WHEREAS by Order of the Minister of Municipal Affairs and Housing, The Corporation of the Township of Kingston, The Corporation of the Township of Pittsburgh and The Corporation of the City of Kingston were amalgamated on January 1, 1998, to form The Corporation of the City of Kingston as the successor municipal corporation and pursuant to the Minister's Order, any by-laws of the former municipality passed under the Planning Act continue as the by-laws covering the area of the former municipality now forming part of the new City;

WHEREAS the Council of the Corporation of the City of Kingston deems it advisable to amend By-Law No. 96-259, as amended, of the former City of Kingston;

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

1. By-Law No. 96-259 of The Corporation of the City of Kingston (formerly City of Kingston) entitled “Downtown And Harbour Zoning By-Law of the Corporation of the City of Kingston” as amended, is hereby further amended as follows:

1.1 Zoning Map No. 1, Schedule 'A', as amended, is hereby further amended by changing to '(H)-HR-2' and '(H)-HR-3' the Zone symbols of the lands shown as "Zone Change from (H)-HR-3 to (H)-HR-2 and Zone Change from HR-2 to (H)-HR-3" on Schedule "A" attached hereto.

1.2 Section 9.3.2, Block 'D' (HR-2), be Deleted in its entirety and Replaced with the following new Section 9.3.2, Block 'D' (HR-2):

"9.3.2 BLOCK 'D' (HR-2)

Notwithstanding any provisions of this By-Law to the contrary, the following uses and regulations shall apply to the HR-2 Zone:

9.3.2.1 PERMITTED USES

The following uses only shall be permitted in the (H)-HR-2 Zone:

(a) PERMITTED INTERIM USES

Notwithstanding the (H) symbol applied pursuant to Section 36 of the Planning Act, R.S.O. 1990, the following uses shall be permitted:
(i) existing uses;
(ii) outdoor occasional uses limited to meetings, trade shows, displays, performances, arts and craft shows and like uses; and
(iii) a waterfront pathway.

(b) PERMITTED USES WHEN HOLDING SYMBOL IS REMOVED

Subject to the removal of the (H) symbol pursuant to Section 36 of the Planning Act, R.S.O. 1990 and the provisions of Section 9.3.2.3 of this By-Law, the following uses shall be permitted:

(i) A hotel and optional meeting rooms, including accessory support commercial uses. Maximum gross floor area of the hotel shall be 10,400 square metres (111,950 square feet). The hotel shall have a maximum of 144 suites. A suite shall not constitute a residential unit as defined in this By-Law. Maximum gross floor area of the optional meeting rooms shall be 540 square metres (5,815 square feet);

(ii) An office / residential building. Maximum gross floor area of the office / residential building shall be 15,960 square metres (171,800 square feet). The residential portion of the building shall contain a maximum of 100 dwelling units;

(iii) Notwithstanding Section 5.26 of this By-Law, outdoor occasional uses limited to meetings, trade shows, displays, performances, arts and craft shows and like uses;

(iv) Waterfront Pathway.

9.3.2.2 REGULATIONS

The regulations for the above uses shall be as follows:

(a) MAXIMUM BUILDING HEIGHT

Notwithstanding Table 9.2 of this By-Law:

i) All heights, except for the office / residential building, shall be measured vertically from the centre line at the intersection of Ontario Street and Earl Street being established at 78.1 metres (256 feet) geodetic datum. The height for the office / residential building shall be measured vertically from the centre line at the intersection of Ontario Street and William Street being established at 79.58 metres (261 feet) geodetic datum;

ii) The maximum height of the hotel shall be 32.0 metres;

iii) The maximum height of the meeting rooms shall be 9.2 metres;

iv) The maximum height of the office / residential building shall be 46.0 metres;
v) Within the boundaries of Earl Street, as extended to the water, the maximum height shall be 1.5 metres (4.9 feet) above geodetic datum;

vi) For all other areas not otherwise covered by structures permitted in this By-Law, the maximum height shall be 1.5 metres (4.9 feet) above 78.1 metres (256 feet) geodetic datum.

(b) **MINIMUM YARDS**

Notwithstanding Section 9.2 of this By-Law:

i) Minimum setback from any street shall be thirteen (13) metres (42.5 feet);

ii) Minimum setback from waterfront walkway shall be at least ten (10) metres (33 feet) over 50% of the walkway, which shall be totally accessible to the public.

