EXECUTIVE SUMMARY:
The following is a Comprehensive Planning Report detailing the review and recommendation for approval for an Application for Final Condominium Approval submitted by RFA Planning Consultants Ltd., on behalf of SBL Kingston Ltd., for the property municipally known as 645 John Counter Boulevard and identified as River Park Subdivision. The report provides details on the application being recommended for approval, related development applications being processed concurrent with the application for Final Condominium Approval and the applicable regulations and policies governing the development.

The Applicant submitted applications for Final Plan of Subdivision and Final Condominium Approval in September 2007. The technical circulation process involves both the Planning and Development Department and the Engineering Department to ensure that the design and functionality of the development complies with all existing provincial and municipal regulations and policies and to ensure completion of the all the Conditions of Draft Plan of Subdivision and Draft Plan of Condominium.

That development received Draft Plan of Subdivision and Draft Plan of Condominium Approval in 2007 for a 116 residential townhouse lot subdivision with a private road and amenity area to be incorporated as a Common Element Condominium. The applicant has Blocked (56 Blocks) the Plan of Subdivision at the recommendation at the Planning and Development Department to minimize the potential for encroachment over lot lines during the construction of the townhouse units.

The Applicant obtained a pre-servicing agreement to establish the necessary infrastructure to facilitate construction of the townhouse units and a model home agreement to construct a sample of the units to be constructed for sale purposes. Final Subdivision and Condominium Approval is required prior to the issuance of building permits for the remainder of the subdivision.

The Planning and Development Department recommends approval of the Final Plan of Condominium.

RECOMMENDATION:
WHEREAS an application has been submitted by RFA Planning Consultants Ltd., on behalf of SBL Kingston Ltd., with respect to a common element condominium consisting of two private lanes and amenity space being constructed within the River Park Subdivision requesting approval of a Final Plan of Condominium; and
WHEREAS the common element condominium conforms to the policies of the Official Plan and requirements of the Zoning By-Law regulations and is part of a Plan of Subdivision and Subdivision Agreement, and as such meets the Common Elements Review Criteria of the Condominium Act; and

WHEREAS final copies of the Plan of Common Element Condominium signed by an Ontario Land Surveyor and the Owner/Subdivider will be submitted to the Planning and Development Department of the City of Kingston for signatures and certification by the municipality for the lands consisting of Blocks 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48 and 56 on a Plan of subdivision; and

THEREFORE BE IT RESOLVED that it be recommended to City Council that the application for Final Plan of Condominium (Our File No. D07-008-2007) submitted by RFA Planning Consultants Ltd., on behalf of SBL Kingston Ltd., with respect to common element condominium consisting of two private lanes and amenity space being constructed within the River Park Subdivision BE APPROVED.

THEREFORE BE IT RESOLVED that it be recommended to City Council the Director of Legal Services be authorized to forward the necessary signed and stamped originals and required copies of the Final Plan of Common Element Condominium prepared by Phil W. Chitty O.L.S. to the Land Registry Office for registration.

AND BE IT FURTHER RESOLVED that, following the execution of the Condominium Agreement, the Director of Legal Services be authorized to forward the necessary signed and stamped originals and required copies of the Final Plan of Condominium to the Land Registry Office for registration.

AUTHORIZING SIGNATURES:

<table>
<thead>
<tr>
<th>ORIGINAL SIGNED BY COMMISSIONER</th>
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<tbody>
<tr>
<td>Cynthia Beach, P.Eng., MCIP, RPP, Commissioner, Sustainability and Growth</td>
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<tr>
<th>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</th>
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<tr>
<td>Gerard Hunt, Chief Administrative Officer</td>
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</table>

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

| Commissioner Beach, Sustainability & Growth | N/R |
| Commissioner Thurston, Community Development Services | N/R |
| Commissioner Leger, Corporate Services | N/R |
| Jim Keech, President, Utilities Kingston | N/R |

(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

Introduction
On September 25, 2007 an application for Final Subdivision Approval and Final Condominium Approval was submitted by RFA Planning Consultants Ltd., on behalf of SBL Kingston Ltd. Final Subdivision Approval has been delegated to the Director of Planning and Development. The Final Approval for Plan of Condominium remains the purview of City Council.

