



**City of Kingston
Report Number 14-143**

To: Mayor and Members of Council
From: Lanie Hurdle, Commissioner, Community Services
Resource Staff: Sheldon Laidman, Director (Acting), Planning and Development
Shirley Bailey, Manager, Heritage & Urban Design
Date of Meeting: July 15, 2014
Subject: Proposed Settlement on *Ontario Heritage Act* Appeal
927 Purdy's Mill Road and 1080 Sydenham Road –
Cataraqui Cemetery

Executive Summary:

Under Section 29(3) of the *Ontario Heritage Act*, the City issued a Notice of Intention to designate Cataraqui Cemetery located at 927 Purdy's Mill Road and 1080 Sydenham Road on January 8, 2013. Homestead Land Holdings Limited ("Homestead") filed a notice of objection pursuant to the *Ontario Heritage Act*. This report summarizes the efforts that resulted in the resolution of the Notice of Objection and provides Council with an amended designation by-law (see Exhibit A), which is recommended by staff for approval.

Homestead, including its heritage consultant Mark Brandt, the Cataraqui Cemetery Company ("the property owners"), City staff with the assistance of heritage professional Victoria Angel, reviewed the designation by-law and all parties agreed on a revised Statement of Cultural Heritage Value.

Staff support the changes to the designation by-law and Homestead has withdrawn its objection to the recommended designation by-law for the subject property (see Exhibit B). The Conservation Review Board has closed its file and Council can now pass the agreed-upon bylaw designating the property, in accordance with S. 29(15) and (6) of the *Ontario Heritage Act*.

Recommendation:

That Council approve the recommended designation by-law for 927 Purdy's Mill Road and 1080 Sydenham Road, Cataraqui Cemetery, attached as Exhibit 'A' to report CC-14-143.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Lanie Hurdle, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Commissioners:

Cynthia Beach, Corporate & Strategic Initiatives	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required

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Options/Discussion:**Background**

At the request of the land owners, through their letter dated November 6, 2007 and following an initial review by the Municipal Heritage Committee, staff began reviewing the merits of designating Cataraqi Cemetery as a property of cultural heritage value or interest.

As required under the *Ontario Heritage Act*, the property was evaluated under Ontario Regulation 9/06, which requires an evaluation of its physical/design value, historical/associative value, and contextual value.

The Cataraqi Cemetery Company was incorporated in 1850 and formally opened the cemetery for burial in 1853. Cataraqi Cemetery is a property of cultural heritage value and interest because it is an early, rare, and representative example of a 19th century Rural Cemetery in Canada. The gravesites found within the Cemetery include a large number of prominent local, provincial, and national figures, including Sir Alexander Campbell and Sir John A. Macdonald. Macdonald's gravesite has been recognized as a National Historic Site of Canada since 1938. The entire property was recognized as a National Historic Site of Canada in 2011. The motion from the Historic Sites and Monuments Board of Canada is included in Exhibit 'A', Schedule 'B' to this report.

Staff and the Municipal Heritage Committee recommended the designation of Cataraqi Cemetery and Council served a Notice of Intention to designate the property, in accordance with Section 29(3) of the *Ontario Heritage Act*, on January 8, 2013.

A notice of objection was received by the City Clerk on February 5, 2013 from the adjacent property owner, Homestead Land Holdings Limited (999 Purdy's Mill Road). The primary concern of Homestead was the broadness of the cultural heritage value statement as it relates to the Cemetery's setting and picturesque vistas.

A pre-hearing conference with the Conservation Review Board (CRB) was held on November 4, 2013. The CRB agreed to adjourn the hearing until March 31, 2014, in order to allow all parties further time to attempt to negotiate a settlement. At the March 31st pre-hearing, all parties requested a further adjournment in order to continue settlement discussions.

Changes to the Statement of Cultural Value and Heritage Attributes

Homestead indicated their support for the designation of Cataraqi Cemetery, however they were concerned about certain phrasing within the Statement of Cultural Heritage Value (Exhibit 'A', Schedule 'A' to this report) that could be misconstrued as implying that the Homestead property, in its undeveloped state, was contributing to the heritage value of the Cemetery. Homestead felt that the proposed language in the Statement of Cultural Value could hamper future development of the neighbouring lands.

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Staff with the assistance of Victoria Angel, Senior Heritage Planner, ERA Architects met with representatives of Homestead, their heritage consultant Mark Brandt of MTBA Associates and the members of the Cemetery Board on a number of occasions, in an attempt to find a mutually agreeable resolution.

The majority of the by-law changes relate to refinements in the wording of the Statement of Cultural Heritage Value and list of Heritage Attributes to ensure that the heritage value of the Cemetery is clearly documented as being those physical, associative and contextual features found within the boundaries of the Cemetery's property.

The draft designation by-law attached as Exhibit 'A' is supported by all parties, including the property owners (see Exhibit C), and Homestead.

The objection has been withdrawn by Homestead (see Exhibit B), thereby eliminating the need for a hearing of the Conservation Review Board. If the changes to the recommended designation by-law are accepted by Council the designation by-law for the property located at 927 Purdy's Mill Road can be passed in accordance with Section 29(15) and (6) of the *Ontario Heritage Act*. Staff recommend approval of the designation by-law.

Existing Policy/By Law:

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

Ontario Regulation 9/06 - Criteria for Determining Cultural Heritage Value or Interest (Ontario)

City of Kingston Official Plan

Notice Provisions:

Not applicable.

Accessibility Considerations:

Not applicable.

Financial Considerations:

Not applicable.

Contacts:

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Shirley Bailey, Manager, Heritage and Urban Design 613-546-4291 extension 3253

Ryan Leary, Senior Planner, Heritage and Urban Design 613-546-4291 extension 3233

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Other City of Kingston Staff Consulted:

Mark McLaughlin, Senior Legal Counsel, Legal Services

Exhibits Attached:

Exhibit A: Recommended Designation By-law

Exhibit B: Letter from Homestead Land Holdings Limited, dated June 20, 2014.

