SUBJECT: Amendments to the Downtown and Community Renewal Community Improvement Plan and Project Area (PED07074(c)) (Wards 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, 15)

RECOMMENDATION:

(a) That the Downtown and Community Renewal Community Improvement Project Area be amended by expanding the Ancaster Village Community Improvement Project Area, as shown on Sheet 1 of Appendix ‘A’ attached to Report PED07074(c), and that the by-law attached to Report PED07074(c) as Appendix ‘A’ be enacted.

(b) That the Downtown and Community Renewal Community Improvement Plan be amended as set out in Report PED07074(c), and that the by-law attached to Report PED07074(c) as Appendix ‘B’ be enacted.

(c) That, upon enactment of the by-law noted in Recommendation (b) of Report PED07074(c), Appendix ‘A’ to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms for the Hamilton Downtown Residential Loan Program, be deleted and replaced respectively with the program description and terms of the Hamilton Downtown Property Investment Program attached to Report PED07074(c) as Appendix ‘C’.

(d) That, upon enactment of the by-law noted in Recommendation (b) of Report PED07074(c), Appendix ‘B’ to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms for the Enterprise Zone Municipal Realty Tax Incentive Grant Program, be deleted and replaced respectively with the program description and terms of the Enterprise Zone Grant Program attached to Report PED07074(c) as Appendix ‘D’.
(e) That, upon enactment of the by-law noted in Recommendation (b) of Report PED07074(c), Appendix ‘C’ to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms for the Commercial Property Improvement Grant Program, be deleted and replaced respectively with the program description and terms attached to Report PED07074(c) as Appendix ‘E’.

(f) That, upon enactment of the by-law noted in Recommendation (b) of Report PED07074(c), Appendix ‘D’ to the Downtown and Community Renewal Community Improvement Plan, being the program description and terms for the Main Street Housing Loan and Grant Program, be deleted and replaced respectively with the program description and terms attached to Report PED07074(c) as Appendix ‘F’.

EXECUTIVE SUMMARY:

Report PED07074(c) recommends approval of amendments to the Downtown and Community Renewal Community Improvement Plan and Project Area.

The amendment to the Community Improvement Project Area (CIPA) expands the Ancaster Village Community Improvement Project Area as reflected in Sheet 1 of Appendix ‘A’ to Report PED07074(c), incorporating the boundaries of the newly-established Ancaster Business Improvement Area (B.I.A.).

The amendment to the Community Improvement Plan (CIP) provided in Appendix ‘B’ to Report PED07074(c), revises the terms of the former Hamilton Downtown Residential Loan Program resulting in the new “Hamilton Downtown Property Investment Program”; the Enterprise Zone Grant Program; the Commercial Property Improvement Grant Program; and, the Main Street Housing Loan and Grant Program, as provided in Appendices ‘C’, ‘D’, ‘E’ and ‘F’ to Report PED07074(c).

Report PED07074(c) is prepared and presented under the requirements of the Planning Act. The comments received during the Public Meeting of the Economic Development and Planning Committee at which this report is considered, will represent continued and required public input into this process.
BACKGROUND:

City Council at its meeting held November 12, 2008 approved By-law 08-268 designating the Ancaster Business Improvement Area (B.I.A.). The City offers the Commercial Property Improvement Grant Program to existing B.I.A.s in the City, and the Main Street Housing Loan and Grant Program to Community Downtowns and B.I.A.s. Therefore, in order to offer the Programs to all of the owners/tenants of the newly designated Ancaster B.I.A., an expansion to the Ancaster Village Community Improvement Project Area is required.

City Council, at its meeting held August 7, 2008, received the 2008 Audit Report of the Hamilton Downtown Residential Loan Program and directed staff to implement the action plans contained in the Report. Staff has since undertaken a comprehensive review of the Hamilton Downtown Residential Loan Program as well as three (3) of the other financial incentive programs offered through the Downtown and Community Renewal Division namely: the Enterprise Zone Municipal Realty Tax Grant Program; the Commercial Property Improvement Grant Program; and, the Main Street Housing Loan and Grant Program. The objective of the review was to improve upon the administration of the programs through strengthening the process, improving accountability and tightening controls over the programs.

ANALYSIS/RATIONALE:

THE DOWNTOWN AND COMMUNITY RENEWAL COMMUNITY IMPROVEMENT PROJECT AREA:

The Ancaster Village Community Improvement Project Area Expansion:

In order that property owners/authorized tenants within the new Ancaster B.I.A. are eligible to apply for the Commercial Property Improvement Grant Program, a program that provides financial assistance to property owners/authorized tenants within each of the B.I.A.s across the entire City of Hamilton for façade improvements to commercial properties; and, the Main Street Housing Loan and Grant Program a program that provides financial assistance to property owners for the conversion of existing built commercial space into residential units, renovations to existing residential units or construction of new units via building additions, an expansion to the Ancaster Village Community Improvement Project Area is required. The amendment to the Community Improvement Project Area By-law designating the expanded area of the Ancaster Village Community Improvement Project Area is identified in Sheet 1 of Appendix ‘A’ to Report PED07074(c).

The amendment to the Community Improvement Plan provided in Appendix ‘B’ to Report PED07074(c) amends Section 4 of the Plan describing the new boundaries of the Ancaster Village Community Improvement Project Area. A further amendment of the Plan enables the expansion of the Commercial Property Improvement Grant Program to the Ancaster B.I.A. through removing reference to “each of the 12 existing Business
THE DOWNTOWN AND COMMUNITY RENEWAL COMMUNITY IMPROVEMENT PLAN:

Overview:

A Review Team comprising staff from the Downtown and Community Renewal Division, the Taxation Division, Legal Services and, an external lawyer who has provided legal counsel on the financial incentive programs over the last few years, met to discuss: strengthening the Programs based upon the results of the 2008 Audit Report; address issues that have been identified by staff through the administration of the programs; and, respond to feedback received from applicants. The outcome of the aforementioned meetings culminated in the revised descriptions and terms attached as Appendices ‘C’, ‘D’, ‘E’ and ‘F’ to Report PED07074(c). The most significant changes are to the Hamilton Downtown Residential Loan Program. Changes to the Enterprise Zone Municipal Incentive Tax Program; the Commercial Property Improvement Grant Program; and, the Main Street Housing Loan and Grant Program are considered ‘housekeeping’ in that the principles of the programs remain the same; however wording has been amended in order that applicants better understand the eligibility criteria, requirements, terms and conditions of the programs. The following provides a detailed explanation of the proposed changes:

The Existing Hamilton Downtown Residential Loan Program:

A goal of the existing Hamilton Downtown Residential Loan Program is to provide an economic stimulus that will encourage intensification and rehabilitation of existing building stock within the Downtown Hamilton Community Improvement Project Area. The Program provides financial assistance in the form of a 0% loan for the cost of converting existing commercial space into residential units; renovations to existing residential units; and the creation of new residential units on vacant land.

The loan is based on $20 per square foot of habitable floor space. The term of the loan is 5 years and 6 months. Repayment of the loan commences one (1) year after final advance of the loan, exclusive of holdback, with 10% of the principle loan amount being paid in twelve (12) monthly payments for the first 4 years (48 monthly payments in total). The balance outstanding is paid by a balloon payment at the end of the 5 year and 6 month term with interest being charged in the last 6 months if not paid in advance.

Upon proof satisfactory to the City that the proposed development is 60% complete based upon the cost of construction and that equity and/or financing required to that stage of completion has been injected into the development, then the approved City funds will be made available and released proportionately based upon the approved source of funds (equity/financing/City funds). Further advances are made at 80% and 100% of completion.
Upon sale of individual condominium units, the City is repaid at $25 per square foot of the unit upon closing until the total loan is paid in full.

Applications under the Program are accepted through a Request for Applications advertised once a year or once every two years. Upon evaluation of the projects by a multi-disciplinary team of staff, loan commitments are recommended to Council.

In 2005 an Internal Audit of the Hamilton Downtown Residential Loan Program resulted in 16 recommendations for improving the Program. In May 2007 a follow-up of the 2007 Audit was conducted to ensure that the implementation of the recommendations as committed to by management had been carried out. 13 of the recommendations had been fully implemented at that time with 3 recommendations in progress and subsequently implemented by the time that the 2008 Audit was carried out.

