



**City of Kingston
Report to Council
Report Number 15-423**

To: Mayor and Members of Council
From: Cynthia Beach, Commissioner, Corporate & Strategic Initiatives
Resource Staff: Peter Huigenbos, Manager, Real Estate & Land Development
Date of Meeting: November 3, 2015
Subject: Kingston & the Islands Boat Lines Ltd Lease Renewals on
Crawford Wharf and Confederation Park

Executive Summary:

The City licenses the Crawford Wharf, the adjoining parking apron and a small portion of land in Confederation Park to Kingston & the Islands Boat Lines Ltd. (KIBL) for the provision of sightseeing and hospitality tours and cruises. The existing licenses expire in March 2016 and City staff and KIBL have negotiated new agreements subject to Council's approval.

Crawford Wharf is a very busy working dock that requires delivery of passengers, supplies, service vehicles, garbage collection, bus turnaround and drop off and trolley departures. It is a focal point for Kingston's vibrant tourism industry and as such needs to be carefully managed to support the tourism business while ensuring public access to, and the structural integrity of, the Wharf over the long term.

The new Wharf license agreement includes: the implementation of a new and improved commissary building and garbage/recycling area at KIBL's cost; permanent removal of the Papoose III on the north side dock; and a 10 year term at an increased annual fee, with a five year renewal option. The license agreement for the Ticket Booth in the park will be renewed concurrently with the Wharf license.

Recommendation:

That Council authorize the Mayor and Clerk to execute a license renewal agreement with Kingston & the Islands Boat Lines Ltd. to allow for the continued use of the Crawford Wharf and parking apron with the general terms and conditions detailed in this report for the period of April 1, 2016 to and including November 15, 2025, with an option to renew for one (1) additional period of five (5) years, in a form satisfactory to the Director of Legal Services; and

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That Council authorize the Mayor and Clerk to execute a license renewal agreement with Kingston & the Islands Boat Lines Ltd. to allow its continued use of land in Confederation Park for a ticket booth with the general terms and conditions detailed in this report for the period of April 1, 2016 to and including November 15, 2025, with an option to renew for one (1) additional five (5) year term, in a form satisfactory to the Director of Legal Services.

Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Cynthia Beach, Commissioner,
Corporate & Strategic Initiatives**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Community Services

Denis Leger, Transportation, Facilities & Emergency Services

Jim Keech, President and CEO, Utilities Kingston Not required

Desiree Kennedy, Chief Financial Officer & City Treasurer Not required

Options/Discussion:

Crawford Wharf

In 2001, the City acquired the Crawford Wharf at the foot of Brock Street from Transport Canada for the express purpose of “accommodating tour boat operations and activities associated therewith, and for providing public access to the Port.”

On May 1, 2002, the City subsequently entered into a license agreement with Kingston & the Islands Boat Lines Ltd. (KIBL) which granted KIBL the exclusive use of portions of the Crawford Wharf and the apron for its day sightseeing and hospitality cruise line operation. KIBL currently docks four boats at the Wharf, three of which are used for sightseeing tours and one of which, known as the “Papoose III” is used for storage of equipment and supplies related to its operations. Portions of the Wharf are used for a storage building and garbage/recycling bins and the apron is used for parking. KIBL has use of the parking area annually from May 1 to October 31 for its boat line operations and maintain six parking permits for the wharf from November 1 to April 30 each year at no additional cost.

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The term of the license agreement was initially five years commencing April 1, 2001 and expiring on March 31, 2006. KIBL has continued to use the wharf and apron since March 31, 2006 by way of two renewal periods approved by Council in 2009. The 2nd of the renewal periods is scheduled to expire in March 2016. KIBL has approached the City to negotiate a new 10 year agreement with a five year renewal option for use of the Crawford Wharf and apron as depicted in Exhibit A. A new renewal agreement has been negotiated between City staff and KIBL and has been signed by KIBL. City staff is seeking Council’s authorization to finalize the agreement based on the terms and conditions described within this report.