Exhibit C: Letter from The Cataraqui Cemetery Company, dated March 25, 2014.

By-Law Number 2014-XX

A By-Law To Designate Cataraqui Cemetery at 927 Purdy's Mill Road to be of Cultural Heritage Value and Interest pursuant to the Provisions of the *Ontario Heritage Act* (R.S.O. 1990, 0.18)

Passed: XXX, 2014

Whereas Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, Chapter 0.18 authorizes the Council of a Municipality to enact by-laws to designate real property, including all buildings and structures thereon, to be of cultural heritage value or interest; and

Whereas Council has consulted with its Municipal Heritage Committee and has approved the designation of a property located at 927 Purdy's Mill Road, also known as 1080 Sydenham Road (CON 3 LOT 16) on November 5, 2012; and

Whereas a notice of intention to designate the property was published in the Kingston Whig-Standard, which is a newspaper having general circulation in the municipality, on January 8, 2013; and

Whereas the notice of objection to the proposed designation, which was served to the Clerk of the Corporation of the City of Kingston on February 5, 2013, has been withdrawn, June 20, 2014.

Therefore be it resolved that the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. To designate as being of cultural heritage value and interest the following property in the City of Kingston: 927 Purdy's Mill Road and 1080 Sydenham Road, also known as Cataraqui Cemetery, more particularly described in Schedule "A" attached hereto and forming part of this By-law;
2. The above mentioned property's designation as a National Historic Site is more particularly described in Schedule "B" attached hereto and forming part of this By-law;
3. A copy of the designating by-law shall be registered against the property affected in the proper land registry office. The City Clerk is hereby authorized to cause a copy of this by-law to be served on the owner (The Cataraqui Cemetery) of the land described in Schedule "A" hereto and on The Ontario Heritage Trust and to cause notice of the passing of this by-law to be published in the Kingston Whig-Standard;

4. For the purpose of interpretation the term 'Maintenance' will include the following:

Maintenance is considered routine, cyclical, and non-destructive actions, necessary to slow the deterioration of a historic places, buildings, structures or elements. It entails the following actions:

- periodical inspection;
 - general property cleanup;
 - general gardening and repair of landscape features, excluding significant clearing and/or remodelling;
 - replacement of glass in broken windows;
 - minor exterior repairs (including replacement of individual shingles where there is little or no change in colour or design), and repainting in the same or similar colour;
 - any efforts necessary to safeguard the property from illegal use and entry;
 - re-pointing areas of wall space under 1.5 square metres;
 - day-to-day cemetery operations, including new interments in existing sections, providing they reflect the nature of Cataraqui Cemetery as a Rural Cemetery;
 - all works which occur in those portions of the cemetery falling under the auspices of the Commonwealth War Graves Commission, Department of Veterans Affairs and Department of National Defence;
 - all work on markers and monuments which are undertaken in accordance with the Ministry of Tourism, Culture and Sport publication *Landscapes of Memories - A Guide for Conserving Historic Cemeteries: Repairing Tombstones*, the *Funeral Burial and Cremation Services Act* and accepted good practice; and
 - all works on non-heritage attributes.
5. For the purpose of this By-law a "Rural Cemetery" shall mean a 19th century cemetery influenced by a combination of increasing public health concerns regarding overcrowded urban cemeteries and the anti-sectarian attitudes of the time. The Rural Cemeteries of the 19th century were influenced by the Romantic Movement; the Picturesque Landscaping Movement; the Aesthetic Movement, and the 19th century Arts and Crafts Movement. Rural Cemeteries are characterized by their park-like setting and their high degree of craftsmanship and artistic merit as found in the Picturesque qualities of their gently-rolling hills, the landscaping of natural features including the use of water, and winding

paths/roads. Also by their use of a wide variety of both native and non-native trees, flowers and flowering shrubs; the arrangement and upkeep of which illustrates a high degree of technical and scientific knowledge;

6. The City reserves the right to install a designated property plaque or interpretive panel; and
7. This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings XXX, 2014

Given Third Reading and Passed XXX, 2014

John Bolognone

City Clerk

Mark Gerretsen

8. Mayor

Schedule "A"

Schedule "A"

Description and Reasons for Designation

Cataraqui Cemetery

9. Legal Description

Civic Address: 927 Purdy's Mill Road, and 1080 Sydenham Road

Lot/Concession: Part of Lots 3 and 4, Registered Plan No. 60, Part of Lot 16, Concession 3, former Township of Kingston, City of Kingston, County of Frontenac, being Parts 1 & 2 13R-20556, Part 1 13R-18300, and Part 2 13R-15284.

Property Number: 101108019014502

10. Introduction and Description of Property

The Cataraqui Cemetery is located on 47 hectares of land between Purdy's Mill Road and Sydenham Road in Kingston. The Cataraqui Cemetery Company was incorporated in 1850 by an Act of the Legislative Assembly of the Province of Canada and formally opened the cemetery for burials in 1853. It has physical/design value, historical/associative value, and contextual value. The entire property was recognized as a National Historic Site of Canada in 2011.

The property has physical/design and historical/associative value because the cemetery is an early, rare, and representative example of a 19th century "Rural Cemetery" in Canada (see definition). The physical/design value of the cemetery is supported by a number of built structures including a mid-19th century gothic cottage; two receiving vaults; two sets of entranceway gates and pillars; its markers and monuments; its 19th century cut limestone steps and concrete bridges; as well as numerous late 19th century statues, fountains, vases and flower pots.

