



**City of Kingston
Report to Council
Report Number 16-216**

To: Chair and Members of Planning Committee
From: Gerard Hunt, Chief Administrative Officer
Resource Staff: Paul MacLatchy, Director, Environment & Sustainable Initiatives
Date of Meeting: June 21, 2016
Subject: Application for Brownfield Property Tax Financial Assistance
700 Gardiner's Road
File Number 2016-03BD
Owner – Taggart (Gardiner's) Corporation

Executive Summary:

A proposed redevelopment of the large, 100 acre property at 700 Gardiner's Road has precipitated a request for a new Project Area within the City's Brownfield Community Improvement Plan (CIP). As part of the City's review of the application for a new Project Area, the property owner was requested to prepare and submit an application for brownfield property tax financial benefits, so that the need for a new Project Area could be assessed and that the application for financial benefits could be prepared in the event of the new Project Area being approved.

This report is provided in response to the application for brownfield property tax financial benefits submitted by the Paterson Group Inc. Consulting Engineers, on behalf of the property owner Taggart (Gardiner's) Corporation (Taggart), for their 700 Gardiner's Road property. This report does not respond to the application for a new Project Area, and recommendations made within this report are contingent upon Council's decision regarding the application for a new Project Area which is addressed within a separate report.

The applicant and owner of the 700 Gardiner's Road property is Taggart (Gardiner's) Corporation and will be referred to as "Taggart" throughout the remainder of this report.

The subject property was the historic location of industrial activities that has resulted in soil and groundwater contamination that require remediation in order to make the land compatible with proposed new uses. Staff's analysis of land values, purchase price, and remediation cost

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estimates indicate that the amount of unfunded environmental liability appropriate for funding through a brownfield property tax financial benefit is \$3 million.

Analysis of the proposed redevelopment plan indicates that a property tax uplift of approximately \$734,000 per year could be available from initial high density residential and commercial phases to fund annual rebates back to the owner to recoup the eligible environmental remediation expense, and that the rebate period would be approximately 5 years following project completion.

This report recommends that in the event a new Project Area under the City of Kingston's Brownfield CIP is approved and created, that brownfields property tax financial benefits be approved for the property at 700 Gardiner's Road, that brownfield financial benefits available to the owner through rebate of property taxes be capped at \$3 million, that the Mayor and Clerk be authorized to execute a Brownfields Site Agreement with the owner, and that a by-law implementing the authorization for a Brownfields Site Agreement and future property tax financial benefits be approved.

The recommended approval of brownfield property tax financial benefits is contingent upon the approval and creation of a new Project Area within the City's Brownfield CIP for the subject property. No rebate of property taxes will occur until after the subject lands have been remediated, the proposed redevelopment has been substantially completed, a full year of new property taxes has been paid, audited environmental remediation costs have been submitted, and until Council has approved a further by-law to start tax rebates. Eligible environmental remediation costs cannot be incurred by the owner until after a new Project Area has been established and after the recommended approvals made within this report have been accepted by City Council.

The approval of recommendations made within this report do not prejudice Council in its ability to make any decisions related to approvals under the Planning Act related to other matters such as the Official Plan, zoning, etc.

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Recommendation:

That, subject to the approval and creation of a new Project Area under the City of Kingston's Brownfield Community Improvement Plan for the property at 700 Gardiner's Road, Council approve the application for Brownfield Property Tax Financial Assistance submitted by the owner (Taggart (Gardiner's) Corporation), for a Brownfields Tax Increment Rehabilitation Grant for the property known as 700 Gardiner's Road, in an amount not to exceed \$3 million, subject also to the execution of, and in accordance with, the terms and conditions of a Brownfield Site Agreement; and

That staff be directed to negotiate a Brownfields Site Agreement with Taggart (Gardiner's) Corporation establishing the terms and conditions governing the payment of the Brownfields Tax Increment Rehabilitation Grant for the redevelopment of 700 Gardiner's Road in a form satisfactory to the Director of Legal Services; and

That the Mayor and Clerk be authorized to execute the Brownfields Site Agreement, in a form acceptable to the Director of Legal Services; and

That Council provide first and second readings to a by-law, known as the Brownfield by-law for 700 Gardiner's Road attached as Exhibit D to report 16-XXX.

