

**PROCEEDINGS COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Applicant and Appellant: Rainer Hummel  
Subject: Application to amend the Zoning By-law – Refusal or neglect to make a decision  
Description: To permit a rezoning and severance of a residential lot for a proposed single-detached dwelling  
Reference Number: ZBA-05-2024  
Property Address: 187 Queen Street  
Municipality/UT: Niagara-on-the-Lake/Niagara  
OLT Case No.: OLT-24-000900  
OLT Lead Case No.: OLT-24-000900  
OLT Case Name: Hummel v. Niagara-on-the-Lake (Town)

**PROCEEDINGS COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Applicant and Appellant: Rainer Hummel  
Subject: Consent  
Description: To permit a rezoning and severance of a residential lot for a proposed single-detached dwelling  
Reference Number: B-09/24  
Property Address: 187 Queen Street  
Municipality/UT: Niagara-on-the-Lake/Niagara  
OLT Case No.: OLT-24-000919  
OLT Lead Case No.: OLT-24-000900  
OLT Case Name: Hummel v. Niagara-on-the-Lake (Town)

**MINUTES OF SETTLEMENT**

**BETWEEN:**

The Corporation of the Town of Niagara-on-the-Lake (the “Town”)

and

Rainer Hummel (“Hummel”)

**WHEREAS:**

Hummel submitted an Application for Zoning By-law Amendment to the Town to amend the zoning by-law for 187 Queen Street (the “Subject Property”) from “Old Town Community Zoning District – Established Residential (ER) Zone to “Old Town Community Zoning District - Established Residential (ER) Site-Specific Zone” (the “Zoning Application”) to facilitate the severance of two

new residential lot fronting on Simcoe Street for single-detached dwellings, and one retained lot containing a Part IV designated heritage dwelling for continued residential use;

The Zoning Application was later revised to seek the creation of one new lot as opposed to two new lots;

The Zoning Application, which was required by the Town's Official Plan to facilitate a severance, provided for site specific provisions for lot frontage and depth as well as an increase front yard setback, an additional encroachment provision for rear yard decks and provisions for garage setback and garage door width for the future dwelling on the severed lot together with site specific provisions for the Part IV designated heritage dwelling on the retained lot;

Town Council refused the Zoning Application at the Council meeting held July 30, 2024;

Hummel appealed the decision of Town Council to refuse the Zoning Application to the Ontario Land Tribunal (the "OLT") on August 16, 2024

Hummel submitted the companion Application for Consent to the Committee of Adjustment for the Town (the "Committee") to sever one residential lot from the Subject Property for a future single detached dwelling (Part 1, Plan 30R-16334) with the existing single detached dwelling on retained lot (Part 2, Plan 30R-16334), which is designated under Part IV of the *Ontario Heritage Act*, to continue to be used for residential purposes (the "Consent Application");

The Committee refused the Consent Application at its meeting of August 15, 2024 and Notice of Decision was issued by the Committee on July 31, 2024;

Hummel appealed the decision of the Committee to refuse the Consent Application to the OLT on August 26, 2024; and

The Town and Hummel have agreed to enter into these Minutes of Settlement to resolve Hummel's Appeals in these matters.

**NOW THEREFORE THESE MINUTES WITNESS** that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada, now paid by each of the parties to the other, the receipt and sufficiency of which is hereby acknowledged, and for other good and valuable consideration, the parties hereto covenant, acknowledge and agree as follows:

1. The above recitals are true and accurate.
2. Reference herein to the "Parties" shall mean the Town and Hummel.
3. The schedules attached hereto are incorporated into these Minutes by reference and are deemed to be part thereof. The schedules attached are as follows:

**Schedule "A"** – Site Specific Zoning By-law Amendment for the Subject Property;

**Schedule "B"** – Reference Plan 30R-16334 showing Severed and Retained Lots;

**Schedule "C"** – Conditions of Consent Approval for Severed and Retained Lots;

**Schedule "D"** -Memo and Draft Heritage Designation By-law for the Retained Lot;

**Schedule “E”** – Tree Inventory and Preservation Plan Report prepared by Jackson Arborculture Inc. dated 25 January 2024; and

**Schedule “F”** – Settlement Process

4. The Parties shall make a joint request to the OLT to convene a settlement hearing in this matter for the purpose of presenting the Site-Specific Zoning By-law and Consent Application for approval by the OLT.
5. The Parties shall attend at the hearing when scheduled and advise the OLT of their support for, and jointly request the approval of, the Site-Specific Zoning By-law and Consent Application.
6. The Parties agree to support the approval of the Site-Specific Zoning By-law Amendment attached as **Schedule “A”** to these Minutes at a settlement hearing convened by the OLT for this purpose.
7. The Parties agree to support the approval of the Consent Application for the creation of the Severed and Retained Lots as shown on the Consent Sketch attached as **Schedule “B”** attached to these Minutes at a settlement hearing convened by the OLT for this purpose.
8. The Parties agree that the approval of the Consent Application by the OLT will be conditional upon Hummel satisfying the Conditions of Consent for the Severed and Retained Lots as set out in **Schedule “C”** attached to these Minutes.
9. The Parties agree that consent condition 1.1.7 shall be satisfied through the process set out in these Minutes of Settlement as follows:
  - (a) The Parties agree that Heritage Designation By-law 3633-02 which is registered on title to the Subject Property will be released by the Town with respect to the Severed Lot (Part 1, Plan 30-R16334) upon registration of the Transfer by Hummel to complete the severance of the Severed Lot; and
  - (b) The Parties agree that Heritage Designation By-law for the Retained Lot (Part 2, Plan 30R-16334) included in **Schedule “D”** to these Minutes shall be registered on title to the Retained Lot **as soon as possible after** the issuance of the Decision and Order of the OLT approving the Site-Specific Zoning By-law and the Consent Application as set out herein. The Registration shall be completed by the Town and registration fees shall be paid by Hummel.
10. Hummel agrees that the recommendations contained in the Tree Inventory and Preservation Plan Report attached as **Schedule “E”** to these Minutes will be implemented on the Subject Property and on the adjacent Town property. Should a revised development be proposed for the Subject Property a revised Tree Inventory and Perseveration Plan shall be submitted to the Town for approval prior to the commencement of any development on the Subject Property.

11. Hummel agrees to provide both heritage planning and land use planning evidence in support of the Site-Specific Zoning Amendment and the Consent Application at the OLT settlement hearing. The Town agrees that it shall make a land use planner available to provide evidence in support of the Site-Specific Zoning Amendment and the Consent Application at the OLT settlement hearing.
12. The Town and Hummel agree to follow the process set out in **Schedule "F"** to these Minutes to implement the settlement of these appeals as agreed to in these Minutes of Settlement.
13. No Party shall request that the OLT make any order as to costs in this matter.
14. These Minutes may be executed in counterparts.
15. Time shall be of the essence with respect to the performance by the Parties of their respective obligations under these Minutes.

**IN WITNESS WHEREOF** the Parties have executed these Minutes on January 15, 2025.

**THE CORPORATION OF THE TOWN OF NIAGARA-  
ON-THE-LAKE**

By its solicitors Daniel & Partners LLP



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Callum Shedden – Partner

**RAINER HUMMEL**

By his solicitors Sullivan Mahoney LLP



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Sara Premi- Partner

**SCHEDULE A**  
**SITE SPECIFIC ZONING BY-LAW AMENDMENT**

**THE CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE  
BY-LAW NO. 4316FR-24**

187 Queen Street, Roll #: 262701000404100

A BY-LAW TO AMEND BY-LAW NO. 4316-09, AS AMENDED, ENTITLED  
A BY-LAW TO REGULATE THE USE OF LANDS AND THE ERECTION,  
USE, BULK, HEIGHT, LOCATION, AND SPACING OF BUILDINGS AND  
STRUCTURES WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE.

**WHEREAS** the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

**AND WHEREAS** this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE** enacts as follows:

1. Schedule "A-1" of By-law 4316-09, as amended, is further amended by changing the zoning of the subject lands identified on Map 'A' attached to and forming part of this By-law from "Old Town Community Zoning District – Established Residential (ER) Zone" to "Old Town Community Zoning District – Established Residential [ER-114(a)] Site-Specific Zone" and "Old Town Community Zoning District – Established Residential [ER-114(b)] Site-Specific Zone".
2. That Subsection 7.14 Site Specific Exceptions of By-law 4316-09, as amended, is hereby further amended by adding the following section:

**7.14.114 – 187 Queen Street – See Schedule ‘A-1’ [ER-114(a) and ER-114(b)]**

7.14.114.1 ER-114 (a) Zone Requirements

In lieu of and in addition to the corresponding provisions of Subsection 7.1.2, the following provisions shall apply to the subject lands identified as ER-114 (a) on Schedule ‘A-1’:

(a)	Minimum lot frontage Minimum lot depth	33 m 42 m
(b)	Minimum front yard setback	8.5 m
(k)	Maximum encroachment into a required rear yard for an unenclosed and uncovered/covered porch, deck, balcony, patio or steps	3.5 m
(l)	A detached or attached garage shall be setback a minimum of 1 metre behind the main façade of the dwelling on the ground floor	
(m)	The door(s) of an attached garage shall not occupy more than 50% of the width of the dwelling façade	

