



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 06-269

TO: Mayor and Council

FROM: Cynthia Beach, P.Eng., Commissioner, Sustainability & Growth Group

RESOURCE STAFF: Joseph E. Davis, Manager of Brownfields and Initiatives

DATE OF MEETING: 2006-11-21

SUBJECT: **Conditional Approval of the application for financial assistance under the Community Improvement Plan – Brownfields Project Areas 1A and 1B for the property located at 931 Montreal Street, 0 Montreal Street at the North East Side of the intersection of Montreal Street and John Counter Blvd. (Parts of Lots 6 & 7, Concession WGCR, Part of Bed of Cataraqui River in Front of Lots 6 & 7 CON WGCR Kingston, designated as Parts 1, 24, 28, 29 and 30 on Reference Plan 13R-15336) (Stirling Bridge/City of Kingston - owner / Stirling Bridge - Agent)**

EXECUTIVE SUMMARY:

This report is being brought forward at the request of the applicant for conditional approval of program eligibility under the Brownfield's Tax Incentives.

The City's Community Improvement Plan for Brownfields Project Areas 1A and 1B received approval from the Ministry of Municipal Affairs and Housing effective April 5, 2005 and Amendment #1 to the plan was approved on August 16, 2006. The site is located at 931 Montreal Street which is within Project Area 1B. A site map is attached as Exhibit A showing the properties included within this application. Staff has reviewed the application and considers the project eligible for financial assistance as defined in the Brownfields CIP.

A detailed review of the eligible costs will be completed and provided to Council in January 2007. The conditional approval requested in this report will assist the applicant in preparing for site cleanup before the frost sets in this year.

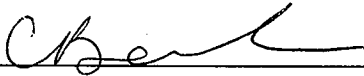
RECOMMENDATION:

That Council conditionally approve the application to deem 931 Montreal Street, and 0 Montreal Street (Parts of Lots 6 & 7, Concession West of the Great Cataraqui River (Exhibit B reflects a more detailed property description)) as eligible to receive Brownfields Financial Tax Incentive (BFTIP) and Tax Increment-Based Rehabilitation Grant Program (TIRGP) assistance; and further,

That a report and the necessary by-laws be presented to Council in January for full consideration and approval of this brownfield application, and further,

That the approval for the property to be eligible for funding shall be conditional on:

- the applicant becoming the owner of the City owned lands currently known as Parts 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, on Plan 13R-15336; and
- the applicant executing a Brownfields Site Agreement in a form acceptable to the City; and
- this matter being brought back to Council for final approval, once all conditions have been satisfied.



Cynthia Beach, P.Eng.,
Commissioner, Sustainability & Growth Group



Glen Laubenstein, Chief Administrative Officer

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OPTIONS/DISCUSSION:

This application satisfies all criteria of the Community Improvement Program – Brownfield Project Areas 1A & 1B for eligibility. The Technical Advisory Committee has reviewed the application and has recommended the approval of the application as outlined in this report. The property is located within the CIP project area and the required Environmental Site Assessments have been completed and submitted to the City. These demonstrate that the property is contaminated and that remediation is required in order to obtain a record of site condition for the property.

Stirling Bridge is currently negotiating with the City for the Purchase of Parts 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, shown on Exhibit A. The approval of this report is conditional on Stirling Bridge securing the City-owned lands described above. A recommendation regarding the sale of the property will be presented to Council in January 2007. Staff are currently undertaking all procedural requirements, including appraising the property and circulating details of the potential disposal to City departments, in order to prepare the recommendation to Council.

The application submitted by Stirling Bridge as the owner deals specifically with a request for Brownfields Financial Tax Incentive (BFTIP) assistance and the Tax Increment-Based Rehabilitation Grant Program (TIRGP).

The BFTIP authorizes the cancellation of property taxes for both the Municipal and Education portion of property taxes. The cancellation of the education portion of taxes must be approved by the Minister of Finance. The duration of this exemption is through the rehabilitation and the development period to a maximum of 36 months. Only the land benefiting from the CIP will be exempted from taxes. The necessary by-law will also be brought to Council in January 2007 for approval at that time.

The TIRGP provides grants for the planning and development fees, charged at time of application and a grant back for the rehabilitation costs for the site rehabilitation. The value of both the BFTIP and the TIRGP cannot exceed the total cost of rehabilitation of the site.

