association and its location in Centretown. A special meeting of the Built Heritage Sub-committee was called in August 2020, but subsequently cancelled, as the City and the owner, through their agent, agreed to put the designation and demolition processes on hold to have further discussions about the future of the property. Since putting both the designation and demolition processes on hold, staff worked with the owner through the development review process to ensure that the cultural heritage values and important attributes of the CNA building could be conserved.

Official Plan and Zoning By-law Amendment applications were submitted in July 2021 for a proposal to construct a nine-storey apartment building on site that would incorporate the Canal-facing portion of the former Canadian Nurses Association Headquarters as well as its concrete lantern component into the new construction. The project will require the removal of the remainder of the existing building on site following careful deconstruction and storage of the identified attributes for their reconstruction. The Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) applications required to facilitate this project were approved by City Council in March 2022 ([ACS2022-PIE-PS-0019](#)). An appeal to the Ontario Land Tribunal was received but has since been withdrawn; these approvals are now in effect.

Concurrently with the OPA and ZBA applications, Council approved an approach to ensure the conservation of the cultural heritage values of this property ([ACS2022-PIE-](#)

[RHU-0008](#)). This approach included listing the property on the City's Heritage Register once the owner had withdrawn the submitted demolition permit, and the addition of a holding zone to the property, requiring the owner to enter into a Heritage Easement Agreement under Section 37 of the *Ontario Heritage Act* with City. This heritage easement agreement is intended to identify the cultural heritage values and attributes to be conserved as part of this project as well as provide the details of how they will be conserved as part of the new construction project. The applicant has withdrawn the demolition permit and the property is listed on the Heritage Register.

An application for Site Plan Control ([D07-12-22-0100](#)) was submitted in June 2022 and is currently under review.

DISCUSSION

Recommendations 1 and 2

Under Section 37 of the *Ontario Heritage Act*, the Council of a municipality may enter into an easement agreement with the owner of any real property for the purpose of conserving its cultural heritage value or interest. An easement agreement under this section of the OHA allows for a negotiated and shared understanding of the cultural heritage value of the property and how to conserve these values into the future.

Under the OHA, it is a statutory requirement that BHSC be consulted before entering into the Heritage Easement Agreement that would provide the direction for any demolition, deconstruction, reconstruction, rehabilitation and conservation of the identified attributes of the CNA building. Heritage and legal staff have prepared the draft Heritage Easement Agreement in collaboration with the owner. Staff are recommending approval of the draft Agreement and that a by-law be enacted to allow staff to finalize, execute and register on property title.

Summary of the Easement Details

50 The Driveway is listed on the City's Heritage Register. Accordingly, a "heritage permit" is not required to approve proposed alterations to the property. The owner has agreed to enter into a Heritage Easement Agreement with the City under the OHA in order to conserve the heritage attributes of the property over the long term. The Heritage Easement Agreement also includes the provision of a Letter of Credit to ensure the reconstruction of the building on site.

The Heritage Easement Agreement is intended to facilitate the conservation of the identified cultural heritage values and attributes of the CNA building as defined in the

Statement of Cultural Heritage Value (included as Schedule B to the Agreement). This statement reflects the portions of the existing building to be retained, deconstructed, and reconstructed for incorporation into the new building on the site. Accordingly, the Heritage Easement Agreement focuses on the Canal-facing portion of the existing CNA building as well as the relocated concrete lantern. Importantly, the Agreement details the scope of the conservation and rehabilitation work provided in the applicant's Cultural Heritage Impact Statement and Conservation Strategy (Schedule C) and outlines the expectations for how that work will be undertaken in accordance with recognized heritage conservation principles and practices.

While it is not anticipated that many future alterations will be necessary once the new construction is completed, the owner has agreed to seek approval for any future work to the identified heritage attributes of the building. The Agreement outlines the process to be followed and any submission requirements. The inclusion of this term will ensure the on-going conservation of the cultural heritage values and attributes in the long term.

Heritage and Planning staff will continue to work with the owner to finalize the associated Site Plan Control Agreement. It is anticipated that the details of an interpretation plan as well as a lighting plan for the lantern will be provided through a condition of the Site Plan Agreement. Staff will continue to work with interested stakeholders and the owner to develop the interpretation plan that speaks to the themes identified in the applicant's Cultural Heritage Impact Statement.