(c) **OFF-STREET PARKING**

Notwithstanding Table 9.2 and Section 5.22.5 of this By-Law:

i) Within the ‘HR-2 ‘ Zone, a minimum of 292 parking spaces shall be provided on the following basis for the permitted uses:

   — residential uses — 1.0 parking space for each dwelling unit;

   — non-residential uses — parking for the office, hotel and meeting room uses shall be administratively and physically structured to provide for sharing of parking during alternate peak use periods;

   — occasional uses described in Section 9.3.2.1(b)(iii) — no parking requirements.

ii) Required parking shall comply with the “Parking Design” regulations of Section 5.22.4 of this By-Law and may be a combination of surface / underground parking and for the purposes of this provision “underground” is deemed to be at or below 1.5 metres (4.9 feet) above 78.1 metres (256 feet) geodetic datum.

iii) Surface parking may be provided in the ‘HR-2’ Zone to a total maximum of 125 spaces.

iv) Additional parking for the optional meeting rooms permitted in the ‘HR-2’ Zone, in excess of the total minimum number of spaces required in subsection i) above, may be located within the ‘HR-3’ Zone.

v) Special Vehicle Parking shall be provided in accordance with the provisions of Section 5.22.6 of this By-Law.

(d) **LOADING AREAS**
Notwithstanding Table 9.2 of this By-Law, Loading Areas shall be provided in accordance with Section 5.21 of this By-Law.

(e) **LANDSCAPED OPEN SPACE**

A minimum of 70 percent of the lot shall be assigned to landscaped open space which may also be used for those occasional uses described in Subsection (c) of Section 9.3.2.1 of this By-Law, and which shall be physically accessible to members of the public, and which may include space provided as a result of any yard requirement of this By-Law and which may include any area designated for vehicle parking or access.

(f) **AMENITY AREA**

The minimum amenity area requirements for each residential unit shall be in accordance with Section 5.5 of this By-Law.

(g) **WATER'S EDGE FLOODPROOFING AND EROSION CONTROL**

In accordance with Section 5.37 of this By-Law.

(h) **ACCESSORY BUILDINGS OR STRUCTURES**

In accordance with Section 5.1 of this By-Law.

9.3.2.3 **REQUIREMENTS FOR REMOVAL OF HOLDING SYMBOL**

The (H) symbol shall be used and removed in accordance with the provisions of Section 6.3 "HOLDING ZONES" of this By-Law and subject to the following specific requirements:

(a) Confirmation of adequate sewage capacity has been provided by Utilities Kingston;

(b) A Remedial Action Plan for addressing site contamination has been submitted and approved by the City of Kingston.

1.3 Section 9.3.3, Block 'D' (HR-3), be **Deleted** in its entirety and **Replaced** with the following new Section 9.3.3, Block 'D' (HR-3):

"**9.3.3 BLOCK ‘D’ (HR-3)**

Notwithstanding any provisions of this By-Law to the contrary, the following uses and regulations shall apply to the HR-3 Zone:

9.3.3.1 **PERMITTED USES**

The following uses only shall be permitted in (H)-HR-3 Zone:

(a) **PERMITTED INTERIM USES**
Notwithstanding the (H) symbol applied pursuant to Section 36 of the Planning Act, R.S.O. 1990, the following uses shall be permitted:

(i) existing uses;

(ii) outdoor occasional uses limited to meetings, trade shows, displays, performances, arts and craft shows and like uses; and

(iii) a waterfront pathway.

(b) PERMITTED USES WHEN HOLDING SYMBOL IS REMOVED

Subject to the removal of the (H) symbol pursuant to Section 36 of the Planning Act, R.S.O. 1990 and the provisions of Section 9.3.3.3 of this By-Law, the following uses shall be permitted:

i) Office uses to a maximum of 930 square metres (10,000 square feet) of gross floor area located within the first two storeys of the residential building fronting onto Ontario Street;

ii) Neighbourhood convenience commercial uses, including cafes, shops and boutiques, provided such uses are restricted to the ground floor area of the buildings and no one use exceeds a gross floor area of 250 square metres (2,690 square feet);

iii) Residential uses, subject to the provisions of the 'B3' Zone of By-Law No. 8499 and the following provisions. Maximum gross floor area of the residential buildings, including any permitted office / commercial uses, shall be 42,915 square metres (461,950 square feet). The residential buildings shall contain a maximum of 325 dwelling units;

iv) Notwithstanding Section 5.26 of this By-Law, outdoor occasional uses limited to meetings, trade shows, displays, performances, arts and craft shows and like uses;

v) Waterfront Pathway.

