



## Committee of the Whole Report

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<b>Report Number:</b>	<b>ED2022-011</b>
<b>Meeting Date:</b>	March 8, 2022
<b>Title:</b>	<b>Repeal and Replacement of Heritage Designation By-law – 50 Victoria Avenue North, Lindsay</b>
<b>Description:</b>	Proposed repeal and replacement of By-law 2000-068 designating 50 Victoria Avenue North under Part IV of the Ontario Heritage Act
<b>Author and Title:</b>	Emily Turner, Economic Development Officer – Heritage Planning

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### Recommendations:

**That** Report ED2022-011 **Repeal and Replacement of Heritage Designation By-law – 50 Victoria Avenue North, Lindsay**, be received;

**That** the Municipal Heritage Committee’s recommendation to repeal and replace Town of Lindsay By-law 2000-068 to designate 50 Victoria Avenue North be endorsed;

**That** staff be authorized to issue a Notice of Repeal and Notice of Intention to Designate 50 Victoria Avenue North, Lindsay;

**That** a designating by-law be brought forward for adoption at the next Regular Council meeting following the end of the notice period;

**That** a by-law to repeal By-law 2000-068 be brought forward for adoption at the next Regular Council meeting following the end of the notice period; and

**That** this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## **Background:**

50 Victoria Avenue North in Lindsay was designated under Part IV of the Ontario Heritage Act prior to amalgamation by Town of Lindsay By-law 2000-068. The property contains the former Victoria County Jail which closed in 2003 with the opening of the Central East Correctional Centre and is currently owned by the City of Kawartha Lakes. At present, it is occupied by the Old Gaol Museum, which is operated by the Victoria County Historical Society and has a lease with the City. By-law 2000-068 is attached to this report as Appendix A.

At its meeting of August 10, 2021, Council reviewed a proposal by Building and Property staff to demolish the outer courtyard walls at the property. These walls were constructed in the late 1980s to replace the historic walls at the jail and were in a poor state of repair. At the same time, staff recommended that the older by-law which designated the property be reviewed and amended to reflect the current requirements of the Ontario Heritage Act and to appropriately identify the heritage significance and features of the property which were not well articulated in the original by-law. This recommendation regarding the by-law was in response to amendments to the Ontario Heritage Act which came into effect on July 1, 2021 and now require Council to review designation by-laws when a demolition is proposed to decide whether an amendment to the by-law is warranted in order to reflect the heritage attributes of the property after the demolition.

In response to the staff recommendations, Council adopted the following resolution:

### **CR2021-366**

**Moved By** Councillor Yeo

**Seconded By** Councillor Veale

**That** Report ED2021-023, **Demolition of Courtyard Walls - 50 Victoria Avenue North, Lindsay**, be received;

**That** the demolition of the courtyard walls be approved;

**That** components of the wall be retained for historical recognition; and

**That** staff be directed to present a recommendation regarding the amendment of the designating by-law for the property by the end of Q1, 2022.

**Carried**

This report responds to the direction to present a recommendation regarding the designating by-law for the property.

Staff have reviewed the existing by-law and are proposing that the original designating by-law should be repealed and replaced in order to reflect the current conditions of the property and to bring the by-law into compliance with the current requirements under the Ontario Heritage Act. The adoption of a new by-law would be instead of amending the existing by-law for the property.

Prior to Council receiving the recommendation from staff and a new by-law for the property, a recommendation is required from the Municipal Heritage Committee. The Committee received and reviewed the new by-law at its meeting of February 3, 2022 and passed the following resolution:

**KLMHC2022-023**

**Moved By** I. McKechnie

**Seconded By** Councillor Ashmore

**That** Report KLMHC2022-012, **Repeal and Replacement of Designating By-law – 50 Victoria Avenue North, Lindsay**, be received; and