That should no Notice of Objection be received by the Clerk of the Corporation of the City of Kingston within 20 days of the approval of a designated CIP Project Area for 700 Gardiner's Road, and following the third reading of by-laws 2016-ZZZ and 2016-ZZZ, being "Amendment No. 3 to the Community Improvement Plan for Brownfields Project Areas 1A , 1B, 1C & 2", that Council then approve the third reading of a by-law, known as the Brownfield by-law for 700 Gardiner's Road attached as Exhibit D to report 16-216.

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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

Denis Leger, Transportation, Facilities & Emergency Services Not required

Jim Keech, President and CEO, Utilities Kingston

Desiree Kennedy, Chief Financial Officer & City Treasurer

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Options/Discussion:**Background**

The City of Kingston's Brownfield Community Improvement Plan (CIP) has been in place since 2005 and is intended to provide tax-based financial incentives for developers to remediate brownfield properties that are contaminated and historically underused. The Brownfield CIP contains designated Project Areas within which properties are eligible to apply for the financial benefits set out within the CIP. Properties not within an existing Project Area of the CIP may not apply for financial benefits.

The property at 700 Gardiner's Road is a large contaminated and underused former industrial property near the corner of Taylor Kidd Boulevard and Gardiner's Road, that is currently not within a Project Area of the Brownfield CIP. The owner of the property (Taggart) has made application to the City of Kingston's Planning, Building and Licensing Department for the creation of a new Project Area that will allow the property to become eligible to apply for brownfield financial benefits to offset the cost of environmental remediation associated with a proposed multi-use redevelopment of the property. As part of staff's evaluation of the application for a new Project Area, the owner was requested to submit an application for brownfield property tax financial benefits so that the amount of environmental costs remaining after consideration of the owner's purchase price and the fair market value of the lands, could be assessed to determine if a brownfield Project Area was warranted.

In anticipation of, and contingent upon, the creation of a new brownfield Project Area, this report assesses the merit of the owner's application for brownfield property tax financial benefits and makes recommendations for approval of a brownfield site agreement that will, among other things, set out a maximum amount of eligible remediation expenses and enable the owner to recoup those eligible expenses through rebate of future property taxes, in exchange for a proposed remediation and redevelopment that creates a significant increase in annual property tax assessment.

The Subject Property (700 Gardiner's Road)

The site, known as 700 Gardiner's Road, is comprised of approximately 100 acres of land located in the west end of the city and is surrounded by a mix of commercial and residential uses. The property was the long-time home to industrial manufacturing operations which ceased approximately 10 years ago, and the property has been underutilized since that time. Former industrial activities on the property resulted in the contamination of soil and groundwater from volatile organic compounds which resulted in a Ministry of the Environment Director's Order for assessment, control and clean-up against the former owners. In 2012 the property was purchased by the current owner (Taggart) and, associated with the purchase, the former Director's Order was removed and a new Ministry Director's Order was placed upon the new owner. A sketch showing the layout of the subject property and its surrounds is provided within Exhibit A of this report.

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Taggart is proposing to redevelop the property as a neighborhood in-fill style development with a mix of commercial, institutional and residential uses and has submitted applications to the City for the requisite planning approvals to initiate the redevelopment plan. Redevelopment of the property will require remediation of environmental contamination so that conditions are compatible with the new proposed uses as per Ministry of the Environment and Climate Change standards. The property is not currently within an approved Project Area of the City's Brownfield Community Improvement Plan (CIP).

