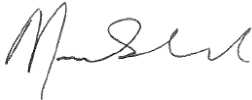




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	November 6, 2024
<b>SUBJECT/REPORT NO:</b>	Barton Kenilworth Tax Increment Grant Program and the Downtown and Barton/Kenilworth Housing Opportunities Program – 252-266 Catharine Street North, Hamilton (PED24194) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Carlo Gorni (905) 546-2424 Ext. 2755 Johnpaul Loiacono (905) 546-2424 Ext. 5134
<b>SUBMITTED BY:</b>	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That a Barton Kenilworth Tax Increment Grant Program Application submitted by 2844238 Ontario Inc. (Ramin Jalalpour, Moehsen Jalalpour, Rouh Ramezani, Joseph Tavana and Payam Khazanbaik), for the property at 252-266 Catharine Street North, Hamilton, estimated at \$169,811.53 over a maximum of a nine year period, and based upon the incremental tax increase attributable to the renovations of 252-266 Catharine Street North, Hamilton, be authorized and approved in accordance with the terms and conditions of the Barton Kenilworth Tax Increment Grant Program;
- (b) That the General Manager of the Planning and Economic Development Department be authorized and directed to execute a Grant Agreement together with any ancillary documentation required, to give effect to the Barton Kenilworth Tax Increment Grant Program for 2844238 Ontario Inc. (Ramin Jalalpour, Moehsen Jalalpour, Rouh Ramezani, Joseph Tavana and Payam Khazanbaik) for the property known as 252-266 Catharine Street North, Hamilton, in a form satisfactory to the City Solicitor;

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- (c) That the General Manager of the Planning and Economic Development Department be authorized and directed to administer the Grant and Grant Agreement including, but not limited to, deciding on actions to take in respect of events of default and executing any Grant Amending Agreements, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Barton Kenilworth Tax Increment Grant Program, as approved by City Council, are maintained and that any applicable Grant Amending Agreements are undertaken in a form satisfactory to the City Solicitor;
- (d) That a Downtown and Barton/Kenilworth Housing Opportunities Program Application submitted by 2844238 Ontario Inc. (Ramin Jalalpour, Moehsen Jalalpour, Rouh Ramezani, Joseph Tavana and Payam Khazanbaik), the registered owner of the property at 252-266 Catharine Street North, Hamilton, estimated at \$357,000, be authorized and approved in accordance with the terms and conditions of the Downtown and Barton/Kenilworth Housing Opportunities Program;
- (e) That the Mayor and City Clerk be authorized and directed to execute a Loan Agreement together with any ancillary documentation required, to effect recommendation (d) of Report PED24194, in a form satisfactory to the City Solicitor;
- (f) 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 Downtown and Barton/Kenilworth Housing Opportunities Program, as approved by City Council, are maintained.

## **EXECUTIVE SUMMARY**

The Barton Kenilworth Tax Increment Grant Program and the Downtown and Barton/Kenilworth Housing Opportunities Program Applications for the renovation of 252-266 Catharine Street North (the “subject lands”), Hamilton, were submitted by 2844238 Ontario Inc. (Ramin Jalalpour, Moehsen Jalalpour, Rouh Ramezani, Joseph Tavana and Payam Khazanbaik) on April 1, 2022, and March 1, 2022, respectively.

The subject lands are located at the south-east corner of Barton Street East and Catharine Street. At the time of Applications, the property contained a vacant commercial building. Renovations to the building have resulted in the creation of twenty rental residential units and one commercial unit. The proposal increases the rental housing supply within the city through the adaptive reuse of a building on otherwise underutilized lands. The renovations are now substantially complete.

**SUBJECT: Barton Kenilworth Tax Increment Grant and Downtown and Barton/Kenilworth Housing Opportunities Programs – 252-266 Catharine Street North, Hamilton (PED24194) (Ward 2) - Page 3 of 12**

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Construction costs are estimated at \$4,124,837 and it is projected that the proposed redevelopment will increase the assessed value of the property from its current value of \$1,123,000 to approximately \$4,241,155. The appraised value of the subject lands is approximately \$10,500,000.

