SUBJECT: Changes to the Terms and Conditions of the Approved Loan under the Hamilton Community Heritage Fund Loan Program to Install Protective Glazing at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church) (PED07299(a)) (Ward 2)

RECOMMENDATION:

That the terms and conditions of the approved loan under the Hamilton Community Heritage Fund Loan Program, for property located at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church), as shown on Appendix “A” to Report PED07299(a), be amended as follows:

(a) That the entire loan commitment of $50,000 be advanced upon the execution of the loan agreement between the City and the Trustees of St. Paul's Presbyterian Church.

(b) That prior to the execution of the loan agreement, a copy of a signed contract between the Trustees of St. Paul’s Presbyterian Church and the contractor, outlining the entire scope of work, shall be submitted to the City.

(c) That the Trustees of St. Paul’s Presbyterian Church shall deposit the loan funds into a bank account to be used exclusively as a repository for loan funds and the payment of invoices related to the approved work.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The Hamilton Community Heritage Fund was established by the former City of Hamilton during the mid-1980’s. In 2001, Council authorized that this fund be made available to all owners of properties designated under the Ontario Heritage Act within the newly amalgamated municipality. The original maximum loan amount was set at $20,000, but an increase of the maximum loan amount to $50,000 was authorized by Council in 2005 (Report PED05091).

In July 2007, the Trustees of St. Paul’s Presbyterian Church (64-70 James Street South, Hamilton, see map attached as Appendix “A”) applied for a $50,000 loan under the program to install protective glazing over ten existing stained-glass windows in the designated church building (see Appendix “B”). A heritage permit application (HP2007-021) was approved in August 2007, for the proposed work, in consultation with the Heritage Permit Review Sub-committee of the City of Hamilton LACAC (Municipal Heritage Committee). The maximum loan amount was approved by Council on December 12, 2007 (Report PED07299).

The Trustees of St. Paul's Presbyterian Church have recently submitted a request to be excepted from certain terms of the program to accommodate the non-profit status of the Church. Specifically, the Church Trustees have requested that the entire loan be advanced prior to the initiation of work, whereas the approved terms of the program indicate the loan will be advanced upon the submission of a paid invoice proving the completion of 50% of the work.

BACKGROUND:

64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church)

St. Paul’s Presbyterian Church is located on the northwest corner of James Street South and Jackson Street West (see location map attached as Appendix “A”), and is a prominent landmark in Downtown Hamilton. The church is a Gothic Revival structure designed by architect William Thomas, and built in 1854-57 of local limestone.

The property was designated under Part IV of the Ontario Heritage Act by the former City of Hamilton in 1986 (By-law No. 86-263). The property is also subject to a heritage conservation easement held by the Ontario Heritage Trust (formerly the Ontario Heritage Foundation), and is recognized as a National Historic Site by the Historic Sites and Monuments Board of Canada.

Proposed Work

The Church Trustees are proposing to install new protective glazing over ten stained glass windows: four on the north side of the sanctuary, four on the south side of the sanctuary and two in the narthex, on either side of the main entrance (see Appendix “B”). The current protective glazing on the windows on either side of the sanctuary is
inadequately vented, damaged and/or lacks spacing between the protective panes and the stained glass. The two windows in the narthex, on either side of the main entrance, do not currently have any protective glazing.

The approved loan is intended to partially fund the completion of the following:

- The removal of the existing protective glazing;
- Cleaning and assessment of the stained glass windows; and,
- The installation of new protective glazing on eight sanctuary windows and two narthex windows.

The City granted a heritage permit (Heritage Permit Application HP2007-021) for the work on August 27, 2007. The proposed work has also been approved by the Ontario Heritage Trust (letter dated August 17, 2007) under the terms of a heritage conservation easement between St. Paul’s Presbyterian Church and the former Ontario Heritage Foundation.

**Loan Approval**

The Trustees of St. Paul’s Presbyterian Church submitted an application for a loan under the Hamilton Community Heritage Trust Fund in July 2007 to assist with the cost of the installation of protective glazing over ten stained glass windows in the existing church building.

The installation of new protective glazing will protect important heritage features of the building, and is consistent with accepted principles and practice for the conservation and management of heritage resources. Therefore, the project was considered by staff to conform to the intent and eligibility criteria of the Hamilton Community Heritage Trust Loan Program, and staff recommended the approval of the maximum loan amount. The following recommendation was approved by Council on December 12, 2007 (Report PED07299).

