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Town of Aurora

# General Committee Report

No. PDS22-085

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**Subject:** Notice of Objection to Notice of Intention to Designate 34 Berczy Street under Part IV of the *Ontario Heritage Act*

**Prepared by:** Brashanthe Manoharan, Planner/Heritage Planning

**Department:** Planning and Development Services

**Date:** July 5, 2022

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## Recommendation

1. That Report No. PDS22-085 be received; and
2. That the designation by-law be brought before Council for enactment.

## Executive Summary

The purpose of this report is to advise Council of the Notice of Objection to the Notice of Intention to Designate 34 Berczy under Section 29(IV) of the *Ontario Heritage Act*. This report seeks to provide Council with the necessary information to implement Council's previous decision to designate 34 Berczy as a property of Cultural Heritage Value or Interest under Section 29(IV) of the *Ontario Heritage Act*.

- The Heritage Advisory Committee's Working Group performed an evaluation and concludes that 34 Berczy Street is worthy of heritage designation, following discussions on June 7, 2021 and February 7, 2022 Heritage Advisory Committee meetings.
- A Notice of Intention to Designate 34 Berczy Street under Section 29(IV) of the *Ontario Heritage Act* was served on the May 12, 2022 in accordance with the requirements of the *Ontario Heritage Act*.
- A Notice of Objection to the Notice of Intention to Designate was received on May 27, 2022.

## Background

### Application History

On January 29, 2020, the Town of Aurora's Planning and Development Services received an Official Plan Amendment and Zoning By-law Amendment applications (File no.: OPA-2020-01 & ZBA-2020-01) for the development of an 7-storey mixed use building on the properties municipally known as 26, 30, 32, 34-38 Berczy Street. The application was under review by the Town and subsequently appealed to the Ontario Land Tribunal on November 25, 2021.

On March 5, 2020, the Heritage Advisory Committee's Evaluation Working Group met with Planning Staff to perform an evaluation of the subject properties based on the Town's Heritage Evaluation Guidelines. 26, 32 and 38 Berczy Street were scored between 45 to 69 out of 100, which suggested they may be worthy of heritage designation. 34 Berczy Street was scored 85 out of 100, which suggested the property is worthy of designation.

On June 7, 2021, the Heritage Advisory Committee (HAC) considered a request to remove 26, 32, 34-38 Berczy Street from the Town's Heritage Register. This request was submitted by the owner following submission of applications for Official Plan and Zoning By-law Amendments (File no.: OPA-2020-01 & ZBA-2020-01). The Committee inquired about the March 2020 heritage evaluation working group assessment and expressed disappointment that the buildings had not yet been designated as it was deemed worthy of designation despite the previous modifications. The Committee suggested that, rather than be demolished, the building at 34 Berczy Street be rehabilitated and integrated into the proposed new development, in addition to robust documentation and commemoration.

On February 7, 2022, HAC considered the designation of 34- 38 Berczy Street under Part IV of the *Ontario Heritage Act* and the delisting of 26 & 32 Berczy Street from the Aurora Register of Properties of Cultural Heritage Value or Interest. The Committee expressed support for the designation of the 26, 32, and 34-38 Berczy Street properties.

On April 5, 2022, Council considered the designation of 26, 32, 34-38 Berczy Street whereby the following resolution was passed at the April 26, 2022 Council meeting:

1. That Report No. PDS22-013 be received; and

2. That 34 Berczy Street be designated under Part IV of the *Ontario Heritage Act* as properties of Cultural Heritage Value or Interest; and
3. That Council remove 26, 32, and 38 Berczy Street from the Aurora Register of Properties of Cultural Value or Interest conditional upon the submission of a detailed Site and Building Documentation and a fulsome Historical Report inclusive of properties both north and south of Mosley Street, and a detailed Commemorative Plan.

### **Ontario Heritage Act**

34 Berczy Street is a non-designated property listed on the Town's Heritage Register. According to Section 27 of the *Ontario Heritage Act*, a Municipal Register of Cultural Heritage Value or Interest may include properties that have not been designated under the *Ontario Heritage Act*, but that the Council of a Municipality believes to be of cultural heritage value or interest.

The *Ontario Heritage Act* enables municipalities to pass a by-law to individually designate a property of cultural heritage value or interest. Individual properties being considered for heritage designation must meet one or more of the prescribed criteria from the O. Reg. 9/06, with respect to design or physical value, historical or associative value, and contextual value.