The applicant has fulfilled the Conditions of Draft Plan of Subdivision and Draft Plan of Condominium and is requesting Final Approval of the Condominium in order to proceed with the registration of the subdivision and condominium development.

The Applicant received Draft Plan of Subdivision and Draft Plan of Condominium approval on July 24, 2007 for a proposed development consisting of 116 townhouse units, 2 open space blocks, 1 common element block, 1 storm water management block and a road widening block the future expansion of John Counter Boulevard.

The application submitted for approval was amended from the draft plan to include development blocks (56 blocks) as opposed to residential lots. The blocks include all common elements and open space conveyances. The advantage of this format is the ability to construct the townhouse building on the block and subsequently create the freehold lots through Part Lot Control. The process provides more latitude to the builder and the ability to ‘build to suit’ based on demand and market conditions. In addition, there is a decreased opportunity for errors with respect to the location of foundations complying with the zone regulation and encroaching on registered lots lines.

Background:
In February 2000, applications for Draft Plan of Subdivision (File No. D12-031-2000) and Zoning By-Law Amendment (File No. D14-080-2000) were submitted on behalf of Music Marina Development Corporation. Music Marina Development Corporation was proposing to develop the site for residential uses comprising of 72 freehold townhouse units, a 10 storey 73 unit condominium apartment building, and a 4 storey 99 unit senior’s eldercare rental building. Subsequent to the review of the applications, the City advised the applicant of major policy and technical issues regarding the proposed development, including issues related to the Third Crossing, environmental concerns, site access, necessary revisions to the plans and next steps in the process.

In April 2000, CN Railway filed an application for Consent to a Lot Addition (File No. U-COA-345-00) in order to convey the subject lands to Music Marina Development Corporation. The lands were to be incorporated as part of the residential development and were to be used for a public street (main entrance into the development), a proposed berm (noise mitigation) and as the site for the eldercare senior’s facility. The consent application was Conditionally Approved by the Committee of Adjustment on May 15, 2000, subject to conditions, including that the lands be rezoned as part of the Music Marina development. Since the conditions were not fulfilled within one year from the date of the Notice of Decision, the consent lapsed. The CN lands were subsequently acquired by the City and the present applicant (Stirling Bridge Limited) is negotiating for the purchase of the portion of the lands necessary to accommodate the proposed development.

In 2004, the application for rezoning was revised and a new concept plan was submitted proposing three 120 unit condominium apartment buildings and two 70 unit retirement residences. This concept was not subject to a public hearing and the files remained inactive until the property was purchased by Stirling Bridge Limited and the application was revised to reflect the present proposed development.

The subject property has undergone a brownfield remediation for the portion of the property formerly used as a transmission shop. The remediation work began in December 2006 and has been completed.

In October 2006 the Applicant, Stirling Bridge Limited, was granted a Zoning By-Law Amendment to change the zone from Industrial M2 Zone to a Multi-Family B3 Zone to permit the construction of a residential freehold townhouse plan of subdivision.
The Applicant obtained Draft Plan of Subdivision and Draft Plan of Condominium Approvals on July 24, 2007. Applications for Final Subdivision Approval and Final Condominium Approval were submitted on September 25, 2007.

The applicant has satisfied the Conditions of Draft Plan of Subdivision and Draft Plan of Condominium and is in a position to register the residential development.

**Site Characteristics**
The subject site is located on the northeast corner of Montreal Street and John Counter Boulevard (see Exhibit A - Key Map) and is adjacent to the CN Railway, which abuts the northwest property line. The subject site is irregular in shape and approximately 5.99 hectares in area with a generally flat topography, except along the eastern boundary where the lands slope sharply to the Great Cataraqui River. The land is primarily vacant land consisting of second growth brush and trees. There was an abandoned building located at the corner of John Counter Boulevard and Montreal Street. The structure was demolished in 2006 and was formerly used as a transmission repair shop. A sewer main bisects the property diagonally from the north west to the south east. There is a registered easement in favour of CN Rail over the former CN Rail spur for a buried fibre optic cable line. The fibre optic cable has been moved to accommodate the proposed development. The new easement has been included in the Subdivision Agreement. The frontage along Montreal Street is approximately 116.5 metres and approximately 213.3 metres along John Counter Boulevard.