The Barton Kenilworth Tax Increment Grant Program offers a grant for the uplift in municipal taxes, which is paid on an annual basis. The program terms limit the payments at 100% of the municipal realty tax increase during the first five years, 80% in year six, 60% in year seven, 40% in year eight, and 20% in year nine. This project will increase the total annual property taxes generated by the subject lands. Therefore, the municipal share of this property tax increase (municipal tax increment) will be approximately \$24,258.79 of which 100% would be granted to the owner during years one to five, 80% or approximately \$19,407.03 in year six, 60% or approximately \$14,555.27 in year seven, 40% or approximately \$9,703.52 in year eight and 20% or approximately \$4,851.76 in year nine. The estimated total value of the Grant is approximately \$169,811.53. Note that every year the tax increment is based on actual taxes for that year.

The Downtown and Barton/Kenilworth Housing Opportunities Program offers a 0% interest loan for projects that result in predominantly residential development including converting existing commercial space into multiple dwellings. The maximum loan amount is the lessor of \$4,000,000 or 25% of the cost of construction (to a maximum of \$5,000,000). However, the Applicant shall have no less than 25% equity based upon the appraised value of the subject lands, therefore the estimated maximum loan is \$357,000.

The program term for the loan stipulates that the loan is advanced in three stages: upon completion of 60% of the renovations, 80% of the renovations, and finally at substantial completion. However, given that the project is substantially complete, the loan will be fully advanced, except for a 10% holdback and administrative unit fee of \$653. The loan is to be repaid at 10% of the principal each year for four years (payments begin after the first year) and at the end of the fifth year of the loan, a balloon payment is required to repay the remaining 60% of the loan.

The previous condition of the site (September 2023) and the post renovation pictures are provided below:

**Conditions prior to the renovation of the subject lands**



View looking south toward the northern elevation



View looking north east toward the western elevation  
(Source: maps.google.ca; image from April 2022)

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**Project complete**



View looking north east of the western elevation. Note, the façade along Barton Street remains unchanged.

**Alternatives for Consideration – See Page 12.**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Per the Barton Kenilworth Tax Increment Grant Program terms, the City will collect full property taxes on the property and, in turn, provide a Grant over nine years, declining each year after the first five years by 20%, based on the increase in the municipal portion of the taxes, post-development completion of 252-266 Catharine Street North, Hamilton. Following year five 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 nine years totals \$218,329.11, of which the Applicant would receive a Grant totalling approximately \$169,811.53 and the city retaining taxes totalling approximately \$48,517.58.

Per the Downtown and Barton/Kenilworth Housing Opportunities Program loan terms, the City will advance the \$357,000 all at once, less a 10% holdback and administration fee per dwelling unit of \$653. The Holdbacks will be released 60 days after publication of the Certificate of Substantial Performance and the Applicant has provided to the City a Statutory Declaration(s), sworn to by the Contractor, that states: that all accounts for

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labour, contracts, subcontracts, products, services, machinery and equipment which have been incurred in the Project and for which an "owner" as defined in the *Construction Act* might in any way be held responsible, have been paid in full; there are no notices of liens; there are no registration of liens on title; and lien rights with an entitlement against the Holdbacks have expired.

As per the terms of the Downtown and Barton/Kenilworth Housing Opportunities Program, the applicant paid an application fee of \$390 at the time of application, and an administration cost of \$653 per unit (\$13,060.09 for 20 residential units) will be charged to the applicant at the first advance of the loan. Therefore, the applicant will pay a total of \$13,450.09 in administration fees.

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 52901-815010.

**Staffing:** Grant and loan payments under the Barton Kenilworth Tax Increment Grant Program and the Downtown and Barton/Kenilworth Housing Opportunities Program are processed by the Commercial Districts and Small Business 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 and Loan Agreement prior to both being advanced. The Agreements will be developed in consultation with Legal Services Division. 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 a personal guarantee by Ramin Jalalpour, Rouh Ramezani, and Payam Khazanbaik and a corporate guarantee from 2844238 Ontario Inc.

As construction projects move forward, it is sometimes necessary to amend previously approved Agreements and any ancillary documentation. Therefore, staff recommends that the General Manager of Planning and Economic Development be authorized to amend both Agreements and any ancillary documentation, provided that the terms and conditions of the Barton Kenilworth Tax Increment Grant Program and the Downtown and Barton/Kenilworth Housing Opportunities Program, as approved by City Council, are maintained.

