



Hamilton

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> WARD 2
<b>COMMITTEE DATE:</b> June 20, 2012	
<b>SUBJECT/REPORT NO:</b> Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Hazel Milsome 905-546-2424 Ext. 2755 Brian Morris 905-546-2424 Ext. 5602
<b>SIGNATURE:</b>	

**RECOMMENDATIONS:**

- a) That a conditional loan commitment totalling \$333,520 for 275 Jamesville St. North Ltd., the registered owner of the property located at 275 James Street North, be authorized and approved in accordance with the terms and conditions of the Hamilton Downtown/West Harbourfront Remediation Loan Program;
- b) That Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application ERG-12-01, submitted by 275 Jamesville St. North Ltd., owner of the property at 275 James Street North, for an ERASE Redevelopment Grant estimated at \$59,861.00 but not to exceed \$416,900.00 the actual cost of the remediation, payable to 275 Jamesville St. North Ltd. over a maximum of ten (10) years, be authorized and approved in accordance with the terms and conditions of the ERASE Redevelopment Agreement;

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 2 of 9**

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- c) That the Mayor and City Clerk be authorized and directed to execute loan agreements together with any ancillary documentation required, to effect recommendations (a) and (b), above, in a form satisfactory to the City Solicitor;
- d) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any loan amending agreements, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Hamilton Downtown/West Harbourfront Remediation Loan Program and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant, as approved by City Council, are maintained.

## **EXECUTIVE SUMMARY**

### **Hamilton Downtown/West Harbourfront Remediation Loan Program**

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program (HDWHRLP) application for the remediation of 275 James Street North was submitted by 275 Jamesville St. North Ltd., the registered owner of the property. The property is a vacant 6,197 sq. ft. commercial building. The applicant proposes to remediate the property and, upon remediation, redevelop the existing building creating two commercial units for office/retail use with on-site parking. Appendix 'A' to Report PED12122 identifies the location of the property within the Downtown Hamilton Community Improvement Project Area.

The HDWHRLP offers a low interest loan for the remediation of commercial and residential properties within the Downtown Hamilton Community Improvement Project Area and the West Harbourfront as defined by the boundaries of the Setting Sail Secondary Plan. The amount of the loan is equal of 80% of the remediation costs of the property, up to a maximum of \$400,000. The remediation costs at 275 James Street North are estimated at \$416,900 therefore the loan amount is \$333,530 representing 80% of the total cost. Interest on the loan is 1% below the prime rate as established by the RBC. Such rate is established at the time the first instalment of the loan is advanced by the City.

Applicants of the HDWHRLP can assign their grants under the ERASE Redevelopment Grant to the City of Hamilton as repayment of the loan. In the event that the full ten (10) year grant amount under the ERASE Redevelopment Grant amount is not sufficient to repay the loan in its entirety (*which in this case it will not be sufficient*), supplemental payments will be a requirement of the applicant in order that each year through the ten (10) year repayment term, one-tenth of the loan amount is repaid.

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 3 of 9**

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**Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant**

An Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant (ERASE RGP) was submitted concurrently by 275 Jamesville St. North Ltd. for redevelopment of the property at 275 James Street North. The applicant qualifies for an ERASE RGP as a result of required environmental site remediation in order to permit the redevelopment of a vacant commercial building with on-site parking.

**Alternatives for Consideration – See Page 8.**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial:**

**Hamilton Downtown/West Harbourfront Remediation Loan Program**

Loans provided through the Hamilton Downtown/West Harbourfront Remediation Loan Program (HDWHRLP) will be funded by creating a receivable on the City's balance sheet. As loan repayments are made, the receivable is reduced. Funding provided through the Urban Renewal Section's program budget is used to subsidize the interest rate charged on the loans. Funding to subsidize the interest rate charged on the loan is funded from Project ID# 8200903900. The interest charged on the loans will be 1% below the prime rate as established by the Royal Bank of Canada (RBC). Such rate will be established at the time the first instalment of the loan is advanced by the City.

**Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant**

As per the ERASE RGP, the City will provide the applicant with a grant equivalent to 80% of the increase in municipal taxes up to the total eligible cost figure of \$416,900. At that time, the City will begin to collect and retain the full municipal portion of the tax increment.

The City will retain 20% of the municipal tax increment, approximately \$1,496.53 a year for ten (10) years, up to an amount not to exceed 20% of the total estimated clean-up costs. These monies will be deposited into the Brownfield's Pilot Project Account to be used by the City for its Municipal Acquisition and Partnership Program (MAPP). This program, as approved in the ERASE Community Improvement Plan, involves the City acquiring key Brownfield sites, cleaning-up and redeveloping property it already owns, or participating in public/private partnerships to redevelop Brownfield properties.