The original agreement negotiated was linked with the City’s acquisition of the Crawford Wharf from the Federal Government and the fees set at that time may or may not have reflected market rental rates. Since the agreement contained a renewal clause in favour of KIBL until March 2016, the earliest opportunity to update the terms and fee structure is now. In 2015, the City received a total of \$18,729.66, net of the annual adjustment for water and sewer.

Under the agreement dated May 1, 2001, the City agreed to consider the feasibility of installing water and sewer services to the Crawford Wharf and there is a provision for an annual reduction in fees for each year that services are not available. Services have not been installed and City staff considers the feasibility of installing servicing low. Therefore, the annual reduction in fees, currently set \$3,517 per year, has been negotiated out of the new agreement.

If the existing terms of the license continued into 2016, the City could expect to receive approximately \$19,000 in fees from KIBL. The new license agreement calls for the fees to start at \$19,000 + HST in 2016, with an average step up of 6% per year for the next three years, then 2% per year thereafter as follows:

Term Year	Annual Fee
2016	\$19,000.00
2017	\$20,300.00
2018	\$21,262.60
2019	\$22,815.97
2020	\$23,272.29
2021	\$23,737.74
2022	\$24,212.49
2023	\$24,696.74
2024	\$25,190.67
2025	\$25,694.49

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The annual fee is a negotiated rate and staff considers it fair and reasonable based on the business opportunity to the City. City staff based the negotiated rate on factors related to the City's commercial dockage rates at the neighbouring Confederation Basin and downtown monthly vehicle permit parking rates. Considering the unique circumstances of this operation and location, it is not directly comparable to other tour boat operators along the St. Lawrence River, namely Gananoque and Brockville.

The key changes to the new license agreement are highlighted as follows:

- Permanent removal of the Papoose III from the north side of the wharf, reducing KIBL's exclusive use of Wharf berthage by approximately 25%;
- Elimination of all six (6) winter parking permits on the parking apron;
- Replacement of the existing small shed buildings with a new, portable structure in the same location at KIBL's cost;
- Relocation of the existing three (3) large garbage and recycling bins from the wharf to the apron at KIBL's cost;
- Implementation of access restrictions regarding types of vehicles on the wharf and where vehicles can operate on the wharf to protect the structural integrity of the Wharf;
- An expansion of the annual operating period from May 1-October 31 to April 15-November 15 to recognize practical needs of the operation;
- Recognition by KIBL of the use of the parking apron as an unofficial turnaround location for private tour busses visiting the downtown but not affiliated with KIBL; and
- Discontinuation of the Rebate for absence of sewer and water services.

The agreement is for a ten (10) year term with an option to renew for a further five (5) year term at rates to be negotiated.

KIBL has expressed an interest in updating its site improvements to support its commercial boat tourism operation. As conceptually shown in Exhibit B, KIBL has plans for a new commissary building to replace the current structure which is past its lifecycle. The commissary building provides storage for items used in the operation of the three tour boats, including glassware and dishware, cleaning supplies, linens and a walk-in cooler.

In order to facilitate any necessary dock structural maintenance, the commissary building is to be a portable building with a more attractive façade that fits in with the nautical location. In order to keep heavy truck traffic to a minimum, the new agreement also calls for the garbage facility to be relocated to the west of the commissary building on the apron rather than on the dock itself.

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Staff recommends the replacement of the commissary building but will allow the site plan approvals process to determine the final details of the building and garbage location. Additionally, structural design details will be prepared by KIBL and reviewed by City staff in the Facilities Management & Construction Services to ensure the design meets the specifications required to protect the Wharf's surface and subsurface. The concepts provided in Exhibit B have been prepared by KIBL and are subject to change through the planning process based upon comments from all City departments. KIBL's plan is to have the improvements completed by April 1, 2016 in time for the new boating season.

KIBL is responsible for all costs related to the improvements save and except one consideration by the City. If, within the first five years, the City requires the portable building to be relocated or temporarily relocated for regular or emergency repairs to the Wharf, the City will be responsible for the costs of relocation. After the first five years, KIBL is responsible for the relocation costs. The City has no plans to make regular repairs or maintenance to that area of the Wharf in the next five years.