7.14.114.2 ER-114 (b) Zone Requirements

In lieu of and in addition to the corresponding provisions of Subsection 7.1.2, the following provisions shall apply to the subject lands identified as ER-114 (b) on Schedule ‘A-1’:

(a)	Minimum lot frontage Minimum lot depth	29 m 42 m
(b)	Minimum front yard setback	As existing on the date of passage of this by-law
(c)	Minimum rear yard setback	5 m
(i)	Minimum exterior side yard setback to the front face of the dwelling	As existing on the date of passage of this by-law
	Minimum exterior side yard setback to the front face of an attached garage	12 m

3. All other provisions of Zoning By-law 4316-09, as amended, shall continue to apply to the subject lands.

4. That the effective date of this By-law shall be the date of final passage thereof.

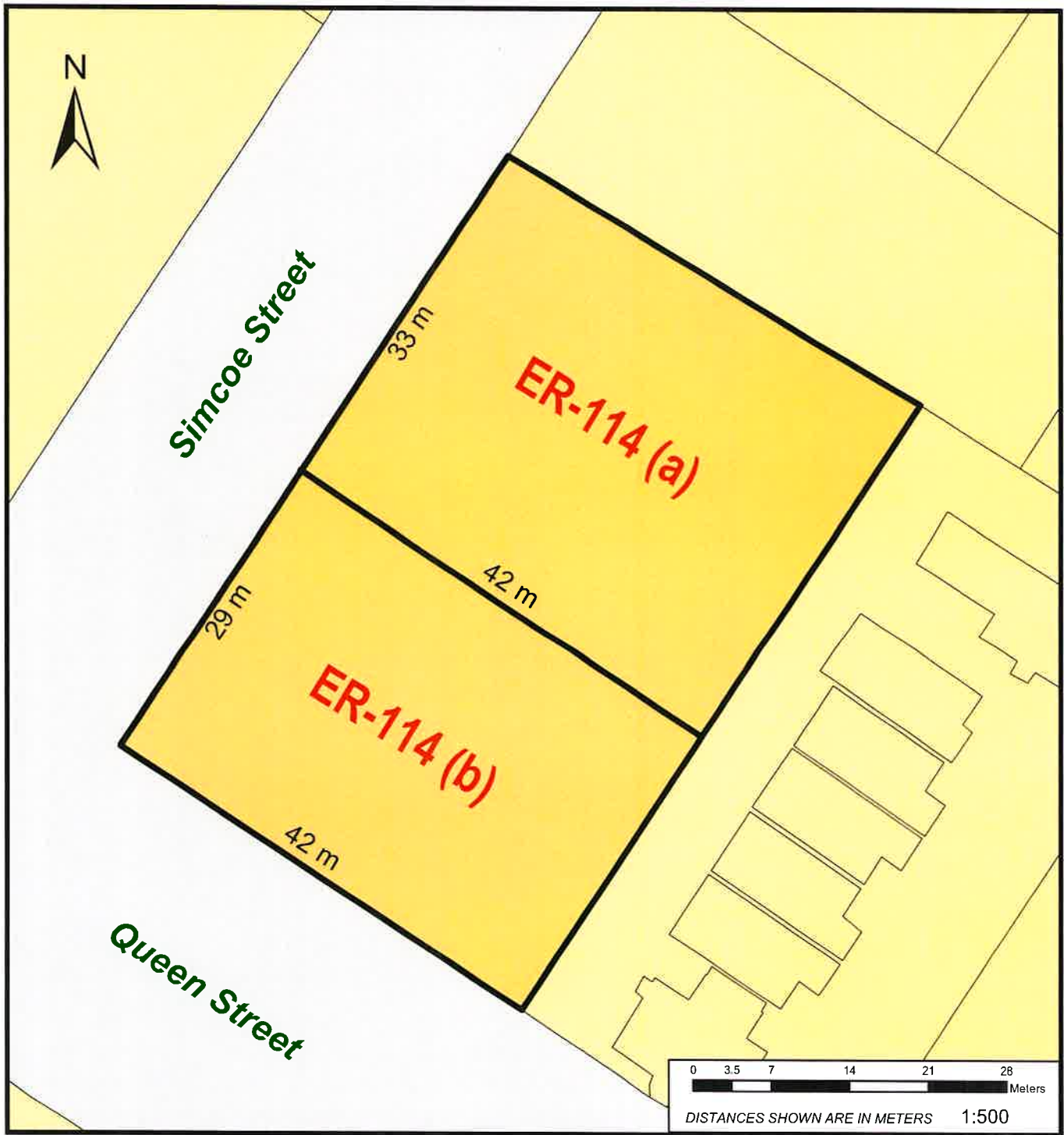
READ A FIRST, SECOND AND THIRD TIME THIS 30TH DAY OF JULY, 2024.

\_\_\_\_\_  
LORD MAYOR GARY ZALEPA

\_\_\_\_\_  
TOWN CLERK GRANT BIVOL

DRAFT





MAP 'A' ATTACHED TO BY-LAW 4316FR-24, BEING AN AMENDMENT TO SCHEDULE "A-1" OF ZONING BY-LAW 4316-09, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE AS PASSED ON THIS 30th DAY OF JULY, 2024.

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LORD MAYOR  
GARY ZALEPA

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TOWN CLERK  
GRANT BIVOL

**SCHEDULE B**

**REFERENCE PLAN 30R-16334**



**SCHEDULE C**  
**CONDITIONS OF CONSENT APPROVAL**



## Town of Niagara-on-the-Lake

1593 Four Mile Creek Road  
P.O. Box 100, Virgil, ON L0S 1T0  
905-468-3266 www.notl.com

**REPORT #:** CDS-24-141 **COMMITTEE DATE:** 2024-08-15  
**REPORT TO:** Committee of Adjustment **DUE IN COUNCIL:** N/A  
**SUBJECT:** Consent Application B-09/24 – 187 Queen Street

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-09/24 for 187 Queen Street be approved, subject to the following conditions:
  - 1.1.1 That the owner/applicant provides a legal description of Part 1, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
  - 1.1.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 1, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
  - 1.1.3 That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 1 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 1;
  - 1.1.4 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 1, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
    - a) That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 1, and that any construction shall be in keeping with the heritage character of the surrounding area, consistent with the Town's Official Plan and urban

design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and Development Services;

- b) That, prior to the issuance of a Building Permit for a new dwelling, the owner/applicant submit a Heritage Impact Assessment to evaluate impacts to the adjacent heritage resources, determine compatibility of the new development within its historic context, and provide recommendations for mitigation and conservation measures, to the satisfaction of the Director of Community and Development Services;
- c) That a water service wholly fronting Part 1 of the proposed severance be installed via an application to the Town's Environmental Services Department;
- d) That the owner/applicant provides a lot grading plan for Part 1, completed by an Ontario Land Surveyor or Civil Engineer, and include existing grades on adjacent properties, to the satisfaction of the Chief Building Official;
- e) That the owner/applicant submits an application to facilitate the removal of trees, in accordance with the Town's Tree By-laws and to the satisfaction of the Town's Urban Forestry Officer;
- f) That the owner/applicant implements the recommendations of the Tree Inventory and Preservation Plan, prepared by Jackson Arboriculture Inc., dated January 25, 2024, to the satisfaction of the Director of Community and Development Services and in consultation with the Town's Urban Forestry Officer;
- g) That the owner/applicant provides a signed copy of the Town's Tree Protection Declaration form, to the satisfaction of the Town's Urban Forestry Officer; and
- h) Any agreements of Purchase and Sale or Lease of Part 1, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.

1.1.5 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 2, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:

- a) That the owner acquires a heritage permit, through the Town's Municipal Heritage Committee, for any proposed alterations to the Part IV designated dwelling on Part 2 (187 Queen Street), to the satisfaction of

the Director of Community and Development Services;

- b) That the owner submits an application to facilitate the removal of trees, in accordance with the Town's Tree By-laws and to the satisfaction of the Town's Urban Forestry Officer;
  - c) That the owner implements the recommendations of the Tree Inventory and Preservation Plan, prepared by Jackson Arboriculture Inc., dated January 25, 2024, to the satisfaction of the Director of Community and Development Services and in consultation with the Town's Urban Forestry Officer;
  - d) That the owner/applicant provides a signed copy of the Town's Tree Protection Declaration form, to the satisfaction of the Town's Urban Forestry Officer; and
  - e) Any agreements of Purchase and Sale or Lease of Part 2, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.1.6 That the owner/applicant receives final approval for a Zoning By-law Amendment that contains provisions required to facilitate the proposal;
- 1.1.7 That the owner/applicant modifies Designation By-law 3633-02, in accordance with all requirements of the *Ontario Heritage Act*, to remove Part 1 from the "real property" legal description, to the satisfaction of the Director of Community & Development Services;
- 1.1.8 That the owner/applicant obtains any required building permit for the removal/demolition of the existing detached garage on Part 1, and that final inspection and closure of the permit is completed to the satisfaction of the Chief Building Official;
- 1.1.9 That the Town Operations Department be provided with a copy of the deposited reference plan;
- 1.1.10 That the owner/applicant identifies, disconnects and caps any existing internal water and sanitary sewer connections between Parts 1 and 2 of the proposed severance to a minimum of 2 metres from the boundary line between Parts 1 and 2, to the satisfaction of the Director of Operations;
- 1.1.11 That the owner/applicant is required to:
- a) Disconnect the existing storm sewer lateral currently traversing Part 1 between Part 2 and the Simcoe Street storm sewer and cap it at the boundary between Parts 1 and 2. Storm water is temporarily discharged

to the ground on Part 2 as per Town policy; and

- b) Enter into a servicing agreement with the Town, to be registered on title of the property, for the extension of the existing 375 mm storm main on Simcoe Street to a point a minimum of 3 metres south of the northern boundary of Part 2 including the installation of a storm lateral connecting to the storm main service, to the satisfaction of the Director of Operations.

