EXECUTIVE SUMMARY:

The City was notified in a letter dated February 3, 2010 that the Official Plan, as modified by the Minister of Municipal Affairs and Housing, was approved and came into force on January 27, 2010 with the exception of four matters under appeal that were referred to the Ontario Municipal Board.

The four separate appeals to the Official Plan were lodged by three appellants in the following sequence:

1) On January 25th, 2010, 2103228 Ontario Inc. appealed the site specific policies of Section 3.18.36 regarding the Queen Street Dock;
2) On January 26, 2010, Kingston Terminal Properties filed two appeals with the first appeal pertaining to the policies of Section 3.4.E, Arterial Commercial, as they apply to 2237 Princess Street and the second appeal pertaining to the policies of Section 3.4.E, Arterial Commercial as they apply to the southwesterly corner of Princess Street and Taylor-Kidd Boulevard, including 2215 Princess Street; and
3) On January 26th, 2010, FoTenn Consultants Inc. on behalf of Ontario Realty Corporation (ORC) appealed a number of hydro service and facility related policies, specifically Sections 2.5.6; 3.1.1; 3.1.2; 3.8.10; 9.10.2; 10B.11.1; 10C.2.2; 10D-8(a) and 10D-8(d).

Since that time, Planning and Development staff and representatives of Legal Services have had meetings with each of the appellants and their representatives to discuss the nature of their appeals. In all cases, the discussions have been productive. A proposed agreement between the parties has been reached on the wording for changes to the policies and the map changes to the schedules of the Official Plan that will satisfy the concerns of the appellants. The Planning and Development Department believes that the proposed word and map changes represent good planning from the municipality’s perspective and maintain the intent of the Official Plan.
The wording and map changes have been set out in Minutes of Settlement. If City Council concurs, the Minutes of Settlement can then be presented to the Ontario Municipal Board at a Settlement Hearing. The Planning and Development Department recommends that Council consider settling all four of the appeals and adopt the recommended wording and map changes presented in the Minutes of Settlement and attached to this report.

RECOMMENDATION:

That the Council of the Corporation of the City of Kingston authorizes the Mayor and City Clerk to enter into the Minutes of Settlement, to the satisfaction of the Director of Legal Services, in order to settle the appeals to the City’s new Official Plan now before the Ontario Municipal Board (Case Number PL100149) regarding:

1) Ontario Realty Corporation on behalf of Ontario Hydro - various policies;
2) 2103228 Ontario Inc. – the site specific Queen Street Dock policies; and,
3) Kingston Terminal Properties - land use policies, Schedule 3-A designation and Schedule 3-D site specific map references affecting:
   a) 2237 Princess Street, being the 5.94 hectares of land located at the northwesterly corner of the intersection of Princess Street and Taylor-Kidd Boulevard; and,
   b) the 4.08 hectares of land located at the southwesterly corner of the intersection of Princess Street and Taylor-Kidd Boulevard, including 2215 Princess Street.

And further that the Council of the Corporation of the City of Kingston approve the policy wording changes to the Official Plan, the designation changes to Schedule 3-A, Land Use and the map changes to Schedule 3-D, Site Specific Policies to the Official Plan; all as set out in the Minutes of Settlement presented to Council in-camera and subject to final approval by the Ontario Municipal Board.

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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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

<table>
<thead>
<tr>
<th>Commissioner</th>
<th>Status</th>
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<tr>
<td>Terry Willing, Community Development Services</td>
<td>N/R</td>
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<tr>
<td>Denis Leger, Corporate Services</td>
<td>N/R</td>
</tr>
<tr>
<td>Jim Keech, President and CEO, Utilities Kingston</td>
<td>N/R</td>
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(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

Background to the Approval of the Official Plan

The new City of Kingston Official Plan is the result of an extensive process of consolidating the existing official plans. It also initiated supplementing the policies and mapping with information resulting from studies completed since amalgamation of the City of Kingston, the Township of Kingston and the Township of Pittsburgh, along with policy development resulting from the 2005 Provincial Policy Statement and changes to provincial legislation. Over three years, there were three drafts of the Official Plan available for public and agency review (November 2007, April 2008 and Fall 2008) and there were three rounds of extensive public consultation. The draft of the Official Plan was also circulated to the Ministry of Municipal Affairs and Housing and their partner ministries and agencies for initial comment and review prior to adoption.

