



**City of Kingston
Report to Council
Report Number 26-172**

To: Mayor and Members of Council
From: Paige Agnew, Commissioner, Growth & Development Services
Resource Staff: Lisa Capener-Hunt, Director, Building Services & CBO
Date of Meeting: June 16, 2026
Subject: Limiting Distance Agreement for 166 West Street

Council Strategic Plan Alignment:

Theme: 3. Build an Active and Connected Community

Goal: See above

Executive Summary:

Staff are seeking Council authorization for the City to enter into a Limiting Distance Agreement with the owner of 166 West Street to support the adaptive reuse of a designated heritage property while maintaining compliance with the Ontario Building Code (OBC). The agreement would allow a portion of adjacent City owned lands to be included in the required limiting distance calculation, increasing the effective spatial separation distance between the building and neighboring properties for safety purposes.

The owner proposes to renovate the existing carriage house into a two-storey single detached dwelling with an increased number of windows and doors on the south building elevation that are not protected with a fire-resistance rating. To accommodate this increase in unprotected openings beyond what is otherwise permitted under the OBC, the owner has requested that the required limiting distance be measured beyond the property line to include a portion of the adjacent City owned Court House lands.

The agreement would apply to a defined portion of the City's Court House parking lot, immediately south of the subject property, measuring approximately 4.5 metres in width and 77.85 square metres in area. It would restrict future construction within this area to maintain the

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required spatial separation distance between the City lands and the renovated dwelling at 166 West Street. The impact to the City is minimal, as the lands are currently used for parking, are not identified for near term redevelopment, and are already subject to zoning provisions requiring substantial setbacks.

The proposal has been reviewed and approved through applicable planning and heritage processes. The agreement will be registered on title, bind current and future owners, and include terms and conditions satisfactory to the Chief Building Official and in a form acceptable to the City Solicitor.

Recommendation:

That Council authorize the Mayor and City Clerk to execute a Limiting Distance Agreement with the owner of the property municipally known as 166 West Street, over a portion of the City-owned Court House parking area immediately to the south of the subject lands, on terms and conditions satisfactory to the Chief Building Official.

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Options/Discussion:**Ontario Building Code Framework**

The Ontario Building Code (OBC) establishes requirements to limit the risk of fire spread between buildings, including provisions regulating unprotected openings (e.g., windows and doors). Compliance may be achieved through one or more of the following:

- Limiting the number and size of unprotected openings based on proximity to a property line;
- Protecting openings using fire-rated assemblies such as fixed fire rated glass or fire shutters; or
- Measuring the required limiting distance for an exposing building face beyond the property line through a registered Limiting Distance Agreement between adjacent landowners.

Where reducing the number of openings or installing fire-rated closures is not the preferred approach, a limiting distance agreement allows a building owner to rely on neighboring lands to satisfy fire separation requirements, which can permit more windows, doors, or other openings in the building than would otherwise be allowed.

A limiting distance agreement must confirm that:

- Each owner covenants, for the benefit of the other lands, that no building will be constructed unless the limiting distance for exposing building faces is measured in accordance with the agreement,
- The covenants contained are intended to run with the land and bind the parties, as well as their heirs, executors, successors, and assigns,
- The agreement cannot be amended or discharged from title without municipal consent and includes any additional conditions required by the municipality, such as indemnification provisions, and
- The agreement is registered on title against the affected properties.

Once registered, the limiting distance for exposing building faces is measured to the point identified in the agreement for any future construction on the subject lands.

Background and Limiting Distance Agreement

The subject parcel of land was created through a severance process in 2024 (City File Number D10-010-2023) with site-specific zoning established in 2023 through a zoning by-law amendment process (City File Number D14-001-2023). The property is designated under Part V of the *Ontario Heritage Act* as part of the Old Sydenham Heritage Conservation District. On

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June 2, 2026, Council approved the heritage permit application for the proposed development through report HP-26-009.

The owner of 166 West Street proposes to renovate the existing carriage house into a two-storey single detached dwelling. The existing structure contains window openings on all elevations. The proposed renovation reconfigures the windows on the north and west elevations without increasing the total number or aggregate area of unprotected openings, maintaining the existing fire protection performance on these elevations. The east elevation fronts onto a public street, where the OBC permits up to 100% unprotected openings, which remains compliant with applicable OBC provisions.

As a result, only the south elevation requires additional consideration to permit an increased percentage of unprotected openings.

To address this, the owner has requested that the City, as the adjacent landowner, enter into a Limiting Distance Agreement pursuant to Sentence 9.10.14.2.(4) of the OBC. This agreement would allow a portion of the abutting City-owned Court House lands to be included in the required limiting distance calculation.

The proposed agreement would:

- Apply to a portion of City lands located directly south of 166 West Street, measuring approximately 4.5 metres in width, with a total area of approximately 77.85 square metres, which is currently used as part of the Court House parking area; and
- Restrict the construction of buildings or structures within this defined area, thereby maintaining the required fire separation distance for the proposed dwelling.

The agreement will be registered on title, binds future owners, and cannot be amended or discharged without municipal consent. Final terms and conditions will be satisfactory to the Chief Building Official and in the form acceptable to the City Solicitor.

Zoning and Future Development

The abutting City-owned lands are subject to the provisions of the IN2 zone of the Kingston Zoning By-Law and the A.106 zone of Zoning By-Law 8499. Pursuant to the applicable zoning, if the City were to construct a building on the abutting lands, the applicable zoning would require a minimum rear yard setback equal to the greater of either the height of the rear wall of the main building or 7.5 metres.

As a result, any future development by the City on the lands abutting 166 West Street would, independent of any limiting distance agreement, be required to maintain a substantial setback from the shared property line. The proposed limiting distance agreement does not materially constrain the City's future development potential beyond what is already required by zoning, nor

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does it preclude continued use of the lands for their current function. The affected lands are currently used for parking and are not identified for near term redevelopment.

Conclusion

The proposed limiting distance agreement maintains the intended OBC compliant level of fire protection, that balances life safety objectives with heritage conservation and practical redevelopment considerations. Subject to Council approval, execution of the limiting distance agreement will enable the redevelopment of the heritage property at 166 West Street to proceed in compliance with the OBC, as well as the applicable planning and heritage approvals already in place.

Public Engagement

None

Existing Policy/By-Law

Ontario Building Code

Zoning By-Law Number 2022-62

Zoning By-Law Number 8499

Notice Provisions

None

Financial Considerations

There are no anticipated financial impacts to the City. All costs associated with the preparation, execution, and registration of the agreement on title will be borne by the property owner.

Contacts:

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Other City of Kingston Staff Consulted:

Amy Didrickson, Senior Planner, Planning Services

Kevin Gibbs, Director, Heritage Services

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Exhibits Attached:

None