

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: WARD 2
COMMITTEE DATE: September 19, 2012	
SUBJECT/REPORT NO: Hamilton Downtown/West Harbourfront Remediation Loan Program Application (RLP-12-02) and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application (ERG-12-03) – 134 Cannon Street East (PED12174) (Ward 2)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Hazel Milsome 905-546-2424 Ext. 2755 Brian Morris 905-546-2424 Ext. 5602
SIGNATURE: 	

RECOMMENDATIONS:

- (a) That a conditional loan commitment totalling \$400,000 for the Mary Street Knitting Mill Property Limited, the registered owner of the property located at 134 Cannon Street East (parent company, the Hamilton Realty Capital Corporation, Richard Abboud, President), be authorized and approved in accordance with the terms and conditions of the Hamilton Downtown/West Harbourfront Remediation Loan Program;
- (b) That Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant Application ERG-12-03, submitted by the Hamilton Realty Capital Corporation on behalf of Mary Street Knitting Mill Property Limited, owner of the property at 134 Cannon Street East, for an ERASE Redevelopment Grant not to exceed \$1,493,400, payable to the Mary Street Knitting Mill Property

Limited over a maximum of 10 years, be authorized and approved in accordance with the terms and conditions of the ERASE Redevelopment Agreement;

- (c) That the Mayor and City Clerk be authorized and directed to execute loan agreements, together with any ancillary documentation required, to effect recommendations (a) and (b), above, 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, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Hamilton Downtown/West Harbourfront Remediation Loan Program and Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant, as approved by City Council, are maintained.

EXECUTIVE SUMMARY

Hamilton Downtown/West Harbourfront Remediation Loan Program

The Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program (HDWHRLP) application for the remediation of 134 Cannon Street East was submitted by the Hamilton Realty Capital Corporation on behalf of the Mary Street Knitting Mill Property Limited, the registered owner of the property. The building, built in 1860, is a vacant 120,316 sq. ft. property and was formerly known as the Cannon Knitting Mills. The applicant proposes to remediate the property and, upon remediation, redevelop the existing building creating a new commercial/office complex. The actual configuration of tenant space is unknown at this time. The location of the property within the Downtown Hamilton Community Improvement Project Area is identified on the map attached as Appendix "A" to Report PED12174.

The HDWHRLP offers a low interest loan for the remediation of commercial and residential properties within the Downtown Hamilton Community Improvement Project Area and the West Harbourfront as defined by the boundaries of the Setting Sail Secondary Plan. The amount of the loan is equal to 80% of the remediation costs of the property, up to a maximum of \$400,000. The remediation costs at 134 Cannon Street East are estimated at \$1,493,400, therefore, the loan amount is \$400,000, representing the maximum loan under the program. Interest on the loan is 1% below the prime rate as established by the RBC. Such rate is established at the time the first instalment of the loan is advanced by the City.

Applicants of the HDWHRLP can assign their grants under the ERASE Redevelopment Grant to the City of Hamilton as repayment of the loan. In the event that the full 10 year grant amount under the ERASE Redevelopment Grant amount is not sufficient to

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repay the loan in its entirety (*which in this case it will be sufficient*), supplemental payments will be a requirement of the applicant in order that each year through the 10 year repayment term, one-tenth of the loan amount is repaid.

Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant

An Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant (ERASE RGP) was submitted concurrently by the Hamilton Realty Capital Corporation on behalf of the Mary Street Knitting Mill Property Limited for redevelopment of the property at 134 Cannon Street East. The applicant qualifies for an ERASE RGP as a result of required environmental site remediation in order to permit the redevelopment of a vacant industrial building.

Alternatives for Consideration – See Page 8.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial:

Hamilton Downtown/West Harbourfront Remediation Loan Program

Loans provided through the Hamilton Downtown/West Harbourfront Remediation Loan Program (HDWHRLP) will be funded by creating a receivable on the City's balance sheet. As loan repayments are made, the receivable is reduced. Funding provided through the Urban Renewal Section's program budget is used to subsidize the interest rate charged on the loans. Funding to subsidize the interest rate charged on the loan is funded from Project ID# 8200903900. The interest charged on the loans will be 1% below the prime rate as established by the Royal Bank of Canada (RBC). Such rate will be established at the time the first instalment of the loan is advanced by the City.

Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant

As per the ERASE RGP, the City will provide the applicant with a grant equivalent to 80% of the increase in municipal taxes up to the total eligible cost figure of \$1,493,400. At that time, the City will begin to collect and retain the full municipal portion of the tax increment.