Anticipating significant costs for environmental remediation, Taggart has made application for the creation of a new Project Area within the City's Brownfield Community Improvement Plan (CIP), so that the property becomes eligible to apply for brownfield financial benefits. A separate report is being brought forward to Planning Committee to address the application for a new brownfields Project Area.

Proposed Remediation and Redevelopment

The property is contaminated and will require production of Records of Site Condition (RSC) that demonstrate and attest to compatibility of environmental conditions with proposed new land uses, before building permits can be issued. Due to the large area of the property, some portions of the property will not require clean-up in order to obtain a Record of Site Condition and other portions will.

For the portions where a clean-up is required, the owner's proposed environmental remediation program has been designed in consultation with the Ministry of Environment and Climate Change and will consist of removing approximately 20,000 tonnes of contaminated soils for disposal off-site at a licensed waste facility, the excavation of bedrock to access, recover and treat approximately 100,000 litres of petroleum product, and over 375,000 litres of contaminated groundwater. Contaminated groundwater that is unrecoverable will likely remain and will be managed through the creation of a Site Specific Risk Assessment and Risk Management Plans completed to Ministry of Environment and Climate Change standards. As per the requirements of Ontario Regulation 153/04 (as amended), an RSC attesting to the remediated site's suitability for residential, institutional and parkland uses will be produced for the property.

The proposed re-development is in-fill style, at a neighborhood scale and currently proposes a mix of uses including 140,000 square feet of commercial space, 450 high density residential units, 420 residential units within medium and low density configurations, a senior's residence, a school, parkland, storm water pond and interior road network. The precise phasing of the proposed development is not known at this time but staff anticipates that the commercial and high density residential portions will proceed first.

A rendering of the proposed redevelopment plan is provided within Exhibit B of this report.

Assessment of Application for Brownfield Financial Benefits

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In anticipation of the creation of a new Project Area within the City's Brownfield CIP, the owner of the subject property has submitted an application for Brownfield Property Tax Financial Benefits in order to recover environmental remediation costs that may become eligible.

Staff have reviewed the details of the application and undertaken several assessments in order to determine:

1. If the environmental remediation cost estimates provided by the applicant are reasonable and consistent with the findings of Phase II Environmental Site Assessments and the remediation requirements related to the proposed redevelopment plan.
2. If the property's environmental liability costs have already been accounted for in whole or part through a discounted property purchase price.
3. If the proposed redevelopment will provide new property tax assessment sufficient to fund rebates of eligible remediation expenses.

The remediation cost estimates provided by the applicant were reviewed and subject to peer review by a third party cost estimator, as well as by internal staff experienced with local costs for earth works associated with construction and remediation. Staff's assessment of the applicant's remediation program indicates that eligible remediation costs of approximately \$8 million should be expected, of which some amount will have already been spent and therefore not be eligible for recovery.

The owner purchased the property in 2012 at a cost of \$2.5 million. An appraisal commissioned by the City indicated the likely retrospective fair market value of the property, as if clean and accounting for building demolition expenses, to be approximately \$6.9 million, indicating a potential for purchase price discount due to environmental conditions of approximately \$4.4 million.

Based upon the assessments of eligible remediation cost estimates and potential purchase price discount due to environmental conditions, staff are recommending that the maximum amount of remediation costs eligible for recovery through rebate of property taxes within a Tax Increment Rebate Grant Program be set at \$3 million. This would be the maximum amount applicable and would be subject to a detailed submission of costs, in accordance with the City's administrative practices.

The commercial and high density residential phases of the proposed redevelopment, which is only a portion of the redevelopment plan, will be the phases that will likely be used to fund rebate of eligible remediation expenses. The commercial and high density residential phases of the proposed development are estimated to produce an increase in municipal property tax revenue from \$66,000 to approximately \$800,000 per year. Eighty percent of this tax uplift would be available for rebating of the owner's eligible remediation expenses for an approved brownfield project. Based on these estimates, a \$3 million eligible remediation expense can be expected to be fully rebated within approximately 5 years following completion of construction of a portion of the site. The exact phasing of the development is not known at this time and so these estimates may change. Details of the proposed brownfield rebate cash flow are set out within Exhibit C of this report.

