



**City of Kingston
Report to Council
Report Number 21-188**

To: Mayor and Members of Council
From: Peter Huigenbos, Commissioner, Business, Environment & Projects
Resource Staff: Paul MacLatchy, Environment Director
Date of Meeting: July 13, 2021
Subject: Approval of Brownfield Financial Benefits for 2 River Street and 50 Orchard Street (Former Davis Tannery)

Council Strategic Plan Alignment:

Theme: 5. Foster healthy citizens and vibrant spaces

Goal: 5.3 Promote the redevelopment of brownfields properties on the Montreal Street Corridor.

Executive Summary:

The recommendations in this report follow on from Council's agreement, in principle, for an approach to providing brownfield financial benefits to the former tannery site ([Report Number 20-002](#), December 17, 2019) and Council's recent approval to amend the Brownfield Community Improvement Plan (CIP) to allow for increases in benefit levels and CIP timelines within a special Project Area created for the former tannery lands. This report recommends approval of brownfield financial benefits of up to \$63,888,235 in eligible costs to 2606609 Ontario Inc. (Jay Patry Enterprises) and Blaine Maurice Patry in exchange for the remediation and redevelopment of the brownfield property at 2 River Street and 50 Orchard Street, known as the former Davis Tannery, and the approval of by-laws and execution of agreements for that purpose. The recommended brownfield financial benefits are the sum of future tax rebates and exemptions from some or all costs related to development charges, tree and community benefits by-laws.

Based on the development model proposed and timeline for the rebate of estimated incremental taxes paid on the completed development, it is estimated that the total of all benefits will reach

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approximately \$50 million in 2021 dollars as per Exhibit C to this report. The applicant will be able to achieve larger rebates than those estimated above if property taxes increase over time (which is expected) or if changes are made to the types of units built (i.e. condominium versus apartment). Regardless of expected increases in property taxes over time, the maximum amount of rebate that will be allowed will be capped so that the maximum total benefit level of \$63,888,235 can not be exceeded.

The applicant's proposed project is within the newly created Brownfield Project Area 6 and will require the management, remediation and risk assessment of environmental contaminants and involve the redevelopment of the property into four phases consisting of mid-height residential buildings, some commercial space, waterfront parkland and interior roadways. The applicant is proposing approximately 1,500 new residential units in condominium and apartment formats. Environmental remediation of the property will involve physical removal of the most contaminated soils, sediment and groundwater and engineering controls such as clean soil caps and other methods in accordance with a Site-Specific Risk Assessment that must be completed by a Qualified Person and approved by the Ontario Ministry of Environment, Conservation and Parks (MECP).

Using conservative estimates, staff anticipate that when all four phases are completed, the proposed development's estimated annual municipal property tax uplift would be approximately \$4M per year in 2021 dollars. Given the exceptionally large cost associated with remediating the property relative to the incremental taxes generated, Council approved a special Project Area that provides an enhanced brownfield benefits model that includes typical future tax rebates and exemption of up to 50% of development charges. Council also approved a brownfield approach, in principle, that would provide relief from the tree by-law and community benefit costs. The proposed project will proceed in four development phases with each phase receiving up to ten years of incremental tax rebates. Completion of the redevelopment on all phases is anticipated by 2035, in which case, incremental tax rebates for the final phase may run until 2045, which is the current end date for the Brownfield CIP.

Payment of future tax rebates can only occur once a project phase has been successfully completed and must be supported by independently audited financial statements. Any request to start payment of future tax rebates will be subject to a future approval of City Council.

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 applicant must also resolve provincial permitting issues related to proposed environmental remediation that encroaches into the provincially significant wetland on the north portion of the property.

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 or other approvals not be obtained, or should the terms of approvals require significant changes to the proposed redevelopment, the Brownfield Site Agreement and

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associated by-laws that are the subject of this report may require amendments that would be subject to further approvals from City Council.

