

2. **Application to Construct a new building at 227 Mackay Street, a property located in the New Edinburgh Heritage Conservation District, designated under Part V of the Ontario Heritage Act**

Demande de construction d'un nouveau bâtiment au 227, rue Mackay, une propriété située dans le district de conservation du patrimoine de New Edinburgh et désignée aux termes de la partie V de la Loi sur le patrimoine de l'Ontario

COMMITTEE RECOMMENDATIONS, AS AMENDED

That Council:

- 1.** suspend the notice required under Subsections 29(3) and 34(1) of the *Procedure By-law* to consider this report at its meeting on October 10, 2018;
- 2.** approve the construction of a new building at 227 MacKay Street according to plans submitted by Derek Crain, architect, received on June 7, 2018;
- 3.** delegate authority for minor design changes to the General Manager, Planning, Infrastructure and Economic Development;
- 4.** issue the heritage permit with a two-year expiry date from the date of issuance.

(Note: The statutory 90-day timeline for consideration of this application under the *Ontario Heritage Act* will expire on December 11, 2018.)

(Note: Approval to alter this property under the *Ontario Heritage Act* must not be construed to meet the requirements for the issuance of a building permit.)

RECOMMANDATIONS DU COMITÉ, TELLES QUE MODIFIÉES

Que le Conseil :

- 1.** sursoie à l'avis exigé en vertu des paragraphes 29(3) et 34(1) du Règlement de procédure, afin de pouvoir examiner le présent rapport à sa réunion du 10 octobre 2018;
- 2.** approuve la construction d'un nouveau bâtiment au 227, rue MacKay, conformément aux plans présentés par Derek Crain, architecte, et reçus le 7 juin 2018;
- 3.** délègue au directeur général de Planification, Infrastructure et Développement économique le pouvoir d'effectuer des changements mineurs de conception;
- 4.** délivre le permis en matière de patrimoine et de fixer sa date d'expiration à deux ans après la date de délivrance.

(Nota : Le délai réglementaire de 90 jours d'examen de cette demande, exigé en vertu de *la Loi sur le patrimoine de l'Ontario*, prendra fin le 11 décembre 2018.)

Nota : L'approbation de la demande de modification aux termes de la *Loi sur le patrimoine de l'Ontario* ne signifie pas pour autant qu'elle satisfait aux conditions de délivrance d'un permis de construire.)

FOR THE INFORMATION OF COUNCIL

The committee also approved the following Direction to staff:

That the Mayor write the Minister of Municipal Affairs and Housing to encourage him to review the financial penalties related to illegal demolition of Part IV or Part V buildings under the *Ontario Heritage Act* to see if they should be strengthened to discourage such activity.

POUR LA GOUVERNE DU CONSEIL

Le comité a également approuvé la directive au personnel suivante :

Que le maire écrive au ministre des Affaires municipales et du Logement afin de l'encourager à examiner les sanctions financières relatives à la démolition illégale de bâtiments désignés en vertu des parties IV ou V de la *Loi sur le patrimoine de l'Ontario* afin d'évaluer si ces dernières devraient être durcies pour décourager une telle pratique.

DOCUMENTATION/DOCUMENTATION

1. Manager's Report, Right of Way, Heritage and Urban Design Services, Planning, Infrastructure and Economic Development Department dated September 24, 2018 (ACS2018-PIE-RHU-0023)

Rapport du Gestionnaire, Services des emprises, du patrimoine et du design urbain, Direction générale de la planification, de l'Infrastructure et du développement économique daté le 24 septembre 2018 (ACS2018-PIE-RHU-0023)

