That the ERASE Redevelopment Grant Agreement between the City of Hamilton and Clappison Five Six Properties Inc. (John Krsn) for the redevelopment of the property at 30-42 Dundas Street East, Flamborough, ON, approved by Council on September 26, 2007, in approving Item 3 of Economic Development and Planning Committee Report 07-016, be amended by extending the commencement of construction for an additional three (3) years, ending September 18, 2015.

EXECUTIVE SUMMARY

On September 26, 2007, Council approved funding through the ERASE Redevelopment Grant Program, in the amount of $236,480, to Clappison Five Six Properties Inc. (John Krpan) (Report PED07247) for required environmental site remediation in order to permit construction of a 300,000 square foot retail/commercial development. Recommendation b), of Report PED07247, states “That the City enter into an ERASE Redevelopment Agreement with Clappison Five Six Properties Inc. (John Krpan) regarding the terms and conditions governing the payment of an ERASE...
Redevelopment Grant for, and redevelopment of, 30-42 Dundas Street East, Flamborough, ON, attached as Appendix “B” to Report PED12191, with such agreement to be satisfactory to the City Solicitor*. A specific provision within the executed ERASE Redevelopment Grant Agreement deals with timelines relating to the commencement and completion of construction within five (5) and seven (7) year time periods respectively of the approval of the grant.

The time frame for commencement of construction of the redevelopment project, subject to the provisions of the agreement, is set to lapse and the consultant (Fothergill Planning & Development Inc.), on behalf of the applicant, is formally seeking an extension to this Clause (Clause 4.8). Recommendation to Report PED12191 proposes that the ERASE Redevelopment Grant Agreement, between the City of Hamilton and the applicant, be amended by extending the commencement of construction provision an additional three (3) years.

Alternatives for Consideration – See Page 6

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

Financial: There are no additional financial implications to the City through approving the recommendation provided in Report PED12191. As per the ERASE Redevelopment Grant Program, the City will provide the applicant with a grant equivalent to 80% of the increase in municipal taxes up to the total eligible cost figure of $236,480. At that time, the City will begin to collect and retain the full municipal portion of the tax increment.

The City will retain 20% of the municipal tax increment over the length of the grant term. These monies will be deposited into the Brownfield’s Pilot Project Account to be used by the City for its Municipal Acquisition and Partnership Program (MAPP). This program, as approved in the ERASE CIP, involves the City acquiring key Brownfield sites, cleaning up and redeveloping property it already owns, or participating in public/private partnerships to redevelop Brownfield properties.

Staffing: N/A

Legal: The Erase Redevelopment Grant Program guidelines do not allow for an extension of the term of the Agreement. Therefore, an Addendum or Amendment to the Agreement will be required in a form satisfactory to the City Solicitor.

**HISTORICAL BACKGROUND** (Chronology of events)

An ERASE Redevelopment Grant Application submitted by Clappison Five Six Properties Inc. (John Krpan) was approved by Council on September 26, 2007 (Item 3 of Economic Development and Planning Committee Report 07-016), for the property at
30-42 Dundas Street East, Flamborough, ON, in the amount of $236,480. The application qualified for an ERASE Redevelopment Grant as a result of the required environmental site remediation in order to permit construction of a 300,000 square foot retail/commercial development. Subsequently, an ERASE Redevelopment Grant Agreement was executed between the City and the applicant, which specifies the obligations of the City and the applicant in a form satisfactory to the City Solicitor.

Since being approved for the ERASE Redevelopment Grant, the applicant has undertaken the necessary site remediation in order to produce a Record of Site Condition (RSC) for the intended commercial use on the subject property. The RSC was filed with the Ministry of the Environment (MOE) on June 16, 2011. Total actual remediation expenses have yet to be reconciled with staff.