1.1.12 That the Owner/applicant must obtain approval in the form of a municipal entrance permit from the Town's Operations Department for a new driveway on Part 2, including location/renewal/replacement of any boulevard trees or public infrastructure. Any costs associated with relocation of municipal parking stalls, parking meters or other requirements to facilitate the entrance will be at the Owner's expense; and

1.1.13 That the owner/applicant enter into an encroachment agreement with the Town for the building encroachment located on the Queen Street frontage of Part 2, to be registered on the title of Part 2 of the proposed severance, to the satisfaction of the Town.



**SCHEDULE D**

**MEMO AND DRAFT HERITAGE DESIGNATION BY-LAW FOR RETAINED LOT**



M. R. Letourneau and Associates Inc.  
706 Front Rd.  
Kingston, Ontario, K7M 4L5  
(1) 613-331-0988  
marcus@mrletourneauassociates.ca

30 November 2024

Rainer Hummel  
329 Four Mile Creek Road - Unit #333  
St. Davids, ON, L0S 1P0  
Via Email to: [rainer@hummelproperties.net](mailto:rainer@hummelproperties.net)  
cc: Sara Premi, Sullivan Mahoney

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## **Memo: Draft Updated OHA By-law for 187 Queen Street, Niagara-on-the-Lake, Ontario (MRL022)**

**Dear Mr. Hummel:**

Please find below the recommended update to an existing Section 29 Part IV Ontario Heritage Act (OHA) designation by-law for the property known civically as 187 Queen Street, Niagara-on-the-Lake, Ontario. It is understood this new by-law has been prepared as part of Minutes of Settlement (MOS) in advance of a scheduled Ontario Land Tribunal (OLT) Hearing. This by-law has been prepared as part of a Section 30.1 OHA designation by-law amendment and will need to follow the identified OHA process. The amended by-law meets all three of the required criteria for an amendment under this process:

1. Clarify or correct the statement explaining the property's cultural heritage value or interest or the description of the property's heritage attributes.

The current designation by-law (Town of Niagara-on-the-Lake By-law 3633-02) approved on 25 February 2002 was written in advance of the changes to the creation of the Niagara-on-the-Lake National Historic Site of Canada in 2004, the update to the OHA in 2005, the creation of Ontario Regulation 09/06, the update to the Estate Lot Study in 2018, and the creation of O.Reg 385/21. A previous draft designation by-law update was prepared by Ms. Megan Hobson, and her list of heritage attributes was reviewed and applied as appropriate.

As required, the property will be considered against the existing provincial criteria in O.Reg 09/06 taking into account this new information. It should be noted that a new CHER was not completed for this property, and the existing statement was used as the basis of the update. Nevertheless, in reviewing the property as part of a site visit on 22 November 2024, several attributes and/or historical points are recommended for correction. This includes the rear staircase, which despite its older appearance, has been substantially altered (Figure 1). The proposed by-law also does not include a reference to the gardens as these have been heavily modified (Figure 2). Lastly, it does not include the reference to Page M. Baker, who despite appearing at the beginning of the existing OHA by-law, is not referenced again in the historical section.



Figure 1: Underside of rear staircase showing new woodwork.



**Figure 2:** image of the existing gardens. The rear yard specifically was heavily modified due to the construction of a pool and the addition of fill.

2. Correct the legal description of the property.

The property is proposed for a severance. In my professional opinion, all the heritage attributes identified within the existing OHA By-law are located on the retained lot. Thus, the by-law should be updated to reflect the new legal description.

3. Otherwise revise the by-law to make it consistent with the requirements of this Act or the regulations, including revisions that would make a by-law passed before subsection 7 (6) of Schedule 11 to the *More Homes, More Choice Act, 2019* comes into force satisfy the requirements prescribed for the purposes of paragraph 2 of subsection 29 (8), if any. 2019, c. 9, Sched. 11, s. 8 (1).

More recently, O.Reg 385/21 was created, in part, to ensure greater standardization of OHA designation by-laws across the province. Under this regulation, OHA by-laws must include specific information. This includes:

**Designation by municipal by-law, requirements**

**3. (1)** The following requirements are prescribed for the purpose of paragraph 2 of subsection 29 (8) of the Act:

1. The by-law must identify the property by,
  - i. the municipal address of the property, if it exists,
  - ii. the legal description of the property, including the property identifier number that relates to



the property, and

iii. a general description of where the property is located within the municipality; for example, the name of the neighbourhood in which the property is located and the nearest major intersection to the property.

2. The by-law must contain one or more of the following that identifies each area of the property that has cultural heritage value or interest:

- i. A site plan.
- ii. A scale drawing.
- iii. A description in writing.

3. The statement explaining the cultural heritage value or interest of the property must identify which of the criteria set out in subsection 1 (2) of O.Reg 9/06 (Criteria for Determining Cultural Heritage Value or Interest) made under the Act are met and must explain how each criterion is met.

4. The description of the heritage attributes of the property must explain how each heritage attribute contributes to the cultural heritage value or interest of the property.

(2) Nothing in subsection (1) prevents a by-law from identifying any physical features of a property that are not heritage attributes.

(3) For clarity, the requirements set out in subsection (1) also apply for the purposes of subsection 29 (8) of the Act, as it appears in the Schedule for the purposes of an amending by-law mentioned in subsection 30.1 (1) of the Act.

Due to the confusing nature of directions in Niagara-on-the-Lake, the following image (Figure 3) will be used as a reference to identify which elevation is being referenced in the following analysis.



**Figure 3:** Image showing cardinal directions for the subject property

Table 1: Ontario Regulation 9/06 Evaluation for 187 Queen Street

Criteria	Criteria Met	Justification
<p>1. The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method.</p>	<p>Yes</p>	<p>The property has design/physical value because the house on the property is a representative example of an evolved structure exhibiting both neo-Classical and Greek Revival Influences. The c. 1822 house is a two storey, three bay, hipped roof clapboard structure on a brick topped foundation. The main entrance to the house is located on the east side of the building via a covered side porch with square pillars decorated with stylised anthemions. A magnificent Greek Revival doorcase gives access to the hallway.</p> <p>There is an elaborate modillion cornice with built-in cornice gutter ornamented below with console brackets and finely worked pilaster treatment with carved Ionic caps of a design like those on the Neoclassical Breakenridge - Hawley and Clench Houses. There are two end chimneys on each side of the roof. One of the chimneys was built as a dummy to preserve the symmetry of the building.</p> <p>The entrance hall contains the main stair, which rises towards the front of the house. Executed in oak with turned balusters, the staircase includes a seahorse newel and a wide, low rail. Halfway up, as the stair turns towards the landing, is a shallow alcove for display of ornaments or a statuette.</p> <p>The front parlour retains its pilastered marble mantel, another feature of the Greek Revival renovation. The former dining room retains its original neo-Classical mantel, although the fireplace has been rebuilt. Large double folding doors surmounted by wide trim of Greek design lead into what is now the dining room, located in the rear two storey wing. Original six-panel doors with contemporary locks, pine floors, doorcases, cornices and baseboard remain in this portion of the building.</p> <p>The original cooking fireplace remains with its hearth and bake oven.</p> <p>Upstairs, neo-Classical fireplaces, with their matching mantelpieces of a curious Niagara design of Germanic inspiration, remain, as does much of the original trim and cornice mouldings.</p>

Criteria	Criteria Met	Justification
2. The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.	Yes	The house also has physical/design values due to the high degree of craftsmanship found in the decorative details, including the front staircase and existing interior woodwork, such as the joinery work of John Davidson.
3. The property has design value or physical value because it demonstrates a high degree of technical or scientific achievement.	No	The house was built using standard construction techniques.
4. The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.	Yes	<p>The property has historical/associative value due to its direct association with several individuals prominent in the history of Niagara-on-the-Lake including Peter Desjardins, Ralph Morden Crysler, Charles Lethum Hall, Dougal B. Macdougall and George K. Birge.</p> <p>The lot was first granted c. 1795 but was not built on. A Patent was issued to Peter Desjardins, a French Loyalist refugee, in 1803. The house he built on the lot in 1805 was probably burned in 1813, but he constructed other buildings on the property, a portion of which he continued to own until his death in 1827. Desjardins is less prominent historically for Niagara than for the Hamilton area. He moved to the Head of the Lake in 1805 and in 1820 he petitioned the Executive Council for the land necessary to build a canal through Coates Paradise to facilitate the shipping of goods from Dundas to Burlington Bay. Even though the Council approved the petition, the canal that bears his name did not open until 1837, ten years after his death.</p> <p>In 1821 Desjardins sold the south half of lot 49 to Ralph Morden Crysler for £100. In 1822 Crysler acquired a further 12' of property to the north and constructed the existing wooden house. He extended his frontage on Queen Street in 1830 and bought the remaining north half of lot 49 from Peter Desjardin's brother in 1837. Crysler was a local businessman who was born on the Crysler family farm in Niagara Township. With 11 of Niagara's citizens, he successfully petitioned for a charter for the Niagara Harbour and Dock Company in 1831, a shipbuilding enterprise that gave a tremendous boost to the local economy. However, financial setbacks relating to the Dock Company forced Crysler to sell the property to the lawyer Charles Lethum Hall for £900.</p>

