



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Economic Development Division

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	December 2, 2015
<b>SUBJECT/REPORT NO:</b>	Hamilton Downtown / West Harbourfront Remediation Loan Program (HDWHRLP) Application (RLP-14-01) – 179-191 James Street North (PED15180) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Judy Lam (905) 546-2424 Ext. 4178
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That a conditional loan commitment totalling \$400,000 for Roque Land Development Corporation (Manuel Roque, Filomena Roque), the registered owner of the property located at 179-191 James Street North, be authorized and approved in accordance with the terms and conditions of the Hamilton Downtown / West Harbourfront Remediation Loan Program (HDWHRLP);
- (b) That the Mayor and City Clerk be authorized and directed to execute the loan agreements together with any ancillary documentation required, to effect Recommendation (a) of Report PED15180, in a form satisfactory to the City Solicitor;
- (c) 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 (HDWHRLP), as approved by City Council, are maintained.

**EXECUTIVE SUMMARY**

The Hamilton Downtown / West Harbourfront Remediation Loan Program (HDWHRLP) application for the remediation of 171-191 James Street North was submitted by Roque

Roofing & Sheet Metal Ltd., the previous registered owner of the property. The properties municipally known as 179-181 James Street North and 191 James Street North were owned by Roque Roofing and Sheet Metal Ltd. (Manual Roque, Filomena Roque). The properties municipally known as 183-187 James Street North were owned by Roque Management Limited (Christina Roque Machado, Patricia Maria Roque). Subsequent to the application, the properties have now been transferred to the current owner, Roque Land Development Corporation (Manual Roque, Filomena Roque).

The applicant proposes to develop an eight-storey mixed-use building with 71 residential condominium units on the second to eighth level and commercial space on the ground floor and a portion of the second floor. Parking will be accommodated underground and on the ground and second levels. The property currently has a three-storey mixed-use building at 191 James Street North with commercial on the ground floor and residential on the second and third floors. The remainder of the property is vacant. The three-storey building will remain on the site. Appendix “A” of Report PED15180 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 179 – 191 James Street North are estimated at \$573,300 and the loan is calculated as 80% of the total eligible costs of remediating the property ( $\$573,300 \times 80\% = \$458,640$ ) to a maximum of \$400,000. Interest on the loan is 1% below the prime rate as established by the Royal Bank of Canada (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 Hamilton Tax Increment Grant or the ERASE Redevelopment Grant to the City of Hamilton as repayment of the loan. A Hamilton Tax Increment Grant in the amount of \$848,553.46 was approved by Council on September 10, 2014 and is detailed in Report PED14182.

In the event that the full five-year grant amount under the Hamilton Tax Increment Grant amount 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 five-year repayment term, one-fifth of the loan amount is repaid. In this loan application, however, the amount approved in Report PED14182 under the Hamilton Tax Increment Grant will be sufficient to repay the loan in its entirety.

***Alternatives for Consideration – See Page 6***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** 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 RBC. Such rate will be established at the time the first instalment of the loan is advanced by the City.

**Staffing:** Applications and loan / grant payments under the HDWHRLP 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.

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. All documents and required searches will be developed and undertaken in consultation with Legal Services.

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 are maintained.

## **HISTORICAL BACKGROUND**

The Site located at 179-191 James Street North is situated within a predominantly commercial and residential area of downtown Hamilton; however there are some light industrial properties. Research indicates that historically the Site was first developed sometime prior to 1875, possibly for residential and / or commercial use. Site occupancy has comprised a mix of commercial (retail, barber shop, offices, bowling alley and restaurants) and residential uses since Site development and included a wood yard and possibly a dry cleaning operation. The Site has been in its current configuration

comprising a three storey mixed commercial and residential building and exterior parking facilities since demolition of former on-site structures was completed between 2007 and 2010.

