SUBJECT: Hamilton Community Heritage Fund Loan Program Application (HCHF2009-003) for 108 James Street North, Hamilton (Tivoli Theatre) (PED09298) (Ward 2)

RECOMMENDATION:

That approval be given to Hamilton Community Heritage Fund Loan Program Application (HCHF2009-003) for property located at 108 James Street North, Hamilton, as shown on Appendix “A” to Report PED09298, subject to the following:

(a) That a loan commitment of $50,000 be approved in accordance with the terms and conditions of the Hamilton Community Heritage Fund Loan Program for retrofit of the roof on the designated building, as approved under Heritage Permit Application HP2009-052.

(b) The property owner and the City shall enter into a Heritage Conservation Easement Agreement.

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

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

(e) That the applicant shall comply with the conditions of Heritage Permit HP2008-052, as approved by the Director of Planning, as advised by the Heritage Permit Review Sub-committee of the Hamilton Municipal Heritage Committee.
EXECUTIVE SUMMARY:

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

The owner of the subject property located at 108 James Street North, Hamilton (see location map attached as Appendix “A”) has applied for a $50,000 loan under the program in order to retrofit the roof on the designated auditorium portion of the building, as approved under Heritage Permit Application HP2009-052. The total budget for the proposed work is $63,000, and the maximum loan of $50,000 is being recommended.

BACKGROUND:

Hamilton Community Heritage Fund

The former City of Hamilton established the Hamilton Community Heritage Fund in 1985 (By-law No. 85-120) as part of the Province of Ontario’s Building Rehabilitation and Improvement Campaign, commonly referred to as the “BRIC” program. The grant agreement entered into by both parties (the Province of Ontario and the former City of Hamilton) established a fund that originally comprised $441,666.67. Of this total amount, $250,000 (57%) was from the Province, and $191,666.67 (43%) was from the former City of Hamilton.

The intent of the Hamilton Community Heritage Fund, as established by the grant agreement, was to establish a permanent fund for the purpose of investing in architectural conservation. Specifically, the fund was to be used:

- For loans for the purchase and/or conservation of heritage property.
- To guarantee loans for the purchase and/or conservation of heritage property.
For grants to owners of designated heritage property for the conservation of that property.

Heritage property was defined in the agreement as a property designated under the Ontario Heritage Act. The former City of Hamilton operated the fund solely for the purpose of low or no-interest loans. Since 1985, approximately 60 loans have been approved, accounting for approximately $530,000.

The Hamilton Community Heritage Fund was originally established as a revolving fund, with the former City of Hamilton offering low-interest loans for eligible conservation work on buildings designated under the Ontario Heritage Act. As interest rates declined during the 1990’s, the program was revised to permit interest-free loans, and the former City of Hamilton continued to offer loans of up to $20,000, repayable over a ten year period and secured by a lien. The agreement with the Province of Ontario stipulated that loans of $15,000 or more required a Heritage Conservation Easement Agreement between the property owner and the City. This HCHF application (HCHF2009-003) is for $50,000: if approved, the property owner and the City shall enter into a Heritage Conservation Easement Agreement prior to release of the monies.

After municipal amalgamation, Council agreed to maintain the Hamilton Community Heritage Fund Program as a permanent reserve to provide loan assistance to all designated heritage properties within all of the former municipalities (Report PD00151(A), Item (f)). In 2005, Council approved an increase in the maximum loan amount to $50,000 (Report PED05091), and under the current terms of the program, the loan is registered as a mortgage on the property and repayable over a period of up to ten years with no accumulated interest.

The current terms of the program, approved by Council in 2005, stipulate that to be eligible for a loan, the property must be designated either individually under Part IV of the Ontario Heritage Act, or as part of a Heritage Conservation District, under Part V of the Ontario Heritage Act. Funding is available only for work that conserves or restores the historic fabric and significant architectural elements of a building. Interior features are only eligible for funding if specifically mentioned in the Reasons for Designation or Description of Heritage Attributes of a property designated under Part IV of the Ontario Heritage Act. Routine maintenance and repair is not eligible.