Criteria	Criteria Met	Justification
		<p>Hall, who was born in Sandwich (Windsor), was a lawyer and land speculator during the 1840s. He owned property throughout the town, including the Richardson-Kiely House. He and his wife were active citizens of Niagara-on-the-Lake and mention of both his business and the family's busy social life is referenced in the local papers throughout this period. Hall died in 1849, and is buried in St. Mark's churchyard, but the house continued to be owned by his descendants and leased to tenants until 1888 when Hall's daughter sold it to Dougal B. Macdougall.</p> <p>Macdougall sold the building to American businessman George K. Birge in 1895 and it remained in American hands throughout the Town's heyday as a summer resort.</p>
<p><b>5. The property has historical value or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.</b></p>	No	<p>This property has been subject to an existing archaeological assessment.</p>
<p><b>6. The property has historical or associative value because it demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.</b></p>	Yes	<p>The property also has historical/associative value due to its direct association with John Davidson, who created several of the key wooden and joinery elements of the property.</p>
<p><b>7. The property has contextual value because it is important in defining, maintaining or supporting the character of an area.</b></p>	Yes	<p>The property has contextual value because it helps to maintain and support the character of an area. The property is an important part of the Downtown Character Area as identified within the 2018 Estate Lot Study. It is part of a residential streetscape at the west end of Queen Street that includes the Rogers - Harrison House, the McDougall -Harrison House, the Cottage Hospital and the Richardson - Kiely House. It supports the Niagara-on-the-Lake National Historic Site of Canada.</p>
<p><b>8. The property has contextual value because it is physically,</b></p>	Yes	<p>The property also has contextual value as it is historically and visually linked to its surroundings as part of the both the Downtown Character Area and as part of the</p>



<b>Criteria</b>	<b>Criteria Met</b>	<b>Justification</b>
<b>functionally, visually or historically linked to its surroundings.</b>		Niagara-on-the-Lake National Historic Site of Canada.
<b>9. The property has contextual value because it is a landmark.</b>	No	The property is not a landmark.

The subject property meets 5 of the 9 provincial criteria for designation under the OHA. It thus remains, in my professional opinion, eligible for designation under OHA Section 29 Part IV. The following page provides the draft Statement of Cultural Heritage Value or Interest (SCHVI) for this property.

### **Signature**



**Marcus R. Létourneau, PhD, MCIP, RPP, CAHP, CIPM I (MRLA)**

BY-LAW NO.  
A BY-LAW TO AMEND THE ONTARIO HERITAGE ACT DESIGNATION BY-LAW 3633-02 FOR  
187 QUEEN STREET NIAGARA-ON-THE-LAKE UNDER SECTION 30.1, PART IV OF THE  
ONTARIO HERITAGE ACT

WHEREAS under the *Ontario Heritage Act* R.S.O, 1990, c. O.18 (the "*Ontario Heritage Act*") there are provisions for amending existing designation by-laws;

WHEREAS Section 30.1, Part IV of the *Ontario Heritage Act* provides for an abbreviated process if a proposed amendment meets certain preconditions;

WHEREAS the amendment for 187 Queen Street meets these preconditions;

WHEREAS the municipality and the owner have agreed to amend the existing *Ontario Heritage Act* designation;

WHEREAS the process set out under Section 30.1 has been completed; and

WHEREAS no notice of the objection to the proposed amendment from the owner was served to the Clerk of the Town of Niagara-on-the-Lake;

NOW THEREFORE, the Council of Town of Niagara-on-the-Lake hereby enacts as follows:

1. The Designation By-law for 187 Queen Street (Town of Niagara-on-the-Lake By-law 3633-02) shall be amended by replacing the existing Schedule "A" Legal Description and Schedule "B" Reasons for Decision with the amended Statement of Cultural Heritage Value or Interest hereto attached as Schedule "A" to this amending by-law.
2. A copy of the amended Designation By-law shall be registered against the property affected in the proper land registry office. The Town Clerk is hereby authorized to cause a copy of this amending By-law to be served on the owner of the land described in Schedule "A" hereto and on The Ontario Heritage Trust.
5. This By-Law shall come into force and take effect on the date of its passing.

GIVEN ALL THREE READINGS AND PASSED

Lord Mayor \_\_\_\_\_

Clerk \_\_\_\_\_

# Schedule 'A'

## Legal Address

187 Queen Street, Niagara-on-the-Lake  
Part 2, Plan 30R-16334

## Description of the Property

The Property municipally known as 187 Queen Street is an approximately .30-acre lot located on the north side of Queen Street at the north-east corner of the Simcoe Street and Queen Street intersection. The lot contains a two storey, three bay, hipped roof clapboard c. 1822 structure on a brick topped foundation with a unique eastward facing entrance. The OHA designation applies only to the c.1822 dwelling.

## Statement of Cultural Heritage Value of Interest:

**187 Queen Street has significant cultural heritage value or interest due to its physical/design values, its historical/associative values, and its contextual values.**

The property has design/physical value because the house on the property is a representative example of an evolved structure exhibiting both neo-Classical and Greek Revival Influences. The c. 1822 house is a two storey, three bay, hipped roof clapboard structure on a brick topped foundation. The main entrance to the house is located on the east side of the building via a covered side porch with square pillars decorated with stylised anthemions. A magnificent Greek Revival doorcase gives access to the hallway.

There is an elaborate modillion cornice with built-in cornice gutter ornamented below with console brackets and finely worked pilaster treatment with carved Ionic caps of a design like those on the Neoclassical Breakenridge - Hawley and Clench Houses. There are two end chimneys on each side of the roof. One of the chimneys was built as a dummy to preserve the symmetry of the building.

The entrance hall contains the main stair, which rises towards the front of the house. Executed in oak with turned balusters, the staircase includes a seahorse newel and a wide, low rail. Halfway up, as the stair turns towards the landing, is a shallow alcove for display of ornaments or a statuette.

The front parlour retains its pilastered marble mantel, another feature of the Greek Revival renovation. The former dining room retains its original neo-Classical mantel, although the fireplace has been rebuilt. Large double folding doors surmounted by wide trim of Greek design lead into what is now the dining room, located in the rear two storey wing. Original six-panel doors with contemporary locks, pine floors, doorcases, cornices and baseboard remain in this portion of the building. The original cooking fireplace remains with its hearth and bake oven. Upstairs, neo-Classical fireplaces, with their matching mantelpieces of a curious Niagara design of Germanic inspiration, remain, as does much of the original trim and cornice mouldings.

The house also has physical/design values due to the high degree of craftsmanship found in the decorative details, including the front staircase and existing interior woodwork, such as the joinery work of John Davidson.

The property has historical/associative value due to its direct association with several individuals prominent in the history of Niagara-on-the-Lake including Peter Desjardins, Ralph Morden Chrysler, Charles Lethum Hall,

Dougal B. Macdougall and George K. Birge.

The lot was first granted c. 1795 but was not built on. A Patent was issued to Peter Desjardins, a French Loyalist refugee, in 1803. The house he built on the lot in 1805 was probably burned in 1813, but he constructed other buildings on the property, a portion of which he continued to own until his death in 1827. Desjardins is less prominent historically for Niagara than for the Hamilton area. He moved to the Head of the Lake in 1805 and in 1820 he petitioned the Executive Council for the land necessary to build a canal through Coates Paradise to facilitate the shipping of goods from Dundas to Burlington Bay. Even though the Council approved the petition, the canal that bears his name did not open until 1837, ten years after his death.

In 1821 Desjardins sold the south half of lot 49 to Ralph Morden Crysler for £100. In 1822 Crysler acquired a further 12' of property to the north and constructed the existing wooden house. He extended his frontage on Queen Street in 1830 and bought the remaining north half of lot 49 from Peter Desjardin's brother in 1837. Crysler was a local businessman who was born on the Crysler family farm in Niagara Township. With 11 of Niagara's citizens, he successfully petitioned for a charter for the Niagara Harbour and Dock Company in 1831, a shipbuilding enterprise that gave a tremendous boost to the local economy. However, financial setbacks relating to the Dock Company forced Crysler to sell the property to the lawyer Charles Lethum Hall for £900.

Hall, who was born in Sandwich (Windsor), was a lawyer and land speculator during the 1840s. He owned property throughout the town, including the Richardson-Kiely House. He and his wife were active citizens of Niagara-on-the-Lake and mention of both his business and the family's busy social life is referenced in the local papers throughout this period. Hall died in 1849, and is buried in St. Mark's churchyard, but the house continued to be owned by his descendants and leased to tenants until 1888 when Hall's daughter sold it to Dougal B. Macdougall. Macdougall sold the building to American businessman George K. Birge in 1895 and it remained in American hands throughout the Town's heyday as a summer resort.