Recommendation 3

The applicant has provided the most recent versions of the proposed elevations and plans to be included as Schedule E to the draft agreement. The final versions are intended to form part of the Agreement to be registered on property title. There are also some outstanding comments from a Planning and Urban Design perspective to resolve through the Site Plan Process. These may result in refinements and other minor changes to the plans as the Site Plan Control application is finalized, or as the project proceeds to the working drawing phase. Additionally, although the applicant has undertaken investigation and prepared a comprehensive plan for the careful deconstruction, revisions to the plan or the agreement may be necessary to reflect conditions that may not be determined until after initial work begins. This recommendation has been included to allow the General Manager for Planning, Real Estate and Economic Development Department to approve these types of changes to the plans and elevations and to update the Heritage Easement Agreement as necessary, provided that the revisions are in line with Council's approved heritage

approach, the OPA and ZBA applications. This recommendation also provides delegated authority to review and approve potential future alterations to the new construction that may be more substantial, provided that they do not impact the identified heritage attributes of the former CNA building or lantern.

Conclusion

The objective of entering into this Heritage Easement Agreement is to ensure that the cultural heritage values as expressed through the identified heritage attributes will be maintained and conserved by the owner and that no changes shall be made to the Canal-facing portion of the CNA building or concrete lantern that would adversely impact the cultural heritage values of the property. Staff are recommending approval of the Heritage Easement Agreement at 50 The Driveway.

Policy Context

The Official Plan, the Provincial Policy Statement and the *Ontario Heritage Act* all provide policy direction related to the conservation and protection of individual properties under the *Ontario Heritage Act*.

Official Plan

In November 2021, City Council approved a new Official Plan. The Plan has been sent for Ministerial approval by the province. Once approved by the province, it will replace the previous Official Plan. Until then, staff have regard to both Plans, applying the most stringent policy.

Both the previous and Council-approved Official Plan have policies related to heritage. Section 2.5.8 (21) of the City's previous Official Plan (2003) stated that:

“...the City will support its objective to conserve cultural heritage resources and to promote the stewardship of those resources by: [...] c) entering into heritage easement agreements with owners of designated properties or properties eligible for heritage designation.”

Section 4.5.1 policy (8) of the approved Official Plan notes that “the owners of built heritage resources will be encouraged to enter into a heritage easement agreement where the City considers additional protection beyond designation desirable due to the location, proposed alteration, and/or the nature of the property.”

Provincial Policy Statement

Section 2.6.1 of the Provincial Policy Statement contains the following policy regarding the protection of cultural heritage resources: “Significant built heritage resources and significant cultural heritage landscapes shall be conserved”.

Staff have reviewed this proposal and have determined that it is consistent with the Provincial Policy Statement, 2020.

Ontario Heritage Act

Section 37 (1) of the *Act* provides the municipality the ability to enter into easements or covenants with owners for the conservation of properties of cultural heritage value or interest. An easement must be registered on title.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

The Site Plan Control Application including revised elevations were posted on the City’s Development Application website in July 2022. The file has also benefited from a visit to the Urban Design Review Panel in July 2022.

Heritage staff and the owner have committed to continue discussions with The Strutt Foundation, the National Capital Commission and Heritage Ottawa to inform the interpretation plan, as outlined in the Heritage Easement Agreement.

COMMENTS BY THE WARD COUNCILLOR(S)

The Councillor is aware of this report, as well as the Site Plan Control application related to this report.

LEGAL IMPLICATIONS

There are no legal implications associated with implementing the report recommendation. The *Ontario Heritage Act*, Section 37(1), authorizes the municipality to enter into easements or covenants with owners for the conservation of properties of cultural heritage value or interest. Such easement is to be registered on title to the property.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with the recommendations in this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with the recommendations in this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

The new building will be required to meet the accessibility criteria contained within the *Ontario Building Code*. The *Accessibility for Ontarians with Disabilities Act* requirements for site design are being reviewed through the concurrent application for Site Plan Control.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- Thriving Communities: Promote safety, culture, social and physical well-being for our residents.

