



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	December 7, 2016
SUBJECT/REPORT NO:	Hamilton Tax Increment Grant Program – 232 Cannon Street East, Hamilton (PED16242) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Hazel Milsome (905) 546-2424 Ext. 2755
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Appendix “B” to the Downtown and Community Renewal Community Improvement Plan, being the Program Description and Terms of the Hamilton Tax Increment Grant Program, be deleted and replaced with the Program Description and Terms attached as Appendix “A” to Report PED16242;
- (b) That a Hamilton Tax Increment Grant Program Application submitted by 232 Cannon St. E. Inc. (Ronald Kovacs, John Kranjc and Steve Pocrnic), for the property at 232 Cannon Street East, Hamilton, for a Hamilton Tax Increment Grant Program Grant estimated at \$61,521.10 over a maximum of a five-year period, and based upon the incremental tax increase attributable to the redevelopment of 232 Cannon Street East, Hamilton, be authorized and approved in accordance with the terms and conditions of the Hamilton Tax Increment Grant Program;
- (c) That the Mayor and City Clerk be authorized and directed to execute a grant agreement together with any ancillary documentation required, to effect recommendation (b) of Report PED16242, in a form satisfactory to the City Solicitor;
- (d) That the Mayor and City Clerk be authorized and directed to execute such assigning agreement as required, to effect recommendation (b) of Report PED16242, 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 Hamilton Tax Increment Grant Program, as approved by City Council, are maintained.

EXECUTIVE SUMMARY

The Hamilton Tax Increment Grant Program (HTIGP) application for the redevelopment of 232 Cannon Street East, Hamilton, was submitted by 232 Cannon St. E. Inc. (Ronald Kovacs, John Kranjc and Steve Pocrnic). The applicant is altering space on the second storey of the existing two-storey commercial building for the purposes of medical offices at the property municipally known as 232 Cannon Street East, Hamilton.

Development costs are estimated at \$214,650 and it is projected that the proposed redevelopment will increase the assessed value of the property from its current estimate of \$31,400 to approximately \$910,000. This will increase total annual property taxes generated by the property. The municipal share of this property tax increase (municipal tax increment) will be approximately \$20,507.04, of which 100% would be granted to the owner during year one, 80% or approximately \$16,405.63 in year two, 60% or approximately \$12,304.22 in year three, 40% or approximately \$8,202.81 in year four and 20% or approximately \$4,101.40 in year five. The estimated total value of the grant is approximately \$61,521.10. Note that every year the tax increment is based on actual taxes for that year.

Upon completion of the redevelopment and reassessment of the property by the Municipal Property Assessment Corporation (MPAC), staff will report back in an Information Update to Council on the actual redevelopment costs, the reassessment amount determined by MPAC and the grant amount.

Staff from Urban Renewal, Legal Services and Taxation met for the purposes of developing a new Grant Agreement template however it became evident that amendments to the terms of the Program were required in order to clarify the process undertaken prior to issuing grant cheques and the process when applicants assign the grant to the first purchasers of condominium units. The amendments are identified under the Analysis and Rationale for Recommendation Section of Report PED16242.

Alternatives for Consideration – See Page 12.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The City will collect full property taxes on the property and, in turn, provide a grant for five years, declining each year after the first year by 20%, based on the increase in the municipal portion of the taxes, post-development completion of 232 Cannon Street East, Hamilton. Following year one of the

grant payment, the City will start to realize the positive results of the Program from a financial perspective. Based on the projected figures, the estimated tax increment over five years totals \$102,507.04, of which the applicant would receive a grant totalling approximately \$61,521.10 and the City retaining taxes totalling approximately \$40,985.94.

Staffing: Applicants and subsequent grant payments under the HTIGP 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*.

The applicant will be required to execute a grant agreement prior to the grant being advanced. The grant agreement will be developed in consultation with Legal Services.

As construction projects move forward, it is sometimes necessary to amend previously approved 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 HTIGP are maintained.

The revised program description and terms for the HTIGP provided in Appendix “A” to Report PED16242 are adopted by Council resolution and appended to the Plan.

