



**City of Kingston  
Report to Heritage Kingston  
Report Number HK-19-011**

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**To:** Chair and Members of Heritage Kingston  
**From:** Lanie Hurdle, Acting Chief Administrative Officer  
**Resource Staff:** Paige Agnew, Director, Planning, Building & Licensing Services  
**Date of Meeting:** February 20, 2019  
**Subject:** Application for Heritage Permit under the *Ontario Heritage Act*  
**Address:** 87 King Street East P18-1013  
**File Number:** P18-124-2018

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**Executive Summary:**

The subject property at 87 King Street East is located at the southeast corner of the intersection of King Street East and Simcoe Street. The subject property contains a two-and-a-half-storey brick house constructed circa 1909. It was designated under Part V of the *Ontario Heritage Act* in 2015 through By-Law Number 2015-67 as part of the Old Sydenham Heritage Conservation District (HCD).

An application for alteration under Section 42 of the *Ontario Heritage Act*, File Number P18-124-2018, has been submitted to request approval to construct a rear addition linking the original house and the detached garage. The addition includes a second garage, an elevator allowing accessible access to all floors of the house, a new accessible entrance at grade on the west elevation, two roof top decks and the replacement of the existing sun room on the second floor. Additionally, the applicant is proposing to replace the existing entrance door on the west elevation, which is accessed via the verandah.

This application was deemed complete on January 18, 2019. The *Ontario Heritage Act* provides a maximum of 90 days for Council to render a decision on an application to alter a heritage building under Section 42(4). This timeframe will expire on April 18, 2019.

**Recommendation:**

**That** Heritage Kingston supports Council's approval of the following:

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**That** alterations to the property at 87 King Street East, be approved in accordance with the details described in the application (File Number P18-124-2018) which was deemed complete on January 18, 2019, with said alterations to include the construction of a rear addition linking the original house and detached garage; the replacement of the existing sun room on the second floor with roof top deck above; the replacement of two dormer windows on the rear elevation; the construction of an elevator shaft; and the replacement of the existing entrance door on the west elevation; and

**That** the approval of the alterations be subject to the following conditions:

1. A Building Permit shall be obtained;
2. A Minor Variance shall be obtained, if necessary;
3. Details pertaining to the design of the windows, entrance doors and garage door shall be submitted to Heritage Planning staff to ensure their compatibility with the architectural style and composition of the original house and to ensure compliance with the City's Policy on Window Renovations in Heritage Buildings;
4. Details of the finalized colour scheme for the fibre cement board and shingle siding on the new addition shall be submitted to Heritage Planning staff to ensure that the heritage attributes of the property are conserved;
5. Details pertaining to the design of the wood brackets on the soffit of the eave shall be submitted to Heritage Planning staff to ensure that their design is subtly different from the original brackets on the main house;
6. Details pertaining to the glass railings on the roof top decks shall be submitted to Heritage Planning staff to ensure their compatibility with the architectural style of the original house;
7. Details pertaining to the roofing materials for the new dormer windows and the flat roof of the roof top deck entrance, shall be submitted to Heritage Planning staff to ensure their compatibility with the architectural style of the original house; and
8. Any alteration that interfaces with the brickwork of the original house shall comply with the City's Policy on Masonry Restoration in Heritage Buildings.

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**Authorizing Signatures:**

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**Lanie Hurdle, Acting Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Deanne Roberge, Acting Commissioner, Corporate & Emergency Services	Not required

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**Options/Discussion:****Description of the Application**

The subject property at 87 King Street East is located at the southeast corner of the intersection of King Street East and Simcoe Street (Exhibit A). The subject property contains a two-and-a-half-storey brick house constructed circa 1909. It was designated under Part V of the *Ontario Heritage Act* in 2015 through By-Law Number 2015-67 as part of the Old Sydenham HCD.

An application for alteration under Section 42 of the *Ontario Heritage Act*, File Number P18-124-2018, has been submitted to request approval to construct a rear addition linking the original house and the detached garage. The addition includes a second garage, an elevator allowing accessible access to all floors of the house, a new accessible entrance at grade on the west elevation, two roof top decks and the replacement of the existing sun room on the second floor. Additionally, the applicant is proposing to replace the existing entrance door on the west elevation, which is accessed via the verandah. The application was first presented as a pre-consultation to Heritage Kingston at the November 21, 2019 meeting and has since been revised based on the feedback received from the Committee and staff. Architectural drawings and other supporting information prepared by the applicant is included as Exhibit B to this report. The owner(s) of the subject property have authorized Ray Zaback of Shoalts and Zaback Architects Ltd. to act as their agent for this Heritage Permit application.

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

This application was deemed complete on January 18, 2019. The *Ontario Heritage Act* provides a maximum of 90 days for Council to render a decision on an application to alter a heritage building under Section 42(4). This timeframe will expire on April 18, 2019.

**Reasons for Designation**

The subject property is included in the Old Sydenham HCD created pursuant to Part V of the *Ontario Heritage Act* in 2015. The property contains a two-and-a-half-storey brick house in the Edwardian Classical style. Designed by Joseph Power, the house was constructed in 1909 and is evaluated as being "significant" to the Old Sydenham HCD. The form describes the building as a:

"3-bay, 2 ½ storey brick house on a stone foundation. All four of this building's elevations are visible from King and/or Simcoe Street."

The full Property Inventory Evaluation Form for 87 King Street East has been included as Exhibit C of this report.

**Cultural Heritage Analysis**

Staff visited the subject property on October 22, 2018. The house has a noteworthy architectural presence, is surrounded by mature trees and vegetation and occupies a prominent corner along



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the King Street Corridor. Its north, east and west elevations are highly visible from the King Street East streetscape and from Simcoe Street, the rear elevation is also visible. From the exterior, the house appears to have been well maintained and has retained its architectural integrity. For example, the brickwork and wood detailing (eaves and brackets) look to be in good condition and the house appears to retain all of its original wood windows. Beyond the addition of the sun room at the southwest corner of the building above the verandah, which was likely constructed not long after the house was built, there have been no obvious exterior alterations.

This application proposes a significant rear addition linking the original house and the detached garage, which has the effect of altering the architectural composition of the rear elevation and given its location on a prominent corner, will also impact the side views of the house from the east and west. This application does not propose any repairs or alterations to the original house. The assessment of this addition is summarized below through references to the relevant sections of the Old Sydenham HCD Plan.

### **Sections 1.0, 3.0 and 4.0**

These sections do not directly apply to the evaluation of this proposal. Section 1.0 provides an introduction and history to the designation of the Old Sydenham HCD, an explanation of what an HCD is, describes the contents of an HCD Plan, provides the legislative background for an HCD designation and lastly highlights the benefits of HCD designation.

Sections 3.0 and 4.0 include the introduction to the District Guidelines and the guidelines for Building Conservation. This application does not propose any repair, preservation or restoration activities proposed to the original building, and as such, these guidelines are not applicable.

### **Section 2 (Statement of Objectives)**

Section 2.2 provides a Statement of Cultural Heritage Value or Interest for the entire District. This statement is comprised of a value statement as well as a list of heritage attributes, which are those physical components of the District that express its cultural heritage value. In assessing the impact of this application on the District, the key question that staff must answer is whether the proposed alterations conserve the District's heritage attributes or whether they will have a negative impact. Additionally, Section 2.3 of the Plan provides a description of sub-area heritage attributes, and again staff must determine whether the proposal will conserve or negatively impact these attributes. This proposal is located in the King Street Corridor and its attributes are described in Section 2.3.1. Through the evaluation of this proposal, staff find that the proposal conserves the heritage attributes of the District and of the King Street Corridor. The following is a list of the heritage attributes that the proposal has the ability to impact, and it has been determined that the proposal conserves them (a full list of heritage attributes for the District and the sub-areas can be found in the District Plan):

The District:

- Varied ages, styles and types of buildings, with both vernacular and architect-designed; examples of over two centuries of architectural styles;
- A compact scale comprised of street width, building height (predominantly 2-3 storeys) and setback;
- Trees lining streets and dominating rear yards;

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- A generally high standard of care for buildings and landscapes; and
- Physical evidence and historical associations with every stage of Kingston's history.