## **HISTORICAL BACKGROUND**

On March 1, 2022, the registered property owner of 252-266 Catharine Street North, Hamilton, 2844238 Ontario Inc. (Ramin Jalalpour, Moehsen Jalalpour, Rouh Ramezani, Joseph Tavana and Payam Khazanbaik), submitted an Application to the Downtown and Barton/Kenilworth Housing Opportunities Program for the renovation of 252-266 Catharine Street North (the “subject lands”).

On April 11, 2022, they then submitted an Application to the Barton Kenilworth Tax Increment Grant Program for the subject lands.

These programs have slightly different origins. The Downtown and Barton/Kenilworth Housing Opportunities Program (formerly the Hamilton Downtown Multi-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 including the expansion of the program from Downtown Hamilton to the Barton Village Business Improvement Area and the commercial corridors along Barton Street, east of the Barton Village Business Improvement Area and along Kenilworth Avenue North while the Barton/Kenilworth Tax Increment Grant Program was first established by City Council on May 11, 2016, through the approval of an amendment to the Downtown and Community Renewal Community Improvement Plan (2016). The programs are currently established through the updated Revitalizing Hamilton’s Commercial Districts Community Improvement Plan, which was approved by City Council on September 29, 2021, via By-law 21-164.

The Barton/Kenilworth Tax Increment Grant Program is intended to incentivize property owners located along the Barton Street East and Kenilworth Avenue North commercial corridors (including properties within the Barton Village Business Improvement Area) to develop, redevelop or otherwise improve properties and/or buildings in a manner that will support the broader revitalization of these districts as well as generate new municipal property tax revenue through increased property assessments.

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The Barton/Kenilworth Tax Increment Grant Program is to be in an amount which does not exceed 100% of the municipal realty tax increase during the first five years, 80% in year six, 60% in year seven, 40% in year eight, and 20% in year nine. The exact geographic boundaries within which these programs are available are defined through the associated Revitalizing Hamilton Community Improvement Project Area By-law (21-163).

The Downtown and Barton/Kenilworth Housing Opportunities Program is intended to provide financial assistance in the form of a low-interest loan to promote the development of multiple dwelling units that will create new housing opportunities and support robust local commercial district populations that add vibrancy and support demand for local commercial businesses/services. The program terms set the maximum loan amount to the lesser of \$4,000,000 or 25% of the cost of construction. However, the Applicant shall have no less than 25% equity based upon the appraised value of the subject lands upon completion of the development, which can affect the amount of the loan the Applicant can qualify for despite the total construction cost.

This project is eligible under the terms of both the Downtown and Barton/Kenilworth Housing Opportunities Program and the Barton/Kenilworth Tax Increment Grant Program. The Applicant can qualify for the Barton/Kenilworth Tax Increment Grant upon completion of the renovations. Construction costs were estimated at \$4,124,837. The total estimated Grant over the nine-year period is approximately \$169,811.53. The total estimated loan is \$357,000.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Urban Hamilton Official Plan**

The subject lands are identified as “Lands Subject to Non-Decision 113 West Harbour Setting Sail” on Schedule E-1 of the Urban Hamilton Official Plan, therefore the Urban Hamilton Official Plan policies (OPA167) do not apply. Note that there was no decision made by the Ministry of Municipal Affairs and Housing regarding the adoption of the West Harbour (Setting Sail) Secondary Plan into the current Urban Hamilton Official Plan as the West Harbour (Setting Sail) Secondary Plan was under appeal.

Within the West Harbour (Setting Sail) Secondary Plan, the subject lands are designated as “Prime Retail”, which generally permits mixed use developments including residential uses.



### **Zoning By-law No. 6593**

The subject lands are zoned “J/S-378” (Light and Limited Heavy Industry, Etc.) District, Modified, within the former City of Hamilton Zoning By-law 6593. This zone does not permit the proposed multiple dwelling.

Notwithstanding the above, the proposal is permitted given that Minor Variance Application HM/A-21:38 allowed the change of use and conversion of the existing building to a 20-unit multiple dwelling with the condition that the 137.5 square meters of retail space is maintained on the ground floor. The proposed plans submitted demonstrate that the required retail space will be maintained.

### **Site Plan Control**

The subject lands are subject to Site Plan Control, however, given that the proposal consists of interior renovations and no exterior modifications, a Site Plan Control Application waiver was issued by the City in 2021.

