



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	April 6, 2022
SUBJECT/REPORT NO:	Lease Extension and Amending Agreement – Barangas On The Beach, Confederation Beach Park (PED22040) (Ward 5)
WARD(S) AFFECTED:	Ward 5
PREPARED BY:	David McCullagh (905) 546-2424 Ext. 1647
SUBMITTED BY:	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
SIGNATURE:	

Discussion of this Confidential Appendix “B” to Report PED22040 in closed session is subject to the following requirement(s) of the City of Hamilton’s Procedural By-law and the *Ontario Municipal Act, 2001*:

- A proposed or pending acquisition or disposition of property for City or a local board purpose.

RATIONALE FOR CONFIDENTIALITY

Appendix “B” to Report PED22040 proposes a real estate transaction, and therefore it is appropriate to address in-camera, pursuant to the *Ontario Municipal Act*.

RATIONALE FOR MAINTAINING CONFIDENTIALITY

Appendix “B” to Report PED22040 is to remain Confidential as real estate transactions involve commercially confidential information and the outcome of negotiations, pending approval of Council.

RECOMMENDATION (CLOSED SESSION)

None.

RECOMMENDATION (OPEN SESSION)

- (a) That a Lease Extension and Amending Agreement between the City of Hamilton (Lessor) and Barangas Inc. c.o.b. as Barangas On The Beach (Lessee), for the subject premises located as identified in Appendix “A” to Report PED22040 and based substantially on the terms and conditions outlined in Appendix “B” to Report PED22040, and such other terms and conditions deemed appropriate by the General Manager of the Planning and Economic Development Department, be approved and entered into by the City of Hamilton;
- (b) That all rental proceeds from the Lease Extension and Amending Agreement - Barangas On The Beach continue to be received by Hamilton Conservation Authority and deposited to Confederation Beach Park Commercial Business account;
- (c) That all costs related to the Lease Extension and Amending Agreement - Barangas On The Beach, including the real estate and legal costs of \$27.5 K, be authorized to be paid by Hamilton Conservation Authority and funded from Confederation Beach Park Commercial Business account and credited to Dept. ID Account No. 55778-812036 (Real Estate – Admin Recovery);
- (d) That the General Manager, Planning and Economic Development Department or designate, acting on behalf of the Lessor, be authorized to administer the Lease and Lease Extension and Amending Agreement - Barangas On The Beach and provide any requisite consents, approvals, and notices related to the Lease and Lease Extension and Amending Agreement;
- (e) That the City Solicitor be authorized to amend and waive terms and conditions on such terms as considered reasonable to complete the leasing transaction, respecting the Lease Extension and Amending Agreement - Barangas On The Beach;
- (f) That the Mayor and Clerk be authorized and directed to execute the Lease Extension and Amending Agreement - Barangas On The Beach, or such other form and all other necessary associated documents with all such documents to be in a form satisfactory to the City Solicitor;
- (g) That Appendix “B” to Report PED22040, respecting Lease Extension and Amending Agreement – Barangas On The Beach, Confederation Beach Park, remain confidential and not be released as a public document.

EXECUTIVE SUMMARY

Since 1993, the owners of Barangas On The Beach have been operating a successful restaurant in Confederation Beach Park under a lease with the City. In August 2018, Council directed staff to commence early lease renewal negotiations with the Lessee, based on the understanding that the Tenant intends to make a significant investment towards improvements into the Leased Premises.

This Report seeks approval to finalize a negotiated Lease Extension and Amending Agreement that is consistent with the direction approved by Council.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Transaction as outlined in Appendix “B” to Report PED22040 attached;

All rental proceeds from the Lease Extension and Amending Agreement with Barangas Inc. c.o.b. as Barangas On The Beach (Lessee) will continue to be received by Hamilton Conservation Authority and deposited to Confederation Beach Park Commercial Business account.

