



**City of Kingston  
Report to Council  
Report Number 16-181**

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**To:** Mayor and Members of City Council  
**From:** Cynthia Beach, Commissioner, Corporate & Strategic Initiatives  
**Resource Staff:** Peter Huigenbos, Manager, Real Estate & Land Development  
**Date of Meeting:** June 7, 2016  
**Subject:** Land Exchange Agreement with Weston Bakeries Ltd. and  
Weston Foods (Canada) Inc.

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**Executive Summary:**

On December 1, 2015, Council approved a recommendation from the Environment, Infrastructure and Transportation Committee regarding the implementation of the K&P Trail and Inner Harbour waterfront pathway route project. Part of the recommendation directed “staff to negotiate a land swap with Weston Bakeries Ltd. (Canada) at fair market value in order to acquire 18 metres of land along the eastern boundary of the Weston site for the K&P Trail.”

Staff has successfully negotiated a land exchange agreement that will provide ownership to the City of the 18m wide strip of land. However, the agreement is conditional on additional matters that were not part of Council’s direction, and these matters affect property ownership for Weston, Weston’s neighbour Coca Cola, and the adjacent City of Kingston Public Works site. These additional matters have required the scope of the land swap to broaden.

Staff has confirmed that representatives of Weston and Coca Cola agree to the property configurations as presented in this report. The proposed negotiated property boundaries now solve the issues of secure transportation access and private property site security for two large employers in the City’s north end. The boundaries also square off the property lines resulting in a land configuration that is better for future economic use.

In addition to securing lands necessary for the K&P Trail project, the City will acquire lands benefiting the Public Works Site redevelopment at 701 Division Street, and secure lands for a possible future road network extension north of the Montreal Street and Railway Street intersection.

June 7, 2016

Page 2 of 7

**Recommendation:**

**That** Council authorize Mayor and Clerk to execute a Land Exchange Agreement between the City of Kingston, Weston Foods (Canada) Inc. and Weston Bakeries Limited, and any other required documents, in a form satisfactory to the Director of Legal Services, for the City's purchase of Parts 4, 5 and 8-14 on Plan 13R-21314, and the City's sale of Parts 1-3, 7, 17 and 18; and

**That** a by-law be presented to Council to permanently close the unopened portion of Patrick Street described as Part Patrick Street on Plan C-22, Parts 1, 2 and 3 on Plan 13R-21314, in the City of Kingston, County of Frontenac, being all of PIN 36056-0150; and

**That** a by-law be presented to Council to permanently close a portion of the unopened road allowance described as Part Depot Street on Plan C-22 Kingston, Part 18 on Plan 13R-21314, in the City of Kingston, County of Frontenac, being part of PIN 36056-0151; and

**That** Council declare surplus to municipal need and dispose of the City's interest in Parts 1, 2, 3, 7, 17 and 18 on Plan 13R-21314 to facilitate the Land Exchange Agreement.

June 7, 2016

Page 3 of 7

**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

Desiree Kennedy, Chief Financial Officer & City Treasurer

Not required

June 7, 2016

Page 4 of 7

**Options/Discussion:**

On December 1, 2015, Council approved a recommendation from the Environment, Infrastructure and Transportation Committee regarding the implementation of the K&P Trail and Inner Harbour waterfront pathway route project (EITP Report 15-025). Part of the recommendation directed “staff to negotiate a land swap with Weston Bakeries Ltd. (Canada) at fair market value in order to acquire 18 metres of land along the eastern boundary of the Weston site for the K&P Trail.”

Staff has successfully negotiated a land exchange agreement that will provide ownership to the City of the 18m wide strip of land. However, the agreement is conditional on additional matters that were not part of Council’s direction, and these matters affect property ownership for Weston’s, Weston’s neighbour Coca Cola, and the adjacent City of Kingston Public Works site. These additional matters have required the scope of the land swap to broaden.

The details of the lands the City will purchase, and the lands the City will sell, are detailed in Exhibit A. Exhibit B provides aerial photos of the existing ownership situation.

Site security has been a long standing issue for Weston and Coca Cola including trespassing, squatting and theft. The companies have been unable to fully fence and gate their properties because they lack the ownership and control of the main access point. In addition, Weston has been hesitant to install new fence lines along the east and south limits of its property because they are aware the City would likely need to purchase these lands for either the K & P Trail and/or the Wellington Street Extension. Weston chose not to install a fence that would eventually require relocation.