2. Extract of Minutes, Built Heritage Sub-Committee, October 4, 2018

Extrait du procès-verbal, Sous-comité du patrimoine bâti, le 4 octobre 2018

3. Extract of draft Minutes, Planning Committee, October 9, 2018

Extrait de l'ébauche du procès-verbal, Comité de l'urbanisme, le 9 octobre, 2018

**Report to
Rapport au:**

**Built Heritage Sub-Committee / Sous-comité du patrimoine bâti
October 4, 2018 / 4 octobre 2018**

and / et

**Planning Committee / Comité de l'urbanisme
October 9, 2018 / 9 octobre 2018**

**and Council / et au Conseil
October 10, 2018 / 10 octobre 2018**

**Submitted on September 24, 2018
Soumis le 24 septembre 2018**

**Submitted by
Soumis par:
Court Curry,**

Manager / Gestionnaire,

**Right of Way, Heritage and Urban Design Services / Services des emprises, du
patrimoine et du design urbain**

**Planning, Infrastructure and Economic Development Department / Direction
générale de la planification, de l'Infrastructure et du développement économique**

Contact Person

**Sally Coutts, Senior Heritage Planner / Planificatrice principale, Right of Way,
Heritage and Urban Design / Services des emprises, du patrimoine et du design
urbain / Planning, Infrastructure and Economic Development | Urbanisme,
infrastructure et développement économique
613-580-2424, 13474, Sally.Coutts@ottawa.ca**

SUBJECT: Application to ~~Demolish and~~ (as set out in BHSC motion No. 34/1)
Construct a new building at 227 Mackay Street, a property located in
the New Edinburgh Heritage Conservation District, designated under
Part V of the *Ontario Heritage Act*

OBJET: Demande ~~de démolition et~~ (comme l'indique le motion no. BHSC 34/1)
de construction d'un nouveau bâtiment au 227, rue Mackay, une
propriété située dans le district de conservation du patrimoine de
New Edinburgh et désignée aux termes de la partie V de la *Loi sur le
patrimoine de l'Ontario*

REPORT RECOMMENDATIONS

That the Built Heritage Sub-Committee recommend that Planning Committee
recommend that Council:

- ~~1.~~ ~~Approve the application to demolish 227 MacKay Street, submitted by
Derek Crain, architect, received on September 12, 2018; (as set out in BHSC
motion No. 34/1)~~
- ~~2.~~**1.** Approve the construction of a new building at 227 MacKay Street according
to plans submitted by Derek Crain, architect, received on June 7, 2018;
- ~~3.~~**2.** Delegate authority for minor design changes to the General Manager,
Planning, Infrastructure and Economic Development;
- ~~4.~~**3.** Issue the heritage permit with a two-year expiry date from the date of
issuance;
- ~~5.~~**4.** Suspend the notice required under Subsections 29(3) and 34(1) of the
Procedure By-law to consider this report at its meeting on October 10,
2018.

(Note: The statutory 90-day timeline for consideration of this application under
the *Ontario Heritage Act* will expire on December 11, 2018.)

(Note: Approval to alter this property under the *Ontario Heritage Act* must not be
construed to meet the requirements for the issuance of a building permit.)

RECOMMANDATIONS DU RAPPORT

Que le Sous-comité du patrimoine bâti recommande au Comité de l'urbanisme de recommander à son tour au Conseil :

- ~~1.~~ ~~d'approuver la demande de démolition visant le 227, rue MacKay, présentée par Derek Crain, architecte, et reçue le 12 septembre 2018;~~
(comme l'indique le motion no. BHSC 34/1)
- ~~2.~~**1.** d'approuver la construction d'un nouveau bâtiment au 227, rue MacKay, conformément aux plans présentés par Derek Crain, architecte, et reçus le 7 juin 2018;
- ~~3.~~**2.** de déléguer au directeur général de Planification, Infrastructure et Développement économique le pouvoir d'effectuer des changements mineurs de conception;
- ~~4.~~**3.** de délivrer le permis en matière de patrimoine et de fixer sa date d'expiration à deux ans après la date de délivrance;
- ~~5.~~**4.** de surseoir à l'avis exigé en vertu des paragraphes 29(3) et 34(1) du Règlement de procédure, afin de pouvoir examiner le présent rapport à sa réunion du 10 octobre 2018.

(Nota : Le délai réglementaire de 90 jours d'examen de cette demande, exigé en vertu de *la Loi sur le patrimoine de l'Ontario*, prendra fin le 11 décembre 2018.)