A Site Plan Application (DA-08-151) to construct 269,098 square feet of retail commercial uses was conditionally approved on March 9, 2009. In accordance with Town of Flamborough Zoning By-law 90-145-Z, further amended by By-law 03-332, the applicant is required to remove a Holding “H” provision from the subject lands prior to commencing with any development. Part of this Holding “H” Provision is for the purposes of construction and dedication of a municipal road connecting the subject lands to Highway 5 to the satisfaction of the City of Hamilton and the Ministry of Transportation. Therefore, conditions of Site Plan Approval reflected the requirements of the Zoning By-law to ensure that the road was constructed and dedicated, and the Holding “H” Provision was lifted prior to the issuance of any building permits. The conditional approval lapsed after one (1) year, and no conditions were satisfied.

In 2010, Ministry of Transportation (MTO) commenced a Transportation Environmental Study Report Addendum for the Highway 5 - 6 Interchange. MTO is the proponent of the project and the City of Hamilton is a key stakeholder. The Addendum includes the following:

- approval for widening of Highway 6 to six lanes through the interchange and widening Dundas Street to six lanes between Highway 6 and Clappison Avenue to accommodate 2031 traffic projections; and,
- planning of new and modified municipal roads to serve adjacent land use that will lose access, and to provide a commuter parking lot in the vicinity of the interchange.

MTO has been developing municipal road alternatives for the north-west quadrant, south-east quadrant and south-west quadrant. During the past year they directly consulted with impacted property owners. On June 19, 2012, MTO held a Public Information Centre (PIC) and presented the preferred design for the interchange, associated municipal roads, and car pool lot.
The subject lands are located within the south-east quadrant. MTO has met with the applicant and Fothergill Planning & Development several times to discuss and receive input on the preferred municipal road alternative through the south-east quadrant. Fothergill Planning & Development, representing the applicant, formally requested an extension to Clause 4.8 of the ERASE Redevelopment Grant agreement, by way of a written letter, attached as Appendix “A” to Report PED12191, to the City Clerk’s Office on August 29, 2012. The letter requested an amendment to the ERASE Redevelopment Agreement in order to extend the commencement of construction of the redevelopment project, an additional five (5) years beyond the original five (5) years stated in Clause 4.8 of the executed ERASE Redevelopment Grant agreement.

**POLICY IMPLICATIONS**

Report PED12191 relates to the processing of an application under the ERASE Redevelopment Grant Program (ERG), which is contained within the City's approved ERASE Community Improvement Plan (2010).

**RELEVANT CONSULTATION**

The request for an extension to Clause 4.8 of the ERASE Redevelopment Grant Agreement was circulated to the Corporate Services Department (Legal Services Division and City Clerk’s Office) and the Planning and Economic Development Department (Planning Division and Growth Management Division). The pertinent departmental comments are provided below.

**Departmental Comments**

**Planning:**
The subject lands are identified as Block 2 by amending Zoning By-law 03-332, and are zoned Prestige Industrial “M1-11-2(H)” Zone, Modified, which permits retail commercial development up to 613,543 square feet over Blocks 1 and 2. The subject lands are also subject to a Holding “H” Provision which restricts the development of the lands until such time as a municipal road is constructed and dedicated to the City of Hamilton to the satisfaction of the City and the Ministry of Transportation (MTO). The lands are subject to Site Plan Control. A previously submitted Site Plan Control application was conditionally approved in 2009, but has since lapsed with no conditions cleared.

**Growth Management:**
In 2010, MTO commenced conducting a Transportation Environmental Study Report Addendum for the Highway 5 - 6 Interchange. MTO is the proponent of the project and the City of Hamilton is a key stakeholder. The Addendum includes the following:
 SUBJECT: Extension of ERASE Redevelopment Grant Agreement (ERG-07-02) 
With Clappison Five Six Properties Inc. (John Krpan), 30-42 Dundas 
Street East, Flamborough, ON (PED12191) (Ward 15) - Page 5 of 6

- approval for widening of Highway 6 to six lanes through the interchange and 
widening Dundas Street to six lanes between Highway 6 and Clappison Avenue 
to accommodate 2031 traffic projections; and,
- planning of new and modified municipal roads to serve adjacent land use that will 
lose access, and to provide a commuter parking lot in the vicinity of the 
interchange.