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Under the terms of the current Brownfield CIP, the City will only pay the annual rehabilitation grant (rebate) after the property taxes have been paid in full each year and all terms and conditions specified in the registered Brownfield Site Agreement between the City and the applicant have been met.

The Tax Increment Rehabilitation Grant (rebate) benefit is assignable in the event that title to all or portions of the property change from the current owner to a new owner within the period of the rebates. In such an event, Taggart must advise the City of Kingston its intent to assign the benefit to a new owner.

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, that the owner and/or developer:

- Is not in tax arrears;
- Is in compliance with all planning approvals granted by the City;
- Has completed sufficient phases of the development to fund a rebate payment;
- Has paid out one full year of post-development property taxes;
- Has submitted proof of the eligible remediation costs actually incurred with confirmation from third party auditors.

Once the redevelopment, or sufficient portion thereof, 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 Tax Increment Rebate Grant by-law.

Start of Eligibility and an Enabling By-Law

The proponent may not incur remediation costs that will be eligible for rebate until:

- A new Project Area has been created, and
- Council has approved the owner's application for brownfield financial benefits.

The creation of a new Project Area is the subject of another report to the Planning Committee.

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

Economic Benefits to the Community

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The proposed development is estimated to produce \$120 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 material, and local services and equipment rentals. Staff estimates that \$734,000 per year in increased municipal property taxes can be expected at the completion of the commercial and high density residential phases of the project. After the rehabilitation grant ends, this portion of the property taxes would subsequently go to the City's general revenues.

Existing Policy/By-Law:

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

Notice Provisions:

There are no notice provisions required for this action.

Accessibility Considerations:

Copies of this report are available in alternate formats. There are no other accessibility considerations at this time.

Financial Considerations:

It is anticipated that the Tax Increment Based Rehabilitation Grant Program will provide an annual tax rebate of approximately \$587,000 ($\$734,000 \times 80\%$) following completion of the commercial and high density residential phases of the property redevelopment and the total rebate over the estimated 4 to 5 year duration is capped at \$3 million. Changes in the phasing of the project would result in different amounts of property tax available for rebate and different payback periods.

As per the terms of the existing Brownfield CIP, the City will credit the remaining 20% of the incremental tax increase to the City's Environmental Reserve Fund and Working Fund Reserve. During the same period as the grants are being paid, approximately \$735,000 is expected to be generated toward the Environmental Reserve Fund over the duration of the Tax Increment Based Rehabilitation Grant Program tax rebate period.

The table below illustrates how the \$3M financial assistance cap was derived for 700 Gardiner's Rd.

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Table 1: Calculation of Unfunded Environmental Liability Estimate

	Cost Item	Amount	Remarks
A	Net Purchase Price (2012)	\$2,200,000	\$2.5M purchase less \$300,000 fee paid to purchaser by former owner related to environmental.
B	Appraised Value	\$6,880,000	Based on retrospective appraisal by UCS as if clean and including cost of demolitions.
C	Potential Purchase Price Discount Due to Environmental Conditions	\$4,680,000	= B-A
D	Environmental Liability (Estimated remediation cost)	\$7,740,000	Net of the estimated \$11.7M remediation cost provided by Taggart and City's review of CIP eligible costs.
E	Net Unfunded Environmental Liability after Sale Discount	\$3,060,000	= D-C
F	Recommended Financial Assistance Cap	\$3,000,000	

Contacts:

Paul MacLatchy, Director, Environment & Sustainable Initiatives 613-546-4291 ext. 1226

Other City of Kingston Staff Consulted:

Nathan Richard, Project Manager, Brownfields

Jeff Walker, Manager Taxation and Revenue

Alan McLeod, Senior Legal Counsel

Kim Brown, Manager, Infrastructure and Development

Paige Agnew, Director, Planning, Building & Licensing

Exhibits Attached:

Exhibit A – 700 Gardiner's Road Key Map

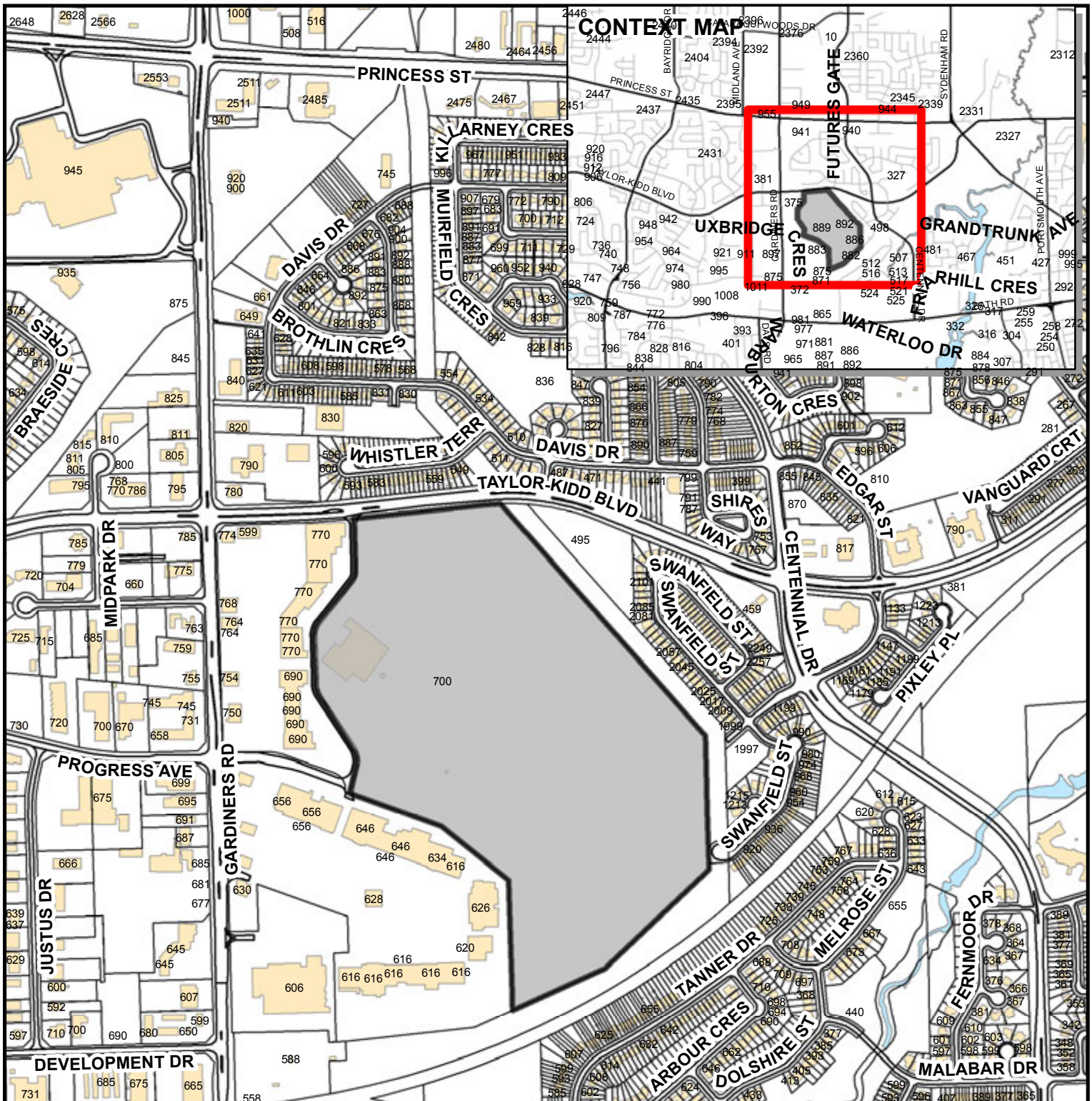
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Exhibit B – Redevelopment Concept Plan