An exemption of the Development Charges and Impost Fees is not part of the recommended brownfield incentives. The exemptions are not needed in order to facilitate development on this site since the remediation costs will be recovered within the 10 year program timeframe from the TIRGP grants. A brief cash flow chart using the estimates provided by the developer for this program is provided on the following page: (this is provided for information purposes only)

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CASH FLOW PROJECTIONS BASED ON ESTIMATES PROVIDED

Costs		These are estimates only
Rehabilitation Cost		519,296
Development Charges and Impost Fees	No exemption recommended	0
Current Taxes Est.	Based on Municipal Portion of taxes only	11,563
Estimated Taxes after Bldg is occupied	Based on Municipal Portion of taxes only	301,049

Tax Exemption and Grants		
1. Tax Exemption (BFTIP) Full Tax exemption provided during remediation/development period	Taxes: Municipal (\$17,236) Education (\$ 13,166)	(30,402)
2. Grant based on Tax Increment (TRGIP) Grant based on 80% of incremental tax on Municipal portion of taxes	Based on Municipal Portion of taxes only	(\$122,224) per year
Total grant & exemptions not to exceed		519,296
Grant shortfall – none - all costs are recovered within four years	Based on Municipal Portion of taxes only	0

This application comes to Council at this time to assist the developer in obtaining a conditional eligibility approval on this application that will enable them, at their risk, to begin remediation as soon after the Council meeting as possible. This conditional approval will allow for construction to begin at the start of the construction season in 2007 instead of the fall of 2007. The applicant is aware that the final approval will not be in place until Council approves:

- the sale of the City-owned property;
- the by-law under the Community Improvement Program, Brownfields Projects Areas 1A and 1B; and
- the brownfield site agreement.

Council will not be asked to make any final decisions on these issues until January 2007 at the earliest, provided that all conditions are satisfied by the applicant.

The decision to proceed in advance of final Council approval is that of the applicant. Staff is currently undertaking all procedural requirements for the disposal of the property, including an appraisal and circulation to City departments, in order to prepare a recommendation to Council. Informal consultations with departments across the City have not raised any issues with the potential sale of the property.

This report is not asking for approval by Council regarding eligible funding. The applicant has requested permission to present information to Council regarding their application. The analysis of the Technical Advisory Committee is included as information at this time with final approval being required from Council in January 2007. The applicant submitted a request for funding using eligible costs of \$2,391,560. The Technical Advisory Committee will recommend that Council only approve eligible costs consisting of \$519,296. The Committee interprets the principle of Brownfields funding as a means to "level the playing field"; in essence to reduce the development costs of Brownfield sites to the cost of Greenfield

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sites. As a result, the Committee will recommend disallowing \$986,469 for the costs of infrastructure on the assumption that the site is not completely contaminated and that the area that is contaminated is 100% eligible for funding. The majority of the contamination is located in and around the existing building, a former transmission shop, which is not where the bulk of development will occur.

Further, the Committee will recommend disallowing approximately \$850,000 of financing costs based on the fact that the applicant wanted to use a 10 year time period for these costs while stating that the build out for the site is less than four years. Staff would accept the revised financing costs based on the build out period of just less than four years.

The applicant has submitted a letter stating the reasons why they believe the City should fund all the costs of their original application. A copy of this letter is attached as Exhibit C. The Community Improvement Plan states that Council has the right to approve any or all of the incentives offered in the program and accept or amend any of the recommendations of the Technical Advisory Committee.

When staff makes its formal recommendation in January 2007, the amount of incentives will compensate the developer to effectively reduce its development costs to reflect those of a "Greenfield" site, based on the estimated cost of site remediation submitted by the applicant. Finance and Corporate Performance have reviewed the application and will support staff's position on what costs would be eligible for this development application. Legal Services have reviewed this report and application and have no concerns.

EXISTING POLICY/BY-LAW:

By-Law 2006-125 and By-Law 2006-126 are by-laws giving approval of Brownfields Project Areas 1A & 1B as Community Improvement Areas and a by-law to amend By-Law No. 2005-41 to adopt the Community Improvement Plan for Brownfields Project Areas 1A & 1B and the City of Kingston received notice of decision from the Ministry of Municipal Affairs and Housing dated July 26, 2006 giving approval of all Amendment #1 of the City's Community Improvement Plan effective August 16, 2006.

NOTICE PROVISIONS:

There are no notice provisions required for this action.

ACCESSIBILITY CONSIDERATIONS:

There are no accessibility considerations at this time.

FINANCIAL CONSIDERATIONS:

This application has no further financial requirements beyond those described in the Community Improvement Plan.

