

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 2
<b>COMMITTEE DATE:</b> October 4, 2011	
<b>SUBJECT/REPORT NO:</b> Hamilton Community Heritage Fund Loan Program Application (HCHF2011-003) for Property Located at 316 James Street South (Hamilton) ("Ballinahinch") (PED11163) (Ward 2)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Meghan House (905) 546-2424, Ext. 1202
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to **Hamilton Community Heritage Fund Loan Program Application (HCHF2011-003)**, for property located at 316 James Street South (Hamilton) ("Ballinahinch"), as shown on Appendix "A" to Report PED11163, subject to the following:

- (a) That a loan commitment of up to \$100,000.00 be approved, in accordance with the terms and conditions of the Hamilton Community Heritage Fund Loan Program, for the repair and painting of the exterior woodwork and dormers, and the repair of the slate roofing on the building.
- (b) That the applicant and the City shall enter into a Heritage Conservation Easement Agreement.
- (c) That the Mayor and Clerk be authorized and directed to execute the loan agreement and security documentation with respect to Recommendation (a) above, in a form satisfactory to the City Solicitor.

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- (d) That the General Manager of the Planning and Economic Development Department be authorized to amend the loan agreement provided that the terms and conditions of the Hamilton Community Heritage Fund Loan Program are maintained.
- (e) That the applicant shall obtain an approved Heritage Permit prior to the commencement of any of the proposed improvements.
- (f) That Report PED11163 be forwarded to the Hamilton Municipal Heritage Committee for information.

**EXECUTIVE SUMMARY**

The Hamilton Community Heritage Fund (HCHF) was established by the former City of Hamilton during the mid-1980's. In 2001, Council authorized that this fund be made available to all eligible heritage property owners within the newly amalgamated municipality. The original maximum loan amount was set at \$20,000.00, but an increase to the maximum loan amount to \$50,000.00 was authorized by Council in 2005 (Report PED05091). The loan is only available to properties designated under the Ontario Heritage Act.

The owners of the subject property, located at 316 James Street South (Hamilton) (see location map attached as Appendix “A”), designated under Part IV of the Ontario Heritage Act, have applied for a \$100,000.00 loan under the HCHF Program in order to repair and paint the exterior woodwork and dormers, and repair the slate roofing on the building. The total value of the work is approximately \$86,600.00, plus HST (\$97,858.00). The requested amount of \$100,000.00 exceeds the \$50,000.00 maximum specified in the Council-approved Summary of Terms; however, staff is of the opinion this increased amount is justified by the scope of the project and the multiple ownership of the property (i.e. \$100,000.00 divided by 6 condominium owners is approximately \$16,666.67 per unit). Accordingly, a loan amount of up to \$100,000.00 is being recommended. This recommendation is consistent with a previously approved HCHF application (HCHF2009-002) for the Condominium Corporation that owns Sandyford Place at 35 - 43 Duke Street (Hamilton).

*Alternatives for Consideration - See Page 7.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** Funding is provided under the terms of the Hamilton Community Heritage Fund Loan Program, as approved by City Council on September 14, 2005. The loan monies are to be advanced from the City of Hamilton's line-of-credit, with the foregone interest being charged to Account Number 52901-812040. Any costs incurred for the HCHF Loan Program are to be

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funded from the HCHF Reserve 102049, which has a current balance of approximately \$825,000.00.

**Staffing:** Administration of this loan can be accommodated within the Urban Renewal Division and the Community Planning and Design Section (Heritage and Urban Design) of the Planning and Economic Development Department, as well as within the Corporate Services Department.

**Legal:** Section 106 of the Municipal Act enables the municipality to make grants, on such terms as the Council considers appropriate, to any person, group, or body, including a fund, within or outside the boundaries of the municipality, for any purpose that the Council considers to be in the interest of the municipality.

Review of all documentation associated with the loan will be appropriately undertaken by the City Solicitor to protect the City’s interests. In certain cases, as projects move forward, it is sometimes necessary to make minor amendments to previously approved loan commitments and agreements. Therefore, staff is recommending that the General Manager of the Planning and Economic Development be authorized (with the input from the General Manager of Finance and Corporate Services and the City Solicitor) to amend loan commitments/agreements without further Council approvals, provided that the terms and conditions of the Hamilton Community Heritage Fund Loan Program are maintained.

As the applicant is a Condominium Corporation, the City will not be able to obtain a traditional mortgage. There are several methods that lending institutions use to secure loans assigned to a Condominium Corporation, such as a General Security Agreement (GSA), an assignment of lien rights from the Corporation, a collateral mortgage, and/or inclusion of the City on the Condominium Corporation’s master insurance policy. The appropriate means by which to secure the loan will be determined by Legal Services in consultation with the Condominium Corporation and their Legal Counsel.