Recommendation:

That Council approve the application for Brownfield Assistance submitted by 2606609 Ontario Inc. and Blaine Maurice Patry, owner of the properties at 2 River Street and 50 Orchard Street that make up the former Davis Tannery site, for brownfield financial benefits that are not to exceed a total of \$63,888,235 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 and exemptions from up to 50% of development charges subject to a Brownfield Site Agreement between the owner and the City; and

That staff be directed to negotiate a Brownfield Site Agreement with 2606609 Ontario Inc. and Blaine Maurice Patry establishing the terms and conditions governing the implementation of brownfields financial benefits including future property tax rebates and development charge exemptions for the redevelopment of 2 River Street and 50 Orchard Street, consistent with the terms set out within Report Number 21-188; and

That the Mayor and Clerk be authorized to execute the Brownfield Site Agreement with 2606609 Ontario Inc. and Blaine Maurice Patry for the redevelopment of 2 River Street and 50 Orchard Street in a form satisfactory to the Director of Legal Services.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Peter Huigenbos, Commissioner,
Business, Environment &
Projects**

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Community Services

Brad Joyce, Commissioner, Corporate Services

Not required

Jim Keech, President & CEO, Utilities Kingston

Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer

Sheila Kidd, Commissioner, Transportation & Public Works

Not required

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Options/Discussion:**Background**

The former Davis Tannery lands are profoundly contaminated due to decades of use as a leather tannery and metal smelter during the nineteenth and twentieth centuries. Contamination from these former uses has impacted soils, sediments and groundwater on the property and the impact of historic dumping, air and effluent discharges, and sediment transport can be seen within the sediments of the adjacent provincially significant wetland (Orchard Marsh) and the Cataraqui River. The former Davis Tannery was shuttered and demolished in the late 1970's and aside from a failed clean-up and redevelopment efforts in the early 1980's, remained abandoned and in tax arrears until it was purchased by a private developer (Rideau Renewal Inc.) in 2006 as part of the City's nascent brownfields failed tax sale program. Rideau Renewal was not successful in their redevelopment effort and the property was sold to the present owner, 2606609 Ontario Inc. (Jay Patry Enterprises) and Blaine Maurice Patry in 2017.

Since acquiring the property, the present owner has been approved for an Initial Study Grant through the City's brownfield program ([Report Number 17-251](#)) to assist in the preparation of an up-to-date Phase II Environmental Site Assessment and environmental remediation workplan. This work was completed by the owner, and the \$20,000 grant was paid by the City.

The owner has also successfully applied for amendments to the Brownfield CIP that created a special project area for the tannery lands that enabled increased levels of brownfield financial benefits and increased program timelines that are commensurate with the exceptional degree of contamination and clean-up costs needed for environmental remediation and redevelopment. Approval of the requested CIP amendments was based on recommendations provided within a report to the Planning Committee ([Report Number PC-20-058](#)). The model for proceeding with designing amendments to the Brownfield CIP and for additional methods of support for the tannery redevelopment project were the subject of a further report to Council ([Report Number 20-002](#)) whereby Council provided support in principle for the brownfield financial approach and also approved exemption of the project from fees associated with the City's tree by-law and community benefits. Council's support, in principle, and exemptions were predicated on the owner achieving the planning approvals needed to proceed.

Applications for Official Plan amendment, zoning by-law amendment and draft plan of subdivision were also submitted in 2017 by IBI Group Incorporated on behalf of Jay Patry Enterprises Inc., with respect to the lands located at 2 River Street, 50 Orchard Street and an adjacent, unaddressed water lot (File Number D35-009-2017). The planning applications, as initially submitted, propose the division of the subject lands into four development blocks and open space and parkland blocks. Four 6-storey buildings with a total of 1,509 residential units and 4,961 square metres of ground floor commercial area on the four development blocks are proposed, with each building being completed as a separate phase. Private and public park space including a proposed plaza/pavilion style park is also proposed. A boathouse for the Kingston Rowing Club is proposed on the adjacent water lot. Significant revisions were made to the original redevelopment plans after consultations between the owner, the Planning

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Department and consultant, Brent Toderian. Recommendations associated with the planning applications are expected to be provided to the Planning Committee at a future date.

