



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

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	January 17, 2018
<b>SUBJECT/REPORT NO:</b>	Hamilton Community Heritage Fund Loan Program - 51 Markland Street, Hamilton (PED18024) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Lisa Browett (905) 546-2424 Ext. 7519
<b>SUBMITTED BY:</b>	Glen Norton Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That a conditional loan commitment totalling \$47,400.00 for Sonja Berthe Depauw-Morgan and David Morgan the registered owners of the property at 51 Markland Street, Hamilton, be authorized and approved in accordance with the terms and conditions of the Hamilton Community Heritage Fund Loan Program;
- (b) That the property owner of 51 Markland Street, Hamilton, and the City of Hamilton enter into a Heritage Conservation Easement Agreement;
- (c) 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) to Report PED18024, in a form satisfactory to the City Solicitor;
- (d) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any loan amending agreements for 51 Markland Street, Hamilton, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Hamilton Community Heritage Fund Loan Program are maintained;
- (e) That a copy of Report PED18024 be forwarded to the Hamilton Municipal Heritage Committee for information.

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## **EXECUTIVE SUMMARY**

The Hamilton Community Heritage Fund (HCHF) application for conservation / restoration works on 51 Markland Street, Hamilton, was submitted by Sonja Berthe Depauw-Morgan and David Morgan, the registered owners of the property. The property is located within the Durand-Markland Heritage Conservation District designated in 1994 by the former City of Hamilton by By-law 94-184. The applicant proposes to repair four brick chimneys.

The HCHF offers zero percent interest loans, to a maximum of \$50,000.00, for owners of properties that are designated individually under Part IV of the *Ontario Heritage Act*, or as part of a Heritage Conservation District under Part V of the *Ontario Heritage Act*. Funding is available only for work that conserves or restores the historic fabric and significant architectural elements of a building. Interior features are only eligible for funding if specifically mentioned in the "Reasons for Designation" or "Description of Heritage Attributes" of a property designated under Part IV of the *Ontario Heritage Act*. Loans approved for an amount over \$15,000.00 require that the property owner enter into a Heritage Conservation Easement with the City of Hamilton. The subject application is for an amount over \$15,000.00 and a Heritage Conservation Easement Agreement is required.

***Alternatives for Consideration – See Page 5***

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

**Financial:** Funding is provided under the terms of the HCHF, as approved by City Council on September 14, 2005. The loan monies are to be advanced from the City of Hamilton's line-of-credit, with the foregone interest being charged to Account Number 52901-812040. Any costs incurred for the HCHF are to be funded from the HCHF Reserve Account 102049, which has a balance, as of November 2, 2017, in the amount of \$102,031.16.

**Staffing:** Administration of this loan can be accommodated within the Urban Renewal and Development Planning Sections of the Planning and Economic Development Department, as well as within the Finance and Administration Section of the Corporate Services Department.

**Legal:** Section 106 of the Municipal Act enables the municipality to make grants / loans on such terms as the Council considers appropriate, to any person, group, or body, including a fund, within or outside of the boundaries of the municipality, for any purpose that the Council considers it to be in the interest of the municipality.

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Prior to the advance of funding from the City, the applicant will be required to execute a second mortgage with the City and enter into a Heritage Conservation Easement Agreement. The loan is not advanced until the project is 50% complete at which time 50% of the loan will be advanced. All documents and required searches will be developed and undertaken in consultation with the Legal Services Division.

As construction projects move forward, it is sometimes necessary to amend previously approved loan agreements and any ancillary documentation, therefore staff recommend 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 HCHF are maintained.

## **HISTORICAL BACKGROUND**

The former City of Hamilton established the HCHF in 1985, By-law No. 85-120, as part of the Province of Ontario's "*Building Rehabilitation and Improvement Campaign*", commonly referred to as the "BRIC" Program. The Grant Agreement entered into by both parties (the Province of Ontario and the former City of Hamilton) established a fund that originally comprised \$441,666.67. Of this total amount, \$247,400.00 (57%) was from the Province, and \$191,666.67 (43%) was from the former City of Hamilton. Heritage property was defined in the agreement as a property designated under the *Ontario Heritage Act*.

