



**City of Kingston  
Report to Council  
Report Number 16-200**

---

**To:** Mayor and Members of Council  
**From:** Gerard Hunt, Chief Administrative Officer  
**Resource Staff:** Peter Huigenbos, Manager, Real Estate & Land Development  
**Date of Meeting:** June 21, 2016  
**Subject:** Permanently Close an Unopened Portion of Patrick Street and Depot Street North of Railway Street

---

**Executive Summary:**

At the June 7, 2016 meeting, Council approved a land exchange agreement with Weston Bakeries Ltd. and Weston Foods (Canada) Inc. In preparation for closing the land exchange, staff discovered defects on title to Weston's property as a result of a previous land exchange between the City and Weston in 1993. A portion of road allowances that the City conveyed to Weston in 1993 were not formally closed by by-law at that time. In addition, the lands north of those portions, held in private ownership since 1887, were also never closed by by-law. A by-law is required to formally close the road allowances to rectify this oversight and complete the land exchange approved on June 7. In addition, and although the land has already been previously conveyed, to ensure compliance with the City's policies, staff are recommending that Council declare the lands surplus.

**Recommendation:**

**That** a by-law be presented to Council, for all three readings, to permanently close Part Patrick Street on Registered Plan C-22, Kingston, more particularly described as Part 7 on Plan 13R-617 and Part 1 on Plan 13R-10581, and Part Depot Street on Registered Plan C-22, Kingston, more particularly described as Part 6 on Plan 13R-617 and Part 3 on Plan 13R-10581; and

**That** Council declare surplus to municipal need Part Patrick Street on Registered Plan C-22, Kingston, more particularly described as Part 7 on Plan 13R-617 and Part 1 on Plan 13R-10581, and Part Depot Street on Registered Plan C-22, Kingston, more particularly described as Part 6 on Plan 13R-617 and Part 3 on Plan 13R-10581, and Part 2 on Plan 13R-10581.

June 21, 2016

Page 2 of 4

**Authorizing Signatures:**

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	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

June 21, 2016

Page 3 of 4

**Options/Discussion:**

In 1993, Council approved a land exchange with Weston Bakeries Ltd that sold a portion of two road allowances and a portion of the former Canadian Pacific Railway right of way. Parts 1 and 3 on Plan 13R-10581 represented the road allowance portions, and Part 2 on Plan 13R-10581 represented the railway portion between the two road allowance portions. The deed was signed by the City on December 23, 1993, executing the sale of the land to Weston. Unfortunately, the City did not pass a by-law to officially close the road allowance portions, as was required then, and still now, by the Municipal Act.

Furthermore, there are additional portions of these road allowances currently located on Weston property north of Parts 1 and 3. These northern portions have remained in consecutive private ownership since 1887, despite having never been formally closed as road allowances. The unopened road allowances have not been used for public purposes since before 1887, if ever.

On June 7, 2016, Council approved a land exchange agreement with Weston Bakeries Ltd. and Weston Foods (Canada) Inc. to acquire additional lands for the K&P Trail and to support redevelopment of the City of Kingston Public Works site at 701 Division Street. A by-law is required to formally close the road allowances to rectify the oversight and complete the land exchange approved on June 7.

**Existing Policy/By-Law:**

In accordance with the *Municipal Act, 2001*, S.O. 2001, c.25, section 34 (1), a by-law must be registered on title to close any portion of a road. Once the by-law has been passed and registered, the City will have complied with the provisions of the Act.

**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 allowances and declaring surplus was published on June 7, 2016 on the City's public notice webpage.