**That** Town of Lindsay By-law 2000-68 be repealed and replaced with the by-law attached as Appendix B to this report;

**That** this recommendation be forwarded to Council for approval.

**Carried**

**Rationale:**

The amendments to the Ontario Heritage Act require Councils to consider the amendment or repeal of a designating by-law when a full or partial demolition is approved. Specifically, this allows heritage attributes which are no longer extant to be removed from the by-law or for the designation to be repealed if the demolition renders the property without cultural heritage value. In the case of 50 Victoria Avenue North, the original designating by-law was created both prior to amalgamation and prior to the creation of criteria for designation and standards for designation by-laws which required them to include both a statement of significance and a list of heritage attributes. As a result, the existing by-law is inadequate to properly identify what makes the property significant and the approved demolition of the courtyard walls provides an opportunity

to revisit the by-law to ensure it is accurate and conforms to current standards. The demolition of the courtyard walls brought this issue with the by-law to light as there was no identification within By-law 2000-068 as to whether or not the walls, which were a later addition to the mid-nineteenth century jail, contributed to the cultural heritage value of the property, which significantly complicated the discussion and decision-making process surrounding the proposed demolition.

Staff are proposing to repeal and replace the by-law as opposed to amending it. The reason for this recommendation is because the original by-law was passed by the former Town of Lindsay and no longer reflects the by-law format used by the City of Kawartha Lakes. The adoption of a new by-law will allow for a clean by-law to be registered on title and guide the future development of the property. An updated City of Kawartha Lakes by-law, as opposed to a Town of Lindsay by-law, will also make any future amendments of the by-law which may be required easier to consolidate. The disadvantage of repealing and replacing the by-law, as opposed to amending the existing one, is that the repeal of the older by-law and the adoption of a new one leaves the process open to a third-party appeal to the Ontario Land Tribunal, which the amendment of the older by-law does not. However, staff do not anticipate any appeals with regard to this process as it is in the interest of both the City, as the property owner, and the community to have a new and more thorough by-law which complies with current provincial requirements to protect this important property. The property's tenant is also in support of this route.

The proposed new by-law, which is attached to this report at Appendix B, is in compliance with the new regulations regarding mandatory requirements for heritage designation by-laws as identified in Ontario Regulation 385/21. The regulation requires that new heritage designation by-laws include:

- Identifying information regarding the address and location of the property;
- Identification of where the heritage features of the property are located;
- A statement of significance outlining how the property fulfils the criteria for designation under Ontario Regulation 9/06; and,
- A description of the heritage attributes of the property and explanation of how they support the reasons for designation.

The intention of these requirements is to ensure that designation by-laws are consistent across Ontario municipalities and contain enough information to allow for informed decision-making about the property when required. As a result, the proposed new by-

law is significantly longer and more in-depth with regard to its scope and analysis of the property and its heritage features than the by-law passed by the Town of Lindsay in 2000. The new by-law also includes a re-evaluation of the significance of the property based on Ontario Regulation 9/06, the criteria for designation under Part IV of the Ontario Heritage Act which did not exist at the time that this property was originally designated. The ways in which the subject property fulfils the criteria under the regulation are identified under Section 5: Statement of Reasons for Designation, as required under the legislation. Further, the new by-law corrects factual inaccuracies in the older by-law, such as the architectural style of the building, and is a more accurate representation of the building, its history, its architectural features, and its significance.

The proposed by-law was circulated to both the Manager of Building and Property, who is responsible for this structure, and the Old Gaol Museum as its tenant. Both are supportive of this update.

## **Provincial Policy Conformity**

### **Provincial Policy Statement (2020)**

The Provincial Policy Statement (PPS) sets the policy foundation for development and land use planning Ontario. The policy intends to balance the needs of growth and economic development with the need for ensuring a high quality of life, public safety and health, and the conservation of natural and cultural heritage resources. Section 2.6 (Cultural Heritage and Archaeology) requires municipalities to conserve significant built heritage resources and significant cultural heritage landscapes as part of the land use planning process, stating that "Significant built heritage resources and significant cultural heritage landscapes shall be conserved."

Significant built heritage resources, as defined by the PPS, are those which have been determined to have cultural heritage value or interest as established by the criteria under the Ontario Heritage Act. These criteria are outlined by Ontario Regulation 9/06. The subject property, which is already been designated under Part IV of the Ontario Heritage Act, has been re-evaluated based on the criteria under Ontario Regulation 9/06, has been found to fulfil those criteria and, therefore, is a significant heritage resource within the municipality. The replacement of its older by-law is the best method for conserving this resource.