Under Section 33 of the Ontario Heritage Act, a Heritage Permit is required for the new cladding on the shed dormers, the replacement shutters, and any new balcony doors or window sashes.

## **HISTORICAL BACKGROUND**

The former City of Hamilton established the Hamilton Community Heritage Fund (HCHF) in 1985 (By-law No. 85-120) as part of the Province of Ontario’s *Building Rehabilitation and Improvement Campaign*, commonly referred to as the “BRIC” Program. The Grant Agreement entered into by both parties (the Province of Ontario

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and the former City of Hamilton) established a fund that originally comprised \$441,666.67. Of this total amount, \$250,000.00 (57%) was from the Province, and \$191,666.67 (43%) was from the former City of Hamilton. Heritage property was defined in the agreement as a property designated under the Ontario Heritage Act.

The intent of the Hamilton Community Heritage Fund, as established by the Grant Agreement, was to establish a permanent fund for the purpose of investing in architectural conservation. Specifically, the fund was to be used:

- For loans for the purchase and/or conservation of heritage property;
- To guarantee loans for the purchase and/or conservation of heritage property; and,
- For grants to owners of designated heritage property for the conservation of that property.

The HCHF was originally established as a revolving fund, with the former City of Hamilton offering low-interest loans for eligible conservation work on buildings designated under the Ontario Heritage Act. As interest rates declined during the 1990's, the Program was revised to permit interest-free loans, and the former City of Hamilton continued to offer loans of up to \$20,000.00, repayable over a ten-year period and secured by a lien. The agreement with the Province of Ontario stipulated that loans of \$15,000.00 or more required a Heritage Conservation Easement Agreement between the property owner and the City.

After municipal amalgamation, Council agreed to maintain the HCHF Program as a permanent reserve to provide loan assistance to all designated heritage properties within all of the former municipalities (Report PD00151(a), Item (f)). In 2005, Council approved an increase in the maximum loan amount to \$50,000.00 (Report PED05091), and under the current terms of the program, the loan is registered as a mortgage on the property and repayable over a period of up to ten-years, with no accumulated interest.

The current terms of the Program, approved by Council in 2005, stipulate that to be eligible for a loan, the property must be designated either individually under Part IV of the Ontario Heritage Act, or as part of a Heritage Conservation District, under Part V of the Ontario Heritage Act. Funding is available only for work that conserves or restores the historic fabric and significant architectural elements of a building. Interior features are only eligible for funding if specifically mentioned in the *Reasons for Designation* or *Description of Heritage Attributes* of a property designated under Part IV of the Ontario Heritage Act. Loans approved for an amount over \$15,000.00 require that the property owner enter into a Heritage Conservation Easement Agreement with the City.

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To date, a total of \$377,363.00 (10 projects) has been approved under HCHF since municipal amalgamation (see Appendix “B”), excluding the loan recommended for approval in this Report.

**POLICY IMPLICATIONS**

For the subject application (HCHF2011-003), the following policies apply:

**City Of Hamilton Official Plan**

*Section C.6 - Heritage Resources* of the former City of Hamilton Official Plan applies and encourages the preservation, maintenance, reconstruction, restoration, and management of property considered to have historic, architectural, or aesthetic value (6.1). The recommendations of this Report do not conflict with these policies.

**Urban Hamilton Official Plan**

Volume 1, Section 3.4 - *Cultural Heritage Resources Policies* of the Council-adopted Urban Hamilton Official Plan (adopted July 9, 2009) states that the City shall “protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes” (Volume 1, 3.4.2.1(a)), and “identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources” (Volume 1, 3.4.2.1(b)). The policies also provide that the “City may, by By-law, designate individual and groups of properties of cultural heritage value under Parts IV and V, respectively, of the Ontario Heritage Act” (Volume 1, 3.4.2.3). The Urban Hamilton Official Plan has been approved by the Ministry of Municipal Affairs and Housing, but has been appealed in its entirety to the Ontario Municipal Board. While the plan is not in full force and effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources, and the recommendations of this Report do not conflict with these policies.

**RELEVANT CONSULTATION**

Pursuant to Sections 28(1), 33(4), and 42.4 of the Ontario Heritage Act, the Hamilton Municipal Heritage Committee advises and assists Council on matters relating to Part IV and Part V of the Ontario Heritage Act. The Hamilton Municipal Heritage Committee shall be advised of the decision regarding this loan by copy of this Report at its October 20, 2011 meeting (Recommendation (f)).

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

The owners of the subject property, located at 316 James Street South (Hamilton) (see location map attached as Appendix “A”) have applied for loan of up to \$100,000.00 under the HCHF program in order to repair and paint exterior woodwork and dormers and repair the slate roofing.