The location and extents of the subject property are shown on Exhibit A to this report.

Application for Brownfield Financial Benefits & Proposed Remediation

The owner has applied for brownfield financial benefits in order to recoup environmental remediation costs associated with the redevelopment of the property that is 2 River Street and 50 Orchard Street. The proposed tannery redevelopment consists of converting the former industrial lands to residential, commercial and parkland uses and, in Ontario, any conversion of lands from a less sensitive (industrial, commercial) to a more sensitive (residential, parkland, etc.) use must be supported by a Record of Site Condition (RSC), prepared by a Qualified Person (typically a qualified professional engineer). Following the environmental remediation of a property, an RSC is provided to the MECP for their review and acceptance. In situations where risk assessment is used to support an RSC (as is proposed for this project), the risk assessment procedures regulated by the Province must be followed and the risk assessment and engineering controls proposed to manage human health and ecological risks must be reviewed and approved by the MECP.

The applicant is proposing to remediate the lands of the former Davis Tannery using a combination of removing the most contaminated soils, sediments and groundwater and undertaking risk assessments to support the construction of engineering controls that will manage residual risks by preventing exposure of people and ecological receptors to remaining contaminants. Engineering controls are typically comprised of methods such as clean soil or impervious caps, barrier walls, enhanced building ventilation, groundwater control systems, maintenance and inspection requirements, and long-term monitoring to verify the success of the measures used. This is a common approach to the remediation of contaminated sites in Ontario and similar approaches have been used elsewhere with success in Kingston. The scale of the proposed remediation is large, and the applicant proposes to manage approximately 550,000 tonnes of contaminated and non-contaminated soil through offsite disposal, on-site stabilization and on-site re-use.

A notable aspect of the applicant's proposed remediation plan will be to manage an area of profound soil and sediment contamination that extends into the northern part of the property, known as the Orchard Marsh, which makes up a portion of the provincially significant wetland (PSW) known as the Great Cataraqui Marsh. The applicant is proposing to place a clean soil cover over the most contaminated portions of the upland and PSW areas within the tannery lands so that human and ecological exposure to these contaminants is prevented. The remediation of the wetland portion will result in the mitigation of an environmental hazard from the remaining wetland area and the potential redrawing of the PSW boundary to reflect the conversion of some wetland area to naturalized upland that would be created by placement of the clean fill cap. The wetland portion of the remediation plan will also require a risk assessment supported RSC that will be reviewed by the Ontario MECP. It is expected that upon completion of the remediation, the applicant will seek approvals to adjust the boundary of the PSW. An additional effect of adjusting the PSW boundary would be to shift the required PSW setback

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areas further north which could enable the applicant to obtain planning approvals for the portion of their lands that were formerly within PSW setback areas.

A detailed environmental remediation plan with estimated costs has been provided by the applicant to support their application for brownfield benefits. The plan and cost estimate have been reviewed by staff, with the support of a third-party peer review, and have been deemed to be reasonable and in conformance with the state of practice for the remediation of contaminated sites in Ontario.

Estimated Environmental Remediation Costs

The applicant has estimated their environmental remediation costs that could be eligible for recovery under the recently amended Brownfield CIP rules to be \$69,408,235. Deductions from the amount of eligible remediation costs that can be recovered through future brownfield financial assistance include brownfield grants that have already paid out (-\$20,000) and discounts in property purchase price realized by the owner due to it being a contaminated site (-\$5.5M). The resultant estimate of maximum remediation expense eligible for recovery is \$63,888,235.

The estimated environmental remediation costs for the tannery project are summarized below in Table 1.