SUPPORTING DOCUMENTATION

Document 1 Location Map

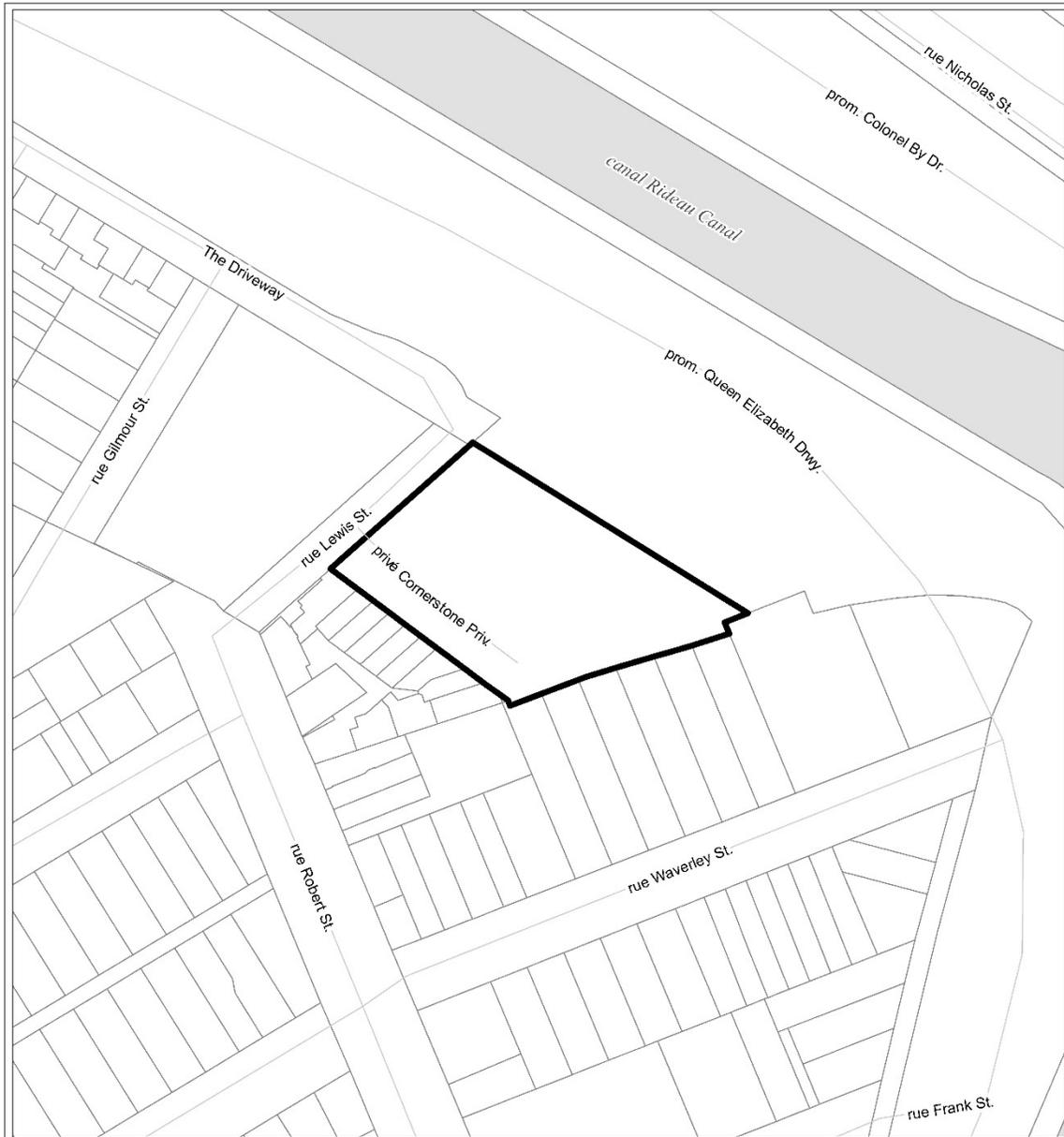
Document 2 Photos, 50 The Driveway

Document 3 Draft Heritage Easement Agreement

DISPOSITION

If the recommendations associated with this report are approved, Heritage and Legal staff to finalize, execute and register the final agreement on property title.

Document 1 – Location Map



		LOCATION MAP / PLAN DE LOCALISATION HERITAGE / PATRIMOINE	
D09-01-50THED	22-0886-L	 50 The Driveway	
I:\CO\2022\Heritage\Driveway_50			
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REVISION / RÉVISION - 2022 / 09 / 08			

Document 2- Photos, 50 The Driveway



Aerial photo showing the property at 50 The Driveway outlined in red.