The 2008 Audit Report identified five recommendations for improving the Program:

i) That all documents identified on the “required” list that forms part of the application be received and placed in the applicants’ files.

ii) That the evaluation sheets used by the Evaluation Committee include more details to justify the scores, and that a minimum cut-off score be established for applications proposed to City Council for loan commitments.

iii) That a clear definition of “habitable” residential square footage be established to ensure consistent application for the calculation of the loan commitment.

iv) That an independent verification of the residential square footage be carried out in order to ensure the loan amount committed to/advanced is supported.

v) That a change in the threshold amount for requiring third party verification of a property’s market value when checking the borrower’s 25% equity requirement be considered.

In an effort to address the above issues and to create a program that acts as a catalyst for residential development in the Downtown Core, staff recommends the following changes to the H.D.R.L.P:

**Proposed Hamilton Downtown Property Investment Program**

The title of the revised Program is the Hamilton Downtown Property Investment Program to better reflect the basis on which the loan is to be calculated. The Program is intended to provide financial assistance for projects that result in predominantly residential development together with uses accessory to the residential development. The loan will not fund space that is not related to the residential component of the project. Examples are provided below that highlight comparisons between projects funded under the existing loan formula and how they would be funded under the proposed loan formula. It is staffs’ opinion that the new funding formula will mitigate some of the challenges faced
when developing in the Downtown Core including: softening the costs for underground parking; making it easier to obtain a first mortgage as more money is available through the Program; and, creating better quality development.

Whereas the former applications were submitted on the basis of a Request for Applications, under the revised Program, applications will be accepted year-round requiring all documentation as listed on the Program Description. Note that the existing “required documentation” list was re-assessed by the Review Team and amended to reflect documentation required to determine if the project can be forwarded to Council recommending a loan commitment. The required documentation will provide details of the proposed development; a preliminary construction schedule and, the applicant’s financial capacity with respect to the 25% equity requirement. An application fee of $250 must accompany the application.

The owner must have 25% equity in the property based upon an appraisal of the value of the project upon completion prepared by an accredited appraiser, dated within 6 months of the application and submitted with the application. Reference to the “25% equity in the project being maintained throughout the term of the City loan” has been removed.

Loans will be based upon 25% of the Cost to Construct Budget. For loans $1 million or over, the Cost to Construct Budget is to be reviewed and approved by a third party quantity surveyor and confirmed in a letter addressed to the City and paid for by the applicant. For loans under $1 million, the Cost to Construct Budget will be compared to the Replacement Cost required in the appraisal submitted at time of application.

Upon sale of individual condominium units, the City will be repaid 25% of the value of the sale price of the unit upon closing until the loan is paid in full.

Eligible existing buildings/vacant properties must be located in the Downtown Hamilton Community Improvement Project Area. Vacant lands include properties developed as parking lots. Reference to “only commercial buildings with a pre-existing annual vacancy of not less than 20% are eligible” has been removed from the Program as our goal is to increase the number of people living downtown.

Realty taxes must be paid as billed throughout the development process. Reference to “taxes being paid as billed during the term of the City loan” has been removed as it is covered off in the mortgage documents.

The remaining terms and conditions of the Program are the same with minor amendments geared to strengthening the wording of the terms.

**Examples:**

The following examples are based on projects similar to those that have received funding under the loan Program however using hypothetical situations:
Example A: Hotel with surface parking

104,000 square feet @ $20 per square foot
Total loan under existing program: $2,080,000
Total Construction Cost $11,000,000
Total loan under new program: $2,750,000

Example B: Apartment Building with Underground Parking

115,000 square feet @ $20 per square foot
Total loan under existing program: $2,300,000
Total Construction Cost: $16,000,000
Total loan under new program: $4,000,000

Based on an interest rate of 4.25% the following is the cost to the City of the above examples:

Example A:

Existing Program: $2,080,000 @ 4.25%
$88,400 annual interest
$442,000 interest over 5 years

New Program: $2,750,000 @ 4.25%
$116,875 annual interest
$584,375 interest over 5 years

Additional City interest costs of new program: $28,475 annually

Example B:

Existing Program: $2,300,000 @ 4.25%
$97,750 annual interest
$488,750 interest over 5 years

New Program: $4,000,000 @ 4.25%
$170,000 annual interest
$850,000 interest over 5 years

Additional City interest costs of new program: $72,250 annually

Tax Implication

Residential units with surface parking are marketable at approximately $175 per square foot. Units with underground parking are at approximately $225 per square foot.
Based on a 1000 square foot of residential space the following values would apply:

- Underground Parking: $225,000
- Surface Parking: $175,000

A difference of $50,000 of value per unit which, based on a 100 unit project results in an increased assessment of $5,000,000.

Based upon today’s residential tax rate of .01381907 the difference in the increase in taxes between a development that has underground parking and a development that has surface parking is $69,095 based on the above example.

**Costs and Return (Based on New Program):**

**Example A:**

- City Costs (interest): $116,875 annually
  $584,375 over 5 years
- City’s Return (taxes): $251,507 annually
  $1,257,535 over 5 years
  
  \[(104,000 \text{ square feet x } $175 = $18,200,000 \times .01381907 = $251,507)\]

- City’s Net Return (increased taxes minus interest):
  
  \[\text{Annually: } $134,632\]
  \[\text{5 Years: } $673,160\]

**Example B:**

- City Costs (interest): $170,000 annually
  $850,000 over 5 years
- City’s Return (taxes): $357,568 annually
  $1,787,840 over 5 years
  
  \[(115,000 \text{ square feet x } $225 = $25,875,000 \times .01381907 = $357,568)\]

- City’s Net Return: (increased taxes minus interest)
  
  \[\text{Annually: } $187,568\]
  \[\text{5 Years: } $937,840\]

**Note:** The above examples are based on assessment reflecting a market value of $175 per square foot for projects with surface parking and $225 per square foot for projects with underground parking. The interest costs do not reflect the principle loan amount declining with loan repayments therefore are considered conservative. Enterprise Zone grants are not factored into the equation.
Funding for the Program is based on total loan monies lent out at one time under the Program not exceeding $20 million as per Council direction. As of December 31, 2008 $13,456,389 had been advanced under the Program; $6,427,985 had been paid back; and, $7,028,404 remains outstanding. There is $12,388,000 in outstanding loan commitments for projects that have not commenced to date. As of December 31, 2008, $473,794 is outstanding in loan commitments yet to be forwarded for projects currently being built.

Staff consulted with the following developers who have invested or propose to invest in Downtown Hamilton, on the proposed amendments to the Program:

Representatives from: Effort Trust; Molinaro Group; Pocrnic Realty Advisors Inc.; Silvestri Investments; Spallacci Contracting Inc.; Valery Construction; Vrancor Developments; Wilson Blanchard Management; and Wiltshire Group Inc.

Letters of support on the proposed changes to the Program from the above individuals are attached as Appendix G to Report PED07074(c).

The proposed amendments address the issues of the 2008 Audit Report as follows:

i) That all documents identified on the “required” list that forms part of the application be received and placed in the applicants’ files.

The documentation required at time of application has been amended to reflect additional information required at the time of the application to ensure the terms and conditions of the Program can be met. This includes an appraisal of the value of the project upon completion; Cost to Construct Budget that has been reviewed and approved by a quantity surveyor if the City’s loan will be $1 million or over; and, the Cost to Construct Budget will be compared to the Replacement Cost that is included in the appraisal required at time of application for loans under $1 million; and details of all construction financing. Since applications may be submitted at any time, applications incomplete will not be forwarded to Council. Thus, the loan process has been strengthened in that recommendations for loan commitments will not be forwarded to Council until all required documentation has been received. Accountability of staff and applicants has also been improved as applications will not move forward from the application submission stage to the recommendation of a loan commitment until all required documentation has been received. Previously, due to the infrequency of accepting applications under the Program, applicants who had recently acquired property just prior to the application deadline would submit an application and, because their plans were premature, did not have documentation such as Site Plans.

ii) That the evaluation sheets used by the Evaluation Committee include more details to justify the scores, and that a minimum cut-off score be established for applications proposed to City Council for loan commitments.
The above comments reflect previous procedures. We are amending procedures so that applications will be accepted year-round and therefore an Evaluation Committee will not be required to review applications. However staff will consult with Planning, Building and Finance staff to discuss each application prior to moving forward with a recommendation to Council for a loan commitment. Minutes of the meetings will be documented in the file and staff will ensure sufficient details are included to verify the application moving forward to the loan commitment stage. Staff feels that with these changes, the processing of applications has been strengthened.

iii) That a clear definition of “habitable” residential square footage be established to ensure consistent application for the calculation of the loan commitment.

