

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



Report to:	Mayor and Council Members	Priority:	☐ High ☒ Low
Submitted by:	Dave Johnson Planner II – Heritage Planning Development Planning djohnson@cobourg.ca	Meeting Type:	Open Session ☒ Closed Session ☐
Meeting Date:	November 3, 2021		
Report No.:	HP-2020-037		
Submit comments to Council			

Subject/Title: Request to Demolish – 93 Albert Street (Clark)

RECOMMENDATION:

THAT, Planning and Heritage staff has reviewed the documentation associated with the proposed demolition of the residential structure at 93 Albert Street and has concluded that the proposed demolition is consistent with the Commercial Core Heritage Conservation District (HCD) Plan;

FURTHER THAT, it is recommended that Heritage Permit Application HP-2020-037 as submitted by Laurel Baker on behalf of Mike Clark to permit the demolition of a residential structure at 93 Albert Street be endorsed *in principle*, subject to the submission and approval of architectural building design plans and an updated CHIA which demonstrates that the proposed new building(s) will be compatible with the surrounding cultural heritage context of the HCD with respect to height, massing, scale, architectural design and Albert Street streetscape, all to be completed prior to final approval of the Heritage Permit.

1. STRATEGIC PLAN

Places: The Town protects, preserves and promotes its natural assets, heritage, arts, culture and tourism

2. PUBLIC ENGAGEMENT

The Cobourg Heritage Advisory Committee (CHC) operates in accordance with the Advisory Committee and Local Board Policy and Procedures for municipal boards and committees in the Town of Cobourg.

In general, the CHC is comprised of seven (7) members: one (1) member of Council and six (6) citizen members which reflect the diverse interests of the community.

The agenda for a CHC meeting is prepared and distributed to all committee members and is posted on the Municipal Website at least forty-eight (48) hours in advance of the scheduled meeting date, in an electronic format where possible.

Existing heritage legislation does not prescribe public notification or meetings for approval of alterations to designated properties, however the Cobourg Heritage Master Plan and implementing Heritage Conservation District Plans and associated regulations/guidelines underwent extensive public consultation and engagement prior to their approval. Review and approval of Heritage Permits by the Town are undertaken within the context of these documents.

The CHC also receives public delegations and communications/ correspondence from citizens in accordance with the Advisory Committee and Local Board Policy and Procedures for municipal boards and committees in the Town of Cobourg.

3. PURPOSE

To review and approve a demolition request on one Part V (Heritage Conservation District) property and associated justification reports:

1. Cultural Heritage Impact Assessment report prepared by Bob Martindale, MCIP, CAHP, of Martindale Planning Services in association with D. L. Bryan, P. Eng., OAA, MRAIC, CAHP, of Barry Bryan Associates dated September 2020.
2. Peer Review of Cultural Heritage Impact Assessment prepared by Haley Devitt Nabuurs, MPI- Heritage Planner and Benjamin Holthof, MPI, MMA, CAHP – Heritage Planner of LHC, Heritage Planning and Archaeology dated May 12, 2021.
3. Revised Cultural Heritage Impact Assessment report prepared by Bob Martindale, MCIP, CAHP, of Martindale Planning Services in association with D. L. Bryan, P. Eng., OAA, MRAIC, CAHP, of Barry Bryan Associates dated July 15, 2021.
4. Update to Peer Review, CHIA 93 Albert Street prepared by Marcus Letourneau, PhD, MCIP, RPP, CAHP – Managing Principle, Senior Heritage Planner and Benjamin Holthof, MPI, MMA, CAHP – Heritage Planner of LHC, Heritage Planning and Archaeology dated September 13, 2021.

4. ORIGIN AND LEGISLATION

An application for a Heritage Permit Application was received on November 10, 2020, from Laurel Baker on behalf of Mike Clark to undertake a full demolition of 93 Albert St. (currently a 1 ½ residential building).

