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TO:	**CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE**
FROM:	**JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER**
SUBJECT:	**REQUEST TO REPEAL DESIGNATING BY-LAW NO. L.S.P.-2984-126 BY: M. SCHILLER 142 KENT STREET MEETING ON JUNE 20, 2016**

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, with the advice of the Heritage Planner, the request to repeal designating By-law No. L.S.P.-2984-126 for 142 Kent Street **BE REFUSED** and that notice of this decision **BE GIVEN** to the property owner and to the Ontario Heritage Trust.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

None.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose of the recommended action is to refuse a request to repeal the designating by-law for a property designated under Part IV of the *Ontario Heritage Act*.

BACKGROUND

142 Kent Street is located on the north side of Kent Street between Richmond Street and Talbot Street (Appendix A). The building located at 142 Kent Street is noted as one of “London’s premier examples of Queen Anne architecture” by its designating by-law, By-law No. L.S.P.-2984-126. The Queen Anne architectural style is particularly demonstrated in the exuberance of its detailing: Richardsonian Romanesque rustication, intersecting cross gambrel roof with shingle imbrication, oriel windows, oval (oeil-de-boeuf) window, trefoil window, tin paneling course, Norman turret with conical roof topped by a finial, swag and garland applique on the cornice frieze, and Queen Anne style windows among others (Appendix B).

The building at 142 Kent Street was built in c.1892 for Alfred M. Smart (1858-1931), who was the president of the Ontario Loan & Debenture Company. The Ontario Loan & Debenture Company, first known as the Ontario Saving & Investment Society, was incorporated in 1870 by Joseph Jeffery (Baker *Downtown London: Layers of Time* 1998, 47). The Ontario Loan & Debenture Company was first located in the Albion Block (demolished) at the corner of Richmond Street at Carling Street. In 1880, the Ontario Loan & Debenture Company relocated to a new building spanning between Market Square and Dundas Street along Market Lane (demolished). The Harris, Magee law firm and London Life were located in the same building. Joseph Jeffery was president of the Ontario Loan & Debenture Company until his death in 1892, when he was succeeded by John McClary until 1920; Alfred Smart succeeded John McClary as president until his own death in 1931. The Ontario Loan & Debenture Company was acquired by the Royal Trust Company in 1968 and merged into Royal Trust Company Mortgage Corporation in 1969.

In addition to his career with the Ontario Loan & Debenture Company, Alfred Smart was a

director of the London & Western Trust Company, the London Life Insurance Company, the City Gas Company, Western Fair Board, vice-president and secretary-treasurer of the McClary Manufacturing Company, president of the London Hunt & Country Club, and worked with Sir George Gibbons and George Reid on Patriotic Fund, the Victory Loan, and the Red Cross efforts during the World War I, as well as a parishioner of St. Paul's Cathedral. His obituary, published in the *London Free Press*, noted "Mr. Smart was closely associated with the financial life of London and Western Ontario for many years, and his passing will leave a gap on a number of local directorates that will be extremely hard to fill" (February 17, 1931).

Alfred Smart was first married to Harriet Margaret Gunn (d.1911), daughter of George McKenzie Gunn and Eliza Maria (Blinn) Gunn of London in 1882. George and Eliza Gunn lived at 136 Kent Street, adjacent to the subject property, and perhaps influenced the location for the Smart's new home in 1892. Alfred Smart subsequently married Anne Cornelia McLaughlin of Linden Hall, Mason-Dixon, Maryland, in 1921. Anne Cornelia Smart remained living at 142 Kent Street until 1986. Following her death, the property was purchased by J. and T. Zuzanek who lived next door at 136 Kent Street. The former property owner established "Villa Cornelia" as a heritage tea room/restaurant.

The property was designated under the *Ontario Heritage Act* By-law No. L.S.P.-2984-126 at the request of the former property owner in 1988 (Appendix C). The existing asphalt shingle roof was replaced with a cedar shingle roof in 1988-1989 with financial support from the Ministry of Culture and Communication. The property is zoned Heritage/Residential R9/Office Conversion/Restricted Office (HER/R9-7*H24/OC7/RO).