The loan will no longer be based on “habitable” residential square footage. We are recommending that the loan be based on 25% of the Cost to Construct Budget prepared by an architect/engineer and reviewed and confirmed by a quantity surveyor for loan commitments $1 million or over. For loans under $1 million the Cost to Construct Budget will be compared to the Replacement Cost included in the appraisal that is submitted at time of application. All costs of the aforementioned documents are at the expense of the applicant.

The loan premise was changed in order to create a clear formula upon which to calculate the loan. As well, staff considers the amended terms to be more appealing to lenders thus acting as a further economic incentive to develop Downtown housing. Finally, the foregoing examples show that increased values will ultimately result in more taxes for the City. Controls are also being tightened with respect to calculating the loan amount on a Cost to Construct Budget prepared by an architect/engineer, reviewed and approved by a quantity surveyor or compared to the Replacement Cost included in the appraisal, all submitted at time of application.

iv) That an independent verification of the residential square footage be carried out in order to ensure the loan amount committed to/advanced is supported.

The Downtown and Community Renewal Division has hired a retired Building Inspector who has, and will continue to verify the square footage of properties that have been approved for a loan commitment under the original loan program and the applicant is being advanced monies under the Program. If, upon verification, the square footage is less than what the loan commitment is based upon, staff will report to Council recommending a reduction in the loan commitment. This will no longer be required under the new Program as we are recommending a funding formula based on cost to construct.

v) That a change in the threshold amount for requiring third-party verification of a property’s market value when checking the borrower’s 25% equity requirement be considered.
The third-party verification of the property’s market value will be confirmed by the required appraisal based on the completed project submitted at the application stage. Again, controls are tightened as an appraisal prepared by an accredited appraiser and based on the project value upon completion, is to be submitted at the application stage. Previously staff from the Downtown and Community Renewal Division with appraisal experience would determine value upon completion of the project if an appraisal was not submitted by the applicant.

The amendment to the Community Improvement Plan, provided in Appendix ‘B’ to Report PED07074(c), removes the existing description of the Program and inserts the description of the new Program (Section 8.1.1). A “Transitional Section” will also be inserted into Section 8.1.1 stating that applications received under the former Hamilton Downtown Residential Loan Program terms that have received a loan commitment from City Council will be processed under the terms of the former Program unless the City receives a formal cancellation of the application.

The Enterprise Zone Municipal Tax Incentive Grant Program

Amendments to the Program Description of the Enterprise Zone Municipal Tax Incentive Program are minimal. The most significant change is the title of the Program so that it will be known as the Enterprise Zone Grant Program. The title change is in an effort to remove any misconception by applicants that their tax account will be credited by the grant amount each year. The terms and conditions of the Program aim to make it very clear that all taxes must be paid each year and the grant will only be advanced when realty taxes have been paid as billed each year. This has proven a real issue in the past particularly when the developer has assigned the grant to the initial purchaser of each condominium unit.

Wording has been added to strengthen the fact that the grant, as approved by Council, is for the applicant and the property and, any change in ownership of the property or change of corporate control will result in the grant ceasing at the absolute discretion of the City.

The amendment to the Community Improvement Plan, provided in Appendix ‘B’ to Report PED07074(c), removes the existing description of the Program and inserts the description of the new Program (Section 8.1.2).

The Commercial Property Improvement Grant Program

The only amendment to the Program Description of the Commercial Property Improvement Grant Program is the removal of any reference to the number of Business Improvement Areas the Program is offered to. This will negate the need to change the terms of the Program whenever new B.I.A.s are designated, go dormant or disband.

The amendment to the Community Improvement Plan, provided in Appendix ‘B’ to Report PED07074(c), removes the wording “…within each of the 12 existing Business
Improvement Areas" and replaces it with “…within the Business Improvement Areas” (Section 8.1.3).

The Main Street Housing Loan and Grant Program

Amendments to the Program Description of the Main Street Housing Loan and Grant Program are also minimal. The wording has been strengthened with respect to the City having the absolute discretion in requiring repayment of the loan secured by the mortgage if there is a change in ownership or change of corporate control.

An amendment to the Community Improvement Plan is not required for the changes to the Main Street Housing Loan and Grant Program, however upon enactment of the by-law noted in Recommendation (b) of Report PED07074(c), Appendix ‘D’ to the Plan will be deleted and replaced with the program description and terms attached in Report PED07074(c).

General Administration of the Programs:

Upon the amendments to the Programs coming into force, staff from the Downtown and Community Renewal Division will work with representatives from the Taxation Division and Legal Services to ensure all administrative documentation associated with the financial incentive programs are amended to reflect the aforementioned changes.

ALTERNATIVES FOR CONSIDERATION:

If the amendments are not approved the Commercial Property Improvement Grant Program will not be offered to the Ancaster Business Improvement Area property owners/authorized tenants; and, the Main Street Housing Loan and Grant Program will not be offered to property owners whose properties are outside of the existing Ancaster Village Community Improvement Project Area boundaries. The Hamilton Downtown Residential Loan Program will continue to be offered on the existing loan formula of $20 per square foot of habitable floor space requiring a further report from staff with respect to redressing the issues identified in the 2008 Audit Report.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial – The financial implications of expanding the Ancaster Village Community Improvement Project Area thereby offering the Commercial Property Improvement Grant Program to the property owners/tenants of the Ancaster B.I.A. can be accommodated within annual Capital Budgets of the Downtown and Community Renewal Division.

The cost to fund the loan portion of the Main Street Housing Loan and Grant Program is the interest lost to the City and funded through the Downtown and Community Renewal’s Operating Budget Account Number 52901 815025. The cost to fund the grant portion of the Main Street Housing Loan and Grant Program is contained in the Division’s Operating Budget Account Number 58201 815025.
SUBJECT: Amendments to the Downtown and Community Renewal
Community Improvement Plan and Project Area (PED07074(c))
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The cost to fund the Hamilton Downtown Property Investment Program is the interest
lost to the City and funded through the Downtown and Community Renewal Division’s
Operating Account Number 52901 815010. Staff will ensure the $20 million cap of loan
monies being lent out at one time is maintained as directed by Council.

There is no direct cost to the City for the Enterprise Zone Program since the foregone
revenue is not currently being received.

Staff will monitor the financial implications and recommend adjustments to the
Operating Budget during future budgets if necessary.

Staffing – The expansion of the Ancaster Village Community Improvement Project Area
and amendments to the financial incentive programs as set-out in Report PED07074(c)
can be accommodated within the existing staff complement of the Downtown and
Community Renewal Division as well as the Corporate Services Department.

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.

POLICIES AFFECTING PROPOSAL:

The current Downtown and Community Renewal Community Improvement Plan (CIP)
states that “the introduction of new programs and major policy amendments
necessitating changes to existing programs shall be made with City Council approval
and processed according to the provisions of the Planning Act.” It further states that
“the increase in financial assistance to registered owners, assessed owners, and
tenants, and to any person to whom such an owner or tenant has assigned the right to
receive a grant or loan, the addition of any new financial incentive programs, or a
change to the Community Improvement Project Area will require a formal amendment to
this Plan.” The amendments recommended in Report PED07074(c) have been put
forward on that basis and in accordance with the legal requirements of the Planning Act.

In addition, the CIP states that “Council shall adopt by resolution detailed
implementation measures to allow for the efficient administration of financial incentive
programs”, and that the “City may periodically review and adjust the terms and
requirements of any of the financial incentive programs contained in the Plan, or
discontinue any of the programs contained in the Plan, without amendment to the Plan.”
It is therefore recommended that the revised versions of the financial incentive program
description and terms, provided in Appendices ‘C’, ‘D’, ‘E’ and ‘F’ to Report
PED07074(c), be approved by Council.
The Hamilton-Wentworth Official Plan allows Community Improvement Project Areas to be designated anywhere within the Urban Area. As with all of the incentive programs administered by the Downtown and Community Renewal Division, eligible projects must conform with relevant City policy and regulations, such as the Official Plan, Zoning By-law, and urban design guidelines where applicable.