108 James Street North (Tivoli Theatre)

The subject property was designated under Part IV of the Ontario Heritage Act in 1990 (By-law 90-255). The property was originally developed as a carriage factory in 1875 for J.P. Pronguey, but from 1908 onward, served principally as a theatre.
While originally constructed as a carriage factory in 1875, this function for the property ceased in 1901, and by 1908, it was established as the first in a sequence of theatres: the Wonderland, succeeded by the Colonial (1910-1912), and the Princess (1913-1923). These were located within the original carriage factory, later serving as the lobby to the Tivoli Theatre. In 1924, the complex was substantially enlarged with the addition of the auditorium to the rear of the property, and renamed “The Tivoli”, serving as a prominent vaudeville and motion picture venue, and noted for being the first cinema in Hamilton to present movies with sound tracks. Subject to substantial renovations in 1943, 1947, and 1954, the Tivoli ceased to operate as a movie theatre on September 28, 1989, and was then adaptively reused as a retail location for music sales, and subsequently by various community theatre groups. In 2005, structural failure in the original carriage factory portion of the theatre complex resulted in an order to comply from the Chief Building Official for Hamilton, which was then demolished. The 1924 auditorium and portions of the lobby remain in place, the interiors of which are designated. Ownership of the property has since been assumed by the Canadian Ballet Youth Ensemble.

The original carriage factory was built in Second Empire style by Hamilton architect Albert H. Hills, the designated features of which are no longer extant. The interior of the auditorium was designed by Toronto architect B. Kingston Hall, in an Italian Renaissance style featuring the proscenium, elliptical ceiling, decorative cornice and frieze, and five-arch colonnades along each of the side walls. The arches adjacent to the stage contain bronze statues of Caesar and Minerva, and the bases of the remaining arches are decorated with medallions representing the four seasons. These original elements represent the remaining features identified in the reasons for designation for the property, and do not include any exterior features.

**ANALYSIS/RATIONALE:**

**Proposed Work (HCHF2009-003)**

The proposed work comprises (refer to photos attached as Appendix “B”) the retrofit of the roof above the 1924 auditorium, including:

- Removal and replacement of roofing materials on the auditorium and auditorium tower;
- Replacement of metal siding and flashing on the ventilation penthouse;
- Removal of the derelict HVAC unit and supports;
- Removal and replacement of caulking on the back-stage ventilation cupola;
- Painting of the ventilation cupola and roof ventilation equipment;
- Replacing/rerouting the rain water leaders and heat trace, where required;
• Replacing downspouts on the auditorium; and,

• Installation of flashing.

All elements of the proposed work were reviewed through the Heritage Permit application process (Heritage Permit Application HP2009-052) and approved with delegated approval authority by the Director of Planning, as advised by the Heritage Permit Review Sub-committee of the Hamilton Municipal Heritage Committee.

The roof, although not formally designated as an exterior feature, is a structural component of the building fabric that is critical to the integrity of the heritage values identified in the reasons for designation. Accordingly, the proposed retrofit to the roof of the 1924 auditorium is important to the conservation of the interior designated features. In addition, the proposed construction methods are consistent with accepted principles and practice of the conservation and management of heritage fabric. The proposed work meets the intent and eligibility criteria of the Hamilton Community Heritage Fund Loan Program, and staff recommends approval of the requested loan.

The total budget for the proposed work is $63,000, and the maximum loan of $50,000 is being recommended.

**ALTERNATIVES FOR CONSIDERATION:**

This request for financial assistance, in the form of an interest free loan, may either be approved or denied.

Denial of this application would not promote the appropriate conservation and management of the significant heritage features of the property, and would not meet the City’s “Triple Bottom Line”.

