



**City of Kingston  
Report to Council  
Report Number 20-120**

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**To:** Mayor and Members of Council  
**From:** Peter Huigenbos, Commissioner, Business, Environment & Projects  
**Resource Staff:** Paul MacLatchy, Environment Director  
**Date of Meeting:** April 21, 2020  
**Subject:** Brownfield Property Tax Financial Assistance 9 North Street

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**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:**

This report is being brought forward in response to an application by ABNA Investments Ltd. (ABNA) for financial assistance through the Tax Increment-Based Rehabilitation Grant Program (TIRGP) of the City of Kingston's Brownfield Community Improvement Plan (CIP). The applicant's property is located at 9 North Street which is within Brownfield Project Area 1a of the Brownfield CIP and therefore eligible to apply for benefits.

This property was sold by the City to ABNA in 2014 as part of a Request for Proposal process to acquire, restore and repurpose the former industrial building. The City had acquired the building and land as part of its original purchase of the Rideaucrest Home property. Council approved the sale for \$1.00 subject to a number of conditions to restore and repurpose the building and property, including the preservation of certain heritage aspects and an environmental remediation plan. The sale price of \$1.00 anticipated the significant cost of heritage preservation and the application to the City's brownfield program to assist in funding only a portion of the eligible remediation costs.

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The applicant's proposed project will require the management, remediation and risk assessment of environmental contaminants and involve the redevelopment of the heritage property into a 2 storey residential building housing 8 units with 12 bedrooms in total. The estimated cost for environmental remediation is \$1,216,915. Using conservative estimates, staff anticipate that when completed, the proposed development's estimated annual municipal property tax uplift would be between \$10,000 to \$15,000 per year. Given the relatively large cost of remediation and modest estimated tax uplifts, it is anticipated that the developer will not recover all eligible remediation costs through the brownfields program and that future tax rebates from the City to ABNA will be between \$80,000 and \$120,000 over the full ten-year rebate period.

This report recommends approval of brownfield financial tax rebate benefits of up to a maximum of \$1,216,915 to ABNA Investments Ltd. in exchange for the remediation and redevelopment of the brownfield property at 9 North Street, and the approval of by-laws and execution of agreements for that purpose.

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 recommendations made within this report do not prejudice the Planning Committee, Heritage Kingston Committee or Council in their ability to make any decisions related to approvals under the Planning Act or Ontario Heritage Act. Should planning or heritage approvals not be obtained or should the terms of approvals require significant changes to the proposed redevelopment, the Brownfield Site Agreement and associated by-laws that are the subject of this report may require amendments that would be subject to further approvals from City Council.

This report is time sensitive in that the developer cannot incur remediation costs eligible for rebate until Council has provided approval of a brownfields application and associated by-law.

**Recommendation:**

**That** Council approve the Brownfield Property Tax Financial Assistance Application submitted by ABNA Investments Ltd., owner of the property at 9 North Street, for future annual property tax rebates that are not to exceed a total of \$1,216,915 over a maximum of ten years 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 subject to a Brownfield Site Agreement between the owner and the City; and

**That** staff be directed to negotiate a Brownfield Site Agreement with ABNA Investments Ltd. establishing the terms and conditions governing the payment of the Brownfields Rehabilitation Grant for the redevelopment of 9 North Street, consistent with the terms set out within Report Number 20-120; and

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**That** the Mayor and Clerk be authorized to execute the Brownfield Site Agreement in a form satisfactory to the Director of Legal Services.

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**Authorizing Signatures:**

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

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**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Paige Agnew, Commissioner, Community Services	Not required
Brad Joyce, Acting 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 property at 9 North Street is 0.38 acres with Rideaucrest Home to the west, Doug Fluhrer Park to the north and east, a residential condominium building to the south and a commercial/industrial use to the southeast. The property was acquired by the municipality in 1987 as part of the Rideaucrest property, and in 1997 was deemed not to have a municipal use and was declared surplus.

The City sold the property to the applicant for \$1.00 in 2014 through a Request for Information (RFI) and Request for Proposals (RFP) process in which the applicant was the sole respondent. The result of the RFP process and terms of the sale and restoration of the property was described within [Report Number 14-286](#). The negotiated sale price anticipated the significant cost of heritage preservation and the application of the City's brownfield program to assist in funding only a portion of the eligible remediation costs.

The owner received approval for a Brownfield Initial Study Grant of \$20,000 to assist in the completion of a Phase II Environmental Site Assessment for the property which demonstrated the extent of contamination requiring remediation and informed the completion of the owner's current site remediation plan and budget estimates ([Report Number 17-291](#)).

**Proposed Remediation and Redevelopment**

The 9 North Street property is contaminated with petroleum, heavy metals and polycyclic aromatic hydrocarbons (PAHs) within the soil and groundwater that are present due to past land uses. The applicant is proposing to remediate the contaminated soil and groundwater conditions using a combination of contaminant removal and site specific risk assessment so that the Ministry of Environment, Conservation and Parks' (MECP) standards for residential land use are met, and a Record of Site Condition (RSC) is obtained.

The proposed remediation plan will include the following major components of work that are eligible for financial assistance through the property tax rebate under the City's Brownfield CIP program:

- Completion of Site Specific Risk Assessment and Risk Management Plan;
- Excavation, removal and disposal of over 6,000 tonnes of contaminated soils;
- Replacement of excavated soils with clean material;
- Construction of engineering controls to enable residential occupancy as per any MECP-approved Risk Management Plan; and
- Long term monitoring of groundwater and indoor air quality.

