



**City of Kingston
Report to Council
Report Number 17-021**

To: Mayor and Members of Council
From: Peter Huigenbos, Director, Real Estate & Environmental
Resource Staff: Paul MacLatchy, Environment Director, Real Estate & Environmental Initiatives
Date of Meeting: December 20, 2016
Subject: Application for Brownfield Property Tax Financial Assistance
661 Montreal Street, File Number 2016-04BD

Executive Summary:

This report recommends approval of brownfield financial tax rebate benefits of up to \$584,590 to 1880561 Ontario Inc. in exchange for the remediation and redevelopment of the failed tax sale brownfield property at 661 Montreal Street, and the approval of by-laws and execution of agreements for that purpose.

The applicant's proposed project is within Brownfield Project Area 1A and will require the management, remediation and risk assessment of environmental contaminants and involve the redevelopment of the property into a modern 3 or 4 storey building with commercial uses. Completion of the proposed project is expected to require an investment by the developer of approximately \$1.5 million. Staff estimate that when completed, the proposed development's average annual property tax uplift would be approximately \$83,600.

Planning approvals will be required for this proposed development and will be subject to the normal technical review by staff, to be presented within a report to the Planning Committee as appropriate.

The recommendations made within this report do not prejudice the Planning Committee or Council in their ability to make any decisions related to approvals under the Planning Act. Should planning approvals not be obtained or should the terms of planning approvals require significant changes to the proposed redevelopment, the Brownfield Site Agreement and associated by-laws that are the subject of this report may require amendments that would be subject to further approvals from City Council.

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Recommendation:

That Council approve the Brownfield Property Tax Financial Assistance Application submitted by 1880561 Ontario Inc., owner of the property at 661 Montreal Street, for an amount not to exceed \$584,590 subject to the establishment of, and in accordance with the terms and conditions of a Brownfield Site Agreement; and

That a by-law be presented to Council for all three readings that establishes the property as eligible to receive future property tax rebates under the Tax Increment Rebate Grant Program (TIRGP) subject to a Brownfield Site Agreement between the owner and the City; and

That staff be directed to negotiate a Brownfield Site Agreement with 1880561 Ontario Inc., establishing the terms and conditions governing the payment of the Brownfields Rehabilitation Grant for the redevelopment of 661 Montreal Street, consistent with the terms set out within Report Number 17-021; and

That the Mayor and Clerk be authorized to execute the Brownfield Site Agreement in a form satisfactory to the Director of Legal Services.

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Authorizing Signatures:

ORIGINAL SIGNED BY DIRECTOR _____

Peter Huigenbos, Director, Real Estate & Environmental Initiatives

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER _____

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Commissioner, Community Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	<input checked="" type="checkbox"/>
Denis Leger, Commissioner, Corporate & Emergency Services	Not required

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Options/Discussion:**Background**

661 Montreal Street is a small property contaminated from previous commercial uses that was abandoned by the previous owner, sat derelict with unpaid property taxes for approximately 20 years, and was sold to the current owner through a failed tax sale Request for Proposals process approved by City Council in 2013 ([Report Number 13-172](#)).

To support the proposed remediation and redevelopment of the property at 661 Montreal Street, the owner (1880561 Ontario Inc.) has submitted an application for Brownfield Property Tax Financial Assistance under the TIRGP of the City of Kingston's Brownfield Community Improvement Plan (CIP). The property's most recent use was as a commercial operation of distributing extermination and fumigation products and services, with associated parking to the north and loading dock area at the rear to the east. The property is within Project Area 1A of the City of Kingston's Brownfield CIP and is therefore eligible to apply for these benefits.

1880561 Ontario Inc. previously submitted an application for a Brownfield Initial Study Grant (ISG) which was approved by City Council on November 18, 2014 ([Report Number 14-349](#)). The grant amount approved was \$20,000 which was 50% of the estimated cost for a supplemental Phase II Environmental Site Assessment (ESA) and Site Specific Risk Assessment work.

Staff also worked with the owner to assist in their successful acquisition of a grant for \$40,381 from the Federation of Canadian Municipalities' Green Municipal Fund (GMF). The GMF grant amount will be deducted from the requested amount of Brownfield Property Tax Financial Assistance.