The following land uses surround the subject site:
- North – CN railway and residential;
- East – commercial and marina;
- South – residential and automotive commercial; and
- West – vacant and commercial.

**Common Elements Condominium Corporation:**
A common elements condominium corporation is composed only of “common elements” that are shared by owners of freehold properties within the same Land Registry Division. The owners of the freehold lots own interests in a common elements condominium corporation. The freehold lots having an interest in the condominium corporation are called “parcels of tied land” and must exist on law prior to the registration of the common elements condominium corporation. The Condominium Act, 1998 creates liens against the freehold properties to ensure payment of common expenses.

An application for Draft Plan of Condominium covering all of the private lanes and private recreational space within the River Park Subdivision was approved by Council on July 24, 2007 (file no. D07-005-2006). Prior to granting final approval the Owner/Subdivider is required to fulfill the Conditions of Draft Plan of Condominium Approval. The following matrix outlines the Condition of Draft Plan of Condominium Approval and how the condition has been satisfied by the Owner/Subdivider:

<table>
<thead>
<tr>
<th>Condition of Draft Plan of Condominium</th>
<th>Condition Satisfied (Yes/No/Not Applicable)</th>
<th>How Conditions has been Satisfied</th>
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<tr>
<td>The Owner shall enter into a Condominium Agreement with the City and register it on title for the provision of facilities and services on the lands, if such a provision has not already been addressed as a condition of a related consent, subdivision or site plan approval. The agreement shall contain requirements for providing</td>
<td>Yes</td>
<td>A draft copy of the Condominium Agreement has been attached for reference purposes.</td>
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</table>
adequate security to the satisfaction of the City for the provision of essential facilities and services to the parcels of tied land.

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<tr>
<th>Related planning approvals must be completed prior to final condominium approval, including the registration of a plan of subdivision, and the coming into force and effect of a Zoning By-Law Amendment, if required.</th>
<th>Yes</th>
<th>The applicant has obtained the necessary Zoning (adopted By-Law No. 240-2006) and has fulfilled the Conditions of Draft Plan of Subdivision (file No. D12-028-2007) The Plan of Subdivision and Subdivision Agreement will not be registered until the Applicant has obtained Final Condominium approval and the Common Elements Condominium and Condominium Agreement can be registered immediately following the registration of the Subdivision Agreement.</th>
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<tr>
<td>To minimize the negative impacts on future condominium owners and the City from the creation of small, landlocked or fragmented condominiums on a temporary or permanent basis, the following will apply:</td>
<td>Yes</td>
<td>The nature of this common element condominium, being primarily private lanes to access the freehold townhouse units, precludes the ability to fragment the condominium. The common element condominium has frontage on John Counter Boulevard, an arterial road. All joint use and access easements have been included in the subdivision agreement.</td>
</tr>
<tr>
<td>• the condominium corporation registered must contain a minimum of 10 units to ensure it can operate independently if no additional phases are built or registered, or if the remainder of the development is registered as one or more separate condominium corporations. Smaller initial registrations may be considered on the individual merits of the development proposal, including the distribution and size of residential blocks, or the overall number of units within the development;</td>
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<tr>
<td>• the condominium plan registered must have frontage on and access to an open public road; and</td>
<td></td>
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<td>• easements to the benefit of the remnant lands will be created in conjunction with the initial registration. Joint use and maintenance agreements may also be required.</td>
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<td>The registration shall not divide existing or proposed buildings.</td>
<td>Yes</td>
<td>There are no buildings proposed as part of the common element condominium.</td>
</tr>
<tr>
<td>Consistent with the requirements of the Condominium Act (Section 41 and Form 17 of O.Reg. 48/01), means with respect to each building and structure that the declaration and description are included in the common elements constructed at least to the following state:</td>
<td>Yes</td>
<td>There are no buildings proposed as part of the common element condominium.</td>
</tr>
<tr>
<td>i) The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants is weather</td>
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resistant if required by the construction documents and has been completed in general conformity with the construction documents;

ii) Floor assemblies are constructed and completed to the final covering;

iii) Walls and ceilings are completed to the drywall (including taping and sanding), plaster or other final covering;