The subject property is located in the Commercial Core Conservation District designated under Part V of the Ontario Heritage Act and by By-law #27-90 as amended by By-law #118-91 and by By-law #042-2016

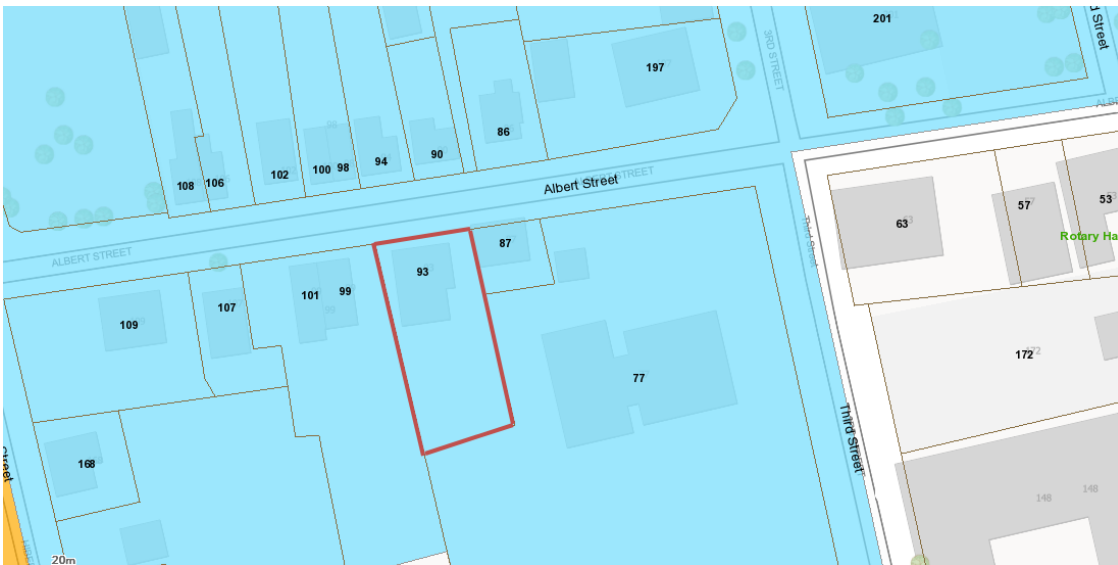
In October 2020, the proponent attended a Cobourg Heritage Advisory Committee for a pre-consultation to present their plans for the subject property and to get feedback on the prepared CHIA. As noted, the Heritage Permit was received on November 10, 2020 for the demolition of the residential structure. The Cobourg Heritage Advisory Committee recommended a Peer Review of the submitted Cultural Heritage Impact Assessment. The Director of Planning and Development agreed and a search for a consultant began. After a few months the Town chose LHC | Heritage Planning and Archaeology in February 2021. Municipal staff received the Final Peer Review report on May 12, 2021 and was forwarded to the proponents consultant team. Subsequently, the original CHIA document was updated on July 15, 2021 to be in conformity with the Town's Cultural Heritage Impact Assessment Terms of Reference. Municipal staff and the Town's heritage consultant met at the subject property with the proponent for a tour of the heritage resource on July 23rd, 2021. The Town's heritage consultant submitted a response letter to the updated CHIA on September 13th, 2021.

Proposed Scope of Work

1. Demolition of a District designated structure – See Appendix A Cultural Heritage Impact Assessment (CHIA), Appendix B Peer Review of 93 Albert CHIA, Appendix C Updated Cultural Heritage Impact Assessment and Appendix D Response Letter from the Town's heritage Consultant.

5. BACKGROUND

The subject property at 93 Albert Street is located on the south side of Albert Street, in between Hibernia and Third Streets.



Above: The subject properties are shown outlined in red within the context of the Commercial Core Heritage Conservation District (indicated in blue). The properties shaded in orange are part of the West Heritage Conservation District.