Table 1: Breakdown of Estimated Eligible Environmental Remediation Costs

Activity	Estimated Cost
Environmental remediation (excavation, pumping, testing, disposal, treatment, etc.)	\$42,002,775
Placing clean fill, capping, and grading	\$4,417,073
Phase II & III ESA and risk assessment not covered by Initial Study Grant	\$293,375
Preparation of RSC and CPUs	\$105,815
Costs associated with long term environmental monitoring as per CPUs	\$3,833,372
Short term financing of environmental works	\$18,755,825
Sub-total of estimated environmental costs	\$69,408,235
Brownfield Initial Study Grants already paid by the City	-\$20,000
Estimated discount of property purchase price	-\$5,500,000
Total estimated environmental costs eligible for recovery	\$63,888,235

The estimated costs recognize the fourteen-year timeline over which remediation is expected to take place and includes a 1.81% annual allowance for inflation. Inflation was estimated using the average annual CPI increase for the four years between 2015 and 2019, as published by Statistics Canada. Short-term financing costs are the borrowing costs associated with undertaking the environmental remediation program from start until the production of an RSC. These short-term borrowing costs are expected to be approximately 5.25% and are higher than

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conventional construction financing because of the unsecured nature of work on contaminated lands. As described in the sections that follow, it is expected that the project will not likely be able to recover all their estimated environmental remediation costs through brownfield financial assistance available to them.

Recommended Brownfield Financial Benefits

As per the terms of the special Project Area approved by Council, this report recommends approval of the former tannery property for brownfield funding assistance through the Tax Increment Based Rehabilitation Grants Program (TIRGP) and through development charge exemptions, as well as the waiving of tree permit fees and community benefit contribution so that the estimated costs for environmental remediation may be partially recovered by the property owner.

The TIRGP is the program within 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. As per the recently amended Brownfield CIP, the TIRGP within Project Area 6 allows for the annual rebating of up to 90% 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 for each project phase, or until the project's total eligible remediation costs have been recovered by the property owner, whichever occurs first.

Current municipal property taxes on the tannery property are approximately \$3,800 per year. Based on the proposed redevelopments (200 residential condominium units, 1,300 residential apartment units and 50,000 square feet of commercial space), the estimated increase in municipal property taxes from current pre-development to post development is approximately \$1M per year for each of the four proposed phases for a project total of \$4M per year in 2021 dollars. Based on this, it is expected that a 90% rebate of the post-development municipal tax increase provided over the full 10-year period for each of the four phases would generate a minimum of \$36M in recovery to the applicant if the entire project is built as proposed. The actual recovery through tax rebates will likely be closer to \$46M when taking into account of inflationary adjustments on future tax rates. This is a trend that has been consistently observed with other approved brownfield projects.

The TIRGP rebate is assignable if title to all, or portions of the property, changes from the current owner to a new owner within the period of the TIRGP rebates. In such an event, the owner 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.

The TIRGP is not expected to enable full recovery of the applicant's incurred environmental remediation costs, therefore an exemption of up to 50% of development charges is also included as per the approved special Project Area in the Brownfields CIP. Development charges for the four phases of proposed development are estimated at approximately \$18M. To incent completion of the proposed project and to mitigate impacts to the City's development charge

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reserve fund, this report recommends that the 50% development charge exemption be implemented by providing exemption of development charges for the first and last of the four development phases. The payment of development charges is not due until building permit applications are made and so any exemption of development charges cannot occur until after environmental remediation within a particular development phase has been completed.

Council’s previous approval of additional financial support to this project ([Report Number 20-002](#)) allowed for exemption from costs associated with the City’s tree by-law and from community benefits. The total amount of brownfield assistance being provided to this project will consist of the benefits being recommend by this report (tax rebates and development charge exemptions) and those approved previously by Council (tree by-law and community benefit exemptions). The recommended rebates and development charge exemptions will be made so that the total amount of brownfield assistance provided will not exceed the actual amount of eligible environmental remediation costs incurred by the project. The amounts waived for tree permit and community benefits are also included in the maximum permitted benefit.