iv) All underground garages, if any, have walls and floor assemblies in places;

v) All elevating devices, if any, as defined in the Elevating Devices Act, are licensed under that Act if it requires a license;

vi) All installation with respect to the provision of water and sewage, if any, are in place and operate;

vii) All installation with respect to the provision of heat and ventilation, if any, are in place and heat and ventilation can be provided;

viii) All installation with respect to the provision of air conditioning, if any, are in place and operable;

ix) All installation with respect to the provision of electricity, if any, are in place and operable;

x) All indoor and outdoor swimming pools, if any, are completed and operable; “has been installed and provided” means, with respect to the facilities and services that the declaration and description show, are included in the common elements, installed and provided in accordance with the requirements of the municipalities in which the land is situated or the requirements of the Ministry of Municipal Affairs and Housing, if the land is not situated in a municipality; and

xi) the Owner/Developer’s professional engineer shall provide certification to the City that the facilities and services have been installed and provide sufficiently to ensure the independent operation of the condominium corporation. Alternatively, if any facilities or services have not been installed such that the condominium corporation can operate independently, then the Owner/Developer will be required to engage the services of a qualified quantity surveyor or professional engineer to provide a calculated amount of the required security for one hundred percent (100%) of the required works. The security shall be provided in a form satisfactory to the City, in the amount of one hundred —
twelve-and-one-half percent (125%) of the calculated cost of the required works.

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<tr>
<th>If the land is included in the unit description, provision for the common services and facilities located on that unit to be maintained, repaired and replaced by the condominium corporation may be required, to ensure that future owners do not bear the full cost of maintaining and repairing common facilities and services.</th>
<th>Yes</th>
<th>The responsibilities of the common element property owners are outlined in the Condominium Declaration.</th>
</tr>
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<tr>
<td>Certain requirements of the subdivision agreement are to be completed prior to final approval, such as, but not limited to, grading, the construction and installation of fire routes and fire route signs, and the completion of special studies.</td>
<td>Yes</td>
<td>The applicant has fulfilled the conditions of Draft Plan of Subdivision, has obtained a Pre-servicing Agreement and the subdivision drawings have been approved by the Engineering Department and Utilities Kingston.</td>
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<tr>
<td>The draft approval will lapse 9 years from the original draft approval date to provide the Owner/Developer and the City an opportunity to determine the future of any phases that will not be registered within the 10 year time period set out in the Condominium Act.</td>
<td>Yes</td>
<td>The applicant obtained Draft Plan of Condominium Approval in 2007.</td>
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**Condominium**

A condominium is the form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned while use of and access to common facilities in the piece such as hallways, heating system, elevators and exterior areas is co-owned and controlled by the association of owners that jointly represent ownership of the whole piece.

In Ontario, condominiums are governed by the Condominium Act with each development establishing a corporation to deal with day-to-day functions (maintenance, repairs, etc.). A board of directors is elected by the owners of units (or, in the case of a common elements condominium corporation, the owners of the common interest in the common elements) in the development on at least a yearly basis. A general meeting is held annually to deal with board elections and the appointment of an auditor (or waiving of audit). Other matters can also be dealt with at the Annual General Meeting, but special meetings of the owners can be called by the board and, in some cases, by the owners themselves, at any time (http://en.wikipedia.org/wiki/Condominium).

**Maintenance of Common Element Condominium**

The maintenance of a common elements condominium, including snow removal and infrastructure, are the responsibility of the condominium corporation and its shareholders. The proposed residential development that will be utilizing the lanes will enter into an agreement with the City of Kingston to have garbage pick-up from the laneways. The lanes are not constructed to the same width as a public road. Consequently, there are concerns regarding the potential obstruction of access for garbage trucks, turning radii and potential damage to private property. If the municipality is going to provide a service via rear lanes, then conditions limiting the municipality’s liability and responsibility for private lanes must be contained within the development agreement (plan of subdivision).