Staff have reviewed the remediation plan and associated cost estimates and believe they are reasonable based upon the information discovered through the owner's completion of the Phase II Environmental Site Assessment report. The estimated costs to implement the proposed remediation plan, and therefore the maximum eligible remediation costs recommended for approval by this report, are \$1,216,915.

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The owner's redevelopment plan for the property includes the restoration of the existing stone building and development of eight residential units with twelve bedrooms in total comprising approximately 8,000 square feet and associated parking. The redevelopment will require significant remediation of contaminated soil and groundwater and the completion of a RSC that attests to the achievement of provincial standards for residential land use.

To support the proposed remediation and redevelopment of the property at 9 North Street, the owner has submitted an application for TIRGP through the City of Kingston's Brownfield CIP. The property is contaminated and is within Project Area 1A of the City of Kingston's Brownfield CIP and is therefore eligible to apply for these benefits.

### **The Tax Increment Based Rehabilitation Grant Program (TIRGP)**

This report recommends approval of the 9 North Street property for brownfield funding through the TIRGP so that estimated costs for environmental remediation may be partially recovered by the property owner.

The TIRGP is the component of 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. The TIRGP allows for the annual rebating of up to 80% 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, or until eligible remediation costs have been recovered by the property owner, whichever is less.

Based on the proposed redevelopment, the estimated increase in municipal property taxes from current pre-development to post development is approximately \$10,000 to \$15,000 per year. Based on this, it is expected that an 80% rebate of the post-development municipal tax increase would be provided for the full 10-year period and would generate \$80,000 to \$120,000 in rebates during that period. It should be noted that rebates will generate significantly less than the expected \$1,216,915 in estimated remediation costs.

The TIRGP rebate is assignable in the event that title to the property, 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, ABNA Investments Ltd. 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.

Due to the relatively small amount of property tax cancellation estimated to be available to this project, and because of the relatively large administration effort required, and long processing and approval times from the Province, this report does not recommend approval of pre-development property tax cancellation under the Brownfield Financial Tax Incentive Program (BFTIP) portion of the Brownfield CIP.

### **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

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owner. The Brownfield Site Agreement will require, among other things, that before any TIRGP rebates are paid out the owner and/or developer:

- 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 the redevelopment 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 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.

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 completion of the afore-mentioned Brownfield Site Agreement. The proposed draft brownfield by-law for the subject property is attached as Exhibit A to this report.

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

[Report Number 14-286](#)

[Report Number 17-291](#)

### **Notice Provisions:**

None

### **Accessibility Considerations:**

None

### **Financial Considerations:**

Approval of the recommended brownfield benefits will not impose a financial obligation on the City until the subject brownfield property has been fully remediated, redeveloped and one full year of post-development property taxes have been paid. Once that occurs, the City will rebate 80% of the pre to post development municipal property tax increment back to the owner each year for 10 years. The total amount of rebated property tax anticipated over those 10 years is

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between \$80,000 and \$120,000. Regardless of what future taxes actually are, the amount of rebated tax cannot exceed the amount of approved eligible remediation expenses (\$1,216,915).

A summary of taxation and rebate estimates is provided in Exhibit B.

**Contacts:**

Paul MacLatchy, Environment Director 613-546-4291 extension 1226

**Other City of Kingston Staff Consulted:**

Jeff Walker, Manager, Taxation & Revenue, Financial Services

**Exhibits Attached:**

Exhibit A Brownfield Benefits By-Law for 9 North Street

Exhibit B Tax Increment Cash Flow Projections (Estimated)



**By-Law Number 2020-XX**

**A By-Law To Approve Brownfield Financial Benefits And Associated Brownfield Site Agreement For The Property Known As 9 North Street**

**Passed:** April 21, 2020

**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-Laws Number 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-Laws Number 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;

**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 of the terms of a Brownfield Site Agreement to be made between the City and the owner of the property known as 9 North Street; Part Farm Lot “A”, Concession West of the Great Cataraqui River, Being Parts 1, 2 and 3 on R-Plan 13R-20953, City of Kingston, the County of Frontenac; shall be entitled to receive Brownfield Financial Tax incentives and 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 \$1,216,915; and
2. 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
3. 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
4. That this By-Law does not constitute approval of any future application to the Brownfield Community Improvement Plan Program; and
5. 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

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.

**Given All Three Readings and Passed:** April 21, 2020

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

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**Bryan Paterson**  
**Mayor**

## **Tax Increment Cash Flow Projections for 9 North Street**

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

### **Eligible Costs**

Eligible Rehabilitation Costs, as per statements submitted	\$1,216,915
Total Approved or Cancelled Grants to date (Initial Study Grant)	-\$20,000
Balance remaining eligible for TIRGP rebates	\$1,196,915

### **Estimated Property Tax Increments Per Year (TIRGP)**

Post-development estimated municipal property taxes in 2020	\$16,139 to \$21,139
Less pre-development municipal property taxes in 2019	-\$6,064
Approximate Tax Incremental per year (Pre to Post)	\$10,000 to \$15,000

### **Estimated TIRGP Rebates Per Year**

Annual amount available for rebate through brownfields program = 80%*	\$8,000 to \$12,000
Annual amount directed to Environmental Reserve Fund = 20%*	\$2,000 to \$3,000

Estimated duration of TIRGP program (years)	10
Estimated total payment via TIRGP (no inflation)	\$80,000 to \$120,000

\*based on an estimate of future tax rates and assessment.

The rebates may change annually but the maximum funds granted (after Initial Study Grant) are not to exceed this amount:	\$1,196,915
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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.