The building was profiled in John Lutman's *The Historic Heart of London* (1977) and featured on the publication's back cover (see Appendix B). 142 Kent Street was highlighted in the "Talbot North" area in *Heritage Places* (1994), a guideline document which identifies potential Heritage Conservation Districts in London. Within the Talbot North area, 142 Kent Street is noted for its architectural detailing and contributions to the Kent Street streetscape. The Architectural Conservancy Ontario (ACO) – London Region's 2010 Geranium Heritage House Tour, "Eldon Excursion," included 142 Kent Street.

A Heritage Alteration Permit for 142 Kent Street was approved in 2013 for the installation of vinyl siding over the painted wood shingles. It does not appear that the approved work has been completed.

ANALYSIS

Section 2.6.1 of the *Provincial Policy Statement* (2014) directs that "significant built heritage resources and significant cultural heritage landscapes shall be conserved." "Significant" is defined in the *Provincial Policy Statement* (2014) as, in regards to cultural heritage and archaeology, "resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, and event, or a people." The objectives of Chapter 13 (Heritage) of the City of London's *Official Plan* comply with these policies. The Strategic Plan for the City of London 2015-2019 identifies heritage conservation as an integral part of "Building a Sustainable City."

Repeal of Designating By-law, Owner's Initiative

Under Section 32(1) of the *Ontario Heritage Act*, an owner of a property designated under Part IV of the *Ontario Heritage Act* may apply to Municipal Council to repeal the designating by-law. The *Ontario Heritage Act* states,

> (2) After consultation with its municipal heritage committee [London Advisory Committee on Heritage], where one is established, the council shall consider an application under subsection (1) and within ninety days of receipt thereof shall,
>
> a) Refuse the application and cause notice of its decision to be given to the owner and to the [Ontario Heritage] Trust; or,
> b) Consent to the application to repeal the designating by-law, and

i) Cause notice of the intention to repeal the by-law to be served on the owner and the [Ontario Heritage] Trust, and
ii) Publish notice of the intention to repeal the by-law in a newspaper of general circulation in the municipality (Section 32(2), *Ontario Heritage Act*).

Should Municipal Council fail to notify the applicant of its decision within 90 days, consent shall be deemed given and the designating by-law repealed. The request from the agent of the property owner was received on April 15, 2016; the 90 day timeline expires on July 14, 2016.

Within 30 days of receiving Municipal Council's notice of its decision, the owner may appeal to the Conservation Review Board. The Conservation Review Board is a provincially-appointed review body which holds hearings to review appeals concerning the designation of and alterations to properties designated under Part IV of the *Ontario Heritage Act*. It makes recommendations regarding appeals, such as this request to repeal a designating by-law. The final decision rests with the municipal council.

Should Municipal Council consent to the repeal of the designating by-law, any person may serve notice of objection to the City Clerk within 30 days of the publication of the notice of intention to repeal the designating by-law in *The Londoner*.

Test to Repeal a Designating By-law
To determine if a property merits protection under Part IV of the *Ontario Heritage Act*, it must be evaluated using the criteria of *Ontario Heritage Act* Regulation 9/06. The mandated criteria of *Ontario Heritage Act* Regulation 9/06 are:

A property may be designated under Section 29 of the *Ontario Heritage Act* if it meets one or more of the following criteria for determining cultural heritage value or interest:

1. The property has design value or physical value because it,
    a. Is a rare, unique, representative or early example of a style, type, expression, material or construction method,
    b. Displays a high degree of craftsmanship or artistic merit, or
    c. Demonstrates a high degree of technical or scientific achievement.
2. The property has historical value or associative value because it,
    a. Has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
    b. Yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
    c. Demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
3. The property has contextual value because it,
    a. Is important in defining, maintaining or supporting the character of an area,
    b. Is physically, functionally, visually, or historically linked to its surroundings, or,
    c. Is a landmark.