Proposed Remediation and Redevelopment

The applicant's property is contaminated with pesticides, metals, volatile organic compounds (VOCs) and polycyclic aromatic hydrocarbons (PAHs) within the soil and groundwater that are present due to past land uses. The applicant is proposing to remediate the contaminated soil and groundwater conditions using a combination of contaminant removal and site specific risk assessment so that the Ministry of Environment and Climate Change (MOECC) standards for industrial/commercial land use are met, and a Record of Site Condition (RSC) is obtained.

The proposed remediation plan will include the following major components of work that are eligible for financial assistance through the property tax rebate under the City's Brownfield CIP program:

- Completion of Site Specific Risk Assessment and Risk Management Plan;
- Human Health Risk Assessment;
- Ecological Risk Assessment;
- Excavation, removal and disposal of up to approximately 4,400 tonnes of contaminated soils;
- Construction of engineering controls to enable industrial/commercial occupancy as per a MOECC approved Risk Management Plan; and
- Monitoring of groundwater and indoor air quality.

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The estimated cost to implement the proposed remediation plan is \$585,000.

The proposed redevelopment is estimated to require an investment by the developer of \$1.5 million and is to include up to 22,500 square feet of commercial space within a 3 to 4 storey building, 24 parking spaces, and associated amenity space and lobby areas.

The City owns adjacent lands to the south of this property. In 2014 the City and the property owner entered into a license agreement to permit the owner non-exclusive ingress and egress over the city lands to access the rear yard of the property. The owner pays an annual fee for the license agreement.

The recommendations made within this report do not prejudice the Planning Committee or Council in their ability to make any decisions related to approvals under the Planning Act. Should planning approvals not be obtained or should the terms of planning approvals require significant changes to the proposed redevelopment, the Brownfield Site Agreement and associated by-laws that are the subject of this report may require amendments that would be subject to further approvals from City Council.

The Brownfields Financial Tax Incentive Program (BFTIP)

The Brownfields Financial Tax Incentive Program (BFTIP) is a component of the City of Kingston's Brownfield CIP and allows for the cancellation of municipal and educational portions of property taxes for approved brownfield projects for up to 18 months during each of the remediation and redevelopment phases of a project. The cancellation of the education portion of taxes must also be approved by the Ontario Minister of Finance.

The proposed development will achieve a clean-up as well as a Record of Site Condition in a relatively short period of time; therefore, an estimated tax cancellation of a relatively low amount of \$5,845 in municipal and \$2,820 in educational portions of property tax cancellation could be realized.

Due to the relatively small amount of property tax cancellation estimated to be available to this project, and because the applicant is projected to recover their total eligible rehabilitation costs, this report does not recommend approval of property tax cancellation under the BFTIP portion of the Brownfield CIP.

The Tax Increment Based Rehabilitation Grant Program (TIRGP)

The TIRGP is the component of the City of Kingston's Brownfield CIP that enables the rebating of a portion of the future (post-redevelopment) municipal property taxes back to the owner once the project has been completed, so that the owner can recover eligible remediation costs over time. The TIRGP allows for the annual rebating of up to 80% of the difference in the municipal portion of the property taxes between pre and post development. Rebating of the educational portion of property taxes is not permitted. The TIRGP rebates can continue annually for up to 10 years, or until eligible remediation costs have been recovered by the property owner, whichever is less.

The current value assessment of the lands subject to the redevelopment is \$94,000. Upon completion of the proposed development, staff estimate that the post-development valuation will

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increase to \$3.1 million. The municipal portion of the property taxes is estimated to increase from \$2,900 to \$83,600 annually, providing a pre to post development tax increment of \$80,700 per year. Therefore, 80% of this estimated annual municipal tax increment, or approximately \$64,600, would be available each year for rebate back to the owner until eligible costs have been recovered. The exact amount of rebate will change from year to year based upon changes to the assessed value and actual property tax amounts.

Based on the above, it is estimated that the total amount of eligible remediation costs for the proposed project will be recoverable in no more than 9 years following project completion, which is within the maximum 10 year eligibility period of TIRGP rebates.

