



**CITY OF KINGSTON**  
**REPORT TO COUNCIL**

Report No.: 08-040
--------------------

---

**TO:** Mayor and Council

**FROM:** Cynthia Beach, Commissioner, Sustainability & Growth Group

**RESOURCE STAFF:** Cynthia Beach, Commissioner, Sustainability & Growth Group

**DATE OF MEETING:** 2008-02-05

**SUBJECT:** Declare Surplus Lands Adjacent to 1045 John Counter Boulevard For John Counter Boulevard Widening Land Acquisition

---

**EXECUTIVE SUMMARY:**

Under By-Law No. 2006-8 dated December 13, 2005, City Council approved \$8,360,627 in the 2006 capital budget to advance the reconstruction and land acquisition for the John Counter Blvd widening project. This report seeks Council's authority to exchange parcels of land without the need for any financial compensation.

Land acquisition negotiations with the Charles A. Smith Estate (1045 John Counter) and Kingston Feed and Farm (1033 John Counter) proceeded simultaneously.

Staff has negotiated an agreement with the Charles A Smith Estate to purchase property for the widening. The land acquisition puts the new road allowance limit approximately 5.5 meters from the building face. This acquisition results in loss of parking and parking area in front of the building; loss of the east entrance; loss of additional parking and parking area along the east side of the building; and reduced vehicular access/egress and on-site mobility. The City acquired Parts 1 and 2 as shown on Exhibits A and B from Kingston Feed and Farm at 1033 John Counter to replace the loss of parking area.

The Charles A. Smith Estate has agreed to accept Parts 1 and 2 of Plan 13R-18948 as shown on Exhibits A and B, as replacement for the property purchased for the road widening.

Parts 1 and 2 are encumbered with municipal and Hydro One easements which will remain. There is no need for the City to maintain ownership of these lands to protect the easements. Use as a parking lot is consistent with the easements.

This report seeks Council's approval to declare Parts 1 and 2 of Plan 13R-18948 as land surplus to municipal needs. All Agreements and Declarations shall be to the satisfaction of the Director of Legal Services and in accordance with City of Kingston By-Laws.

**RECOMMENDATION:**

THAT Council give two readings to the by-law attached as Exhibit C to declare Parts 1 and 2 of Plan 13R-18948 as shown in Exhibit A as surplus to municipal needs, and

THAT Council authorize and direct the City Clerk, in accordance with the City of Kingston By-Law 2003-015, to give notice of Council's intention to declare surplus Parts 1 and 2 of Plan 13R-18948 as identified in Exhibit A and B, and

THAT Council give third reading and approve the by-law as Exhibit C to declare surplus to municipal need Parts 1 and 2 of Plan 13R-18948 as identified in Exhibit A upon providing the prescribed public notice of Council's intent.

**AUTHORIZING SIGNATURES:**

<b>ORIGINAL SIGNED BY COMMISSIONER</b>
Cynthia Beach, Commissioner, Sustainability & Growth Group
<b>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</b>
Glen Laubenstein, Chief Administrative Officer

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Commissioner Beach, <i>Sustainability &amp; Growth</i>	✓
Commissioner Hunt, <i>Finance &amp; Corporate Performance</i>	✓
Commissioner Thurston, <i>Community Development Services</i>	N/R
Commissioner Leger, <i>Corporate Services</i>	✓
Jim Keech, President, <i>Utilities Kingston</i>	✓

*(N/R indicates consultation not required)*

February 5, 2008

- Page 3 -

**OPTIONS/DISCUSSION:**

Staff has negotiated a land acquisition agreement with the executor of Charles A. Smith Estate at 1045 John Counter Boulevard. This acquisition places the road allowance limit causes a loss of parking area in front of the building; loss of the east entrance; loss of parking along the east side of the building; and reduced vehicular access/egress and on-site mobility.

Kingston Feed and Farm has agreed to convey Parts 1 and 2 to the City. The City has agreed to convey Parts 1 and 2 to Smith Estate to replace loss of parking area. Smith Estate has agreed to accept Parts 1 and 2 of 13R-18948 as replacement for loss of parking area.

Kingston Feed and Farm transferred Parts 1 and 2 of Plan 13R-18948 to the City. To close the Agreement with the Charles A. Smith Estate, the City must declare Parts 1 and 2 of Plan 13R-18948 as surplus land.

Parts 1 and 2 on Plan 13R-18948 are encumbered with municipal and Hydro One easements which will remain. There is no need for the City to maintain ownership of these lands to protect the easements. Use as a parking lot is consistent with the easements.

Before land transfers can occur, City Council must declare Parts 1 and 2 as shown in Exhibit A and B as surplus lands.

**EXISTING POLICY/BY LAW:**

By-law #2006-8; Capital Budget 2006

**NOTICE PROVISIONS:**

There are no notice provisions with this report.

**ACCESSIBILITY CONSIDERATIONS:**

There are no accessibility considerations with this report.

**FINANCIAL CONSIDERATIONS:**

Property exchange only.

**CONTACTS:**

Tony Fleming, Senior Legal Counsel, Legal Services, (613) 546-4291, Ext. 1293

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Speros Kanellos, Director, Growth & Initiatives Department, (613) 546-4291, Ext. 3133

John Sawarna, Project Engineer, Growth and Initiatives Department, (613) 546-4291, Ext. 3169