The intent of the HCHF, as established by the Grant Agreement, was to establish a permanent fund for the purpose of investing in architectural conservation. Specifically, the fund was to be used:

- For loans for the purchase and / or conservation of heritage property;
- To guarantee loans for the purchase and / or conservation of heritage property; and,
- For grants to owners of designated heritage property for the conservation of that property.

The HCHF was originally established as a revolving fund, with the former City of Hamilton offering low-interest loans for eligible conservation work on buildings designated under the *Ontario Heritage Act*. As interest rates declined during the 1990's, the Program was revised to permit interest-free loans, and the former City of Hamilton continued to offer loans of up to \$20,000, repayable over a ten-year period and secured by a lien. The agreement with the Province of Ontario stipulated that loans

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of \$15,000.00 or more required a Heritage Conservation Easement Agreement between the property owner and the City.

After municipal amalgamation, Council agreed to maintain the HCHF Program as a permanent reserve to provide loan assistance to all designated heritage properties within all of the former municipalities (Report PD00151(a), Item (f)). In 2005, Council approved an increase in the maximum loan amount to \$50,000.00 (Report PED05091), and, under the current terms of the program, the loan is registered as a mortgage on the property and repayable over a period of up to ten years, with no accumulated interest.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### Urban Hamilton Official Plan

The subject lands are municipally known as 51 Markland Street, Hamilton and are designated as “Neighbourhoods” in Schedule “E” – Urban Structure and as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designation. Areas designated Neighbourhoods shall function as complete communities including a full range of residential dwelling types. On this basis, the existing use would conform.

### Hamilton Zoning By-law No. 6593

The subject property is zoned “C” Urban Protected Residential, Etc. The residential use is permitted.

### Built Heritage

The property is designated under Part V of the Ontario *Heritage Act* by municipal By-law Number 94-184 as part of the Durand-Markland Heritage Conservation District.

## **RELEVANT CONSULTATION**

Staff from the Development Planning Section, Planning and Economic Development Department, the Finance and Administration Division, Corporate Services Department, and the Legal Services Division, Corporate Services Department, was consulted and the advice received is incorporated into Report PED18024.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Staff undertook due diligence on the application including: reviewing the applicant’s financial capacity to repay the loan; undertaking a search to determine if the applicant is in litigation with the City of Hamilton; confirmed that property taxes were paid current; and, whether there were any Building Code, Fire Code or Property Standard violations outstanding on the property. There were no issues with the results of the aforementioned.

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Staff from the Planning and Development Section confirmed that a Heritage Permit for repairing the chimneys has been obtained.



*51 Markland Street, Hamilton*

Appendix “A” to Report PED18024 identifies the location of 51 Markland Street, Hamilton.

### **ALTERNATIVES FOR CONSIDERATION**

Funding for the conservation or maintenance of features related to the cultural heritage value of property designated under the *Ontario Heritage Act* is a discretionary activity of Council. Council, as advised by staff, may consider two alternatives: agree to fund a different amount, or decline to fund the application.

#### **Decline to Fund**

By declining funding, the municipality would be refusing applicants that meet the criteria and budget for the HCHF Program, as approved by Council. Refusal of funding will not encourage owners of properties designated under Part IV or V of the *Ontario Heritage*

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Act to undertake the appropriate restoration and repair necessary for the long-term conservation of these heritage resources.

Accordingly, staff does not consider declining funding for this HCHF application to be an appropriate conservation alternative.

Approve a Different Amount

Council may decide to approve a loan amount that is different from the staff recommendation. This alternative is not recommended, as it may compromise the ability of the owners to complete work that is necessary for the conservation of the property.

**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.*

**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 PED18024 – Location Map

LB:dt