The property also has historical/associative value due to its direct association with John Davidson, who created several of the key wooden and joinery elements of the property.

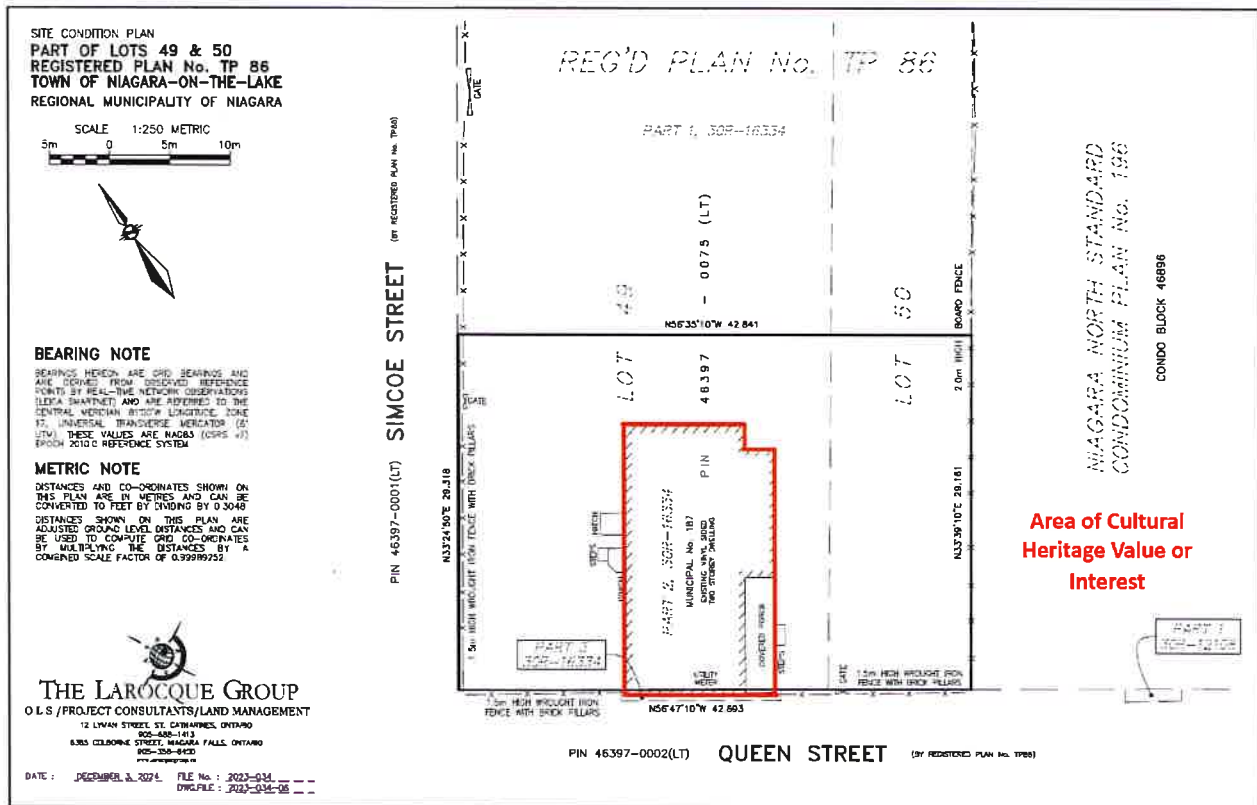
The property has contextual value because it helps to maintain and support the character of an area. The property is an important part of the Downtown Character Area as identified within the 2018 Estate Lot Study. It is part of a residential streetscape at the west end of Queen Street that includes the Rogers - Harrison House, the McDougall -Harrison House, the Cottage Hospital and the Richardson - Kiely House. It supports the Niagara-on-the-Lake National Historic Site of Canada.

The property also has contextual value as it is historically and visually linked to its surroundings as part of both the Downtown Character Area and as part of the Niagara-on-the-Lake National Historic Site of Canada.

### **Heritage Attributes**

- The evolved c. 1822 structure exhibiting both neo-Classical and Greek Revival influence including its:
- Siting on a corner lot at Queen & Simcoe Streets (which illustrates its contextual value)
- Form, scale, and massing of the original structure (which illustrates its physical/design value)
- The exterior finish in clapboard (which illustrates its physical/design value)
- The hipped roof and two end chimneys on each side of the roof (which illustrates its physical/design value)
- The brick topped foundation (which illustrates its physical/design value)
- The two-storey gallery along the rear wing (which illustrates its physical/design value)
- The elaborate modillion cornice with built-in cornice gutter ornamented below with console brackets and

- finely worked pilaster treatment with carved Ionic caps (which illustrates its physical/design value)
- The covered side porch with square pillars decorated with stylised anthemions (which illustrates its physical/design value)
- The Greek Revival doorcase by John Davidson (which illustrates its physical/design value and historical/associative value)
- The Greek Revival style oak staircase in the front hall with turned balusters, seahorse newel and wide, low handrail (which illustrates its physical/design value)
- The shallow alcove on the front stair landing for display of ornaments or a statuette (which illustrates its physical/design value)
- The Greek Revival style pilastered marble mantel in the front parlour (which illustrates its physical/design value)
- The Neo-Classical mantel in the former dining room (which illustrates its physical/design value)
- The large double folding doors surmounted by wide trim of Greek design in the rear two storey wing (which illustrates its physical/design value)
- The original six-panel doors with contemporary locks (which illustrates its physical/design value)
- The pine floors, doorcases, cornices and baseboard on the 1st floor (which illustrates its physical/design value)
- The original cooking fireplace with its hearth and bake oven (which illustrates its physical/design value)
- The neo-Classical fireplaces on the 2nd floor, with their matching mantelpieces of a curious Niagara design of Germanic inspiration (which illustrates its physical/design value)
- Original trim and cornice mouldings on the 2nd floor (which illustrates its physical/design value)







**View of 187 Queen Street from Queen Street looking towards the southern elevation.**



**View of 187 Queen Street from the east looking towards the main entrance.**





**View of 187 Queen Street from the west looking towards the western elevation.**



**View of the main entrance stair at 187 Queen Street.**



**View of the the original cooking fireplace with its hearth and bake oven at 187 Queen Street.**



## Appendix A –Biography

### **Marcus R. Létourneau, PhD, MCIP, RPP, CAHP, CIPM I**

Dr. Marcus R. Létourneau is the President of M. R. Letourneau and Associates Inc., a specialized heritage and strategic planning firm focused on creative solutions for the management of cultural heritage resources. He is also an Adjunct Assistant Professor in the School of Planning and Contributing Associate for the Heritage Resources Centre at the University of Waterloo and an Instructor for the Cultural Resource Management program at the University of Victoria and at Willowbank School of Restoration Arts. He co-teaches the facilities management course for the Ontario Museum Association. He works part-time at Algonquin College where he serves as a Subject Matter Expert/Course Author for the college's new Bachelor of Applied Science in Building Conservation (launching 2025). He currently serves as Interim Chair of the Canadian Committee of Blue Shield International, on the Board of Directors of ICOMOS Canada, as Chair of the Leeds and Thousand Islands MHC, and as a Trustee for the Kingston Frontenac Public Library.

Marcus was previously the Managing Principal for LHC Heritage Planning & Archaeology Inc., an Ontario-based heritage consultancy with offices in Kingston, Toronto, Ottawa, and Huntsville (2015-2023). He also served as an Adjunct Assistant Professor in the Department of Geography and Planning at Queen's University (2013-2023), as well as the Manager for the Sustainability and Heritage Management Discipline Team (Ottawa/Kingston) and a Senior Cultural Heritage Specialist for Golder Associates Limited (2011-2015). His other positions included: co-teaching heritage planning at the Willowbank School of Restoration Arts; serving as a contract professor at Carleton University in both the Department of Geography and Environmental Studies and School of Canadian Studies (Heritage Conservation); as the senior heritage planner for the City of Kingston (2004-2011) where he worked in both the Planning & Development and Cultural Services Departments; and, in various capacities at Queen's University at Kingston (2001-2007). He previously served on the Executive and Board of Directors for the Ontario Association of Heritage Professionals; on the Board of Directors for Community Heritage Ontario; on the Board of Directors of the Friends of the Rideau, on the Board of Directors for the Friends of Springfield House Complex, and on the Executive and Board of Directors for the Kingston Historical Society.

Marcus has a PhD in Cultural/Historical Geography (Queen's University); an MA in Cultural Geopolitics (University of Western Ontario); has completed an MPlan from the University of Guelph; a BA (Hons) in Geography with a History Minor (Queen's University); a Diploma in Peace and Conflict Studies (University of Waterloo); a Professional Certificate in Heritage Conservation Planning (University of Victoria); a Certificate in Museum Studies (Ontario Museum Association); and training in Marine/Foreshore Archaeology. He also completed ICCROM/WHITRAP training in China on impact assessments for heritage. In 2022, he completed ICCROM/Athabasca University training on communication and teaching skills for conservation. In 2024 he completed a Certificate in Cultural & Heritage Venue Protection (American University of Rome/Trident Manor) and a Specialized Course on Cultural Heritage, Crime and Security (UNICRI/The American University of Rome). He is a Professional member of the Canadian Association of Heritage Professionals (CAHP), is a Registered Professional Planner with membership in the Ontario Professional Planners Institution (RPP), and the Canadian Institute of Planners (MCIP), and is a Certified Institutional Protection Manager (Level I) (CIPM I) from the International Foundation for Cultural Property Protection (IFCPP).