So long as a property meets one of the above criteria, it may be designated under Part IV of the *Ontario Heritage Act*. If a property does not meet any of the above criteria, it does not merit designation under Part IV of the *Ontario Heritage Act*.

As this evaluation is required for new designations under Part IV of the *Ontario Heritage Act*, it must be applied in considering the repeal of an existing designating by-law. If a property previously designated under Part IV of the *Ontario Heritage Act* is determined to not demonstrate sufficient cultural heritage value or interest to merit designation, as required by the mandated criteria of *Ontario Heritage Act* Regulation 9/06, its designating by-law may be repealed. If a property previously designated under Part IV of the *Ontario Heritage Act* is determined to demonstrate one or more of the criteria of *Ontario Heritage Act* Regulation 9/06, its designating by-law should be upheld.

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By-law No. L.S.P.-2984-126 was reviewed using the criteria of *Ontario Heritage Act* Regulation 9/06 (Appendix D). It should be noted that 142 Kent Street was designated prior to the 2005 amendments to the *Ontario Heritage Act*, thus the designating by-law is structured differently than a contemporary designating by-law (e.g. no heritage attributes are identified; architectural reasons for designation are discussed). Heritage attributes extracted from the designating by-law are visually noted in Appendix E.

The review of the designating by-law affirms that 142 Kent Street merits protection under Part IV of the *Ontario Heritage Act* (see Appendices D-E). Thus, By-law No. L.S.P.-2984-126 should not be repealed.

At its meeting held on April 27, 2016, the Stewardship Sub-Committee of the London Advisory Committee on Heritage (LACH) discussed the architectural merits of the property, which were the primary reason for its designation under the *Ontario Heritage Act*, and found they remain valid. The Stewardship Sub-Committee recommended that the designating by-law for 142 Kent Street be upheld.

Pursuant to Section 32(2) of the *Ontario Heritage Act*, the LACH was consulted regarding this matter at its meeting held on June 8, 2016. The LACH recommended that the request to repeal the designating by-law for 142 Kent Street be refused.

HER Zone

The Heritage (HER) Zone is a standard zone within the Z.-1 Zoning By-law. It constitutes one zone within a range of standard zones that are to be applied, where appropriate, across the city. The HER Zone must be compounded with another zone in the Z.-1 Zoning By-law. The HER Zone has been in effect since 1993, when the Z.-1 Zoning By-law first came into force and effect.

The HER Zone regulates buildings, structures, and lands that have been designated under the *Ontario Heritage Act*. The HER Zone provides Municipal Council with an effective tool to remove the inherent incentive that can sometimes exist to demolish a heritage building in order to construct a new building with greater building height or floor area. Should a heritage building be demolished, destroyed, damaged or removed, the HER Zone regulates that the new building or structure to occupy the lot must be of the same height, volume and floor area as the heritage building that was removed. The HER Zone also prevents development in the front or exterior side yard of heritage buildings where the zone has been applied. The HER Zone is one important tool, among several, to help conserve London's cultural heritage resources.

Should the designating by-law for 142 Kent Street be repealed, the HER Zone would remain in force and effect. A Zoning By-law Amendment would be required to remove the HER Zone.

CONCLUSION

Designation under the *Ontario Heritage Act* is based on the cultural heritage value of a property. A review of the designating by-law using the criteria of *Ontario Heritage Act* Regulation 9/06 affirmed that 142 Kent Street is a significant cultural heritage resource. Staff recommend Municipal Council uphold the By-law No. L.S.P.-2984-126.

The City promotes the conservation of its cultural heritage resources as positive contributions to the identity of London, instilling civic pride, and benefiting the local economy. To repeal the designating by-law for a property based would set a negative precedent for the City and the province, and would detract from the momentum achieved to date in the conservation of London's cultural heritage resources.