The City will retain 20% of the municipal tax increment, approximately \$39,633.97 a year, for 10 years, up to an amount not to exceed 20% of the total estimated clean-up costs. These monies will be deposited into the Brownfield's Pilot Project Account to be used by the City for its Municipal Acquisition and Partnership Program (MAPP). This

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program, as approved in the ERASE Community Improvement Plan, involves the City acquiring key Brownfield sites, cleaning-up and redeveloping property it already owns, or participating in public/private partnerships to redevelop Brownfield properties.

Staffing:

Applications and loan/grant payments under the HDWHRLP and the ERASE RGP are processed by the Economic Development Division and the 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.

Hamilton Downtown/West Harbourfront Remediation Loan Program

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 General Security Agreement and a parent company guarantee. The loan will also be secured by the assignment of the grant under the ERASE Redevelopment Grant. All documents and required searches will be developed and undertaken in consultation with Legal Services.

Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant

The Redevelopment Agreement will specify the obligations of the City and the applicant. The Redevelopment Agreement will be prepared in a form satisfactory to the City Solicitor.

As construction projects move forward, it is sometimes necessary to amend previously approved loan/grant agreements and any ancillary documentation, therefore, staff recommends that the General Manager of Planning and Economic Development be authorized to amend loan/grant agreements and any ancillary documentation, provided that the terms and conditions of the HDWHRLP and the ERASE RGP are maintained.

HISTORICAL BACKGROUND (Chronology of events)

The subject property is occupied by a former textile manufacturing building built in 1860 and consisting of three (3) stories of approximately 120,316 sq. ft. The subject property was formerly home to a drapery manufacturer, art studio and Cannon Knitting Mills Co. until 2009. Prior to the 1960's, the property was occupied by Chipman-Holton Knitting Co., Laidlaw Manufacturing Co. and Mary Street Foundry. In general, dense non-aqueous phase liquid (DNAPL) chlorinated volatile organic compounds (VOC's) were released into the subsurface soil and groundwater, presumably through various leaks, spills and industrial processes carried out over the years at the subject property.

Several environmental site assessments (ESA) were conducted, with the most recent being a supplemental Phase II ESA completed by MMM Group in the Fall of 2011. Analytical results from the soil and groundwater investigations were compared against MOE 2011 Table 3 standards. This comparison identified elevated levels of chlorinated VOC's and chloride impacts. Petroleum hydrocarbon impacts were detected but they were below the MOE Table 3 standard.

Soil impacts are primarily limited to the fill layer material. The estimated total impacted area is 1,500 m² with an estimated 7,000 metric tonnes of impacted soil requiring management through remediation and/or risk management measures. The groundwater impacts have also been interpreted to suggest that the fill layer is highly contaminated with chlorinated VOC's while the clay confining layer underneath is limiting the migration deeper into the formation.

Based on the historical data and investigations, MMM Group presented the Hamilton Realty Capital Corporation with a Remedial Action Plan (RAP). MMM Group recommends that the management of soil and groundwater impacts at the site be dealt with in a staged approach that will rely on the removal of the most concentrated contamination along with a Risk Assessment (RA) that will allow for the management of residual contamination on site. The RAP will be undertaken by the applicant in order to permit a Record of Site Condition (RSC) to be filed on the property for the proposed use by a qualified person.

Hamilton Realty Capital Corporation submitted an application to the Hamilton Downtown/West Harbourfront Remediation Loan Program and the ERASE Redevelopment Grant Program on July 13, 2012, on behalf of Mary Street Knitting Mill Property Limited.

This is the second application under the new Hamilton Downtown/ West Harbourfront Remediation Loan Pilot Program. Staff will be reporting back to Council in the Fall of 2012 on the success of the program as well as recommended amendments to the

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program's terms and conditions, such as minimum assessment and tax increases from the development.

POLICY IMPLICATIONS

Report PED12174 relates to the processing of an application under the HDWHRLP and the ERASE RGP which are contained within the Downtown and Community Renewal Community Improvement Plan and the ERASE Community Improvement Plan (2010), respectively.

The proposed development is subject to Zoning By-law 05-200. Staff from the Economic Development Division will assist the applicant with the necessary planning/building approvals.