Prior to adoption and in accordance with the provisions of the Planning Act and after giving required notice, a formal Open House was held by the City on June 8, 2009 for the purpose of making adequate information available to the public regarding the Official Plan. The Open House was followed by a formal Statutory Public Meeting, also held in accordance with the provisions of the Planning Act, by the Planning Committee at its meeting of June 18, 2009. The purpose of this meeting was to provide the public an opportunity to make representations in respect of the Official Plan. Prior to its adoption, Planning Committee received a formal report that summarized the public comments and staff provided discussion of each of the submissions.

The Official Plan for the City of Kingston Planning Area, as recommended to City Council by the Planning Committee of Council at its meeting of July 2, 2009, was adopted by the Council of the Corporation of the City of Kingston as By-law No. 2009-105 dated July 15, 2009.

The Ministry of Municipal Affairs and Housing formally reviewed the Official Plan, as adopted by City Council By-law No. 2009-105, and submitted a number of proposed modifications to the Plan that were outlined in a letter to the City dated November 6, 2009. The City reviewed the proposed modifications, proposed a number of City-initiated technical changes and responded to the Ministry in a resolution passed by City Council at its meeting of December 1, 2009. The Ministry of Municipal Affairs and Housing then issued a Notice of Decision on the Official Plan on January 6, 2010.

The City was notified in a letter dated February 3, 2010 that the Official Plan, as modified by the Minister of Municipal Affairs and Housing, was approved and came into force on January 27, 2010 with the exception of four matters under appeal that were referred to the Ontario Municipal Board.

Matters under Appeal to the Ontario Municipal Board

1. Ontario Realty Corporation (ORC)

   Ontario Realty Corporation (ORC) appealed a number of policies, specifically Sections 2.5.6; 3.1.1; 3.1.2; 3.8.10; 9.10.2; 10B.11.1; 10C.2.2; 10D-8(a) and 10D-8(d). Ontario Realty Corporation is responsible for the strategic management of the provincial government's land portfolio including both individual properties and those related to the transmission of electricity.

   In their correspondence, ORC provided suggested wording to the Official Plan policies. The main concern of ORC appeared to be that the Official Plan policies were not explicit enough in their requirements for consultation with Hydro One and Kingston Hydro. As well, ORC was concerned that some of the wording of the policies had the potential to preclude or limit the construction or operation of existing or potential hydro lands, corridors and transmission facilities.
Planning and Development staff met with the appellants and their representatives on February 25, 2010 to discuss the nature of their concerns. Staff provided comment on the ORC suggested wording set out in the appeal. At that time, the City also provided suggested wording for ORC’s consideration. After several rounds of negotiation and discussion on March 2nd, March 15th, and March 23rd, the final draft of the proposed wording was agreed to by both the City staff and ORC on March 30, 2010 to be followed up by confirmation correspondence from ORC. Planning and Development staff believe that the suggested revisions to the policies are minor in nature and do not substantially change the intent of the approved policies and serve to clarify the role of Hydro and mirror more directly the policies of the Provincial Policy Statement.

2. Numbered Company - 2103228 Ontario Inc. – Queen St. Dock
Numbered Company - 2103228 Ontario Inc. appealed the site specific policies of Section 3.18.36 for the Queen Street Dock. The main concern of the appellant appeared to be related to ensuring that the existing permissions for land use were carried forward into the new Official Plan. They suggested minor amendments in their appeal letter. Legal representatives of the City and Planning and Development staff met with the appellants on March 10, 2010 and discussed the suggested wording. Staff provided alternative wording for the appellant’s consideration.

As Council may recall, the existing site specific policies from the previous City of Kingston Official Plan were put into the new Official Plan with minimal changes. At the time, the City strategy was that the wording of the site specific policies in many cases was the result of OMB Hearings and by making changes to the policies there was an increased likelihood that the specific policies potentially could be reopened to new hearings.

In the case of the policies relating to the Queen Street Dock, staff took the opportunity in March to update the policies to tailor them to the latest approved development proposal on the site and removed wording that was no longer relevant. The staff suggestions to the site specific policy have been accepted by the appellant. In the opinion of Planning and Development staff these updated policies represent good planning, as they are consistent with the development proposal for the Queen Street Dock site approved in 2003.

3. Kingston Terminal Properties
Kingston Terminal Properties filed two appeals to the policies of Section 3.4.E, Arterial Commercial as they applied to two properties at the corners of Princess Street and Taylor-Kidd Boulevard. The first property described as 2237 Princess Street, and approximately 5.94 hectares in area, is located on the northwesterly corner of Princess Street and Taylor-Kidd Boulevard and is currently vacant. The second property, described as 2215 Princess Street and lands approximately 4.08 hectares in area, is located on the southwesterly corner of Princess Street and Taylor-Kidd Boulevard and is currently occupied by the Royal Motel. The sign in front of the property identifies the motel as closed.