King Street Corridor:

- Buildings that form a strong street edge;
- Prominent residential and commercial buildings at street corners;
- Buildings and building groups associated with the work of prominent Kingston architects that display a high degree of craftsmanship and design merit;
- Boulevards with mature tree and shrub landscape planting shading sidewalk and street; and
- Areas of archaeological potential and significance.

Section 2.5 (Designation Goals and Objectives) speaks to the goals and objectives for the District as a whole, Heritage Buildings, Landscape and Streetscape, and Land Use. The application supports the goals as presented, specifically in relation to the goals for Heritage Buildings. The proposed addition conserves the cultural heritage value and attributes of the property and through its improved accessibility, allows for a more sustainable continuing use of the building. Furthermore, the proposal complies with the accepted principles and standards for heritage conservation outlined in the Plan.

Lastly, this proposal complies with the policies for the District and Heritage Buildings as outlined in Sections 2.6.1 and 2.6.2. Specifically, the proposal will maintain the distinct heritage character of Old Sydenham and the alterations proposed in this application are being undertaken in accordance with the policies and guidelines in the District Plan.

Section 5 of the Old Sydenham HCD Plan establishes a policy framework for the consideration of "Building Alterations and Additions". The proposal has been considered against these policies as summarized below.

### **Section 5.2.2 (Additions)**

The design of the addition has benefited from multiple rounds of design review by Heritage Kingston and staff, which has led to substantial changes in the detailing of the addition. Initially, staff and the Committee both felt that the addition appeared overly institutional and commercial in character and was not compatible with the architecture of the original house. This primarily related to the at-grade accessible entrance and the roof top deck entrance. These elements have been revised and are now "complementary to the main building and clearly secondary in terms of size", being an explicit policy objective of the Plan. The addition of wood eaves and brackets to portions of the new addition, including the roof top deck entrance as well as multi-paned windows, has the effect of softening the institutional character of the addition and complements some of the architectural features of the original house.

Section 5.2.2 also speaks to the need for additions to be clearly distinguishable in form and detail from the existing components of the building. Although the brackets and multi-paned windows are being introduced on the addition, the precise design of the brackets can be subtly differentiated from the original house and the new windows will be aluminum clad wood in

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contrast to exposed wood on the house. Additionally, the introduction of new cladding materials (i.e. fibre cement board) will help to make a clear visual distinction and legibility between new and old.

In accordance with Section 5.2.2, the addition is located away from the main street façade, at the rear of the building and does not add to the width of the building. However, given the high visibility of this property from multiple directions, the design of the addition must carefully consider its impact on the architectural composition of the building from all directions. In response to this guideline, the applicant has ensured that each elevation is designed to be compatible with the architecture of the original house. For example, the window patterning on the east elevation of the new addition has been modified to reflect the multi-pane patterning on the west elevation, although this elevation is less prominent than the west elevation, it is still visible from King Street East and will be visually read in the context of the existing east elevation. This consideration would not be so pressing on a building that is located mid-block.

Section 5.2.2 also notes that the height of an addition should be no more than that of the main building and, preferably lower, in order to clearly distinguish it from the main building. The addition is clearly lower in height to the main building, with the majority of the addition being one-storey in height. The roof top patio entrance creates one small element that reaches two-storeys in height. The highest element of the addition is the elevator shaft. There has been much discussion on the prominence of the shaft and what design strategies could be used to minimize its visual impact. The final design solution that staff support includes the cladding of the shaft in fibre cement shingles (as opposed to horizontal boards) in a slightly darker shade to the horizontal boarding on the rest of the addition.

One Heritage Kingston member suggested limiting the elevator access to the second floor, moving it further north to the rear of the house, or revising its design to include windows and a roof so as to read like a lookout tower. Given that the applicant wishes to provide accessible access to the entire house, staff have reviewed the application in relation to the proposed three-storey elevator. It is their professional view that the most practical solution and most compatible to the architectural style of the house is to minimize its visual impact and not draw attention to the feature or falsify its perceived function and use. As such, the elevator shaft is located to the rear of the original building, is not higher than the roof of the original building and is clad in fibre cement shingles and in a different colour to help soften its appearance. Staff are concerned that adding additional architectural features to this shaft may draw unnecessary attention to it.

Finally, Section 5.2.2 also notes that the construction of additions should not entail removal, covering or other adverse impacts on the heritage attributes or important architectural features of the original building. And similarly, that additions should not cause irreversible changes to the original building. The proposed addition will necessitate the replacement with a new design of the rear (south) third floor dormer windows. This is largely the result of the installation of an elevator and its accessible connection to the third floor. The original house currently has four hipped roof dormers (two of which are on the front elevation) and two shed roof dormers to the rear, which are the ones proposed for replacement. Although a loss of heritage fabric, arguably, these two shed roof dormers have the least architectural and visual impact on the design of the house and their replacement will maintain the visual interest that the current roofscape exhibits.

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The addition will also require the removal of a small rear kitchen/servants entrance. This observation was relayed to the applicant in the pre-consultation process. As a mitigation strategy, the design now retains the side (east) elevation of this entrance as well as a portion of its roofline. This has the effect of conserving the visual appreciation of the original layout and composition of the house. Lastly, the sun room, which was likely constructed shortly after the construction of the house, is proposed to be replaced. The sun room is in poor condition and its reconstruction largely mirrors the design of the existing sun room. The main difference being that a portion of its southern elevation will not be re-constructed due to the location of the new elevator shaft.

### **Section 5.3.1 (Roofs)**

The proposal complies with the design guidelines for roofs, which states “roof profile visible from the street should remain unaltered”. Looking east and west along King Street East, the roof profile will remain unaltered. The only change to the roof profile is to the rear (south) of the house, where views of the alterations are more limited. At the rear, new dormers will replace the existing dormers and the elevator shaft will project through the replacement sun room and a portion of the southwest corner. It is staffs’ opinion that the objective of this design guideline is being upheld.

### **Section 5.3.2 (Windows)**

No alterations are proposed to the existing original/period windows on the main house. However, the replacement of the sun room and the new addition will necessitate the installation of new windows. In accordance with Section 5.3.2 (Windows) and the City’s Policy on Window Renovations in Heritage Buildings, the new windows will be aluminum clad wood windows. Additionally, the design of the new windows is compatible with the style of windows on the original house as well as the architectural style of the house. Additionally, the new doors are proposed to be aluminum clad wood. Staff have included a condition requiring that staff review the design details of the new window to ensure their compatibility.

### **Section 5.3.3 (Cladding)**

Initially, the new addition was proposed to have a brick veneer to match the original house. Staff and Heritage Kingston were concerned with this approach, given the challenge of sourcing a new brick that matches the colour, size and patina of the existing masonry. In response, the applicant is now proposing a fibre cement board with paint finish in horizontal siding on the addition and shingles on the elevator shaft. This cladding will complement, yet be distinct from, the existing historic masonry. It will also not visually compete with the historic masonry. One member noted that the colour of the cladding should be a subtle or heritage colour. Staff have included a condition requiring that the finalized colour scheme be reviewed by staff to ensure that the colours complement the red brickwork and also that the colour selected for the elevator shaft mitigates its visual impact. The cladding treatments presented in the revised proposal comply with the design guidelines contained in Section 5.3.3 of the District Plan.

