

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: WARD 9
COMMITTEE DATE: January 14, 2013	
SUBJECT/REPORT NO: Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-04) – 135-137 King Street East and 42 Passmore Street, Stoney Creek (PED13010) (Ward 9)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Hazel Milsome (905) 546-2424 Ext. 2755 Brian Morris (905) 546-2424 Ext. 5602
SIGNATURE: 	

RECOMMENDATIONS:

- (a) That Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application ERG-12-04, submitted by 1507939 Ontario Limited (Bernard Dejonge, Marinus Dejonge Jr. and Lorne Goldstein), owner of the property at 135–137 King Street East, and Alex Kepecs, owner of the property at 42 Passmore Street in Stoney Creek, for an ERASE Redevelopment Grant, not to exceed the amount of \$853,000, be authorized and approved in accordance with the terms and conditions of the ERASE Redevelopment Agreement;
- (b) That upon the pending transfer of ownership of the properties identified in recommendation (a), above, the ERASE Redevelopment Grant be payable to the prospective owner of the property, Traditions Retirement Residences Inc. (Bruce Stewart Jeffrey Baum, Steven Cohen) over a maximum of ten (10) years;

- (c) That all outstanding property taxes (presently in the total amount of \$138,347.77) be paid in full prior to the release of the ERASE Redevelopment Grant in accordance with the terms and conditions of the ERASE Redevelopment Agreement;
- (d) That the Mayor and City Clerk be authorized and directed to execute the ERASE Redevelopment Agreement, together with any ancillary documentation required, to effect recommendation (a), above, in a form satisfactory to the City Solicitor;
- (e) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any grant amending agreements, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant, as approved by City Council, are maintained.

EXECUTIVE SUMMARY

An Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant (ERASE RGP) was submitted by 1507939 Ontario Limited (Bernard Dejonge, Marinus Dejonge Jr. and Lorne Goldstein), owner of the property at 135–137 King Street East, and Alex Kepecs, owner of the property at 42 Passmore Street, Stoney Creek, for redevelopment of the properties. 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 property (the former Stoney Creek Dairy) and, a single family detached property (42 Passmore Street), to a five (5) storey, 129 unit building retirement/senior’s facility with eight (8) townhouse units. While the property located at 42 Passmore Street forms part of the aforementioned redevelopment, it does not require remediation.

The applicants have confirmed that transfer of ownership of the properties is planned to take place in approximately ninety (90) days from the writing of Report PED13010, therefore the ERASE RGP will be payable to the prospective owner: Traditions Retirement Residences Inc. (Bruce Stewart, Jeffrey Baum, Steven Cohen). Currently there are outstanding taxes on both properties totalling the amount of \$138,347.77 which, staff has been advised, will be paid out at the time of sale of the property.

Alternatives for Consideration – See Page 7

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

Financial:

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 in the amount of \$853,000. 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 \$27,353.59 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.

Staffing:

Applications and loan/grant payments under the ERASE RGP are processed by the Economic Development Division and the 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.

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 grant agreements and any ancillary documentation, provided that the terms and conditions of the ERASE RGP are maintained.

HISTORICAL BACKGROUND (Chronology of events)

The subject property was originally developed prior to the 1930's as a residence that included a small scale dairy. The dairy expanded in scale by 1964 and, by 1979, the dairy began to manufacture ice cream exclusively. Subsequent renovations to the facility were complete in 1999 and the subject site continued in operation until 2010.

Based on the intended future property use as residential, 1507939 Ontario Limited undertook a Phase I Environmental Site Assessment (ESA) on the property in August, 2011. Based on the former manufacturing use, and that vehicle maintenance and fuelling may have occurred on the site, the environmental consultants recommended a Phase II ESA be conducted. 1507939 Ontario Limited contracted MTE Consultants Inc. to complete a Phase II ESA which was carried out between September 2011 and February 2012.

Several of the boreholes advanced as part of the Phase II ESA on the subject property identified areas of concern. Three separate areas of petroleum hydrocarbon (PHC) impacted soil were identified that were above the applicable MOE Table 3 standards. Most of the impacted soil occurs, and is consistent with, the area of the former underground storage tank (UST) that was previously onsite. In addition, impacts from various polycyclic aromatic hydrocarbons (PAH's) and heavy metals were identified in two (2) separate areas, as part of the investigation in the fill material onsite. There was also an issue with benzene located in the groundwater on the northeast side of the site.

Based on the available information, 1507939 Ontario Limited contracted Landtek Limited Consulting Engineers to prepare a remedial action plan (RAP) on the site. Based on the available information and considering the redevelopment schedule, Landtek Limited recommended the preferred remedial solution of removal/disposal of the impacted areas. The estimated volume of impacted material represents 4,500 m³ and 9,900 tonnes. This removal/disposal and the associated environmental consulting fees are estimated to be in the amount of \$853,000. The removal/disposal of impacted soil will be undertaken in order to produce a Record of Site Condition (RSC) on the site to allow for the redevelopment of the site for residential purposes.