The following clauses were included in the Plan of Subdivision Agreement for River Park Subdivision, which addresses the City of Kingston’s requirements for approving a common elements condominium corporation within the development:

**Private Lane**

The private lanes shown as Blocks 12, 37, 38, 40, 41, 42, 44 and 45 are to be privately owned by the Common Elements Condominium, no direct vehicle access to the public highway (street) shall be permitted and the following conditions apply:
a) The private lanes shown as Blocks 12, 37, 38, 40, 41, 42, 44 and 45 will not be assumed by the Municipality and there will be no municipal snowplowing.

b) Parking is prohibited at all times on any part of the lanes, excluding the designated parking areas. No parking, fire lane and traffic signage are to be maintained by the owners of the lanes.

c) Solid waste and recycling shall be collected from the private lanes by the Municipality. The Owner or occupant of the premise abutting the lane shall ensure that the receptacles holding solid waste for collection shall be placed within one (1) meter of the lane and provide the Municipality with unobstructed and convenient access. The lane must be suitable for solid waste and recycling truck access by 6am on the mornings of scheduled collection, to the satisfaction of the Manager, Solid Waste. The Municipality reserves the right to revoke private lane collection service at any time. Despite any Municipal services provided on the private lanes, the Municipality shall not be responsible for any damage caused by municipal equipment or personnel in the delivery of services.

d) The residential dwelling units on Block 16 of Registered Plan 13M-_____ shall be required to deposit their garbage and recycling at a location determined by and to the satisfaction of the Manager, Solid Waste to ensure that the service vehicles are not required to reverse.

e) The private lanes are subject to an easement in favour of the Municipality and Utilities Kingston for the provision of specific municipal services as outlined in the easement. In the event repairs to these services along the private lane are necessary, only patch repair to the asphalt will be made. It will not be the responsibility of the Municipality to repave the entire private lane.

**Provincial Policy Statement**

The Provincially Policy Statement sets out the goals and direction respecting the matters of provincial interest with respect to land use planning. The proposed application is site specific to accommodate a specific proposal. The proposed development is consistent with the following policies of the Provincial Policy Statement:

- Minimize target for intensification and redevelopment within built up areas (Section 1.1.3.5);
- Promote opportunities for intensification and redevelopment where this can be accommodated, taking into account existing building stock and area and the availability of suitable existing or planned infrastructure and public service facilities (Section 1.1.3.3);
- Promote densities for new housing which efficiently uses land, resources, infrastructure and public service facilities (Section 1.1.3.7).

**Official Plan**

The subject site is designated ‘Residential’ and ‘Open Space’ in the former City of Kingston Official Plan and the Adopted Official Plan. The ‘Residential’ land use designation promotes the establishment of residential dwellings that meet a, “range of housing needs and encourage a range of housing options and tenure types.” The permitted uses within the ‘Residential’ land use designation include townhouse dwelling units. The ‘Open Space’ land use designation applies to the land abutting the Great Cataract River and an Environmental Protection ‘EPA’ Zone has been applied.

**Medium Density Residential (Section 4.4, Official Plan)**

The estimated density of the proposed residential townhouse development is 24 units per hectare. The low density calculation is a result of the significant portion of the property that is not suitable for development because it is an environmental protection area, a provincially recognized heritage resource and has required setbacks from the CN Rail main line. Excluding the proposed 20 metre road widening the Applicant is conveying approximately 18 percent of the subject site to the City as open space. The proposed development is subject to the ‘Medium Density Residential’ land use policies of the Official Plan due to the type of residential dwelling being developed, residential townhouse units.
The 'Medium Density Residential' land use policies recommend that new medium density residential developments be located where the development will be compatible with surrounding land uses, is accessible to parks and amenity space, is accessible to public transit and has adequate municipal services for the proposed development.

The development is situated on a parcel of land that is designated ‘Residential’ in the Official Plan and is within close proximity to High Density residential developments in the form of apartment building complexes on the south side of John Counter Boulevard east and west of Montreal Street. Single family dwellings are located north of the subject site on Montreal Street with some remnant single detached dwellings also located on John Counter Boulevard. The CN rail main line effectively isolates the proposed development from the single detached dwellings on Montreal Street however from a broadly viewed land use perspective the proposed townhouse development is considered an appropriate transitional land use between the existing high density residential use on the south side of John Counter Boulevard and the existing low density residential north on Montreal Street.