**EXHIBITS ATTACHED:**

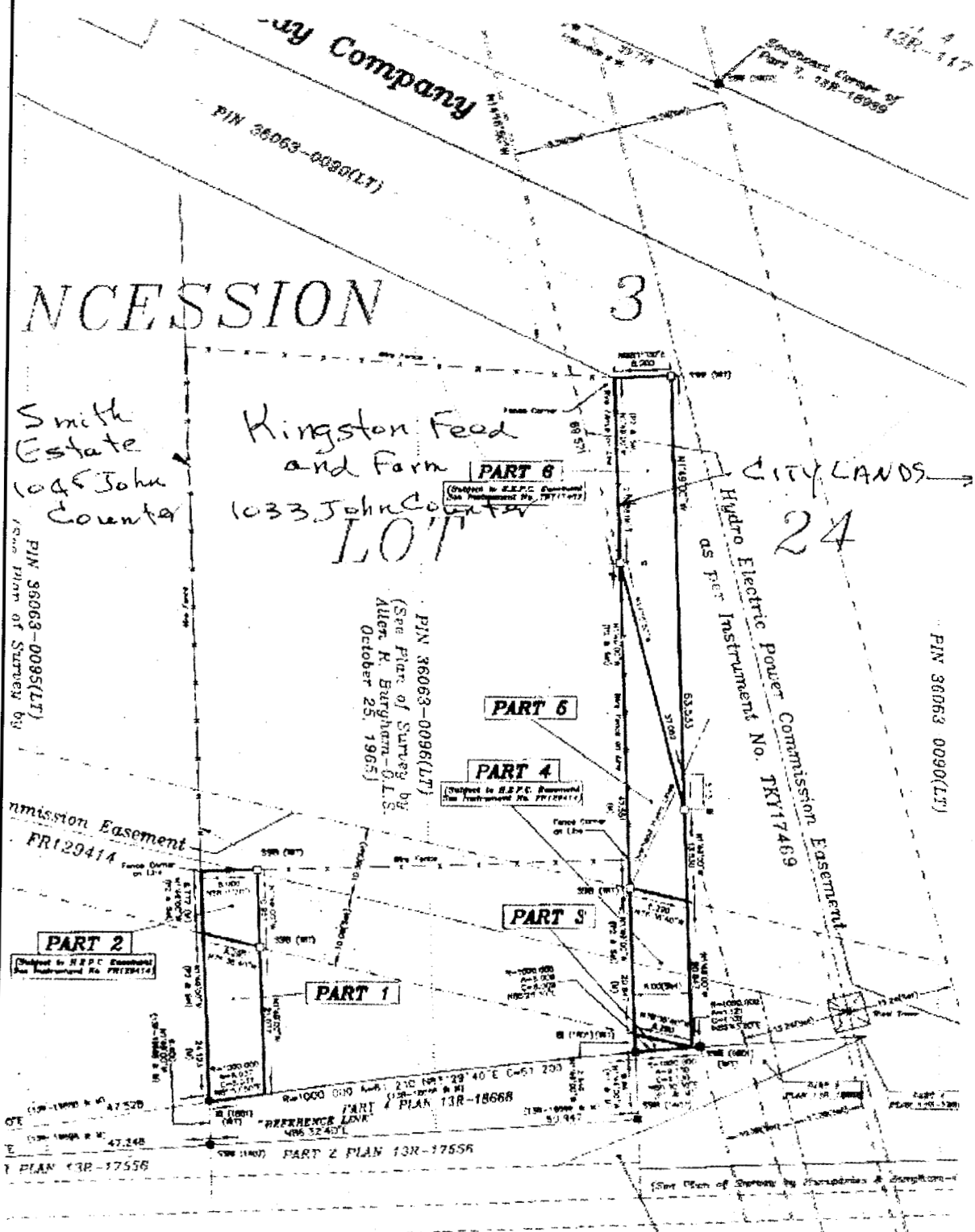
Exhibit A - Sketch of Surplus Lands

Exhibit B - Aerial Photograph

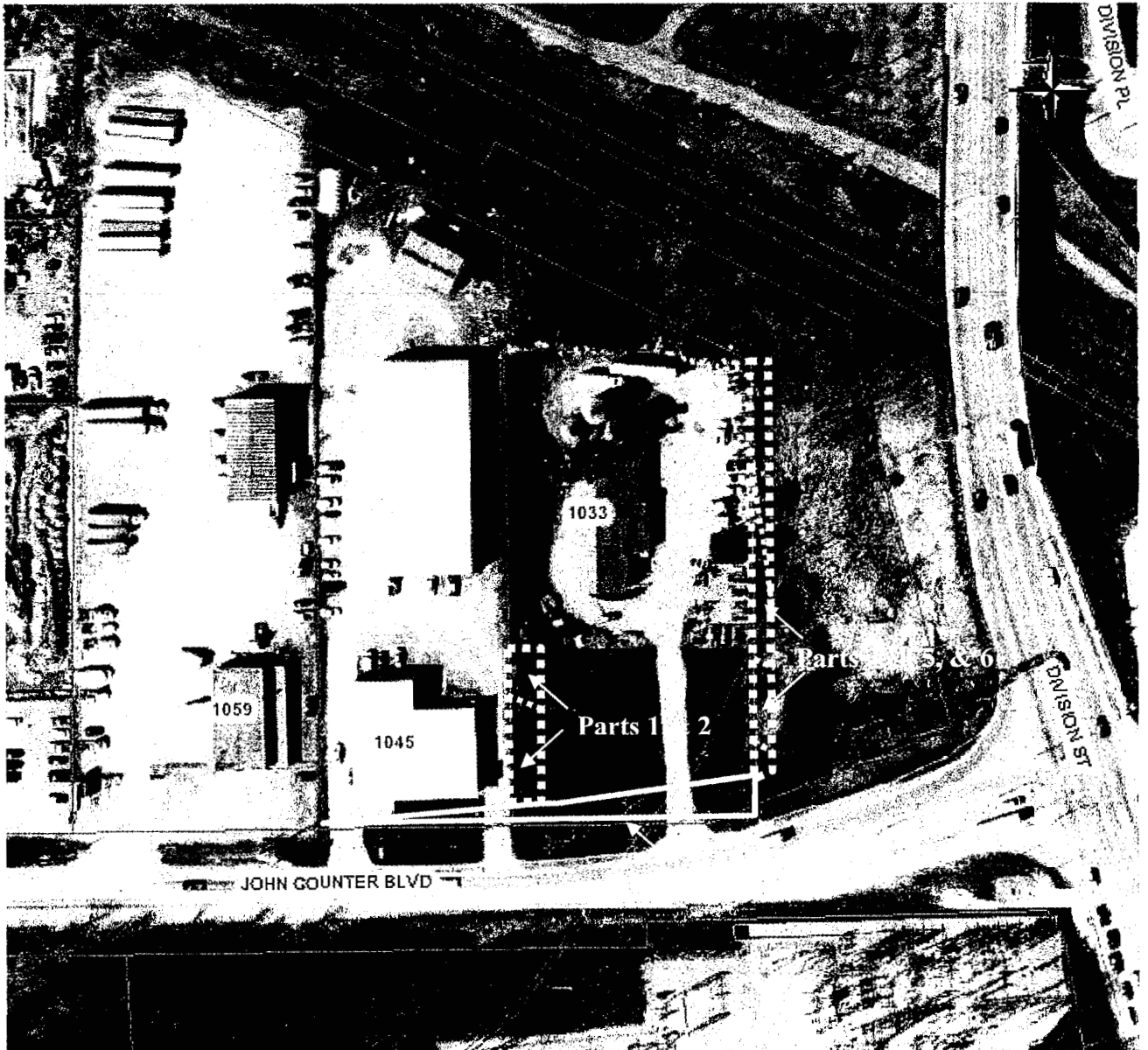
Exhibit C - Draft By-Law to Declare Surplus

EXHIBIT A

PLAN: 13R-18948



John Counter Boulevard at Road Allowance Between Concessions 2 and 3



Parts 1 & 2 to be transferred to #1045 John Counter Blvd.