The amendments are consistent with the goals and objectives of the Community Improvement Plan and support residential intensification targets and objectives established by the Province in the Places to Grow Growth Plan and Provincial Policy Statement.

RELEVANT CONSULTATION:
Staff of Legal Services, Corporate Services, and the Ministry of Municipal Affairs were consulted during the preparation of this report. Staff also met with Downtown developers as listed under the Analysis/Rationale Section of Report PED07074(c). Also the City Auditor was apprised of the proposed program changes.

CITY STRATEGIC COMMITMENT:
By evaluating the “Triple Bottom Line”, (community, environment, 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
Partnerships are promoted through implementation of the financial incentive programs contained within the Community Improvement Plan.

Environmental Well-Being is enhanced. ✔ Yes ☐ No
The initiatives help to improve the quality of life of residents. The rehabilitation of the building stock and the development of properties in Hamilton make efficient and effective use of City services and protect human health and safety.

Economic Well-Being is enhanced. ✔ Yes ☐ No
Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases through the rehabilitation of buildings.

Does the option you are recommending create value across all three bottom lines? ✔ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ✔ ☐ Yes ☐ No

Hamilton continues to lead initiatives related to renewal. Such initiatives are professionally rewarding and attract high performing public servants with an interest in improving community life.

HM:vk

Attachs. (7)
This is Appendix "A" to By-Law No. 09-

Passed the .......... day of ....................., 2009

Mayor

Schedule "A" Sheet 1

Map Forming Part of
By-Law No. 09-_____

to Amend By-law No. 07-061

Legend

- Existing Ancaster Village Community Improvement Project Area
- Proposed Expansion to the Ancaster Village Community Improvement Project Area
CITY OF HAMILTON

BY-LAW No. 09-

To Amend By-law 07-061, as amended

Respecting the Downtown and Community Renewal
Community Improvement Project Area

WHEREAS Section 28 of the Planning Act entitled “Community Improvement” provides in sub-section (2):

“Where there is an official plan in effect in a local municipality or in a prescribed upper-tier municipality that contains provisions relating to community improvement in the municipality, the council may, by by-law, designate the whole or any part of an area covered by such an official plan as a community improvement project area”;

AND WHEREAS the Planning Act defines a “community improvement project area” as “an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other environmental, social or community economic development reason”;

AND WHEREAS Section 6A of the Hamilton Wentworth Official Plan contains provisions relating to community improvement;

AND WHEREAS By-law 07-061 as amended identifies various areas of the City of Hamilton, including the Downtown Hamilton Community Improvement Project Area, Downtown Dundas Community Improvement Project Area, Downtown Stoney Creek Community Improvement Project Area, Waterdown Community Improvement Project Area, Binbrook Community Improvement Project Area, Ancaster Village Core Community Improvement Project Area, Barton Village Community Improvement Project Area, Concession Street Community Improvement Project Area, Locke Street Community Improvement Project Area, Main West Esplanade Community Improvement Project Area, Ottawa Street Community Improvement Project Area, Westdale Village Community Improvement Project Area and the Main Street Corridors Community Improvement Project Area, and designates collectively said areas as the “Downtown and Community Renewal Community Improvement Project Area”;

AND WHEREAS attached hereto and forming part of this by-law as Appendix ‘A’, is a map identifying an expansion of the Ancaster Village Community Improvement Project Area dated January 23, 2009 (Sheet 1);
AND WHEREAS the Council of the City of Hamilton considers it appropriate to designate the expanded Ancaster Village Community Improvement Project Area as a “community improvement project area”;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The geographical portions of the City of Hamilton as shown on Appendix ‘A’, Sheet 1 and forming part of this by-law, and defined as the proposed expansion to the Ancaster Village Community Improvement Project Area, is hereby designated as part of the Downtown and Community Renewal Community Improvement Project Area”.

2. By-law 07-061 as amended is hereby amended by adding Sheet 1 of Appendix ‘A’ hereto to Schedule ‘A’ thereof.

PASSED and ENACTED this ______ day of ________, 2009

_________________________________________  ____________________________
Fred Eisenberger                  Kevin C. Christenson
Mayor                             City Clerk
CITY OF HAMILTON

BY-LAW NO. 09-___

To Adopt:

Amendment No. 3 to the Downtown and Community Renewal Community Improvement Plan

WHEREAS By-law 07-061, as amended, passed on the 28th day of February 2007, as amended by By-law 09-____, designated the Downtown and Community Renewal Community Improvement Project Area;

AND WHEREAS Section 28 of the Planning Act entitled Community Improvement states where a by-law has been passed to designate a community improvement project area, the Council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area;

AND WHEREAS By-law 07-062, as amended, passed on the 28th day of February 2007 adopted and approved the Downtown and Community Renewal Community Improvement Plan;

AND WHEREAS Council, by its Economic Development and Planning Committee, held a public meeting on March 3, 2009 to discuss and receive public input regarding an amendment to the Downtown and Community Renewal Community Improvement Plan, and has taken other steps required to amend the Plan, prior to the enactment of this by-law, as required by the Planning Act.

AND WHEREAS the City has prepared an amendment to the Downtown and Community Renewal Community Improvement Plan, attached hereto as Schedule 1 and forming part of this By-law.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Amendment No. 3 to the Downtown and Community Renewal Community Improvement Plan, consisting of Schedule 1 hereto annexed and forming part of this by-law, is hereby adopted and approved.
2. Schedule ‘A’ to By-law 07-062, as amended, is further amended as set out in Schedule 1 to this By-law.

PASSED AND ENACTED this_______day of ________, 2009

_____________________________      ________________________________
Fred Eisenberger               Kevin C. Christenson
Mayor                           City Clerk
Schedule 1 to By-law 09-___

Amendment No. 3

to the

Downtown and Community Renewal
Community Improvement Plan

The following text constitutes Amendment No. 3 to the Downtown and Community Renewal Community Improvement Plan.

Purpose

• To amend the description of the Ancaster Village Community Improvement Project Area.

• To expand the area to which the Commercial Property Improvement Grant Program applies.

• To rename the Hamilton Downtown Residential Loan Program to the Hamilton Downtown Property Investment Program and amend the terms of the Program.

• To rename the Enterprise Zone Municipal Tax Incentive Grant Program to the Enterprise Zone Grant Program and make minor amendments to the terms of the Program.

Location

The lands affected by the amendment are contained within the Downtown and Community Renewal Community Improvement Project Area, designated by By-law 07-61, as amended, and now amended by By-law 09-____.

Basis

• The expansion of the Commercial Property Improvement Grant Program is consistent with the goals and objectives of the Community Improvement Plan, including encouraging and assisting private property owners to rehabilitate buildings to ensure their long-term economic viability and stimulating property reinvestment activity.

• The amendment to the terms of the Hamilton Downtown Property Investment Program is consistent with the goals and objectives of the
Community Improvement Plan, including increasing population and housing stock.

- The changes are consistent with the Provincial Policy Statement, and conform to the Greenbelt Plan and the Places to Grow Growth Plan for the Greater Golden Horseshoe.

- The changes are consistent with the general intent of the Official Plans for the former Regional Municipality of Hamilton-Wentworth and the City of Hamilton.

**Actual Changes**

1. Section 4.0 is amended as follows:
   a) In Section 4.0 Community Improvement Project Area the words “The Ancaster Village Core Community Improvement Project Area” be replaced with “The Ancaster Village Community Improvement Project Area”.

   The words “…and also includes the area defined by the limits of the Ancaster BIA” be inserted at the end of the last sentence describing the boundaries of the Ancaster Village Community Improvement Project Area.

2. Section 8.0 is amended as follows:
   a) In Section 8.1.1. the title “Hamilton Downtown Residential Loan Program”, be replaced with “Hamilton Downtown Property Investment Program”.

