## CITY OF HAMILTON

**PUBLIC WORKS DEPARTMENT**  
*Corporate Assets and Strategic Planning Division*

<table>
<thead>
<tr>
<th>TO: Mayor and Members</th>
<th>WARD(S) AFFECTED: WARD 2</th>
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<tr>
<td>General Issues Committee</td>
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<tr>
<th>COMMITTEE DATE:</th>
<th>April 3, 2013</th>
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<tr>
<th>SUBJECT/REPORT NO:</th>
<th>Lease - Lister Block, 28 James Street North, Unit #106, Hamilton (PW13026) - (Ward 2)</th>
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<tr>
<th>SUBMITTED BY:</th>
<th>PREPARED BY:</th>
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<tbody>
<tr>
<td>Gerry Davis, CMA</td>
<td>Rom D’Angelo</td>
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<tr>
<td>General Manager</td>
<td>Director, Facilities Management &amp; Capital Programs</td>
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<tr>
<td>Public Works Department</td>
<td>(905) 546-2424, Extension 4617</td>
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<th>SIGNATURE:</th>
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<td></td>
<td>Rom D’Angelo</td>
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<td>(905) 546-2424, Extension 4617</td>
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<th>RECOMMENDATION(S)</th>
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<td>(a) That the City of Hamilton (Landlord) enter into a new lease agreement with “28 Lister Inc. &amp; Chris DesRoches” (Tenant) for the property known as 28 James Street North, Unit 106 (also known as Lister Block), subject to the following terms and conditions:</td>
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(i) **Term:** Ten years commencing upon date that building permit is achieved, plus a five year renewal option;

(ii) **Property:** Lister Block, 28 James Street North, Unit 106, comprising of 4,222 gross rentable area as shown in Appendix “B” to Report PW13026. The space will be measured to the Building Owners and Managers Association (BOMA) standards once the lease is approved. The space will be leased on an “as-is” basis with finishing subject to heritage restraints and building permits as applicable;

(iii) **Landlord’s Work:** All Landlord’s work, including base building ventilation, water, drainage and electrical, will be completed by the Tenant subject to the Landlord’s prior written approval of drawings. The Landlord will invest
$267,000 for Landlord’s work with funds being made co-payable to both the Tenant and the contractors;

(iv) **Net Rental Rate:** Years One to Ten: $15.00/sq. ft. net ($5,277.50/monthly $63,330.00/annually);

(v) **Operating Costs:** In addition to net rent payable in (a)(iv) the Tenant will pay $12.00 /sq. ft. ($4,222.00 /month, $50,664.00/annually) in operating costs which includes taxes. In addition, the Tenant will pay for separately metered utilities including gas and hydro. Water will be incorporated into the operating costs;

(vi) **Parking:** Two parking spots will be provided to the Tenant and the Lister Block parking lot will be made available to the Tenant’s customers between the hours of 6:00 p.m. and 6:00 a.m. daily;

(b) That the Landlord’s cost of $267,000 be funded from the following Capital Work-In-Progress (WIPs) Accounts;

(i) $125,000 from # 8140755700 - Aggregate Study;
(ii) $125,000 from #3621108002 - Brownfield Development;
(iii) $17,000 from #791550-54401 - The operating budget for Lister Block;

(c) That a Lister Block Capital Reserve be created and funded by operating surpluses generated by related Lister Block Lease Revenues minus operating expenses;

(d) That the Mayor, General Manager of Finance and Corporate Services and the City Clerk be authorized and directed to execute the Lease in a form satisfactory to the City Solicitor.

**EXECUTIVE SUMMARY**

In March of 2012, the City issued a Request for Quotation for Brokerage Listing services to market the remaining three units for lease at the Lister Block. The successful Broker was Blair Blanchard Stapleton Limited. Marketing took place through the Multiple Listing Service (MLS) system, at the Broker’s website and through site location signage. The listing agreement was in place from April 11, 2012 to September 30, 2012. All offers were received and held until the closing of the listing agreement with the Broker.

Upon closing, all offers were considered together in order to follow a fair and competitive process as well as to ensure non-competitive uses between the multiple tenancies.

The number of offers submitted for each unit is as follows:

- Three offers were received for Unit #104
- Four offers were received for Unit #106
- No offers were received for Unit #114
In February 2013, Council approved the lease for Mezza Caffe to occupy Unit #104. This report deals only with Unit #106.