All costs related to this Lease Extension and Amending Agreement with Barangas Inc. c.o.b. as Barangas On The Beach (Lessee), including the real estate and legal costs of \$27.5 K, will be paid by Hamilton Conservation Authority and funded from Confederation Beach Park Commercial Business account and credited to Dept. ID Account No. 55778-812036 (Real Estate – Admin Recovery).

Staffing: N/A

Legal: Legal Services will be required to assist in the preparation of the contemplated Lease Extension and Amending Agreement and any necessary documents required to complete this leasing transaction.

HISTORICAL BACKGROUND

In 1993 “Barangas” (as the Lessee has been commonly known) spent approximately \$2M to convert a former schoolhouse into a beach front restaurant and has been continuously occupying and operating seasonally between May to October each year, at its current location at Confederation Beach Park since that time. In 1993, Barangas was given a 15-year Lease term.

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In 2008 a Lease Renewal Agreement was negotiated and signed by Barangas and Hamilton Region Conservation Authority (HRCA), however, the Lease Renewal Agreement was never submitted for approval or execution by the City. Although unsigned by the City, the HRCA and Barangas had maintained the tenancy by operating under the assumption that the 2008 Lease Renewal Agreement was in place and had been tacitly accepted as the City had not objected to its terms and this ongoing tenancy.

Rectifying this 2008 oversight, Council on April 11, 2012, in approving General Issues Committee Report 12-008 Item No. 5.4, approved Joint Report PW12020/PED1249 authorizing the completion and entering into the current Lease agreement retroactively with Barangas for a further 15-year term commencing May 1, 2008, and expiring April 30, 2023 for their continued occupancy and operation from these leased premises.

At its meeting of August 17, 2018, Council approved Item 7.13, which in respect of this Report PED22040, provided direction to staff as follows:

That staff of the Corporate Real Estate Office of the Planning and Economic Development Department, be authorized and directed to commence early negotiations with the Tenant, based on the identified primary purpose for these negotiations being the Tenant's intent of making further investment into the Leased Premises, which negotiations may include, in addition to the salient business terms of a new Agreement and the Tenant's continued leasehold interest, any other terms and conditions deemed relative to the Tenant's continued occupancy and its continued success from the Leased Premises, and report back to the General Issues Committee.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Portfolio Management Strategy – Real Estate Management Plan

City Council, at its meeting of November 24, 2004, adopted the City's Portfolio Management Strategy Plan, which established a formalized process to be consistently applied across all areas of the City to guide the management of the City's real property.

RELEVANT CONSULTATION

- Hamilton Region Conservation Authority, as manager of Confederation Beach Park for the City;
- Public Works, Parks and Cemeteries Department;
- Corporate Services Department, Legal and Risk Management Services Division; and,
- Financial Planning Administration and Policy Division.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

During the term of its tenancy, Barangas has maintained a successful business in this location and has developed a market niche, with its lakeside venue, as a destination point at Confederation Beach Park. The owners of Barangas had expressed its desire to commence earlier negotiations towards obtaining a further term of its leasehold interest in the premises for the primary purpose of its making further capital investment into the leased premises through completing significant and substantial renovations and improvements, at its expense, towards maintaining a visually fresh image, and remaining operationally efficient and competitive.

The recommendations in this report are consistent with the approved master plan for Confederation Beach Park which includes maintaining this dining option as located within Confederation Beach Park.

The terms and conditions outlined in confidential Appendix “B” to Report PED22040 attached are deemed fair, reasonable and at market value by the Chief Corporate Real Estate Officer.

ALTERNATIVES FOR CONSIDERATION

The subject Lease Extension and Amending Agreement as recommended is a requirement for the continued occupancy and operation of Barangas from this location. Not approving a lease extension at the subject location would necessitate their needing either close or to relocate its business to another location.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

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

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location, Identification of Building Areas and Floor Plan

Appendix “B” – Confidential Major Terms and Conditions

DM/jd