The subject property is designated under Part IV of the Ontario Heritage Act by former City of Hamilton By-law 85-175. According to the submitted quotes, the total value of the work is approximately \$86,600.00, plus HST (\$97,858.00). The requested amount of \$100,000.00 exceeds the \$50,000.00 maximum amount in the Council-approved Summary of Terms. Staff is of the opinion that an amount up to \$100,000.00 is justified by the scope of the project and the multiple ownership of the property (i.e. \$100,000.00 divided by 6 condominium owners is approximately \$16,666.67 per unit). This recommendation is consistent with a previously approved HCHF application (HCHF2009-002) for the Condominium Corporation that owns Sandyford Place at 35 - 43 Duke Street (Hamilton).

The proposed work comprises (refer to photos attached as Appendix “C”):

- Restoration of 8 original gabled dormers, including in-kind replacement of wood sills and dutchman repairs to the trim;
- Restoration of 9 later shed-roofed dormers, including in-kind replacement of wood trim and sills and replacement of the cladding on the side of each dormer with either new cement-board panels or board-and-batten;
- Repair and replacement in-kind of wood fascia, frieze-board, and soffits;
- Repair and replacement in-kind of eavestroughs and rainwater leaders;
- Repairs to slate shingles and metal flashings;
- Painting of all dormers, eaves, metal flashings, and metal roofing; and,
- Fabrication and installation of one pair of new wood shutters for 1 window opening in the front tower to replicate the existing shutters.

Most of the proposed work is for repair and replacement of materials in kind, and does not require a Heritage Permit under Section 33 of the Ontario Heritage Act. However, a Heritage Permit is required for the new cladding on the shed dormers, the replacement shutters, and any new balcony doors or window sashes.

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The HCHF Program terms require that an easement agreement be registered between the City and the owner(s) for loan amounts over \$15,000.00. An easement between the City and the owner(s) of the property would further protect the City’s investment in the property and clarify the heritage attributes of the property.

The proposed work will conserve the significant features of the property, and meets the intent and eligibility criteria of the Hamilton Community Heritage Fund Loan Program. Therefore, staff recommends approval of the requested loan for up to \$100,000.00, subject to the applicant entering into a Heritage Conservation Easement Agreement with the City and obtaining a Heritage Permit for the new cladding on the dormers, the replacement shutters and any new balcony doors or window sashes (Recommendations (b) and (e)).

**ALTERNATIVES FOR CONSIDERATION**

Funding for the conservation or maintenance of features related to the cultural heritage value of property designated under the Ontario Heritage Act is a discretionary activity of Council. Council, as advised by staff, may consider two alternatives: decline to fund the application, or agree to fund a different amount.

**Decline to Fund**

By declining funding, the municipality would be refusing applicants that meet the criteria and budget for the HCHF Program, as approved by both the Council and Hamilton Municipal Heritage Committee. Refusal of funding will not encourage owners of properties designated under Part IV of the Ontario Heritage Act to undertake the appropriate restoration and repair necessary for the long-term conservation of these heritage resources.

Accordingly, staff does not consider declining funding for this HCHF application to be an appropriate conservation alternative.

**Approve a Different Amount**

Council may decide to approve a loan amount that is different from the staff recommendation. This alternative is not recommended, as it may compromise the ability of the owners to complete work that is necessary for the conservation of the property.

## **CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

### **Skilled, Innovative, and Respectful Organization**

- ◆ Council and SMT are recognized for their leadership and integrity.
- ◆ Staff Comment: The approval of this loan demonstrates commitment to previously Council-approved policies and programs.

### **Financial Sustainability**

- ◆ Generate assessment growth/non-tax revenues.
- ◆ Staff Comment: The proposed conservation work will improve the condition of a private property, and may result in a higher assessment value for the subject property and adjacent properties.

### **Intergovernmental Relationships**

- ◆ Maintain effective relationships with other public agencies.
- ◆ Staff Comment: The approval of this loan demonstrates a commitment to conserving cultural heritage resources, as directed by provincial and federal level policy.

### **Growing Our Economy**

- ◆ A skilled and creative labour pool that supports new employers.
- ◆ Staff Comment: The proposed conservation work will create work for skilled and specialized trades, and will enhance the condition of private property.

### **Healthy Community**

- ◆ Plan and manage the built environment.
- ◆ Staff Comment: The proposed conservation work will improve the safety and appearance of private property.

## **APPENDICES / SCHEDULES**

- Appendix “A”: Location Map
- Appendix “B”: Previously Approved HCHF Loans
- Appendix “C”: Photographs

:MH - Attachs. (3)



● Site of the Application



Ward 2 Key Map

N.T.S.



# Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
HCHF2011-003

Date:  
June 13, 2011

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
MH / MB

**Subject Property**



316 James Street South

**PREVIOUSLY APPROVED HCHF LOANS**

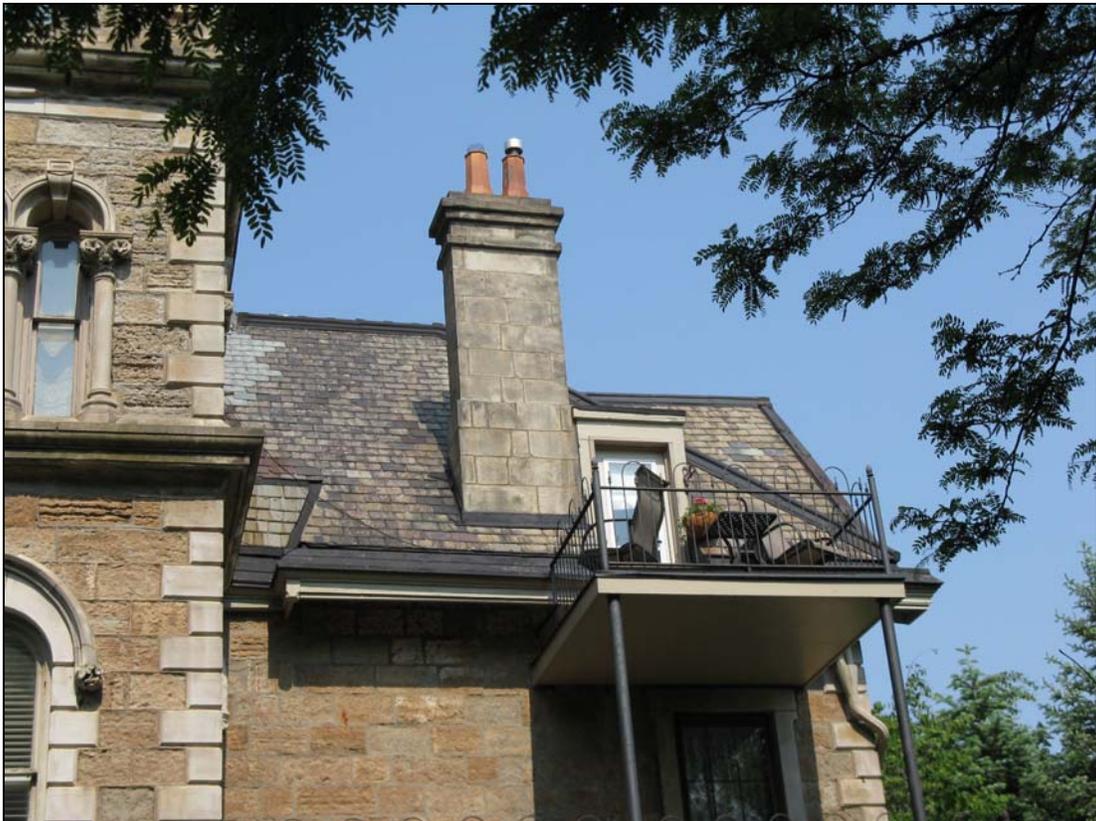
The Hamilton Community Heritage Fund (HCHF) was established by the former City of Hamilton in 1985 (By-law No. 85-120). After Municipal amalgamation, the Council revised the scope of the original HCHF to apply City-Wide (Report PD01141(a)), and in 2005, revised the terms and maximum loan amount of the HCHF (Report PED05091).

Projects that have previously been approved for funding are as follows:

<u>Application</u>	<u>Location</u>	<u>Status</u>	<u>Amount</u>	<u>Work</u>
HCHF2007-001	St. Paul's Presbyterian Church, Hamilton	Completed	\$50,000.00	Protective Glazing
HCHF2008-001	1059 Highway 8, Stoney Creek	Completed	\$50,000.00	Windows, Woodwork
HCHF2008-002	153 St. Clair Avenue, Hamilton	Completed	\$14,999.00	Repointing, Porch Repairs
HCHF2008-003	235 Bowman Street, Hamilton	Completed	\$50,000.00	Roof
HCHF2009-001	957 Governor's Road, Dundas	Completed	\$ 5,145.00	Roof
HCHF2009-002	35-43 Duke Street, Hamilton	In Progress	\$100,000.00	Painting and Wood Repairs, Masonry
HCHF2009-003	108 James Street North, Hamilton	Completed	\$50,000.00	Roof
HCHF2009-004	122 MacNab Street South, Hamilton	Completed	\$17,220.00	Masonry
HCHF2011-001	107 Mill Street North, Waterdown	Completed	\$14,999.00	Masonry, Structural
HCHF2011-002	335 Lima Court, Ancaster	Completed	\$25,000.00	Roof
<b>Total 2007-2011</b>			<b>\$377,363.00</b>	



Front (East) Elevation



Detail of the slate roof, flashings, and balcony door  
at the northeast corner of the roof.



Dormers and eaves on the south side of the roof.



Dormers, shutters and eaves on the southeast corner of the building.