Parts 3, 4, 5 & 6 to be transferred to #1033 John Counter Blvd.

**EXHIBIT C**

**BY-LAW NO. 2008-**

**A BY-LAW TO DECLARE SURPLUS TO MUNICIPAL NEED AND SELL PARTS 1 AND 2 ON PLAN 13R-18948**

**PASSED:**

**WHEREAS** Section 268 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires Council to establish by-law procedures, including the giving of notice to the public, governing the sale of real property owned by the municipality;

**AND WHEREAS** the Corporation of the City of Kingston has passed By-Law No. 98-1, "Council Procedural By-Law";

**AND WHEREAS** public notice was given in accordance with Section 23.1 of By-Law No. 98-1, "Council Procedural By-Law" by publishing notice of the proposed sale of the property in accordance with Section 268 (3) of the *Municipal Act, 2001*, S.O. 2001, c.25;

**NOW THEREFORE** the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. That Parts 1 and 2 of Plan 13R-18948, as shown on the sketch in Exhibit A and B, are deemed to be surplus to the needs of the Municipality in accordance with the conditions of By-Law No. 98-1, "Council Procedural By-Law".
2. This By-Law shall come into force and take effect on the date of its passing.

**GIVEN FIRST AND SECOND READINGS**

**GIVEN THIRD READING AND FINALLY PASSED**

**CITY CLERK**

**MAYOR**



**CITY OF KINGSTON  
REPORT TO COUNCIL**

**Report No.: 08-071**

**TO:** Mayor and Council

**FROM:** Denis Leger, Commissioner of Corporate Services

**RESOURCE STAFF:** Lorraine Thibadeau, Property Leasing Specialist

**DATE OF MEETING:** February 5, 2008.

**SUBJECT:** **Lease between the City of Kingston and  
Kingston General Hospital  
Air Ambulance Base Helipad**

**EXECUTIVE SUMMARY:**

On November 24, 1992, Council passed a motion authorizing the City to enter into a lease with Hotel Dieu Hospital for a period of 20 years, at a rental rate of \$100 per year, in order to accommodate an Air Ambulance Base Helipad on lands along King Street, described as Part of Farm Lot 24, Concession 1, City of Kingston. Neither the City nor Hotel Dieu Hospital has any record of a lease having been prepared. However, the helipad was built and was operated by Hotel Dieu Hospital until mid-May 2007 when responsibility for the operation of the helipad was transferred to Kingston General Hospital.

This report is to request authorization for the City to enter into a land lease with the Kingston General Hospital for the remainder of the 20-year period of the lease which had originally been contemplated with Hotel Dieu Hospital and on the same terms and conditions as previously approved by Council.

**RECOMMENDATION:**

**THAT** Council authorize the City to enter into a land lease with Kingston General Hospital for a period of six years, commencing on June 1, 2007 and expiring on May 31, 2013, at a rental rate of \$100 per year, in a form satisfactory to the City's Director of Legal Services.

**AUTHORIZING SIGNATURES:**

<p><b>ORIGINAL SIGNED BY COMMISSIONER</b></p> <p>Denis Leger, Commissioner of Corporate Services</p>
<p><b>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</b></p> <p>Glen Laubenstein, Chief Administrative Officer</p>

February 5, 2008

- Page 2 -

---

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Commissioner Beach, <i>Sustainability &amp; Growth</i>	N/R
Commissioner Hunt, <i>Finance &amp; Corporate Performance</i>	N/R
Commissioner Thurston, <i>Community Development Services</i>	N/R
Commissioner Leger, <i>Corporate Services</i>	✓
Jim Keech, President, <i>Utilities Kingston</i>	N/R

*(N/R indicates consultation not required)*

February 5, 2008

- Page 3 -

**OPTIONS/DISCUSSION:**

On November 24, 1992, Council passed a motion authorizing the City to enter into a lease with Hotel Dieu Hospital for a period of 20 years at a rental rate of \$100 per year for land to accommodate an Air Ambulance Base Helipad on lands along King Street, described as Part of Farm Lot 24, Concession 1, City of Kingston.

A title search of the lands was completed in early 2003 at which time it was discovered that at least a portion of the lands on proposed site were owned by the Federal Government. The proposed site of the helipad was filled lands which the City had considered to be part of MacDonald Park; the City having obtained title to MacDonald Park by way of Letters Patent in 1967. The Crown Patent however would not have included the lands which were subsequently filled and which comprised the proposed site of the helipad.

A comparison of the legal description of the lands included in the 1967 Letters Patent against a plan of MacDonald Park of 1964, showed that most of the lands proposed for the location of the helipad were included but not the westerly end of where the helipad was to be located. In order to correct the situation, the City entered into a lease with the Federal Government for the lands at the westerly end of the site (.69 hectares) on April 1, 1995 for the purpose of a site for a medical helipad and park. The City subsequently obtained title to the lands by way of an Instrument of Grant from the Federal Government, registered on March 26, 2003 as Instrument #721696.

Since neither the City nor Hotel Dieu Hospital has any record of a lease, it would appear that the preparation of the lease as approved by Council in November 1992, was delayed pending clarification of the land ownership issue and that, following divestiture to the City in 2003, the need for a lease may have been overlooked. Rent was paid by the hospital on the basis of the motion approved by Council.

The helipad was operated by Hotel Dieu Hospital from on or about 1993 to mid-May 2007, at which time responsibility for the operation of the helipad was transferred to Kingston General Hospital. While operating the helipad, Hotel Dieu Hospital paid the City \$100 per year as approved by Council in 1992. Subject to Council approval, staff and Kingston General Hospital have agreed to formalize the use of the land as a helipad with a land lease for the remainder of the 20-year term which had originally been approved by Council in 1992, and at the continued rental rate of \$100 per year.

**EXISTING POLICY/BY LAW:**

By-Law No. 98-1, *Council Procedure By-Law* which provides authority for the Mayor and Clerk to sign all agreements that are approved by Council.