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 4 of 9**

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**Staffing:**

Applications and loan/grant payments under the HDWHRLP and the ERASE RGP are processed by the Economic Development Division and Taxation Division. There are no additional staffing requirements.

**Legal:**

Section 28 of the Planning Act permits a municipality, in accordance with a Community Improvement Plan, to make loans and grants which would otherwise be prohibited under Section 106(2) of the Municipal Act, to registered/assessed owners and tenants of lands and buildings. A Community Improvement Plan can only be adopted and come into effect within a designated Community Improvement Project Area.

**Hamilton Downtown/West Harbourfront Remediation Loan Program**

Prior to the advance of funding from the City, the applicant will be required to execute a loan agreement and provide security for the loan by way of a General Security Agreement, a second mortgage registered against the Property and a personal guarantee by a principal of the corporation that owns the property. All documents and required searches will be developed and undertaken in consultation with Legal Services.

**Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant**

The Redevelopment Agreement will specify the obligations of the City and the applicant. The Redevelopment Agreement will be prepared in a form satisfactory to the City Solicitor.

As construction projects move forward, it is sometimes necessary to amend previously approved loan/grant agreements and any ancillary documentation, therefore, staff recommends that the General Manager of Planning and Economic Development be authorized to amend loan/grant agreements and any ancillary documentation, provided that the terms and conditions of the HDWHRLP and the ERASE RGP are maintained.

**HISTORICAL BACKGROUND** (Chronology of events)

The following site history has been identified. The subject property is located on the northwest corner of Colbourne Street and James Street North. The site is approximately 0.5 acres in size. The site is currently developed with an approximately 6,197 sq.ft. commercial building. This existing commercial building will be entirely retrofitted and renovated as part of the redevelopment.

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 5 of 9**

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A Phase I Environmental Site Assessment (ESA) was conducted on the site in January 2009, by Frontier Engineering Inc. Recommendations within this Report included that of sub-surface sampling in order to determine the extent of any contamination that may exist due to the historic presence of a gasoline service station and an industrial scale facility within the subject site. Subsequently, a Phase II Environmental Site Assessment was commissioned by Pocrnic Realty Advisors in February 2009, with Frontier Engineering Inc. also conducting the assessment.

A Phase II ESA was conducted on the property and was finalized in March 2009, by Frontier Engineering Inc. For evaluation of the soil and groundwater quality the Table 3 standards of the Ministry of the Environment (MOE) were selected as the applicable criteria.

Based on the results of the site investigation, analysis of the soil samples indicated concentrations of contaminants (petroleum hydrocarbons – PHC's) in excess of the maximum allowable concentrations in the soil in at least one location on site, as per Table 3 of the Ministry of Environment (MOE). The results of the groundwater analysis indicated concentrations of BTEX and PHC's but were found to be below the allowable concentration limits. The impacted soil is likely a result of the past activities on the site being a historical gasoline service station. In addition, visual contamination was identified and, in places, significant odours were noticed in the area of the PHC contamination. As a result of the investigation, Frontier recommended a further sampling program, specifically in areas under the building, and also recommended that the contaminated materials be removed from the site in order for the site to conform to the MOE site condition standards.

Pocrnic Realty Advisors, following the direction of Frontier Engineering Inc., retained a quote for site remediation work to be carried out on the site by Tuite General Contracting Inc. This remedial action plan (RAP) will be carried out in order to permit a Record of Site Condition (RSC) for the subject and to permit the redevelopment and refurbishment of the existing 6,197 sq.ft commercial building.

This is the first application under the new Hamilton Downtown/ West Harbourfront Remediation Loan Pilot Program. Staff will be reporting back to Council in the fall of 2012 on the success of the program as well as recommended amendments to the program 's terms and conditions such as minimum assessment and tax increases from the development.

## **POLICY IMPLICATIONS**

Report PED12122 relates to the processing of an application under the HDWHRLP and the ERASE RGP which are contained within the Downtown and Community Renewal

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 6 of 9**

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Community Improvement Plan and the ERASE Community Improvement Plan (2010), respectively.

Zoning By-law 6593 affects the proposed development. Staff from the Economic Development and Real Estate Division will assist the applicant with the necessary planning/building approvals.