### **Section 5.4.1 (General)**

This section provides general guidelines for additions to heritage properties. This report has largely addressed the guidance contained in this section. The only outstanding guideline which has not been addressed is that “garage or carport additions are discouraged”. In this application,

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a second garage is proposed as one component of a large addition. The addition links the main house and the detached garage. The existing garage is original to the construction of the house and is described in the Property Inventory Evaluation Form as a:

“1 ½ storey brick automobile garage with a hipped roof. The front and rear of this building contains dormers with small square windows. Its south-east elevation contains a gable over a half-round window, a wood-panel door, and two small 1/1 lights with thick wood trim on ashlar sills.”

The addition will obscure the existing door and windows on the north elevation, but will otherwise conserve the architectural form and features of the garage. The new garage is set well back from the front elevation of the garage and proposes a garage door that matches the design of the existing garage door. Staff are of the opinion that the addition of the new garage is secondary to the overall design of the addition and will not negatively impact the heritage attributes of the property or the District.

### Conclusion

In summary, the addition has been designed in such a way that fundamentally respects the original configuration and architectural style of the house. The stepping forward and back of the new addition helps to break up its massing and reflects the variability of the massing on the original house. The new addition has been set back on the west elevation to conserve the south portion of the rear verandah and set back on the east elevation to conserve a portion of the original rear kitchen/servants entrance. Moreover, design features on the historic house have been incorporated into the new addition and help to architecturally tie the new addition to the house. Simultaneously, the new addition remains a product of its own time and exhibits its own architectural integrity.

Through multiple rounds of comments from staff and Heritage Kingston, the applicant has been extremely responsive in adjusting the design with thoughtful and clever design solutions. Heritage Planning staff are of the opinion that the proposal, as modified, now conforms to the intent, goals and policies of the HCD Plan and will uphold the heritage conservation objectives set out within the City of Kingston's Official Plan, the Ministry of Tourism, Culture and Sports' eight guiding principles in the conservation of built heritage properties, and Parks Canada's Standards and Guidelines for the Conservation of Historic Places in Canada. Broadly, the application will:

- Achieve the goal of Section 7.0: Conserve and enhance built heritage resources within the City so that they may be accessed, experienced and appreciated by all residents and visitors, and retained in an appropriate manner and setting, as a valued public trust held for future generations (City of Kingston Official Plan).
- Achieve Principle Number 7: Legibility: New work should be distinguishable from old. Buildings and structures should be recognized as products of their own time, and new additions should not blur the distinction between old and new (Eight Guiding Principles in the Conservation of Built Heritage Properties, Ministry of Tourism, Culture and Sport).
- Achieve Standard 11 (Additional Standards Relating to Rehabilitation): Standard 11 - Conserve the heritage value and character-defining elements of the property when

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creating any new additions to an historic place or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place (Parks Canada's Standards and Guidelines for the Conservation of Historic Places in Canada).

**Previous Approvals**

None

**Comments from Departments and Agencies**

This application was circulated to a number of internal departments who provided the following comments:

Planning Division: The subject property is designated 'Residential' in the City of Kingston Official Plan and is zoned 'One-Family Dwelling and Two-Family Dwelling – A' in Zoning By-Law Number 8499. The proposed addition linking the main house to the existing garage appears to potentially conflict with the following zoning provisions in By-Law Number 8499 - maximum permitted residential building depth, maximum percentage of lot coverage, minimum side yard and minimum rear yard. The property should be reviewed for zoning compliance against the provisions of the "A" One and Two-Family Dwelling Zone and it is likely that *Planning Act* approvals will be required. The owner/applicant should to ensure sufficient planning due diligence is undertaken to confirm the project's compliance with the applicable provisions of Zoning By-Law Number 8499.

Building Division: A Building Permit is required for the construction proposed to the single family dwelling. Openings in the east elevation may be required to be protected as the cumulative aggregate area of the existing and proposed openings in relation to the distance to the adjacent property line may exceed the limitations of the Ontario Building Code (OBC) for unprotected openings. Proposed openings located less than 1.2 metres from the property line will be required to be protected. Proposed construction of the east building face between the existing house and the garage may be required to be constructed with a fire resistance rating due to the proximity of the adjacent property line. A Technical Standards and Safety Authority (TSSA) license will be required for the elevating device.

Utilities Kingston: The applicant should verify the location of their sanitary sewer lateral to confirm it doesn't interfere with structure addition(s). UK records indicate the sanitary is connected to the main in Simcoe Street.

**Consultation with Heritage Kingston**

Heritage Kingston was consulted on this application through the [DASH](#) system. The Committees' comments have been compiled and attached as Exhibit D. The Committees' comments have been integral to the design process and the applicant has been very receptive to making changes that address these comments. Staff have included reference and response to the Committee member's comments in the Cultural Heritage Analysis section above.

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**Existing Policy/By-Law:**

*Ontario Heritage Act*, R.S.O. 1990, C.O. 18 (Province of Ontario)

By-Law Number 2013-141 Procedural By-Law for Heritage

City's Policy on Masonry Restoration in Heritage Buildings

City's Policy on Window Renovations in Heritage Buildings

By-Law Number 2015-67 Old Sydenham Heritage Conservation District Plan

**Notice Provisions:**

Pursuant to Section 42(3) of the *Ontario Heritage Act (OHA)*, notice of receipt of a complete application has been served on the applicant. As per Section 42(4) of the *OHA*, Council may, within 90 days after the notice of receipt is served, give the applicant: the permit applied for; a notice that Council is refusing the application; or the permit with terms and conditions attached.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

Greg Newman, Manager, Policy Planning 613-546-4291 extension 3289

Alex Rowse-Thompson, Planner, Heritage 613-546-4291 extension 3251

**Other City of Kingston Staff Consulted:**

The application was circulated to a number of internal departments for review and all comments have been incorporated.

**Exhibits Attached:**

Exhibit A Context Map & Photographs

Exhibit B Drawings & Supporting Information, prepared by Shoalts & Zaback Architects

Exhibit C Property Inventory Evaluation Form, Old Sydenham Heritage Conservation District

Exhibit D Correspondence Received from Heritage Kingston

Exhibit E Summary of Final Comments at February 20, 2019 Heritage Kingston Meeting

## Context Map – 87 King Street East







**Front Elevation (north)**



**West Elevation**





**Rear Elevation (south)**



**East Elevation**

87 King Street E, Kingston  
Heritage Permit Application

## Concept Description

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The property at 87 King St. E, in Kingston was originally constructed in 1909 for Michael Sullivan (no relation to the Sullivan family construction business currently operating in Kingston) The house is not specifically designated. It is however a significant landmark on King Street surrounded by other large opulent historic homes. The property is located within the Sydenham Ward Heritage Conservation District (Part V Designated).

The applicant is proposing to:

- provide barrier free access to the home at all levels, including the basement and attic levels (the attic is habitable and has been used in the past, originally for maids quarters and more recently for a separate apartment. This will require the provision of an elevator connecting all levels.
- provide a second garage of a size that will accommodate a larger, higher modern vehicle
- provide an indoor connection between the (now double) garage and the dwelling
- make the interior of the house more functional, particularly in the area of the kitchen, mudroom and everyday entry areas
- make a new guest entrance that will work in conjunction with the everyday entrance to the house located off Simcoe Street.
- create more exterior amenity space on the property by the use of exterior decks. This is a corner property with exposure to two streets. On the north side of the building there is a public park immediately adjacent to the wall of the house. The east side of the building faces a large apartment building that overlooks the rear yard.

Fundamentally, an addition has been created to link the existing house and the existing garage. Atop this addition, exterior decks have been provided that can be accessed from the first, second or third floors. A grade level entrance is proposed adjacent to the existing Simcoe Street entrance. This entrance will provide access to the elevator and will be connected internally with the existing elevated entrance that will remain accessible from the porch.

