



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: WARD 2
COMMITTEE DATE: April 4, 2012	
SUBJECT/REPORT NO: Hamilton Downtown Multi-Residential Property Investment Program – 275 King Street West – HDMRPIP 02/11 (PED12032) (Ward 2)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Hazel Milsome (905) 546-2424 Ext. 2755
SIGNATURE:	

RECOMMENDATIONS:

- (a) That a conditional loan commitment totalling \$932,500 for the Hess Village Real Estate Corporation, the registered owner of the property at 275 King Street West, be authorized and approved in accordance with the terms and conditions of the Hamilton Downtown Multi-Residential Property Investment Program;
- (b) That the Mayor and City Clerk be authorized and directed to execute a loan agreement together with any ancillary documentation required to effect recommendation (a) above, in a form satisfactory to the City Solicitor;
- (c) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any loan amending agreements, together with any ancillary amending documentation, if required, provided that the terms and conditions of the Hamilton Downtown Multi-Residential Property Investment Program, as approved by City Council, are maintained.

EXECUTIVE SUMMARY

The Hamilton Downtown Multi-Residential Property Investment Program (HDMRPIP) application for the redevelopment of 275 King Street West (the “Property”) was submitted by the Hess Village Real Estate Corporation, the registered owner of the Property. The Property is a derelict three-storey apartment building. The applicant will redevelop the property to a four-storey, twenty-nine unit apartment building constructed to LEED certified Gold standard.

The HDMRPIP offers a zero percent interest loan for projects that result in predominantly residential development. The maximum loan amount is 25% of the cost to construct budget prepared by an architect/engineer. When the City’s loan is \$1 million or over the budget is to be reviewed and approved by a quantity surveyor. The eligible construction cost for 275 King Street West as confirmed by a quantity surveyor is \$4,133,319.52, however, in order to meet the City’s requirement of 25% equity in the property; the maximum loan for this project is \$932,500.

Alternatives for Consideration – See Page 6.

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

Financial: Funding is provided under the terms of the HDMRPIP approved by City Council at its meeting held November 16, 2011, and attached as Appendix “A” to Report PED12032.

City Council, at its meeting held March 1, 2006, authorized an increase in loan commitments under the HDMRPIP to \$26 million provided that the total loan monies lent under the program did not exceed \$20 million at one time. To date, \$18,699,840 has been approved for all current and past loans. As of December 31, 2011, \$9,453,470 has been repaid, \$1,101,207 has been written-off, \$5,614,908 is outstanding in loans that are in various stages of repayment or redevelopment, \$2,431,462 is committed but has not been advanced to date and, \$98,793 was not required to be advanced (this was the balance of the loan that has not been advanced to the project where the loan was written-off). Therefore, based on a maximum of \$20 million in loans being out at one time, there is the potential of an additional \$11,953,630 in future loans being approved by City Council and advanced. Additionally, based on a limit of \$26 million in loan commitments, there is the potential of \$17,953,630 in loan commitments being approved by City Council.

The cost to fund the HDMRPIP is the interest lost to the City which is funded through the Urban Renewal Section’s operating budget contained in account number 52901-815010.

Staffing: Applications and loan payments under the HDMRPIP are processed by the Urban Renewal Section and Taxation Division. There are no additional staffing requirements.

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.

Prior to the advance of funding from the City, the applicant will be required to execute a loan agreement and provide security for the loan by way of a second mortgage registered against the Property. In addition, the applicant will personally guarantee the loan. The loan is not advanced until the project is 60% complete. All documents and required searches will be developed and undertaken in consultation with Legal Services.

As construction projects move forward, it is sometimes necessary to amend previously approved loan agreements and any ancillary documentation, therefore staff recommends that the General Manager of Planning and Economic Development be authorized to amend loan agreements and any ancillary documentation, provided that the terms and conditions of the HDMRPIP are maintained.

HISTORICAL BACKGROUND (Chronology of events)

The HDMRPIP (formerly titled the Hamilton Downtown Residential Loan Program) was approved by City Council at its meeting held September 25, 2002. Since that time, a number of program refinements have been approved by Council. The HDMRPIP applies to properties within the Downtown Hamilton Community Improvement Project Area. The Program is intended to provide zero percent interest loans for residential development and uses accessory to the residential development such as parking. Terms of the program offer a zero interest loan for 25% of the cost to construct budget. The loan is advanced in three stages: upon completion of 60%, 80% and 100% of construction completion. Repayment of the loan commences one year after final advance of the loan exclusive of any holdbacks. Ten percent of the loan amount is repayable in monthly payments each year for four years. The balance outstanding is paid in a balloon payment at the end of the five years. If the development is a condominium, the City will be repaid upon closing, 25% of the sale price of the unit until the total loan amount has been paid in full.