View of the east elevation from The Driveway.



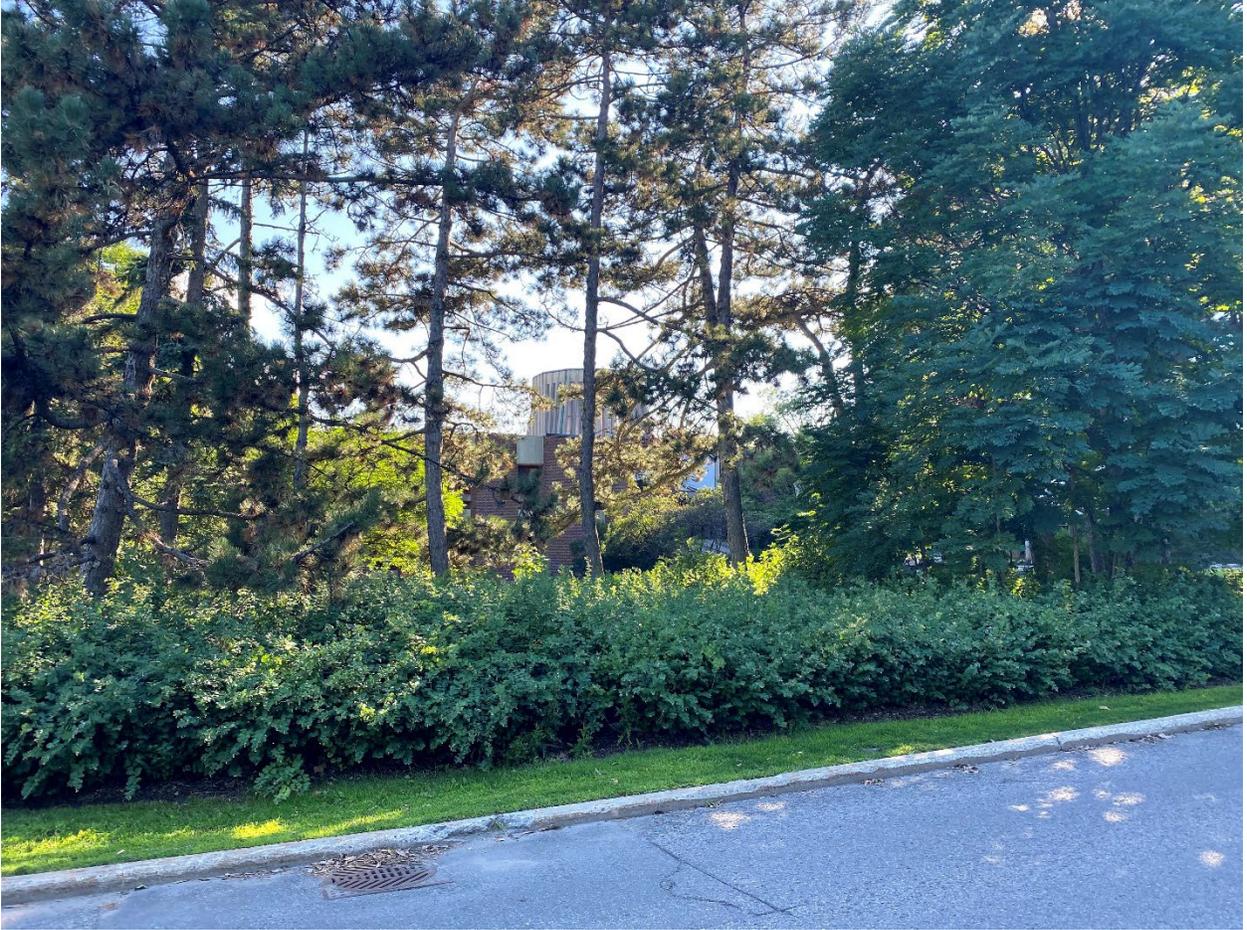
View of the east façade, from the south.



View of the west elevation from Lewis Street.



View of the north elevation from Lewis Street.



View of the lantern from the Queen Elizabeth Driveway