Weston constructed its building on Railway Street well over 60 years ago. Since that time, its trucks have been using the City’s unopened portion of Patrick Street to enter, load, and exit the site. The building that Coca-Cola leases next door to Weston was built at least 50 years ago. Since that time, trucks accessing the Coca-Cola building have also been using the City’s unopened portion of Patrick Street to enter, load, and exit the site. This portion of Patrick Street was made a public road allowance by way of the registration of an 1874 plan of subdivision. The City does not maintain this portion of Patrick Street as an open road allowance, and it is assumed that it never has in its 142 years of existence.

When the matter of securing land from Weston for the City’s K&P trail use arose, Weston asked the City to consider selling Patrick Street and squaring off some of Weston’s property lines as part of the transaction. Weston and Coca-Cola have expressed to City staff their respective needs to a secure transportation access for the incoming and outgoing distribution of goods. Ownership of the unopened Patrick Street road allowance solves this liability for Weston and Coca-Cola. Weston will own the driveway and Coca-Cola will have access rights by way of a dedicated right-of-way in favour of the Coca-Cola property.

With ownership, Weston can invest in repairs to the driveway and secure it from would-be trespassers who use the publicly-owned land to gain access to Weston’s property. Alternatively, the City could retain ownership and improve the road to municipal standard. This would require

June 7, 2016

Page 5 of 7

a significant financial investment, while at the same time severely limiting Weston's logistical transport truck turning movements into and out of their loading bays on the west side of the building. After decades of continued use, most, if not all, of the 23 loading bays would no longer be functional because the improved road allowance would impede truck turning movements and parking room.

The unopened road allowance dead-ends at a point surrounded by Weston property. The entire portion of this road allowance will be sold to Weston as part of the land exchange.

The transfer to Weston of the small, triangular northern tip of the Depot Street unopened road allowance is intended to square off the property boundary line. The remaining portion of Depot Street north of Railway Street will remain as an unopened road allowance available for use by Weston to the west and the neighbouring private industrial property to the east. In discussion with each of these property owners, staff has confirmed that this is the preferred option for Depot Street by all parties at this time. There is also Kingston Hydro electrical infrastructure in this road allowance.

Weston will also purchase a City-owned 6m wide strip of land running north-south through the middle of the Weston property. This was the strip of land initially contemplated in the land swap for the Weston lands necessary for the K&P trail route.

In exchange for the City lands being transferred to Weston, the City will acquire land across the northern and eastern boundaries of the Weston lands.

At the northwest corner of Weston's property, the City will acquire a triangular parcel that will square off the City's Public Works property on Division Street. This parcel is essential to the design of the new Public Works site layout for vehicle storage and maintenance facilities.

Across the northern boundary of Weston's property, the City will acquire a 20m east-west strip to add to its existing 6m strip of ownership. This corridor will allow for a rear driveway exit from the Public Works and Kingston Police sites. The width of the ownership will also allow for an additional alternate route of the K & P trail or other active transportation linkages if desired in the future.

Along the eastern boundary of Weston's land, the City will acquire a 25.3m wide corridor. The corridor accommodates the 18m of width recommended for the implementation of the K&P Trail by July 1, 2017. The addition of 7.3m to the 18m recognizes the additional width of lands from the Weston property identified in the Wellington Street Extension Environmental Assessment. Weston has requested that the City acquire the complete width at this time, rather than require a future transaction for the land should the City wish to construct a road. This will establish the long term boundary now so that Weston may construct a fence that will not require relocation. Under the terms of this transaction, the City is under no obligation to construct a road on these lands. The additional width will form part of the K&P corridor, allowing for grading, drainage, Crime Prevention Through Environmental Design (CPTED) principles, including clearing and additional setback as well as a trail alignment to accommodate specimen trees which will be preserved where possible.

June 7, 2016

Page 6 of 7

On March 3, 2015 Council passed the following motion regarding the proposed Wellington Street Extension:

*That expenditures towards the acquisition of land and construction of the Wellington Street Extension (WSE) southern section (from Montreal/Railway Sts. to Bay St.) be halted effective immediately, until further direction from council;*

The City's acquisition from Weston Bakeries is not contradictory to this motion because the land is north of the Montreal Street and Railway Street intersection. The North King's Town secondary plan and associated work is underway. This work will continue as directed by Council, however, it is prudent to take advantage of the opportunity at the present time to acquire lands for a possible future right-of-way.

