



# Municipality of Port Hope

## Staff Report

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### Report Title: Heritage Permit Application for 65 Ward Street

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**Report to:** Council

**Date of meeting:** February 15, 2022

**Report Author:**

LHC | Heritage Planning and Archaeology and Todd Davis, Director of Planning & Development

**Department responsible:**

Planning & Development

**Report Number:** PD-03-22

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### Recommendation:

Refer to Resolutions.

### Highlights:

- The property is currently subject to a Notice of Intention to Designate (“NOID”) under Part IV Section 29 of the Ontario Heritage Act and, therefore, is required to be treated as if it is designated, requiring a Heritage Permit Application before demolition.
- A formal Notice of a Complete Heritage Permit Application was sent on 26 November 2021 and Council must make a decision by 24 February 2022.
- An agreement between the Municipality of Port Hope and Southbridge was made on 6 September 2019, amended on 15 December 2020, and further amended on 11 November 2021 stating that the NOID will be withdrawn provided that Southbridge prepare and submit applications and obtain the necessary approvals in accordance with all applicable legislation and bylaws including heritage.
- A Heritage Impact Assessment (HIA) and an addendum to the HIA were submitted recommending that a Documentation and Salvage Report as well as a Commemoration Plan be a condition of Site Plan Approval.
- The HIA was peer reviewed, found to be fundamentally complete and in accordance with the guidance for HIAs outlined in the Ontario Heritage Tool Kit, and recommended that a revised HIA addendum with additional details for clarity around the proposed development be submitted.

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## Background:

In October 2021, MHBC Planning, Urban Design & Landscape Architecture –heritage consultants for Southbridge Care Homes Inc. applied for a Heritage Permit to demolish the buildings and structures located at 65 Ward Street in the Municipality of Port Hope. This property is currently subject to a Notice of Intention to Designate under Part IV Section 29 of the Ontario Heritage Act (OHA). A non-binding Conservation Review Board (CRB) recommendation was received by Council in accordance with the requirements of the OHA. The property is required to be treated as if it is designated and a Heritage Alteration Permit (**Attachment 1**) is required before demolition may take place.

On 26 November 2021 municipal staff sent MHBC formal Notice of a Complete Heritage Permit Application—File number 2021-27 In accordance with the OHA, Part IV, Section 34, (4.2, 4.3, 4.4) Council is required to make a decision regarding the application after consultation with the municipal heritage committee (4.2). In order to meet the established time period for decision (4.3) Municipal Council has 90 days to make a decision from the notice of complete application date and to serve notice of decision to the property owner. To meet the 90 day time period for decision the notice must be served by 24 February 2022 requiring this matter come directly before council. Should no decision be made by 90 days the owner can deem that Municipal Council has consented to the application (4.4).

LHC | Heritage Planning and Archaeology (LHC) has been retained by the municipality to help facilitate a number of heritage planning files and matters in the absence of a credentialed heritage planner on staff. Based on previous work done on peer review related to the 65 Ward Street HIA, familiarity with file, expertise and experience in heritage planning matters and a significant municipal planning staff shortage, LHC was directed to facilitate the municipal aspects of the Heritage Alteration Permit application process for this file.

This matter was discussed at both Heritage Port Hope meetings, December 12, 2021 and January 17, 2022 with LHC providing a draft report (**Attachment 1**) to the committee with a heritage planning assessment for LHC's recommendation to consent to the application, subject to such terms and conditions as proposed in the HIA and its addendum.

The Property is located east of downtown Port Hope on the south side of Ward Street between Princess Street and Hope Street South. It is a 1.08-hectare rectangular lot with the northeast corner extending in a point at the Ward Street and Hope Street South intersection. Deciduous trees border the Property and grass lawns are found in front of the two buildings. The Property includes four buildings with a parking lot between the buildings. The buildings are detailed in and include:

- the former Port Hope Hospital;
- Cottage Hospital;
- Power House; and,
- Hope Terrace Care Facility.