As Kingston's largest cemetery, Cataraqui is the only public, non-denominational, not-for-profit cemetery in Kingston. The gravesites found in the cemetery provide important insight into the lives of Kingston's inhabitants and reflect the key historical themes in the development of the city, the province and the nation. Further historical/associative value is derived from the large number of local, provincial, and national figures who were interred in the cemetery, including Sir Alexander Campbell and Sir John A. Macdonald. Macdonald's gravesite has been recognized as a National Historic Site of Canada since 1938. Cataraqui Cemetery is the only cemetery in Ontario to have two Fathers of Confederation interred within (Campbell

and Macdonald). Additional historical/associative value can be found within the many cemetery sections that demonstrate past social trends and attitudes towards indigents, inmates, infants and the hospitalized.

The cemetery has contextual value because of its physical relationship to the former Village of Cataraqui (formerly known as Waterloo and Sandhill). The expanse and setting of the cemetery's park-like property helps to define this area of the City. Its proximity to the former Village of Cataraqui and other early 19th century burial grounds and structures, link the property functionally, visually, and historically with its surroundings. There is a significant contextual relationship with the City of Kingston as the setting of the cemetery on a hill overlooking the settlement below demonstrating a historical British/Anglo/Roman burial tradition that dates back centuries.

These combined elements make the Cataraqui Cemetery a Kingston landmark.

Statement of Cultural Heritage Value/Statement of Significance:

Physical/Design Value

Cataraqui Cemetery is an early, rare, and representative example of a "Rural Cemetery" in Canada and is among the first Rural Cemeteries in Ontario. The Cataraqui Cemetery was designated as a National Historic Site of Canada in 2011, as it is one of the best examples of a medium-sized Rural Cemetery in Canada.

The earliest Rural Cemetery in the Western World was created in France during the reign of Napoleon. In 1804 the Père Lachaise Cemetery was established on a hill on the outskirts of Paris. The first Rural Cemetery in North America, Mount Auburn, was established in Boston in 1831. It was followed by Laurel Hill Cemetery in Philadelphia in 1836, and Mount Hope in Rochester, New York, in 1838. The movement was introduced to Canada in the late 1840s. Cataraqui Cemetery was incorporated in 1850 and was among the first of its kind in Ontario.

Rural Cemeteries became a popular form of artistic expression, in part, owing to the "Romantic and Picturesque Movements". In terms of cemetery design, Rural Cemeteries emphasized an overall park-like setting that included Picturesque qualities such as natural landscapes, decorative trees and vegetation, ornamental statuary, the incorporation of water features and the use of winding pathways. The Rural Cemetery movement also focused on the arrangement of burial plots around natural features, rather than grid formations. The English Picturesque Landscaping movement highlights the ideals of the Picturesque Painting Movement which holds that a scene (painted or landscaped) is composed of an ornamental or geometric foreground, a park like mid ground and a natural or wild background.

Originally established beyond the city limits in a rural environment around a natural landscape, the design of Cataraqui Cemetery is characterized by its naturalistic

setting, within its grounds, to attract and comfort the living. The Cataraqui Cemetery incorporates all of the major character-defining elements of a Rural Cemetery. The Cemetery design makes use of rolling hills, winding paths, ponds and waterways to create a Picturesque park-like environment. Moreover, it has been landscaped and beautified (still to this day) using a wide variety of both native and non-native species of trees, flowers, and shrubs as well as artistically crafted monuments, statuary, interment structures and buildings.

Cataraqui Cemetery has physical/design value because it displays a high degree of craftsmanship and artistic merit. Ponds and water features contribute to the property's physical/design value. Its three ponds are located in the south (Willow Pond), middle (Lilly Pond) and north (Forest Pond) parts of the cemetery respectively. Willow Pond and Forest Pond are well-maintained, with landscaped surroundings. The Forest Pond section has been reconstructed to resemble its original design, with limestone retaining walls around the pond itself, a river, which it feeds, and the surrounding hills. Steps, garden beds, cremation gardens, trees, ornamental plantings, monuments, pond fountains, benches and columbaria further contribute to this garden like setting. Lilly Pond, a natural "fen-like" area, has yet to be fully landscaped as a featured water area or section.

A number of built features also contribute to the cemetery's physical/design value. Benches of various designs are dispersed throughout the grounds, providing visitors with areas for rest and reflection as well as memorialisation. Cut limestone and concrete staircases/steps from the 19th century are found at various locations, which help the visitor negotiate steeper hillsides. A series of 19th century concrete bridges also enable visitors to cross some of the drainage courses that bisect Section Old E. Ornamental vases, statues, and flower pots of metal or concrete are also dispersed throughout the property. They include zinc and iron statues of classical figures, such as the statue of *Rebecca* on the Grimison family plot, facing the Sir John A. Macdonald gravesite. Most of these were purchased in the late 1800s. An ornate, swan-shaped iron fountain was installed on Maple Avenue, just north of Chapel Hill, in 1892.

The cemetery also contains a wide variety of markers and monuments, which vary significantly in age, size and design. Amongst these are flat gravestones, vertical head and foot stones, rare or uniquely-shaped markers, towering family monuments, and obelisks. Markers dating from the early 19th century are comprised of various types of stone such as white marble, sandstone, limestone and granite and have a conservative appeal to their design. Monuments of the later part of the 20th century are typical of mass production with little variation of shape and size; however, there is a noticed increase in colour options. The individuality of the marker is typically displayed by personal inscriptions and emblems on the face of the marker. Large iron fences mark the graves of some family plots while others use stone posts historically linked by chains.