### **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 PED24194.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Commercial Districts and Small Business 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 Barton/Kenilworth Tax Increment Grant Program. The final schedule of Grant payments will be contingent upon a new assessment by Municipal Property Assessment Corporation 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 the Municipal Property Assessment Corporation’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 nine-year period.

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<b>Grant Level:</b>		<b>100%</b>	
<b>Total Eligible Costs (Maximum)</b>	\$4,124,837		
<b>Total Pre-Project CVA:</b>			Year: 2021
<b>CT Commercial</b>	\$1,123,000		
<b>Pre-Project Property Taxes</b>			
<b>Municipal Levy</b>	\$23,470.93		
<b>Education Levy</b>	<u>\$9,882.40</u>		
<b>Pre-Project Property Taxes</b>	\$33,353.33		
<b>*Post-Project CVA</b>			
<b>CVA NT New Multi-Residential</b>	\$3,954,869		
<b>CVA CT Commercial</b>	<u>\$286,286</u>		
<b>Estimated Post-Project CVA</b>	\$4,241,155		Year: To Be Determined
<b>**Estimated Municipal Levy</b>	\$47,729.72		
<b>**Estimated Education Levy</b>	<u>\$8,570.27</u>		
<b>**Estimated Post-Project Property Taxes</b>	\$56,299.99		

\*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.

\*\*2021 tax rates have been used for calculation of the estimated post-development property taxes.

Pre-project Municipal Taxes = Municipal Levy = \$23,470.93  
Municipal Tax Increment = \$47,729.72 - \$23,470.93 = \$24,258.79  
Payment in Year One = \$24,258.79 x 1.0 = \$24,258.79

**ESTIMATED GRANT PAYMENT SCHEDULE for 252 CATHARINE STREET NORTH (Subject to re-calculation each year and up to the total eligible costs)**

<b>Year</b>	<b>Grant Factor</b>	<b>Tax Increment*</b>	<b>Grant</b>
<b>1</b>	100%	\$24,258.79	\$24,258.79
<b>2</b>	100%	\$24,258.79	\$24,258.79
<b>3</b>	100%	\$24,258.79	\$24,258.79
<b>4</b>	100%	\$24,258.79	\$24,258.79
<b>5</b>	100%	\$24,258.79	\$24,258.79
<b>6</b>	80%	\$24,258.79	\$19,407.03
<b>7</b>	60%	\$24,258.79	\$14,555.27
<b>8</b>	40%	\$24,258.79	\$9,703.52
<b>9</b>	20%	\$24,258.79	\$4,851.76
<b>Total</b>		<b>\$218,329.11</b>	<b>\$169,811.53</b>

\*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.

Supporting documentation for the Application included an appraisal of the completed project prepared by an accredited appraiser, a cost-to-construct budget prepared 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 undertaking 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 Standard violations outstanding on the property. There were no conflicts identified.

Staff calculated the loan amount of \$357,000 considering the program term that required the Applicant to maintain a minimum 25% equity in the project. Given the existing Canada Mortgage Housing Corporation loan on the subject lands and the appraised value of \$10,500,000 (which was reviewed by Real Estate staff), in order to maintain a 25% equity stake in the project, the owners could not qualify for a larger

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loan. If the Applicant had more equity in the project, the construction costs of \$4,124,837 would have otherwise allowed for a loan of \$1,031,209.25 (the full 25% of the construction costs).

This proposal results in the creation of much needed rental residential units to assist with the housing shortage in the city. The project fulfils the goals of the Community Improvement Plan and generally, Council direction. The proposal provides rental units through the adaptive reuse of a building that is otherwise vacant and an underutilized site. The residential units will contribute to the revitalization along Barton Street and locate additional residents that can strengthen the commercial corridor.

**ALTERNATIVES FOR CONSIDERATION**

Declining a Grant and/or approving a reduced amount would undermine the principles of the Barton/Kenilworth Tax Increment Grant Program and regeneration efforts in general. This alternative is not recommended.

**Financial:** Grants totalling \$169,811.53.36 over a nine-year period, and a loan totalling \$357,000, would not be issued.

**Staffing:** Not Applicable.

**Legal:** Not Applicable.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED24194 – Location Map