The HDMRPIP was developed as a catalyst for stimulating residential development within Downtown Hamilton. Projects that are funded under the Program assist in

achieving an increased Downtown density that brings more people and more activity into the Downtown and an increased demand for shops, restaurants and nightlife.

POLICY IMPLICATIONS

Report PED12032 relates to the processing of an application under the HDMRPIP which is contained within the Downtown and Community Renewal Community Improvement Plan.

The proposed redevelopment of 275 King Street West is legally non-conforming with respect to the use of the ground floor for dwelling units in the D2 Zone (Zoning By-law 05-200). However, the terms of the Hamilton Downtown Multi-Residential Property Investment Program require that development conform to City policies including the applicable zoning. To achieve conformity, the applicant must gain approval of a Site Plan Amendment and a minor variance to the Zoning By-law permitting dwelling units on the ground floor of the existing building.

The development is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan.

RELEVANT CONSULTATION

Staff from the Finance and Administration Division, Corporate Services Department, and the Legal Services Division, City Manager's Office, was consulted and the advice received is incorporated into Report PED12032.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Due diligence involved in assessing whether an applicant meets the terms and conditions of the HDMRPIP includes an evaluation committee comprising staff from Urban Renewal, Development Planning, Building Engineering and Zoning, Zoning By-law Reform, Community Planning and Design, Financial Planning and Policy, and, Taxation. The committee met on November 30, 2011, January 30 and February 16, 2012 for the purpose of reviewing the details of the development of 275 King Street West from a planning and building perspective as well as to determine the applicant's capacity for loan repayment.

Supporting documentation to the application included an appraisal of the completed project prepared by an accredited appraiser, a cost-to-construct budget reviewed and approved by a quantity surveyor, details of construction financing and, documentation to support the applicant's capacity for loan repayment.

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Development of the property at 275 King Street West will result in a derelict apartment building being redeveloped to a twenty-nine unit apartment building constructed to LEED certified Gold standard.



275 King Street West - Pre-development



275 King Street West – Proposed Development

The pre-development and proposed-development for 275 King Street West are shown in the photographs above. Appendix 'B' to Report PED12032 identifies the location of the property within the Downtown Hamilton Community Improvement Project Area.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Non-acceptance of the recommendations contained in Report PED12032 or reducing the amount of the loan would undermine the principles of the HDMRPIP and downtown renewal efforts in general. These alternatives are not recommended.

Financial: A loan in the amount of \$932,500 would not be advanced.

Staffing: Not applicable

Legal Not applicable

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Growing Our Economy

- ◆ Investment in Hamilton is enhanced and supported. Property owners invest in their properties leading to property assessment increases.

Environmental Stewardship

- ◆ Financial incentive programs support residential intensification and the reuse of existing building stock and infrastructure.

Healthy Community

- ◆ Partnerships are promoted.

APPENDICES / SCHEDULES

Appendix “A” to Report PED12032- Terms and Conditions of the HDMRPIP

Appendix “B” to Report PED12032 - Location Map

HM/dw



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Urban Renewal Section
71 Main Street West, 7th Floor
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HAMILTON DOWNTOWN MULTI RESIDENTIAL PROPERTY INVESTMENT PROGRAM

PROGRAM DESCRIPTION

The Hamilton Downtown Multi Residential 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 multiple dwelling units; renovations to existing multiple dwelling units; the creation of a new multiple dwelling on vacant land; together with uses accessory to the residential development. A multiple dwelling must contain at least three (3) dwelling units.

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. When the City's loan is \$5 million or more or, when a significant "heritage" property is being conserved, City Council at its sole discretion has the option, at the time of initially approving a loan commitment, of extending the maximum Loan term to fifteen (15) years charging interest after the first five (5) years, at the 5-year borrowing rate for the City (as established by the City's Underwriter((s))) plus 1% to cover administration costs (interest charged to be re-established every five ((5)) years).