Several buildings also help define the physical/design value of Cataraqui Cemetery. These buildings serve to reinforce the property's high degree of craftsmanship and artistic merit:

- i) **Superintendent's Lodge:** This 1854 cottage contributes to the property's physical/design value because it is an excellent and relatively rare example of Gothic Revival architecture applied to a small residential building. It is one of the Province's earliest surviving gate houses/ superintendent's lodges. It was designed by James Stewart and constructed by William Massie for 227 British pounds sterling. Although changes have been made to its original design, the building maintains many of its original Gothic features. These features include its steeply-pitched roof, tall gable end, and long dangling pendant suspended from its verge boards. The Gothic sense of vertical massing is preserved by the tall and narrow openings of its two bay windows, added in 1887. Similarly, tall and narrow windows used on the northwest wing, were added in 1900.
- ii) **Main Entranceway Gates and Pillars:** The main (Purdy's Mill Road) entranceway gates and pillars contribute to the property's physical/design value as an example of a work of artistic merit. The original iron gates, constructed by the Kingston Foundry in 1879, feature arrowhead finials and elaborate scrollwork. They are flanked by two pairs of stone pillars, each of which is joined by a matching iron balustrade. The pillars are comprised of large rock-faced limestone blocks, with pyramidal ashlar tops.
- iii) **Northwest Entranceway Gates, Pillars and Walls:** The northwest (Sydenham Road) entranceway gates, pillars and walls contribute to the property's physical/design value because they illustrate a high degree of craftsmanship and artistic merit. The iron gates, constructed in the 1950s, were forged to match those found at the main entranceway. The pillars are comprised of hammer-dressed stone and have flat tops. The paired pillars are not physically joined, and the outer pillars are approximately 2/3 of the height of the inner ones. Short limestone walls extend a distance of approximately 4 to 5 metres to the north and south of each outer pillar. A commemorative granite incorporation stone embedded to face west in the south pillar has been engraved with the text: "Cataraqui Cemetery / Incorporated / August 10, 1850."
- iv) **West Receiving Vault:** The cemetery's west receiving vault contributes to the property's physical/design value because of its simple, box-like appearance, unadorned gable roof, stone walls, and its construction in the side of a hill. These features emphasize the 19th century origin of the cemetery, and reflect the building's function appropriately. The Vault was originally constructed in 1865 using timber and limestone from the grounds. An addition was added in the 1920s and constructed with decorative cinder block and included windows. The ornate carved-wood verge boards suspended from the

addition's façade gable, gives the vault a slightly Gothic impression, which is well-suited to the cemetery environment. Large, matching pendants, suspended from each side of the front roof, contribute to this affect.

- v) *East Receiving Vault:* The cemetery's east receiving vault was constructed in 1887 and contributes to the property's physical/design value because of its simple, box-like appearance, unadorned gable roof, stone walls, and its construction in the side of a hill. These features emphasize the 19th century origin of the cemetery, and reflect the building's function appropriately. A heavy, iron, latticework door, purchased from Robert Dodds, a blacksmith working in Portsmouth Village, protects the only opening to this vault. This door gives the building's façade a sombre, serious and prohibitive appearance. To some extent, the weight of this impression is lifted by the decorative, scrolling, trim that lines the building's front gable.

Historical/Associative Value

The Cataraqui Cemetery possesses historical/associative value because it has direct associations with themes, events, beliefs, persons, activities, organizations and institutions that are significant to Kingston, the Province of Ontario and to Canada.

The cemetery is directly associated with two historical themes in Kingston (1.) the increasing concerns with public health, in light of overcrowded cemeteries located in urban areas; and (2.) the religious and social evolution as a result of "sectarian" discord with the growing influence of the Church of England.

Cataraqui Cemetery was created, in part, as a response to increasing concerns over public health due to overcrowded public burial grounds. At that time Kingston had only two cemeteries, each of which was nearing capacity. In 1845, one of these cemeteries, known as the "Lower Burial Ground," had been diminished in size when a church was built on the property. A second, known as the "Upper Burial Ground", at approximately 4 acres in size was estimated to contain 10,000 burials when it closed in 1865. Kingston's cemetery problem was compounded by growing immigration and the 1847 typhoid epidemic in Kingston, which claimed the lives of approximately 1400 people, most of whom were Irish immigrants fleeing the potato famine. Existing cemeteries were not equipped to handle the mass burials that occurred in the wake of this epidemic. Most of the 1847 typhoid victims were buried in a makeshift mass grave between the Kingston General Hospital and Lake Ontario. As a result of these concerns, two new cemeteries were opened in Kingston; Cataraqui Cemetery, a public, non-denominational, not for profit cemetery, and St. Mary's Catholic Cemetery (1856).

The non-denominational inclination of Cataraqui Cemetery has its roots in Kingston's religious discord starting in the early 1790's and dominating the 1820's. Anglicans and Presbyterians arguing over 'clergy reserves' boiled over into conflicts as to which congregation had rights to the two existing burial grounds at the time (Lower and Upper Burial Grounds). As Kingston's population of the 1840's grew, so did the number of Protestant based faiths, such as Methodist, Wesleyan, Presbyterian and Anglican. Growing anti-sectarian attitudes and antipathy for the segregation of the church operated cemeteries were instrumental in sparking a break from the age old church yard as a burial ground. The ideology of the Rural Cemetery found union with a growing mainstream preference of connecting with God through nature. Despite the 'Protestant' drive for a new cemetery, Cataraqui became an early model for inclusivity and remains non-denominational and publically available to all faiths and beliefs.

Cataraqui Cemetery also has historical/associative value stemming from its establishment and those persons involved in its incorporation.

In 1850, 67 Kingston residents originally purchased shares in the incorporated not-for-profit company whose purpose was to establish a non-denominational public cemetery. The intent was to establish a cemetery and operate it upon the reform ownership style (run for the patrons by the patron without sectarian influences). The cemetery would be located outside the city, for health reasons, and be large enough to accommodate a significant number of burials. In 1853 approximately 28 hectares were purchased north of the city in the Village of Waterloo (now Cataraqui). The surrounding geology of mixed sand was ideal for burials. The site's elevated topography was highlighted with gently rolling hills, ravines and streams and was located adjacent to an existing Quaker burial ground. The Quaker burial ground was deeded to the Cataraqui Cemetery in 1907.