The subject property is located adjacent to the Great Cataraqui River. Pursuant to the recommendation of the City of Kingston: Cycling and Pathways Study 2003 the Applicant is conveying the lands abutting the river to the City as open space. The dedication of land will contribute to the City's long term goal of providing for the opportunity to establish a public pathway system along the City’s waterfront. In addition to the open space the Applicant is to construct a private amenity space within the subdivision that will be included as part of the common element condominium.

The south west portion of the proposed development abuts Montreal Street, a major arterial road. Regular transit service is provided along Montreal Street.

**Zoning By-Law**

The subject property was rezoned in 2006 (Amending By-Law No. 2006-240) which changed the zones from Industrial (M2) Zone and Public Open Space (OS1) Zone to Holding Special Multiple Family Dwelling ‘B1-364-H’ Zone, General Park ‘P’ Zone and Holding Special General Park ‘P.365-H’ Zone in the City of Kingston Zoning By-Law No. 8499, as amended. The uses permitted in the Holding Special Multiple Family Dwelling 'B1-364-H' Zone include, two family dwellings, multiple family dwellings, bachelor apartments, group dwellings, row dwellings, public or private day schools, churches, church halls, libraries, art galleries and museums, community halls, institutions or homes operated or supervised by Children's Aid Society for temporary care of children; community homes, accessory buildings, senior citizen apartments and residential care facilities. The Holding provisions are subject to the conditions outlined in Section 5.39, Zoning By-Law No. 8499 and the following additional conditions:

1) A remediation plan prepared by a professional engineer or professional geoscientist licensed in the Province of Ontario must be completed in accordance with Ontario Regulation 153/04, as amended and to the satisfaction of the City of Kingston and/or applicable approval authority; and

2) The Owner/Subdivider shall submit to the City an executed copy of an agreement with CN Rail relating to the mitigation of any potential adverse impacts between the existing railway and all proposed developments on the subject site.

In 2009 the Applicant fulfilled the conditions for Removal of the Holding Symbol and the –H symbol was removed from the B1-364 Zone (By-Law No. 130-2009).

The uses permitted in the Holding Special General Park ‘P.365-H’ Zone include, ornamental parks, scenic parks, leisure parks, arboretums, botanical gardens, aviaries, statues, ornamental sculptures, works of art, historic monuments, wading pools, swimming pools, swimming beach, play lots, playgrounds, playing fields, athletic fields, skating rinks (outdoor), tennis courts, playing courts, bowling greens, picnic areas, hiking trails, nature walks, bicycle trails, outdoor or tent theatres, bandstands, shelters, golf courses, launching ramps, mooring slips, docks for pleasure craft, publicly owned marinas, tourist information
offices, craft display centres, parking areas accessory to a park use, accessory buildings, the Murney Tower Museum, uses similar to permitted uses.

Pursuant to the recommendations of the Stage 3 Archaeological Study conducted on the area proposed to be developed Planning and Development Department Staff recommended that an −H Symbol be applied to a portion of the proposed General Recreation Park ‘P’ Zone thereby creating a Special General Recreation Park ‘P.365-H’ Zone, with the following condition:

- Notwithstanding the provisions of Section 5.39 of Zoning By-Law No. 8499, as amended, the −H Symbol applied to Zone ‘P.365-H’ shall prohibit the addition of fill, clearing of vegetation (with the exception of conducting a Stage 4 Archaeological Study), excavation (with the exception of conducting a Stage 4 Archaeological Study) and any development or construction until such time as a Stage 4 Archaeological Study has been completed to the satisfaction of the City’s Heritage Planner, the Ministry of Culture and/or applicable approval authority.

The lands zoned Holding Special General Park ‘P.365-H’ Zone comprises a portion of the Open Space along the Great Cataraqui River being conveyed to the City of Kingston.

The lands zoned Environmental Protection Area ‘EPA’ Zone were not subject to a zone change and are not included as part of the lands proposed to be developed.

Conclusion
In conclusion, the Plan of Common Elements Condominium is consistent with the development policies outlined in the Provincial Policy Statement and conform to the Official Plan policies and zoning regulations applied to the subject property. The Applicant has satisfied the conditions of Draft Plan of Subdivision and Draft Plan of Condominium and has adequately justified the development as it relates to Official Plan policies, infill development and compatibility with existing built form.