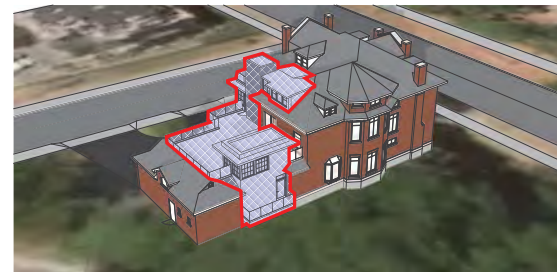






Proposed Addition  
87 King Street - Concept Renders





Proposed Addition Highlighted  
87 King Street - Concept Renders





South



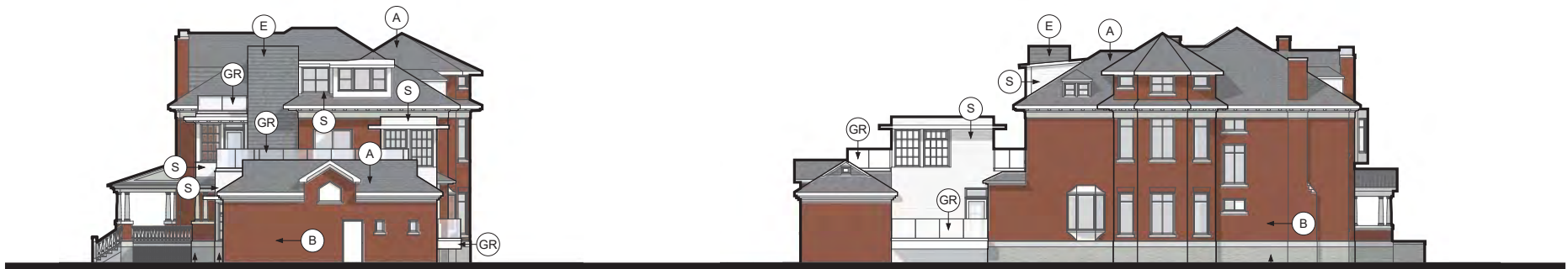
East



North



West



ST NS

South

East

ST

A	- Existing Roofing
B	- Existing Brick
E	- Elevator clad with Shingles
GR	- Glass Railing
S	- Fibre Cement Lap Siding
ST	- Existing Stone Base
NS	- New Stone Base



ST

North

ST

West

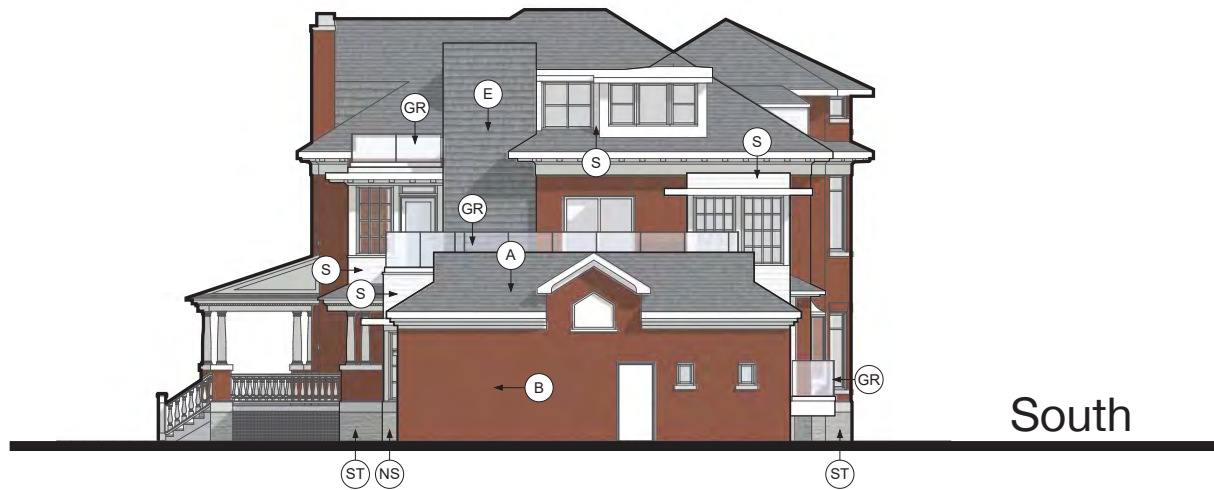
ST

NS

NS



A	- Existing Roofing
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West



North

A	- Existing Roofing
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NS	- New Stone Base















View 3 - Highlighted Addition  
87 King Street - Concept Renders







View 5  
87 King Street - Concept Renders

## 87 KING STREET EAST

**Built: 1909**

**Architect: Joseph Power**

**Rating: S**

The building at 87 King East is a 3-bay, 2½-storey brick house on a stone foundation. All four of this building's elevations are visible from King and / or Simcoe Street.



Façade, viewed from King Street East

This residence was built for, and possibly by, a contractor named Michael Sullivan. Sullivan purchased the property in December of 1908. He was the son of Catherine Sullivan, who had been widowed by 1881 at the age of 50, when Michael was 21.

The building was erected in 1909, and first appears in the Kingston directory of 1910. It was hand-drawn in red ink on one copy of the 1892 fire insurance map.



Southeast elevation from Simcoe Street

The 87 King East building's centralized front entrance has a wood portico with a semi-circular pediment. The pediment's rounded wood tympanum is plain with a projecting dentiled surround. Its eave is supported by two pairs of heavy wood brackets. The portico roof is supported by two sets of three wood columns with square brick bases topped with stone. The wood front entranceway door has a large single pane of glass. Its glazing is decorated with an ornate iron grill that includes vertical bars and a circular centre. This circular pattern is mirrored in the brickwork found in the walkway as one approaches the front porch. A three-tiered wood oriel window is located on the second storey of the façade, above the entrance. Each of its three plain windows is topped with a rectangular transom with leaded tracery. The top of the oriel meets the building's dentiled cornice, merging with its plain entablature. A dormer projecting from the roof above the oriel window has a distinct geometric design. It has a flat brick face with a centred peak and brick pillars to each side. The pillars are topped by rounded stone tops. The peak is capped with stone. Each of the dormer's three 1/1 double-hung windows has a large ashlar lintel and rests on an ashlar sill. Two smaller dormers above the first and third bays of the façade have 3/2 casement windows with simple wood trim. The remaining façade fenestration consists of symmetrically-placed openings on each floor of the first and third bay. Each opening contains paired window divided by a thin wood mullion and surrounded by simple wood trim. All four windows have

ashlar sills. While the second storey windows have ashlar lintels, those on the first storey have a unique pattern of brick voussoirs that include three tiers projecting from the top of each window.

The building's south-western elevation faces Simcoe Street. It features architectural elements similar to the façade. Its large brick-faced dormer contains two 1/1 double-hung windows, but is otherwise identical to the one found on the façade. The dormer's pillars drop through the building's eaves and project from the exterior wall, terminating at the top, and at each inner side, of a slanted porch roof. The roof is supported by a column arrangement like that found on the front porch. This side porch is surrounded by a balustrade with thick, turned-wood elements and a heavy wood handrail.

Steps near the back of the building's south-western elevation extend from the building's turnabout drive off Simcoe Street. They lead to a third porch located at the rear southwest end. This porch has a balustrade, handrails, and columns matching that of the south-western elevation. A pair of French doors and a single wood door, each with a transom, lead in to the house from this porch. Above it is a large sunroom with a strongly projecting eave.

The north-east elevation of the building contains a second, wood, oriel window; and a full-height, three-tiered, angled bay window. The bay supports a third large and brick-faced dormer with matching angled returns. A smaller dormer is found closer to the rear of the building. This elevation contains four basement windows, with similarly squat windows in the returns of the brick dormer, and on the first and third storeys north-west of the bay window. The building's chimney rises high above the roofline. Below the eave it projects from the exterior wall, and features stone caps over stepped bricks where the chimney converges on one side.