9.3.3.2 REGULATIONS

The following regulations shall apply to the above uses:

(a) MAXIMUM BUILDING HEIGHT

Notwithstanding Table 9.2 of this By-Law:

i) All heights shall be measured vertically from the centre line at the intersection of Ontario Street and Earl Street being established at 78.1 metres (256 feet) geodetic datum;

ii) The maximum permitted building height shall be 52 metres;
iii) Within the boundaries of Earl Street, as extended to the water, the maximum height shall be 1.5 metres (4.9 feet) above 78.1 metres (256 feet) geodetic datum;

iv) For all other areas not otherwise covered by structures permitted in this By-Law, the maximum height shall be 1.5 metres (4.9 feet) above 78.1 metres (256 feet) geodetic datum.

(b) MINIMUM YARDS

Notwithstanding Section 9.2 of this By-Law and any other provisions to the contrary:

i) Minimum setback from any street shall be thirteen (13) metres (42.5 feet);

ii) Minimum setback from waterfront walkway shall be at least ten (10) metres (33 feet) over 50% of the walkway, which shall be totally accessible to the public.

(c) OFF-STREET PARKING

i) Notwithstanding any other provisions to the contrary, parking shall be provided for the uses permitted within the ‘HR-3’ Zone in accordance with the provisions of Section 5.22 of this By-Law, except that for the occasional uses described in Section 9.3.3.1(b) iv) there shall be no parking requirements;

ii) Required parking shall comply with the “Parking Design” regulations of Section 5.22.4 of this By-Law and may be a combination of surface / underground parking and for the purposes of this provision “underground” is deemed to be at or below 1.5 metres (4.9 feet) above 78.1 metres (256 feet) geodetic datum.

iii) Surface parking may be provided in the ‘HR-3’ Zone to a total maximum of 80 spaces;

iv) Additional parking for the optional meeting rooms permitted in the ‘HR-2’ Zone, in excess of the total minimum number of spaces required in Section 9.3.2.2 (c) i), may be located within the ‘HR-3’ Zone.

(d) LOADING AREAS

Notwithstanding Table 9.2 of this By-Law and any other provisions to the contrary, Loading Areas shall be provided in accordance with Section 5.21 of this By-Law.

(e) LANDSCAPED OPEN SPACE

Notwithstanding any other provisions to the contrary, a minimum of 70 percent of the lot shall be assigned to landscaped open space which may also be used for those occasional uses described in Subsection (b) iv) of
Section 9.3.3.1 of this By-Law, and which shall be physically accessible to members of the public, and which may include space provided as a result of any yard requirement of this By-Law and which may include any area designed for vehicle parking or access.

(f) **AMENITY AREA**

The minimum amenity area requirements for each residential unit shall be in accordance with Section 5.5 of this By-Law.

(g) **WATER’S EDGE FLOODPROOFING AND EROSION CONTROL**

In accordance with Section 5.37 of this By-Law.

(h) **ACCESSORY BUILDINGS OR STRUCTURES**

In accordance with Section 5.1 of this By-Law.

9.3.3.3 **REQUIREMENTS FOR REMOVAL OF HOLDING SYMBOL**

The (H) symbol shall be used and removed in accordance with the provisions of Section 6.3 “HOLDING ZONES" of this By-Law and subject to the following specific requirements:

(a) Confirmation of adequate sewage capacity has been provided by Utilities Kingston;

(b) A Remedial Action Plan for addressing site contamination has been submitted and approved by the City of Kingston.

2. This By-Law shall come into force and take effect on its passing, provided that Official Plan Amendment No. 25 is approved and no Notice of Appeal is filed to this By-Law, all in accordance with the provisions of Section 34, Subsections 19 and 30 of the Planning Act, R.S.O. 1990, c.P.-13; and where one or more appeals have been filed within the time period specified, at the conclusion of which, the provisions of Section 34, Subsections 19 and 30 of the Planning Act, R.S.O. 1990, c.P.-13 apply and the By-Law shall be deemed to have come into force and take effect on the day it was passed.