**NOTICE PROVISIONS:**

N/A

**ACCESSIBILITY CONSIDERATIONS:**

N/A

**FINANCIAL CONSIDERATIONS:**

N/A

February 5, 2008

- Page 4 -

---

**CONTACTS:**

Lorraine Thibadeau, Property Leasing Specialist

(613) 546-4291, Ext. 1839

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Alan McLeod, Senior Legal Counsel

**EXHIBITS ATTACHED:**

N/A



**CITY OF KINGSTON**  
**REPORT TO COUNCIL**

Report No.: 08-074
--------------------

---

**TO:** Mayor & Council

**FROM:** Cynthia Beach, Commissioner, Sustainability & Growth Group

**RESOURCE STAFF:** Lanie Hurdle, Director of Project Development

**DATE OF MEETING:** 2008-02-05

**SUBJECT:** Kingston Regional Sports and Entertainment Centre – Kingston & District Sports Hall of Fame Agreement

---

**EXECUTIVE SUMMARY:**

In February 2006, the City of Kingston issued a Request for Proposal for the design build of the Kingston Regional Sports and Entertainment Centre which included references to space dedicated to the Kingston & District Sports Hall of Fame. Location and space dedicated for both the Sports Hall of Fame office/storage and plaque display area evolved through the design process which started just after the award of the design build contract in May 2006 and was completed in the spring of 2007.

In the past year, City and Arcturus staff have held a number of meetings with members of the Sports Hall of Fame to develop the display area and details of the agreement which has been reviewed by all parties. The intent of the agreement is to ensure that all parties are clear and in agreement on their responsibilities once the Centre opens in February 2008. The Sports Hall of Fame board members have reviewed and approved the proposed agreement.

**RECOMMENDATION:**

That Council approve the proposed agreement with the Kingston & District Sports Hall of Fame, and

That Council authorize the Mayor and Clerk to sign the proposed agreement (Exhibit A) with the Kingston & District Sports Hall of Fame.

**AUTHORIZING SIGNATURES:**

<b>ORIGINAL SIGNED BY COMMISSIONER</b>
Cynthia Beach, Commissioner, Sustainability & Growth Group
<b>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</b>
Glen Laubenstein, Chief Administrative Officer

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Commissioner Beach, <i>Sustainability &amp; Growth</i>	✓
Commissioner Hunt, <i>Finance &amp; Corporate Performance</i>	✓
Commissioner Thurston, <i>Community Development Services</i>	N/R
Commissioner Leger, <i>Corporate Services</i>	✓
Jim Keech, President, <i>Utilities Kingston</i>	N/R

**(N/R indicates consultation not required)**

**OPTIONS/DISCUSSION:****Background**

The Kingston & District Sports Hall of Fame's storage and plaques are currently located at the Memorial Centre. In February 2006, the City of Kingston issued a Request for Proposal for the design build of the Kingston Regional Sports and Entertainment Centre which included specifications on office space, storage and display area for plaques for the Kingston & District Sports Hall of Fame. The design build contract was awarded to EllisDon in May 2006 and work on the design with architects Brisbin, Brook and Beynon started in June 2006. The interior design went through many changes until spring of 2007 at which time locations were finalized. Display layout and finishes for Kingston & District Sports Hall of Fame space were also finalized at that time. It should be noted that the Sports Hall of Fame areas were identified as a tenant fit up in EllisDon's proposal and therefore were not included in the design build proposal costs and base contract price. Staff reviewed the project budget in 2007 to include funds for the Sports Hall of Fame display area.

In the past year, City and Arcturus staff have held a number of meetings with members of the Sports Hall of Fame to develop the display area and details of the agreement which has been reviewed by all parties. The intent of the agreement is to make sure that all parties are clear and in agreement with their responsibilities once the Centre opens in February 2008. The Sports Hall of Fame board members have reviewed and approved the proposed agreement.

**Proposed Agreement**

The proposed agreement includes the following major points:

1. Sports Hall of Fame plaques are to be displayed on the main concourse between the Ontario Street and Place d'Armes entrance using piers between the two entrances. This space will be highlighted with a different colour from the main circulation concourse area and will have appropriate lighting;
2. Finished 300 square feet of office and storage area on the second floor of the Centre with service rough ins. The office/storage is located close to the service elevator;
3. Display cases in the Centre (number and locations still to be confirmed);
4. Maintain access and use of the storage area at the Memorial Centre. This is to be reviewed on a yearly basis.

The agreement will be implemented on a daily basis by the Operator, Arcturus/SMG. The City is providing the above services and accesses at no cost to the Sports Hall of Fame.

**EXISTING POLICY/BY LAW:**

There is no existing policy/by-law.

**NOTICE PROVISIONS:**

There are no notice provisions required for this report.

**ACCESSIBILITY CONSIDERATIONS:**

There are no accessibility considerations.

**FINANCIAL CONSIDERATIONS:**

Costs related to the Kingston & District Sports Hall of Fame were not included in the base building proposal and contract. City staff included funds in the 2007 budget review to cover the costs of this tenant fit up area. The funds were added into the base building increase and change orders to cover the cost of plaque displays will be issued to EllisDon.

**CONTACTS:**

Lanie Hurdle, Director of Project Development, Sustainability and Growth, (613) 546-4291 ext. 1231.

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Alan McLeod, Senior Legal Counsel, Legal Services

**Others Consulted**

Arcturus/SMG

**EXHIBITS ATTACHED:**

Exhibit A – Kingston & District Sports Hall of Fame Agreement

Exhibit A

**MEMORANDUM OF AGREEMENT**

**BETWEEN:**

**KINGSTON & DISTRICT SPORTS HALL OF FAME INC.**

(hereinafter referred to as  
"Sports Hall of Fame")

- and -

**THE CORPORATION OF THE CITY OF KINGSTON**

(hereinafter referred to as the  
"City of Kingston")

**WHEREAS** both parties agree that the Sports Hall of Fame is important to the community and wish to see the relocation of the Sports Hall of Fame from its current premises at the Kingston Memorial Centre to the new Kingston Regional Sports and Entertainment Centre.

**NOW THEREFORE** this agreement witnesses that in consideration of the mutual covenants expressed herein, the parties have agreed as follows:

1. The City of Kingston shall supply the labour for the removal and transportation of all of the existing plaques and sports memorabilia from the Kingston Memorial Centre to the Kingston Regional Sports and Entertainment Centre and the City of Kingston shall initially install the displays in a

mutually agreed upon area in the new facility as detailed in Schedule "A" attached hereto.