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PREPARED BY:	**SUBMITTED BY:**
KYLE GONYOU **HERITAGE PLANNER** **URBAN REGENERATION**	**JIM YANCHULA, MCIP, RPP** **MANAGER, URBAN REGENERATION**

RECOMMENDED BY:
JOHN M. FLEMING, MCIP, RPP **MANAGING DIRECTOR, PLANNING AND CITY PLANNER**

2016-06-09

Attach:

- Appendix A: Property Location
- Appendix B: Photographs
- Appendix C: By-law No. L.S.P.-2984-126
- Appendix D: Review of By-law No. L.S.P.-2984-126
- Appendix E: Annotated Façade Assessment

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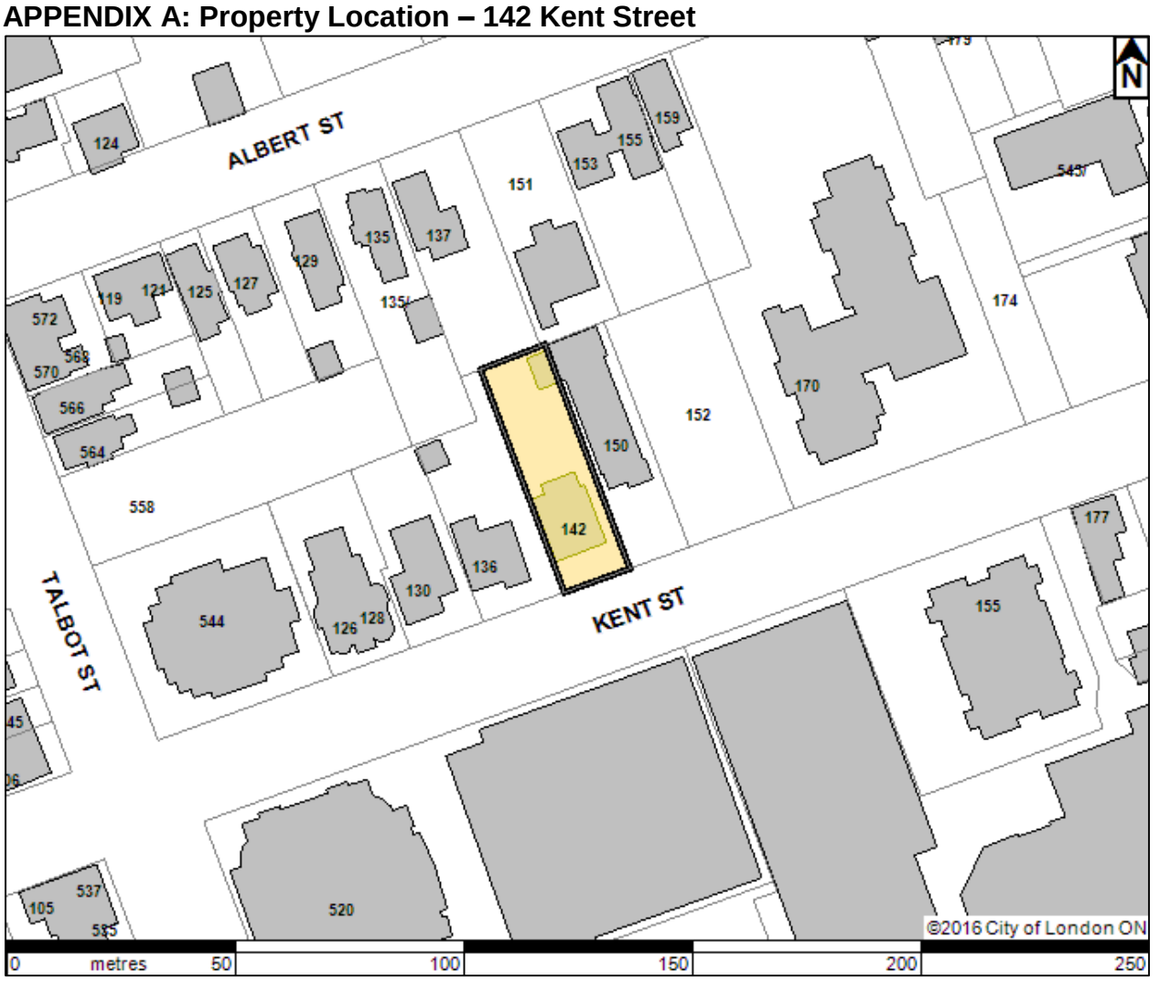
APPENDIX A: Property Location – 142 Kent Street



APPENDIX B: Photographs – 142 Kent Street

Image 1: Front façade (John Picur, c.1977).