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Designation Process to Date:

The following provides a timeline the OHA designation process to date:

- Municipal Council passed a resolution to publish a Notice of Intention to Designate the property on 11 April 2018.
- On 19 April 2018 the Notice of Intention to Designate was published.
  - The owner filed an objection.
- On 11 February 2019 a Conservation Review Board hearing commenced. CRB Case Number CRB1813. Three issues were before the CRB:
  - Whether the Property has cultural heritage value or interest as prescribed by Ontario Regulation 9/06 and should therefore be designated under Section 29 of the OHA;
  - What the boundaries of the property are for the purposes of designation; and,
  - Which built assets on the Property should be included as heritage attributes in the designation.
- In summary the CRB found:
  - That the property does have cultural heritage value or interest under the criteria of Ontario Regulation 9/06;
  - The boundaries of the property for the purposes of designation are the entire parcel; and,
  - The former Port Hope Hospital, Cottage Hospital and Power House are built assets that should be included as heritage attributes.

The CRB recommended that the property be designated under Part IV Section 29 of the OHA. The CRB recommended that a designation by-law be reworded to confirm the designation applies to the entire parcel—including the Hope Terrace Care Facility—but that heritage attributes only concern:

- the buildings and spaces on Lots 26-31 which include the physical relationship between the three buildings (former Port Hope Hospital, Cottage Hospital and Power House);
- views of the three buildings from the exterior of the property including setbacks and lawns; and,
- a number of specific heritage attributes of the former Port Hope Hospital, Cottage Hospital and Power House.

As per the OHA at the time of the hearing, the CRB is considered a non-binding review body, and Council is not bound by its decision under the OHA; a final decision to designate a property remains with the local Municipal Council.

Development Agreement:

Southbridge and the Municipality of Port Hope entered into an agreement on 6 September 2019. This agreement was amended on 15 December 2020 (the First Amending Agreement) and further amended 11 November 2021 (the Second Amending Agreement). The original agreement (**Attachment 2**) and their amendments

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acknowledge in their recitals an intention to ensure the development of a long-term care facility on the site will proceed.

The primary focus of the agreements is the withdrawal of the NOID and the conditions necessary to achieve this outcome. There are six conditions that have been agreed to by Southbridge which are:

1. prepare and submit to the Municipality all of the applications (in accordance with applicable legislation and bylaws) including all supporting documents required in connection therewith that the Municipality requires in order to issue all of the required municipal approvals for the Project including, but not limited to, site plan approval pursuant to section 41 of the Planning Act RSO 1990 c.P13 as amended, building permits and demolition permits;
2. participate in the usual planning application processes with the Municipality;
3. execute and register on title to the Subject Lands a site plan agreement in a form acceptable to the Municipality;
4. have all mortgagees and encumbrancers having an interest in the Subject Lands sign the required site plan agreement for the purpose of postponing their respective interests in the Subject Lands;
5. pay to the Municipality all of the required fees and charges associated with such applications and permits when they become due and payable; and
6. provide written confirmation addressed to the Municipality from the architect and construction manager for the Project confirming that fully executed agreements are in place with them for the construction of the Project.

In the process of meeting the first condition and governed by the second condition, Southbridge has come forward to seek a heritage alteration permit for demolition of the buildings on the property. The documentation requested by the Municipality in support of the heritage permit application include:

- A Heritage Impact Assessment (prepared March 2018);
- An addendum to the Heritage Impact Assessment (prepared April 2021); and,
- A heritage permit application (deemed complete 26 November 2021).

The submitted supporting documents are required in connection with all municipal *Planning Act* approvals for the project including the permit application before council in this report. Having received the HIA and addendum the municipality engaged Letourneau Heritage Consultants (LHC) to provide a peer review of the materials.

The HIA, Addendum and Peer Review have been made publicly available on [myporthope.ca](http://myporthope.ca)

#### MHBC Heritage Impact Assessment and Addendum:

Heritage specialists with the firm MHBC prepared a Heritage Impact Assessment (HIA) for the property for March 2018. This document was prepared by Vanessa Hicks, MA, and Dan Currie, MA, MCIP, RPP, CAHP.

The HIA concluded that:

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- The property has significant cultural heritage value;
  - The former Port Hope Hospital, Cottage Hospital and Power House meet the criteria for determining significant cultural heritage value or interest according to Ontario Regulation 9/06;
  - The property is a cultural heritage landscape according to the definition in the Provincial Policy Statement (2014); and,
  - The proposed development will have adverse impacts to the property, to both the buildings and cultural heritage landscape.

The HIA also concluded that if the proposed development should proceed appropriate mitigation measures include a Cultural Heritage Documentation and Salvage Report and Commemoration Plan be drafted and implemented. This HIA also recommended the Powerhouse be repaired and conserved. The property would still be considered a cultural heritage landscape under the 2020 PPS.