2. All parties agree that there shall be no charge levied with respect to the facilities (office/storage and concourse areas) referred to in this Agreement to the Hall of Fame for its use and occupation thereof in the Kingston Regional Sports and Entertainment Centre.
3. The Hall of Fame display area shall be set up with distinctive background colour on the walls and piers and directional display lighting for the various plaques and memorabilia and contrasting floor colour in the Hall of Fame area to distinguish it from the traffic area of the facility in an effort to magnify the importance of the heritage of the area. In order to accommodate future growth, the City is open to looking at various options and opportunities once the facility is open for the installation of additional displays in other areas and, in particular, on other levels of the facility.
4. The City of Kingston shall endeavour to provide for the exclusive use of the Hall of Fame a significant number of securely locked, and firmly but not permanently fixed display cases in which memorabilia can be exhibited. The Building Manager shall work with the Hall of Fame to identify the most appropriate areas for the display cases. In addition, the Building Manager will assist with promotional and marketing support for the Hall of Fame events

where feasible. The parties agree to discuss the prospect of future displays of the Kingston & District Sports Hall of Fame Inc. and the use of an electronic kiosk at the new multiplex four-pad arena facility on Gardiners Road.

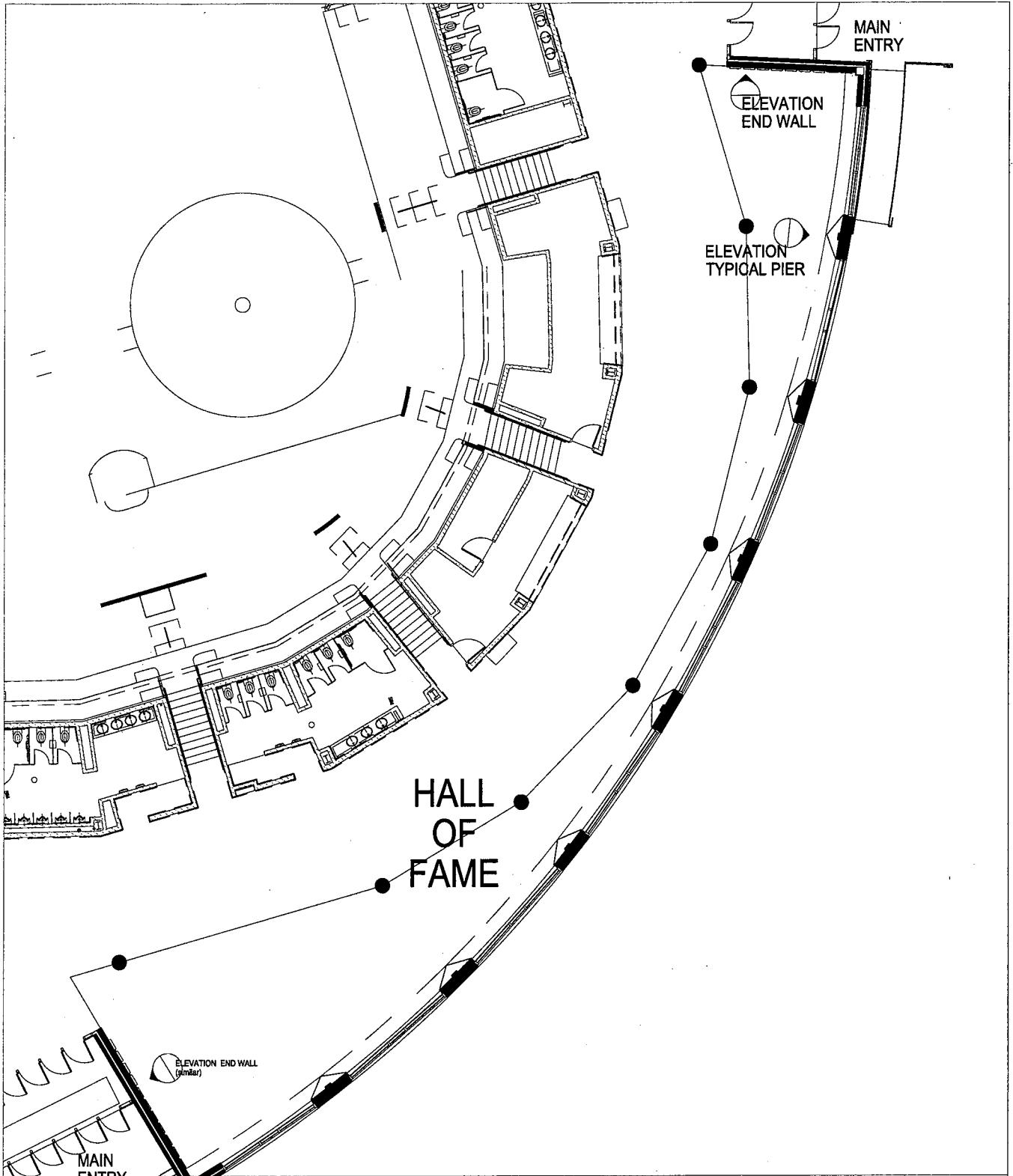
5. The City of Kingston shall provide the Hall of Fame with 300 square feet of office/storage space close to the elevator on the mezzanine level of the Kingston Regional Sports and Entertainment Centre and this space shall include internet and telephone access, electrical service and rough-in for water and sewer available for potential future installation, together with shelving units to provide additional storage within the office space. The City of Kingston agrees that daily upkeep, cleanliness and general repairs, related to wear and tear of the Hall of Fame facilities will be the responsibility of the Building Manager. For confidentiality and security, volunteers with the Hall of Fame shall clean the assigned office/storage area located on the mezzanine level. This area of office/storage space shall be finished with a concrete floor and the Hall of Fame shall be at liberty to install a tile floor at its own expense upon written consent of the City of Kingston.
6. The City of Kingston shall allow the Hall of Fame to retain its present storage space at the Memorial Centre to be reviewed on a yearly basis, until such a time as final determination of the Memorial Centre renovation has been made

or shall provide an alternative mutually agreed upon site at no cost to the Hall of Fame.

7. The City of Kingston agrees to give members of the Board of Directors for the Hall of Fame access to its office and display areas during all non-event regular business hours of operation of the facility (generally between 9 a.m. and 5 p.m.) and, in particular, the Hall of Fame shall be at liberty to schedule and reserve the boardroom and other offsite suitable meeting rooms for its monthly board and committee meetings at no cost to the Hall of Fame. With reasonable notice from the Hall of Fame, the Building Manager shall work to accommodate access to the loading dock area during non-event regular business hours for deliveries of memorabilia and/or equipment as the need arises.
8. In order to preserve the integrity of the Hall of Fame area and its various displays, no other tenant or user of the facility shall be at liberty to hang, mount or post signs, posters, banners or other such items which cover the Hall of Fame displays.
9. As the owner of the facility and display cases, the City shall provide appropriate insurance coverage for those items. The Hall of Fame will be responsible to obtain appropriate insurance coverage for all its memorabilia.