Planning Staff recommend APPROVAL of the Final Plan of Condominium for the following reasons:
- The proposed development will result in the re-development of a previously partially developed parcel, which will result in an appropriate and efficient intensification of land use consistent with the PPS;
- The proposed 56 Block residential townhouse development will be on full municipal services;
- The proposed development will not adversely impact existing natural heritage resources on abutting lands; and
- The proposed residential development is compatible with existing residential development and future proposed development.

EXISTING POLICY/BY LAW:
The application for Final Condominium Approval was reviewed against the policies of the Province of Ontario and the policies, By-Laws and studies of the City of Kingston to ensure that the changes would be consistent with the Province’s and City’s vision of urban development. The following documents were assessed:

Provincial
Planning Act;
Condominium Act; and
Provincial Policy Statement, 2005

Municipal
City of Kingston Official Plan;
City of Kingston Zoning By-Law No. 8499
NOTICE PROVISIONS:
There are no statutory notice requirements for this application.

ACCESSIBILITY CONSIDERATIONS:
The Subdivision Plan was reviewed to ensure accessibility considerations have been addressed.

FINANCIAL CONSIDERATIONS:
No financial implications are to be considered with this report.

CONTACTS:
- Jason Budd, Senior Planner, Development Approvals (546-4291, extension 3178);
- Marnie Venditti, Manager, Development Approvals (546-4291, extension 3256); and,
- George T. Wallace, Director, Planning and Development Department (546-4291, extension 3252).

OTHER CITY OF KINGSTON STAFF CONSULTED:
The technical circulation for final condominium approval was circulated concurrent with the circulation for final subdivision approval beginning in 2007. Through the Final Subdivision review process all of the conditions for draft plan of Condominium were satisfied. The departments and agencies included in the technical circulation are Utilities Kingston, Recreation and Leisure Services, Public Works, the City’s Traffic Engineer, City’s Transit Department, Environment Department and Engineering Department. The applicant is responsible for obtaining sign off letter from the private services, such as Telephone and cable providers. Copies of the sign off letters and departmental clearance have been provided to the Planning and Development Department.

EXHIBITS ATTACHED:
Exhibit A - Key Map
Exhibit B - Common Element Condominium Plan
Exhibit C - Plan of Subdivision
Exhibit D - Draft Condominium Agreement
CONDOMINIUM AGREEMENT  
SBL Kingston Inc. – 645 John Counter Boulevard (River Park Subdivision)  

Clause ___, Report No. ___, January ___, 2010  

THIS AGREEMENT made in triplicate this _____ day of ________________________________, 2010  

BE TWEEN:  

SBL KINGSTON INC.  
hereinafter referred to as the “OWNER”  

OF THE FIRST PART  

- and -  

THE CORPORATION OF THE CITY OF KINGSTON  
hereinafter referred to as the “MUNICIPALITY”  

OF THE SECOND PART  

WHEREAS the Owner has made an application to the Municipality for approval of a Plan of Common Element Condominium under the exemption process for the common element identified as Blocks 36 and 37 of Registered Plan 13M-___ which has been constructed at 645 John Counter Boulevard on those lands described in Schedule ‘__’ of this Agreement attached hereto (the “Owner’s Lands”);  

AND WHEREAS the Plan of Common Element Condominium is in conformity with the general purpose and intent of the applicable policies of the Official Plan and the regulations of the City’s Zoning By-Law No. 6499, as amended;  

AND WHEREAS the Common Elements, Described in Schedule ‘___’ is subject to the Subdivision Agreement, dated January ___, 2010, which Agreement was registered on title January ___, 2010 as Instrument No. FR___________;  

AND WHEREAS the request for Final Condominium Approval under the Condominium Act is appropriate, in that the Plan of Common Element Condominium conforms to the existing Official Plan policies and Zoning By-Law regulations and is subject to a registered Subdivision Agreement;  

AND WHEREAS on January ___, 2010, City Council approved the application for Plan of Condominium (File No. D07-008-2007) submitted by SBL Kingston Inc., with respect to the Common Element Condominium constructed at 645 John Counter Boulevard, and SATISFIES Section 9. (2) of the Condominium Act and the provisions of Sections 51 and 51.1 of the Planning Act;  