Council has adopted by resolution, detailed implementation measures to allow for the efficient administration of each financial incentive program. These administration procedures are contained in the various program descriptors and terms provided in the appendices to the Downtown and Community Renewal Community Improvement Plan. Changes to the appendices not requiring a formal amendment will be adopted by City Council by resolution. The program description and terms of the HTIGP are appended to the Community Improvement Plan as Appendix “B”.

Formal amendments to the Community Improvement Plan are required in the following instances:

- to introduce any new financial incentive programs;
- to increase the amount of financial assistance that may be provided to registered owners, assessed owners, and tenants, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, as described in Section 8 of the Plan;
- a change to the Community Improvement Project Area as it is described in Section 6 of the Plan.

The proposed amendments to the HTIGP terms do not require a formal amendment.

HISTORICAL BACKGROUND

City Council, at its meeting held August 22, 2001, approved an amendment to the Downtown and Community Renewal Community Improvement Plan which introduced the HTIGP. Since that time, a number of Program refinements have been approved by City Council, including expanding the Program to Community Downtowns, Business Improvement Areas, the Mount Hope / Airport Gateway, the corridors of Barton Street and Kenilworth Avenue as identified in the Downtown and Community Renewal Community Improvement Project Area and most recently, to properties designated under Part IV or V of the *Ontario Heritage Act*. The terms of the Program offer a five-year grant not to exceed the increase in municipal realty taxes as a result of the development. The grant is to be in an amount which does not exceed 100% of the municipal realty tax increase during the first year, 80% in year two, 60% in year three, 40% in year four, and 20% in year five.

The project at 232 Cannon Street East, Hamilton, is an eligible project under the terms of the HTIGP. The applicant will qualify for the HTIGP grant upon completion of the redevelopment project which will result in alterations to the second storey of the existing two-storey commercial building to create medical offices. Development costs are estimated at \$214,650. The total estimated grant over the five-year period is approximately \$61,521.10.

In 2009 City Council approved a grant under the HTIGP for 232 Cannon Street East when the applicant was proposing to demolish the building on site to a shell state and construct a commercial structure. The development costs were \$3,029,254 and the applicant received a grant under the HTIGP in the total amount of \$123,866 over a five year period from 2011 to 2015. The application referenced in Report PED16242 is for part of the property only therefore the applicant was required to provide a copy of the annual property assessment valuation from MPAC in order for staff to calculate the

grant applicable to the portion of the property that is being redeveloped. The applicant will be required to provide the information annually to staff for grant calculation purposes.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Urban Hamilton Official Plan

The subject lands are municipally known as 232 Cannon Street East, Hamilton and are designated as “Downtown Urban Growth Centre” in Schedule “E” – Urban Structure and as “Neighbourhoods” in Schedule “E-1” – Urban Land Use Designation.

The “Neighbourhoods” designation permits uses such as residential dwellings, open space and parks, local community facilities / services and local commercial uses. The general policy goals of the “Neighbourhoods” designation are to develop mixed-use, friendly neighbourhoods, where people can live, work, shop, learn and play.

The function of the “Downtown Urban Growth Centre” is a significant node as a result of scale, density, range of uses, function and identity by residents. It is to be planned for a range of uses appropriate to its role as the City’s pre-eminent node. This designation permits office uses in the Downtown, among others. The proposed medical office space is permitted.

Hamilton Zoning By-law No. 6593

The proposed development is zoned as “H” (Community Shopping and Commercial) District. The zone permits the retail uses (Shopper’s Drug Mart) and medical offices.

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 PED16242.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Urban Renewal staff, in co-operation with staff from the Taxation and Legal Services Divisions, developed an estimated schedule of grant payments under the terms of the Program. The final schedule of grant payments will be contingent upon a new assessment by MPAC following completion of the project. The applicant will be required to sign a grant agreement. The grant agreement contains provisions for varying the grant payment in each and every year based on MPAC’s assessed value. By signing, the applicant will accept the terms and conditions outlined therein prior to any grant payments being made. The Agreement outlines the terms and conditions of the grant payments over the five-year period.