The amount of environmental remediation cost eligible for recovery through all methods of brownfield assistance must also consider the value of the project lands and whether the current owner acquired the lands at a price discounted for the presence of environmental contamination. The property was acquired by the current owner in 2017 for \$3.3M. In 2018 the City conducted an appraisal of the property’s value as if clean on the date of the purchase. The appraisal concluded the value of the property, if clean, would have been approximately \$8.8M, indicating a potential discount of approximately \$5.5M. The \$5.5M discount amount is subtracted from the total amount of eligible remediation costs to avoid a “double payment” scenario.

The estimated brownfield financial assistance versus eligible remediation costs over the span of the proposed remediation and redevelopment project is provided within Exhibit C. A summary of the eligible remediation costs and estimated benefits is found in Table 2 below.

Table 2: Summary of Eligible Remediation Costs vs Proposed Financial Benefits

Eligible Remediation Costs	Proposed Financial Benefits
Estimated eligible remediation costs to be incurred	- \$63.9 M
Development Charge exemptions	\$9.0 M
Tree By Law exemptions	\$1.0 M
Community Benefit By Law exemptions	\$4.5 M

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Eligible Remediation Costs	Proposed Financial Benefits
Future Tax Increment Rebate Payments	\$36 M to \$46 M
Total benefits to the developer	\$50.5 M
Difference	- \$13.5 M to - \$3.5 M

The projections in Table 2 align with previous reports to Council ([Report Number 20-002](#)) where staff estimated eligible remediation costs at \$66M and a partial recovery of those costs of \$49M to \$52M achieved through Brownfield financial benefits that include future tax rebates and exemptions from development charges (DC), community benefits and tree by-law costs.

The actual amount of benefits provided to the project will vary depending on future tax assessments and the values of DC, tree and community benefits by-law exemptions provided but under no circumstance will benefits provided exceed the lesser of actual remediation costs incurred or \$63,888,235.

Brownfield Site Agreement and Administration of Approved Benefits

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 TIRGP rebates are paid out to the owner and/or developer for each development phase, that the proposed project phase:

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

Once a redevelopment phase 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 for that phase through the approval of a further TIRGP by-law.

Start of Eligibility and an Enabling By-Law

Other than those costs associated with Phase II Environmental Site Assessment and Risk Assessment work not recovered by the Initial Study Grant (ISG), the owner may not incur remediation costs that will be eligible for TIRGP rebate until City Council has approved the owner’s application for brownfield financial benefits.

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

Affordability of Brownfield Benefits

The ability of the City to afford the brownfield financial benefits proposed in this report has been assessed in a semi-quantitative fashion. In the current status quo scenario (property remains as-is), the property remains an environmental hazard and generates virtually no annual tax revenue to the City while continuing to require municipal services (police, fire, public works, social services, etc.) associated with the derelict state of the land and its tendency to attract homeless individuals, setting of fires and other events requiring police, paramedic or fire responses.

Once constructed, the entire property as proposed will be home to 1,500 new residential units occupied by approximately 3,600 people (2.4 residents per unit). These new residents will be provided with municipal services and access to infrastructure paid for predominantly by municipal property tax revenues, user fees and development charges. Public utilities and utility infrastructure are paid for through a mix of user rates, development charges and revenues received as part of the project's construction.

During the 10-year brownfield tax rebate period for each of the project's four phases, the estimated annual net tax revenue increase to the City would be no less than \$100,000 which, per the Brownfield CIP, is directed to the City's Environmental Reserve Fund. Revenues derived from user fees and charges, enforcements, payments in lieu, and federal and provincial subsidies would not be affected by the brownfield benefits proposed in this report.

The foregoing of tax revenues from the proposed project during each ten-year rebate period (\$899,145/year) represents an approximately 0.35% shortfall of annual gross taxation revenues. Repayment of the brownfield tax rebates will be managed through the annual operating budget process, with consideration for city-wide assessment growth that is incremental to average annual projections.