Nota : L'approbation de la demande de modification aux termes de la *Loi sur le patrimoine de l'Ontario* ne signifie pas pour autant qu'elle satisfait aux conditions de délivrance d'un permis de construire.)

BACKGROUND

The property at 227 MacKay Street is a through lot with frontage on MacKay Street and Avon Lane at the south-east corner of the New Edinburgh Heritage Conservation District (HCD), facing the grounds of Rideau Hall. For Location Map, see Document 1. It is the final house of a group of five modest front-gabled houses in this block. There is a late 1960s, 15-unit townhouse development adjacent to the property on the west side (See photograph, Document 2).

The New Edinburgh HCD was designated in 2001, and its heritage conservation plan, written according to the requirements of the post-2005 *Ontario Heritage Act*, was approved in 2016. The New Edinburgh Heritage Conservation District is a significant example of a small 19th century village located within Ottawa. It is significant for its historical associations, architectural and contextual values. Laid out by Thomas MacKay, who lived at Rideau Hall and had established an industrial complex of mills at Rideau Falls, the village was settled by many of Mackay's workers. Incorporated in 1867, and annexed by the City of Ottawa in 1887, New Edinburgh was a self-sufficient community well into the 20th century. Primarily residential in character, the heritage conservation district features a wide range of building types in a variety of styles and types, built in the 19th and 20th centuries.

An application to temporarily remove the original building (without later additions) from its foundations, construct new foundations and then replace the building back on the foundations was approved by City Council on October 11, 2017. A building permit to "construct an addition and interior alterations" was issued on June 27, 2018 and construction started. In late July 2018, after having moved the house off its foundations to rest on cribbing in the rear yard while awaiting relocation on the new foundations, the house was demolished. ~~As there was neither a heritage permit under the *Ontario Heritage Act* nor a demolition permit under the *Building Code Act* to permit the demolition, this report has been prepared because demolition and new construction in heritage conservation districts designated under Part V of the *Ontario Heritage Act* require the approval of City Council.~~ (as set out in BHSC motion No. 34/1)

DISCUSSION

~~Recommendation 1~~

~~The house at 227 Mackay Street was a balloon frame structure. In recent years, there has been water infiltration into the basement, creating damp conditions and significant deterioration of the foundations. The proposal approved in October 2017 included temporarily moving the original portion of the house to the backyard, complete removal of the original foundations and the construction of new foundations that included an eight inch slab and the installation of a waterproof membrane. The foundation work has been completed and framing of the houses has commenced.~~

~~Section 8.5.1 of the New Edinburgh Heritage Conservation District Plan (2016) discourages the demolition of contributing buildings in the HCD, stating, "Buildings should be retained and renovated wherever possible." Section 8.5.1 also states, "New construction will be approved only where the siting, form and materials are consistent with and sympathetic to the character of the HCD and meet the guidelines for new construction...."~~

~~Adjeleian Allen Rubeli Limited, consulting engineers, completed a Field Review Report for the property owners on July 28, 2018 after the original house was moved off its foundations. (For Report, See Document 3). The Field Review Report described the condition of the house and the option of re-using elements of its balloon frame; however, the re-use of selected elements, rather than the retention of the house, was not approved by the heritage permit issued on October 11, 2017. When faced with the condition of the house as detailed in the Field Review Report, the property owner proceeded to demolish the house without a permit. As the building no longer exists, this report seeks retroactive permission to demolish. (as set out in BHSC motion No. 34/1)~~

Recommendation ~~2~~1

The design and massing of the proposed house is identical to the design that was approved in October 2017. For elevations, see Document 4. It reproduces the front-gabled form of the original building and features a front verandah that wraps around the east façade, the construction of a cross-gabled section with a front-facing shed dormer facing Mackay Street and a flat-roofed portion at the rear. The house will be clad with white Hardie Board, a composite material. The siding on the front part of the building will be lapped, the new middle portion will be board and batten and the contemporary rear addition will be in panels.