   The words “The Hamilton Downtown Residential Loan Program was developed as a catalyst for stimulating residential development within Downtown Hamilton as defined by the Downtown Hamilton Community Improvement. Project Area. The program is intended to provide financial assistance for converting existing commercial space into residential units or renovations to existing residential units. The program is also intended to provide assistance for the costs of creating new residential units on vacant land.

   The loan interest rate is 0% for the first five years and for the last six (6) months of the loan, interest shall be payable on the principal outstanding at the then prevailing rate established by Council for interest on tax arrears. The maximum loan term is five years and six months. The maximum loan amount is calculated on the basis of up to
$20 per square foot of habitable floor space. The City reserves the right to decide what is considered habitable floor space under the terms of the Program" are deleted and replaced with “The Hamilton Downtown Property Investment Program was developed as a catalyst for stimulating residential development within Downtown Hamilton as defined by the Downtown Hamilton Community Improvement Project Area. The Program is intended to provide financial assistance for projects that result in predominantly residential developments including converting existing commercial space into residential units; renovations to existing residential units; the creation of new residential units on vacant land; together with uses accessory to the residential development.

The maximum Loan term is five years and six months from the date of the final advance exclusive of holdback. The Loan interest rate will be 0% for the first five years. For the last six months of the Loan interest shall be payable on the principle outstanding at the then prevailing rate established by Council for interest on tax arrears. The maximum loan is based on 25% of the Cost to Construct Budget. Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.

Transition - Applications received under the former Hamilton Downtown Residential Loan Program terms that have received a loan commitment from City Council will be processed under the former terms of the Program unless the City receives a formal cancellation of the application.”

b) Section 8.1.2 the title “Enterprise Zone – Municipal Realty Tax Incentive Grant Program” be replaced with “Enterprise Zone Grant Program”.

The words “The intent of the Enterprise Zone Municipal Realty Tax Incentive Grant program is to provide an economic catalyst for developing, redeveloping or renovating residential/commercial lands and buildings located within the Downtown Hamilton Community Improvement Project Area. The program authorizes a five year grant for each approved grant application, the amount of which is subject to Council approval, in an amount not exceeding the increase in municipal realty taxes as a direct result of the development/redevelopment of land and/or building. The grant which may be approved by Council shall be an amount which does not exceed 100% of the municipal realty tax
increase during the first year, 80% in year 2, 60% in year 3, 40% in year 4, and 20% in year 5. For purposes of determining the eligible amount of the increase in municipal realty taxes, special charges including B.I.A. levies shall be excluded from the calculation. The grant would reduce the effect of an increase in municipal (City portion only) realty taxes attributable to the differential between the pre-renovation assessment and the post-renovation assessment.

The approved grant is not assignable to anyone, except for purchasers of new condominium units. For an existing building to qualify it is required to have at least a 50% annualized vacancy rate. “The intent of the Enterprise Zone Grant Program is to provide an economic catalyst for developing, redeveloping or renovating residential/commercial lands and buildings located within the Enterprise Zone. The Enterprise Zone is defined as the Downtown Hamilton Community Improvement Project Area.

The Program authorizes for each approved grant application, a five year grant, the amount of which is subject to Council approval, in an amount not exceeding the increase in municipal realty taxes as a direct result of the development/redevelopment of the land and/or building. The grant shall be an amount which does not exceed 100% of the municipal realty tax increase during the first year, 80% in year 2, 60% in year 3, 40% in year 4, and 20% in year 5. For purposes of determining the eligible amount of the increase in municipal realty taxes, special charges including B.I.A. levies shall be excluded from the calculation. The grant would reduce the effect of an increase in municipal (City portion only) realty taxes attributable to the differential between the pre-renovation assessment and the post-renovation assessment.

A limited assignment of the grant under the terms of the Program may be made from a registered or assessed owner of the property to the initial purchaser of each new condominium unit. For an existing building to qualify it is required to have at least a 50% annualized vacancy rate.”

c) In Section 8.1.3 Commercial Property Improvement Grant Program, the words “…within each of the 12 Business Improvement Areas” be replaced with “…within existing Business Improvement Areas”.
Implementation

The provisions of Section 6A of the former Hamilton-Wentworth Official Plan and Section 28 of the Planning Act give effect to this amendment.

This amendment constitutes Schedule 1 to By-law No. 09-___ passed on the _____ day of __________, 2009.
HAMILTON DOWNTOWN PROPERTY INVESTMENT PROGRAM

PROGRAM DESCRIPTION

The Hamilton Downtown Property Investment Program (the “Program”) was developed as a catalyst for stimulating residential development within Downtown Hamilton as defined by the Downtown Hamilton Community Improvement Project Area. The Program is intended to provide financial assistance for projects that result in predominantly residential development including converting existing commercial space into residential units; renovations to existing residential units; the creation of new residential units on vacant land; together with uses accessory to the residential development.

Acting as a lender, the City provides financial support for the Program and ensures that development arising from the Program within the Downtown is consistent with the policies, principles and design themes contained within the Downtown Hamilton Secondary Plan, relevant Urban Design Guidelines, the Zoning By-law as well as any other City Council approved policy/regulation.

TERMS OF THE PROGRAM

1. The maximum Loan term is five (5) years and six (6) months (subject to prior termination on default) from the date of the final advance exclusive of holdback. No extension or renewal shall be granted.

2. The Loan interest rate will be at 0% interest for the first five (5) years. For the last six (6) months of the Loan, interest shall be payable on the principal outstanding at the then prevailing rate established by Council for interest on tax arrears, such interest to be calculated and payable monthly, not in advance.

3. The Loan will be secured by a second mortgage upon the lands to be developed (the “Property”) upon first advance of funds.

4. Interest on arrears will be 15% per annum or such tax arrears interest rate as may be established by Council from time to time.
5. Principle is repayable in annual amounts of ten percent (10%), in 12 equal monthly payments, of the original loan amount. Monthly principle payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance. Payments will commence one year following the final advance, exclusive of any required holdback. The balance outstanding will be paid by a balloon payment at the end of the five (5) year and six (6) month term. Monthly principle payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance, if not paid earlier.

6. The loan will mature at the end of the five (5) year and six (6) month term at which time the principle balance outstanding will be paid in full plus any outstanding interest.

7. The loan may be prepaid at any time without notice, bonus or penalty.

8. The maximum loan amount is 25% of the Cost to Construct Budget prepared by an architect/engineer and addressed to the City of Hamilton and dated within 6 months of the date of application. For loans $1 million or above, a letter addressed to the City from a third-party quantity surveyor approving the Cost to Construct Budget must accompany the application. For loans under $1 million the appraisal submitted at time of application to be addressed to the City of Hamilton and include replacement cost. All of the aforementioned documents are at the expense of the applicant.

9. Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.

10. The City will periodically review the terms and the duration of the Program and make appropriate revisions as per the direction of City Council.

11. The City may request such security as may be required to secure a commercial loan, including the following: title insurance in lieu of a survey if appropriate; loan agreement; and/or promissory note; and/or personal property security; and/or personal guarantee's; and/or lien on the property to be improved; and/or collateral mortgage charge registered on the property to be improved; and/or letter of credit in lieu of a second mortgage charge on the property (subject to City’s minimum equity requirements); and/or such other security which may be appropriate or available in the circumstance. In the instance where a personal guarantee is required a personal net-worth statement may also be required.

12. Upon proof satisfactory to the City that the proposed development is 60% complete based upon the cost of construction and that equity and/or
financing required to that stage of completion has been injected into the
development then the approved City funds will be made available and
released proportionately based upon the approved source of funds
(equity/financing/City funds). The calculation of the proportion to be
advanced will reflect that the first 60% of funding is from non-City sources.
Advances will be made in conjunction with first mortgage financing
advances or after proof of equity injections.

13. Owner applicants shall have no less than 25% equity based upon the
appraised value of the property upon completion. The appraisal must be
addressed to the City of Hamilton, dated within 6 months of the date of the
application, include replacement cost, be prepared by an accredited
member of the Appraisal Institute of Canada (ACI) and, must
accompany the application. The cost of the appraisal is at the total
expense of the owner.