The TIRGP rebate is assignable in the event that title to all of, or portions of the property, change from the current owner to a new owner within the period of the TIRGP rebates. In such an event, 1880561 Ontario Inc. must advise the City of Kingston of its intent to assign the benefit to a new owner, and must receive the City's consent to any such assignment.

Development Charge and Impost Fee Exemptions

An exemption of all or a portion of development charges or impost fees can be utilized where a proposed brownfield project's eligible remediation expenses are large enough in comparison to the proposed development that they cannot be recovered through tax rebates within the ten year window of the program. The applicant's estimated eligible remediation expenses are expected to be recovered within the ten year window and therefore development charge and impost fee exemptions are not recommended for this project.

Brownfield Site Agreement and Payment of Rebates

In order to set out and bind the applicant to the terms of an approved brownfield benefit program, a Brownfield Site Agreement will be executed between the City and the property owner. The Brownfield Site Agreement will require, among other things, that before any rebates are paid out the owner and/or developer:

- Is not in tax arrears;
- Is in compliance with all planning approvals granted by the City;
- Has paid out one full year of post-development property taxes; and
- Has submitted proof of the actual eligible remediation costs actually incurred along with confirmation from third party auditors.

Once the redevelopment has been completed and the owner has demonstrated they have met the terms of the Brownfield Site Agreement, City Council will be asked to authorize the start of rebates through the approval of a further TIRGP by-law.

Start of Eligibility and an Enabling By-Law

Other than those costs associated with work covered with the ISG, the proponent may not incur remediation costs that will be eligible for rebate until City Council has approved the owner's application for brownfield financial benefits.

If Council approves the owner's application for brownfield financial benefits, the approval is enacted through the passing of a brownfields by-law for the subject property, and the afore-

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mentioned Brownfield Site Agreement. The proposed draft brownfield by-law for the subject property is attached as Exhibit D to this report.

Economic Benefits to the Community

The proposed development is estimated to produce \$1.5 million in direct construction value. During the development of the site, direct and indirect economic benefits to the local economy will be experienced as a result of site remediation and the construction period through payroll, purchased materials, services and equipment rentals.

Approximately \$3.1 million in new commercial assessment could be added to the property tax assessment roll at full development. Staff estimate that average municipal property taxes of approximately \$83,600 per year can be expected at the completion of the project which, after the rehabilitation grant ends, would contribute to the City's general taxation revenues.

Existing Policy/By-Law:

Brownfield Community Improvement Plan, Brownfields Project Areas 1A, 1B, and 1C.

Notice Provisions:

Not applicable

Accessibility Considerations:

Not applicable

Financial Considerations:

It is estimated that the TIRGP will provide the owner with an average annual tax rebate of approximately \$64,600 at the completion of the proposed redevelopment and the total incentives over the estimated 9 year duration will not exceed \$584,590 less the grant from the Federation of Canadian Municipalities' Green Municipal Fund.

As per the Brownfield CIP, the City will credit the remaining 20% of the incremental property tax increase resulting from the redevelopment to the City's Environmental Reserve Fund during the same period as the TIRGP rebates are being paid, resulting in approximately \$146,100 expected to be generated toward the Environmental Reserve Fund over the 9 year duration of the TIRGP property tax rebate period.

Contacts:

Paul MacLatchy, Environment Director, Real Estate & Environmental Initiatives 613-546-4291 extension 1226

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Other City of Kingston Staff Consulted:

Nathan Richard, Project Manager, Brownfields

Jeff Walker, Manager, Taxation and Revenue, Financial Services

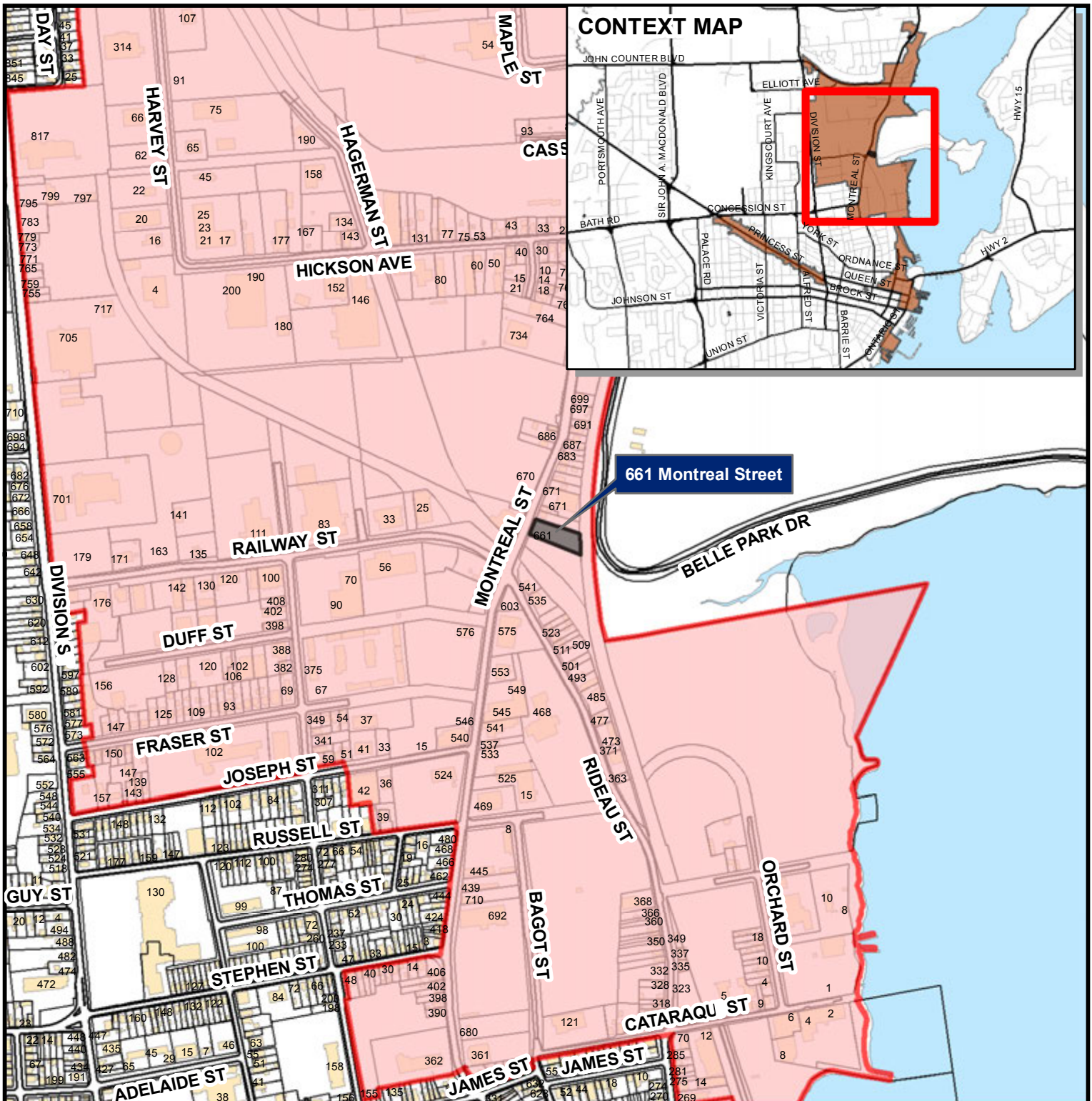
Exhibits Attached:

Exhibit A Site Location Map for 661 Montreal Street

Exhibit B Redevelopment Rendition

Exhibit C Tax Increment Cash Flow Projections

Exhibit D Draft Brownfields TIRGP Program By-Law for 661 Montreal Street

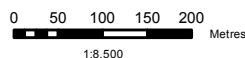


Planning, Building & Licensing Services




a department of
Community Services

THE CORPORATION OF THE CITY OF KINGSTON
Brownfield Project Areas

Project Area 1A
Address: 661 Montreal Street



LEGEND

-  Subject Property
-  Brownfield Project Area
-  Property Boundaries



PREPARED BY: K. Cruz
DATE: 9/30/2016

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Redevelopment Concept Plan for 661 Montreal Street



View – looking Southeast from Montreal Street

Tax Increment Cash Flow Projections for 661 Montreal Street

CASH FLOW PROJECTIONS

The following brief cash flow outlines the financial assistance anticipated should brownfield benefits be provided as recommended within this report.