POLICY IMPLICATIONS

The properties located at 135-137 King Street East and 42 Passmore Street in Stoney Creek are designated Institutional in the Official Plan and zoned I3, 449, H49 (Major Institutional, modified, with holding provision) under Zoning By-law 05-200.

Council approved site-specific official plan and zoning by-law amendments in July 2012, to permit a maximum 93 sq. m. restaurant and a maximum of 300 sq. m. of offices in conjunction with, and attached to, a use permitted in the I3 Zone. Permitted I3 uses include those planned for the property, such as a multiple dwelling, street townhouse dwellings and retirement home, among other institutional uses. Other site-specific provisions addressed setbacks and the location of a parking spot, permit a pergola to encroach into a required rear yard, and require 32 m of the Passmore Street façade to be one (1) storey in height.

The holding provision states that “no development or change of use shall be permitted until such time that the owner/applicant has submitted a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the Manager of Development Planning, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton’s current RSC administration fee.”

RELEVANT CONSULTATION

Staff from the Taxation Division, Corporate Services Department, and the Legal Services Division, City Manager’s Office were consulted, and the advice received is incorporated into Report PED13010.

ANALYSIS / RATIONALE FOR RECOMMENDATION
(include Performance Measurement/Benchmarking Data, if applicable)

The ERASE RGP Application 12-04 was submitted by 1507939 Ontario Limited (Bernard Dejonge, Marinus Dejonge Jr. and Lorne Goldstein), the owner of 135-137 King Street East, and Alex Kepecs, owner of 42 Passmore Street in Stoney Creek. The applicant qualifies for an ERASE Redevelopment Grant as a result of required environmental site remediation in order to permit the construction of a five (5) storey, 129 unit retirement/senior’s facility with eight (8) townhouse units. While 42 Passmore Street forms part of the redevelopment, the property does not require remediation.

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135-137 King Street East



42 Passmore Street

The existing properties are shown in the above photographs. Appendix “A” to Report PED13010 identifies the location of the properties.

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 2012 assessment value of 135-137 King Street East is in the amount of \$2,038,000, and the property is classed as Commercial (CT). The 2012 assessment value of 42 Passmore Street is in the amount of \$194,000, and is classed as Residential (RT). As of November 13, 2012, property taxes are outstanding in the amount of \$137,017.46 on 135-137 King Street East, and \$1,330.31 on 42 Passmore Street, for a total amount of \$138,347.77. A condition of the ERASE RGP is that all taxes must be paid in full prior to the release of a grant. Taxes for 2012 on these two (2) properties total the amount of \$73,371.80.

Municipal Levy:	\$ 45,292.88
Education Levy:	<u>\$ 28,078.92</u>
Total:	\$ 73,371.80

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 in the amount of \$17,000,000, classed as Residential (RT). This new MVA is estimated to increase total annual property taxes to \$219,630.82. The new annual municipal portion of the taxes levied on this property will be in the amount of \$182,060.82, with the remaining dollars going to the Province for education taxes.

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Therefore, the *annual increase* in the municipal portion of the taxes is estimated to be in the amount of \$136,767.94. The Program offers 80% of the increase in the municipal portion of the taxes each year for a ten (10) year period and is capped at the cost of the remediation which, for 135-137 King Street East and 42 Passmore Street, is estimated in the amount of \$853,000, broken down as follows:

Impacted soil disposal -	\$495,000
Excavation and trucking -	\$198,000
Groundwater handling/disposal -	\$90,000
Management/Engineering fees -	\$70,000
Total eligible costs =	\$ 853,000

During the eighth year, the total eligible grant (\$853,000) will have been advanced to the applicant based on an annual grant, in the amount of \$109,414.35, and the City will start to reap the tax benefits of this application. The City will realize, or keep, the full tax increase during year nine (9).

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)

Non-acceptance of the recommendations contained in Report PED13010. This decision has the potential to terminate the development and abandon the remediation of a contaminated Stoney Creek property. This alternative is not recommended.

Financial: A grant, in the amount of \$853,000, 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.
- ◆ Newly created or revitalized employment sites
- ◆ Competitive business environment