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The estimated grant shall be calculated according to the following formulas:

Grant Level:		100%	
Total Eligible Costs (Maximum):	\$	214,650	
Pre-project CVA: XT (Commercial, New Construction)	\$	31,400	Year: 2016
Municipal Levy:	\$	732.89	
Education Levy:	\$	<u>370.52</u>	
Pre-project Property Taxes	\$	1,103.41	
*Post-project CVA: XT (Commercial, New Construction)	\$	910,000	Year: TBD
**Estimated Municipal Levy:	\$	21,239.93	
Estimated Education Levy:	\$	<u>10,738.00</u>	
Estimated Post-project Property Taxes:	\$	31,977.93	

The pre-development and estimated post-development assessed values and taxes pertain only to the portion of property being improved under the current grant application.

*The actual roll number(s), assessed value(s), tax classification(s) and value partitioning (where applicable) are to be determined by the Municipal Property Assessment Corporation (MPAC).

**2016 tax rates have been used for calculation of estimated post-development property taxes.

Pre-project Municipal Taxes = Municipal Levy = \$732.89

Municipal Tax Increment = \$21,239.93 - \$732.89 = \$20,507.04

Payment in Year One = \$20,507.04 x 1.0 = \$20,507.04

ESTIMATED GRANT PAYMENT SCHEDULE for finishing 2nd floor space for medical offices

(subject to re-calculation each year and up to the total eligible costs)

Year	Grant Factor	Tax Increment*	Grant
1	100%	\$20,507.04	\$20,507.04
2	80%	\$20,507.04	\$16,405.63
3	60%	\$20,507.04	\$12,304.22
4	40%	\$20,507.04	\$8,202.81
5	20%	\$20,507.04	\$4,101.40
Total		\$102,507.04	\$61,521.10

* Note that the tax increment is based every year on actual taxes for that year. The figures above are estimates. In other words for each year a grant payment is paid, the

actual taxes for the year of the grant payment will be used in the calculation of the grant payment.



232 Cannon Street East, Hamilton

Appendix “B” to Report PED16242 identifies the location of 232 Cannon Street East, Hamilton.

Amendments to the Terms of the Hamilton Tax Increment Grant Program

The amendments to the Terms of the HTIGP are being made in an effort to provide sufficient information to mitigate misconceptions of when and how grants are advanced. Specifically, the intention is to clarify: the process prior to advancing a grant cheque; the process when an applicant at the time of applying for the program confirms that they will be assigning the grant to the first purchasers of condominium units within a project or partially assigning condominium units within a project; and, the process when an applicant at the time of applying for the program confirms that they are not assigning the grant to the first purchasers of the condominium units.

Assignment of Grant for Condominium Projects:

There are two options for an applicant when developing a condominium project:

Option One: Assigning the grant to the first purchasers of condominium units within the project. In this instance the annual grant for the project is based on a per unit basis and individual cheques are issued for each individual condominium unit. If an applicant has not met the deadline to assign the grant to the first purchasers of each unit, the grant for the units that have not been assigned by the deadline will be payable to the applicant.*

Note: * If an applicant has elected to assign the grant to the first purchaser of each condominium unit, the unit must be sold to the first purchaser within one-year following

the date of registration on title of condominium status. If the unit is not sold within one-year following the date of registration on title of condominium status, the applicant can no longer assign the grant to the purchasers of the remaining condominium units and those units will be deemed not assigned and the grant for those units shall be payable to the applicant. When an applicant has not assigned the grant to all first purchasers of condominium units either because they did not meet the aforementioned deadline to assign the grant to the first purchasers, or, because the applicant continues to own a unit(s), the project will be referred to as a project where the grant is assigned / partially assigned.

The applicant must confirm if they are going to assign the grant to the first purchasers of each condominium unit at the time they apply for the program.

Option Two: Not assigning the grant to any of the first purchasers of condominium units. In this instance the annual grant is issued in one cheque to the applicant regardless of the fact that the applicant may or may not own any of the condominium units within the development project.