Historical and Architectural Context

93 Albert St.

Please see appendix A & C, CHIA and Appendix E – Heritage Property Report

6. ANALYSIS

The Town of Cobourg's Heritage Master Plan was adopted by Council in 2016 to direct conservation and management of the Town's heritage resources. As part of this project, the existing Heritage Conservation District guidelines for all of the Town's Heritage Conservation Districts designated under Part V of the Ontario Heritage Act were reviewed, and Heritage Conservation District Plans were prepared. The Commercial Core Heritage Conservation District Plan was adopted by By-law 042-2016 on May 24th, 2016.

The Plan contains policies and guidelines for conservation and the management of growth and change in the Commercial Heritage Conservation District. Policies are requirements that must be followed when undertaking alterations to buildings or changes to properties. Guidelines are best-practice suggestions to be considered when undertaking alterations to buildings or changes to properties.

The following section of this report provides excerpts from the Commercial Core Heritage Conservation District Plan that are relevant to the evaluation of the proposed scope of work.

9.0 Demolition and removal of buildings and structures

Building demolition is not prohibited by the Ontario Heritage Act, but it will be actively discouraged within the Commercial Core Heritage Conservation District. Property owners are encouraged to work with existing heritage buildings, altering

and adding to them in a sympathetic manner, rather than demolishing and building anew.

9.1 Demolition of buildings and structures

Policies

a) The demolition of buildings and structures that contribute to the architectural or historic character or heritage attributes of the district shall not be permitted. Exceptions may only be considered:

- i. In extenuating circumstances such as natural disasters (e.g., fire, flood, tornado, and earthquake),
- ii. Where there is a greater public interest served, as determined by Council, through the demolition of the building or structure, or
- iii. Where it is determined through a Heritage Impact Assessment that the building is not a contributing structure to the heritage character of the District.

b) Further to 9.1.a.i), other extenuating circumstances shall generally constitute those situations where public health and safety is considered to be compromised and the Town of Cobourg's Chief Building Official has received structural assessment advising that a building or structure is beyond repair and has been determined to be unsafe. The structural assessment must be prepared by a professional engineer with expertise and experience in heritage buildings and structures.

The property owner shall demonstrate that all other options have been investigated including: preservation; rehabilitation; restoration; retro-fitting; re-use; mothballing; etc. and that they are not viable options.

c) Where Council considers an application for demolition under 9.1.a.ii), financial impact shall not be the sole reason in determining that demolition is a greater public interest.

d) Should a heritage permit for demolition of a building that contributes to the heritage character or heritage attributes of the District be submitted to the Town, the following conditions shall be met:

- i. The property owner shall retain an appropriately qualified heritage professional to evaluate the potential loss to the cultural heritage value of the District in support of the demolition request of a heritage building, in the form of a heritage impact statement/assessment.
- ii. It shall be required that the property owner shall provide drawings for a new building / site landscaping with the heritage permit application. In extenuating circumstances where demolition has been required as a result of natural disaster or public safety concerns, once a building has been demolished and the property is considered to be in a stable and safe state the property owner shall submit the required heritage permit

application for a new building and / or site landscaping within six months of site clearance.

- iii. A record of the building or the remains of the building through photography and/or measured drawings may be required as a condition of demolition approval, at the discretion of Town Planning Staff and/or the Heritage Committee.

Within two years of that submission, or as mutually agreed upon by the property owner and the Town of Cobourg (but in no case greater than 5 years), if new construction has not been completed, the provisions of the Ontario Heritage Act shall apply with respect to contraventions of the Act.

Prior to Council's adoption of the Commercial Core Heritage Conservation District (HCD) Plan in 2016, Heritage Permit applications were primarily evaluated against the Town of Cobourg's Heritage Conservation District Guidelines and Parks Canada's Standards and Guidelines for the Conservation of Historic Places in Canada. The Commercial Core Heritage Conservation District Plan provides the same level of heritage conservation using best practices as expressed in the Standards and Guidelines for the Conservation of Historic Places in Canada, while continuing with a similar management of future change and potential new development within the Commercial Core Heritage Conservation District Plan as the previous Heritage Conservation District guidelines. The Commercial Core Conservation District Plan is also consistent with the 2005 changes to the Ontario Heritage Act, the 2020 Provincial Policy Statement and the Ontario Heritage Toolkit.