### **Analysis**

**The Heritage Advisory Committee's Working Group performed an evaluation and concludes that 34 Berczy Street is worthy of heritage designation, following discussions on June 7, 2021 and February 7, 2022 Heritage Advisory Committee meetings.**

The Heritage Advisory Committee's Evaluation Working Group scored 34 Berczy Street as 85/100, which places the building in Group 1, suggesting that the building is worthy of designation. Although the architectural integrity may have been compromised over the years, HAC is of the opinion that 34 Berczy Street is of significant historical and contextual value due the direct association with the Sisman Shoe Company and its notable contributions to Aurora's history. HAC stated that the industrialist nature and location of the site and proximity to rail corridor speaks to the significance property, as it facilitated the shipment of Sisman shoes and boots across Canada and beyond.

**A Notice of Intention to Designate 34 Berczy Street was served on the May 12, 2022 in accordance with the requirements of the *Ontario Heritage Act*.**

Following the April 26, Council meeting, A Notice of Intention to Designate (the “Notice”) 34 Berczy Street was served on the property owner, the Ontario Heritage Trust, and was published in the newspaper on May 12, 2022 (Attachment 1).

**A Notice of Objection to the Notice of Intention to Designate was received on May 27, 2022.**

A Notice of Objection was received on May 27, 2022 from the property owner, 2601622 Ontario Inc. (Attachment 2). It is stated that the owner is prepared to work with Town staff on the development proposal but continues to have concerns with the extent of the reasons for the designation of 34 Berczy Street. The Notice of Objection further states that the reasons for opposing the designation are as previously outlined in the Heritage Impact Assessment prepared by ERA Architects Inc. dated April 15, 2021 (enclosed within Attachment 2).

### **Advisory Committee Review**

Not applicable.

### **Legal Considerations**

In accordance with the *Ontario Heritage Act*, Council shall consider this objection and make a decision whether or not to withdraw the Notice to designate the property, within 90 days after the end of the 30-day notice period. The 90-day deadline is on September 9, 2022.

If Council withdraws the Notice, then notice of the withdrawal must be given to the property owner, any person who objected, and the Trust and also published in the local newspaper. If Council decides to not withdraw the Notice thereby continuing with the designation of the property, then the designation by-law for the subject property must be brought forward to Council for approval within 120 days after the date of publication of the Notice.

The development applications relating to 34 Berczy Street have been appealed and are before the Ontario Land Tribunal (the “Planning Appeals”). In order to meet timelines relating to the Planning Appeals, if the decision is to continue with the designation of the property, staff will add the designating by-law to the Council meeting scheduled on July 12. Anyone may appeal the passing of the designating by-law to the Ontario Land Tribunal for a hearing. It is anticipated that the property owner will appeal the passing

of the designation by-law and will consolidate this appeal together with the Planning Appeals so that all matters relating to the property may be heard together.

If the by-law is not passed within 120 days of the Notice, then the Notice is deemed to be withdrawn and notice of the withdrawal must be given to the property owner, any person who objected and the Trust and published in the local newspaper.

## Financial Implications

There are no direct financial implications arising from this report.

## Communications Considerations

On May 12, 2022 a Notice of Intention to Designate was served on the property owner, Ontario Heritage Trust (the “Trust”), and published in the local newspaper in accordance with the requirements in the *Ontario Heritage Act*.

## Climate Change Considerations

The recommendations from this report does not impact greenhouse gas emissions or impact climate change adaptation.

## Link to Strategic Plan

The conservation of heritage resources supports the Strategic Plan goal of ***Supporting an Exceptional Quality of Life for All*** through its accomplishment in satisfying requirements in objective ***Celebrating and Promoting our Culture***.

## Alternative(s) to the Recommendation

1. That Council withdraw the Notice of Intention to Designate 34 Berczy Street.

## Conclusions

A Notice of Objection was received on May 27, 2022 by Aird & Berlis LLP on behalf of the property owner, 2601622 Ontario Inc. This report seeks to provide the necessary information to implement Council’s previous decision to designate 34 Berczy as a property of Cultural Heritage Value or Interest under Section 29(IV) of the *Ontario Heritage Act*.

## **Attachments**

Attachment 1 – Notice of Intention to Designate dated May 12, 2022

Attachment 2 – Notice of Objection dated May 27, 2022

## **Previous Reports**

General Committee Report No. PDS22-013 - Report to Designate 26, 32, and 34-38 Berczy Street under Part IV of the *Ontario Heritage Act* – April 5, 2022

Heritage Memorandum – Report to Designate 34-38 Berczy Street under Part IV of the Ontario Heritage Act and to Delist 26 & 32 Berczy Street from the Aurora Register of Properties of Cultural Heritage Value or Interest - February 7, 2022

## **Pre-submission Review**

Agenda Management Team review on June 16, 2022

## **Approvals**

Approved by Marco Ramunno, Director, Planning and Development Services

Approved by Doug Nadorozny, Chief Administrative Officer