Appeals to Property Assessments:

Unless otherwise stated, the definition of “Appeal” for the purposes of the Program includes but is not limited to a Request for Reconsideration with the Municipal Property Assessment Corporation (MPAC), an Appeal with the Assessment Review Board (ARB), an Appeal to Divisional Court, or an Appeal under Sections 357, 358, 364 (etc.) of the *Municipal Act, 2001, S.O. 2001, c. 25*.

While the municipality or the property owner can Appeal the property assessment, the grant will not be advanced until the Appeal has been finally determined through the Assessment Review Board or Courts and revised property taxes have been calculated and adjusted.

Grant applications will not be accepted if there is an outstanding Appeal. The grant application will only be accepted once all Appeals have been settled and the revised (if applicable) property taxes have been calculated.

Appeals to Property Assessment for Residential Condominium Projects and Mixed-Use Projects (Residential and Commercial) when an Applicant has assigned / partially assigned the grant to the first purchasers of units:

The grant will not be advanced to the condominium owner (or the applicant) until the Appeal has been finally determined through the Assessment Review Board or Courts and revised property taxes have been calculated and adjusted.

The applicant / assignee will be required to sign an Affidavit each year of the grant confirming that they are in compliance with all terms of the Grant Payment Agreement

including the terms that their municipal property taxes are paid to date and that there are no outstanding Appeals in respect of the property / unit. If following advancement of the grant an Appeal is filed, the grant must be refunded until the assessment has been dealt with or in accordance with the terms of the program.

Appeals to Property Assessment for Residential Condominium Projects and Mixed-Use Projects (Residential and Commercial) when an Applicant has not assigned the grant for the entire project:

The annual grant to the applicant will be reduced by 25% if an Appeal has been filed by any of the condominium unit owners. The 25% hold-back will not be released until the Appeals are finally determined through the Assessment Review Board or Courts, and the revised property taxes have been calculated.

First Year Grant for all Applicants with the Exception of Condominium Projects:

The first year grant is payable at the end of the calendar year in the first full year of reassessment, post completion, of the redevelopment / development (subject to taxes being paid in full and no pending Appeal or confirmation that the assessment will not be Appealed). This is the same for commercial projects regardless of the number of commercial units occupied.

Grants will be processed in December of each calendar year and only after the annual taxes are paid in full and there is no pending Appeal. If there is a pending Appeal that has not been finally disposed of the grant will not be paid.

First Year Grant and Calculation of Grant for Residential Condominium Projects and Mixed-Use Projects (Residential and Commercial) when an Applicant has assigned / partially assigned the grant to the first purchasers of condominium units:

A limited assignment of the grant under the terms of the program may be made from an applicant to the initial purchaser of each residential condominium unit within a residential project or to the initial purchaser of each residential or commercial condominium unit within a mixed-use project. The assignment of the grant shall not apply to any subsequent re-sale of any such unit.

If there is a pending Appeal that has not been finally disposed of the grant will not be paid.

As mentioned earlier, if an applicant has elected to assign the grant to the first purchaser of each condominium unit, the unit must be sold to the first purchaser within one-year following the date of registration on title of condominium status. If the one-year period following the date of registration on title of condominium status for the project expires after December 31 of the year in which 75% of the residential

condominium units within the project are fully assessed, and the applicant has elected to assign the grant to the first purchaser, the unit must be sold to the first purchaser within one-year following the date of registration on title of condominium status. If the unit is sold to the first purchaser after December 31 of the year in which 75% of the residential condominium units within the project are fully assessed, yet still within one-year following the date of registration on title of condominium status, the first year of the grant is forfeited. The first purchaser will be entitled to the remaining years of the annual grant. If the unit is not sold within one-year following the date of registration on title of condominium status, the applicant can no longer assign the grant and the grant will be deemed not assigned and shall be payable to the applicant.

The grant will cease if the first condominium purchaser subsequently sells the condominium unit within the term of the grant (if the grant was assigned to the first purchaser of the condominium unit) or if the applicant subsequently sells a unit within the term of the grant (and the applicant was the owner in the year of sale). The grant in the year of the sale will be pro-rated based on the date of closing. No grant will be provided to the second or subsequent condominium purchasers.