PROJ.  
 KINGSTON REGIONAL SPORTS  
 and ENTERTAINMENT CENTRE  
 HALL of FAME

DWG. TITLE  
 PLAN

CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS  
 AND REPORT ANY OMISSIONS OR DISCREPANCIES TO THE  
 ARCHITECT BEFORE PRECEDING WITH THE WORK.  
 DO NOT SCALE THE DRAWINGS



THIS DRAWING SHALL NOT  
 BE USED FOR CONSTRUCTION  
 PURPOSES UNTIL SIGNED  
 BY THE ARCHITECT.  
 DATE

DRAWN  
 SJ

DATE  
 06.22.07

SCALE  
 NTS

REVISIONS

PROJ. NO.	DWG. NO.
0610	



**CITY OF KINGSTON  
REPORT TO COUNCIL**

**Report No.: 08-083**

**TO:** Mayor and Council

**FROM:** Lance Thurston  
Commissioner, Community Development Services

**RESOURCE STAFF:** George Wallace  
Director, Planning and Development Department

**DATE OF MEETING:** 2008-02-05

**SUBJECT:** Application to Remove Part Lot Control  
2-30 The Point Road and 1 Woodpecker Lane  
Kay and John Cartwright  
Planning File D27-008-2007

**EXECUTIVE SUMMARY:**

This report originates from an application to remove Part Lot Control by the Owners of land on Cartwright's Point and a deferral of the passing of the By-Law at the Council meeting of January 22, 2008.

The purpose of the application is to allow the adjustment of property boundaries with the effect of reducing the number of lots from 37 lots to 14 parcels in order to recognize the location of homes, water wells, septic systems and vehicle paths. Lots are being merged, lot lines are being adjusted and rights-of-way are being created. No new homes or building lots are being created. However, the legal descriptions of the properties will result in a form that is suitable for convenient conveyance.

No new development is being created and there are no new services that will be required.

**RECOMMENDATION:**

**WHEREAS** Kay and John Cartwright (Owner) have submitted an application requesting that Part Lot Control be lifted from Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley, all within Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac; and,

**WHEREAS** the Owner has complied with the conditions for the Lifting of Part Lot Control, the approval of which will facilitate the conveyance of larger lots for single detached dwellings that already exist on the affected lots:

**THEREFORE BE IT RESOLVED** that the application to Lift Part Lot Control (Our File No. D27-008-2007) for Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley, all within Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac, **BE APPROVED.**

**AND BE IT FURTHER RESOLVED** that a By-Law be passed to Lift Part Lot Control from Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley all within Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac.

February 5, 2008  
- Page 2 -

**AND BE IT FURTHER RESOLVED** that the By-Law shall specify that the exemption from Part Lot Control shall apply only to the severing of the lots for single detached dwellings on Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley all within Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac.

**AND BE IT FURTHER RESOLVED** that the By-Law be presented to receive all three readings from City Council.

**AUTHORIZING SIGNATURES:**

<b>ORIGINAL SIGNED BY COMMISSIONER</b>	
Lance Thurston, Commissioner, Community Development Services	
<b>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</b>	
Glen Laubenstein, Chief Administrative Officer	

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Commissioner Beach, <i>Growth &amp; Sustainability</i>	N/R
Commissioner Hunt, <i>Finance &amp; Corporate Performance</i>	N/R
Commissioner Leger, <i>Corporate Services</i>	N/R
Jim Keech, President, <i>Utilities Kingston</i>	N/R

**(N/R indicates consultation not required)**

K:\D27\_Part Lot Control\D27-2007 Applications\008-2007\_2-30 The Point Road\PC-08-083\_Application to Remove Part Lot Control\_2-30 The Point Road.doc

February 5, 2008

- Page 3 -

**OPTIONS/DISCUSSION:****PURPOSE/ORIGIN:**

This matter originates in the submission of an Application for Part Lot Lift for Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley all within Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac. This application was submitted by Kay and John Cartwright, the Owners. The Applicant is requesting Part Lot Control be lifted to facilitate reconfiguring the subdivision. The purpose of this report is to assess the merits of the request and to make a recommendation to Council on the Application to Lift Part Lot Control.

**DISCUSSION:****(a) Site Location and Description:**

The lands which are the subject of this application are located on the peninsula on the shore of the St. Lawrence River, south of Canadian Forces Base (CFB) Kingston between Deadman's Bay and Navy Bay (See attached Schedule "A" to Draft By-Law).

Access to the site is through CFB Kingston via Casino Court. The lots and roads were originally created by Registered Plan No. 419 in 1949. The roads on the Plan are private roads as they were not dedicated as public highways. The roads are not built to the municipal standard nor are they maintained privately.

The peninsula is mostly rock at or near the surface. The topography is steep in places and most of the land is densely covered in trees except where there are houses. The affected area contains a total of 16 houses. The 14 houses on the north side of The Point Road will be accommodated with a lot each. The 2 houses on Woodpecker Lane will have a simple lot boundary adjustment to recognize the existing location of a house built over a property line.

**(b) Procedural Information:**

Section 50(5) of the *Planning Act* prohibits the conveyance of any part of a parcel of land within a registered plan of subdivision, with limited exceptions. Section 50(7) empowers a municipality to pass a By-Law for the purpose of removing Part-Lot Control from all or part of a registered plan of subdivision.

Removal of part-lot control is used as an alternative to land severance as a means of dividing land in a registered plan of subdivision. This process is commonly used to facilitate the division of attached dwelling units, such as semi-detached dwellings and street townhouses, into individual lots to follow the centre line of the party walls separating the units. It is also used to adjust lot lines between lots and blocks in plans of subdivision.

Since this method of land division is only permitted within registered plans of subdivision, the zoning already exists on the lands to restrict the form of development and the City generally has all of the necessary securities and agreements in place to ensure that all required conditions of development are met. In some circumstances it may be necessary for the applicant to enter into an amending subdivision agreement to address the change in property fabric and any changes to approved servicing drawings.