14. An application fee of $250.00 must accompany the application. An
administration fee of $500.00 per unit for developments under 50 units;
$400.00 per unit for developments between 50 and 100 units and $300.00
per unit for projects over 100 units is charged to the borrower and is
eligible to be paid out of the loan proceeds. The administration fees will
be paid out of the first loan advance that flows from the City of
Hamilton. All fees will be authorized through a user-fee by-law passed by
City Council. The rate of the fees may be changed from time to time as
approved by City Council.

15. All taxes as billed must be paid current and in good standing throughout
the development process.

16. Eligible existing buildings/vacant properties must be located in the
Downtown Hamilton Community Improvement Project Area. Vacant lands
include properties developed as parking lots.

17. Site Concept Plan drawings in a form acceptable to the City must
accompany the application.

18. Advances are made by the City, upon proof by a third-party quantity
surveyor for loans $1 million or above confirming the value of the work
completed. Loans under $1 million require an architect/engineer to
confirm the value of the work completed.

19. All costs associated with the conversion or renovations are to be borne by
the applicant including construction, design, application and administration
fees, appraisals, professional services, inspections, legal and registration
fees. The City retains the right to assess the reasonableness of costs and
which costs are eligible under the terms of the Program.
20. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property then at the option of the City all monies secured by the mortgage to the City shall forthwith become due and payable. The City shall have absolute discretion in requiring repayment of the loan secured by the mortgage.

21. Change of Corporate Control

Where the Owner is a corporation the Owner covenants and agrees that in the event that:

a) the Owner fails to supply the City, in a form satisfactory to the City such information relating to the ownership of its shares as the City may from time to time require: or

b) without the written consent of the City first had and obtained:
   i) the Owner issues or redeems any of its shares or transfers any of its shares;
   ii) there is a sale or sales of the shares of the Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or
   iii) the Owner amalgamates, merges or consolidates with any other corporation

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Owner, then all monies secured by the mortgage together with accrued interest thereon shall forthwith become due and payable at the option of the City and the City’s powers of sale hereby given and all other remedies for enforcement shall be exercisable.

22. Upon sale of individual condominium units, the City will be repaid 25% of the value of the sale price of the unit upon closing until the total loan amount has been paid in full.

23. The proposed development must conform to the City of Hamilton Official Plan, the Downtown Hamilton Secondary Plan, relevant Urban Design Guidelines and the Zoning By-law, as well as any other City Council approved policy/regulation.

24. The City of Hamilton will require specific insurance terms to be met to protect the City’s interest.
25. Deadlines for the submission and approval of building permits and construction start dates are established following a report to Council for approved applications.

DOCUMENTS REQUIRED WITH APPLICATION

Personal

- Completed Application

Corporate

- Incorporation Documents (Officers/Directors/Shareholders)

Liabilities

- Current Institutional Bank or Banks
- Lawyers’ Name and Address

The Property

- Site Concept Plan
- Cost to Construct Budget dated within 6 months of the date of application
- Contracts in Place (if any)
- Original Purchase Price
- Current Registered Mortgages
- Copy of land transfer/deed
- Details of all Construction Financing
- Appraisal Based Upon Value of Completed Project (performed by A.A.C.I ), to include replacement cost; dated within 6 months of the date of application and addressed to the City of Hamilton
- Breakdown of other uses i.e. commercial component, square footage, value

Marketing

- Projected Rental Rates per unit or per sq foot or project sale prices

The personal information on this form is collected under the legal authority of the Planning Act, Section 28. The personal information will be used for determining your eligibility for a grant. If you have any questions about the collection, please contact the Downtown and Community Renewal Division at (905) 546-2721.
ENTERPRISE ZONE GRANT PROGRAM

PROGRAM DESCRIPTION

The intent of the Enterprise Zone Grant Program (the “Program”) is to provide an economic catalyst for developing, redeveloping or renovating residential/commercial lands and buildings located within the Enterprise Zone. The Enterprise Zone is defined as the Downtown Hamilton Community Improvement Project Area (as such boundaries are presently defined).

This Program authorizes for each approved grant application, a five year grant, the amount of which is subject to Council approval, in an amount not exceeding the increase in municipal realty taxes as a direct result of the development/redevelopment of the land and/or building. The grant shall be an amount which does not exceed 100% of the municipal realty tax increase during the first year, 80% in year 2, 60% in year 3, 40% in year 4, and 20% in year 5. For purposes of determining the eligible amount of the increase in municipal realty taxes, special charges including B.I.A. levies shall be excluded from the calculation. The grant would reduce the effect of an increase in municipal (City portion only) realty taxes attributable to the differential between the pre-renovation assessment and the post-renovation assessment.

Before any grant is provided to the applicant for a property for which a satisfactory grant application has been received and approved, realty taxes are required to have been paid as billed each year and, the property shall be in compliance with the program’s requirements and conditions.

The grants may be received by an owner in conjunction with any other available municipal program (excluding the City of Hamilton’s Tax Incentive Program for designated commercial /industrial buildings) in support of redevelopment/development, including the municipality’s loan and heritage programs. The approved grants are not assignable by the owner to anyone, except for the initial purchaser of each condominium unit. The total of each property’s five years of approved grants shall not exceed the costs of the property’s development/redevelopment.

In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property the City shall have absolute discretion in ceasing any further grant payments.
Change of Corporate Control:

Where the Owner is a corporation the Owner covenants and agrees that in the event that:

a) the Owner fails to supply the City, in a form satisfactory to the City such information relating to the ownership of its shares as the City may from time to time require; or

b) without the written consent of the City first had and obtained:

i) the Owner issues or redeems any of its shares or transfers any of its shares;

ii) there is a sale or sales of the shares of the Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or

iii) the Owner amalgamates, merges or consolidates with any other corporation

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Owner, then future grant payments under the Program shall cease at the absolute discretion of the City.

GRANT CRITERIA

Projects that include developing, redeveloping or renovating residential/commercial lands and buildings within the Enterprise Zone are eligible under the Program. Council's approval of the eligible project is required at time of application. (Note: upon completion of the project and reassessment by MPAC, the amount of the annual grant is subject to final Council approval). Such application shall be submitted and only received if it is prior to the owner's commencement of improvements/rehabilitation to their property and shall include plans, estimates, contracts and other details as may be required to satisfy the City as to the cost of the project and as to the conformity of the project with the objectives of the Downtown and Community Renewal Community Improvement Plan.

Such project is also required to be in compliance with the City’s other by-laws and policies, including zoning, site plan approval, design guidelines, heritage matters including preservation of historical buildings. The compliance of each application with the criteria of this Program and the amount of the Property’s
grants (within the permitted terms of this Program) is at the discretion of and subject to Council approval.

For an existing building to qualify, it is also required to have at least a 50% annualized vacancy rate. In this regard the application shall, at a minimum, by affidavit confirm the annualized vacancy rate, provide a copy of the supporting letter from the B.I.A.s’ Board of Management confirming the vacancy rate (if the property is located within a B.I.A.), or provide other satisfactory documentation confirming that the property, one year previous to the date of application had at least a 50% vacancy rate.

The purpose of this Program is to stimulate new development and the redevelopment of vacant or under-utilized commercial lands and buildings, including for example, the following properties:

All parking lots and vacant sites are eligible (provided said vacant sites were existing as of July 1, 2001). Notwithstanding the foregoing, properties upon which commercial, residential or industrial buildings are cleared and demolished after July 1, 2001, may be declared by Council as eligible to apply where:

1) The commercial, residential or industrial building(s) intended to be demolished or cleared after July 1, 2001, are not designated heritage building(s);

2) Prior to the clearance and demolition, the owner of the property informs Council of:
   • their plans for the demolition and clearance; and,
   • their plans for the redevelopment of the property through the application for a grant under this Program;

3) The proposed redevelopment of the cleared and demolished property shall be for residential and/or commercial uses expressly permitted by the Zoning By-law applicable to such property;

4) Council declares, after reviewing the property owner’s submissions, the City’s Official Plan, the City’s Hamilton Downtown Secondary Plan, the City’s Design Guidelines, and site plan considerations – that the proposed clearance or demolition of the building(s) and the proposed redevelopment of the property would be in conformity with the Downtown and Community Renewal Community Improvement Plan, including its goals and objectives; and,

5) The demolition or clearance of the building(s) is not commenced until after Council’s declaration is made and communicated to the property owner.