At the south limit of the 25.3m corridor, the City is acquiring a triangular parcel that will square off the shared Weston/City property boundary. This parcel can be incorporated into the K&P Trail design and potentially, a future road and intersection design if necessary. Parts of this property may prove sellable to abutting industrial properties or as a standalone site in the future.

Staff has confirmed that representatives of Weston and Coca Cola agree to the property configurations as presented in this report. The proposed negotiated property boundaries now solve the issues of secure transportation access and private property site security for two large employers in the City's north end. The boundaries also square off the property lines resulting in a land configuration that is better for future economic use.

The land is being exchanged with Weston on the basis of land valuation of \$65,000 per acre for all lands. This valuation is based on appraised value for a similar land acquisition through a recent expropriation settlement adjacent to Belle Park. This land value is also consistent with current pricing for lots in the City's nearby Clyde Industrial Park.

#### **Existing Policy/By-Law:**

This land exchange agreement complies with the City's Acquisition of Real Property Policy for the purchase of property at fair market value.

Section 34 of the Municipal Act requires that roads can only be closed with the approval and registration of a by-law on title. In addition, the City's "Policy on the Disposition of Real Property" requires that prior to selling land, which includes closed road allowances, Council must declare the property surplus to municipal need.

#### **Notice Provisions:**

The City's Public Notice Policy requires that notice be published two weeks in advance of the proposed meeting date in which Council considers the closure of a road allowance and the declaration of said property as surplus to municipal need. The advertisement for closing the road and declaring surplus was published on May 24, 2016 on the City's public notice webpage.

June 7, 2016

Page 7 of 7

**Accessibility Considerations:**

None

**Financial Considerations:**

The City is acquiring 4.1 acres of land from Weston in this land swap. Weston's is acquiring 1.3 acres from the City. The net result is 2.8 acres to the City, at a cost of  $2.8 \times \$65,000 = \$182,000$ . With other expenses related to this transaction, the City will require approximately \$200,000 in funds to complete the land exchange. The K&P Trail project will fund \$70,000, which is within the estimate of \$50,000 to \$75,000 identified in EITP Report 15-025. There are sufficient approved funds in the Public Works site capital budget to cover the remaining net cost of the land exchange.