Most part-lot lift approvals are of a routine or housekeeping nature and there is usually no need for these types of applications to be brought back to Council. Therefore, through Report No. PC-06-027, dated March 23, 2006, staff brought forward a recommendation that approval of uncontested applications to lift part-lot control be delegated to Planning staff. In the rare situations where the applicant or other party contests the staff position on the application staff recommended that the approval remain with Council. The staff recommendation was endorsed by Planning Committee

February 5, 2008

- Page 4 -

and approved by City Council and has been implemented through the Delegation of Authority By-Law No. 2206-75. In accordance with that By-Law, the following procedures apply to the processing of applications for Part Lot Lift:

- (i) Council's power and authority with respect to the approval of uncontested applications to Lift Part Lot Control is hereby delegated to the Director of Planning and Development or, in the absence of the Director, the Commissioner or the Acting Director or his / her Designate.
- (ii) Notwithstanding the provisions of Clause 5. (i) of this By-Law, City Council shall retain all powers and authority with respect to the approval of an application to Lift Part Lot Control where the applicant or other party contests the staff position on the application.
- (iii) That the Director of Planning and Development or, in the absence of the Director, the Commissioner or the Acting Director or his / her Designate are hereby authorized to prepare any required agreement(s) and By-Law(s) implementing any such approval, in consultation with the Legal Services Department, and the Legal Services Department is hereby authorized to register such agreement(s) and By-Law(s);
- (iv) That following approval of the application by the Director of Planning and Development or his/her Designate, and pursuant to Section 50(7) of the Planning Act, the implementing By-Law shall be presented to Council for enactment.
- (v) That the Head of Council or the Presiding Officer in his/her absence and the City Clerk or the Acting Clerk in his/her absence are hereby authorized to sign such agreement(s) and By-Law(s)."

The Planning Act requires Council to enact the By-Law removing part-lot control. Therefore, in accordance with the foregoing procedures, upon approval by the Director of Planning and Development or his/her designate and preparation of the By-Law and any necessary agreements, the enacting By-Law is placed as a routine matter before Council for enactment in all cases. In the future, where such By-Laws approved under delegated authority appear on Council's agenda (including applications to remove a '-H' Holding Symbol), an item will be included in the Weekly Council Update to provide a brief description of the purpose of the By-Law.

In the case of the subject application, an existing situation is being recognized and no new development is occurring. The Director of Planning & Development has approved the application and there were no objections to the approval of the application. It is therefore appropriate for Council to enact the amending By-Law.

**(c) Analysis:**

Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley all within Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac were created by Plan of Subdivision. However, lots are relatively small for the houses on private water and sewer services. Hence, the houses were built over several lots. In some cases the houses were split between two lots.

This has resulted in clouded or confused ownership to the house and lots. This proposal will allow the Owners to clarify and regularize the ownership of the lots and the houses. The properties can then be conveyed with greater ease and clarity.

The lots have been reviewed for compliance with the Zoning By-Law and they comply. The application has been circulated to affected internal departments and external agencies. No objections have been raised.

The Owner also proposes to donate a parcel of land to the City in order to allow access to the shore line of Deadman's Bay. The site is acceptable to the Parks Department.

The Owners will continue to own and maintain the private roads. They have specifically asked that the City not be involved with the roads in any way. They feel that the character of the area would be damaged by the higher municipal standards.

(d) **Conclusion:**

The Applicant's request to Lift Part Lot Control to permit the conveyance of part lots developed with single detached dwellings and rights of way on Lots 20 to 57 inclusive, Lots 13 and 14, and Block D, The Point Road and Dead End Alley all within Registered Plan No. 419 is considered to be appropriate. The lots will remain consistent with the existing approved property fabric and maintain the spirit and intent of the Zoning By-Law and the character of the area.

**EXISTING POLICY/BY LAW:**

The lands are designated for residential use in the Official Plan and zoned for residential use in the Zoning By-Law No. 32-74. The proposal is consistent with the policies of the Official Plan designation and the existing zoning regulations.

The proposal maintains the intent of the Strategic Plan as it relates to promoting responsible new development, while respecting and protecting the built environment.

**NOTICE PROVISIONS:**

No Notice requirements necessary.

**DEPARTMENTS CONSULTED:**

The application to Lift Part Lot Control was circulated to the City's Technical Staff / Agencies for review and the following comments were received:

- Building Services – No Objections;
- Utilities Kingston - No Objections
- Parks and Arenas – No Comments;
- Fire and Rescue - No Objection; and
- Engineering Services- No Objections.

**ACCESSIBILITY CONSIDERATIONS:**

There are no accessibility issues.

**FINANCIAL CONSIDERATIONS:**

No financial implications are to be considered in this report.

**CONTACTS:**

- Steven Chew, Senior Planner (546-4291, extension 3272)
- Marnie Venditti, Manager of Development Approvals. (546-4291, extension 3256), or
- George Wallace, Director, Planning and Development (546-4291 extension 3250).

February 5, 2008

- Page 6 -

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Building & By-Law Enforcement	Del Stowe (Midland Ave.)
Engineering Services	Kim Brown (Midland Ave.)
Utilities Kingston	Jim Miller/Luke Follwell/Janet Frasso(John Counter Blvd.)
Fire & Rescue	Robb Kidd (O'Connor Drive)
Cultural Services	Kristine Hebert (British Whig)
Kingston Electricity Distribution Ltd.	Jim Miller (Counter Street)
Planning Development	Marnie Venditti, Manager, Development (Midland Ave.)
Health Unit	Peter Moccio, Manager, Environmental Health Department
Cataraqui Region Conservation Authority	Christine Woods, Environmental Planner
Traffic Engineer, Transit	Deanna Green (Midland Ave.)
Transit	Angela Kenney (John Counter Boulevard.)
Ministry of Natural Resources	Katie Griffiths, District Planner
Heritage Planner	Marc Letourneau (British Whig)

**EXHIBITS ATTACHED:**

Exhibit A - Draft By-Law to Lift Part Lot Control  
 Exhibit B - Key Map

## EXHIBIT A

## BY-LAW NO. 2008-45

**A BY-LAW TO EXEMPT CERTAIN LANDS ON REGISTERED PLAN No. 419, IN THE FORMER TOWNSHIP OF PITTSBURGH, FROM THE PROVISIONS OF SECTION 50 (5) OF THE PLANNING ACT, R.S.O. 1990, CHAPTER P.13, AND AMENDMENTS THERETO (Lot 20 to 57, Lot 13 to 14, Block D, The Point Road and Dead End Alley of Registered Plan No. 419, former Township of Pittsburgh)**

