



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 3, 2016
SUBJECT/REPORT NO:	Hamilton Downtown Multi-Residential Property Investment Program (HDMRPIP) – 179-191 James Street North, Hamilton (PED16016) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Hazel Milsome (905) 546-2424 Ext. 2755
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That a conditional loan commitment totalling \$4,617,939 for Roque Land Development Corporation (Manuel Roque, Filomena Roque), the registered owner of the property at 179-191 James Street North, Hamilton, be authorized and approved under the Hamilton Downtown Multi-Residential Property Investment Program in accordance with the Program's terms and conditions;
- (b) That the Mayor and City Clerk be authorized and directed to execute a loan agreement, together with any ancillary documentation required, to effect Recommendation (a) of Report PED16016, 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 Multi-Residential Property Investment Program, as approved by City Council, are maintained.

EXECUTIVE SUMMARY

The Hamilton Downtown Multi-Residential Property Investment Program (HDMRPIP) Application for the redevelopment of 179-191 James Street North, Hamilton, was

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submitted by Roque Land Development Corporation (Manuel Roque, Filomena Roque), the registered owner of the property. The applicant proposes to develop an eight-storey mixed-use building with 71 condominium units on the six upper levels, commercial use on the main and second levels, and 99 parking spaces. The existing three-storey building that contains a restaurant / bar at the main level and four apartments on the upper two levels, will form part of the development project.

The HDMRPIP offers a 0% interest loan for projects that result in predominantly residential development, including converting existing commercial space into multiple dwelling units, renovations to existing multiple dwelling units and the creation of new multiple dwellings on vacant land. The maximum loan amount is 25% of the cost-to-construct budget, to a maximum of \$5,000,000 per development.

The loan is advanced in three stages; upon completion of 60%, 80% and substantial completion. The development at 179-191 James Street North is a condominium project therefore repayment of the loan will be based on 25% of the sale price of each unit being repaid until the total loan amount has been paid in full.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The cost to fund the HDMRPIP is the interest lost to the City which is funded through the Urban Renewal Section's operating budget contained in Account Number 52901-815010.

City Council, at its meeting held November 28, 2012, authorized the following: an increase to the maximum loan amount that could be advanced at one time under the HDMRPIP from \$20,000,000 to \$35,000,000 (PED12220/FCS12090); maximizing the loan amount per development to \$5,000,000 (*with City Council having the sole discretion to increase the maximum loan amount at the time of initially approving a loan*); limiting the loan amount to a single developer or related group to \$18,000,000 at one time; and, limiting the amount advanced for the development of all-suite hotels to \$18,000,000 at one time. At the same meeting, City Council also approved an additional \$200,000 for interest costs of the Program. Interest costs for 179-191 James Street North will be required for 2016 as the applicant plans to commence construction of the project in March of 2016. The interest costs estimated for 2016 is \$26,730, based on the construction schedule submitted by the applicant, and when the loan would be advanced (first advance at 60% construction completion).

As of December 14, 2015, \$17,950,953 was outstanding in loans that are in various stages of repayment or redevelopment and \$2,034,357 is committed but to date, has not been advanced. Therefore, based on a maximum of \$35,000,000 in loans being out at one time, there is the potential of an additional \$15,014,690 in future loans being approved by City Council and advanced. Approval of Report PED16016 would result in the potential of \$10,396,751 in future loans being approved by City Council and advanced.

As per the terms of the HDMRPIP, the applicant paid an application fee of \$280 at the time of application, and an administration cost of \$400 per unit will be charged to the applicant at the first advance of the loan (at 60% completion). Therefore, the applicant will pay a total of \$28,680 in administration fees.

Staffing: Applications and loan payments under the HDMRPIP are processed by the Urban Renewal Section 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. Changes to a Community Improvement Plan or Community Improvement Project Area require formal amendments, as dictated by the *Planning Act*.

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 second mortgage registered against the property. The loan will also be secured by corporate guarantees from Roque Land Development Corporation, Roque Roofing & Sheet Metal Ltd. and Roque Roofing Inc., companies owned by Manuel and Filomena Roque. The loan will also be joint and severally personally guaranteed by Manuel Roque and Filomena Roque. The loan is not advanced until the project is 60% complete, at which time 60% of the loan amount will be advanced (*with the \$28,400 in administration fees being deducted from the advance*). Additional advances will be made at 80% and substantial completion of the project. 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 agreements and any ancillary

documentation. Therefore, staff recommends that the General Manager of the Planning and Economic Development Department be authorized to amend loan agreements and any ancillary documentation, provided that the terms and conditions of the HDMRPIP are maintained.

HISTORICAL BACKGROUND

The HDMRPIP (formerly titled the Hamilton Downtown Residential Loan Program) was approved by City Council at its meeting held September 25, 2002. Since that time, a number of Program refinements have been made and are explained under the Financial Implications Section of Report PED16016.

The HDMRPIP applies to properties within the Downtown Hamilton Community Improvement Project Area. The Program is intended to provide 0% interest loans for residential development and uses accessory to the residential development such as parking. Terms of the Program offer a 0% interest loan to a maximum of 25% of the cost-to-construct budget. The loan is advanced in three stages: upon completion of 60% of construction; 80% of construction; and, substantial completion of the project. Repayment of the loan commences one year after final advance of the loan exclusive of any holdbacks. However, as the development at 179-191 James Street North is a condominium project, repayment of the loan will be based on 25% of the sale price of each unit being repaid upon the sale of each unit, until the total loan amount has been paid in full.

The HDMRPIP was developed as a catalyst for stimulating residential development within Downtown Hamilton. Projects that are funded under the Program assist in achieving an increased Downtown density that brings more people and more activity into the Downtown and an increased demand for shops, restaurants and nightlife.

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 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 GFA and reduced yard setback requirements. The proposed development has a 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 was consulted, and the advice received is incorporated into Report PED16016.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

Due diligence involved in assessing whether an applicant meets the terms and conditions of the HDMRPIP includes two staff evaluation committees comprising staff from Urban Renewal, Development Planning, Community Planning and Design and Financial Planning and Policy. The committee responsible for reviewing the project from a planning perspective met on September 17, 2015, and the committee responsible for reviewing the applicant’s capacity to repay the loan met on November 25, 2015, and December 9, 2015.

Supporting documentation to the application included an appraisal of the completed project prepared by an accredited appraiser, a cost-to-construct budget review and approval by a quantity surveyor, details of construction financing, and documentation to support the applicant’s capacity for loan repayment. Upon review of the documentation, staff is satisfied that the applicant has the financial capacity and business track record to complete the project and repay the loan.

Staff also undertook due diligence with respect to initiating a search to determine if the applicant or shareholder of the corporation is in litigation with the City of Hamilton, if property taxes were paid current, and whether there were any Building Code, Fire Code or Property Standards violations outstanding on the property. There were no issues with the aforementioned.

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179-191 James Street North in its existing condition



179-191 James Street North post-development

Appendix “A” to Report PED16016 identifies the location of the property within the Downtown Hamilton Community Improvement Project Area.

ALTERNATIVES FOR CONSIDERATION

Decline the Loan

Declining the loan could terminate or delay the project. This alternative is not recommended.

Approve a Reduced Amount

Council may decide to approve a reduced loan amount. This would compromise the intent of the HDMRPIP, as well as undermine downtown renewal efforts in general. This alternative is not recommended.

Financial: A loan totalling approximately \$4,617,939 would not be issued.

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.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.3 Enhance customer service satisfaction.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED16016 - Location Map

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