**Contacts:**

Peter Huigenbos, Manager, Real Estate & Land Development 613-546-4291 x 3148

**Other City of Kingston Staff Consulted:**

Luke Follwell, Director, Recreation & Leisure Services

Speros Kanellos, Director, Facilities Management & Construction Services

Mark Van Buren, Director, Engineering

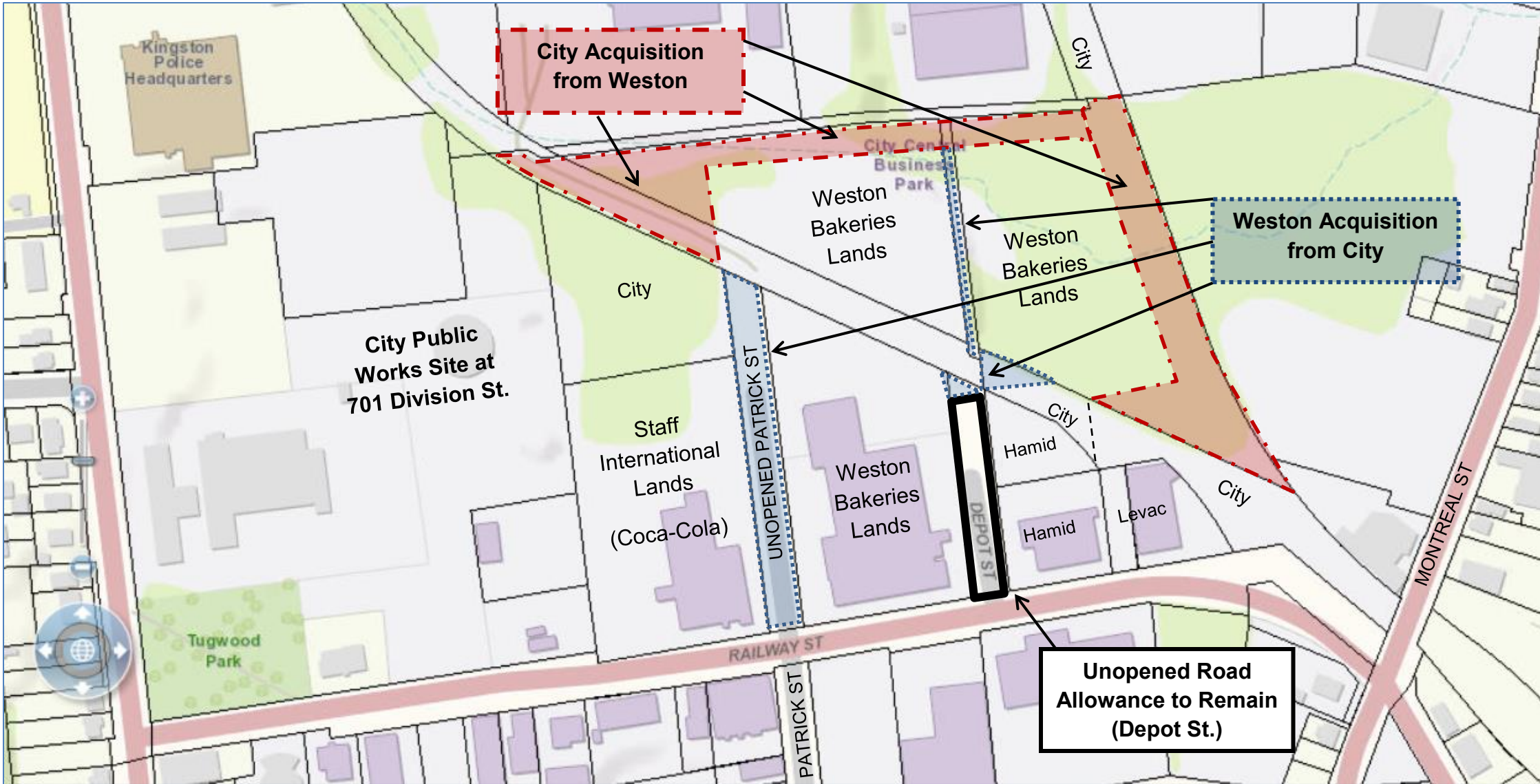
Paige Agnew, Director, Planning, Building & Licensing

**Exhibits Attached:**

Exhibit A – Proposed Land Exchange Sketch

Exhibit B – Aerial Photos of existing conditions

Exhibit C – By-Law to Permanently Close a Portion of Patrick Street and Depot



16-181  
Exhibit A





Aerial Photo of Existing Ownership



Close up of shared access over unopened Patrick Street road allowance

**By-Law Number. 2016-XX**

**A By-Law to Permanently Close a Portion of Highway described as Patrick Street on Registered Plan C-22, City of Kingston, more particularly described as Parts 1, 2 and 3 on Plan 13R-21314 and to Permanently Close a Portion of Highway described as Depot Street on Registered Plan C-22, City of Kingston, more particularly described as Part 18 on Plan 13R-21314**

**Passed:** Meeting date, 2016

**Whereas** Section 9, 11, 27 and 34 of the *Municipal Act, 2001*, S.O. 2001, c.25, permits municipalities to pass by-laws in respect of highways when the highway is under the jurisdiction of the Council;

**And whereas** the Council of the Corporation of the City of Kingston deems it necessary to pass a by-law to permanently close part of a highway;

**And whereas** public notice of Council's intention to permanently close a portion of the highway described as Patrick Street on Registered Plan C-22, City of Kingston, more particularly described as Parts 1, 2 and 3 on Plan 13R-21314 was published on May 24, on the City's Website in accordance with the City of Kingston's Public Notice Policy;

**And whereas** public notice of Council's intention to permanently close a portion of highway described as Part Depot Street on Registered Plan C22, City of Kingston, more particularly described as Part 18 on Plan 13R-21314 was published on May 24, on the City's Website in accordance with the City of Kingston's Public Notice Policy;

**Therefore be it resolved that** the Council of the Corporation of the City of Kingston hereby enacts as follows:

1. The portion of highway described as Patrick Street on Registered Plan C22, City of Kingston, more particularly described as Parts 1, 2 and 3 on Plan 13R-21314 shall be permanently closed.
2. The portion of highway described as Part Depot Street on Registered Plan C22, City of Kingston, more particularly described as Part 18 on Plan 13R-21314 shall be permanently closed.
3. This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings June 7, 2016

Given Third Reading and Passed Month XX, 2016

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**John Bolognone**  
**City Clerk**

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**Bryan Paterson**  
**Mayor**