**Accessibility Considerations:**

None

**Financial Considerations:**

None

**Contacts:**

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

June 21, 2016

Page 4 of 4

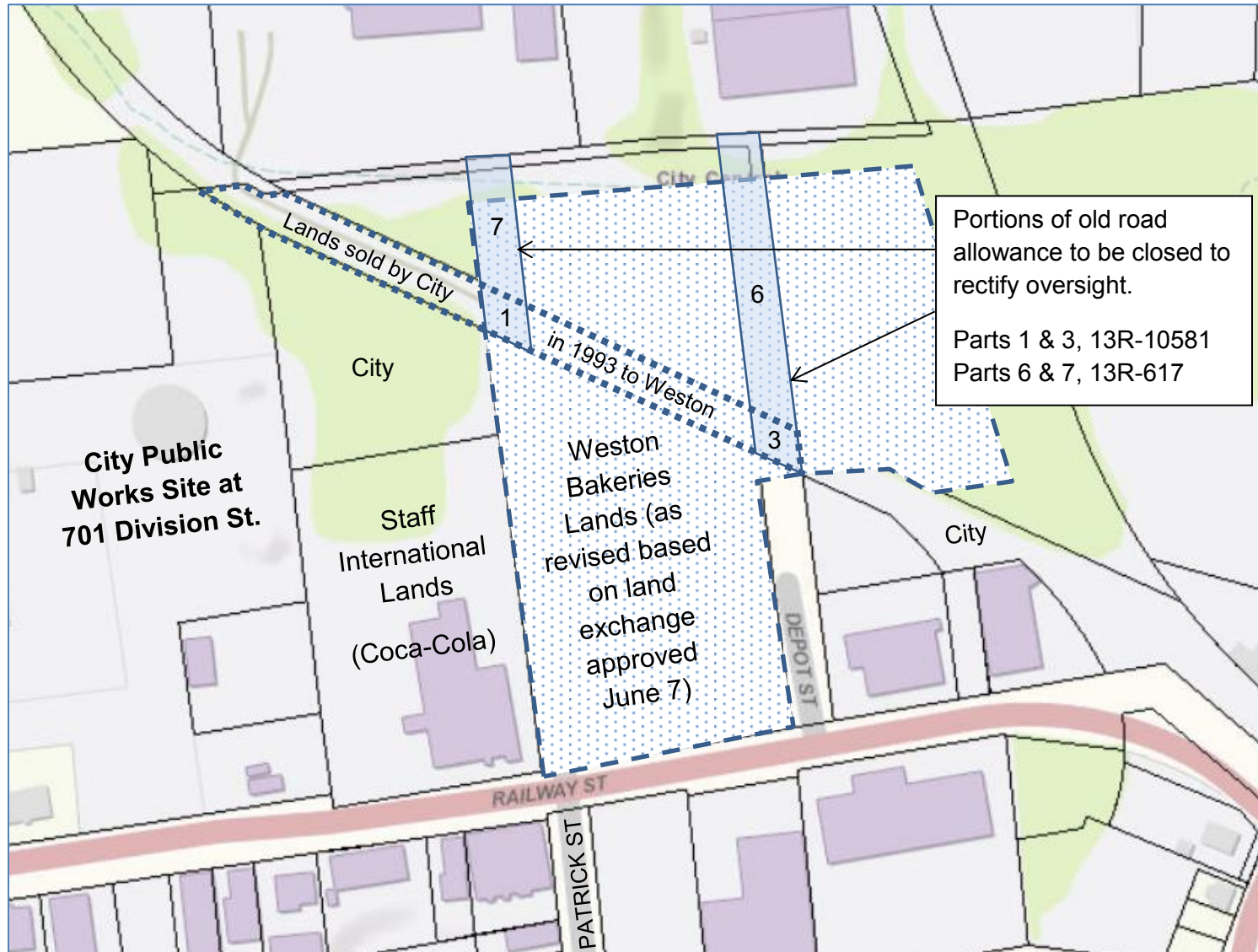
**Other City of Kingston Staff Consulted:**

Susan Nicholson, Director of Legal Services and City Solicitor

**Exhibits Attached:**

Exhibit 'A' – Sketch of Affected Lands

Exhibit 'B' – By-Law



**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 Part 7 on Plan 13R-617 and Part 1 on Plan 13R-10581, 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 6 on Plan 13R-617 and Part 3 on Plan 13R-10581**

**Passed:** June 21, 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 Part 7 on Plan 13R-617 and Part 1 on Plan 13R-10581 was published on June 7, 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 6 on Plan 13R-617 and Part 3 on Plan 13R-10581 was published on June 21, 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 Part 7 on Plan 13R-617 and Part 1 on Plan 13R-10581 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 6 on Plan 13R-617 and Part 3 on Plan 13R-10581 shall be permanently closed.
3. This By-Law shall come into force and take effect on the date of its passing.

Given all Three Readings and Passed: June 21, 2016

---

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

---

**Bryan Paterson**  
**Mayor**