CHIA (Martindale Planning Services) September 2020 – Appendix A Demolition

The CHIA submitted by the applicant provides an overview of the background and history of the subject property, a condition assessment, a brief description of proposed development, conclusions and recommendation. Notably missing was a thorough statement of cultural heritage value, an O/Reg 9/06 evaluation of cultural heritage value or significance and a list of heritage attributes, among other missing requirements that the Cobourg Heritage Advisory Committee noted, and the Peer Review confirmed (see below for further discussion) this concern.

The first iteration of the CHIA did not meet the Town's Terms of Reference, and thus it was recommended for Peer Review by the Cobourg Heritage Advisory Committee, and the Director of Planning and Development agreed. The CHIA was Peer Reviewed at the cost to the applicant.

CHIA Peer Review (LHC) May 2021 – Appendix B

In February 2021 the Town of Cobourg retained LHC Heritage Planning and Archaeology to undertake a Peer Review of the Cultural Heritage Impact Assessment prepared by Martindale Planning Services in Association with Barry Bryan Associates. Based on LHC's review and evaluation the CHIA's

completeness and heritage planning arguments, the professional opinion expressed by LHC is that the CHIA does not include all information required by the Municipality's Terms of Reference and the Ontario Heritage Tool-kit. LHC notes that the CHIA does not contain enough information and analysis to support demolition and redevelopment of the subject property. LHC also noted there are areas that should be expanded in the CHIA. These include: details concerning the proposed development, impact assessment, considered alternatives and conservation strategies.

The Peer Review contains a legislative and policy context, provides the existing conditions of 93 Albert St., and the review of the CHIA and conclusions and recommendations for the Municipality. The evaluation for completeness of the CHIA is found in chart form in Section 4, and also contains an evaluation of the heritage planning argument, or the efficacy. There are 7 areas identified that are incomplete, 5 areas that are partially complete and 7 areas that are complete as it relates to the Town's CHIA Terms of Reference. The evaluation of the heritage planning argument found that: The CHIA is unclear about why it was required, The CHIA does not include a statement of significance and does not assess the property using Ontario Regulation 9/06, the CHIA does not consider alternatives, the CHIA does not recommend conservation strategies and the CHIA does not reference conservation principles and precedents.

LHC recommends that the CHIA be revised before the Municipality accepts it, and that the following specific items be addressed:

- The CHIA should be revised to clearly indicate that it is only focused on the demolition of the main building on site and does not address a new design.
- The CHIA should include a statement of significance based on an assessment of the Property from O. Reg. 9/06.
- The CHIA should identify a list of potential heritage attributes of the house.
- The CHIA should describe and discuss alternative options to demolition.
- If demolition is the best option after consideration of alternatives the CHIA should clarify why –from a heritage conservation perspective—this is the best option.
- The CHIA should consider options for salvage and re-use of heritage attributes of the house if feasible.
- If work should proceed, the CHIA should recommend conservation strategies to protect adjacent heritage properties during work on the Property; this should include the applicability of a temporary protection plan (TPP).
- The CHIA should recommend archaeological work if required by the municipality.
- The CHIA should reference conservation principles and precedents as required by the Town's OP and ToR.

LHC recommends that the proponent have a structural engineering report for the house prepared by an engineer with demonstrable experience working with heritage structures, such as a member of the Canadian Association of Heritage Professionals (CAHP). This report should independently assess the physical condition of the house separate from the proponent's plan to demolish and replace it and consider the viability of the structure for rehabilitation and renovation. Based on the review of the materials provided, it is unclear what experience the project engineer has in this type of analysis or if they are a CAHP member.