4. The Loan will be secured by a second mortgage upon the lands to be developed (the "Property") upon first advance of funds. In addition, the Applicant will enter into a Loan Agreement which includes (but is not limited to) the terms and conditions of this program description.
5. Interest on arrears will be 12% per annum or such tax arrears interest rate as may be established by Council from time to time.
6. Principal is repayable in annual amounts of ten percent (10%), in 12 equal monthly payments, of the original loan amount. 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 principal 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.
7. The loan will mature at the end of the five (5) year and six (6) month term at which time the principal balance outstanding will be paid in full plus any outstanding interest unless City Council approved an extension of the loan term when the loan commitment was initially approved.
8. The loan may be prepaid at any time without notice, bonus or penalty.
9. 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 is to be addressed to the City of Hamilton and include replacement cost. All of the aforementioned documents are at the expense of the applicant.
10. Approval of the loan application is at the absolute discretion of the City and subject to the availability of funds.
11. The City will periodically review the terms and the duration of the Program and make appropriate revisions as per the direction of City Council.
12. 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 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.
13. Redevelopment/development will commence no longer than 2 years following City Council's approval of the loan commitment. The 2 year period may be extended by City Council at its absolute discretion.

14. The City's funding will be advanced in 3 stages, upon completion of 60%, 80% and substantial completion of the project. 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.
15. 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 (AIC) and, must accompany the application. The cost of the appraisal is at the total expense of the owner.
16. An application fee of \$265.00 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.
17. All taxes as billed must be paid current and in good standing throughout the development process.
18. Eligible existing buildings/vacant properties must be located in the Downtown Hamilton Community Improvement Project Area. Vacant lands include properties developed as parking lots.
19. Site Concept Plan drawings in a form acceptable to the City must accompany the application.
20. 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.
21. 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.
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

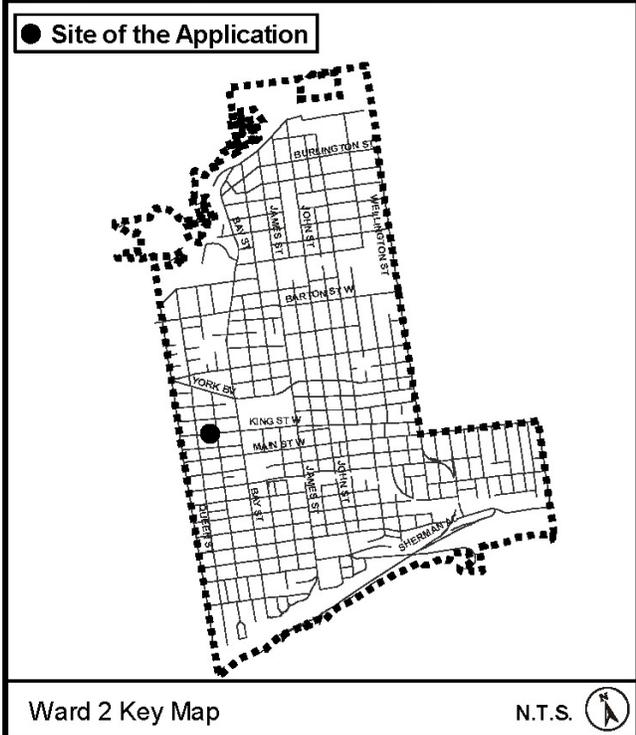
Where the Owner is a corporation the Owner covenants and agrees that in the event that:

- 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, or the requested information is not provided, 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. If the development is a condominium, the repayment regime is as follows: upon sale of individual condominium units, the City will be repaid upon closing 25% of the sale price of the unit until the total loan amount has been paid in full. For units that remain outstanding, repayment terms for those units will be addressed in the Loan Agreement.
25. The proposed development must conform to applicable Official Plan policies, the Downtown Hamilton Secondary Plan, Urban Design Guidelines and the Zoning By-law, as well as any other City Council approved policy/regulation.
26. The City of Hamilton will require specific insurance terms to be met to protect the City's interest.
27. Deadlines for the submission and approval of building permits and construction start dates are established following a report to Council for approved applications.
28. Without limiting the discretion as set out in paragraph 10 herein, the City Council, whether or not an Applicant satisfies the requirements of the Program, may reject any application received from an applicant where, in the opinion of Council, the commercial relationship between the City and the Applicant has been impaired by, but not limited to, the applicant being involved in litigation with the City. Applicants are individuals; corporate

- entities and individuals behind the corporation (Officers/Directors/Shareholders).
29. Without limiting the discretion as set out in paragraph 10 herein, City Council, whether or not an Applicant satisfies the requirements of the Program, may reject any application received from an applicant where there are property tax arrears owed on the subject property or other properties owned by the Applicant within the City of Hamilton
 30. Works commenced prior to submitting an application are ineligible. Works commenced after submitting an application but prior to application approval do so at the applicant's risk.



Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
275 King St W

Date:
November 16, 2011

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
HM/AL

Subject Property

275 King Street West