Note: All hotels and motels that have an annualized occupancy of less than 50% would qualify under the eligibility requirements of the Program. Vacancy is subject to confirmation by affidavit and other supporting documentation by the hotel management.
This Program shall not apply to existing or to proposed Second Level Lodging Houses or to Short or Long Term Care Facilities.

A limited assignment of the grant under the terms of the Program may be made from a registered or assessed owner of the property to the initial purchaser of each new condominium unit. The assignment of the grant shall not apply to any subsequent re-sale of any such unit. The assigned grant shall be restricted to the balance of the five (5) year term running from the re-assessment date following the date of the registration of the condominium. The first-year grant is payable during the calendar year in which 75% of the condominium units within the project are fully assessed, and is calculated on a rateable per unit basis. In addition to the one time $647 application fee, a one time administration fee of $331 per unit shall be deducted from the initial grant payment. Fees will be authorized through a by-law passed by City Council. The rate of the fees may be changed from time to time as approved by City Council.

The applicant will be required to enter into an Agreement with the City of Hamilton that sets out the conditions of the annual grant.
COMMERCIAL PROPERTY IMPROVEMENT GRANT PROGRAM

PROCEDURE TO SUBMIT AN APPLICATION

To submit an application please make arrangements to meet with Downtown and Community Renewal Division Staff, PRIOR TO March 5, 2009, APPLICATIONS WILL ONLY BE ACCEPTED WITH TWO (2) COST ESTIMATES. APPLICATION FEE OF $300.00 (or any such fee as approved by City Council) MUST ACCOMPANY APPLICATION.

PROGRAM DESCRIPTION

The Business Improvement Area Commercial Property Improvement Grant Program (the “Program”) is intended to provide financial assistance for commercial property owners/authorized tenants within the existing City-wide Business Improvement Areas as identified within the Downtown and Community Renewal Community Improvement Plan.

The Program provides financial assistance for property owners/authorized tenants within each of the existing Business Improvement Areas across the entire City of Hamilton. The Program aims to improve upon the appearance of numerous commercial properties throughout the City. It is understood that smaller scale commercial activities contribute greatly to the economic vitality and health of the commercial sector within the City of Hamilton. This Program seeks to build upon these successes, to result in long lasting physical improvements to the assets of commercial property owners/authorized tenants, and to bring about aesthetic improvements to the commercial areas as defined by the Business Improvement Areas, and to broadly improve commerce within the entire City.

ARTS COMPONENT

The arts component is introduced as a pilot project for properties that front on King William Street between James Street North and Ferguson Avenue North. The arts component of the Program will provide financial assistance for artfully designed façade improvements or art pieces placed on private property that can be viewed by the public. The Program intends to complement public art placed along the King William Urban Art Walk.
PROGRAM TERMS

- Commercial property owners/authorized tenants are eligible to apply for a grant under the Program during an advertised application period held twice a year.
- Commercial properties are to be identified by municipal address to identify multiple and separate commercial units with ground floor street frontages.
- Commercial uses must be in conformity with relevant policy documents of the City and the provisions of the Zoning By-law.
- Performance measures are to be applied to the payment of grants.
- Eligibility requirements for the Program relating to the work to be funded will be specifically identified. Two (2) separate cost estimates of the work to be provided by a licensed contractor other than the owner. Owner may present an estimate but is required to have at least two prepared by contractors. The grant will be calculated based upon lowest cost estimate, and is not to address cost increases or over runs.
- Before and after pictures are required as part of the application and processing of the grant disbursement.
- The grant will be paid on a matching basis of $400 per linear foot of street frontage up to a maximum of $20,000 for eligible work under the Program.
- As a further incentive for corner properties, the City will increase the maximum grant amount to $25,000 on a similar matching basis for eligible work under the Program to recognize the importance of flankage facades in BIA’s.
- Commercial properties designated under the Ontario Heritage Act are not eligible under this grant program.
- Grants are to be awarded on a bi-annual cycle following a request for applications with a deadline established.
- A City Building Inspector will perform initial inspection relative to the façade which is intended to be improved, and subsequent final inspection to assure compliance with the Ontario Building Code.
- Available grants will be equally accessible to each of the existing BIA’s.
- Proposed improvements to be completed within one calendar year to be eligible for payment. A one year extension can be authorized by the Director of Downtown and Community Renewal.
- Work completed must be consistent with estimates, and work proposed and identified within the application unless previously discussed and approved by the Downtown and Community Renewal Division.
- An application fee of $300 is payable upon submission of application. The fee will be authorized through a by-law passed by City Council. The rate of the fee may be changed from time to time as approved by City Council.
ELIGIBILITY REQUIREMENTS

- Property owners and authorized tenants are eligible.
- All taxes as billed must be paid current.
- The proposed work cannot commence prior to application approval, and pre-inspection by the City Building Inspector.
- Commercial properties must be located within one of the City’s Business Improvement Areas and be within the corresponding Community Improvement Project Area.
- Existing use must be in conformity with the applicable Zoning By-law regulations, and other relevant planning controls.

ELIGIBLE IMPROVEMENTS

- Replacement or repairing of storefronts and rear entrances (at the discretion of the City) if used as an access to the business.
- Improvements and or upgrades to doors, cornices and parapets.
- Addition of new lighting and upgrading of existing fixtures, on exterior of the façade and within the storefront area normally associated with the display area.
- Awning replacements and/or additions.
- Brick repairs and/or pointing.
- Painting and façade treatments.
- Installation or improvement of signage.
- Architectural or design fees may be eligible up to $750 as part of the total grant awarded for completed construction.
- Interior improvements related to display windows and entrance areas are eligible to an amount of $2,500 of the total allotment. Eligible areas will be determined by City staff.

ARTS COMPONENT – ADDITIONAL TERMS

- Commercial property owners/authorized tenants of properties that front on King William Street between James Street North and Ferguson Avenue North are eligible to apply for a grant under the arts component of the Program during the advertised application period held twice a year.
- The applicant will provide an adequate brief and rendering of the proposed art piece.
- A jury will be established and may comprise a selection of the following: Downtown and Community Renewal Division representative, urban designer, Business Improvement Area member; the Manager of Culture or their representative.
- The selection jury will review, evaluate and approve all proposed art projects.
- The jury will reserve the right to deem what is eligible for funding under the arts component.
- The grant will be on a matching basis to a maximum of $10,000 per property.
MAIN STREET HOUSING LOAN AND GRANT PROGRAM

PROGRAM DESCRIPTION

The Main Street Housing Loan and Grant Program (the “Program”) is designed to stimulate residential development within Downtown Hamilton, Hamilton’s Community Towns, Business Improvement Areas and “main street” corridors, as identified in the Downtown and Community Renewal Community Improvement Project Area By-law.

The Program is intended to provide financial assistance for converting existing built commercial space into residential units, renovations to existing residential units or construction of new units via building additions. The Program is also intended to provide assistance for the costs of creating new residential units on vacant land.

Acting as a lender, the City provides financial support for the Program and ensures that development arising from the Program is consistent with the principles and design themes contained within the Downtown and Community Renewal Community Improvement Plan, the applicable Official Plan and Zoning By-law, and the provisions of relevant Urban Design Plans.

PROGRAM TERMS

Note: A Pre-Application Form must be completed and forwarded to the Downtown and Community Renewal Division prior to scheduling a meeting with staff to completing a final application form. The Pre-Application Form is required in order that staff can review property details and determine appropriate next steps.

1. Subject to meeting all other Program terms, the Main Street Housing Program is available to property owners within:
   a) the Downtown Hamilton Community Improvement Project Area;
   b) the City of Hamilton’s Community Towns;
   c) the Business Improvement Areas;
   d) the “main street” corridors as identified in the Downtown and Community Renewal Community Improvement Project Area By-law.

2. The maximum loan amount is $10,000 per dwelling unit. A dwelling unit is a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided.
for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway.

3. The program is not intended to fund ground floor dwelling units, except for legally established ground floor dwelling units contained in a duplex or multiple dwelling. It is not intended to fund renovations or construction of single-detached, semi-detached, or individual street townhouse dwelling units, except for the construction of a street townhouse dwelling fronting on a main street.