Those founding shareholders included prominent Kingston businessmen, politicians, and professionals as well as members of many different faiths, including two popular Anglican ministers; George Okill Stuart and William Herchmer. The original shareholders also included many of Kingston's early lawyers (such as Sir John A. Macdonald), past or to-be mayors of Kingston, and well-established local merchants. The first President of The Cataraqui Cemetery Company's first Board of Trustees was Sir Alexander Campbell.

A long list of local, provincial, and national figures of prominence are buried in the cemetery, adding to its historical/associative value. The list includes, but is not limited to, the following:

- Arniel, Sgt Samuel: The first Kingston Police officer killed in the line of duty, April 19, 1919
- Barker, Dr. Edward: Founder of the British Whig newspaper (now the Whig Standard), co-founder of the Kingston Public Library (now the Kingston Frontenac Public Library) and St. Mark's Church in the Village of Barriefield, Kingston.
- Birchall, Air Commodore Leonard: RMC Commandant, Decorated WWII hero. Dubbed the Saviour of Ceylon. One of the 100 most influential Canadians in aviation.
- Burrowes, Thomas: a Captain with the Corps of Royal Sappers and Miners. Served as both a surveyor and overseer during the construction of the Rideau Canal, later became lock master at Kingston Mills. Known for documenting the construction of the canal and the landscape of the surrounding area in a series of paintings, thus creating an important eyewitness record of one of the most important engineering projects of 19th century Canada
- Campbell, Sir Alexander: Kingston lawyer and politician; Queen's Counsel, Speaker of the Legislative Council of Canada, Postmaster General, Minister of the Interior, Lieutenant-Governor of Ontario and a Father of Confederation. First

President of The Cataraqui Cemetery company and designated as a Person of National Historic Significance.

- Cartwright, Harriet: Kingston artist
- Cartwright, Sir Richard: Prominent Kingston businessman and politician, member of Legislative Assembly of Canada, Member of the Canadian Parliament, Minister of Finance, Minister of Trade and Commerce, member of the Imperial Privy Council and designated as a Person of National Historic Significance
- Cassady, Henry: Second Mayor of the Town of Kingston. Registered as the first official burial at Cataraqui Cemetery in 1853 along with his son (Henry Jr.). Henry Sr. was re-interred at Cataraqui from his original resting place at the Upper Burial Grounds in downtown Kingston.
- Counter, John: Prominent Kingston businessman; founder of the Marine Railway Company, eight-time mayor of Kingston, first mayor of the City of Kingston, advocate and fundraising for the construction of Kingston's City Hall building, which is now a National Historic Site of Canada.
- Coverdale, William: Eminent Canadian architect; assistant architect of Kingston City Hall, master builder at the Kingston Penitentiary, architect of many Kingston properties now designated under the *Ontario Heritage Act*.
- Creighton, John: Warden of Kingston Penitentiary, Mayor of Kingston
- Deutsch, John: Principal of Queen's University, 1968-1973; chair of the Economic Council of Canada, Assistant Deputy Minister of Finance, Secretary of the Treasury Board.
- Etherington, Agnes: Namesake of the Agnes Etherington Art Gallery on Queen's University Campus, located in her former home which she bequeathed to that end; founder and first president of the Kingston Arts and Music Club.
- Grant, Reverend George Munro: Principal of Queen's University, 1835-1903; secretary to Sir Sanford Flemming during his 1872 survey expedition, author and designated as a Person of National Historic Significance.
- Gildersleeve, Henry: Prominent Kingston businessman; shipbuilder, helped to build the first steamship on the Great Lakes – The Frontenac, 1816.
- Hamilton, John: Co-founder of Queen's University; Senator, member of Legislative Assembly of Canada, President of the Canadian Inland Steam Navigation Company, owner of the first steamship on the Great Lakes (The Frontenac, 1816), President of the Commercial Bank of the Midland District.

- Kirkpatrick, George Airey: Lieutenant-Governor of Ontario; Queen's Counsel.
- Kirkpatrick, Thomas: Kingston lawyer; first mayor of the Town of Kingston, Queen's Counsel.
- Maccoll, Evan: Gaelic bard and scholar, Fellow of the Royal Society of Canada, St. Andrew Society Bard, author.
- Macdonald, Sir John Alexander: Kingston lawyer and politician, Father of Confederation and first Prime Minister of Canada. Sir John A. Macdonald's grave site was designated as a National Historic Site of Canada in 1938. Designated as a Person of National Historic Significance.
- Macdonell, Lieutenant-General Sir Archibald Cameron: First Royal Military College graduate to serve as Commandant; veteran of the Battle of Vimy Ridge, General Officer Commanding 1st Canadian Division.
- Machar, Agnes Maule: An important reformist and literary figure in Victorian Canada and co-founder of The Children's Aid Society and The Kingston Humane Society.
- McLeod, Thomas: Mariner; survivor of three Antarctic expeditions (R.F. Scott, 1910, E. Shackleton, 1914, 1920), recipient of Silver Polar medal awarded by King George V.
- Macauley, Hon. John: Member of the Legislative Council of Upper Canada and that of the United Province of Canada, Receiver-General of Upper Canada, Kingston postmaster, owner and editor of the Kingston Chronicle.
- Mackintosh, William Archibald: Principal of Queen's University, Acting Deputy Minister of Finance and Director General of Research in the Department of Reconstruction, Companion of the Order of St. Michael and St. George.
- Mink, George: Son of slaves brought to Canada by the Herchmer family, Mink was a prominent early black business owner who owned a livery stable on Clarence Street and, with his brother, owned a Coach line from Toronto to Kingston.
- Morton, James: Founder of the Morton Brewery and distillery, the largest operation of its kind in Canada during the 1840s and 1850s.
- Mowat, John: War of 1812 vet., alderman, co-founder of Queen's University, director of the Commercial Bank of the Midland District. Father of 9th Premier of Ontario Sir Oliver Mowat,