The verandah will match the footprint of the previous verandah but will wrap around the front façade. Its railings will be simple in character inspired by other verandahs in the HCD. Its roof will be a standing seam metal roof.

The proposed windows are simple two-over-two wooden sash windows in rectangular frames similar to the simple windows found in other vernacular, front-gabled houses within the HCD and throughout Ottawa.

To the side and rear, the building will have a cross-gable roof and will be contemporary in expression, consisting of a kitchen and family room on the first floor and a master suite on the second. There will a terrace off the master bedroom, on the roof of the family room below. Minor variances to permit the east and west eaves to project into the side yards and to permit a reduced total interior side yard setback of 1.6 metres have been approved.

There are guidelines for new construction within the HCD in Section 8.5.4 of the heritage plan. These guidelines stress that new buildings should:

- Be of their own time, contribute to the heritage character of the HCD
- Be compatible with the streetscape in terms of siting, mass, height and materials and the surrounding cultural heritage landscape
- Maintain existing grades and have one to four front steps
- Be constructed of natural materials

The proposed building meets the guidelines. For complete guidelines, see Document 5. It is of its own time, is compatible with the distinctive streetscape that includes four other front gables houses, is clad in manufactured wood siding, maintains grades, has four steps, and includes appropriate windows.

The through lots in the HCD and open, green backyards are attributes of the HCD. The footprint of the proposed building is larger than that of the current building and its additions; however, the new proposal retains an open space to the rear of the building.

Recommendation ~~3~~ 2

Minor changes to a building sometimes emerge during the working drawing phase. This recommendation is included to allow the General Manager of Planning, Infrastructure and Economic Development to approve these changes.

Recommendation 4 3

The *Ontario Heritage Act* does not provide any timelines for the expiry of heritage permits. In this instance, a two-year expiry date, unless otherwise extended by Council, is recommended to ensure that the project is completed in a timely fashion.

Recommendation ~~5~~ **4**

Changes to the legislative timetable prompted by the election and the need to enclose the property before winter require this report to rise to Council immediately after Planning Committee..

Provincial Policy Statement

The demolition of the house without a heritage permit did not comply with the Provincial Policy Statement that states that, “built heritage resources shall be conserved”; however, the proposed replacement dwelling respects the cultural heritage value of the heritage conservation district.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

Heritage Ottawa has been informed of this application.

The New Edinburgh Community Association has been informed of this application.

Notification

Neighbours within 30 metres of the property were notified of this application and offered an opportunity to comment either at the Built Heritage Sub-Committee or Planning Committee meetings

COMMENTS BY THE WARD COUNCILLOR

The Ward Councillor is aware of this application.

LEGAL IMPLICATIONS

The Owner obtained a permit subsequent to an application to alter a property within a heritage conservation district. The Owner did not adhere to the approval under the Heritage Permit, and instead demolished the house. It has now applied to demolish and construct a new building at this address. There does not appear to be authority in the *Ontario Heritage Act* for such retroactive approval. In any event, such retroactivity could effectively undermine the legislative intent of the Act and the By-laws enacted

thereunder as it could undermine the requirement that property owners seek prior approval before alternation or demolition work is carried out. This could further diminish the deterrence principles associated with regulatory compliance under the Act. Therefore, no recommendations in this report are to be viewed as retroactive approvals of the demolition and the City reserves its rights to take or continue further legal action as required.

RISK MANAGEMENT IMPLICATIONS

There are no Risk Management implications associated with this report.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications associated with the recommendations of this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priority:

- Planning and Decision-Making

APPLICATION PROCESS TIMELINE STATUS

The application was processed within the 90-day statutory requirement under the *Ontario Heritage Act*.