Image 2: Northeast view (John Picur, c.1977).

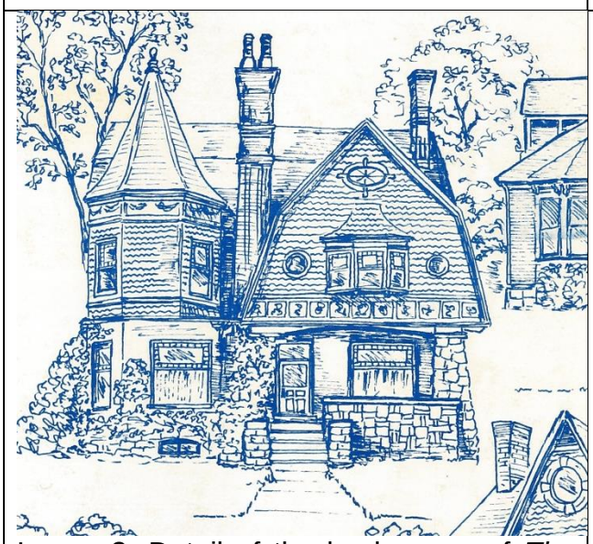


Image 3: Detail of the back cover of *The Historic Hear of London* (1977).

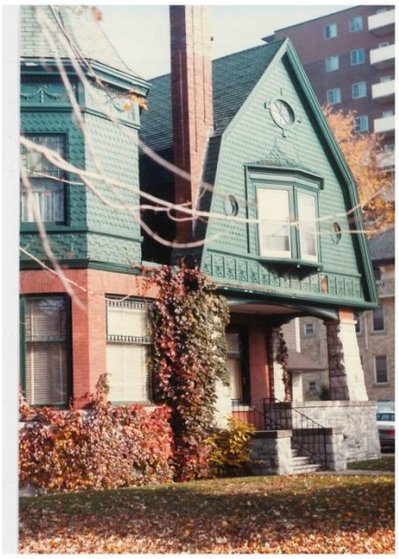


Image 4: Northwest view (c.1987).

Image 5: Northeast view (c.1987).

Image 6: Restoration work underway (c.1988).

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Image 6: Detail of restoration work on west façade (c.1988).

Image 7: Restoration work complete (c.1989).

Image 8: Northeast facades (c.1989).

Image 9: Northwest facades (c.1989).

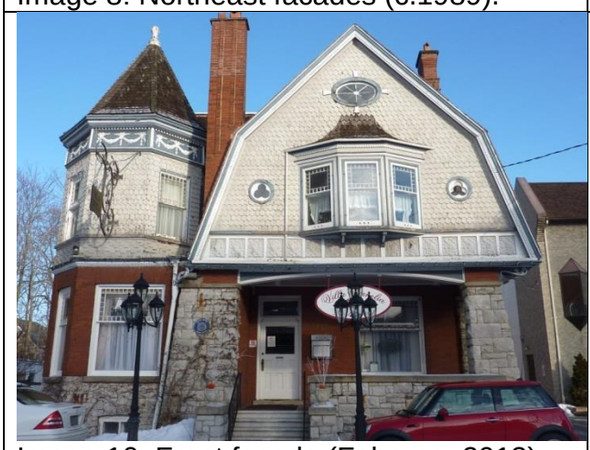

Image 10: Front façade (February 2013).

Image 11: Detail of gable imbrication (February 2013).