- Nicol, David: Second superintendent of the Cataraqui Cemetery; responsible for transforming the cemetery into a prominent horticultural landmark.
- Pense, Edward John Barker: Second publisher of the Kingston Whig, Mayor of Kingston, Member of the Legislative Assembly.
- Richardson, James: Prominent Kingston businessman; founder of Richardson and Sons, which became the largest grain exporter in the British Empire.
- Ross, Air Commodore Arthur Dwight: RMC graduate, George Cross recipient. Held several command posts including RCAF Staff College and Canadian Western Atlantic Sub-Area.
- Sampson, Dr. James: War of 1812 veteran; military surgeon, doctor to three Governors-General, social reformer, philanthropist, overseer of Kingston General Hospital construction, Mayor of Kingston.
- Sangster, Charles: 19th-century Canadian poet; considered the most important pre-Confederation Canadian poet. Was elected a Fellow of the Royal Society of Canada in 1892.
- Smith, Sir Henry (Jr): Member of the Legislative Assembly, Solicitor General, Speaker of the Assembly.
- Sutherland, James Thomas: First Manager of the Kingston Frontenac Hockey Club, President of the Ontario Hockey Association and the Canadian Amateur Hockey Association, World War One veteran, and founder of the Memorial Cup (Canadian Junior Hockey championship trophy) to honour those Canadian hockey players who died during WW1.

Some Cemetery plots are now, or previously have been, purchased for various individuals, groups, organizations and institutions. These plots contribute to the property's historical/associative value as they are reflective of important aspects of Kingston's cultural heritage:

- Donald Stewart "Grapes" Cherry and family plots: Canadian Hockey Icon and celebrity, commentator, coach and player. He also founded the Rose Cherry's Home for Kids (later renamed the Darling Home for Kids). His parents, Delmar and Maude Cherry and first wife Rosemarie are buried in this plot.
- Friends Grounds: A portion of the Cataraqui Cemetery (now within Sections P and Q) was once a "Society of Friends" or "Quaker Burial Grounds" from as early as 1801-1802. It is no longer exclusive to Quaker burials. It predates the establishment of the Cataraqui Cemetery and contains the oldest visible marker (Mary McCrea, 1790-1812).

- **Ryder Family Plot:** Much of the cemetery property was used as farmland between the time of European settlement and its 1850 purchase for cemetery use. A small section of the cemetery contains the Ryder family burial plot. The Ryder family were farmers on part of the present cemetery property. The plot is located in Section Old C. Lot 101 and marks the grave site of John Ryder, 1775 – 1832.
- **The Range:** A section of the cemetery known as "The Range" was a potter's field set-aside for a variety of indigent or disenfranchised individuals, including the poor (aka paupers' graves), federal penitentiary inmates, infant or stillborn burials and individuals from what was known as the Rockwood Lunatic Asylum.
- **Queen's University:** The cemetery contains three plots purchased by Queen's University and set-aside for prominent persons associated with the University. A fourth plot was purchased and dedicated to Queen's Anatomy for the cremation interment of individuals who donated their bodies to Queen's University for the purpose of education.
- **Military Plot:** In 1865 the British War Department purchased rights to the present military plot, which is now under the aegis of the Commonwealth War Graves Commission, the Canadian Department of National Defence and Veterans Affairs. This land is reserved for those who have served in the military (and spouses), and includes veterans from as far back as the Crimean War (1853-1856), up to the present war in Afghanistan.
- **Hospital Ground:** An unmarked - now treed area - on the eastern boundary of the Cemetery (Section old F) was intended for the burial of approximately 250 Hospital patients and dates to the 1870's. This area was set aside, similar to The Range, to provide graves for indigent burials. As a result of common and accepted attitudes of the period, little information remains regarding the exact number and arrangement of burials in this area.

In addition to these localized groupings, a large number of bodies from Kingston's urban "Upper Burial Ground" and "Lower Burial Ground" were moved and re-interred in Cataraqui Cemetery when the former was converted to a park. The number of re-interments is not known. Individual families were responsible for moving the remains and, as such, their locations are dispersed throughout the cemetery according to family plots. These re-interments included family members of Sir John A. Macdonald, Sir Alexander Campbell and Henry Cassady Sr.

As a result of the cemetery's non-denominational status, its markers and plots exhibit a wide range of religious belief systems. Many Christian and non-Christian dominations are represented, and there are plots purchased by Lodges, Orders and Associations such as Masonic Lodges, the International Order of Oddfellows, the

Chinese Benevolent Association and congregations of the Jewish faith. In addition a northwest section of the cemetery, not formally dedicated, is dominated by persons of East Asian origin.

The two burial vaults, erected in 1865 and 1887, respectively, contribute to the historical/associative value of the property because they provide information about the burial practices of the 19th and early 20th centuries. Winter interments were rarely practiced at that time, so caskets were stored in the vaults until the soil had thawed sufficiently for burial. The east vault also features a heavy iron latticework door, installed due to the threat of theft from grave robbers and the theft of bodies for medical dissection. These vaults help to preserve and educate visitors about the history of the cemetery.

The Superintendent's Lodge contributes to the cemetery's historical/associative value because it has been tied to the cemetery's activities since the year after its first interments and because it reflects the cemetery's operations and activities. The Lodge was completed in 1854. For the next 150 years (until 2004) it served as the residence of the cemetery's Superintendent. The existence of a resident Superintendent provided some measure of security to the cemetery and it reflected the central importance of that person to the property's upkeep.