Marcus brings over 20 years of experience to his practice, which is particularly focused on heritage legislation, strategic planning, heritage planning and processes. He is also the owner of a commercial heritage property and is familiar with the challenges of building maintenance and redevelopment. He has been involved in over

275 projects either as the project director, project manager or as the senior heritage planner. He has been qualified as an expert heritage witness for the Ontario Land Tribunal (former OMB/LPAT/CRB) (heritage planning with a specialization in cultural heritage landscapes; land use planning with a specialization in heritage conservation; cultural heritage specialist, and heritage conservation), and as an expert witness for both a Superior Court Hearing and a judicial inquiry for the *Public Lands Act*. He co-authored the second edition of *Heritage Planning* (Routledge) with Dr. Hal Kalman (2020).

**SCHEDULE E**

**TREE INVENTORY AND PRESERVATION PLAN REPORT**



# JACKSON ARBORICULTURE INC.

*CONSULTING AND GIS ANALYSIS*

118 Pleasant Ridge Road, Brantford ON, N3R 0B8

905-512-6303, [jeremy@jacksonarbor.ca](mailto:jeremy@jacksonarbor.ca)

## Tree Inventory and Preservation Plan Report

Subject Property:

**187 Queen Street**  
Niagara-on-the-Lake, ON

Prepared For:

**Rainer Hummel**  
187 Queen Street  
Niagara-on-the-Lake, ON L0S 1J0

Prepared By:

**Jackson Arboriculture Inc.**  
118 Pleasant Ridge Road  
Brantford, ON N3R 0B8

25 January 2024

Jackson Arboriculture Inc. Project No. 429



## 1.0 Introduction

Jackson Arboriculture Inc. was retained by Rainer Hummel to complete a Tree Inventory and Preservation Plan report for a property situated at 187 Queen Street in the Town of Niagara-on-the-Lake, Ontario, hereby referred to as the subject property. It is understood that a development application will be filed with the Town for the construction of a residential development.

This study has been completed in accordance with the Town of Niagara-on-the-Lake's private tree by-law No. 5139-19. The by-law regulates the removal of trees 12.5 cm in diameter and larger.

## 2.0 Methodology

At the onset of the project the scope of work was coordinated with the client and the consulting team. Prior to conducting a site visit, the topographic survey of the subject property and current aerial photography were overlaid utilizing geographic information software for use on site during the completion of the tree inventory. The tree locations, the topographic survey and the site plan were then overlaid and a tree preservation analysis was completed to determine the impacts to each tree included in the inventory.

### 2.1 Tree Inventory

A site visit was conducted on the 12<sup>th</sup> of September 2023 to complete the tree inventory. All trees 12.5 cm in diameter and larger situated on subject property, on neighbouring property within 6 m and within the road allowance were included in the tree inventory. A visual assessment was completed on each tree included in the inventory and the following information is provided in the tree inventory table (Table 1):

- **Tree #:** A number assigned to each tree corresponding to the tree inventory and the Tree Preservation Plan (Sheet 1).
- **Species:** Common and scientific (Latin) species names.
- **DBH:** The trunk diameter at breast height, measured in centimeters at 1.4 m from the ground.
- **Condition:** The health of the tree considering the trunk integrity, the crown structure and the crown vigour; each rated as poor, fair or good. The condition ratings are based on the signs, symptoms and defects exhibited by each tree, considering the conditions in which it is growing.
- **Dripline:** The distance in meters from the stem to the tips of the live branches.
- **Location:** The property where the tree is situated.
- **Comments:** Any additional notes relevant to the tree's health or growing conditions.
- **Recommendation:** The recommended removal or preservation of each tree based on the impact assessment.

The trees included in the inventory are identified with numbers 1-60 and were located using the topographic survey provided and a tablet computer with a GPS receiver.



## **2.2 Impact Assessment**

A tree preservation analysis was completed on each tree included in the inventory considering the impacts from the proposed development and many other factors including, but not limited to, tree condition, species, DBH and the existing site conditions. The impacts from the proposed development will occur where tree roots conflict with construction machinery during pre-grading and construction.

During the tree preservation analysis the dripline was utilized to determine the impacts to the trees included in the tree inventory. Where considerable encroachment is required within the dripline tree removal may be required.

## **3.0 Existing Conditions**

The subject property is currently occupied by a single family residential dwelling, a detached garage and amenity areas. The property is bound by residential development to the north and east, Queen Street to the south and Simcoe Street to the west.

## **4.0 Tree Inventory Results**

The results of the tree inventory indicate that a total of 60 trees reside on subject property, on neighbouring property within 6 m and in the road allowances. The trees included in the inventory appear to be comprised of landscape plantings and some naturally occurring trees.

No rare, threatened or endangered tree species were documented in the tree inventory. Refer to Table 1 for the complete tree inventory and Sheet 1 for the tree locations.

## **5.0 Proposed Development**

The proposed development includes severing the property into three residential lots with the construction of two single family residential dwellings on two of the lots. The existing residential dwelling is proposed to be retained within the site planning on the third lot. The detached garage situated towards the rear of the property will be demolished. Access to the two proposed dwellings is proposed from Simcoe Street and access to the existing dwelling is proposed from Queen Street via a new driveway. A new garage is proposed to be constructed adjacent to the existing dwelling and proposed driveway.

## **6.0 Discussion**

The following sections outline the tree removal requirements, tree preservation opportunities and tree protection recommendations.

## 6.1 Tree Removal

The removal of the following trees will be required to accommodate the proposed development:

- 1-5, 13-19, 24, 27-29, 43, 45-50 and 57.

Trees 57 appears to reside within the municipal road allowance. Permission from the appropriate Town department will be required prior to their removal.

## 6.2 Tree Preservation

The preservation of the following trees will be possible with the use of appropriate tree protection measures:

- 6-12, 20-23, 25, 26, 30-42, 44, 51-56 and 58-60.

Tree protection measures must be implemented prior to the commencement of demolition/construction to ensure that the trees identified for preservation are not damaged by the proposed development activities.

Encroachment within the driplines of Trees 26, 29, 51, 52, 56 and 58 will be required to accommodate the proposed development. If any roots are exposed during construction they must be pruned by a Certified Arborist in accordance with good arboricultural practice to ensure that the trees are not damaged by the proposed construction activities.

The International Society of Arboriculture's (ISA) Best Management Practices for Root Management indicate that pruning roots at a distance of six (6) times the diameter of the trunk or greater minimizes the probability affecting both tree health and stability. The distance of six times the diameter of the trunk has been outlined on Sheet 1 as the minimum tree preservation zone (mTPZ) distance. The mTPZ distance is a standard distance that is used to establish the location of tree protection fence in many municipalities within Southern Ontario and is endorsed by the ISA. As outlined on Sheet 1, the encroachment required within the dripline of Trees 26, 29, 51, 52, 56 and 58 does not extend within the mTPZ distance. Considering that there is no encroachment within the mTPZ distance, that root pruning will occur in accordance with the ISA's Best Management Practices and also in accordance with good arboricultural practice, there is no possibility that the health or stability of Trees 26, 29, 51, 52, 56 and 58 will be adversely affect by the proposed development.

The existing driveway within the mTPZ of Tree 51 must be removed and replaced with native topsoil. This will increase the available rooting area of Tree 51 in the future. It is anticipated that no tree roots will reside below the existing driveway and as such, there will be no impacts to Tree 51 by the removal of the driveway.

Tree protection fence must be installed at the driplines of the trees identified for preservation unless noted otherwise in this report and on Sheet 1. Refer to Sheet 1 for the prescribed tree

protection fence locations, the tree protection fence detail and additional tree protection plan notes.

### 6.3 Tree Protection Recommendations

The following recommendations are made in attempts to reduce the impacts to the trees identified for preservation:

- Tree protection fence must be installed at the dripline for trees identified for preservation prior to the commencement of demolition/construction unless noted otherwise in this report and on Sheet 1.
- Once tree protection fence has been installed it must not be moved, relocated or altered in any way (unless repairing fallen fence etc.) for the duration of the construction period.
- No intrusion into an area identified on Sheet 1 as a tree preservation zone (TPZ) is allowed at anytime during construction.
- No storage of machinery, construction debris, materials, waste or any other items is allowed within a TPZ.
- Any tree branches or roots that conflict with proposed development must be pruned by a Certified Arborist in accordance with good arboricultural practice.
- Tree protection fencing should be inspected by a Certified Arborist prior to and during construction to ensure that the fencing remains intact and in good repair throughout the stages of development.

## 7.0 Summary

Jackson Arboriculture Inc. was retained by Rainer Hummel to complete a Tree Inventory and Preservation Plan report for a property situated at 187 Queen Street in the Town of Niagara-on-the-Lake, Ontario. A tree inventory was conducted and an impact assessment was completed in the context of the proposed development plan.