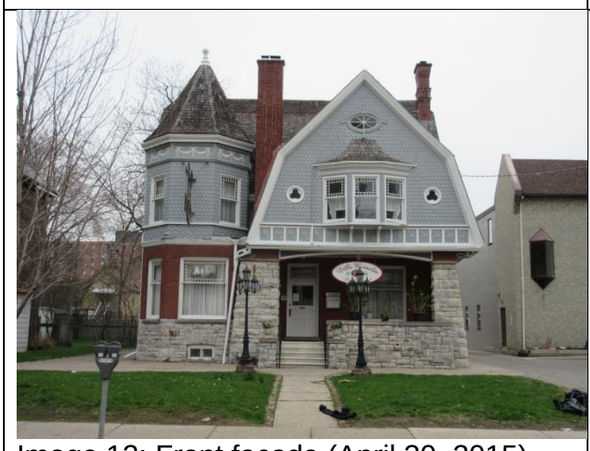

Image 12: Front façade (April 30, 2015).

Image 13: Northwest view.

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Image 13: Northeast view.

Image 14: Ascending windows on the staircase, east façade.

Image 15: Swag and garland detail on the cornice frieze of the turret.

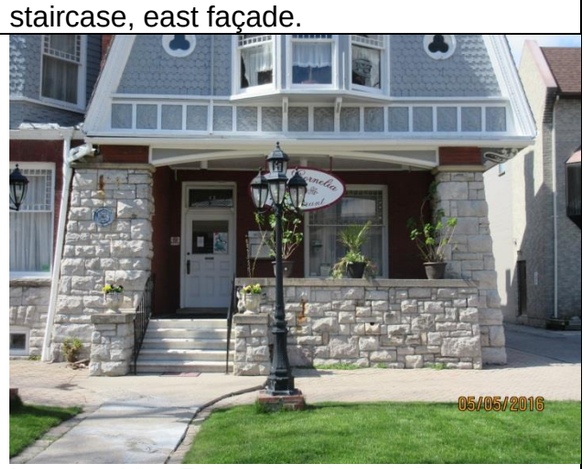

Image 16: Richardsonian influences in stone block elements.

Image 17: Beveled glass detailing in Queen Anne style window.

Image 18: Square, rusticated, tin panel detailing.

Image 19: One of the three chimneys.

Image 20: Refined detailing at eaves.

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APPENDIX C: By-law No. L.S.P.-2984-126

Bill No.
1988

By-law No. L.S.P.-2984-126

A by-law to designate 142 Kent Street to be of architectural value.

WHEREAS pursuant to The Ontario Heritage Act, R.S.O. 1980, c. 337 the Council of a municipality may by by-law designate a property including buildings and structures thereon to be of historic or architectural value or interest;

AND WHEREAS notice of intention to so designate the property known as 142 Kent Street has been duly published and served and no notice of objection to such designation has been received.

The Municipal Council of The Corporation of the City of London enacts as follows:

I. There is designated as being of architectural value or interest the real property, more particularly described in Schedule "A" hereto, at 142 Kent Street, for the reasons set out in Schedule "B" hereto.

2. The City Clerk is authorized to cause a copy of this by-law to be registered upon the title to the property described in Schedule "A" hereto in the proper Land Registry Office.

3. The City Clerk is authorized to cause a copy of this by-law to be served upon the owner of the aforesaid property and upon the Ontario Heritage Foundation and to cause notice of this by-law to be published in the London Free Press, and to enter the description of the aforesaid property, the name and address of its registered owner, and short reasons for its designation in the Register of all properties designated under The Ontario Heritage Act, R.S.O. 1980.

4. This by-law comes into force on the day it is passed.

PASSED in Open Council on April 18, 1988.

T. G. Gosnell
Mayor

K. W. Sadler
City Clerk

First reading - April 18, 1988
Second reading - April 18, 1988
Third reading - April 18, 1988

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SCHEDULE "A"

to By-law No. L.S.P.-2984-126

Part of Lots 7 and 8, North side of Kent Street, according to Plan 199 1/2, in the City of London, in the County of Middlesex, and being more particularly described as follows:

COMMENCING at a point in the North side of Kent Street, being the Southerly limit of Lot 8, North of Kent Street, Plan 199 1/2 distant 312 feet Easterly from the intersection of the Northerly limit of Kent Street with the Easterly limit of Talbot Street, being also the Southwest angle of Lot 6, East of Talbot Street, Plan 199 1/2, being 15 feet Easterly from the Southwest angle of said Lot 8, North of Kent Street.