4. Maximum loan amount of $200,000 per property.

5. The Program has a grant portion of $5,000 per application. The grant portion is allocated to professional fees only upon presentation of paid receipts to the City's satisfaction. Professional fees will include: architects; lawyers; engineers; surveyors' fees, title insurance, etc. Eligible fees will be at the absolute discretion of the City.

6. Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.

7. The maximum Loan term is five (5) years and six (6) months (subject to prior termination on default) from the date of the final advance exclusive of holdback. No extension or renewal shall be granted.

8. The Loan interest rate will be at 0% interest for the first five (5) years. For the last six (6) months of the Loan, interest shall be payable on the principle outstanding at the then prevailing rate established by Council for interest on tax arrears, such interest to be calculated and payable monthly, not in advance.

9. The Loan will be registered as a second mortgage upon the lands to be developed (the “Property”) upon first advance of funds.

10. Interest on arrears will be 15% per annum or such tax arrears interest rate as may be established by Council from time to time.

11. Principle is repayable in annual amounts of ten percent (10%), in 12 equal monthly payments, of the original loan amount. Monthly principle payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance. Payments will commence one year following the final advance, exclusive of any required holdback. The balance outstanding will be paid by a balloon payment at the end of the five (5) year and six (6) month term. Monthly principle payments will continue during the last six (6) months of the repayment term with interest calculated and payable monthly, not in advance, if not paid earlier.
12. The loan will mature at the end of the five (5) year and six (6) month term at which time the principle balance outstanding will be paid in full plus any outstanding interest.

13. The loan may be prepaid at any time without notice, bonus or penalty.

14. The City may request such security as may be required to secure a commercial loan, including the following: loan agreement; and/or promissory note; and/or personal property security; and/or personal guarantees; and/or lien on the property to be improved; and/or collateral mortgage charge registered on the property to be improved; and/or letter of credit in lieu of a second mortgage charge on the property (subject to City’s minimum equity requirements); and/or such other security which may be appropriate or available in the circumstance. The City may request net worth statements or variations thereof as the City may determine.

15. Upon proof satisfactory to the City that the proposed development is 60% complete based upon the value of the construction and that equity and/or financing required to that stage of completion has been injected into the development, then the approved City funds will be made available and released proportionately based upon the approved source of funds (equity/financing/City funds). The calculation of the proportion to be advanced will reflect that the first 60% of funding is from non-City sources. Advances will be made in conjunction with financing advances or after proof of equity injections.

16. Owner applicants shall have no less than 25% equity based upon the appraised value of the property offered as security, including cost of improvements being financed. The City at its discretion will determine whether an appraisal is required or whether it will accept a drive-by appraisal, tax assessment or other proof of value, depending on the amount of the Loan and the extent of construction or renovation.

17. The City will request joint and several guarantees, and/or such other security which may be appropriate or available in the circumstances.

18. An administration fee of $260 per unit is charged to the borrower and is eligible to be paid out of the loan proceeds which will also be considered in the grant portion of professional expenses. The administration fees will be paid out of the first advancement of funds that flow from the City of Hamilton. The rate of fees may be changed from time to time as approved by City Council.

19. Realty taxes must be paid as billed throughout the development process.

20. Advances are made by the City, upon proof satisfactory to the City confirming the value of the work completed.
21. All costs associated with the conversion or renovations are to be borne by the applicant including construction, design, administration fees, appraisals, inspections, legal and registration fees. The City retains the right to assess the reasonableness of costs and which costs are eligible under the terms of the Program.

22. In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property then at the option of the City all monies secured by the mortgage to the City shall forthwith become due and payable. The City shall have absolute discretion in requiring repayment of the loan secured by the mortgage.

23. Change of Corporate Control:

Where the Owner is a corporation the Owner covenants and agrees that in the event that:

a) the Owner fails to supply the City, in a form satisfactory to the City such information relating to the ownership of its shares as the City may from time to time require: or

b) without the written consent of the City first had and obtained:

i) the Owner issues or redeems any of its shares or transfers any of its shares;

ii) there is a sale or sales of the shares of the Owner which result in the transfer of the legal or beneficial interest of any of the shares of the Owner; or

iii) the Owner amalgamates, merges or consolidates with any other corporation

and the result of any of the foregoing is a change in the effective control of the majority of the voting shares of the Owner, then all monies secured by the mortgage together with accrued interest thereon shall forthwith become due and payable at the option of the City and the City’s powers of sale hereby given and all other remedies for enforcement shall be exercisable.

24. Upon sale of individual condominium units, the City will be repaid $12,500 per unit, until the loan is paid in full.

25. The proposed development must conform to the relevant Official Plan and Zoning By-law and such other approved municipal policies as are applicable, e.g. urban design guidelines/built form guidelines.
26. The proposed development must conform to an Urban Design Plan where same is in effect. The applicant must demonstrate to staff that the Urban Design Plan is being implemented.

27. The City of Hamilton will require specific insurance terms to be met to protect the City’s interest.

28. Deadlines for the submission and approval of building permits and construction start dates are established following a report to Council for approved applications.

29. The City will periodically review the terms and the duration of the Program and make appropriate revisions as per the direction of City Council.

30. The Main Street loan may be received by an owner in conjunction with any other available City programs (excluding the Downtown Hamilton Property Investment Program) in support of the redevelopment/development of the property.
February 4, 2009

Planning & Economic Development Department
77 James Street North
Suite 250, P.O. Box 2040 LCD 1
Hamilton, Ontario
L8R 2K3

Attention: Mr. Ron Marini
Director of Downtown & Community Renewal

RE: PROPOSED CHANGES TO THE HAMILTON DOWNTOWN RESIDENTIAL LOAN PROGRAM

Dear Mr. Marini:

It was a pleasure to meet with you and your staff and have the opportunity to review the proposed changes to the terms of the Hamilton Downtown Residential Loan Program.

On behalf of Wilson, Blanchard Management Inc. and our clients, I endorse the proposed changes to the program as I believe they will foster further investment in the Downtown Core.

Yours truly,

WILSON, BLANCHARD MANAGEMENT INC.

David H. Blanchard, B.A., P.Eng., CPM, A.C.E.T., CCN
Vice President

Dhs:sl

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Email: info@wilsonblanchard.com
Website: www.wilsonblanchard.com
February 6, 2009

Planning & Economic Development Department
77 James Street North
Suite 250 P.O. Box 2040 LCD 1
Hamilton, ON
L8R 2K3

Att: Gord Moodie & Ron Marini

The Wilshire Group developed the Staybridge Suites Hotel and was assisted by the Hamilton Downtown Residential Loan Program. The proposed changes to the program create a more desirable development potential. Wilshire supports the changes to the program and look forward to applying for the loan in conjunction with the upcoming development of a new Holiday Inn/Staybridge Hotel.

Yours truly,

John Bukovac
Secretary/Treasurer
City of Hamilton
1 James Street South, 8th Floor
Hamilton, Ontario
L8P 4R5

Attention: Ronald Marini, MCIP, RPP
Director, Downtown Renewal Division
Planning & Economic Development Department

On January 21, 2009, I along with many other business leaders of Hamilton, attended an information meeting regarding the new proposal for the Downtown Loan Program.

I believe the new proposal will greatly benefit and attract developers and builders to invest in the core of downtown Hamilton.

I strongly recommend that this proposal be supported by Council.

Sincerely,

Paul Silvestri
February 12, 2009

Mr. Ron Marini, Director of Downtown Renewal

City of Hamilton
Planning and Economic Development Department
Hamilton City Centre
77 James Street North, Suite 250
Hamilton, Ontario L8R 2K3

Dear Mr. Marini:

Reference: Support of Proposed Changes to Hamilton Downtown Residential Loan Program
Economic and Development Committee

Pocnic Realty Advisors Inc. and its affiliated development companies strongly supports and endorses the changes to the Hamilton Downtown Residential Loan Program (the "HDRLP") as presented by the Downtown and Community Renewal staff at a meeting on January 21, 2009.

As an active participant in a number of downtown developments, we believe the changes will foster future opportunities to enhance the downtown area.

We look forward to incorporating the HDRLP in our future downtown development endeavors.

Sincerely,

POCRNIC REALTY ADVISORS INC. and Affiliated Companies

[Signature]

Steve M. POCRNIC, B.Comm., AACI, P.APlp., CCIM, A.I.M.A.

SMP:pm