Approval of the total cost of $63,000 is above the Council approved guidelines, and is not recommended.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: Funding is provided under the terms of the Hamilton Community Heritage Fund Loan Program, as approved by City Council on September 14, 2005. The loan monies are to be advanced from the City of Hamilton’s line-of-credit with the foregone interest being charged to account number 52901-812040. Any costs incurred for the HCHF Loan program are to be funded from the HCHF Reserve 102049.
SUBJECT: Hamilton Community Heritage Fund Loan Program Application (HCHF2009-003) for 108 James Street North, Hamilton (Tivoli Theatre) (PED09298) (Ward 2) - Page 6 of 7

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

Legal: Review of all documentation associated with the loan will be appropriately undertaken by the City Solicitor to protect the City’s interests. In certain cases, as projects move forward, it is sometimes necessary to make minor amendments to previously approved loan commitments and agreements. Therefore, staff is recommending that the General Manager of Planning and Economic Development be authorized (with the input from the General Manager of Finance and Corporate Services and the City Solicitor) to amend loan commitments/agreements without further Council approvals, provided that the terms and conditions of the Hamilton Community Heritage Fund Loan Program are maintained.

Under Section 33 of the Ontario Heritage Act, Heritage Permit 2009-052 has been approved for the work, subject to this loan application.

POLICIES AFFECTING PROPOSAL:

For the subject application (HCHF2009-003), the following policies apply:

City of Hamilton Official Plan

Subsection C.6-Heritage Resources: The City of Hamilton OP states that it is the intent of Council to encourage the preservation, maintenance, reconstruction, restoration, and management of property that is considered to have historic, architectural or aesthetic value (Section 6.1).

One of the goals of Section 3.4 - Cultural Heritage Resources Policies of the Council approved Urban Hamilton Official Plan (adopted July 9, 2009) is for the City, in partnership with others, where appropriate, to “protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes” (3.4.2.1.a), “encourage the ongoing care of cultural heritage resources and the properties on which they are situated together with associated features and structures by property owners” (3.4.2.1.e), and “support the continuing use, reuse, care and conservation of cultural heritage resources and properties by encouraging property owners to seek out and apply for funding sources available for conservation and restoration work” (3.4.2.1.f). Although the new Urban Hamilton Official Plan has not been approved by the Ministry of Municipal Affairs and Housing, and is not yet in effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources.
City of Hamilton Corporate Strategic Plan

The approval of this loan is consistent with the 2008-2011 City of Hamilton Corporate Strategic Plan - Strategic Themes of promoting the City’s image and of creating jobs. Specifically, the approval of this application is consistent with several of the Focus Areas, such as promoting effective inter-governmental relations, providing work for skilled labourers, protecting public health and safety, conserving resources, and managing the built environment in a sustainable manner.

RELEVANT CONSULTATION:

Pursuant to Subsections 28(1) and 33(4) of the Ontario Heritage Act, the Hamilton Municipal Heritage Committee advises and assists Council on matters relating to Part IV and Part V of the Ontario Heritage Act. The Hamilton Municipal Heritage Committee has been consulted on the approved Heritage Permit Application (HP2009-052) through its Heritage Permit Review Sub-committee. The Hamilton Municipal Heritage Committee shall be advised of the decision regarding this loan by copy of this report and recommendations at its November 26, 2009 meeting.

CITY STRATEGIC COMMITMENT:

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

Community Well-Being is enhanced. ☑ Yes ☐ No
Arts, culture, archaeological, and cultural heritage are supported and enhanced.

Conservation of existing built heritage infrastructure is being supported.

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

Consumption of natural resources is being reduced through the conservation of the existing building and its built features.

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

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No
Cultural heritage resources are conserved and enhanced, resulting in strengthened community identity.

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

:JM
Attaches. (2)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: HCHF2009-003
Date: October 19, 2009
Appendix "A" Scale: N.T.S.
Planner/Technician: JMIIF

Subject Property

108 James Street North, Hamilton (Tivoli Theatre)
Tivoli Auditorium Roof: HVAC Ventilation Penthouse Ventilation Cupola

Existing HVAC Unit and Supports Ventilation Penthouse
Auditorium Roof
Auditorium Roof (northeast corner)

Auditorium Roof (northwest corner)

Auditorium Roof (east portion)