Figure 1: Recommendations from LHC CHIA Peer Review, May 2021

Updated CHIA (Martindale Planning Services), July 2021 – Appendix C

Based on the above and following the CHIA Peer Review, Martindale Planning Services and the proponent accepted the conclusions and recommendations of the Peer Review and as such the Peer Review was updated to be in compliance with the Town's CHIA Terms of Reference in particular there is now an Ontario Regulation 9/06 evaluation, a statement of significance, an impact of development section, potential alternative and mitigation strategy, a conservation principles and precedents section and a more meaty recommendation and conclusion section. Notably still missing is an independent report from an Engineer in good standing with the Canadian Association of Heritage Professionals, however, staff have been informed that one is being prepared.

With the Updated CHIA, we have a clearer sense of the impact of the proposed development on heritage attributes, as found in section 6. The CHIA notes that the proposed development would have a significant impact on any remaining heritage attributes in that they would be lost. However, given the intent is to rebuild and replicate what is there now, the loss could be viewed as negligible, and that any impact to the streetscape would also be minimal, and that the heritage character of the streetscape could be retained.

Update to Peer Review, CHIA 93 Albert St., LHC, September 2021 – Appendix D

LHC reviewed the updated CHIA against the recommendations of the Peer Review for compliance with the Town's CHIA Terms of Reference. LHC provided a matrix and showed whether the updated areas are complete or not. Overall, the update to the Peer Review found the revised CHIA addressed the recommendations of the earlier Peer Review. Though, it did not address the recommendation for salvage and re-use of heritage attributes, as the update mentions, the condition of the building itself renders this recommendation to be not feasible.

The proposed demolition has been evaluated against the Commercial Core HCD Plan, specifically the policies related to demolition of buildings and structures. It is my conclusion that, while the HCD Plan generally discourages demolition, the proposal has been appropriately justified through a Cultural Heritage Impact Assessment, as per the requirements of the HCD Plan. This particular property has been through extensive review, however, Although the property may have once exhibited cultural heritage value, most, if not all of the evidence of its construction has significantly deteriorated over time and is unfortunately one of those properties that succumbed to "demolition by neglect" after years of neglect by previous owners.

Letter Received by Cobourg Heritage Advisory Committee – Summary

A letter from Robert Mikel was received in November 2020 that objected to the demolition of the house at 93 Albert St. based on the information available at that time. Mr. Mikel contributed research to the original CHIA report, however, he did not agree with its recommendations, and he had no input in making them and he did not receive a stipend for the research he provided. Mr. Mikel makes a number of points that the original CHIA report seemed to try to diminish its architectural

significance summarized here: First, he notes that changes and damage to the interior should not be used as justification to demolish the structure, as major changes to interiors occur all the time, unless the interior has a specific designation. It is possible to change the interior and to maintain the architectural integrity of the exterior.

Second, he notes that the CHIA quoted that “the seemingly authentic or original façade,” Mr. Mikel says the façade is authentic and that the exterior of the house retains most of its original 19th century fabric including its original form and shape, doorway, roofline, brick work and window arrangement. Mr. Mikel makes the argument that the fact that the early windows and the front porch do not survive does not mean that “much of the architectural character of the house has been lost.” Although the porch was removed and is regrettable, Mr. Mikel notes, it does not form a critical part of the house’s architectural integrity and that many houses in Cobourg have similar porches that have been removed they still retain their architectural significance and that old photo’s still exist, the porch and Victorian windows could be recreated.

Mr. Mikel questions the engineer’s structural report from Dobri Engineering in that the report lists structural problems with the house but does not say that the building should be condemned and demolished. The Dobri report notes “the structural repairs which need to be completed are excessive and it would be best to demolish the building.” Mr. Mikel notes that there is no question there are structural issues with the house. The descriptive terms “excessive” and “best” are in his opinion subjective. In economic terms there are no comparables – how much would it cost to demo the existing house vs. building a new replica? Mr. Mikel argues that the cost could vary greatly depending on the quality of the replica. In cultural terms – what does it mean to the Town and the streetscape? The continual loss of authentic heritage can have long terms economic impacts. Mikel notes that many buildings in much worse conditions have been restored or rehabilitated including Victoria Hall. Mr. Mikel argues “that if the cultural assessment determines the building is important architecturally, historically and contextual, the recommendation should be that ways should be found to preserve the structure, though I confess I don’t know the scope of these reports.”