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019)**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe was prepared by the Ontario government in order to help guide the land use planning process and assist communities within the Greater Golden Horseshoe achieve a high quality of life, positive economic development, and protection for important local resources.

Section 4.2.7 (Cultural Heritage Resources) requires municipalities to conserve their cultural heritage resources as part of the land use planning process “in order to foster a sense of place and benefit communities”. The Growth Plan defines cultural heritage resources as “built heritage resources, cultural heritage landscapes, and archaeological resources that have been determined to have cultural heritage value or interest for the important contribution that make to our understanding of the history of a place, event, or a people. While some cultural heritage resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation.”

The subject property has been determined to have cultural heritage value or interest through a re-evaluation of the property based on Ontario Regulation 9/06 and therefore requires conservation through designation under Part IV of the Act. This is a landmark property in Lindsay and community benefit would be gained through its ongoing preservation which is best achieved through the replacement of the older by-law.

### **City of Kawartha Lakes Official Plan (2012)**

The City of Kawartha Lakes Official Plan was amended in 2017 to include strengthened cultural heritage policies. Official Plan Amendment 26 outlined those amendments.

Three of the heritage policies speak directly to the conservation of individual heritage properties:

- a) Cultural heritage resources of significant cultural heritage value or interest shall be identified, protected and conserved.
- e) The City shall use the tools available to it under the Municipal Act, the Planning Act, the Environmental Assessment Act, and the Ontario Heritage Act to conserve cultural heritage resources.

- f) Cultural heritage resources shall be maintained in situ and in a manner that prevents the deterioration and conserved the identified cultural heritage values or interest and/or identified heritage attributes of the cultural heritage resource.

The City's policies require it to conserve cultural heritage resources and designation under Part IV of the Ontario Heritage Act is a tool for doing so. In this case, the subject property is already designated under Part IV of the Ontario Heritage Act and its continued conservation is best achieved through the adoption of a replacement by-law which more accurately identifies its cultural heritage value.

### **Other Alternatives Considered:**

Council may choose not to adopt the new by-law in which case By-law 2000-068 would remain in force. This is not a recommended alternative as the new by-law, in addition to bringing the by-law into compliance with current provincial requirements, provides a better starting point for future decision making about this property by clearly identifying what is significant about the site.

Council may also choose to direct staff to prepare an amending by-law, as opposed to repealing the old by-law and replacing it with the proposed new by-law attached as Appendix B, to avoid the potential of a third-party appeal to this process. This is not a recommended alternative as the repeal and replacement of the older by-law has been determined to be the best method, both administratively and from a conservation standpoint, of ensuring the preservation of the property.

### **Alignment to Strategic Priorities**

The designation of property under Part IV of the Ontario Heritage Act supports the following goals from the Council adopted Strategic Plan:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life

The identification and protection of heritage assets in the community through designation promotes an exceptional quality of life by supporting and promoting arts, culture and heritage within the municipality. Designation provides long term protection and management for key heritage resources in the municipality and recognizes their importance to the community. The update of this by-law ensures that long term protection is achieved in accordance with provincial requirements.

The protection of heritage resources in the municipality also assists in the growth of the local economy in general by identifying, protecting, and celebrating places where people want to live, work and visit. It encourages investment in local communities by ensuring and promoting attractive places for residents and businesses to be. It also has a direct impact on developing local tourism through the preservation of sites and landscapes that people want to visit.

### **Financial/Operation Impacts:**

There will be costs for the provision of public notices and registration of the new designation by-law on title, which are covered by the existing Heritage Planning budget.

Should the repeal and replacement of the by-law be appealed to the Ontario Land Tribunal by a third-party, there may be costs associated with the appeal. However, staff do not anticipate an appeal associated with this process.

As the property is City-owned, this new by-law will impact the City in that it will guide the future development of this site and how changes to the property are contemplated. However, the updated wording and clarity in the by-law should make decision-making more straightforward and transparent with regard to this property.

### **Consultations:**

Municipal Heritage Committee  
Manager, Building and Property  
Old Gaol Museum

### **Attachments:**

Appendix A – By-law 2000-68



Adobe Acrobat  
Document

Appendix B – Proposed New By-law (50 Victoria Avenue North)



2022-XXX Designate  
50 Victoria Avenue Nc

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