The appellant in both letters of appeal requested that the Arterial Commercial Official Plan designation be amended by adding two site specific Arterial Commercial policies to reflect the specific uses on each of the properties that were granted through amendments to the zoning by-law in 1996. Both zoning amendments met the policies that were in place in the former Township of Kingston Official Plan.

Staff suggested to the appellant at a meeting on March 11, 2010 that the mix of uses on both properties is more in keeping with policies of the District Commercial designation currently in the Official Plan. Two site specific policies, changes to Schedule 3-A to redesignate the lands to District Commercial and changes to Schedule 3-D to add the two site specific area references were presented to the appellants at a meeting held on March 11, 2010. Staff opinion is that the location near several existing and proposed residential neighbourhoods and the surrounding land uses in this area are more in keeping with the District Commercial designation and the intent of the current Official Plan. The District Commercial designation is to provide a range of the most frequently needed commercial goods and services such as food shopping, in convenient and balanced locations throughout the City and serve the needs of the immediately surrounding neighbourhoods. In the opinion of Planning and
Development staff these updated policies represent good planning from the municipality’s perspective and maintain the intent of the Official Plan.

Exhibits “A”, “B”, “C”, “D”, “E” and “F” set out the amending policies and map schedule changes to the City of Kingston Official Plan that staff recommend.

EXISTING POLICY/BY-LAW:

N/A

NOTICE PROVISIONS:

N/A

ACCESSIBILITY CONSIDERATIONS:

N/A

FINANCIAL CONSIDERATIONS:

N/A

CONTACTS:

Hal Linscott, Director, Legal Services, ext. 1296
George Wallace, Director of Planning and Development, ext. 3252
Cherie Mills, Manager, Policy Planning, ext. 3289
Hugh Gale, Senior Special Projects Planner, ext. 3288

EXHIBITS ATTACHED:

Exhibit “A” – Ontario Realty Corporation – Proposed Policies
Exhibit “B” – 2103228 Ontario Inc. – Proposed Policies
Exhibit “C” – Kingston Terminal Properties, 2237 Princess Street – Proposed Policies
Exhibit “E” – Kingston Terminal Properties, Official Plan Amendment to Schedule 3-A
Exhibit “F” – Kingston Terminal Properties, Official Plan Amendment to Schedule 3-D
Ontario Realty Corporation
Proposed Policies to the City of Kingston Official Plan

1. Policy 2.5.6.b. shall be replaced with:

2.5.6.b. The elevation report must be undertaken within the broader context of the study area shown on Figure 2 of the 1997 Westbrook Community Plan and in consultation with the appropriate Hydro authority.

2. Policy 3.1.1. shall be replaced with:

3.1.1. Municipal *infrastructure*, stormwater management facilities, small-scale electrical power transmission facilities, and oil and natural gas pipelines may be permitted in all land use designations, provided they can be made *compatible* with surrounding uses, and that all works are carried out in accordance with the Environmental Protection Act and other Ministry of Environment regulations. Electrical transmission and distribution *infrastructure* is permitted in any land use designation subject to Ministry of the Environment regulations and the applicable policies of the Provincial Policy Statement.

3. Policy 3.1.2. shall be replaced with:

3.1.2. Transmission corridors and pipelines must be planned for and protected in accordance with the Provincial Policy Statement and may be zoned in a separate utility zone. The use of service rights-of-way and utility corridors by multiple utilities is encouraged.

4. Policy 3.8.10.d. shall be replaced with:

3.8.10.d. where the proposal is adjacent to a shoreline area, the applicable policies of Section 3.9 and also the Harbour policies in Section 3.9.A of this Plan must be reviewed and where the subject lands are adjacent to a hydro transmission corridor, the appropriate Hydro authority must be consulted.

5. Policy 9.10.2. shall be replaced with:

9.10.2. The City will work with Utilities Kingston, Kingston Hydro and other providers of *infrastructure* to co-ordinate works and *infrastructure* improvements.

6. Policy 10B.11.1. shall be replaced with:

10B.11.1. All utility services, including telephone, cable and hydro facilities must be installed underground to enhance the urban form and streetscape, where feasible.
7. Policy 10C.2.2. shall be retained without amendment.

8. A new policy shall be added as 10C.2.3:

10C.2.3. Electrical transmission and distribution *infrastructure* is permitted in any land use designation subject to Ministry of the Environment regulations and the applicable policies of the Provincial Policy Statement.