In April 2021 an addendum to the HIA was prepared by MHBC. This addendum was the result of changes to the proposed design for the property which include demolition of all buildings on the property and construction of a larger new building. It also assessed impacts to two adjacent properties at 18 Princess Street and 64 Ward Street at the request of the Municipality.

This addendum concluded that:

- Proposed demolition will result in adverse impacts on the property;
- The proposed new building will not have adverse impacts on the two adjacent properties assessed.

The addendum recommended:

- That a Cultural Heritage Documentation and Salvage Report be required as a condition of Site Plan Approval (and undertaken prior to the demolition of buildings located on-site) which includes:
  - Detailed photographic documentation (interior and exterior);
  - Measured architectural drawings of all exterior elevations;
  - Measured floor plans;
  - Recommendations for items to be salvaged as opposed to being deposited as landfill; and
- That a Commemoration Plan be required as a condition of Site Plan Approval in order to:
  - Provide recommendations for appropriate commemoration of the buildings and the landscape, which may include commemorative plaques, landscape features, or other.
  - Provide recommendations for where salvaged elements could be incorporated into commemoration measures.

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**Discussion:**

LHC Peer Review:

In February 2021 LHC was retained by the Municipality to complete a Peer Review on the MHBC HIA and Addendum. This was before the Municipality retained LHC to provide the heritage planning support for the Municipality on an interim basis.

LHC found that the HIA and addendum were prepared by qualified individuals and are generally complete. The HIA and addendum examined the history and included photographic documentation of the property. They included a review of relevant legislation and policy. The HIA and addendum assessed impacts to the cultural heritage value or interest of the property and examined alternatives and mitigation measures. LHC concluded that the HIA and addendum could have included more detail to better illustrate an understanding of the property and its buildings. It could also have included more detail describing and illustrating the proposed development.

LHC recommended a revised HIA addendum with additional details for clarity around the proposed development but found that the HIA and addendum were fundamentally complete and follow the guidance for HIAs outlined in the Ontario Heritage Tool Kit. LHC found that the HIA and addendum provides supporting documentation and evidence to its recommendations.

Evaluation:

- The property 65 Ward Street demonstrates cultural heritage value or interest and the CRB has recommended designation.
- Municipal Council published a Notice of Intention to Designate the property under the Ontario Heritage Act.
- Council has also entered into an agreement with the owners of the property to withdraw the Notice of Intention to Designate when specific conditions are met.
- The property owners were asked for an HIA for their development. This was followed by an addendum to the HIA when the proposed project was revised.
- LHC prepared a Peer Review of the HIA and addendum on behalf of the municipality. LHC found that the HIA and addendum were generally complete.
- The property owners through their heritage consultants have applied for a heritage alteration permit for demolition of the buildings on the property.
- The heritage alteration permit was deemed complete on November 26, 2021 and Council has 90 days (until 24 February 2022) to consider and make decision about the application.

The property has been treated as if it is designated following the requirements of the Ontario Heritage Act. Preparing and publishing a Notice of Intention to Designate for the property and requiring an HIA follows the Municipalities Official Plan policies and requirements for cultural heritage conservation. The relevant sections of the Act and OP are included in the legislative policy and context section of Attachment 1 to this report.

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The buildings on the property are heritage attributes and demolition is typically not best practice for cultural heritage conservation for a property that has cultural heritage value or interest. While this may be the best practice, the Municipality entered into a development agreement for the withdrawal of the NOID acknowledging in the fourth recital:

“AND WHEREAS completion of the project will require the demolition of certain buildings on the subject lands including, but not limited to, the Hospital Buildings;”

Recognizing that demolition of heritage buildings is a requirement of the proposed development and considering them to be designated in the context of the NOID the municipality anticipated the heritage alteration permit application as part of the planning and development process.

To meet the cultural heritage requirements for a heritage alteration permit an HIA and its addendum were required as supported through the policies of the Municipality's Official Plan. The HIA and addendum have been submitted and are complete. The owner is seeking the heritage alteration permit for demolition of the buildings on the property. The heritage consultants for the owner have recommended that a heritage documentation report, salvage plan and commemoration report be prepared as a condition of site plan approval.

A heritage documentation plan, salvage plan and commemoration plan are forms of “preservation by record” and may save some historic features of the buildings for reuse in the proposed development or for use on other historic properties in or around the municipality. These plans enable a community to remember a historic place after it is removed. While not an ideal form of cultural heritage conservation, these are tools that save and record something of a cultural heritage resource when the decision is made to allow demolition, which Municipal Council has agreed to when their requirements have been met.