Consistent with the goals of the Brownfield CIP and the information provided in [Report Number 21-161](#) (Lifecycle Fiscal Impacts of Development), the benefits to the City that would be received in exchange for this period of tax "subsidy" include the following:

- Creation of new residential development that, following completion of tax rebates, and based on the projected mix of development, will provide a net surplus with respect to property tax revenues versus costs for municipal services (based on estimates provided in Lifecycle Fiscal Impacts of Development report 21-161);
- Securing a future increase in tax assessment once tax rebates have been completed;
- Removal of terrestrial and wetland environmental hazards and associated stigma to neighborhood development;

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- Increase in infill style residential housing stock that is supported by existing transit and active transportation systems;
- Beneficial local economic impact due to construction;
- Development of new waterfront parkland including trails; and
- Beneficial support to environmental management of the Kingston Inner Harbour.

And finally, all Project Areas of the current Brownfield CIP program, except for Project Area 6 (The Tannery), will stop receiving new applications for brownfield financial benefits as of December 31, 2025, and end tax rebate periods on December 31, 2035, which will limit the increase in new obligations of the program over the projected term of rebates for the Tannery property (2025-2045). Brownfields that remain in the community that may make application before the 2025 sunset date are expected to be smaller by comparison to both the Tannery and the average seen for the program between 2005 and 2021 (~\$1.6M per project). As per the CIP amendment that created the new Project Area 6, the tannery property will be eligible to receive future tax rebates until the end of 2045.

Existing Policy/By-Law:

The subject lands are included within Project Area 6 in the [Brownfields Community Improvement Plan](#) (CIP). The City's Brownfields CIP has been in place since 2005 and has committed financial benefits of approximately \$31.3M (not adjusted for inflation) to 20 projects to remediate contaminated properties that were vacant or underutilized. Council recently approved an update to the Plan in 2017. The goals and objectives of the City's Brownfields Redevelopment Strategy include:

- a. Promoting the Rehabilitation, redevelopment and adaptive re-use and overall improvement of Brownfield Sites throughout Kingston in a fiscally responsible and sustainable manner over the long-term.
- b. Encouraging private sector investment in the Rehabilitation and redevelopment of Brownfield Sites by "levelling the playing field" with Greenfield Development through the financial incentives of the City's Brownfields Program and CIP.
- c. Maximizing the use of existing infrastructure, services, and facilities by encouraging the redevelopment and intensification of abandoned, underutilized and vacant sites.
- d. Revitalizing the downtown, neighbourhoods, and the waterfront.
- e. Increasing tax assessment and property tax revenue.
- f. Improving the physical and visual quality of Kingston.
- g. Increasing employment opportunities, economic activity, and investment.
- h. Improving the City's overall environmental health and public safety in areas where Brownfield Sites are located; and

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i. Increasing community awareness of the economic, environmental, and social benefits of Brownfield Site Rehabilitation and redevelopment.

The potential for the Tannery site to be rehabilitated and redeveloped meets the goals and objectives of the Brownfields CIP.

Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

Exhibit C provides projections of remediation costs, property taxes and rebates recoverable through the brownfield benefits program for the tannery project.

This report recommends that the Davis Tannery project be eligible to receive brownfield benefits of up to \$63,888,235 and that brownfield benefits provided by the City be the sum of previous brownfield initial study grants, grants from other sources (FCM), future municipal property tax rebates (TIRGP), development charge exemptions, tree by-law exemptions and community benefit exemptions.

If the applicant’s project is constructed as proposed, the following are the estimated benefit types and amounts that will be provided over the up to 40-year span of remediation, construction and tax rebating:

- Estimated future property tax rebates (not adjusted for inflation) \$ 35,966,000
 - 50% Development Charge exemptions 9,000,000
 - Tree By-Law exemption 1,000,000
 - Community Benefits exemption¹ 4,500,000
- \$ 50,466,000

The exemptions amounts described above are estimates and will not be confirmed until completion of the project’s development application process and until the time some fees

¹ As reported in Council Report 20-002, the value of community benefits exemption was estimated to be between \$3M and \$6M. The median value of \$4.5M was used for this estimate.