Behind the 87 King East residence is a 1½-storey brick automobile garage with a hipped roof. The front and rear of this building contains dormers with small square windows. Its south-east elevation contains a gable over a half-round window, a wood-panel door, and two small 1/1 lights with thick wood trim on ashlar sills.

Contributing to this property's associative value is the fact that the 87 King Street East property was once part of the land owned by Thomas Molson, who erected a brewery and distillery on this block until 1835. Molson's operation occupied all of the waterfront land circumscribed by King, West and Simcoe Street.

# Heritage Kingston

## Summary of Input from the Technical Review Process

P18-124-2018

Heritage Kingston Members	Comments Enclosed	No Comments Provided	No Response Received
Chair, Peter Gower	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councillor Bridget Doherty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councillor Jim Neill	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jane McFarlane	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donald Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Demitor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matthew McCartney	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Zoe Harris	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ashley Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>





City of Kingston  
216 Ontario Street  
Kingston, Ontario  
Canada, K7L 2Z3

Website: [www.cityofkingston.ca](http://www.cityofkingston.ca)

TTY: Dial 613-546-4889

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---

Date:  
Form: Heritage Kingston Reviewer Form  
Reviewer Name: Bridget Doherty  
Application Type: New Construction  
File Number: P18-124-2018  
Property Address: 87 King Street East

---

#### Description of Proposal:

87 King Street East is located on the southeast corner of King Street East and Simcoe Street. The subject property contains a two-and-a-half storey brick house in the Edwardian Classical style. The property was designated under Part V of the Ontario Heritage Act in 2015 as part of the Old Sydenham Heritage Conservation District. The applicant is seeking heritage approval to construct a rear addition linking the original house and the detached garage. This addition comprises a second garage, an elevator allowing accessibility to all floors of the house, a new accessible entrance at grade on the west elevation, two roof top decks and the replacement of the existing sun room on the second floor. Additionally, the applicant is proposing to replace the existing entrance door on the west elevation, which is accessed via the verandah. Proposed materials include: fibre cement horizontal boards, fibre cement shingles, aluminum clad wood windows, wood eaves, and glass railings.

#### Comments for Consideration on the Application:

The only comment I have regarding this property is that the owner insures as much as possible that any new brick work matches the existing.

I acknowledge that the previous committee gave feedback and changes were made accordingly. I have no concerns with the proposal in front of me.



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---

Date:

Form: Heritage Kingston Reviewer Form

Reviewer Name: Don Taylor

Application Type: New Construction

File Number: P18-124-2018

Property Address: 87 King Street East

---

#### Description of Proposal:

87 King Street East is located on the southeast corner of King Street East and Simcoe Street. The subject property contains a two-and-a-half storey brick house in the Edwardian Classical style. The property was designated under Part V of the Ontario Heritage Act in 2015 as part of the Old Sydenham Heritage Conservation District. The applicant is seeking heritage approval to construct a rear addition linking the original house and the detached garage. This addition comprises a second garage, an elevator allowing accessibility to all floors of the house, a new accessible entrance at grade on the west elevation, two roof top decks and the replacement of the existing sun room on the second floor. Additionally, the applicant is proposing to replace the existing entrance door on the west elevation, which is accessed via the verandah. Proposed materials include: fibre cement horizontal boards, fibre cement shingles, aluminum clad wood windows, wood eaves, and glass railings.

#### Comments for Consideration on the Application:

The updated version continues to respect the heritage qualities of the building and shows some design improvements over the original plans, particularly in the entrances on the west side. There have also been attempts to improve the appearance of the elevator shaft and the staircase leading up to the second floor deck. The set of windows added to the staircase housing has reduced its boxiness looking from the west, but not from the east, so a suggestion would be to copy the west windows to the east side. The east view also now shows a glass railing which is puzzling. An exit door to the east is certainly reasonable but a narrow deck area there close to the ground seems unusual. The main challenge continues to be the bulky elevator shaft which is not a desirable feature in the street view. Cladding it in siding perhaps helps to reduce its impact but it is still a major concern. Ways of making it more acceptable are not obvious. The most desirable change, as mentioned previously, would be to limit elevator access to the second floor. Although this would restrict the use of the top floor, in such a large house



it would seem reasonable that persons with limited mobility could be accommodated on a lower floor. If the full elevator shaft is necessary, its visibility would be lessened if it were moved north close to the main block of the building. This may of course not work with the interior layout. As a last resort, it may be worth considering a radical idea, namely adding windows and a hipped roof so that the shaft reads as an lookout tower! If the elevator is given glass walls it could be a real lookout.

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Date:  
Form: Heritage Kingston Reviewer Form  
Reviewer Name: Jane McFarlane  
Application Type: New Construction  
File Number: [P18-124-2018](#)  
Property Address: 87 KING ST

---

Description of Proposal:

87 King Street East is located on the southeast corner of King Street East and Simcoe Street. The subject property contains a two-and-a-half storey brick house in the Edwardian Classical style. The property was designated under Part V of the Ontario Heritage Act in 2015 as part of the Old Sydenham Heritage Conservation District. The applicant is seeking heritage approval to construct a rear addition linking the original house and the detached garage. This addition comprises a second garage, an elevator allowing accessibility to all floors of the house, a new accessible entrance at grade on the west elevation, two roof top decks and the replacement of the existing sun room on the second floor. Additionally, the applicant is proposing to replace the existing entrance door on the west elevation, which is accessed via the verandah. Proposed materials include: fibre cement horizontal boards, fibre cement shingles, aluminum clad wood windows, wood eaves, and glass railings.

Comments for Consideration on the Application:

The revised proposal seems much more complimentary to the house and the District.

The stair tower on the east façade is still rather dominant on that side and if this only provides direct access to the large upper deck, which will be used just a few months of the year, its use will be limited and may not warrant the space it takes up.

Colour choice for the fibre cement lap siding and shingles on the additions should not be stark but a muted historic colour approved by Heritage Staff. It is difficult to comment on the use of glass railings when there are no specific details and the final design of these should be presented to staff for approval.

The new double doors on Simcoe St. appear to be a similar design to the original one on that façade, and if so, should work aesthetically. Any brick removed from this enlarged opening should be retained for future repairs. On the upper deck, what appear to be sliding glass doors might be more complimentary if they were French doors.

Recommended Conditions for the Application:  
{Please enter your recommended conditions here}



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TTY: Dial 613-546-4889

---

Date:

Form: Heritage Kingston Reviewer Form

Reviewer Name: Jennifer Demitor

Application Type: New Construction

File Number: P18-124-2018

Property Address: 87 King Street East

---

#### Description of Proposal:

87 King Street East is located on the southeast corner of King Street East and Simcoe Street. The subject property contains a two-and-a-half storey brick house in the Edwardian Classical style. The property was designated under Part V of the Ontario Heritage Act in 2015 as part of the Old Sydenham Heritage Conservation District. The applicant is seeking heritage approval to construct a rear addition linking the original house and the detached garage. This addition comprises a second garage, an elevator allowing accessibility to all floors of the house, a new accessible entrance at grade on the west elevation, two roof top decks and the replacement of the existing sun room on the second floor. Additionally, the applicant is proposing to replace the existing entrance door on the west elevation, which is accessed via the verandah. Proposed materials include: fibre cement horizontal boards, fibre cement shingles, aluminum clad wood windows, wood eaves, and glass railings.

#### Comments for Consideration on the Application:

1. As per section 5.2.2 where additions should be clearly distinguishable in form and detail. I found it hard to differentiate between the older second story addition and the new addition with them both being clad in the same material and which such similar form. Possibly that could be further pushed even in just the detailing.
2. Also the Elevator shaft is a fairly prominent addition as can be seen in View 1. The current cladding treatment in the rendering allows it to fade somewhat into the background but with a more contrasting colour it could become quite prominent and overwhelm that facade. Especially being such a large and stylistically different item.