Mr. Mikel concurs with the cultural assessment report that replica buildings are not generally the way to go. But in case where the building that is being replaced is of architectural and historically important or the integrity of the streetscape is threatened than much more rigour is required to guide the replacement and recreating the building in my opinion is the best option.

“I would ask that should the building be allowed to be demolished (at some point) — that a demolition permit not be issued unless a proposed replica of the significant portion of the house or something superior in quality has been submitted to the town and approved by the Heritage Board and the town.”

Please note that Mr. Mikel will receive a copy of the updated CHIA and this report prior to the CHC meeting.

Redevelopment

Normally, when the Municipality is considering a request for demolition within any of the Town's four (4) Heritage Conservation Districts, the applicant is to provide architectural plans/renderings of the proposed new building/development pursuant to Section 9.1 d) of the HCD. It is understood that proponents are leery of expending further resources in advance of knowing whether a demolition proposal is approved and thus tend to refrain from submitting detailed re-development plans at the demolition request stage. The proponent has not submitted any renderings to date.

Planning and Heritage staff proposes that the requested demolition be endorsed by the CHC *in principle*, subject to architectural plans being submitted and a CHIA update to include fulsome review of the proposed development. This will require an evaluation of height, massing, scale and design and also provide a thorough review of how it fits in with its surrounding context within the HCD, generally, and the Albert Street streetscape, specifically.

Recommended Path Forward:

- i. November 3 Cobourg Heritage Committee meeting: CHIA/Peer Review/Updated CHIA/LHC response letter to updated CHIA and staff report for demolition of 93 Albert Street, be endorsed *in principle with conditions*;
- ii. Scoped or Addendum, CHIA be prepared along with proposed architectural building designs that are more advanced, including but not limited to:
 - a. Architectural schematic design drawings;
 - b. Accurate coloured renderings and/or 3D modelling illustrating building placement and interaction with the existing heritage streetscape of Albert Street;
 - c. Fulsome commentary on the design, scale, massing, height and relation to Albert Street streetscape;
- iii. New development may trigger an application for Site Plan Approval depending on its scope; and,
- iv. Heritage and Building Permits for demolition and new building.

In summary, I am of the opinion that the proposed demolition and submitted CHIA/Peer Review/Updated CHIA/Response Letter meets the intent of the Commercial Core HCD Plan *for the proposed demolition only*. It is Planning and Heritage staff believe that the proposed demolition has been justified through the extensive review the subject property has been through. Though the structure may appear from the street to be in relatively good shape, this is regrettably not the case. It is my recommendation that the demolition request be endorsed *in principle*, subject to the submission of improved architectural building design drawings and a new scoped/updated CHIA.

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

N/A

8. CONCLUSION

While Heritage and Planning Staff generally dissuade the demolition of built heritage fabric, the owner has provided sufficient justification through the preparation of an amended Cultural Heritage Impact Assessment (CHIA) for staff to recommend endorsement *in principle* of the demolition at 93 Albert St. Normally the proponent would submit drawings for a proposed new building(s) pursuant to Section 9.1 d) of the HCD Plan, however, as it stands there are no plans available. Heritage and Planning staff has proposed a path forward that endorses the demolition request *in principle*, subject to the submission of building drawings, schematics and renderings and an updated CHIA which analyzes the proposed massing, height, scale, design and how the new building fits in the Albert Street streetscape within the context of the existing HCD and adjacent cultural heritage resources. This is a similar path forward as other recent projects on College and King Street West that did not have final plans completed for the new development but had a defensible CHIA for only the demolition portion of the project.