9. Existing policy 10C.2.3. shall be renumbered to 10C.2.4, without further amendment.

10. Policy 10D.8.a. shall be replaced with:

Section 10D.8.a. **Permitted Uses in All Designations**

**GENERAL POLICIES**

The following policies apply to all designations:

a. in all land use designations, except the Environmental Protection Area, public utilities, public uses, parkettes, and pathways are permitted provided such uses are necessary in the area, and are or can be made *compatible* with their surroundings. The existing gas pipeline and Hydro corridor and any approved stormwater management works are permitted in the Environmental Protection Area and any future electrical transmission and distribution *infrastructure* will be permitted in any land use designation subject to Ministry of Environment regulations and the applicable policies of the Provincial Policy Statement.

11. Policy 10D.8.d. shall be replaced with:

10D.8.d. The term Public Utilities means public services supplied to or available for use or consumption by the public. Public Utilities include uses such as: roads; water reservoir and/or tower; water mains; water pumping stations; sewers; sewage pumping stations; stormwater management facilities; power lines; hydro substations; hydro transmission lines; transformer or distribution station; any telephone, cable television or telegraph company lines; exchanges; towers; and, any natural gas or oil pipeline distribution system operated by a company which possess all the necessary powers, rights, licences and franchises.
Numbered Company - 2103228 Ontario Inc.
Proposed Policies to the City of Kingston Official Plan

1. Policy 3.18.36. shall be replaced with:

The former dock and appurtenant land base located at the foot of Queen Street east of Ontario Street is recognized as a special policy area within the Downtown and Harbour Special Policy Area. The Environmental Protection Area designation along the edge of the dock is shown on Schedule 3-A of this Plan in order to highlight the environmental elements of the shoreline in conjunction with the review of any development plans. This Plan recognizes that an approved land use and development framework for the Queen Street Dock was established as of October 28, 2003 by a site specific zoning approval. The City also recognizes its responsibility to permit the use and development of the dock and appurtenant land base in accordance with the approved zoning subject to Site Plan Control approval.

Should the intentions of the property owner be altered such that an amendment to this Plan and/or zoning by-law would be required prior to the issuance of any building permits by the City, the following alternative development policies shall apply:

a. the permitted uses shall include Harbour and Open Spaces uses, and in addition, a hotel;

b. the development of buildings and structures shall be encouraged to locate closer to the land side of the property and be limited in extending on to the dock;

c. reservation of the dock area for Open Space and marine uses shall be encouraged;

d. any development proposal shall be designed to minimize any impact on the viewplanes of City Hall Square, to protect the waterfront view from the end of Queen Street, and to incorporate the waterfront pathway as shown on Schedules 5 and DH-3 of this Plan;

e. as part of an overall development proposal, the placement of fill at the end of Queen Street may be considered subject to the applicable environmental assessment policies of this Plan; and,

f. the orientation of the development concept and any building design shall recognize the activity intensity of the adjacent ferry dock and ferry navigation route.
Kingston Terminal Properties, 2237 Princess Street
Proposed Policies to the City of Kingston Official Plan

1. The Official Plan shall be amended by adding the following Policy applicable to the 5.94 hectare parcel of land located on the northwesterly corner of Princess Street and Taylor-Kidd Boulevard:

3.18.39. The 5.94 hectare parcel of land located on the northwesterly corner of Princess Street and Taylor-Kidd Boulevard, shown on Schedule 3-D as Area No. 39, is designated District Commercial. In addition to the District Commercial designation, the Corridor policies of Section 2.3.3 and Section 2.4 also apply.

The permitted uses are outlined in Section 3.4.D of this Plan, and also include a hotel, a motel, convention centre, and business or professional offices.

The property will be developed in accordance with all applicable policies of this Plan, including the policies of Section 3.4 and Section 3.4.D, as well as in accordance with the following additional policies:

a. An overall plan for the entire site must be developed in accordance with Section 8.8 of this Plan, and address access, pedestrian and vehicular circulation, underground or structured parking, landscaping and improvements to the streetscape that will enhance pedestrian activity, amenities, and increased sustainability of the site;

b. Mixed use development on the site is encouraged, and retail uses may account for up to 2,000 square metres of gross leasable area for the overall development;

c. Buildings located adjacent to Princess Street may be up to a maximum of seven storeys high, provided the upper storeys are stepped back from the front wall of the building(s);

d. The height and location of buildings on the site that are not adjacent to Princess Street must be designed to ensure that any massing or shadow impact on abutting residential properties will be mitigated through setbacks, graduated height, and buffering.