#### Recommended Conditions for the Application:

{Please enter your recommended conditions here}

## **Final Comments from Heritage Kingston – February 20, 2019**

The following final comments were provided at the February 20, 2019 Heritage Kingston meeting:

Mr. Taylor stated that larger, modern style of windows would also be acceptable on the addition. He suggested that the elevator shaft could be designed to appear as a look-out tower or be constructed out of transparent material. He noted that he would like improvements made to the current design to reduce the monolithic and flat appearance of the elevator shaft, suggesting the inclusion of quarter joints on the shaft to provide detail to the structure.

Councillor Neill and Ms. Demitor agreed with Mr. Taylor's comments regarding the elevator shaft and suggested a frosted or semi-transparent glass elevator shaft.

Mr. McCartney stated that the elevator shaft is a reversible alteration that is not impacting any of the heritage fabric of the resource. He did not recommend adding architectural features or changing the appearance of the elevator shaft to look like a look-out tower.

Mr. Gower and Ms. Harris suggested that the bricks removed from the building as part of the renovation and construction of the addition be kept for future reuse on the site.

**By-Law Number 2019-XXXX**

**A By-Law to enact a Heritage Easement Agreement over lands located at  
2285 Battersea Road, pursuant to the provisions of the  
*Ontario Heritage Act* (R.S.O. 1990, 0.18)**

**Passed: [Meeting Date]**

**Whereas** the Owner is the registered owner of certain lands and premises situated in the City of Kingston, in the County of Frontenac and Province of Ontario (hereinafter called the "Property" or "2285 Battersea Road"), being composed of Part Lot 33, Concession 6 as in FR117185 and YKZ18389 N of Exprop Plan RP1378 and Except Part 45 on Reference Plan 13R-343; S/T FR184167; City of Kingston, County of Frontenac, Ontario and known municipally as 2285 Battersea Road, Kingston; and

**Whereas** the purpose of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18 is to support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario; and

**Whereas** in accordance with Section 37 (1) of the *Ontario Heritage Act*, R.S.O, 1990, c.O.18, the City is entitled to enter into agreements, covenants and easements with owners of real property or interests therein, for the conservation, protection and preservation of the heritage of Ontario; and

**Whereas** by Sections 37(2) and 37(3) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, such covenants and easements entered into by the City, when registered in the proper Land Registry Office against the real property affected by them, shall run with the real property and may, whether positive or negative in nature, be enforced by the City or its assignee against any subsequent owners of the real property even where the City owns no other land which would be accommodated or benefitted by such covenants and easements; and

**Whereas** the Owner and the City desire to conserve the cultural heritage value and interest of the Property as described hereto in a manner which will ensure that any existing heritage attribute to be impacted, or lost, as a result of the works described herein does not occur in isolation of the broader enhancements to the cultural heritage value of the Property;

**Therefore**, the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. That staff be directed to finalize and register a heritage easement agreement, attached hereto as Schedule "A", against the Property located in Part Lot 33, Concession 6 as in FR117185 and YKZ18389 N of Exprop Plan RP1378 and Except Part 45 on Reference Plan 13R-343; S/T FR184167; City of Kingston, County of Frontenac, Province of Ontario;

2. That the Director of Legal Services be directed to execute any documents as may be required to give effect to the registration against the Property affected in the proper land registry office.
3. This by-law shall come into force and take effect on the date of its passing.

**Given First and Second Readings [Meeting Date]**

**Given Third Reading and Passed [Meeting Date]**

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**John Bolognone**  
**City Clerk**

---

**Bryan Paterson**  
**Mayor**

**This Agreement made the \_\_\_\_ day of \_\_\_\_\_, 2019  
Between:**

**BPE Development Inc.**  
Hereinafter called the "Owner"

Of The First Part

**The Corporation of The City Of Kingston**  
Hereinafter called the "City"

Of The Second Part

**Whereas** the Owner is the registered owner of certain lands and premises situated in the City of Kingston, in the County of Frontenac and Province of Ontario (hereinafter called the "Property" or "2285 Battersea Road"), being composed of Part Lot 33, Concession 6 as in FR117185 and YKZ18389 N of Reference Plan 1378 and Except Part 45 on Reference Plan 13R-343; S/T FR184167; City of Kingston, County of Frontenac, Ontario and known municipally as 2285 Battersea Road, Kingston, Ontario.

**And Whereas** the provisions of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18 is to support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario;

**And Whereas** in accordance with Section 37 (1) of the *Ontario Heritage Act*, R.S.O., 1990, c.O.18, the City is entitled to enter into agreements, covenants and easements with owners of real property or interests therein, for the conservation, protection and preservation of the heritage of Ontario;

**And Whereas** by Sections 37(2) and 37(3) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, such covenants and easements entered into by the City, when registered in the proper Land Registry Office against the real property affected by them, shall run with the real property and may, whether positive or negative in nature, be enforced by the City or its assignee against the Owner or any subsequent owners of the real property even where the City owns no other land which would be accommodated or benefitted by such covenants and easements;

**And Whereas** the Owner and the City desire to conserve the cultural heritage value and heritage attributes including buildings, structures and landscaping on the Property as described in Schedule "B" attached hereto;

**And Whereas** to this end, the Owner and the City desire to enter into this Easement Agreement (hereinafter called the "Agreement");

**Now Therefore This Agreement Witnesseth** that in consideration of the sum of ONE (\$1.00) DOLLAR of lawful money of Canada, now paid by the City to the Owner (the receipt of which is hereby acknowledged), and for other valuable consideration, and in further consideration of the granting of the easement herein, and in further consideration of the mutual covenants and restrictions hereinafter set forth, the Owner and the City



agree to abide by the following covenants, easements and restrictions which shall run with the Property in perpetuity.

## **1.0 Schedules**

The following Schedules are attached to and form part of this Agreement:

- 1) Schedule “A” – Description of the Property
- 2) Schedule “B” – Statement of Cultural Heritage Value
- 3) Schedule “C” – Proposed Conservation and Restoration Works

## **2.0 Statement of Cultural Heritage Value**

- a. The Owner and the City agree that for the purpose of this Agreement as hereinafter defined, the “Statement of Cultural Heritage Value” attached hereto as Schedule “B” sets out the reasons why the Property is identified as having cultural heritage value and includes a list of heritage attributes to be conserved.

## **3.0 Conservation Principles, Standards and Guidelines**

- a. It is the purpose of this Agreement to ensure that the cultural heritage value of the Property will be conserved in perpetuity as part of the heritage of the City. To achieve this purpose, the Owner and the City agree that the heritage attributes will be retained, maintained and conserved by the Owner through the application of recognized heritage conservation principles and practices and that no change shall be made to the heritage attributes that adversely affect the cultural heritage value of the Property as set out in “Schedule B” of this Agreement.
- b. Both the Owner and the City in carrying out their respective responsibilities and duties under this Agreement shall, where applicable, be guided by and apply recognized heritage conservation principles and practices, including, but not limited to, the Ontario Ministry of Culture, Tourism and Sport’s *Eight Guiding Principles in the Conservation of Built Heritage Properties* and Parks Canada’s *Standards and Guidelines for the Conservation of Historic Places in Canada*.

## **4.0 Maintenance of the Building**

The Owner shall at all times maintain the Property in as good and sound state of repair as a prudent owner would normally do, so that the heritage attributes of the Property included in Schedule “B” of this Agreement are conserved and enhanced.

## **5.0 Consistency with Approved Works**

- a. The Owner shall complete the “Conservation and Restoration Works” to the Property as described in Schedule “C” of this Agreement within a reasonable time following receipt of all applicable City approvals.