Eligible Estimated Costs

Eligible Rehabilitation Costs, as per statements submitted	\$ 604,590
Less Approved Grants to date (Initial Study Grant)	<u>\$ (20,000)</u>
Balance remaining eligible for grants and/or rebates	\$ 584,590

BFTIP not recommended

Property Tax Increment per year (TIRGP)

Post-development estimated, average municipal property taxes 2018-2028	\$ 83,637
Less Pre-development municipal property taxes in 2016	<u>\$ (2,922)</u>
Tax Incremental per year (Pre to Post)	\$ 80,715

TIRGP Grant/Rebate per year

Annual average amount available for rebate through brownfields program = 80%*	\$ 64,572
Annual average amount directed to City's Environmental Reserve Fund = 20%*	<u>\$ 16,143</u>
	\$ 80,715

Estimated duration of TIRGP program (years)	9.0
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*based on an estimate of 2018 tax rates and assessment.

The rebates may change annually but the maximum funds granted are not to exceed this amount (Initial Study Grant has been excluded):	\$ 584,590
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All amounts shown above are estimates. An audit of actual costs incurred by the developer will be performed prior to the presentation of a final by-law authorizing the payment of annual grants.

By-Law Number 2017-XX

**A By-Law To Approve Brownfield Financial Benefits and Associated
Brownfield Site Agreement Pursuant to the Requirements Of The City Of
Kingston's Brownfield Community Improvement Plan Program For the
Property Known As 661 Montreal Street**

Passed: December 20, 2016

Whereas By-Law No. 2005-40, being "A By-Law to Designate Brownfields Project Areas 1A, 1B, 1C, 1D and 2 as Community Improvement Project Areas", as amended, pursuant to Section 28(2) of the *Planning Act*, was passed by Council on February 15, 2005;

Whereas By-Law No. 2005-41, being "A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A, 1B, 1C, 1D and 2" as amended, was passed by Council on February 15, 2005; and

Therefore it be resolved that the Council of The Corporation of the City of Kingston, pursuant to Section 28 of the *Planning Act*, R.S.O. 1990, and section 106(3) of the *Municipal Act*, 2001 S.O. 2001, c. 25, as amended, hereby enacts as follows:

1. That upon fulfillment of the terms of a Brownfield Site Agreement to be made between the City and the owner of the property comprised of two parcels and known as;
 - a. 661 Montreal Street; Part Farm Lot 2, Concession West Great Cataraqui River, Kingston; Part Farm Lot 3 Concession West Great Cataraqui River, Kingston, Part 2 & 3, 13R12434; S/T Execution 03-000111, If Enforceable; S/T Execution 99-000491, If Enforceable, Kingston, The County of Frontenac; and

shall be entitled to receive Initial Study Grant, Tax Increment-Based Rehabilitation Grant for eligible brownfield costs as described within the City of Kingston's Brownfield Community Improvement Plan in an amount not to exceed \$584,590, and

2. That this By-Law shall not fetter the City of Kingston's ability to make decisions in regard to any other matter related to applications made for the property in relation to the *Planning Act* of Ontario, and

3. That remediation costs eligible for rebate (eligible remediation costs) may be incurred by the owner as of the date of passing of this by-law, and
4. That this By-Law does not constitute approval of any future application to the Brownfield Community Improvement Plan Program, and
5. That this By-Law and the associated approval or payment of the Rehabilitation Grant does not constitute a municipal partnership in the redevelopment and the City is not assuming any management, care or control of the project by virtue of providing any grants assistance through the brownfields community improvement plan program, and
6. That this By-Law may be amended from time to time to incorporate other aspects of the Brownfields Community Improvement Plan Program that may become applicable to the subject property, and
7. That This By-Law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed: December 20, 2016

John Bolognone
City Clerk

Bryan Paterson
Mayor