SUBJECT: Enterprise Zone Municipal Realty Tax Incentive Grant Program - Application for 260-280 King Street East, Hamilton “The Terraces on King” EZ05/03 (PED06030) (Ward 2)

RECOMMENDATION:

a) That Application EZ05/03 for the proposed construction of a new mixed-use, 11 storey, 123 unit apartment building with commercial uses on the ground floor and an internal parking garage, be approved as an eligible project under the “Enterprise Zone Municipal Realty Tax Incentive Grant Program”.

b) That the existing buildings municipally known as 266-268 King Street East and 270-280 King Street East be removed from the City’s Inventory of Buildings of Architectural and/or Historical Interest in accordance with Item 5.2 in the November 24, 2005 Minutes of the Hamilton LACAC (Municipal Heritage Committee) meeting.

EXECUTIVE SUMMARY:

An application has been made under the “Enterprise Zone Municipal Realty Tax Incentive Grant Program” for a property located at 260 King Street East, Hamilton (see Appendix “A” to Report PED06030).

Under the EZ Program, a nine year grant is available that does not exceed the increase in municipal realty taxes as a direct result of the development/redevelopment of the land
and/or building. The grant does not exceed 100 percent of the municipal realty tax increase during the first five years, 80 percent in year six, 60 percent in year seven, 40 percent in year eight and 20 percent in year nine.

Further, developers of residential condominium units have the ability to pass the tax grant on to first condominium purchasers. If the developer chooses to exercise this option the tax grant program is reduced from nine (9) years to five (5) years at 100%.

The applicant, Spallacci Contracting Ltd., is proposing to demolish the existing buildings and construct a new mixed-use, 11 storey, 123 unit apartment building with commercial uses on the ground floor and an internal parking garage. The proposed development meets the criteria and requirements of the EZ Program and is consistent with the designations and policy direction of Downtown Hamilton Secondary Plan.

Through a Request for Applications in the spring of 2005, Spallacci Construction Ltd. has also applied under the terms of the Hamilton Downtown Residential Loan Program for a loan of $2.3 million for the residential component. Further, Spallacci Construction Ltd. received Council endorsement on November 23, 2005, under the Strong Start component of the Canada-Ontario Affordable Housing Program for financial assistance of $70,000 per unit from the Federal and Provincial governments.

This is a very positive signal for downtown troubled properties. The economic viability of new private sector residential and commercial development in Downtown Hamilton has been enhanced through the City’s past and current programming initiatives.

**BACKGROUND:**

On August 22, 2001, Council approved an amendment to the Downtown Hamilton Community Improvement Plan which introduced the “Enterprise Zone – Municipal Realty Tax Incentive Grant Program” (“EZ Program”). Since that time, a number of program refinements have been approved by Council. The EZ Program applies to properties within the Downtown Hamilton Community Improvement Project Area. Under the terms of the EZ Program, a nine-year grant is available that does not exceed the increase in municipal realty taxes as a direct result of the development/redevelopment of the land and/or building. The grant does not exceed 100 percent of the municipal realty tax increase during the first five (5) years, 80% in year six (6), 60% in year seven (7), 40% in year eight (8) and 20% in year nine (9). One of the program enhancements that was approved since the original program was introduced is the ability of a developer of residential condominium units to pass the tax grant on to first residential condominium purchasers only. If the developer chooses to exercise this option the tax grant program is reduced from nine (9) years to five (5) years at 100%. Such assignment is subject to an additional administration fee of $308 per unit or such fee approved by City Council. Said fee will be deducted from the first grant payment to the residential condominium purchaser.

As applications have been received under the EZ Program since 2002, the Downtown Renewal Division has sought Council’s initial approval of the proposed developments. Once the projects have been completed and reassessment by the Municipal Property Assessment Corporation (MPAC) has occurred, staff submits a final report relating to the
APPLICATION EZ05/03 for the property at 260 King Street East is for the demolition of the existing buildings and construction of a new mixed-use, 11 storey, 123 unit apartment building with commercial uses on the ground floor and an internal parking garage. The existing buildings are not on Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest having been removed by LACAC (Municipal Heritage Committee) on November 24, 2005 as explained in the next paragraph. The construction cost is in excess of $13.5 million and has been supported by a construction cost estimate. The subject property is within the Enterprise Zone boundary outlined in the Downtown Hamilton Community Improvement Plan.

The EZ program requires the de-listing of buildings on the City’s Inventory of Buildings of Architectural and/or Historical Interest in order for a project to be considered under the terms of the program. Spallacci Construction Ltd. formally requested the de-listing of the existing buildings. Downtown Renewal Division staff along with the project architect attended Hamilton LACAC’s (Municipal Heritage Committee) meeting of November 24, 2005 to explain the EZ Program, project details and to answer any questions LACAC had with respect to this request. As such, LACAC moved the following motion: “That the properties at 266-268 King Street East and 270-280 King Street East (St. Deny’s Apartments), Hamilton, Ontario be de-listed as heritage properties in order that the property owner may make use of the Enterprise Zone program.” Additionally, Downtown Renewal received correspondence from the International Village BIA supporting the de-listing of the existing buildings and the proposed development.