Ticket Booth

Complementary to its boat line operation, KIBL owns and occupies a ticket booth located in Confederation Park. Exhibit 'C' indicates the location of the ticket booth and surrounding area used by KIBL. The initial land lease dates back to 1980. The original kiosk was replaced in 1989 with the current ticket booth building.

A renewed license agreement has been negotiated, under which KIBL will continue to pay fees plus property taxes. The agreement commences on April 15, 2016 and expires November 15, 2025. Fees during the first year of the term are \$3,534.65 + HST and will increase annually by 2%. The 2016 fee amount is a 2% increase over the 2015 rate. The annual fee represents a reasonable land lease rate for the City, based upon recent vacant land sales in the downtown.

KIBL has the option to enter into a new agreement with the City for one five-year period upon the same terms except for fees which will be negotiated. This license agreement is co-terminus with the agreement for the Crawford Wharf.

Upon the expiration or early termination of the license agreement, the City has the right of first refusal to purchase the building at fair market value. This has been a long standing condition in previous agreements. In the event that the City chooses not to exercise its right, and provided that the City has entered into an agreement with a new licensee effective as of the date of expiry, and further provided that if the building is in good state of repair, and if KIBL is not in default, KIBL then has the right to sell the building to the new licensee. Should neither of these options be affected, then, at the City's option, KIBL will remove the building and make good the land.

The license also includes a cancellation option in favour of the City should the licensed land be required for municipal purposes.

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Waterfront Master Plan

The Waterfront Master Plan, currently being prepared for Council approval, considers a vision and strategy to improve the public space of both the Crawford Warf and Confederation Park.

The vision for Crawford Warf includes the provision for a small service building that would support private commercial dock functions which is in keeping with the proposed lease hold improvements. The City has retained flexibility in the terms of the lease to allow for future unimpeded renovation of the public space including consideration of the support building, at such time.

The vision for a renovated Confederation Park includes the provision of modern consolidated vendor kiosk buildings which could accommodate the KIBL ticketing and other vendors' functions, subject to leasing approval. The City has retained flexibility in the terms of the KIBL lease to allow for the future unimpeded renovation of the park including consideration of the removal of the current ticket booth, at such time.

The recommended timeline for the renovation of the park and Wharf has yet to be presented publically for consideration, however, it is expected that works on these sites may be beyond the proposed ten year lease. The Waterfront Master Plan is expected to be presented to Council for approval this winter.

Existing Policy/By-Law:

These agreements comply with the Revenue Leasing and Licensing Policy, last revised on December 20, 2011.

Delegated Authority By-law 2014-141 could not be used to execute the license renewals because the term exceeds the 10 year maximum term, including all renewals, as per section 3(c) of the by-law.

Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

The increase in annual fee revenues reflected in each new license will be reflected in annual operating budgets.

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Contacts:

Peter Huigenbos, Manager, Real Estate & Land Development

Other City of Kingston Staff Consulted:

Speros Kanellos, Director, Facilities Management and Construction Services

Luke Follwell, Director, Recreation & Leisure Services

Exhibits Attached:

Exhibit 'A' – Location Map of Crawford Wharf Licensed Area

Exhibit 'B' – Existing Condition Photographs and Proposed Concepts of KIBL's improvements

Exhibit 'B' – Location Map of Ticket Booth in Confederation Park

Holiday Inn

CRAWFORD WHARF KINGSTON, ONTARIO

Lake Ontario

Parking
Apron

Wharf

Berthage

Brock St.

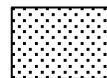
Confederation Park



Exclusive License -
May 1st to Oct 31st (Parking Apron)
Apr 15th to Nov 15th (Berthage)



Exclusive License - Service
Building - Year Round



Non - exclusive
License (Wharf)