**GIVEN ALL THREE READINGS AND PASSED July 14, 2004**

\[Signature\]

CITY CLERK

\[Signature\]

MAYOR
The Corporation of the City of Kingston
Schedule 'A'
to By-law No. 2004-243

Applicant:  Gillin Engineering & Homestead Land Holdings
File No.:  D14-186-02
Address:  Ontario Street
Plan No.:  RP 13R7693 PART 1
Lot/Conc.:  PLAN OS PT WATER LOT 25 TO 28
Roll No.:  101101002005200

Scale:

Legend:

- Subject Lands Rezoned from (H)-HR-3 to (H)-HR-2
- Subject Lands Rezoned from HR-2 to (H)-HR-3

Certificate of Authentication
This is Schedule 'A' to By-law No. 2004-243
passed this 14 day of July 2004.

Date:  June 17, 2004
Prepared by:  T. Fisher

Mayor
Clerk

This map is not to be used for precise scaling.
NOTICE OF PASSING
OF A ZONING BY-LAW BY THE
CORPORATION OF THE CITY OF KINGSTON


AND TAKE NOTICE that any person or agency may appeal to the Ontario Municipal Board in respect of the By-Law by filing with the Clerk of The Corporation of the City of Kingston no later than the 9th day of August, 2004, a Notice of Appeal setting out the objection to the By-Law and the reasons in support of the objection. The objection must be accompanied by the fee required by the Ontario Municipal Board.

Only individuals, corporations and public bodies may appeal a Zoning By-Law to the Ontario Municipal Board. A Notice of Appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

AN EXPLANATION of the purpose and effect of the By-Law, describing the lands to which the By-Law applies, and a Key Map showing the location of the lands to which the By-Law applies are attached.

DATED at the City of Kingston
this 20th day of July, 2004

Carolyn Downs,
City Clerk,

The Objection Must Be Received By This Date In Order To Be Valid.

Any appeal submitted to the City of Kingston for referral to the Ontario Municipal Board must include:

1. The objection to the By-Law and the reasons in support of the objection.
2. The name and address of the appellant.
3. The fee payment in the amount of $125.00 payable to the Minister of Finance, Province of Ontario.
EXPLANATORY NOTE CONCERNING BY-LAW NO. 2004-243

AREA AFFECTED: The area affected by By-Law No. 2004-243 comprises 3.1 ha (7.5 acre) of vacant land located on the east side of Ontario Street, between William and Gore Streets, known as Block “D”. The property, formerly the site of heavy industrial operations (locomotive and ship building works), has been essentially vacant for over thirty (30) years. Large concrete slabs and building foundations from the former industrial uses are still evident on the site. A portion of the property is currently used as a commercial parking lot. A twenty (20) foot wide strip of land around the perimeter of the site was previously conveyed to the Municipality for waterfront walkway purposes. Block “D” is the last large, privately held, undeveloped parcel of land in the downtown area with frontage on Lake Ontario.

The site abuts the southeast portion of the Central Business System (Lower Princess Street Commercial Core) to the north of the site across the unopened portion of William Street, and abuts the Old Sydenham Heritage Area to the west across Ontario Street. Lake Ontario and the protected waters of the Flora Macdonald Confederation Basin Marina are located to the east of the site.

PURPOSE:

The purpose of By-Law No. 2004-243 is to modify the existing site specific ‘HR-2’ and ‘(H)-HR-3’ Harbour Zones of By-Law No. 96-259 in accordance with a submitted mixed use development concept (144 suites hotel, optional meeting rooms, 13 storey mixed office/residential (maximum 100 units) building and 2 seventeen storey apartment buildings (maximum total of 325 dwelling units with potential for ground floor commercial/office uses).

EFFECT:

The effect of By-Law No. 2004-243 is as follows:

Map Changes:

Rezone the north portion of the site from ‘(H)-HR-3’ to ‘(H)-HR-2’ and rezone the south portion of the site from ‘HR-2’ to ‘(H)-HR-3’ to implement the Official Plan.

Site Specific Regulations:

‘(H)’ Holding Symbol - Place an ‘(H)’ Holding Symbol on the entire property which will not be removed until sewage capacity and site contamination issues have been addressed to the satisfaction of the City.