The tree inventory documented a total of 60 trees situated on subject property, on neighbouring property within 6 m and within the road allowance. The results of the impact assessment indicate that the removal of 24 trees will be required to accommodate the proposed development. Of the 24 trees identified for removal, 22 are regulated by the private tree by-law (No. 5139-19).

Respectfully submitted,  
**Jackson Arboriculture Inc.**

*Jeremy Jackson*

Jeremy Jackson, H.B.Sc.,  
ISA Certified Arborist #ON-1089A  
GIS Analyst

## Limitations of Assessment

It is our policy to attach the following limitations of assessment to ensure that the client, municipalities and agencies are fully aware of what is technically and professionally realistic when visually assessing and retaining trees.

The assessment of the trees presented in this report has been made using accepted arboricultural techniques. These include a visual examination of the above ground parts of each tree for structural defects, scars, external indications of decay such as fungal fruiting bodies, evidence of attack by insects, discoloured foliage, the condition of any visible root structures, the degree and direction of any lean, the general condition of the trees and the surrounding site, and the proximity of property and people.

Notwithstanding the recommendations and conclusions made in this report, it must be realized that trees are living organisms and their health and vigour constantly change. They are not immune to changes in site conditions, or seasonal variations in the weather conditions, including severe storms with high-speed winds.

While reasonable efforts have been made to ensure that the trees recommended for retention are healthy no guarantees are offered, or implied, that these trees, or any parts of them, will remain standing. It is both professionally and practically impossible to predict with absolute certainty the behaviour of any single tree or group of trees or their component parts in all circumstances. Inevitably a standing tree will always pose some risk. Most trees have the potential for failure under adverse weather conditions, and the risk can only be eliminated if the tree is removed.

Although every effort has been made to ensure that this assessment is reasonably accurate, trees should be re-assessed periodically. The assessment presented in this report is valid as the time of the inspection.

**Table 1. Tree Inventory**

Location: 187 Queen St. NOL

Date: 22 Sep. 2023 Surveyors: JJJ

Tree #	Common Name	Scientific Name	DBH	TI	CS	CV	DL	Location	Comments	Recom.
1	Corkscrew Willow	<i>Salix babylonica</i> var. <i>tortuosa</i>	14	G	G	G	3	Subject Property		Remove
2	Corkscrew Willow	<i>Salix babylonica</i> var. <i>tortuosa</i>	21, 21	F	FG	G	4	Subject Property	Union at ground, light seam	Remove
3	Corkscrew Willow	<i>Salix babylonica</i> var. <i>tortuosa</i>	20, 22	F	FG	G	5	Subject Property	Union at ground, stem wound with wood dust at ground	Remove
4	Norway Maple	<i>Acer platanoides</i>	43	F	G	G	5	Subject Property	Union at 2 m, seam	Remove
5	Norway Maple	<i>Acer platanoides</i>	33	G	G	G	6	Subject Property		Remove
6	White Mulberry	<i>Morus alba</i>	44	F	FG	G	5	Subject Property	Union at 1 m, bacterial wetwood	Preserve
7	Copper beech	<i>Fagus sylvatica</i>	~15	G	G	G	2	Neighbouring	Growing in garden with retaining wall	Preserve
8	Tree-of-heaven	<i>Ailanthus altissima</i>	47, 53	F	F	FG	6	Boundary	Union at 0.3 m with included bark, 47 cm stem dead and failed at 5 m	Preserve
9	Tree-of-heaven	<i>Ailanthus altissima</i>	~14	G	G	G	3	Boundary		Preserve
10	Green Ash	<i>Fraxinus pennsylvanica</i>	31	G	G	G	5	Subject Property		Preserve
11	White Mulberry	<i>Morus alba</i>	19	G	G	G	5	Subject Property	Bowed east, understory	Preserve
12	Norway Spruce	<i>Picea abies</i>	51	G	G	G	6	Subject Property		Preserve
13	Yew species	<i>Taxus spp.</i>	10, 12, 8, 8	G	G	G	3	Subject Property	Union at ground	Remove
14	Plumb species	<i>Prunus spp.</i>	30	G	G	G	4	Subject Property	Gumosis, epicormic branching	Remove
15	Apple species	<i>Malus spp.</i>	14, 21	FG	G	G	4	Subject Property	Union at ground	Remove
16	Sycamore maple	<i>Acer pseudoplatanus</i>	27	G	FG	G	5	Subject Property	Union at 2.5 m	Remove
17	Hybrid Butternut	<i>Juglans X.</i>	19	G	G	G	5	Subject Property	Large green leaves	Remove
18	Saucer Magnolia	<i>Magnolia x soulangeana</i>	20, 20, 18, 24	G	G	G	5	Subject Property		Remove
19	Yew species	<i>Taxus spp.</i>	19	G	G	G	3	Subject Property		Remove
20	White Spruce	<i>Picea glauca</i>	16	G	FG	FG	3	Subject Property	Understorey	Preserve
21	Manitoba Maple	<i>Acer negundo</i>	58	G	G	G	6	Subject Property		Preserve
22	Black Gum	<i>Nyssa sylvatica</i>	16	G	G	G	4	Subject Property		Preserve
23	Japanese Red Cedar	<i>Cryptomeria japonica</i>	34	G	G	G	3	Subject Property		Preserve
24	Red Pine	<i>Pinus resinosa</i>	52	G	G	G	5	Subject Property		Remove
25	Redbud	<i>Cercis canadensis</i>	21	FG	G	G	3	Subject Property	Heavy lean	Preserve
26	Redbud	<i>Cercis canadensis</i>	30	FG	G	G	4	Subject Property	Union at 1.8 m, burls	Preserve
27	Yew species	<i>Taxus spp.</i>	24	G	G	G	3	Subject Property		Remove
28	Yew species	<i>Taxus spp.</i>	21	G	G	G	3	Subject Property		Remove



Tree #	Common Name	Scientific Name	DBH	TI	CS	CV	DL	Location	Comments	Recom.
29	Black Gum	<i>Nyssa sylvatica</i>	16	G	G	G	3	Subject Property		Remove
30	Flowering Lilac Tree	<i>Syringa reticulata</i>	15, 16	FG	G	G	3	Subject Property	Union at 0.3 m	Preserve
31	Black Gum	<i>Nyssa sylvatica</i>	16	G	G	G	3	Subject Property		Preserve
32	Euonymus species	<i>Euonymus spp.</i>	11, 9, 8	F	G	G	3	Subject Property	Union at 0.9 m with wood dust, understorey	Preserve
33	White Mulberry	<i>Morus alba</i>	50	FG	G	G	7	Subject Property	Union at 1.8 m, bacterial wetwood in crown	Preserve
34	White Pine	<i>Pinus strobus</i>	55	G	F	F	6	Subject Property	20% crown dieback	Preserve
35	White Pine	<i>Pinus strobus</i>	46	G	G	G	5	Subject Property		Preserve
36	Norway Maple	<i>Acer platanoides</i>	26	G	G	G	5	Subject Property		Preserve
37	Redbud	<i>Cercis canadensis</i>	16, 11	G	G	G	3	Subject Property	Union at ground	Preserve
38	Golden Chain Tree	<i>Laburnum spp.</i>	15, 18	PF	FG	G	3	Subject Property	Union at 0.3 m with separating stems, 3 lobed leaf	Preserve
39	Eastern Hemlock	<i>Tsuga canadensis</i>	18, 24	F	F	F	3	Subject Property	Union at ground with fused stems, included vine, 20% crown dieback, very short needles	Preserve
40	Blue Spruce	<i>Picea pungens</i>	19	G	G	G	3	Subject Property		Preserve
41	Sugar Maple	<i>Acer saccharum</i>	61	G	F	F	8	Subject Property	20% crown dieback	Preserve
42	Yew species	<i>Taxus spp.</i>	19	G	G	G	3	Subject Property		Preserve
43	Dawn Redwood	<i>Metasequoia glyptostroboides</i>	42	G	G	G	5	Subject Property		Remove
44	Yew species	<i>Taxus spp.</i>	18	G	G	G	3	Subject Property		Preserve
45	Yew species	<i>Taxus spp.</i>	21	G	G	G	3	Subject Property		Remove
46	Eastern Hemlock	<i>Tsuga canadensis</i>	27	G	F	F	4	Subject Property	20% crown dieback	Remove
47	Yew species	<i>Taxus spp.</i>	22	G	G	G	4	Subject Property		Remove
48	Sycamore maple	<i>Acer pseudoplatanus</i>	21	FG	G	G	3	Subject Property	Union at 2 m	Remove
49	Yew species	<i>Taxus spp.</i>	14	G	G	G	4	Subject Property		Remove
50	Copper beech	<i>Fagus sylvatica</i>	27	G	G	G	5	Subject Property		Remove
51	American Sycamore	<i>Platanus occidentalis</i>	126	G	G	G	11	ROW	Swollen flare starting to grow over sidewalk	Preserve
52	Silver Maple	<i>Acer saccharinum</i>	61	G	FG	FG	7	ROW	10% crown dieback	Preserve
53	Sugar Maple	<i>Acer saccharum</i>	70	G	F	F	7	ROW	Topped in crown, 10% crown dieback	Preserve
54	Norway Maple	<i>Acer platanoides</i>	52	G	G	G	5	ROW	Union at base of crown, exposed roots	Preserve
55	Sycamore maple	<i>Acer pseudoplatanus</i>	50	G	F	FG	4	ROW	Topped in crown	Preserve
56	Red Oak	<i>Quercus rubra</i>	39	G	G	G	6	ROW		Preserve
57	Sugar Maple	<i>Acer saccharum</i>	24	G	G	G	5	ROW		Remove
58	London Planetree	<i>Platanus x acerifolia</i>	82	G	G	G	10	ROW		Preserve
59	Tulip Tree	<i>Liriodendron tulipifera</i>	7	G	G	G	1.5	ROW		Preserve
60	Norway Maple	<i>Acer platanoides</i>	~40	G	G	G	6	ROW		Preserve