Exhibit C – Tax Increment Cash Flow Projections

Exhibit D – Draft Brownfields By-Law for 700 Gardiner’s Road



REPORT TO COUNCIL 16-216
EXHIBIT A - KEY MAP

Planning, Building & Licensing Services
 a department of
 Community Services

Applicant: Taggart (Gardiners) Corporation
 File Number: D09-030-2015, D12-022-2015, D14-120-2015
 Address: 700 Gardiners Road
 Legal Description: CON 2 PT LOTS 10 11 AND 12; RP 13R13052 PART 1 RP; 13R14926 PART 5

LEGEND

Subject Property

Property Boundaries

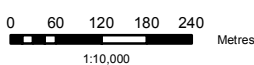


Exhibit B – Redevelopment Concept Plan for 700 Gardiner’s Road

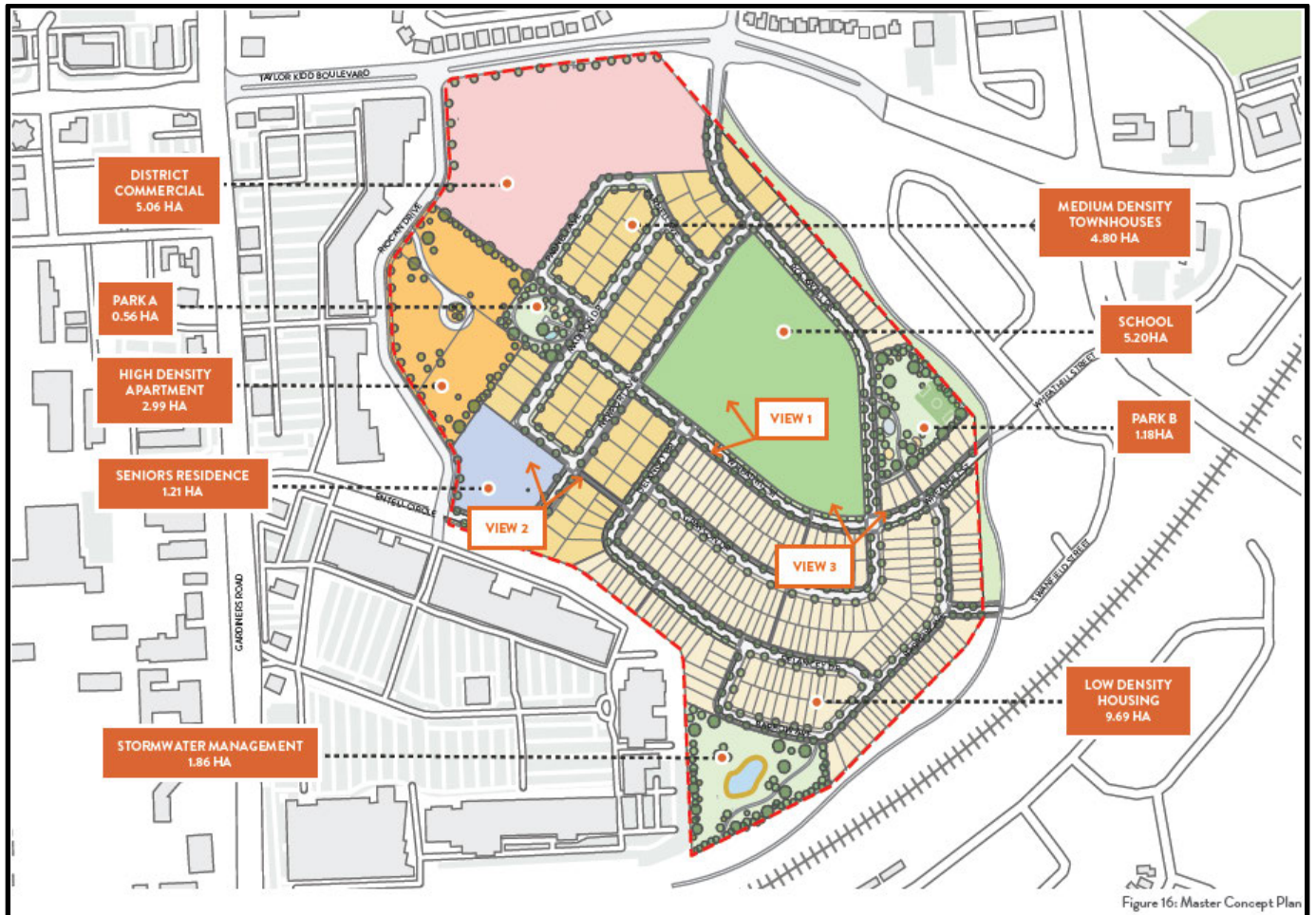


Figure 16: Master Concept Plan

Exhibit C – Tax Increment Cash Flow Projections for 700 Gardiner’s Road

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

CASH FLOW PROJECTIONS

TIRGP Grant Rebate Projections

Eligible Costs

Capped Eligible Rehabilitation Costs	\$ 3,000,000
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Property Tax Increment per year

Post-development estimated municipal property taxes in 2019	\$800,000
Less Pre-development municipal property taxes in 2016	\$66,024
Tax Increment (Pre to Post)	<u>\$733,976</u>

Grant/Rebate per year

Annual amount available for rebate through brownfields program = 80%*	\$587,181
Annual amount directed to Municipal Brownfield Reserve Fund = 20%*	\$146,795
Total	<u>\$733,976</u>

Estimated duration of grant program (years)	5.1
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*based on an estimate of 2016 tax rates and assessment.

These will change annually but the maximum funds granted are not to exceed \$ 3,000,000

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. 2016-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 700 Gardiner's Road, PART OF LOTS 10,
11 AND 12, CONCESSION 2 RP;13R13502 PART 1**

Passed: xxxxxx

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*, was passed by Council on February 15, 2005;