That approval be given to the Hamilton Community Heritage Fund Loan Program Application, for property located at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church), as shown on Appendix “A” to Report PED07299, subject to the following:

(a) That a loan commitment of $50,000 be approved in accordance with the terms and conditions of the Hamilton Community Heritage Fund Loan Program for the installation of protective glazing over ten existing stained glass windows.
SUBJECT: Changes to the Terms and Conditions of the Approved Loan under the Hamilton Community Heritage Fund Loan Program to Install Protective Glazing at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church) (PED07299(a)) (Ward 2) - Page 4 of 8

(b) That the Mayor and City Clerk be authorized and directed to execute the loan agreement and security documentation with respect to (a) in a form satisfactory to the City Solicitor.

(c) That the General Manager of the Planning and Economic Development Department be authorized and directed to amend the loan agreement provided that the terms and conditions of the Hamilton Community Heritage Fund Loan Program are maintained.

Changes to the Terms and Conditions of the Program

The Trustees of St. Paul’s Presbyterian Church have requested to be excepted from certain terms of the program to accommodate the non-profit status of the Church. Specifically, the Church Trustees have requested that the entire loan be advanced prior to the initiation of work, whereas the approved terms of the Hamilton Community Heritage Loan Program (Appendix “A” to Report PED05091) state that “advances are made by the City, upon proof of a paid invoice of 50% completion, confirming the value of the work completed”. Therefore, according to the existing terms of the program, the Church would be required to pay for work valued at $25,000 in order to receive an advancement of $50,000 as an interest-free loan.

The Church Trustees have indicated that an initial outlay of $25,000 to initiate the work and receive the loan funds is not financially feasible for the Church. Further, it is not feasible for the contractor, who bills on a monthly basis, to complete work valued at $25,000 before submitting an invoice to the Church. Consequently, the Church Trustees have requested that the entire loan amount ($50,000) be advanced upon the execution of the loan agreement between the City and the Church Trustees. The Church has also indicated that they intend to maintain a bank account exclusively for the deposit of loan funds and the payment of invoices related to the approved work.

ANALYSIS/RATIONALE:

The changes to the terms and conditions of the loan approval are required to accommodate the needs of St. Paul’s Presbyterian Church as a non-profit community organization that has limited access to financial resources to fund the upkeep of a valuable heritage property. The Church is an established organization that has owned and maintained the subject building since its construction in 1854-57. The Church has an active congregation who continues to use and invest in the building, which staff believe demonstrates some assurance that the loan will be put to good use and repaid, as agreed. In addition, the loan will be secured by a mortgage on the property and subject to a comprehensive loan agreement between the Church Trustees and the City.

The Church Trustees have indicated that they intend to maintain a separate bank account for the loan funds in order to accurately track expenditures on the project and to facilitate any audits of the account that City may deem necessary. Staff has also considered several provisions that are contained either in the recommendations of this
SUBJECT: Changes to the Terms and Conditions of the Approved Loan under the Hamilton Community Heritage Fund Loan Program to Install Protective Glazing at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church) (PED07299(a)) (Ward 2) - Page 5 of 8

The advancement of loan funds without a minimum financial commitment by the applicant is not typical of other loan programs within the Planning and Economic Development Department. For example, the loan programs administered by the Downtown and Community Renewal Division, including the Main Street Housing Loan and Grant Program and the Hamilton Downtown Residential Loan Program, require that the project be 60% complete and the submission of proof that 60% of the total funding is from non-City sources prior to the advancement of loan funds. These tend to be substantial projects with budgets ranging from $200,000 to several million.

Some programs within the City do function without a minimum financial commitment by the applicant. For example, the recently announced Lead Water Service Replacement Loan pilot program administered by Public Works advances an interest-free loan to a maximum of $2,000 upon the submission of invoices for work completed. The City also provides a variety of loans to non-profit community organizations, as guided by the External Loan Guidelines (Report FCS06078), which do not require that the organization commit to a minimum financial outlay or percentage of completion prior to the advancement of the loan. These loans are for one-time capital expenditures and are offered at “low-interest”, an interest rate that covers the cost of borrowing and is usually lower than the rates offered by financial institutions. Recent examples of organizations that have received these types of loans are Theatre Aquarius, the Art Gallery of Hamilton and the Hamilton Conservation Authority.

Staff believes that there are adequate provisions contained in the loan agreement to minimize any risk to the City. Furthermore, the request for amendments to the terms of the program is a discrete situation and is not expected to set a precedent for the program. In addition, as an incidental benefit, the advancement of the loan in one disbursement will also result in less administration by City staff.

ALTERNATIVES FOR CONSIDERATION:

This request for amendments to the previous loan approval under the Hamilton Community Heritage Fund Loan Program may either be approved or denied.
The proposed work is appropriate for the conservation and protection of the significant features of the property (stained glass windows), which meets the Triple Bottom Line. The Church has indicated that they will be unable to complete the project under the current terms of the program, and have requested to be excepted from certain terms of the program so that they may be financially able to complete the work. Consequently, staff recommends the previous loan approval be amended to except the Church from submitting “proof of a paid invoice of 50% completion” prior to the advancement of the loan, and to create additional provisions to protect the City’s interests.