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become due. Confirmed amounts will be used to amend the Brownfield Site Agreement that governs the amounts and conditions of future tax rebates.

The applicant will be able to achieve larger rebates than those estimated above if property taxes increase over time (which is expected) or if changes are made to the types of units built (i.e. condominium versus apartment). Regardless of expected increases in property taxes over time, the maximum amount of rebate allowed will be capped so that the maximum benefit level of \$63,888,235 cannot be exceeded. Furthermore, if the actual eligible remediation costs are less, the maximum benefit permitted will not exceed the actual lower amount of remediation costs incurred.

Contacts:

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

Other City of Kingston Staff Consulted:

Brandon Forrest, Director, Business, Real Estate & Environment

Tim Park, Director, Planning Services

Brodie Richmond, Manager, Environment Operations and Programs

Jeffrey Walker, Manager, Taxation & Revenue

Exhibits Attached:

Exhibit A Location and Extents of the Subject Property

Exhibit B Proposed Draft Brownfield By-Law

Exhibit C Projections of Remediation Costs, Property Taxes and Rebates Recoverable



Application for Brownfield Financial Assistance

Property: Former Davis Tannery

Addresses(s): 2 River Street & 50 Orchard Street

— Approximate extents of applicant's property

By-Law Number 2021-XX

**A By-Law to Approve Brownfields Assistance for the Property Known as 2 River
Street and 50 Orchard Street**

Passed: July 13, 2021

Whereas By-Law Number 2005-40, being “A By-Law to Designate Brownfields Project Areas 1A, 1B & 1C as Community Improvement Project Areas”, pursuant to Section 28(2) of the *Planning Act*, R.S.O. 1990, c. P.13 was passed by Council on February 15, 2005; and

Whereas By-Law Number 2005-41, being “A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C” was passed by Council on February 15, 2005; and

Whereas By-Law Numbers 2006-125 and 2006-126, being Amendment Number 1 to the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C, were passed by Council on May 23, 2006; and

Whereas By-Law Numbers 2013-63 and 2013-064, being Amendment No. 2 to the Community Improvement Plan for Brownfields Project Areas 1A, 1B & 1C, were passed by Council on March 5, 2013; and

Whereas By-Law Number 2018-13, being “A By-Law to Repeal and Replace By-Law Number 2005-41, “A By-Law to Adopt the Community Improvement Plan for Brownfields Project Areas 1A, 1B, 1C, 1D and 2” with By-Law Number 2018-13 “A By-Law to Adopt the Brownfields Community Improvement Plan” was passed by Council on December 19, 2017; and

Whereas By-Law Number 2020-147, being “A By-Law To Amend By-Law Number 2005-40 “A By-Law to Designate Brownfields Project Areas 1A, 1B, 2, 3, 4 and 5 as Community Improvement Project Areas” (Former Davis Tannery - 2 River Street & 50 Orchard Street)” was passed by Council on October 6, 2020; and

Whereas By-Law Number 2020-148, being “A By-Law to Amend By-Law Number 2018-13 “A By-Law to Adopt the Brownfields Community Improvement Plan” (Former Davis Tannery, 2 River Street & 50 Orchard Street)” was passed by Council on October 6, 2020; and

Now Therefore the Council of The Corporation of the City of Kingston, pursuant to Section 28 of the *Planning Act*, R.S.O. 1990, c. P.13 and Section 106(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, enacts as follows:

1. That upon fulfillment by the owners of all terms and conditions of a Brownfields Site Agreement to be made between the City and the owners of the property known as 2 River Street, more specifically described as:

PIN Numbers: 36001-0077, 36001-0091, 36001-0094 to 36001-0102 inclusive, 36001-0325 to 36001-0348 inclusive and 36001-00346;

That portion of Lots 18 and 19, Plan B3, designated as Part 1 on reference Plan 13R-17115;

That portion of Lots 17, 18, and 19, Plan B3, designated as Parts 1 and 2 on reference Plan 13R-1199;