**PASSED:** February 5, 2008

**WHEREAS** Section 50 (5) of the Planning Act, R.S.O. 1990, as amended, provides that no owner may convey a part of any lot or block which is within a Registered Plan of Subdivision without the consent of the Committee of Adjustment or Land Division Committee, as the case may be, unless the land is being acquired or disposed of by the Federal or Provincial Government or by any Municipality or that is being acquired for the construction of a transmission line; and

**WHEREAS** Section 50 (7) of the Planning Act, R.S.O. 1990, as amended, provides that the Council of the Municipality may, by By-Law, provide that Section 50 (5) of the Planning Act does not apply to the land that is within a registered plan or plans of Subdivision or parts thereof; and

**WHEREAS** Katherine and John Cartwright have requested an exemption from Part Lot Control for Lots 20 to 57, Lots 13 to 14 and Block D, Registered Plan No. 419, such exemption being for the purpose of permitting the adjustment of lot boundaries with the effect of reducing the number of lots to a total of 14, creating right-of-ways, adjusting the boundaries to accommodate septic systems and conveying a parcel of land to the City of Kingston and;

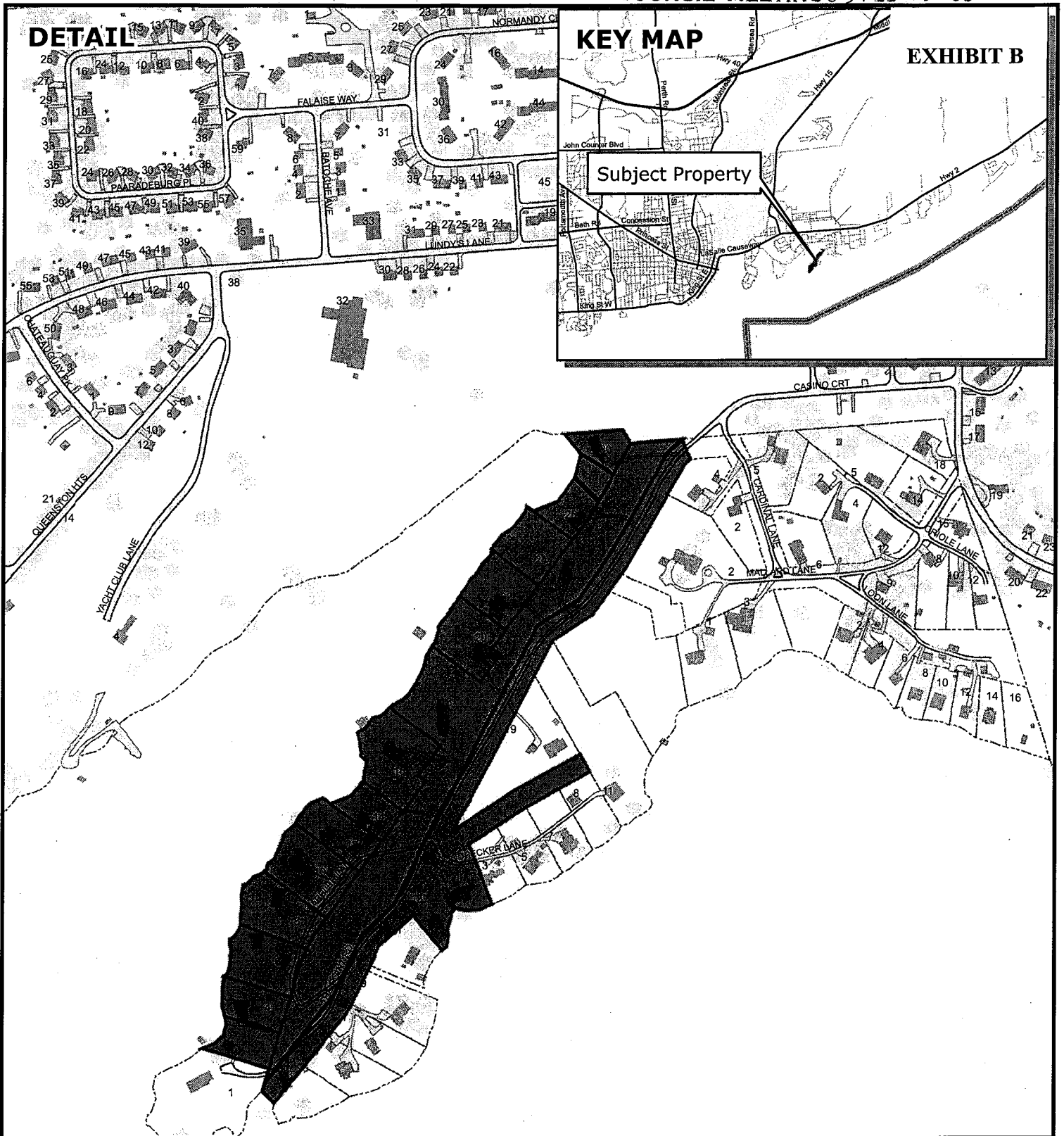
**NOW THEREFORE** the Council of The Corporation of the City of Kingston hereby **ENACTS** as follows:

1. Subsection (5) of Section 50 of the Planning Act, R.S.O. 1990 as amended does not apply to Lot 20 to 57, Lot 13 to 14, Block D, The Point Road and Dead End Alley Registered Plan No. 419 City of Kingston (Geographic Township of Pittsburgh), County of Frontenac.
2. This By-Law shall come into force and take effect on the date of its passing.

**GIVEN ALL THREE READINGS AND PASSED** February 5, 2008

**CITY CLERK**

**MAYOR**



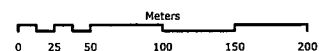
THE CORPORATION OF THE CITY OF KINGSTON  
PLANNING & DEVELOPMENT DEPARTMENT

**KEY MAP**

Applicant: Kay Cartwright  
 File Number: D27-008-2007  
 Address: 2,4,6,8,10,12,13,14,16,20,22,24,26 & 30 The Point Rd, and 1 Woodpecker Ln  
 Legal Description: PLAN 419 LOT 20 to 57, LOT 13 to 14, Block D The Point Road  
 and Dead End Alley  
 ARN: 101109009023300/23400/23500/23600/23700/23800/23900/  
 24000/24100/24200/24300/24400/24500/24700/22600

**Legend**

Subject Property



Disclaimer: This document is subject to copyright and may only be used for your personal, non-commercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, likely results or reliability of the use of the information contained in this document.  
 © 2006 The Corporation of the City of Kingston.