**RELEVANT CONSULTATION**

Staff from the Finance and Administration Division, Corporate Services Department, and the Legal Services Division, City Manager's Office were consulted, and the advice received is incorporated into Report PED12122.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

**Hamilton Downtown/West Harbourfront Remediation Loan Program**

Due diligence involved in assessing whether an applicant meets the terms and conditions of the Hamilton Downtown/West Harbourfront Remediation Loan Program (HDWHRLP), includes determining whether property taxes are current (*property taxes are currently paid in full*), if there are any outstanding Property Standards, Building Code or Fire Code violations (*there are no outstanding violations on the property*) and, whether the applicant is in litigation with the City of Hamilton (*the directors of the corporation are not in litigation with the City of Hamilton*).

The maximum loan under the HDWHRLP is 80% of the remediation costs to a maximum of \$400,000. The remediation costs for 275 James Street North are estimated at \$416,900, therefore, the loan amount is \$333,520. The applicant will assign their grant under the ERASE RGP to repayment of the loan. The estimated grant under the ERASE RGP is \$5,986.12 annually for ten (10) years or \$59,861.20. Details of the ERASE RGP are detailed later in Report PED12122. As per the terms of the HDWHRLP, in the event the full ten (10) year grant is not sufficient to repay the loan in its entirety, supplemental payments will be a requirement of the applicant in order that each year through the ten (10) year repayment term, one-tenth of the loan amount is repaid. Therefore, based on a loan of \$333,520 the annual repayment will be \$33,520. The ERASE RGP grant is estimated at \$5,986.12; therefore, supplemental payments of \$27,533.88 per year will be required from the applicant over a ten (10) year period.

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 7 of 9**

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**275 James Street North – Pre-redevelopment**

The existing property is shown in the photo above. The commercial building will be entirely retrofitted and renovated as part of the redevelopment, creating two commercial units. A national commercial tenant has been secured for one unit and will occupy 3,500 square feet. The applicant is currently working with a number of interested parties for the remaining 2,697 square feet.

**Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant**

The ERASE RGP is a component of the Council approved ERASE Community Improvement Plan. This application meets the criteria for approval.

The 2011 assessment value is \$597,250 and the property is classed as Commercial Residual (CT). Property taxes are paid in full. Taxes for 2011 on this property total \$23,387.41.

Municipal Levy:	\$14,761.38
Education Levy:	\$ 8,626.03
Total:	\$23,387.41

Based on information provided by the applicant in support of the ERASE application, staff has estimated that once the project is complete, the property will have an estimated MVA of \$900,000 classed as Commercial - New Construction (XT). This new MVA is estimated to increase total annual property taxes to \$34,214.03. The new municipal portion of the taxes levied on this property will be \$22,244.03 with the remaining dollars going to the Province for education taxes.

**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 8 of 9**

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As per City Council direction to increase the number of Brownfield properties redeveloped per year and to increase downtown property taxes by \$1.45 million per year, this grant application would effectively support the strategic direction.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

**Option # 1:** Non-acceptance of the recommendations contained in Report PED12122 due to the estimated minimal assessment and corresponding tax increase resulting from this development. This decision has the potential to terminate the development and abandon the remediation of a contaminated Downtown property. This alternative is not recommended.

**Option # 2:** Acceptance with a reduction of the amount of the loan/grant. This would compromise the intent of the HDMRPIP and the ERASE RGP, as well as undermine downtown renewal and eliminate the potential remediation of a Brownfield property on a major thoroughfare in our Downtown core. This alternative is not recommended.

**Financial:** A loan in the amount of \$333,520.00 and a grant in the amount of \$59,861.20 would not be advanced.

**Staffing:** Not applicable

**Legal:** Not applicable

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

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 & Respectful Organization***

- ◆ Council and SMT are recognized for their leadership and integrity

***Financial Sustainability***

- ◆ Effective and sustainable Growth Management
- ◆ Generate assessment growth/non-tax revenues

***Growing Our Economy***

- ◆ Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases.



**SUBJECT: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-01) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-01) – 275 James Street North (PED12122) (Ward 2) - Page 9 of 9**

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- ◆ Newly created or revitalized employment sites
- ◆ Competitive business environment