Spallacci Construction Ltd. has also applied under the terms of the Hamilton Downtown Residential Loan Program. The Hamilton Downtown Residential Loan Program provides for a $20 per square foot of habitable floor space interest free loan for a term of five (5) years. The details of the Residential Loan application will be subject to a subsequent report to City Council. Further, Spallacci Construction Ltd. received Council endorsement on November 23, 2005, under the Strong Start component of the Canada-Ontario Affordable Housing Program for financial assistance of $70,000 per unit from the Federal and Provincial governments.

The proposed development is consistent with the designation, intent and policy direction of the Downtown Hamilton Secondary Plan. Spallacci Construction Ltd. and the project architect have been working with staff of the Downtown Renewal and Development and Real-Estate Divisions of the Planning and Economic Development Department on the project design including the consideration of sun/shadow affects on the public realm.
The Enterprise Zone Municipal Realty Tax Incentive Grant Program enhances the financial viability of the proposed development at 260 King Street East. In the event that the project was not to be considered for the program, the development would be faced with a significant financial difficulty.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financing** - Report PED06030 recommends that 260 King Street East be approved as an eligible project under the Enterprise Zone Municipal Realty Tax Incentive Grant Program. The recommendation also authorizes staff to continue processing this application, and as such, there are no current financial implications. Final approval by City Council will be the subject of a further staff report.

**Staffing** - Administration of this application under the terms of the program can be accommodated by staff of the Downtown Renewal Division and the Corporate Services Department.

**Legal** – Upon Council approval of the staff recommendation and reassessment of the property by the Municipal Property Assessment Corporation (MPAC), a Letter of Understanding between the City and the applicant will be negotiated and executed in a form satisfactory to the Director of Downtown Renewal and the City Solicitor. Appendix “B” to Report PED06030 outlines the issues to be addressed within the Letter of Understanding.

**POLICIES AFFECTING PROPOSAL:**

Report PED06030 relates to the processing of an application under the Enterprise Zone Municipal Realty Tax Incentive Grant Program which is contained within the City’s Provincially-approved Downtown Hamilton Community Improvement Plan.

**RELEVANT CONSULTATION:**

Comments from the Taxation as well as the Legal Services and Corporate Counsel Divisions of the Corporate Services Department and the Heritage and Urban Design Section of the Development and Real Estate Division of the Planning and Economic Development Department have been incorporated within Report PED06030. As noted in the Analysis/Rationale section of Report PED06030, staff consulted with Hamilton LACAC (Municipal Heritage Committee) as well as receiving correspondence from the International Village BIA. The recommendations within this report are in a form satisfactory to the City Solicitor.
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.

Environmental Well-Being is enhanced. ☑ Yes □ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes □ No
Investment in Hamilton is enhanced and supported.

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

Not applicable

JEG

Attach. (2)
Location Map

File Name/Number: 260-280 King St E
Date: December 5, 2005
Appendix “A” Scale: N.T.S
Planner/Technician: JG/MC

Subject Property
260-280 King Street East

Ward 2
Keymap

Planning and Economic Development Department
Hamilton

T&C File Name: N:\1CT\Location_Maps\2005\December\Corel\260-280 King St E.cdr
A Letter of Understanding between the City and the applicant regarding the application will address the following:

- Application is in respect of proposed development at 260 King Street East.
- Applicant is the Spallacci Construction Ltd., the registered owner of the property.
- Eligible improvement work is the construction of a new mixed-use, 11 storey, 123 unit apartment building with commercial uses on the ground floor and an internal parking garage at an estimated cost of $13,538,186.
- Application is based on current assessment, as of the date the application was received complete.
- For the residential units (if registered and sold as condominiums), the grant will reduce to a five (5) year 100% municipal tax grant assignable/payable to the first residential condominium purchasers only. Such assignment is subject to an additional administration fee of $308 per unit or such fee approved by City Council. Said fee will be deducted from the first grant payment to the residential condominium purchaser.
- Property taxes must be paid current, to receive final approval by City Council.
- Grant to be calculated based upon the recorded assessed value as above.
- Grant comprises the municipal portion of the tax increase attributable to the assessment increase resulting from the project, in accordance with and subject to the provisions of the Enterprise Zone Municipal Realty Tax Incentive Grant Program. All other provisions of the program shall also be referenced within the Letter of Understanding.
- Applicant to acknowledge that although the project may be recognized by Council as an acceptable, eligible project, the award and the final amount of a grant (if any) is solely within Council’s discretion (except award may not exceed maximum amount determined within program parameters) and no grant is available unless and to the extent the assessment and municipal taxes increase, as required by the program.
- The program starts following post development reassessment.
- Any other matters deemed appropriate by the City of Hamilton.