2. The Official Plan Schedules shall be amended as follows:

a. Amend Schedule 3-A to re-designate the 5.94 hectare parcel of land located on the northwesterly corner of Princess Street and Taylor-Kidd Boulevard from “Arterial Commercial” to “District Commercial”; and,

b. Amend Schedule 3-D to identify the 5.94 hectare parcel of land located on the northwesterly corner of Princess Street and Taylor-Kidd Boulevard as Site-Specific Policy Area No. 39.
1. The Official Plan shall be amended by adding the following Policy applicable to the 4.08 hectare parcel of land at the southwesterly corner of Princess Street and Taylor-Kidd Boulevard:

3.18.40 The 4.08 hectare parcel of land at the southwesterly corner of Princess Street and Taylor-Kidd Boulevard, shown on Schedule 3-D as Area No. 40, is designated District Commercial. In addition to the District Commercial designation, the Corridor policies of Section 2.3.3 and Section 2.4 also apply.

The permitted uses are outlined in Section 3.4.D of this Plan, and also include a hotel, a motel, a convention centre, and business or professional offices.

The property will be developed in accordance with all applicable policies of this Plan, including the policies of Section 3.4 and Section 3.4.D, as well as in accordance with the following additional policies:

a. An overall plan for the entire site must be developed in accordance with Section 8.8 of this Plan, and address access, pedestrian and vehicular circulation, underground or structured parking, landscaping and improvements to the streetscape that will enhance pedestrian activity, amenities, and increased sustainability of the site;

b. Mixed use development on the site is encouraged, and retail uses may account for up to 2,000 square metres of gross leasable area for the overall development.

2. The Official Plan Schedules shall be amended as follows:

a. Amend Schedule 3-A to re-designate to District Commercial that portion of the 4.08 hectare parcel of land designated Arterial Commercial and located at the southwesterly corner of Princess Street and Taylor-Kidd Boulevard.

b. Amend Schedule 3-D to identify as Site Specific Policy Area No. 40 that portion of the 4.08 hectare parcel of land located at the southwesterly corner of Princess Street and Taylor-Kidd Boulevard to be redesignated from Arterial Commercial.
EXHIBIT 'E' - KINGSTON TERMINAL PROPERTIES

Address: 2215 Princess Street plus surrounding lands & 2237 Princess Street

Legal Desc: PLAN 60 PT LOTS 3 AND 4 AND CON 2 PT LOT 15; PLAN 60 PT LOT 1 PT LOT 2 RP 13R8473 PT PART 1; Portion of "KINGSTON CON 2 PT LOT 15 AND PLAN 60 PT LOTS 3 TO 9 RP 13R8473 PART 2″

Section 3-1 Schedule 3-A, Land Use City of Kingston

Legend:
- RESIDENTIAL
  - RESIDENTIAL
  - ESTATE RESIDENTIAL
- COMMERCIAL
  - CENTRAL BUSINESS DISTRICT
  - REGIONAL COMMERCIAL
  - MAIN STREET COMMERCIAL
  - DISTRICT COMMERCIAL
  - ARTERIAL COMMERCIAL
- EMPLOYMENT
  - BUSINESS PARK INDUSTRIAL
  - GENERAL INDUSTRIAL
  - WASTE MANAGEMENT INDUSTRIAL
  - AIRPORT
  - RURAL
    - RURAL AREA
    - PRIME AGRICULTURAL AREA
    - RURAL COMMERCIAL
- RURAL INDUSTRIAL
- MINERAL RESOURCE AREA
- OTHER
  - INSTITUTIONAL
  - DEFERRED AREA
  - OPEN SPACE
  - ENVIRONMENTAL PROTECTION AREA

ARMS 101108018008800; 101108018008400; 101108018008900

PREPARED BY: A. Dowker
DATE: April 13, 2010

Subject Lands
Subject Lands
SSP No. 39

Subject Lands
SSP No. 40

EXHIBIT 'F' - KINGSTON TERMINAL PROPERTIES

Address: 2215 Princess Street plus surrounding lands &
2237 Princess Street

Legal Desc: PLAN 60 PT LOTS 3 AND 4 AND CON 2 PT LOT 15;
PLAN 60 PT LOT 1 PT LOT 2 RP 13R8473 PT PART 1;
Portion of "KINGSTON CON 2 PT LOT 15 AND PLAN 60 PT
LOTS 3 TO 9 RP 13R8473 PART 2."

ARN: 101108018008800; 101108018008400; 101108018008900

Council Meeting 14 May 18, 2010