AND WHEREAS the approval of City Council was subject to the Owner entering into a Common Element Condominium Agreement with the City, which Agreement is to reference the conditions from the registered Subdivision Agreement and to advise the Condominium Corporation of its responsibility to fulfill any conditions not completed by the Developer;  

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the approval of the Common Element Plan of Condominium and the sum of ONE DOLLAR ($1.00), receipt of which is hereby acknowledged, the Owner for itself and for all successors in title, hereby agrees with the Municipality as follows:  

1. PRIOR TO THE REGISTRATION OF THE CONDOMINIUM DECLARATION, the Owner shall submit a written report from a consulting professional (Engineer, Architect, Ontario Land Surveyor) confirming that the Common Element has been completed in conformity with the approved site plans and the Registered Subdivision Agreement and any amendments thereto. Any matters which will not be completed prior to the Registration of the Condominium Declaration and are to be assumed by the Condominium Corporation shall be clearly outlined in writing in the Report.
2. **Purchasers are hereby advised** that this Plan of Condominium is subject to a **Subdivision Agreement**, dated January ___, 2010, which Agreement was registered on title January ___, 2010 as Instrument No. FR__________. The Condominium Corporation shall be responsible for maintaining the required works as shown on the approved Subdivision Plans listed in the Subdivision Agreement and shall be responsible for completing any required works not completed prior to the registration of the Condominium Declaration.

3. Wherever this Agreement states “the Owner shall…..”, this shall mean at the Owner’s expense.

4. The Owner shall pay to the Municipality the cost of registration of this Agreement as well as the cost of any grants of easement relative thereto.

5. It is agreed between the parties hereto that every covenant, proviso and Agreement herein shall enure to the benefit of and be binding upon the parties hereto, and their heirs, executors, administrators, successors and assigns; that all covenants herein shall be construed as being joint and several and that, when the context so requires or permits, the singular number shall be read as if the plural were expressed, and the masculine gender as if the feminine or neuter gender, as the case may be, were expressed.

**IN WITNESS WHEREOF** the parties hereto have affixed their Corporate Seals, under the hands of their proper signing officers, duly authorized in that behalf.

**SIGNED, SEALED AND DELIVERED**

in the presence of

**SBL Kingston Inc.**

_________________________
Jeff Wilson
(I have the authority to bind the Corporation)

**THE CORPORATION OF THE CITY OF KINGSTON**

_________________________
Mark Gerretsen, Acting Mayor
(We have the authority to bind the Corporation)

_________________________
Carolyn Downs, City Clerk
CONDOMINIUM AGREEMENT
SBL Kingston Inc. – 645 John Counter Boulevard (River Park Subdivision)

SCHEDULE “A”

DESCRIPTION

Parcel One
Part of Lots 6 and 7, Concession West of the Great Cataraqui River, Part of the Bed of Cataraqui River in Front of Lot 6, Concession West of the Great Cataraqui River, shown as Parts 1, 2 and 3 on Plan 13R-19167.

Parcel Two
Part of Lot 6, Concession West of the Great Cataraqui River, shown as Part 1 on Plan 13R-19020;

Save and except Part 1 on Plan 13R-18788

Together with an easement over Part of Lot 6, Concession West of the Great Cataraqui River, shown as Part 1 on Plan 13R-18788, as in Instrument FC50756

Parcel Three
Part of Lots 6 and 7, Concession West of the Great Cataraqui River, shown as Parts 1 to 10 on Plan 13R-19021;

Save and except Parts 2 and 3 on Plan 13R-18788;

Subject to an easement in favour of The Canadian National Railway over Part of Lots 6 and 7, Concession West of the Great Cataraqui River, shown as Parts 2, 3, 5, 6, 9 and 10 on Plan 13R-19021, as in Instrument FR719095;

Subject to an easement in favour of The Corporation of the City of Kingston over Part Lot 6, Concession West of the Great Cataraqui River, shown as Parts 4, 5 and 6 on Plan 13R-19021 as in Instrument FC50753;

Together with an easement over Part Lot 6, Concession West of the Great Cataraqui River, shown as Parts 2 and 3 on Plan 13R-18788 as in Instrument FC50755.