During the Phase One Environmental Site Assessment (ESA), four on-site Potentially Contaminating Activities (PCAs), and sixteen off-site PCAs were identified. As a result of the findings from the Phase One ESA, a Phase Two ESA was completed for the Site. The purpose of the Phase Two ESA was to check if the chemical quality of the soil and ground water at the Site exceeded the O. Reg. 153/04 Standards, as amended. In addition, the Phase Two ESA was completed in order to facilitate the preparation of a Record of Site Condition (RSC) for the Site.

The Site is currently considered Environmentally Sensitive due to elevated pH in two samples of surface soil, requiring application of the background site condition standards. However, since removal of the soil with elevated pH is required for Site development and the areas of elevated pH will be remediated, it is anticipated that the generic site condition standards will be applicable to the Site at the time of filing of the RSC. As such, discussion in the Phase Two ESA Report assumes that the generic site condition standards are applicable to the Site.

The findings of the Phase Two ESA indicated soil contamination was present at the Site and will require remediation prior to filing a RSC. The contamination was generally confined to the fill material, which is present across the Site and extended to a depth of about 3.0 m below grade. The exception was elevated levels of SAR in sand identified in one sample. The estimated quantity of soil / fill which requires off Site disposal was 3,165 cubic metres or 6,330 tonnes (based on an average density of 2 tonnes / cubic metre). The estimated cost for removal of the contaminated soil is \$573,300.

The proposed project at 179-191 James Street North, Hamilton is an eligible project under the terms of the HDWHRLP. Once approved, the loan will be provided to the owner in progress payments based on 80% of the actual qualifying remediation costs incurred, as evidenced by copies of paid invoices.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### Hamilton Official Plan

The subject lands are municipally known as 179-191 James Street North, Hamilton. There was no decision (Non-decision No. 113) made by the Ministry regarding the adoption of the West Harbour (Setting Sail) Secondary Plan into the Urban Hamilton Official Plan (UHOP) because at the time the Ministry was reviewing the UHOP, the West Harbour (Setting Sail) Secondary Plan was still under appeal. The lands are currently identified as “subject to future OMB hearing on Schedules E-1 and E” of the UHOP, and therefore, the UHOP policies do not apply, as when the UHOP came into effect on August 16, 2013, it did not affect the West Harbour (Setting Sail) Secondary

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Plan. In this regard, the West Harbour (Setting Sail) Secondary Plan stands alone. The lands are designated as “Prime Retail Streets” in the Secondary Plan and the proposed mixed use development is permitted.

Hamilton Zoning By-law No. 6593

The subject lands were rezoned for residential uses. The site specific rezoning “H/S-718” and “H/S-663” (Community Shopping and Commercial, etc.) District was approved by the OMB on October 1, 1980 with subsequent minor variances approved in 2002, 2010 (OMB) and 2015. The site specific variances modified parking stall size, deleted loading space requirement / visual screening, increased height and the number of units, increased commercial Gross Floor Area (GFA) and reduced yard setback requirements. The proposed development has conditional site plan approval which implements the zoning as amended and is therefore permitted.

**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 in Report PED15180.

**ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

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 179-191 James Street North are estimated at \$573,300, therefore, the loan amount is \$400,000, the maximum allowed under the Program. The applicant will assign their grant under the Hamilton Tax Increment Grant for full repayment of the loan. Details of the Hamilton Tax Increment Grant approved by Council on September 10, 2014 are detailed in Report PED14182. As per the terms of the HDWHRLP, in the event the full five-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 five-year repayment term, one-fifth of the loan amount is repaid. Since the Hamilton Tax Increment Grant is estimated at \$848,553.46, supplemental payments will not be required.

## **ALTERNATIVES FOR CONSIDERATION**

**Option # 1:** Non-acceptance of the recommendations contained in Report PED15180 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. This would compromise the intent of the HDWHRLP, 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 \$400,000 would not be advanced.

**Staffing:** Not applicable

**Legal:** Not applicable

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

### **Strategic Objective**

- 1.1 Continue to grow the non-residential tax base.
- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED15180 – Location Map

JL / hk