- b. The Owner agrees to provide the City with specifics regarding the colour choice for the new soffits, fascia, window trim and doors, for review and approval by Heritage staff, in order to ensure the colours emphasize the heritage attributes of the Property. The Owner agrees that all window and door works, shall be completed in accordance with the City's Policy on Window Renovations in Heritage Buildings.
- c. The Owner agrees that all masonry works, including cleaning, shall be completed in accordance with the City's Policy on Masonry Restoration on Heritage Buildings.
- d. The City acknowledges and approves the demolition of all non-heritage attributes on the Property, including interior features, and the construction of multiple additions on the Property, as approved through Building Permit application file PRBD20182567.
- e. Any future repairs, alterations, additions (including signage), removals and demolitions to the Property, which is likely to affect the Property's heritage attributes, as outlined in Schedule "B" of this Agreement, requires prior approval by the City in accordance with the procedures outlined in Sections 33 and 34 of the Ontario Heritage Act, as may be amended from time to time.
- f. During the course of construction on the Property, a proper Builder's Risk must be in place and confirmation of the policy certificate shall be provided to the City. This policy is to include coverage for Environmental Impairment liability that shall encompass all operations associated with the removal of any hazardous waste. In the event of any use of hoists or cranes, the Owner shall maintain a policy for Crane Operators/Hook liability insurance.
- g. Upon the completion of the works as outlined in Schedule "C" of this Agreement, the Owner shall contact City staff to undertake an inspection of said works to determine the extent of their completion. In the event that it becomes apparent that any of the works set out in Schedule "C" cannot be completed as anticipated, then City staff shall have the authority to approve, through the appropriate process as determined by the City and applicable heritage legislation, any alternate measures to complete the works.

## **6.0 Insurance**

- a. The Owner shall be obliged at all times to keep and maintain an All Risk insurance policy in amount equal to full replacement cost on the buildings and structures located at 2285 Battersea Road. The Owner shall ensure that the insurance policy includes confirmation, either in a letter or the Certificate of Insurance, that the policies in force are appropriate for preserving the integrity of a heritage property. Proof of insurance shall be delivered to the City within thirty (30) days of the execution of this Agreement, and thereafter evidence

satisfactory to the City of the renewal of insurance shall be delivered to the City at least three (3) calendar days prior to termination thereof.

- b. If the Owner fails to so insure the Property, or if any such insurance on is cancelled, the City may affect such insurance as the City reasonably deems necessary and any sum paid by the City shall forthwith be paid by the Owner to the City or if not, shall be a debt due and owing to the City and recoverable from the Owner.

## **7.0 Rights of Mortgagees**

The Owner's obligations to apply all proceeds receivable under any fire and extended coverage insurance policy or policies on the building to replace, rebuild, restore or repair the building shall be subject to the rights of any mortgagees of the Property.

## **8.0 Assignment of Interests of Mortgagees**

In the event that any mortgagee refuses to release to the Owner any monies payable under any fire and extended coverage insurance policy or policies after the building has been damaged or destroyed, thereby preventing the Owner from fulfilling its obligation to replace, rebuild, restore or repair the building with the proceeds receivable under any insurance policy or policies, the Owner shall use its best efforts, if so requested by the City, to make whatever arrangements as necessary to allow the City to take an assignment of such mortgagee's interests in the Property, thereby effectively assuring that the proceeds of insurance under any fire and extended coverage insurance policy or policies are made available to the Owner so that such proceeds may be applied by the Owner to replace, rebuild, restore or repair the building.

## **9.0 Damage, Demolition and Reconstruction**

- a. The Owner shall notify the City of any damage or destruction to the Property within ten (10) calendar days of such damage or destruction occurring. In the event that the Property is damaged or destroyed and the replacement, rebuilding, restoration or repair of it is impractical because of the financial costs involved, or because of the particular nature of the building, or because a mortgagee has refused to release to the Owner any insurance monies payable under any insurance policy or policies and the City has been unable to secure an assignment of a mortgage from a mortgagee as described in Section 8, the Owner may in writing within thirty (30) calendar days of the giving by the Owner of notice of such damage or destruction, request written approval of the City to demolish the building in accordance with the provisions of applicable heritage legislation. The Owner is responsible at all times to ensure proper security precautions are in place the Owner's expense to prevent any further damage or liability. If the City does not give the approval referred to in section 9(a), or if the Owner has not requested the approval referred to in section 9(a), the Owner shall replace, rebuild, restore or repair the building with materials consistent with heritage designation. Prior to the commencement of such work, the Owner shall

submit all plans and specifications for the replacement, rebuilding, restoration or repair of the Property to the City for its written approval within ninety (90) calendar days of the damage or destruction occurring to the Property. The Owner shall not commence or cause restorative work to be commenced on the Property before receiving the written approval of the City of the plans and specifications for it, and such restorative work shall be performed upon such terms and conditions as the City may stipulate, acting reasonably.

- b. In the event that the request to demolish the Property is not submitted or is refused and the Owner fails to submit plans and specification for the replacement, rebuilding, restoration or repair of the Property at 2285 Battersea Road which are acceptable to the City within the timelines of applicable heritage legislation, the City may prepare its own set of acceptable plans and specifications for the renovation or reconstruction of 2285 Battersea Road. The Owner shall have thirty (30) calendar days from receiving a copy of such plans and specifications to notify the City in writing that it intends to replace, rebuild, restore or repair the building of 2285 Battersea Road in accordance with those plans and specifications. If the Owner does not notify the City within the said thirty (30) calendar days, the City may proceed with replacing, rebuilding, restoring or repairing the Property. The City reserves the right to determine how it will be compensated by the Owner for any expenses incurred by the City.

#### **10.0 No Act of Waste**

- a. The Owner shall not commit or permit any act of waste on the Property.
- b. With respect to the Property, the Owner shall not, except with the prior written approval of the City:
  - i. grant any easement or right of way;
  - ii. erect or remove or permit the erection or removal of any building or other structure of any type whatsoever;
  - iii. allow the planting of trees or shrubs, which would have the effect of:
    - A. reducing the aesthetics of the Property; or
    - B. causing any damage to the Property;
  - iv. allow any activities, actions or uses detrimental or adverse to water conservation, erosion control and soil conservation.

#### **11.0 Remedies of the City**

- a. If the City, in its sole discretion, is of the opinion that the Owner has neglected or refused to perform any of its obligations set out in this Agreement, the City may in addition to any of its other legal or equitable remedies serve on the Owner a notice setting out particulars of the breach and of the City's estimated maximum costs of remedying the breach. The Owner shall have thirty (30) calendar days from receipt of such notice to remedy the breach or make arrangements satisfactory to the City for remedying the breach.

- b. If within those thirty (30) days, the Owner has not remedied the breach or made arrangements satisfactory to the City for remedying the breach, or if the Owner does not carry out the said arrangements within a reasonable period of time of which the City shall be the sole and final judge, duly authorized representatives of the City may enter upon the Property and carry out the Owner's obligations and the Owner shall reimburse the City for any expenses incurred thereby, up to the estimated maximum costs of remedying the breach set out in the aforesaid notice. Such expenses incurred by the City shall, until paid to it by the Owner, be a debt owed by the Owner to the City and recoverable by the City by action in a court of law.

## **12.0 Waiver**

The failure of the City at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the City of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same of any other obligation hereunder at any later time.

## **13.0 Extension of Time**

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the written consent of both the Owner and the City, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit. Time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

## **14.0 Registration of Agreement**

This Agreement shall be registered against the title of the Property as a notice to any prospective purchasers.