The Cataraqui Cemetery is further valued for its historical/associative value because it yields information that contributes to the understanding of local, provincial, and national history. Over 46,000 people are buried in the cemetery. It has been, and continues to be, a primary source of genealogical information of interest to persons across Canada. The gravesites found in the cemetery provide important insight into the lives of Kingston's inhabitants and reflect the key historical themes in the development of the city, the province and the nation.

Contextual Value

The Cataraqui Cemetery has contextual value because of its importance in defining, maintaining and supporting the character of the former Village of Waterloo/Cataraqui. Owing to its size and distinct beauty, the Cataraqui Cemetery is the most prominent and identifiable property in this area. Apart from being a functioning cemetery, it is a popular year round destination for thousands of tourists and local visitors.

The Cataraqui Cemetery is functionally, visually, and historically linked to the former Village of Cataraqui. Originally established on a hill on the edge of the former village, today it is surrounded by a mix of residential, commercial and institutional buildings and cemeteries. The Cemetery abuts the old Christ Church, built in 1869, and its own historic cemetery. This limestone Anglican Church adds to the historic character of the cemetery, while its own cemetery is coextensive with it. The new Christ Church Cataraqui building, located just north of the old church, compliments Cataraqui Cemetery in scale, colour and use. The Beth Israel Cemetery is located,

like the old and new Christ Church buildings, on the east side of Sydenham Road and also abuts the Cataraqui Cemetery. Further burial grounds are located on the west side of Sydenham Road, directly across from the Cataraqui Cemetery. These burial grounds belong to the Cataraqui United (formerly Methodist) Church and the McGuinn family. The present United Church building, erected in 1881, is clearly visible from Cataraqui Cemetery and complements its historic nature. The former Cataraqui Town Hall/ Kingston Township Hall (1847) is found on the west side of Sydenham Road and is also visible from the cemetery grounds. There are also a number of older buildings and features along Sydenham Road that are visible from Cataraqui Cemetery which complement the Cemetery. The integrity of this peaceful natural setting remains intact and is supported by these existing historic and compatible neighbouring properties and uses.

The Cataraqui Cemetery is a landmark in Kingston because of its historic hilltop location, dominant size and location at the edge of the former Village of Waterloo/Cataraqui. This early Canadian Rural Cemetery with its carefully developed and maintained natural beauty and built structures and its role as a principle and still active burial ground, as well as a year round attraction for thousands of local visitors and international tourists annually, further adds to its status as an important Kingston landmark.

Character Defining Features/Heritage Attributes

- Its prominent historic location, size and Rural Cemetery style, making it a landmark within the community;
- Its Picturesque qualities and features, notably:
 - its uneven topography of rolling hills, ravines, swales, streams, three ponds and naturalistic landscape;
 - its curvilinear roads and islets of irregular curved shapes and differing sizes; and
 - its numerous late 19th century zinc, iron and concrete statues, vases and flower pots.
- The variety of mature native and non-native flowers, shrubs and trees, which reflect 19th century horticultural practices;
- 19th century limestone and concrete staircases/steps and concrete bridges across drainage courses located throughout, which contribute to the park-like character of the cemetery;
- Grave markers featuring a variety of stone types, size and designs, monuments, obelisks and burial plot enclosures of stone and/or iron;
- The Superintendent's Lodge, which is a good example of a mid-19th century Gothic Revival cottage; notably:
 - its massing and form;

- its location, which marks the historical main entrance of the cemetery;
- its horizontal wood siding and steeply pitched roof supporting tall gable ends;
- the long dangling pendants suspended from verge boards; and
- the tall and narrow window openings, which maintain the sense of vertical massing.
- The Main (Purdy's Mill Road) Entranceway Gates and Pillars, notably:
 - its iron gates with arrowhead finials and elaborate scrollwork;
 - its iron balustrade, matching the iron gates, join each pair of stone pillars;
 - its pillars comprised of large, rock-faced limestone blocks; and
 - its pillars topped by pyramidal ashlar tops.
- The Northwest (Sydenham Road) Entranceway Gates, Pillars and Walls, notably:
 - its iron gates with arrowhead finials and elaborate scrollwork;
 - its gates forged to match those found at front entranceway;
 - its paired pillars of unequal height, composed of hammer-dressed limestone, with flat tops;
 - its short limestone walls extend north and south, approximately 5 metres, of each outer pillar respectively; and
 - its commemorative granite incorporation stone with the inscription: "Cataraqui Cemetery / Incorporated / August 10, 1850".
- The cemetery's oldest known burial marker (Mary McCrea 1812) located in The Quaker Burial Ground (Section Q);
- Markers throughout the cemetery reflecting a wide range of religious belief systems;
- West Receiving Vault; and
- East Receiving Vault, including its heavy iron gate/door.

Schedule "B"

Excerpt from the Historic Sites and Monuments Board of Canada

Minutes, December 2009

C. The Cataraqui Cemetery, Kingston, Ontario (Ref. 2009-80, "The Cataraqui Cemetery, Kingston, Ontario"; 2009-80-A, Resume:« Le cimetièrre Cataraqui, Kingston (Ontario) »)

1. Background In Committee, Mr. Fulton explained that the Cataraqui Cemetery, established in 1850 as a nondenominational cemetery, is located within the greater Kingston area and is today the city's main burial ground. Laid out by Frederick Cornell, the cemetery is among the best examples of medium-sized rural garden cemeteries in Canada for its naturalistic, Picturesque views composed of an uneven topography of hills, ravines and swales, serpentine roads, ponds, species of trees, shrubs and plants, and attractive statuary. These components provide an appropriate setting for a large number of funerary monuments. Of varying types, styles and materials, these monuments are of artistic and historical interest and an exceptional illustration of many historical aspects at the national, provincial, regional and local levels. The grounds are also enhanced by the placement of statuary within the Picturesque landscape to function as "visual focal points." These include urns, flowerpots, fountains and female allegorical figures, a number of them attractive painted iron and zinc sculptures from the second half of the 19th century.