SUPPORTING DOCUMENTATION

Document 1 Location Map

Document 2 Front façade, former building, 227 MacKay Street

Document 3 Field Review Report, Adjelian Allen Rubeli Limited (*previously distributed*)

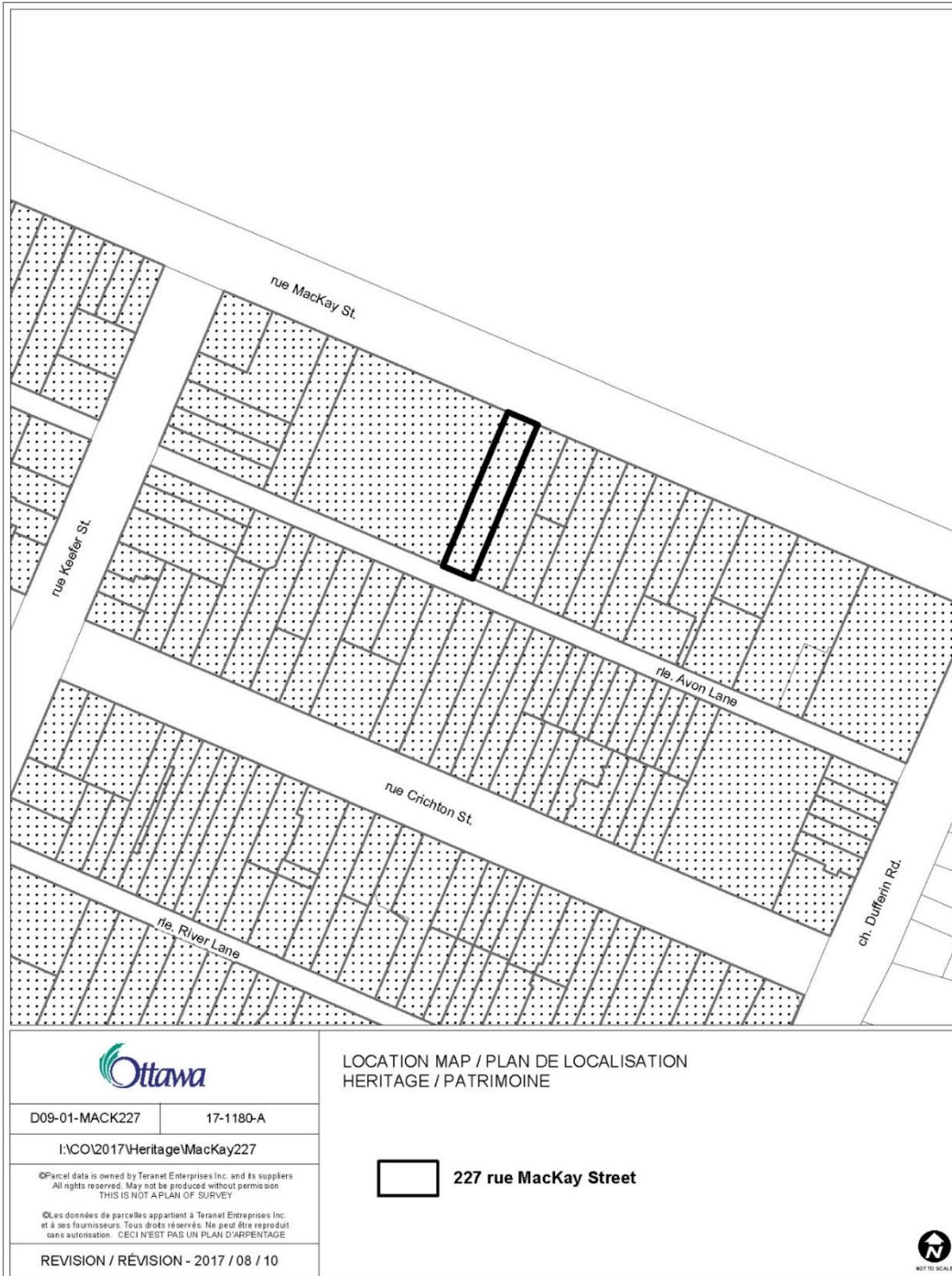
Document 4 Elevations

Document 5 Guidelines for new construction, New Edinburgh Heritage Conservation District Plan

DISPOSITION

City Clerk and Solicitor Department, Legislative Services, to notify the property owner and the Ontario Heritage Trust (10 Adelaide Street East, 3rd Floor, Toronto, Ontario, M5C 1J3) of Council's decision.