5 m 0 10 20 30 m



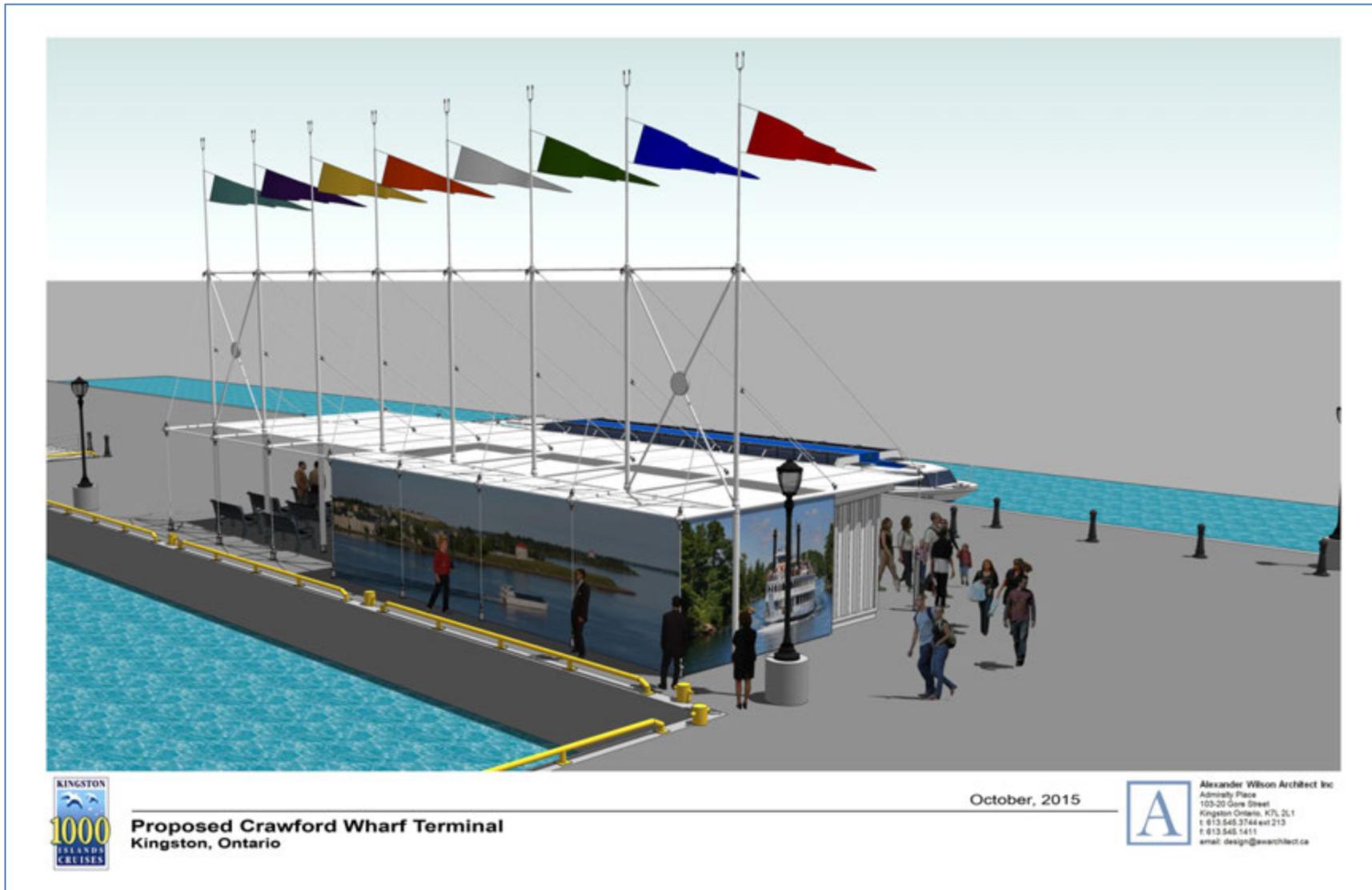
Existing conditions, looking Northeast



Proposed concept, looking northeast



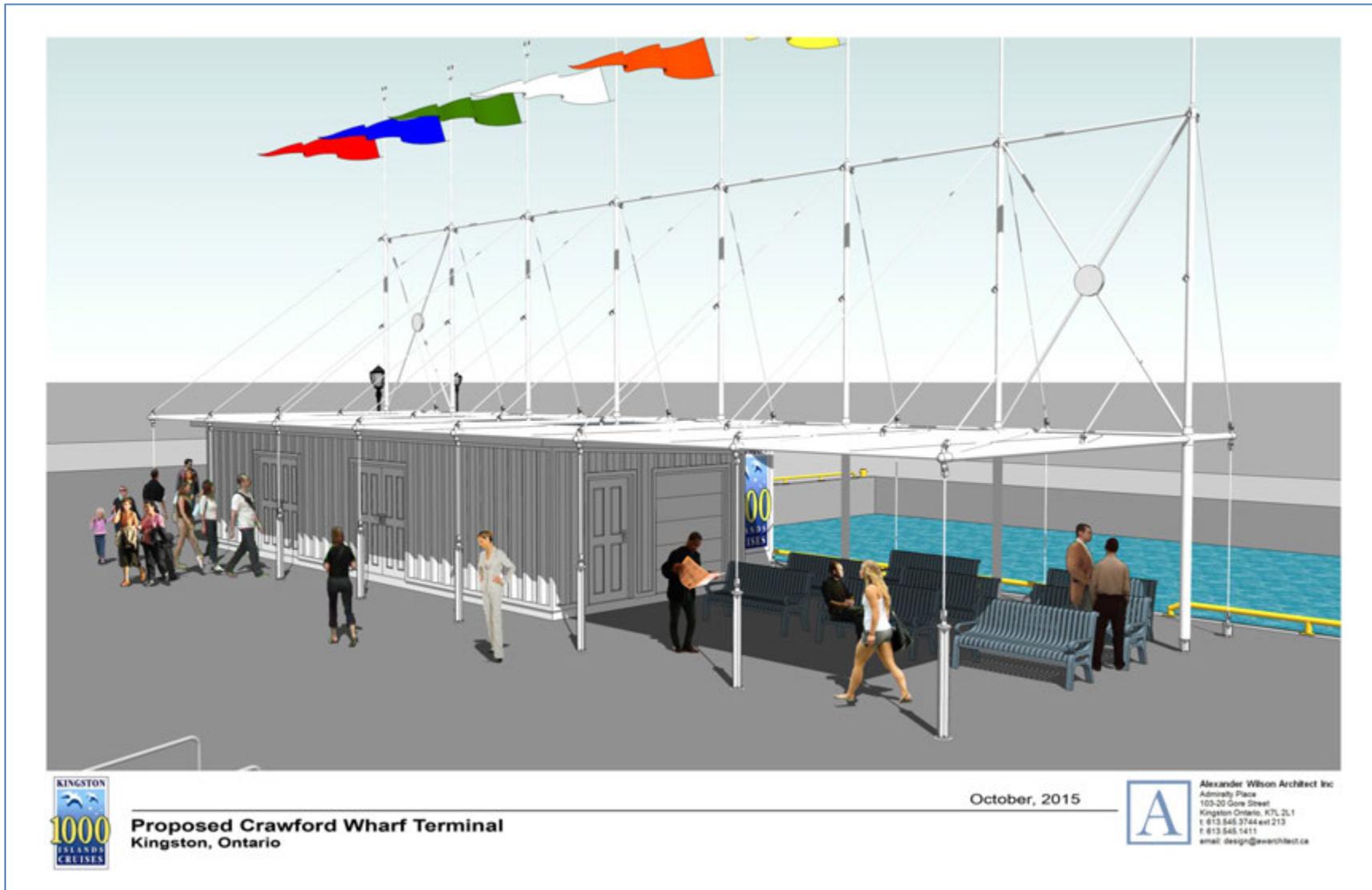
Existing conditions, looking southeast



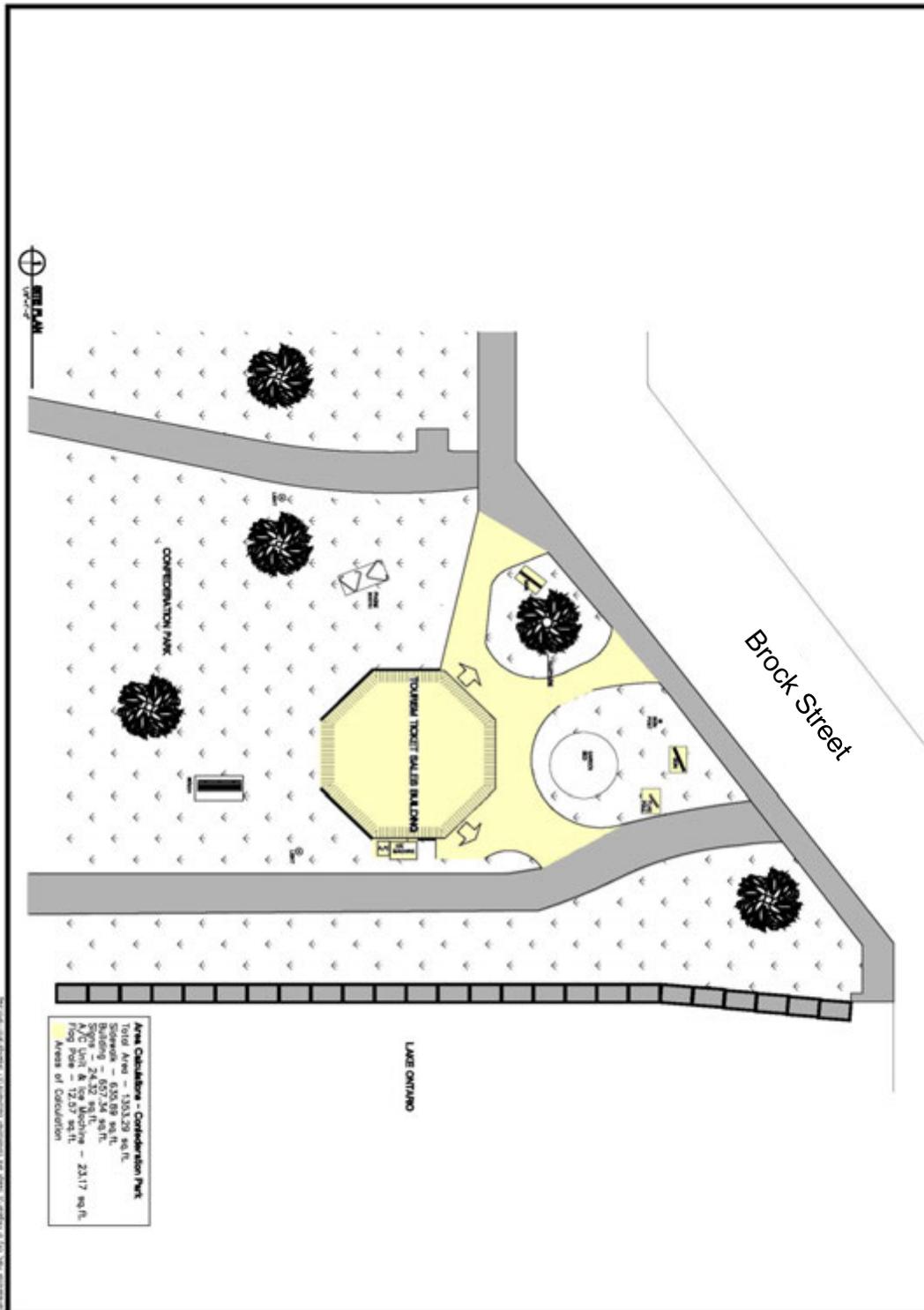
Proposed concept, looking southeast



Existing conditions, looking northwest



Proposed concept, looking northwest



Area Calculations - Confederation Park

Total Area	143,328 sq. ft.
Site Area	630,89 sq. ft.
Building	607,34 sq. ft.
Open	24,52 sq. ft.
Pool	17,27 sq. ft.
Area of Occupation	2317 sq. ft.

Project
Confederation Park
Site Survey

Location
Ontario Street
Kingston, Ontario

Drawing
As Found
Site Plan

Client
City of Kingston

sza
Shoalts and Zaback Architects Ltd

Certificate of Practice Number: 2438

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Drawn by L. Coves	Date September 29, 2008
File Name 8101-SPO1	Scale 1/16"=1'-0"
Client Project	Drawing Number

Project: 8101-SPO1 Revision: 1