In years previous to 75% of the residential units being fully assessed within the project, taxes are to be paid as billed and no grants will be payable.

When an applicant is either partially or fully assigning the grant to first purchasers of condominium units:

- The grant will be paid by the end of the first quarter of the following year i.e. the grant for 2016 will be paid by March 31, 2017. This will allow the City time to verify ownership and Appeal status for each condominium unit, prior to issuing the grant.
- In year one of the grant only, the grant may be paid after the first quarter of the following year, if one-year following the date of registration on title of condominium status for the project expires after December 31 of the year in which 75% of the residential condominium units within the project are fully assessed.

For grants that are fully or partially assigned, pre-project municipal taxes are apportioned amongst each condominium unit based on, or with reference to, the MPAC's "Condominium Plan Information Form" (CPIF) and in adherence to section 19.1(3) of the *Assessment Act*. The CPIF apportions the pre-development assessment amongst the newly created assessment roll numbers for the units. This allows the annual grant to be calculated on a per unit basis (difference between the post-project municipal taxes of each unit and the pre-project municipal taxes for each respective unit). The grant is further pro-rated based on the closing date of the sale to the first condominium purchaser of each of the fully assessed units (less the administration fee). For partially assigned projects, the grant for the units not assigned by the applicant is

calculated in the same manner, whereby the applicant's grant will be pro-rated based on the date each unassigned unit was reassessed (less the administration fee).

When an applicant confirms as part of their HTIGP application that the project will be a residential condominium or mixed-use (commercial and residential) condominium project and the condominium status on title does not occur (the property is assessed and taxed as a multi-residential or new-multi-residential) no grant will be payable.

First Year Grant and Calculation of Grant for Residential Condominium Projects and Mixed-Use Projects (Residential and Commercial) when an Applicant has not assigned the grant to the first purchasers of condominium units:

When an applicant chooses not to assign the grant to the initial purchasers of each condominium unit, the grant will be earned by the applicant if they have met all terms and conditions of the Program including payment of taxes and all building permits having been signed-off by Building Services.

For residential condominium projects and mixed-use projects that are not assigned, the grant will not be calculated on a per unit basis. The annual grant will be calculated by taking the difference between the sum of the post-project municipal taxes (for each year the grant is payable) and the pre-project municipal taxes.

In years previous to 75% of the residential units being fully assessed within the project, taxes are to be paid as billed and no grants will be payable.

If one-year following the date of registration on title of condominium status for the project expires after December 31 of the year in which 75% of the residential condominium units within the project are fully assessed, and the applicant has elected not to assign the grant to the first purchaser, the grant will be payable to the applicant by the end of the first quarter of the year following the year in which 75% of the residential condominium units within the project are fully assessed.

The annual grant to the applicant will be reduced by 25% if an Appeal has been filed with MPAC by any of the condominium unit owners. The 25% hold-back will not be released until the Appeals are finally determined through the Assessment Review Board or Courts, and the revised property taxes have been calculated.

Agreements

Applicants will be required to enter into a Grant Payment Agreement with the City of Hamilton that sets out the conditions of the annual Grant. When assigning the grant to the first-purchasers of residential condominium projects or mixed-used condominium projects (residential and commercial), the applicant and the assignee have to enter into an Agreement that would assign the payment of the grant to the assignee and also obligate the applicant to the terms and conditions contained in the Grant Payment

Agreement and, if the applicant is in default of the Grant Payment Agreement the Grant Payment to the assignee ceases.

ALTERNATIVES FOR CONSIDERATION

Decline the Grant and Approve a Reduced Amount

Declining a grant and / or approving a reduced amount would undermine the principles of the HTIGP and regeneration efforts, in general. This alternative is not recommended.

Financial: Grants totalling approximately \$61,521.10 over a five-year period would not be issued.

Staffing: Not applicable.

Legal: Not applicable.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED16242 - Location Map

HM/dt