This report seeks Council’s direction to permit 28 Lister Inc. & Chris DesRoches to enter into a lease agreement with the City for the space at 28 James Street North, Unit #106 in the Lister Block.

28 Lister Inc. is a new company being formed for the purpose of establishing an old-fashioned fine dining restaurant that will complement the historical value of the Lister Block and represent a modernized 1920’s-1930’s New York/Chicago style chop/grill house.

The restaurant will offer a bar, a Chef’s table (private reserve area) and an outdoor patio on King William Street. The total seating area will be approximately 120. The menu will consist of moderately priced locally attained foods. The floor layout is subject to approval by the City.

The restaurant will also feature free Wi-Fi and will offer local artists in the community an opportunity to display art in the restaurant free of charge.

Mr. DesRoches was the owner of LaCosta Restaurant in Hamilton from 1993-2005 and has expanded his business to seven other locations throughout Southern Ontario. Mr. DesRoaches is an entrepreneur and Executive Chef by trade.

The use of the space as a fine dining restaurant is consistent with the preferred use and criteria established by the Portfolio Management Committee (PMC) on March 18, 2010. In addition, it is a much needed use in the immediate area which has few fine dining options. Lastly, it complements the café (Mezza Caffe) that was recently selected for the smaller unit next door.

Alternatives for Consideration - See Page 6

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** The Landlord’s cost of $267,000 is being funded mainly from Planning Department Works-in-Progress (WIPs) Capital accounts. The following are the funding sources:

(i) $125,000 from #8140755700 Aggregate Study (2006), Budget $800,000, spend to date $20,000
(ii) $125,000 from #3621108002 Brownfield Development (2011), Budget $481,000, spent to date $0
(iii) The balance of $17,000 will come from the operating budget for the Lister Block

The above referenced WIPs have enough funding for 2013 requirements with the above reductions. If increased funding is required for these projects, they will be added to the 2014 Capital Budget for Council’s consideration.
Regarding the proposed gross operating surpluses generated from the lease revenues versus the operating costs, the following table illustrates the ten year revenue/cost/surplus forecast (life of the lease agreement):

<table>
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<tr>
<th>Description</th>
<th>Amount</th>
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<tr>
<td>10-year gross lease revenues</td>
<td>$1,139,940</td>
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<tr>
<td>Operating Costs</td>
<td>$506,640</td>
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<tr>
<td>Capital Reserve Contribution</td>
<td>$633,300</td>
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**Staffing:** There are no increases to staffing levels associated with the recommendations in this report.

**Legal:** Legal Services will review the lease prior to execution.

### HISTORICAL BACKGROUND

After a lengthy restoration, the City of Hamilton took over the Lister Block on March 31, 2012 and various City departments moved into the building during the month of April 2012, occupying Floors 2 to 6. Additionally, Tourism Hamilton occupies space on the ground floor. The building has an additional 5,700 sq. ft. of space on the ground floor that was to be leased out. There are five units of various sizes.

Uses for these areas were contemplated in March of 2010 by the Portfolio Management Committee (PMC) and it was determined that the preferred uses would be a restaurant service for the spaces with street access and for the interior spaces, uses that:

- support the heritage nature of the building,
- support and contribute to the community building and revitalization,
- support community services,
- are sensitive to, and support, Tourism Hamilton’s mandate,
- forestall or prevent inappropriate uses that could otherwise be attracted to low cost, downtown space, and
- do not place increased burden on facility operating costs without offsetting revenue.

PMC stated that “all potential uses for the space, both retail and other uses, should be measured against these criteria”.

In March 2012, Council approved leasing two of the units, a total of 1,115 sq. ft. to the Hamilton, Halton Brant Regional Tourist Association (HHBRTA) at gross rent of $20.00 per sq.ft. ($27,000 /annum) for five years. In February 2013, Council approved leasing Unit #104 (852 sq. ft.) to Mezza Caffe at a net of $15.00 /sq. ft. plus $12.00/sq. ft. in operating costs with escalations over the five year term.

The two units remaining to be leased are described as follows:

Unit #106 - 3,542 sq. ft. with street access to King William Street and James Street North. An additional area of 680 sq. ft. for food preparation.
will be made available from Tourism Hamilton space. Total space for lease is 4,222 sq. ft.
Unit #114 - 452 sq. ft. on the north side of building with access only to the interior arcade.