The owners and their heritage consultants have provided documentation requested of them in support of their heritage alteration permit application. This documentation has been deemed complete. Additional cultural heritage reports including a Heritage Documentation Report, Salvage Plan and Commemoration Report should be required as a condition of site plan approval and is supported by both the municipality's heritage planning consultants LHC and Southbridge's heritage consultant MHBC Planning.

It should be noted that granting the Heritage Demolition Permit in principle as per the application 2021-27 would be conditional on Southbridge achieving a Site Plan Agreement between themselves and the municipality. Being conditional, no work can take place to remove the buildings until a Site Plan Agreement is achieved and the conditions of that agreement are cleared. This would include the completion of the reports and plans recommended as conditions to granting the heritage alteration permit application.

Further, granting the permit is one requirement in the process of removing the NOID which will still require Southbridge to meet all of the municipal planning approvals for zoning and site plan to proceed with the project.

**Heritage Port Hope:**

On November 26, 2021 the Heritage Permit Application for 65 Ward Street, File Number 2021-27 was deemed complete. The application was discussed at the December 12, 2021 Heritage Port Hope meeting with direction that LHC would prepare a staff report with recommendation for discussion at the January meeting prior to it coming to council at a future date.

At the January 17, 2022 meeting of Heritage Port Hope the matter of the demolition permit was considered in the context of the HIA, NOID and LHC's peer review both with a delegation and presentation from MHBC (Attachment 1). Committee members expressed concern that the entire application had not been included in the agenda package and staff committed to providing that information to committee. The entire application has subsequently been circulated and is available to the public here:

<https://www.myporthope.ca/65-ward-street>

The committee in its advisory capacity discussed and voted to decline granting the heritage demolition permit. It is anticipated that it will be reflected as such in the minutes of the committee.

**Next Steps:**

- Council considers the heritage alteration permit application, the recommendation of the Heritage Port Hope Advisory Committee, and Municipal Staff to make a decision.
- Municipal Council provide the applicant with notice of their decision.

**Financial Considerations:**

There are no anticipated negative financial implications imposed on the Municipality because of implementing staff's recommendations as outlined in this report.

**Communication and Public Engagement:**

Information and documents related to the redevelopment of the 65 Ward Street site have been available on the municipality's public consultation site here:

<https://www.myporthope.ca/65-ward-street>

This matter was discussed at the January Heritage Port Hope meeting, the committee voted against providing the heritage demolition permit as is reflected in the meeting minutes.

The municipality has received 174 individual pieces of correspondence related to the applications for heritage demolition permit and zoning by-law amendment (coming to council in a separate report) for 65 Ward Street. An overview of the correspondence would indicate that 170 were opposed to and 4 were in favour of the development. All correspondence has been circulated to members of Council.

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The municipality will serve notice of decision as legislated to all of the relevant parties within the required timeframe.

In accordance with the OHA, Part IV, Section 34, (4.2)(c) the municipality “shall publish its decision in a newspaper having general circulation in the municipality. 2019, c. 9, Sched. 11, s. 12.”

**Conclusion:**

In the 2019 Development Agreement the Municipality consented to the conditions under which the Notice of Intention to Designate, acknowledging that heritage buildings would be demolished in completing the development of 65 Ward Street. To fulfil the terms of the agreement the owner and their heritage consultant have provided the required reports and applied for a heritage alteration permit under the Ontario Heritage Act as required by the Municipality by the Development Agreement. The heritage alteration permit application is complete. The heritage consultants for the property owner are qualified professionals and have provided complete documents as part of their heritage alteration permit application.

The recommendation to prepare a Heritage Documentation Report, Salvage Plan and Commemoration Plan as a condition of site plan approval is reasonable.

LHC recommends to Municipal Council to approve the heritage alteration permit application—File number 2021-27—for 65 Ward Street with the condition that the recommendations of MHBC in their HIA Addendum be included as conditions of site plan approval.

**Attachments:**

Attachment 1 – Item 6.1 - 65 Ward St.: Heritage Permit, Staff Report / Recommendations, and Advice to Council, Heritage Port Hope Agenda January 17, 2022

Attachment 2 – Development Agreement between the Municipality of Port Hope and CVH no.6 LP and Southbridge Health Care GP Inc