MTO has been developing municipal road alternatives for the north-west quadrant, 
south-east quadrant and south-west quadrant. During the last year they have directly 
consulted with impacted property owners. On June 19, 2012, MTO held a PIC and 
presented the preferred design for the interchange, associated municipal roads and car 
pool lot.

The subject lands are located within the south-east quadrant. MTO has met several 
times with the applicant and Fothergill Planning & Development to discuss and receive 
input on the preferred municipal road alternative through the south-east quadrant.

Legal Services: Legal Services was consulted and their comments are stated in the 
Legal Implications section of this Report.

| ANALYSIS / RATIONALE FOR RECOMMENDATION |
| (include Performance Measurement/Benchmarking Data, if applicable) |

Based on the relevant consultation with internal departments, as noted above, and 
进一步 conversations with the applicant’s agent (Fothergill Planning & Development 
Inc.), staff feels that there is merit to amending the ERASE Redevelopment Grant 
agreement to include an additional three (3) years for the commencement of 
construction provision (Clause 4.8 of the Agreement).

The agent for the owner, in his original letter asking for an amendment to the ERASE 
Redevelopment Grant agreement (Clause 4.8), requested an additional five (5) years be 
added on to the original five (5) years for commencement of construction period. There 
was no specific reasoning or justifications for the five (5) year ask, except citing delays 
by MTO with respect to the Environmental Study Report Addendum, and uncertainty 
with respect to construction of the roadways. Staff felt there was likely a time delay with 
respect to MTO Environmental Study Report. However, short of satisfying conditions of 
a site plan application, there is nothing that is stopping the owner from developing the 
lands as proposed, including the construction of the internal roadways. It is felt that the 
owner can have this accomplished within the three (3) year extension period proposed.
Council can choose to not support the recommendation contained in Report PED12191, which would effectively mean that the conditional Grant authorization shall be at an end, with no grant payments being paid to the owner in the future. Alternatively, Council may also choose to agree to the five (5) year extension to the ERASE Redevelopment Grant Agreement, as requested by the owner’s agent.

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


**Skilled, Innovative & Respectful Organization**
- A culture of excellence
- More innovation, greater teamwork, better client focus
- Council and SMT are recognized for their leadership and integrity

**Financial Sustainability**
- Effective and sustainable Growth Management
- Generate assessment growth/non-tax revenues

**Growing Our Economy**
- Newly created or revitalized employment sites
- Competitive business environment

**Environmental Stewardship**
- Reduced impact of City activities on the environment
- Aspiring to the highest environmental standards

**Healthy Community**
- Plan and manage the built environment

**APPENDICES / SCHEDULES**

Appendix “A” to Report PED12191 – Applicant’s Extension Request Letter
Appendix “B” to Report PED12191 – Location Map

BM/hk

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
August 29, 2012

Ms. Rose Caterini
City Clerk
City of Hamilton
71 Main Street West
Hamilton, ON L8P 4Y5

Dear Ms. Caterini:

Re: Request for Extension of ERASE Grant Program - Clappison Five/Six Properties Inc.
Flamborough Power Centre

Please accept this letter as a request to extend the provisions of the ERASE grant dealing with a commencement of construction for a period of up to 5 years. Development has not yet occurred on this property and it will be some years before the site is ready to be developed.

As you may be aware, the site is subject to a holding provision that requires among other matters, provision of a municipal road access to Dundas Street. That access has not yet been provided, hence the property is unable to be developed.

The Ministry of Transportation is now undertaking environmental assessment for this roadway. Once that assessment has been completed, the alignment of the roadway will be established. At that point, further steps can be taken to implement the construction of the roadway. Until that time, development cannot proceed.

Given the uncertainty with respect to this exercise, I would suggest that the terms of the agreement be extended for another five years.

If you have any questions regarding this matter, please do not hesitate to contact me at any time.

Sincerely,

FOTHERGILL PLANNING & DEVELOPMENT INC.

[Signature]
F.J. Fothergill, M. LIP, RPP
President

cc. John Krpar, Steve Mlivoje, Maria Lombardo, Caroline Floroff, Kate Mihalevic, Brian Morris