The City may be further assured that the funds are being used appropriately if only 50% of the loan amount ($25,000) is advanced upon the execution of the loan agreement, and the remaining 50% ($25,000) is advanced upon proof of paid invoices confirming the completion of at least $12,500 (25% of the total loan amount) worth of work. This would increase the City’s ability to monitor the nature and quality of the work being completed and to halt the flow of funding if it is being used inappropriately. However, this option also results in more staff administration of the loan.

Denial of this application would result in the discontinuation of work on the church, and the significant heritage features of the property would not be adequately conserved and protected.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial:** Funding is provided under the terms of the Hamilton Community Heritage Fund Loan Program, as approved by City Council on September 14, 2005 (Appendix ‘A’ to Report PED05091). There will be no impact on the tax levy as the funding for the loan is provided from the Hamilton Community Heritage Fund Reserve (Account 102049). The reserve has a balance of $731,309.99, as of December 31, 2007. The Loan will be registered as a second mortgage upon first advance of the funds. Currently, there are three outstanding loans under the Hamilton Community Heritage Fund Loan Program that were issued prior to amalgamation, representing approximately $4,500 to be repaid to the Reserve Account.

**Staffing:** Administration and monitoring of this loan can be accommodated within the Community Planning and Design Section (Heritage and Urban Design) of the Planning and Economic Development Department, as well as within the Corporate Services Department.

Advancement of the entire loan amount ($50,000) in one disbursement would require less administration by City staff.
SUBJECT: Changes to the Terms and Conditions of the Approved Loan under the Hamilton Community Heritage Fund Loan Program to Install Protective Glazing at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church) (PED07299(a)) (Ward 2) - Page 7 of 8

Legal: Review of all documentation associated with the loan will be appropriately undertaken by the City Solicitor to protect the City’s interests. The General Manager of the Planning and Economic Development Department has been authorized to amend loan commitments / agreements without further Council approvals, provided that the terms and conditions of the Hamilton Community Heritage Fund Loan Program are maintained.

Under Section 33 of the Ontario Heritage Act, a permit is required for the alteration of any building or structure where it affects the Description of Heritage Attributes (formerly the Reasons for Designation) of the property. The proposed alterations to the property have been approved under Heritage Permit HP2007-021.

POLICIES AFFECTING PROPOSAL:

Section C.6 - Heritage Resources of the former City of Hamilton Official Plan encourages the preservation, maintenance, reconstruction, restoration and management of property considered to have historic, architectural or aesthetic value (6.1).

Section A.6.2.4 - Respecting Design and Heritage of the Downtown Secondary Plan, promotes the conservation of significant built heritage resources (6.2.4.2), and supports mechanisms for retention, conservation, rehabilitation, restoration and adaptive reuse of designated heritage resources in the Downtown (6.2.4.2(b)).

RELEVANT CONSULTATION:

Pursuant to Subsections 28(1) and 33(4) of the Ontario Heritage Act, the City of Hamilton LACAC (Municipal Heritage Committee) advises and assists Council on matters relating to Part IV and Part V of the Ontario Heritage Act. The City of Hamilton LACAC (Municipal Heritage Committee) was consulted on the heritage permit application through its Heritage Permit Review Sub-committee. The City of Hamilton LACAC (Municipal Heritage Committee) was advised of the original approval of the loan at their December 13, 2007 meeting.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

Arts, culture, archaeological and cultural heritage are supported and enhanced.

This initiative promotes the conservation of Hamilton’s heritage. Protecting cultural heritage strengthens the community’s identity and distinctiveness.
SUBJECT: Changes to the Terms and Conditions of the Approved Loan under the Hamilton Community Heritage Fund Loan Program to Install Protective Glazing at 64-70 James Street South, Hamilton (St. Paul’s Presbyterian Church) (PED07299(a)) (Ward 2) - Page 8 of 8

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected through the appropriate repair and maintenance of property.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton’s building stock and skilled labour market is encouraged.

The attractiveness of the City is improved through the repair and maintenance of heritage properties.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No
Cultural heritage resources are conserved and enhanced, resulting in strengthened community identity. Improvement of Hamilton’s building stock protects public health and safety, promotes an attractive urban environment and creates favourable conditions for other investment.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No
This initiative demonstrates the City's commitment to implementing Council approved cultural heritage policies.

:MH
Attachs. (2)
Appendix “B” to Report PED07299(a)

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Front/east elevation

South elevation
Sanctuary window (south elevation, with existing protective glazing)