CONTACTS:

Joseph E. Davis, Manager, Brownfields & Initiatives, Sustainability & Growth Group (546-4291 ext. 3125)

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DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:

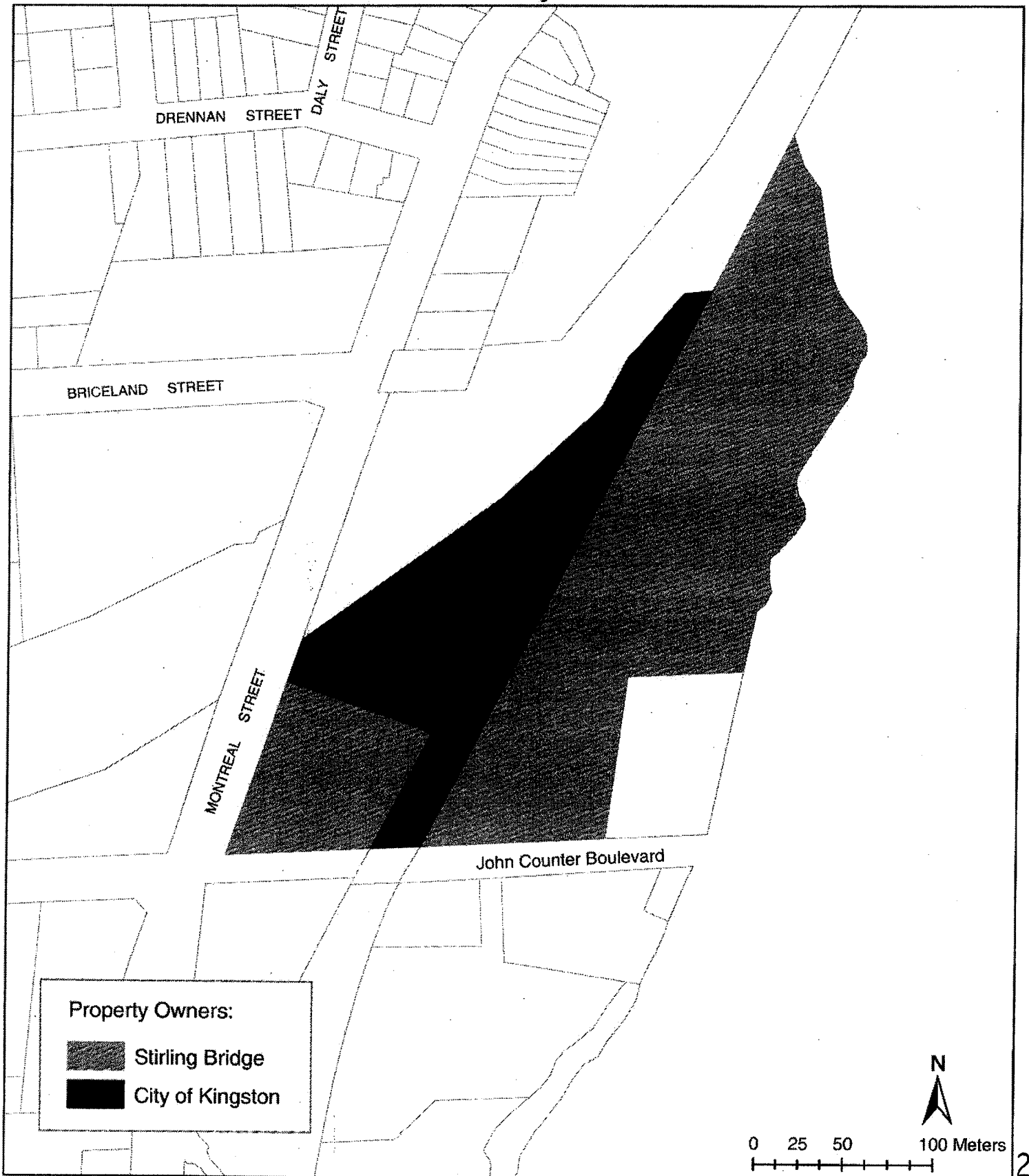
Pat Carrol, Manager Taxation and Revenue, Finance & Corporate Performance
Tony Fleming, Senior Legal Counsel, Legal Services
Derek Hart, Coordinator, Financial Planning, Finance & Corporate Performance
Gerard Hunt, Commissioner, Finance & Corporate Performance
Luke Follwell, Engineering Intern, Utilities Technical Services, Utilities Kingston
Jeff Garrah, Kingston Economic Development Corporation
Speros Kanellos, Director of Growth & Initiatives, Sustainability & Growth
Paul MacLatchy, Director of Strategic Planning & Sustainability, Sustainability & Growth
George Wallace, Director of Planning & Development, Community Development Services
Mark Van Buren, Director of Engineering, Public Works & Emergency Services