## **15.0 Notice of Easement**

- a. The Owner agrees to allow the City to erect a plaque on the Property dictating the history, cultural heritage value and/ or legal heritage status of this Property. The plaque will be designed (if not the standard City issued Heritage Plaque) and located in consultation with the Owner.
- b. The Owner agrees to allow the City to publicize the existence of the Agreement.

## **16.0 Severability of Covenants**

The Owner and the City agree that all covenants, easements and restrictions contained in this Agreement shall be severable, and that should any covenant, easement or restriction in this Agreement be declared invalid or unenforceable, the remaining covenants, easements and restrictions shall not terminate thereby.

## **17.0 Dissolution of City**

In the event of the winding up or dissolution of the City, all of the City's interest herein shall be automatically assigned and transferred to Her Majesty the Queen in Right of Ontario or to any other entity duly authorized by law.

## **18.0 Notice**

- a. Any notices to be given under this Agreement shall be delivered to the parties at their respective addresses as listed herein.

The Owner:

BPE Development Inc.  
141 Hickson Avenue  
Kingston, Ontario  
K7K 2N7

The City:

Chief Planner & Director  
Planning, Building and Licensing Services  
The Corporation of the City of Kingston  
216 Ontario Street  
Kingston, Ontario  
K7L 2Z3

The parties shall notify each other in writing with respect to any change to the addresses listed above.

- b. Except in the event of an interruption in the postal service, any notices to be given under this Agreement shall be delivered in person or sent by prepaid registered mail addressed to the parties at their respective addresses as set out in paragraph 18.0 a. In the event that a notice is delivered in person, the party receiving the notice shall indicate receipt of the notice by signing an acknowledgment of receipt and in that event the notice shall be deemed to have been received on the date on which the form of acknowledgment of receipt was signed. In the event of any interruption in the postal service, notice may be given to either party at its respective address as set out in paragraph 19.0 a., either in person or by courier. The party receiving the notice shall indicate the receipt of it by signing an acknowledgment of receipt and the notice shall be deemed to have been received on the date on which the form of acknowledgment was signed.

## **19.0 Indemnification**

Owners of the Property shall hold the City harmless from and against any and all liabilities, suits, actions, proceedings, claims, causes, damages, judgments or costs whatsoever (including all costs of defending such claims) arising out of, incidental to, or in connection with any injury or damage to person or property of every nature and kind (including any death resulting therefrom).

## **20.0 Costs**

In the event that a dispute arises between either of the parties hereto because of this Agreement, each party shall be responsible for its own legal fees, court costs and all other similar type expenses which may result from any such dispute.

## **21.0 Subsequent Instrument**

- a. The Owner shall immediately notify the City in the event that it divests itself of the fee simple title to or of its possessory interest in the Property or the buildings and development.

## **22.0 Headings**

The headings in the body of this Agreement form no part of the Agreement but shall be deemed to be inserted for convenience of reference only.

## **23.0 Enurement**

The covenants, easements and restrictions set out in this Agreement shall run with the Property and shall enure to the benefit of and be binding upon all parties hereto and their respective heirs, executors, administrators successors and assigns as the case may be.

## **24.0 Registration of Agreement**

This Agreement shall be binding upon the Owner and successors in title and shall be registered on title to the Property described herein at the expense of the Owner.

**Provided** that in interpreting this Agreement the word "Owner" and the pronouns "it" or "its" relating thereto and used therewith shall be read and construed as "Owner" or "Owners" and "he ", "she", "it" or "they", "his", "her", "its" or "their", "him", "her", " it" or "them", respectively, as the number and gender of the party or parties referred to in each case require, and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted.



**In Witness Whereof** the parties hereto have hereunto affixed their corporate seals duly attested to by the hands of their proper signing officers authorized in that behalf.

<b>Signed, Sealed And Delivered</b>	)	<b>BPE Development</b>
In the presence of	)	<b>Incorporated</b>
	)	per:
	)	_____
	)	<b>Benjamin Pilon</b>
	)	_____
	)	<b>Michelle Pilon</b>
	)	<b>The Corporation Of The</b>
	)	<b>City Of Kingston</b>
	)	per:
	)	_____
	)	<b>Mayor</b>
	)	_____
	)	<b>City Clerk</b>

## **Schedule "A"**

Attached to and forming part of the Easement Agreement between the BPE Development Incorporated of the first part and The Corporation of the City of Kingston of the second part, dated XXX, 2019.

### **Description Of The Property**

36294-0782 (LT) – 2285 Battersea Road – Part Lot 33, Concession 6 as in FR117185 and YKZ18389 N of Exprop Plan RP1378 and Except Part 45 on Reference Plan 13R-343; S/T FR184167; City of Kingston, County of Frontenac.

## **Schedule "B"**

Attached to and forming part of this Easement Agreement between the BPE Development Incorporated of the first part and The Corporation of the City of Kingston of the second part, dated XXX, 2019.

### **Statement of Cultural Heritage Value**

#### **Description of the Property**

The property, known as the James Hickey House, is located on the east side of the road, in the former Township of Kingston, now part of the City of Kingston. The key resource is a one-and-a-half storey classically balanced limestone farmhouse constructed prior to 1860.

#### **Cultural Heritage Value**

The James Hickey House is a good example of a mid-19<sup>th</sup> century one-and-a-half storey limestone house. Constructed from limestone laid in uniform courses; the building features a low-pitch side gable roof with gable dormers. The twin gable design of the south façade is unusual for the Kingston area. The house has a large verandah with a low-pitch hip roof and Doric columns on square limestone pillars. The large frame barn is a good surviving example of 19<sup>th</sup> century timber frame barn construction located as part of a farmstead. The mature trees surrounding the farmstead and the tree-lined entrance drive with stone gateposts are good surviving examples of farmstead design.

The property is associated with the early development of this part of the city and with the toll house formerly located at the intersection of Unity Road and Battersea Road. The property is also associated with James Hickey, the local toll collector in the early 19<sup>th</sup> century, and the Hickey family who owned the property for most of a century and constructed the original farmhouse.

The James Hickey House is located on a slight rise overlooking an important intersection, along with the adjacent farm fields and woods, support the rural character of the area.

#### **Heritage Attributes**

The heritage attribute essential to the cultural heritage value or interest of this property include:

- One-and-a-half storey limestone farm house, laid in uniform courses with low-pitch side gable roof, and twin gabled south façade;
- Wrap-around verandah with a low-pitch hip roof, and Doric columns on square limestone pillars;
- Stone chimneys;
- Fenestration pattern on main building;
- Stone west wing/addition of main house;
- Stone gate posts flanking Battersea Road entrance;
- Tree-lined driveway entrance;
- Mature trees surrounding the house; and
- Timber frame large barn.

## **Schedule "C"**

Attached to and forming part of this Easement Agreement between the BPE Development Incorporated of the first part and The Corporation of the City of Kingston of the second part, dated XXX, 2019.

### **Conservation & Restoration Works**

#### **James Hickey House:**

1. The installation of metal-clad wooden sash windows in a 2 over 2 glazing pattern on the north, east and south elevations;
2. The installation of new wood paneled exterior doors on the north and south elevations (3 in total);
3. The infilling of the garage door on the later north wing of the house, with two (or three) vertical rectangular windows in a 2 over 2 glazing pattern, and cladding in stone veneer (or similarly appropriate material);
4. The restoration of the wooden soffits and fascia;
5. The removal of non-original concrete chimney on north elevation;
6. The restoration and/or reconstruction of twin chimneys;
7. The repair and restoration of the verandah, including the replacement of the metal railings with an appropriate alternative;

#### **Landscape features:**

8. The relocation and restoration the stone gate posts (2), to accommodate widening entrance driveway;
9. The removal and replanting of trees on the property, taking into consideration public views from both Battersea Road and Unity Road; and
10. The removal, salvage (for reuse on the property) and reconstruction of the frame barn with a similarly designed, sized and cladded barn, in a similar location.