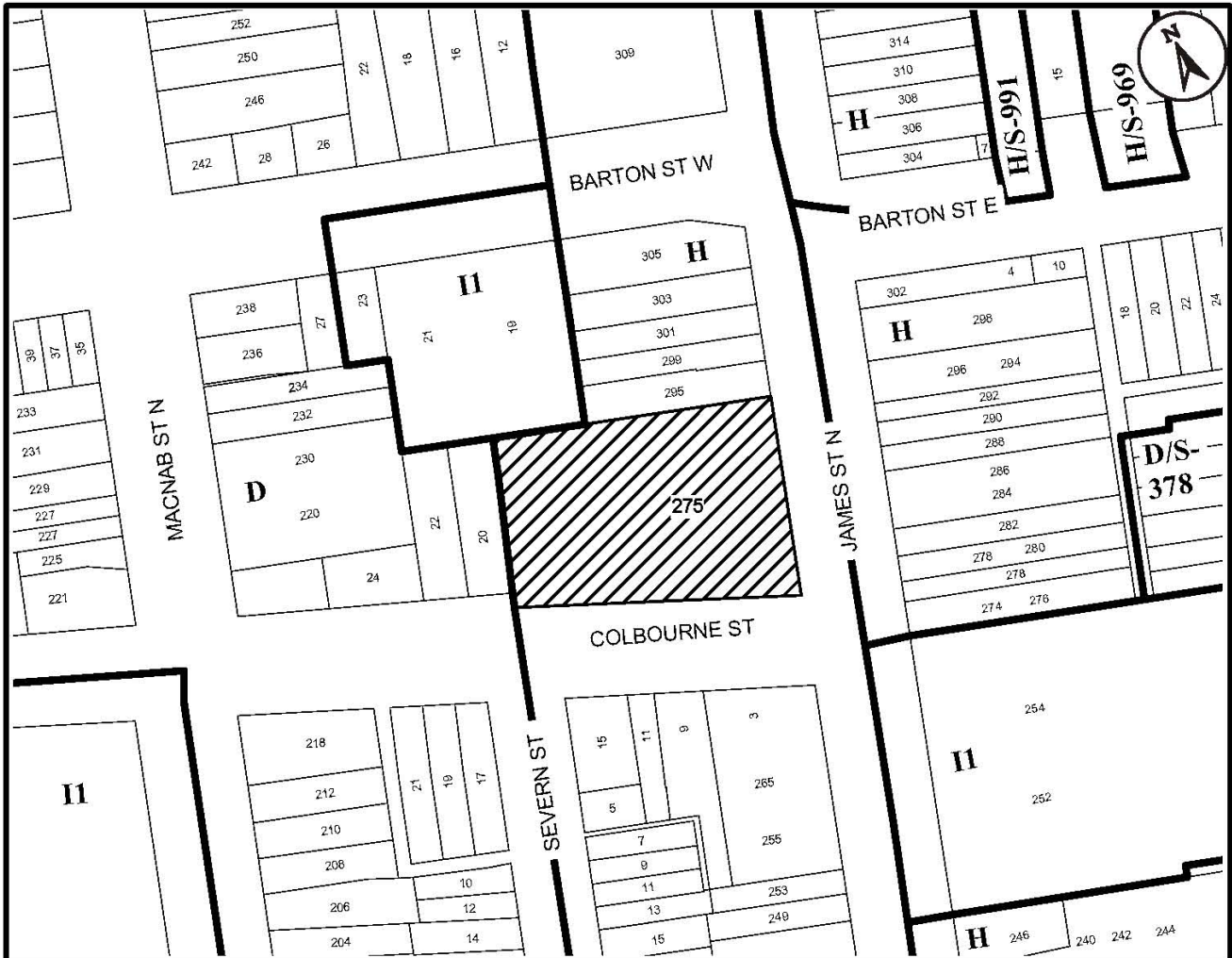
***Healthy Community***

- ◆ Partnerships are promoted.
- ◆ Plan and manage the built environment

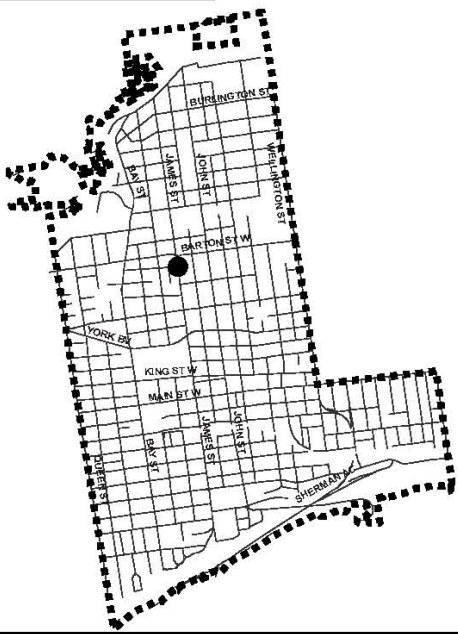
**APPENDICES / SCHEDULES**

Appendix “A” to Report PED12122 – Location Map

HM/BM/dw



● Site of the Application



Ward 2 Key Map

N.T.S.

## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
275JamesStN

Date:  
May 14, 2012

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
HM/KA

### Subject Property

275 James Street North