EXHIBITS ATTACHED:

Exhibit A – Site Map
Exhibit B – Legal Description
Exhibit C – Letter from the Applicant – Stirling Bridge

Stirling Bridge Brownfield Application Brownfield Project Area 1A

Exhibit A



**Stirling Bridge Brownfields Application
Property Description**

931 Montreal Street

“0” Montreal Street City Property currently being negotiated for sale to the applicant, John Counter Blvd. formerly Elliott Avenue

Parts of Lots 6 & 7 Concession West of the Great Cataraqui River, Part of Bed of Cataraqui River in Front of Lots 6 & 7 CON WGCR Kingston, designated as Parts on Reference Plan 13 R-15336 as:

- 1. Parts 2, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 known as City Property, John Counter Blvd. formerly Elliott Avenue**
- 2. Part 1 Known as 931 Montreal Street**
- 3. Parts 24, 28, 29, 30 known as John Counter Blvd. formerly Elliott Avenue**



1413 - 181 University Avenue
 Toronto, Ontario, M5H 3M7
 Tel: 416/363-4079
 Fax: 416/777-9330
 Email: info@stirlingbridge.ca

November 1, 2006

Mr. Joseph E. Davis
 Senior Project Manager
 Planning & Development Services
 City of Kingston
 216 Ontario Street
 Kingston, Ontario, K7L 2Z3

Dear Joe:

Re: **APPLICATION - COMMUNITY IMPROVEMENT PLAN
 BROWNFIELDS PROJECT
 AREAS 1A and 1B**

For: **SBL Kingston Inc.
 Parts of Lots 6 & 7, Concession WGR, Part of Bed of Cataraqui River in front of Lots 6 & 7 CON WGR
 Kingston, designated as Parts 1, 24, 28, 29 and 30 on Reference Plan 13R-15336 as designated as:**

1. **Parts 2, 9, 10, 11, 12, 13, 14, 15, 167, 17, 18, 19, 20, 21, 22, 23 known as City Property, Elliott Avenue**
2. **Part 1 known as 931 Montreal Street
 Parts 24, 28, 29, 30 known as Elliott Street**

SBL Kingston Inc. (SBL Kingston) has applied to be included in the City of Kingston Tax Increment-Based Rehabilitation Grant Program (TIRGP) and the Brownfields Financial Tax Incentive Program (BFITIP). The City of Kingston Guideline states:

Eligible rehabilitation costs under TIRGP include: (vi) 50% of the cost of constructing/improving on-site infrastructure, including water services, sanitary sewers and stormwater management facilities, and gas, hydro and communication utilities.

SBL Kingston had acquired this property and is now proceeding with the proposed residential redevelopment on the understanding that all of our site servicing costs (80% of 50% actual) would be included within this excellent program. The City of Kingston Brownfield Review Committee has requested that SBL Kingston submit a letter supporting our position in this regard.

Our claim for full coverage of all site servicing costs is based upon the following:

1. During all discussions with the City of Kingston staff, and prior to purchasing property, we were told that 40% of costs could be recovered. We were never told that this compensation could be reduced or even cancelled if it was determined that not all of the site was contaminated. We established our financial models for site development based upon this fact prior to land acquisition. Any reduction in the anticipated compensation for site servicing will be a serious financial hardship to SBL.

2. From the "Guide to Applying"....page 2, Item 2.

"Only those properties within the Project Areas 1A and 1B of the Community Improvement Plan are eligible for the BFITIP or TIRGP funding under this program".
 Our property falls within this criteria.



Kingston Inc.

Mr. Joseph E. Davis
Senior Project Manager
Planning & Development Services
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6. We are also working on properties in the Hamilton area. The City of Hamilton is one of the pioneers in re-development of brownfield properties, and we understood that the City of Kingston had modeled their program to some extent on that of Hamilton. Hamilton's Brownfield Program allows a full 25% for all underground servicing (as compared to 40% in Kingston). Carolyn Reid, program administrator (tel: 905-546-2434,creid@hamilton.ca) confirms that for the City of Hamilton's program, even though only a small portion of the property is the actual source of contamination, an RSC is required on the entire site and thus the servicing costs for the entire site are subject to the 25% compensation. We would have anticipated that the same intent would have been applied to applications for the Kingston program.

We sincerely thank you for your assistance and consideration. We look forward to resolving this issue with the City of Kingston and proceeding with our very exciting residential development on this site.

Yours truly
SBL Kingston Inc.



Jeffrey J. Wilson
Vice President - Development

JJW:ld



Kingston Inc.