**Table Legend**

DBH	Diameter at Breast Height (cm)
TI	Trunk Integrity (G, F, P)
CS	Crown Structure (G, F, P)
CV	Crown Vigor (G, F, P)
DL	Dripline (m)
Recom.	Recommendation (preserve/remove)
G	Good
F	Fair
P	Poor
~	Estimate
	Weed species (as per by-law No. 5139-19)

**LEGEND**

- Site Boundary
- Proposed Tree Retention
- Tree Protection Zone (TPZ)
- Tree Protection Zone (TPZ) - Proposed
- Tree Protection Zone (TPZ) - Existing
- Tree Protection Zone (TPZ) - Proposed
- Tree Protection Zone (TPZ) - Existing
- Tree Protection Zone (TPZ) - Proposed
- Tree Protection Zone (TPZ) - Existing

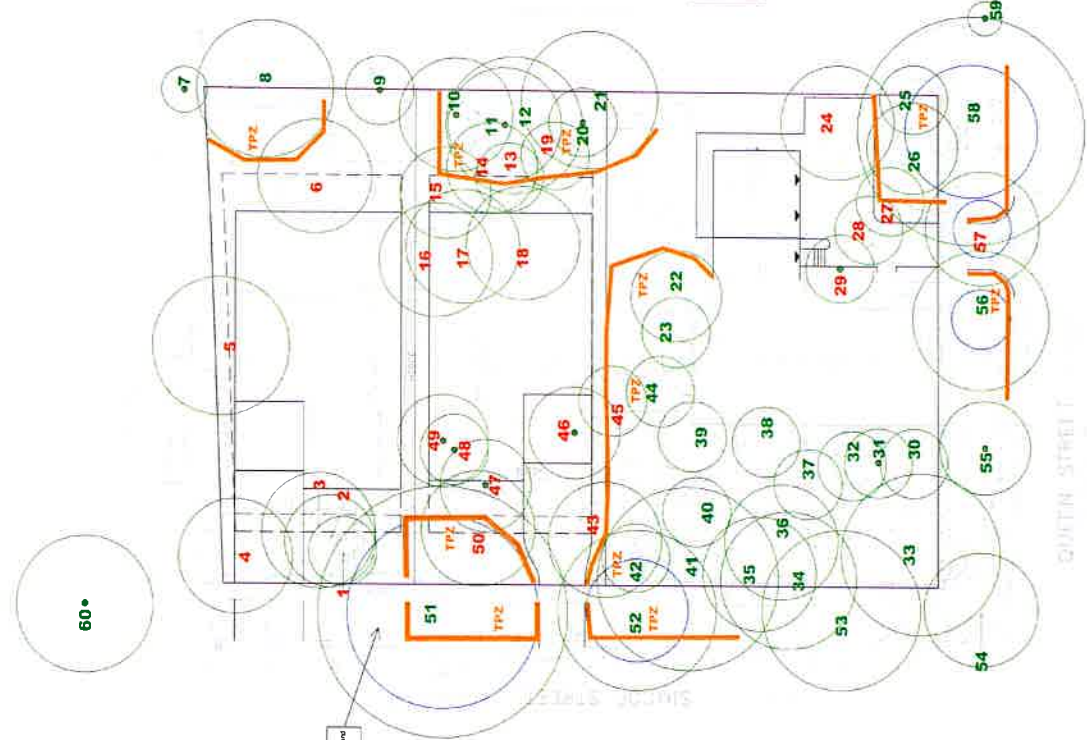
**Tree Protection Requirements**  
 The following requirements shall be used to determine the appropriate tree protection measures for the project. It is the responsibility of the applicant to ensure that the proposed tree protection measures comply with the following requirements:

- 1. All trees to be retained or removed shall be identified with a unique tree tag.
- 2. All trees to be removed shall be removed in accordance with the appropriate tree removal permit.
- 3. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 4. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 5. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 6. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 7. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 8. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 9. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.
- 10. All trees to be retained shall be retained in accordance with the appropriate tree retention permit.

**Table 1: Tree Inventory**

Tree #	Common Name	Scientific Name	DBH (cm)	Height (m)	Location	Comments
1	...	...	...	...	...	...
2	...	...	...	...	...	...
3	...	...	...	...	...	...
4	...	...	...	...	...	...
5	...	...	...	...	...	...
6	...	...	...	...	...	...
7	...	...	...	...	...	...
8	...	...	...	...	...	...
9	...	...	...	...	...	...
10	...	...	...	...	...	...
11	...	...	...	...	...	...
12	...	...	...	...	...	...
13	...	...	...	...	...	...
14	...	...	...	...	...	...
15	...	...	...	...	...	...
16	...	...	...	...	...	...
17	...	...	...	...	...	...
18	...	...	...	...	...	...
19	...	...	...	...	...	...
20	...	...	...	...	...	...
21	...	...	...	...	...	...
22	...	...	...	...	...	...
23	...	...	...	...	...	...
24	...	...	...	...	...	...
25	...	...	...	...	...	...
26	...	...	...	...	...	...
27	...	...	...	...	...	...
28	...	...	...	...	...	...
29	...	...	...	...	...	...
30	...	...	...	...	...	...
31	...	...	...	...	...	...
32	...	...	...	...	...	...
33	...	...	...	...	...	...
34	...	...	...	...	...	...
35	...	...	...	...	...	...
36	...	...	...	...	...	...
37	...	...	...	...	...	...
38	...	...	...	...	...	...
39	...	...	...	...	...	...
40	...	...	...	...	...	...
41	...	...	...	...	...	...
42	...	...	...	...	...	...
43	...	...	...	...	...	...
44	...	...	...	...	...	...
45	...	...	...	...	...	...
46	...	...	...	...	...	...
47	...	...	...	...	...	...
48	...	...	...	...	...	...
49	...	...	...	...	...	...
50	...	...	...	...	...	...
51	...	...	...	...	...	...
52	...	...	...	...	...	...
53	...	...	...	...	...	...
54	...	...	...	...	...	...
55	...	...	...	...	...	...
56	...	...	...	...	...	...
57	...	...	...	...	...	...
58	...	...	...	...	...	...
59	...	...	...	...	...	...
60	...	...	...	...	...	...

**NOTES:**  
 1. THIS DRAWING IS NOT TO BE USED FOR ANY PARTICULAR TREE SPECIES.  
 2. PROTECTIVE FENCE SHALL BE 1.80m HIGH WITH 2.00m CLEARANCE TO THE TOP.  
 3. PROTECTIVE FENCE SHALL BE 1.80m HIGH WITH 2.00m CLEARANCE TO THE TOP.  
 4. PROTECTIVE FENCE SHALL BE 1.80m HIGH WITH 2.00m CLEARANCE TO THE TOP.  
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 10. PROTECTIVE FENCE SHALL BE 1.80m HIGH WITH 2.00m CLEARANCE TO THE TOP.



**TREE PROTECTION FENCE DETAIL**

1. THIS DRAWING IS NOT TO BE USED FOR ANY PARTICULAR TREE SPECIES.  
 2. PROTECTIVE FENCE SHALL BE 1.80m HIGH WITH 2.00m CLEARANCE TO THE TOP.  
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**187 Quinn Street**  
 Hagerston, NSW, 2150

**Reiter Hummel**  
 187 Quinn Street  
 Hagerston, NSW, 2150

**Tree Preservation Plan**

DATE: 23 January 2024  
 SCALE: 1:200 (24x30)

## **SCHEDULE "F"**

### **SETTLEMENT PROCESS**

1. Council approves Minutes of Settlement in principle at December 10, 2024 Council meeting and gives direction to the Town solicitor to proceed as directed in the Minutes of Settlement.
2. Town Solicitor attends a closed session of the Municipal Heritage Committee meeting on January 14, 2025 to consult with respect to the proposed amended Designation By-law as required under section 30.1(5) of the Ontario Heritage Act.
3. After consultation with the Municipal Heritage Committee, Council will give the owner of the designated property written notice of the proposed amendment in accordance with subsection 30.1(4) of the Ontario Heritage Act at which point the 30-day objection period will commence.
4. The Town and Hummel will attend at the Ontario Land Tribunal hearing on January 21, 2025 to support the settlement of the appeals pursuant to the Minutes of Settlement.
5. Council approves the amended Designation By-law at its first meeting after the expiration of the 30-day objection period.