Those portions of Lots 17, 18, and 19, Plan B3 and of Lots 1 and 2 in Concession West of the Great Cataraqui River, designated as Parts 6 and 7 on reference Plan 13R-1096, save and except the lands now described in Registered Plan 1896; and

Lots 1 – 100 inclusive, Blocks 101 – 103 inclusive and Orchard Street, Tanbay Gardens, Tannery Park Road, Royal Oak Place and Oak Leaf Circle, all as described in registered Plan 1896, and 50 Orchard Street, more specifically described as:

PIN Number 36001-0088, Part Lot 17-18 Plan B3, designated as Part 2 on reference Plan 13R873 save and except Part 1 on reference Plan 13R1715, to the satisfaction of the City, the owners shall be entitled to receive Brownfields Assistance (as that term is defined in the Brownfields Site Agreement) for eligible remediation costs in respect of the property, as described within the City of Kingston's Brownfields Community Improvement Plan, the Brownfields Site Agreement and Report to Council 21-188, in an amount not to exceed \$63,888,235; and

2. That this By-Law shall not fetter the discretion of the City in its role as approval authority under applicable legislation, including, but not limited to, the *Planning Act*, in relation to any planning applications submitted for the property, and the *Building Code Act*; and
3. That remediation costs eligible for rebate or recovery pursuant to the Brownfields Site Agreement may be incurred by the owners 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 Brownfields Community Improvement Plan Program by the owners; and
5. That this By-Law and the associated approval or payment of the Brownfields Assistance 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 Brownfields Assistance to the owners; 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.

Clause (), Report 21-188

By-Law Number 2021-XX

Given All Three Readings and Passed: July 13, 2021

John Bolognone
City Clerk

Bryan Paterson
Mayor

Tax Increment Cash Flow Projections for 2 River Street and 50 Orchard Street

The following brief cash flow outlines the financial assistance anticipated should brownfield benefits be provided as recommended within Report Number 21-188.

<u>Eligible Cost Calculation</u>	
Eligible Rehabilitation Costs, as per statements submitted	\$69,408,235
Total Approved or Cancelled Grants to date (Initial Study Grant)	-\$20,000
Allowance for discounted purchase price	<u>-\$5,500,000¹</u>
Balance of remaining eligible costs for grants and/or rebates	\$63,888,235
Estimated value of development charge exemptions	\$9,000,000 ²
Estimated value of tree bylaw exemptions	\$1,000,000 ²
Estimated value of community benefit exemptions	<u>\$4,500,000²</u>
Balance remaining for future property tax rebate funding (TIRGP)	\$49,241,344 ³
Balance remaining per development phase (4 phases)	\$12,310,336 ³
<u>Property Tax Increment per year (TIRGP)</u>	
Post-development estimated municipal property taxes in 2021 dollars	\$4,000,000
Less Pre-development municipal property taxes in 2021	-\$3,800
Tax Incremental per year (Pre to Post)	\$3,996,200
Tax increment per development phase	\$999,050
<u>TIRGP Grant/Rebate per year</u>	
Annual amount available for rebate through brownfields program @90%	\$3,596,580
Annual amount directed to Environment Reserve Fund @10%	\$399,620
Annual amount available for rebate per phase @90%	\$899,145
Estimated duration of TIRGP program	10 yrs/phase
Estimated total payment via TIRGP	\$36M to \$46M ⁴

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.

¹ Purchase discount was calculated by subtracting the estimated value of the lands appraised as clean in 2018 from the owner's reported 2017 purchase price.

² As reported in Report to Council 20-002 the value of community benefits exemption was estimated to be between \$3M and \$6M. The median value, \$4.5M, was used for this calculation. Actual values for development charge, tree bylaw and community benefits exemptions will be confirmed as part of the normal development applications process.

³ This amount may change subject to actual amounts being confirmed for development charge, tree bylaw and community benefit exemptions.

⁴ Actual total rebates may be more than stated as inflation increases year to year tax assessments.