POLICY IMPLICATIONS

The recommendations are consistent with the City’s Real Estate Portfolio Management Strategy Plan as approved by City Council on November 24, 2004 and Procedural By-Law No. 04-299. City Council, in approving the consolidation of routine real estate matters, authorized the delegation of authority to approve the acquisition, disposition or lease as follows:

- General Manager or designate for a lease value not exceeding $150,000 annual rental; and,
- City Manager or designate for a lease value not exceeding $250,000 annual rental.

As the lease is a new agreement, Council approval is required to approve the recommendations contained in this report.

RELEVANT CONSULTATION

Portfolio Management Committee (PMC) - Uses for Lister Block retail space were contemplated in March of 2010 by PMC and it was determined that the preferred uses would be a restaurant service for the spaces with street access (Units 104 & 106).

Senior Management Team (SMT) - Staff sought direction from SMT. Staff presented all bids to SMT to determine the best business case and best use of the space.

City Manager’s Office, Legal Services - Once the agreement is approved by Council, a lease will be executed in a form satisfactory to the City Solicitor.

Planning and Economic Development, Real Estate & Planning Division - The Landlord’s cost of $267,000 is being funded mainly from the Planning and Economic Development Department. Consultation and the funding source was discussed and approved by the General Manager and Director of the Planning Division.

Corporate Services Department - Financial Planning & Policy Division - All financials and return on investment scenarios were vetted through Corporate Services, as well as finding the funding source to support the Landlord’s fit-up cost.

ANALYSIS / RATIONALE FOR RECOMMENDATION

The offer submitted by 28 Lister Inc. meets all of the pre-defined criteria set by the City for leasing the space including:

1. Term - Ten Years plus a Five year renewal option.
2. PMC’s preference for use - restaurant services.

3. Meeting and respecting the heritage nature of the building image - a fine dining period restaurant (1920’s and 1930’s).

4. Meeting acceptable financial criteria in accordance with the business case analyzed by staff.

5. Landlord’s Work - ventilation, plumbing, electrical services to the unit to be completed by Tenant.

6. Risk Management - experienced restaurant owner, City investment will be in infrastructure that stays with the building.

7. Experience - owner is professional chef with long history of restaurant operations, including LaCosta which won various “Readers Choice Awards”.

8. Other Criteria - healthy, local foods, free Wi-Fi, suitable hours, promoting local art work.

9. Fit-up period - three months from building permit date.

The rates in this lease are well within estimated market rates for current market conditions. Staff used several sources of information to determine market rates, including analyzing asking lease rates for comparable space currently available and referring to the Pocrinic Realty Advisors Inc. consultant study commissioned by the City in 2011.

In addition, staff worked with the retained brokerage firm (Blair Blanchard Stapleton Limited) and had marketed the premises with a net range of $20.00 to $25.00/sq. ft net plus operating costs of $12.00 /sq. ft.

The rents offered by 28 Lister Inc. are within the City’s market research numbers noting that 28 Lister Inc. will need to make a significant investment in the fit-ups, including building a kitchen and investing in quality furniture and fixtures. 28 Lister Inc. will pay $15.00/sq. ft. plus $12.00 /sq. ft. for operating costs and will complete all fit-up work, which is estimated at over $500,000. The City will invest $267,000 which will be recovered within the first five years of the lease through net rent payments.

Lastly, there will be between 20 and 25 net new jobs created within the community.

ALTERNATIVES FOR CONSIDERATION

The City listed this property on MLS and advertised it with no specific use identified. Four offers were received on the space and all four were food related services.

Apart from 28 Lister Inc., the other offers were considered in the context of the preferred criteria determined by PMC as well as the potential for conflict with the proponents for Unit #104 (Mezza Caffe). 28 Lister Inc. met all of the criteria including the financial criteria.
### ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN

**Strategic Priority #1**
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

**Strategic Objective**

1.1 Continue to grow the non-residential tax base.

1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.

1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.

1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

### APPENDICES / SCHEDULES

Appendix “A” - Location Map
Appendix “B” - Unit location within building
Location Map

File Name/Number: 28 James St N
Date: March 6, 2013

Appendix "A" Scale: N.T.S.
Planner/Technician: DD/NB

Subject Property

28 James Street North, Hamilton
Lister Block
Lease of Unit #106 to 28 Lister Inc.
Ground Floor 4, 222 sq. ft

Ward 2 Key Map N.T.S.