Document 1 – Location Map

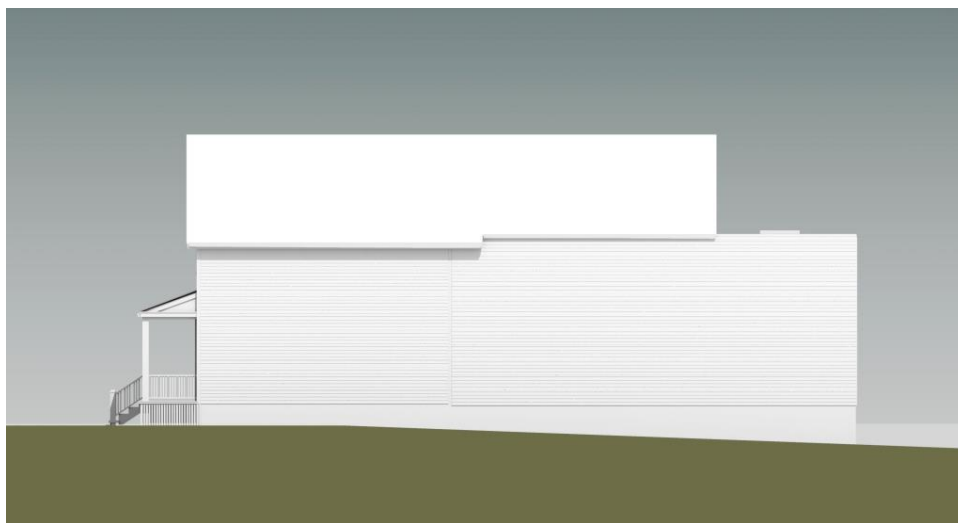


Document 2 – Front façade, former building, 227 MacKay Street



Document 4 – Elevations





**Document 5 – Guidelines for new construction, New Edinburgh Heritage
Conservation District Plan**

8.5.4 Guidelines for New Buildings

1. Property owners are encouraged to retain an architect, designer and/or heritage professional when designing a new building in the HCD.
2. New buildings shall contribute to and not detract from the heritage character of the HCD as outlined in the Statement of Cultural Heritage Value and list of Heritage Attributes
3. Construction of new buildings will only be approved when the siting, mass, height and materials are compatible with and contribute to the surrounding properties and the cultural heritage landscape.
4. New buildings should be of their own time and are not required to replicate an historical architectural style. If a property owner wishes to recreate a historical style, care shall be taken to ensure that the proposed building is an accurate interpretation in terms of scale, massing and historical materials.
5. Most buildings in New Edinburgh feature front entrances either at grade or one to four steps up. New buildings in the HCD shall respect this heritage attribute.
6. Existing grades shall be maintained.
7. Cladding materials shall be continuous on all building elevations. The use of brick or stone on the front facade only is not appropriate in the HCD.
8. Construction of new buildings will only be approved when the height, mass, and materials of the new building respects and is compatible with the existing buildings in the associated streetscape.
9. Windows may be wood, metal clad wood, steel or other materials as appropriate. Multi-paned windows should have appropriate muntin bars.
10. The use of natural materials, such as stone, real stucco, brick and wood is an important attribute of the HCD, and the use of materials such as vinyl siding, aluminium soffits, and manufactured stone will not be supported.

11. The use of modern materials such as plastic or fibreglass to replicate architectural details such as columns, balusters or bargeboard is not acceptable and will not be permitted.
12. Parking, garages and driveway access shall be consistent with the character of the heritage conservation district. Integrated garages, below grade garages and reverse sloped driveways are not consistent with the historic character of New Edinburgh.
13. Rooftop terraces are not typical in the HCD however; terraces on the top storey may be permitted if they are set back from the roof edge and not visible from the street at the grade of the house.