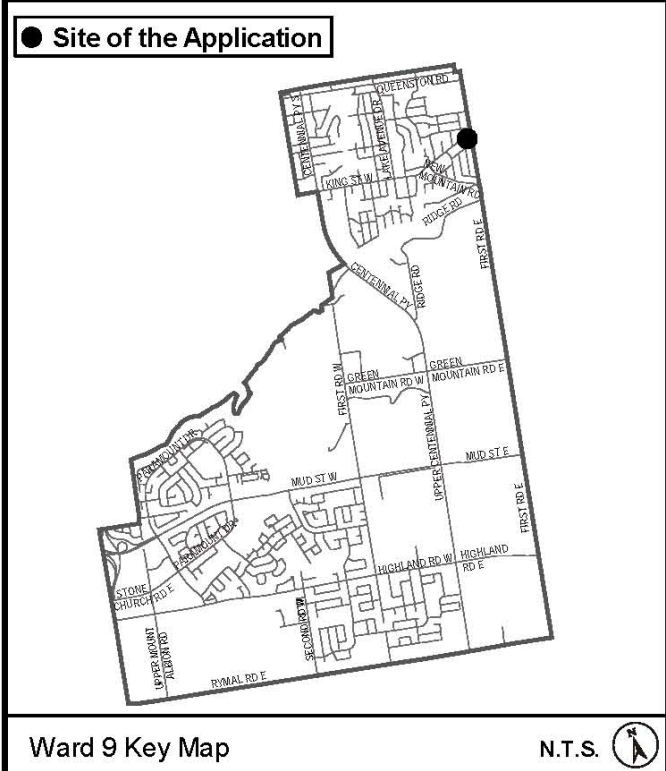
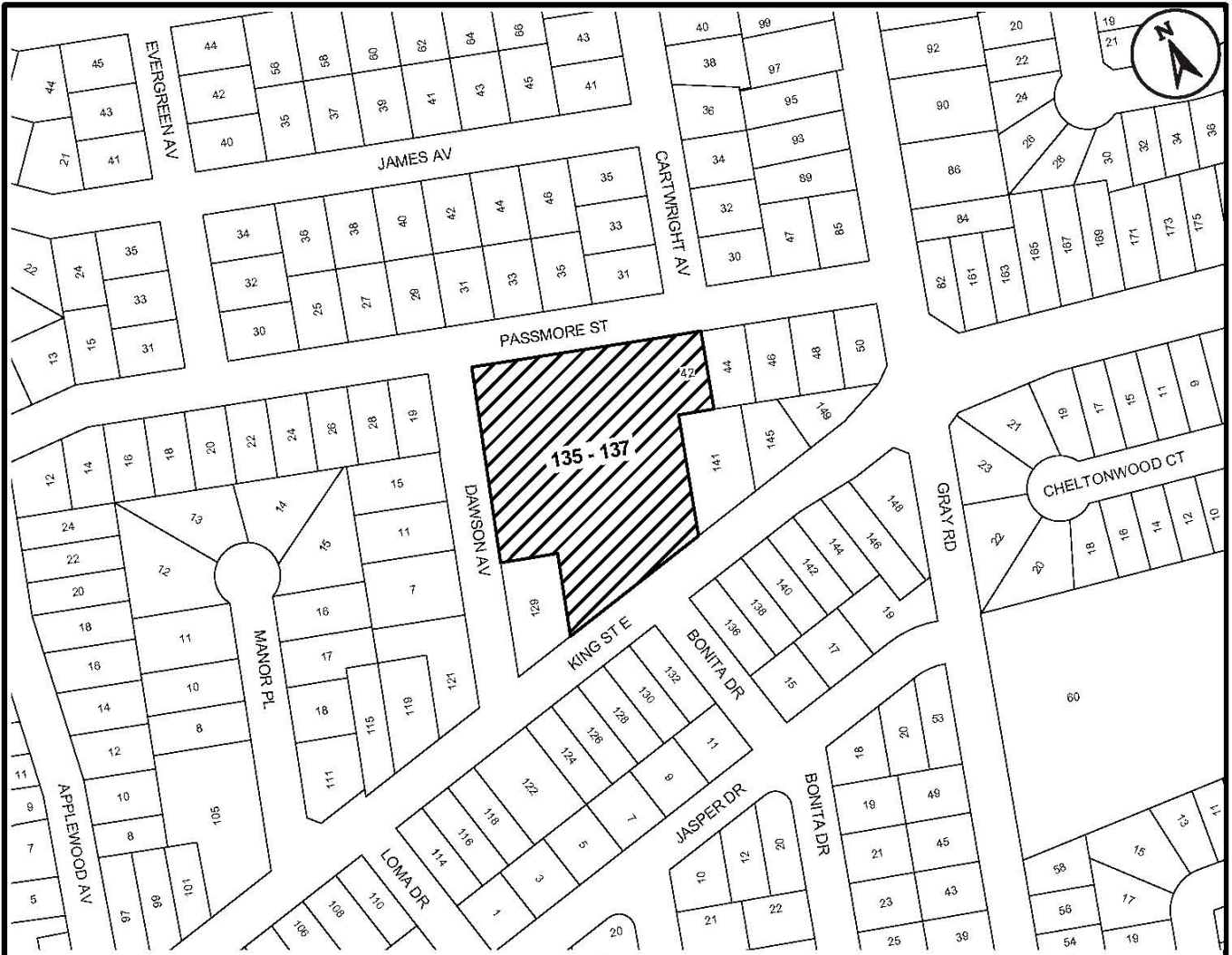
Healthy Community

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


APPENDICES / SCHEDULES

Appendix “A” to Report PED13010 – Location Map

HM/BM/hk





Location Map


Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: 135 - 137 King St E	Date: Nov 29, 2012
Appendix "A"	Scale: N.T.S.
Planner/Technician: HM/TT	

Subject Property

	135 - 137 King Street East
	42 Passmore Street

N.T.S. 