The Cataraqui Cemetery was submitted by Linda V. Cyr, President, The Cataraqui Cemetery Company.

Discussion and Recommendations

a. Designation The Committee and the Board after it recommended:

The Cataraqui Cemetery, Kingston, Ontario for designation as a National Historic Site

b. Plaque The Committee and the Board after it recommended:

that The Cataraqui Cemetery, Kingston, Ontario be marked by means of a standard bilingual plaque

c. Name The Committee and the Board after it recommended the name of designation as:

EN The Cataraqui Cemetery FR (le) cimetièrre Cataraqui

and the official name as:

EN The Cataraqui Cemetery National Historic Site of Canada FR lieu historique national du Canada du Cimetiere-de-Cataraqui

d. Definition of Place The Committee and the Board after it recommended that the boundaries for the Cataraqui Cemetery should be defined as:

The legal boundaries of The Cataraqui Cemetery (see Submission Report 2009-80, Figure 4)

e. Commemorative Intent The Committee and the Board after it recommended The Cataraqui Cemetery for designation as a national historic site because:

- it is an attractive and well preserved example of a medium-sized rural cemetery characterized by its uneven topography and naturalistic landscape with many varied perspectives laid out in the Picturesque manner, its curvilinear roads and islets of irregular curved shapes and differing sizes, its ponds, and its range of plantings including many mature trees;
- it includes a number of funerary monuments of artistic and historical interest that are an exceptional illustration of many aspects of the history of Canada, the province of Ontario, and the City of Kingston, and is the final resting place for many prominent Canadians, including Sir John A. Macdonald; and,
- it includes a Gothic Revival-style Lodge carefully designed to complement the naturalistic and Picturesque values of the site, as well as, among its decorative features, a number of attractive painted iron and zinc sculptures from the second half of the 19th century, including a number of female allegorical figures.



Cunningham Swan
LAWYERS

Timothy J. Wilkin
Counsel
Direct Line: 613.546.8074
E-mail: twilkin@cswan.com

June 20, 2014

Environment and Land Tribunals Ontario
Conservation Review Board
655 Bay Street
Suite 1500
Toronto, Ontario
M5G 1E5

Attention: Ms. Shannon Carrick
Case Coordinator

Dear Ms. Carrick:

RE: File Number: CRB1304
Nature of Matter: Objection to the Notice of Intention to Designate
Objector: Homestead Land Holdings Limited
Property: 927 Purdy's Mill Road and 1080 Sydenham Road
Municipality: City of Kingston
Legislation: s.29 of the *Ontario Heritage Act*
Our File No. 8506-61

I am counsel to Homestead Land Holdings Limited that filed a request for a hearing before the Conservation Review Board from the notice of the Council of the City of Kingston of its intention to pass a bylaw designating the Cataraqui Cemetery property under section 29 of the *Ontario Heritage Act*.

I am writing to advise the Board that my client's concerns with the proposed by-law have been satisfactorily addressed. Accordingly, Homestead Land Holdings Limited withdraws its request for a hearing before the Board and requests that the Board close its file in this matter.

CUNNINGHAM, SWAN, CARTY, LITTLE & BONHAM LLP

SMITH ROBINSON BUILDING, SUITE 300 - 27 PRINCESS ST., KINGSTON ON K7L 1A3 TEL: 613-544-0211 FAX: 613-542-9814 WEBSITE: WWW.CSWAN.COM

City Council Meeting 24 July 15, 2014

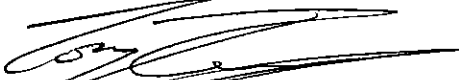
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By copy of this letter, I am notifying Mr. John Bolognone, Clerk of the City of Kingston and Mr. Fairbrother, counsel to the City of Kingston as required by Rule 22 of the Board's Rules of Procedure.

The Board has scheduled a further Pre-Hearing Telephone Conference call for Thursday, June 26, 2014. Unless I hear otherwise, I shall assume that the conference call is now canceled.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



per: Timothy J. Wilkin
Counsel

TJW:kj

cc: John Bolognone, Clerk, City of Kingston
Wayne Fairbrother, Templeman Menninga LLP, Counsel to the City of Kingston
David Trousdale, Homestead Land Holdings Limited



CATARAQUI CEMETERY
AND FUNERAL SERVICES

March 25, 2014

Ryan J. Leary
Senior Planner
Heritage & Urban Design
Planning & Development Department
City of Kingston
216 Ontario Street,
Kingston, ON
K7L 2Z3

Dear Mr. Leary,

RE: Cataraqui Cemetery By-Law Negotiated Draft March 24, 2014

I have taken time to review the file *Cataraqui Cemetery By-law Negotiated Draft March 24, 2014*, which you had submitted to my attention by e-mail on March 24, 2014.

Thank you for considering the several points and pressing concerns that we had raised. Despite our feeling that the by-law still lacks appropriate wording to mitigate encroaching development, I can say that we are inclined to move forward with having the by-law, as presented, passed by City Council without further changes and without continued involvement of the CRB. We appreciate the delicacy of the negotiations given the differing interests of the three parties involved and the politics at play.

On behalf of The Cataraqui Cemetery Board of Trustees, please accept this letter formally stating that we accept the By-law presented as draft dated March 24, 2014. Please continue to keep us informed as to when this matter will go before City council.

Respectfully,

Craig Boals
Director of Operations
The Cataraqui Cemetery Company

CATARAQUI CEMETERY and FUNERAL SERVICES

Operated by The Cataraqui Cemetery Company. Est. 1850
927 Purdy's Mill Road · Kingston · Ontario · K7M 3N1
Tel. 613-546-6545 · Facsimile 613-546-6631 · www.cataraquicemetery.ca
City Council Meeting 24 July 15, 2014