RELEVANT CONSULTATION

Staff from the Taxation Division, Corporate Services Department, and the Legal Services Division, City Manager's Office were consulted, and the advice received is incorporated into Report PED12174.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Hamilton Downtown/West Harbourfront Remediation Loan Program

Due diligence involved in assessing whether an applicant meets the terms and conditions of the Hamilton Downtown/West Harbourfront Remediation Loan Program (HDWHRLP) includes determining whether property taxes are current (*property taxes are currently paid in full*), if there are any outstanding Property Standards, Building Code or Fire Code violations (*there are no outstanding violations on the property*) and, whether the applicant is in litigation with the City of Hamilton (*the Director of the corporation is not in litigation with the City of Hamilton*).

The maximum loan under the HDWHRLP is 80% of the remediation costs to a maximum of \$400,000. The remediation costs for 134 Cannon Street East are estimated at \$1,493,400, therefore, the loan amount is \$400,000. The applicant will assign their grant under the ERASE RGP to the repayment of the loan. The estimated grant under the ERASE RGP is \$158,535.86 annually for 10 years or \$1,585,358.64. However, the terms of the Program dictate that the maximum grant cannot exceed the cost of remediation, therefore, the grant will be capped at \$1,493,400. Details of the ERASE RGP are detailed later in Report PED12174. As per the terms of the

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HDWHRLP, in the event the full 10 year grant is not sufficient to repay the loan in its entirety, supplemental payments will be a requirement of the applicant in order that each year through the 10 year repayment term, one-tenth of the loan amount is repaid. Therefore, based on a loan of \$400,000, the annual repayment will be \$40,000. The annual ERASE RGP grant is estimated at \$158,535.86, therefore, supplemental payments will not be required from the applicant.



134 Cannon Street East – Pre-redevelopment

The existing property is shown in the photo above. The building will be entirely retrofitted and renovated as part of the redevelopment, creating a new commercial/office complex.

Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant

The ERASE RGP is a component of the Council approved ERASE Community Improvement Plan. This application meets the criteria for approval.

The 2012 assessment value is \$200,000 and the property is classed as Industrial (IT) and Commercial (CT). Property taxes are paid in full. Taxes for 2012 on this property total \$9,687.10.

Municipal Levy:	\$ 6,904.57
Education Levy:	\$ 2,782.53
Total:	\$ 9,687.10

Based on information provided by the applicant in support of the ERASE application, staff has estimated that once the project is complete, the property will have an estimated MVA of \$8,600,000, classed as Commercial & Office Building (New Construction (XT & YT)). This new MVA is estimated to increase total annual property

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taxes to \$313,434.40. The new annual municipal portion of the taxes levied on this property will be \$205,074.40, with the remaining dollars going to the Province for education taxes. Therefore, the *annual increase* in the municipal portion of the taxes is estimated at \$198,169.83. The Program offers 80% of the increase in the municipal portion of the taxes each year for a 10 year period and is capped at the cost of the remediation which, for 134 Cannon Street East, is estimated at \$1,493,400, broken down as follows:

Remediation (management of impacted soil) - \$1,330,000
Risk Assessment (RA) and additional environmental consultant fees - \$163,400
Total eligible costs = \$1,493,400

The City will realize the tax increase after 7.5 years at which time the total eligible grant (\$1,493,400) will have been advanced to the applicant based on an annual grant of \$198,169.83.

As per City Council direction to increase the number of Brownfield properties redeveloped per year and to increase downtown property taxes by \$1.45 million per year, this grant application would effectively support the strategic direction.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Option # 1: Non-acceptance of the recommendations contained in Report PED12174. This decision has the potential to terminate the development and abandon the remediation of a contaminated Downtown property. This alternative is not recommended.

Option # 2: Acceptance with a reduction of the amount of the loan/grant. This would compromise the intent of the HDWHRLP and the ERASE RGP, as well as undermine downtown renewal and eliminate the potential remediation of a Brownfield property on a major thoroughfare in our Downtown core. This alternative is not recommended.

Financial: A loan in the amount of \$400,000 and a grant in the amount of \$1,493,400 would not be advanced.

Staffing: Not applicable

Legal: Not applicable

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CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Skilled, Innovative & Respectful Organization

- ◆ Council and SMT are recognized for their leadership and integrity

Financial Sustainability

- ◆ Effective and sustainable Growth Management
- ◆ Generate assessment growth/non-tax revenues

Growing Our Economy

- ◆ Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases.
- ◆ Newly created or revitalized employment sites
- ◆ Competitive business environment

Healthy Community

- ◆ Partnerships are promoted.
- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

Appendix “A” to Report PED12174 – Location Map

HM/BM/hk



● Site of the Application



Ward 2 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
134CannonStE

Date:
July 19, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
HM/KA

Subject Property

134 Cannon Street East