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-Laws Number 2006-125 and 2006-126, being "Amendment Number 1 to the Community Improvement Plan for Brownfields Project Areas 1A , 1B & 1C" was passed by Council on May 23, 2006; and

Whereas By-Laws Number 2013-63 and 2013-064, being "Amendment Number 2 to the Community Improvement Plan for Brownfields Project Areas 1A , 1B & 1C" was passed by Council on March 5, 2013;

Whereas By-Laws Number 2016-xxx and 2016-xxx, being "Amendment Number 3 to the Community Improvement Plan for Brownfields Project Areas 1A , 1B, 1C & 2" was passed by Council on xxxx 2016;

Now Therefore 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, ENACTS AS FOLLOWS:

That subject to the creation of a Project Area within the City of Kingston's Brownfields Community Improvement plan for the property known as 700 Gardiner's Road , PART OF LOTS 10, 11 AND 12, CONCESSION 2 RP;13R13502 PART 1, and the fulfillment of the terms of a Brownfield Site Agreement to be made between the City and the owner, the owner of the property known as 700 Gardiner's Road shall be entitled to receive a Tax Increment Rehabilitation Grant for eligible brownfield costs as described within the City of Kingston's Brownfield Community Improvement Plan in an amount not to exceed \$3,000,000, and

1. 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
2. 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
3. That this By-Law does not constitute approval of any future application to the Brownfield Community Improvement Plan Program, and
4. 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
5. 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
6. That This By-Law shall come into force and take effect on the date of its passing.

Given First and Second Readings: Month XX, 2016

Given Third Reading and Passed: Month XX, 2016

John Bolognone
City Clerk

Bryan Paterson
Mayor