THENCE Easterly along the said Northerly limit of Kent Street, being the Southerly limits of Lots 8 and 7, North of Kent Street, Plan 199 1/2, a distance of 50 feet.

THENCE Northerly parallel with the Easterly limit of Talbot Street being also the Westerly limit of Lot 6, East of Talbot Street, a distance of 165 feet more or less to the Northerly limit of said Lot 7, North of Kent Street, Plan 199 1/2.

THENCE Westerly along the said Northerly limit of Lots 7 and 8, North of Kent Street, Plan 199 1/2, a distance of 50 feet.

THENCE Southerly parallel with the said Easterly limit of Talbot Street being also the said Westerly limit of Lot 6, East of Talbot Street, a distance of 165 feet to the place of beginning,

being the lands described in Instrument No. 748787

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SCHEDULE "B"

to By-law No. L.S.P.-2984-126

Architectural Reasons

142 Kent Street was erected in c. 1892 for Alfred M. Smart who, on his death in 1932, was president of Ontario Loan and Debenture. The house ranks among London's premier examples of Queen Anne architecture, exhibiting many of the characteristic elements of this style.

As a late Queen Anne house, it was influenced by the new Richardsonian Romanesque, Shingle and Norman Revival styles. This can be seen in the stone block foundation and verandah railing and support (Romanesque), the shingling (Shingle) and turret (Norman).

Gambrel-shaped, shingle-clad, gable ends of the front, rear and side elevations are indicative of the intersecting cross gable roof. The oriel window of the front gable-end is balanced above by an oval window and to either side by trefoil windows. Typical of the Queen Anne style, the large pane of the top sash of the three oriel windows is bordered by smaller panes. A course of square, rusticated, tin panels edges the bottom of the gable. A tall elaborate brick chimney projects from its roof.

The side (red brick) end gables reflect each other in mirror image: paired windows separated by a decorative panel, oval window above and rusticated tin panel coursing. The east elevation, however, differs in that two tall brick chimneys extend through the shingled end gable to project above the roof line. The brick side wall of the west elevation is broken by a regular arrangement of windows. The regular arrangement of windows of the east elevation is altered by three ascending stained glass windows along the stairway and the two aforementioned projecting brick chimneys.

Balancing the front end gable is a red brick (1st storey) and shingle-clad (2nd storey) octagonal turret with a conical roof topped by a finial. A swag and garland applique adds a classical touch to the cornice frieze. Again, the large top panes of the turret windows are bordered by smaller panes. Entrance to the house from the rusticated-stone block, round-arched verandah is gained through a single six panel door, decorated by a geometrically patterned, etched-glass window and similarly patterned transom framing number 142 above. The verandah shades an extra large window, the top sash of which again features a border of smaller panes.

A heritage feature of particular note in the interior is the staircase, located within an arched alcove off the central hallway. It is lighted by three ascending, round-arched, patterned, stained glass windows, each of which is a remarkable example of period craftsmanship. The banister and turned posts of the stair rail are anchored by three fluted square newel posts. Mention should also be made of the wooden ceiling beams and cornice in the central hallway and dining room.

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APPENDIX D: Review of By-law No. L.S.P.-2984-126

Review of cultural heritage value or interest of 142 Kent Street, as articulated by By-law No. L.S.P.-2984-126, using the mandated criteria of *Ontario Heritage Act* Regulation 9/06:

Criteria		**Review By-law No. L.S.P.-2984-126**	**Comment**
A property may be designated under Section 29 of the *Ontario Heritage Act* if it meets one or more of the following criteria for determining cultural heritage value or interest:			
1. The property has design value or physical value because it,	a. Is a rare, unique, representative or early example of a style, type, expression, material or construction method,	"The house ranks among London's premier examples of Queen Anne architecture".	The building located at 142 Kent Street is a unique and representative example of Queen Anne Revival architecture in London. A recent survey of gambrel roof buildings suggests this may be one of the finest examples of this form. The eclectic nature of the Queen Anne Revival style is well represented by the heritage attributes identified for 142 Kent Street (see Appendix E).
	b. Displays a high degree of craftsmanship or artistic merit, or	Numerous refined details are noted within the designating by-law. Craftsmanship of stained glass windows is particularly noted.	The building located at 142 Kent Street demonstrates a high degree of craftsmanship, particularly shown in the refined detailing noted in the designating by-law which is still present.
	c. Demonstrates a high degree of technical or scientific achievement.	Not noted in designating by-law.	No comment.
2. The property has historical value or associative value because it,	a. Has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,	Associated with Alfred M. Smart, president of Ontario Loan and Debenture.	
	b. Yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or	Not noted in designating by-law.	No comment.

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	c. Demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.	Not noted in designating by-law.	No comment.
3. The property has contextual value because it,	a. Is important in defining, maintaining or supporting the character of an area,	Not noted in designating by-law.	142 Kent Street is highlighted in *Heritage Places*, which identifies the streetscape on Kent Street of particular note within the North Talbot potential Heritage Conservation District.
	b. Is physically, functionally, visually, or historically linked to its surroundings, or,	Not noted in designating by-law.	No comment.
	c. Is a landmark.	Not noted in designating by-law.	No comment.

Heritage attributes extracted from the By-Law No. L.S.P.-2984-126 include:

- Historical association with Alfred M. Smart, president of Ontario Loan and Debenture;
- Premier example of Queen Anne Revival architectural style, demonstrated in:
    - Richardsonian Romanesque influence seen in the stone block foundation and verandah railing and support;
    - Shingling influence in the gable imbrication;
    - Norman-influence turret;
    - Gambrel-shaped, shingle clad, gable ends of the front, rear and side elevations (cross gable roof);
    - Oriel window on the front gable-end;
    - Oval window above;
    - Pair of trefoil windows;
    - Queen Anne style windows with large panes of the top sash bordered by smaller panes;
    - Course of square, rusticated, tin panels at the bottom of the gable;
    - Tall elaborate brick chimney;
    - Red brick;
    - Paired windows separated by a decorative panel, with oval window above, and rusticated tin panel coursing on the east and west elevations;
    - Two tall brick chimneys extending through the shingled end gable to project above the roof line on the east elevation;
    - Three ascending stained glass windows along the stairway on the east elevation;
    - Octagonal turret with conical roof topped by a finial;
    - Swag and garland applique, adding a classical touch to the cornice frieze of the turret;
    - Rusticated stone block, rounded arch verandah; and,
    - Six panel door, decorated by a geometrically patterned, etched glass window and similarly patterned transom framing number “142” above;
- Interior heritage attributes:
    - Staircase located within an arched alcove off the central hallway;

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- Staircase lighted by three ascending, rounded arched, patterned, stained glass windows each of which is a “remarkable example of period craftsmanship”;
- Banister and turned posts of the stair rail, which is anchored by three fluted square newel posts; and,
- Wooden ceiling beams and cornice in the central hallway and dining room.

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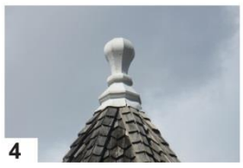
Appendix E: Annotated Façade Assessment

Annotated Facade Assessment - 142 Kent Street

1 Richardsonian Romanesque stone block foundation, verandah railing and support

2 Shingle influence gamble imbrication

3 Norman influence octagonal turret



4 Conical roof and finial of turret

5 Swag and garland on cornice frieze of turret

6 Shingle clad cross gambrel roof

7 Oriel window

8 Oval window

9 Trefoil window (one of two)

10 Queen Anne style window

11 Square, rusticated, tin panels

12 Tall, elaborate brick chimney

13 East elevation

14 East elevation chimneys (one of two)

15 West elevation

16 Detail of upper east elevation paired window with decorative panel

17 Three ascending stained glass windows

18 Six panel door

19 Transom with “142”