Permitted Uses - in the ‘HR-2’ Zone: reduce the size of the hotel from 350 suites to 144 suites; reduce the size of the convention centre/meeting room from 1000 person capacity to 350 person capacity; reduce the gross floor area of the hotel/convention centre from 29,500 square metres (317,546 square feet) to 10,940 square metres (117,765 square feet); add a mixed office/residential building with a gross floor area of 15,960 square metres (171,800 square feet) and a maximum of 100 residential dwelling units - in the ‘HR-3’ Zone: delete commercial establishments with a maximum gross floor area of 6500 square metres (69,968 square feet) and replace with neighbourhood convenience commercial uses, including cafes, shops and boutiques, within the ground floor area of the buildings with no one use to exceed a gross floor area of 250 square metres (2,690 square feet); reduce the amount of office space from 11,200 square metres (120,560 square feet) to 930 square metres (10,000)
square feet) with said space to be located within the first two floors of the building closest to Ontario Street; increase the residential use from 11,200 square metres (120,560 square feet) to 42,915 square metres (461,950 square feet), including any permitted office / commercial uses, with the residential buildings to contain a maximum of 325 dwelling units.

**Maximum Building Height** – increase from 30 metres to 46 metres in the ‘HR-2’ Zone and from 29 metres to 52 metres in the ‘HR-3’ Zone;

**Off-Street Parking** – reduce the minimum number of parking spaces in the ‘HR-2’ Zone from 560 spaces to 292 spaces. Parking in the ‘HR-3’ Zone is to be provided in accordance with the Zoning By-Law (i.e. 1 space per residential unit and non-residential in accordance with the general parking requirements for the individual uses);

**Landscaped Open Space** - increase from a minimum of 61% to 70% in the ‘HR-2’ Zone and from a minimum of 49% to 70% in the ‘HR-3’ Zone.

Approval of the requested amendments will provide for the development of Block “D” in accordance with the submitted Concept Plan which provides for the following uses: on the northerly portion of the site (Earl Street to William Street), a 13 storey office / residential building with a maximum height of 46 metres, an 8 storey, 144 suite hotel with associated ground floor health club and swimming pool, and an optional 1 storey meeting room containing 539 square metres of floor area (5,800 sq. ft.). The office / residential building will be comprised of office space on the first five floors and 100 residential units in the balance of the building; and, on the south side of the site (Earl Street to Gore Street), two 17 storey apartment buildings (rental or condominium) with a maximum height of 52 metres. The maximum number of residential units on this portion of the site will be 325. The building closest to Ontario Street may also contain up to 929 square metres (10,000 sq. ft.) of office space to be located within the first two floors of the building.

Once the applications for Official Plan and Zoning By-Law Amendments are finalized, further planning approvals will be required in terms of any future land severances and Site Plan Control Approval.

**KEY MAP:** See attached Key Map

*The above is an explanation of the provisions of the amendment to the Zoning By-Law. For accurate reference, this amendment and the original By-Law No. 96-259 should be consulted at the Municipal Offices during regular business hours.*
THE CORPORATION OF THE
CITY OF KINGSTON

Re: BY-LAW NO. 2004-243

A By-Law To Amend By-Law No. 96-259
“Downtown And Harbour Zoning By-Law” Of
The Former City Of Kingston – Site Specific –
Block “D”, East Side Of Ontario Street
Between William And Gore Streets.

EFFECTIVE DATE: July 13, 2004

DECLARATION

I, Carolyn Downs, City Clerk hereby certify that the notice for BY-LAW NO. 2004-243 of The Corporation of The City of Kingston, passed by the Council of The Corporation of the City of Kingston on the 13th day of July, 2004 was given in the manner and form and to the persons prescribed by Ontario Regulation 199/96, made by the Lieutenant Governor-in-Council under subsections 17 and 34 of the Planning Act, R.S.O. 1990, c. P.13. I also certify that the 20 day appeal period expired on the 9th day of August, 2004 and to this date no notice of appeal setting out an objection to the by-law has been filed in the Office of the Clerk.

DATED at Kingston, Ontario
This 13th day of August 2004

Carolyn Downs, City Clerk
The Corporation of the City of Kingston