

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Downtown Renewal Division

Report to: Chair and Members Planning and Economic Development Committee	Submitted by: Lee Ann Coveyduck General Manager Planning and Economic Development Department
Date: March 17, 2006	Prepared by: James Goodram ext. 6109

**SUBJECT: Enterprise Zone Municipal Realty Tax Incentive Grant Program - 135
Hunter Street East, Hamilton - Letter of Understanding - EZ02/003
(PED06106) (Ward 2)**

RECOMMENDATION:

- (a) That the Enterprise Zone Tax Grant, as detailed within Report PED06106, be applied to 135 Hunter Street East, Hamilton as the redevelopment of said property is complete and the terms and conditions of the program have been satisfied.
- (b) That the Mayor and City Clerk be authorized to execute the Letter of Understanding attached as Appendix "B" to Report PED06106.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

Report PED06106 relates to the processing of an Enterprise Zone – Municipal Realty Tax Incentive Grant Program for the property located at 135 Hunter Street East, Hamilton. A location map is attached as Appendix "A" to Report PED06106. This development represents the second completed Enterprise Zone Program Application since program inception in 2002. As such, a program of grant payments as contemplated under the terms of the program are discussed within the report as well as within the Letter of Understanding attached as Appendix "B" to Report PED06106. Grant payments to 135 Hunter Street East, Hamilton will total approximately \$413,359.77 over a nine-year period.

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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 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%.

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 has occurred, staff then submits a final report relating to the proposal recommending a program of tax grants as contemplated under the terms of the EZ Program.

ANALYSIS/RATIONALE:

The purpose of Report PED06106 is to recommend a program of tax grants for 135 Hunter Street East. The redevelopment of said property represents the second completed and reassessed development submitted under the EZ Program. City Council approved 135 Hunter Street East (Hamilton) Ltd.’s construction of an office building improvement at 135 Hunter Street East, Hamilton as an eligible project in accordance with EZ Program terms on August 13, 2003. The redevelopment involved the construction of a new two-storey building on a former parking lot. The actual costs incurred in developing the property were \$2,740,383.



135 Hunter Street East, Hamilton – Pre-redevelopment

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135 Hunter Street East, Hamilton – Post-redevelopment

Downtown Renewal staff, in co-operation with staff from Taxation and the City Solicitor’s office, have developed the “Letter of Understanding” (“LOU”) concerning the program of grant payments under the terms of the EZ Program. Appendix “B” to Report PED06106 is the LOU that specifically relates to the development at 135 Hunter Street East, Hamilton. The owner, 135 Hunter Street East (Hamilton) Limited, has signed the LOU thereby accepting the terms and conditions outlined therein. The following provides an overview of the grant calculation for 135 Hunter Street East, Hamilton as presented in Appendix “B” to Report PED06106.

The Grant shall be calculated according to the following formulas:

Grant Level:	100%	
Total Eligible Costs (Maximum):	\$2,740,383	
Pre-project AV:	\$ 270,000.00	Year: 2002
Municipal Levy:	\$ 8,958.58	
Education Levy:	<u>\$ 7,292.32</u>	
Pre-project Property Taxes:	\$ 16,250.90	
Post-project AV:	\$ 2,309,000	Year: 2004

Municipal Tax Increment = Post-project Municipal Taxes (actual) - Pre-project Municipal Taxes

“Grant Payment in Year 1” (first full calendar year after re-valuation of the completed and occupied project by the Municipal Property Assessment Corporation) or the “Initial Grant Payment” = Municipal Tax Increment*100%

Calculation of Grant Payment in Year 1 (Initial Grant)

Pre-project Municipal Taxes = Municipal Levy = \$ 8,958.58

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Post-project Property Taxes = \$119,307.83
 Post-project Municipal Taxes = \$72,582.63
 Municipal Tax Increment = \$72,582.63 - \$8,958.58 = \$63,624.05
 Grant Payment in Year 1 = \$63,624.05 x 1.0 = \$63,624.05

**EXAMPLE GRANT PAYMENT SCHEDULE
 (subject to re-calculation each year and up to the total eligible costs)**

Year*	Grant Factor (2)	Tax Increment (3)	Grant (2*3)
1 (2004 actual)	100%	\$63,624.05	\$63,624.05
2 (2005 actual)	100%	\$58,289.29	\$58,289.29
3	100%	\$58,289.29	\$58,289.29
4	100%	\$58,289.29	\$58,289.29
5	100%	\$58,289.29	\$58,289.29
6	80%	\$58,289.29	\$46,631.43
7	60%	\$58,289.29	\$34,973.57
8	40%	\$58,289.29	\$23,315.71
9	20%	\$58,289.29	\$11,657.85
Total			\$413,359.77

The LOU also outlines the terms and conditions of the grant payments over the nine-year period. Key terms and conditions include the following:

- The total grant under the loan program shall not exceed \$2,740,383 with respect to 135 Hunter Street East, Hamilton.
- Property owners must maintain property taxes in good standing.
- Properties must have no outstanding work orders and/or orders or requests to comply from any City department or other regulatory authority.
- The grant payment is recalculated annually.
- Annual grant payments after the first grant payment are adjusted downwards in the event the municipal tax increment in any subsequent year has been reduced.
- The property must be maintained in its rehabilitated state.
- If property taxes are owing for more than one (1) full year, the City will have the option, without notice and at its own discretion, to terminate all future Grant payments.
- The grant is not transferable from the property owner to subsequent owners.

In addition, on an annual basis, prior to the issuance of a grant payment, the property owner will be required to sign an affidavit attesting to compliance with the terms and conditions outlined within the LOU.

ALTERNATIVES FOR CONSIDERATION:

Report PED06106 recommends a program of grant payments for the development of 135 Hunter Street East, Hamilton.

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The alternative to the recommendations includes not executing the attached LOU and subsequent grant payments or to reduce the amount of the annual grant payment. Choosing such an alternative would undermine the principles of the EZ Program and downtown renewal efforts generally.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial – The City is foregoing the increase in municipal taxes as a result of the redevelopment. As the City is granting the increase in municipal taxes only, there are no direct financial implications on the City budget. Following year five (5) of the grant payment, the City will start to realize the positive results of this program from a financial perspective as the City will begin to collect additional municipal taxes albeit at a reduced rate until the tenth year.

Staffing – EZ Program applications and subsequent grant payments will continue to be processed by the Downtown Renewal and Taxation Divisions within the City. There are no additional staffing requirements.

Legal – The LOU attached as Appendix “B” to Report PED06106 has been developed in consultation with staff of Legal Services and the City Solicitor.

POLICIES AFFECTING PROPOSAL:

Report PED06106 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. The Downtown Hamilton Secondary Plan applies to 135 Hunter Street East, Hamilton. The application for said property is consistent with the policy direction of both plans.

RELEVANT CONSULTATION:

Comments from the Taxation Division as well as the Legal Services and Corporate Counsel Divisions of the Corporate Services Department have been incorporated within Report PED06106. 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**

A former parking lot is now a place of employment thereby adding to downtown vitality.

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Environmental Well-Being is enhanced. Yes No

Human health and safety are protected.

The rehabilitation of the building stock and the development of properties in the Downtown makes efficient and effective use of City services as well as protecting human health and safety.

Economic Well-Being is enhanced. Yes No

Investment in Hamilton is enhanced and supported.

Downtown Renewal programs lead to effective partnerships with community stakeholders and the development community. Developers and property owners invest in Downtown properties leading to property assessment increases through the rehabilitation of buildings and properties.

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?

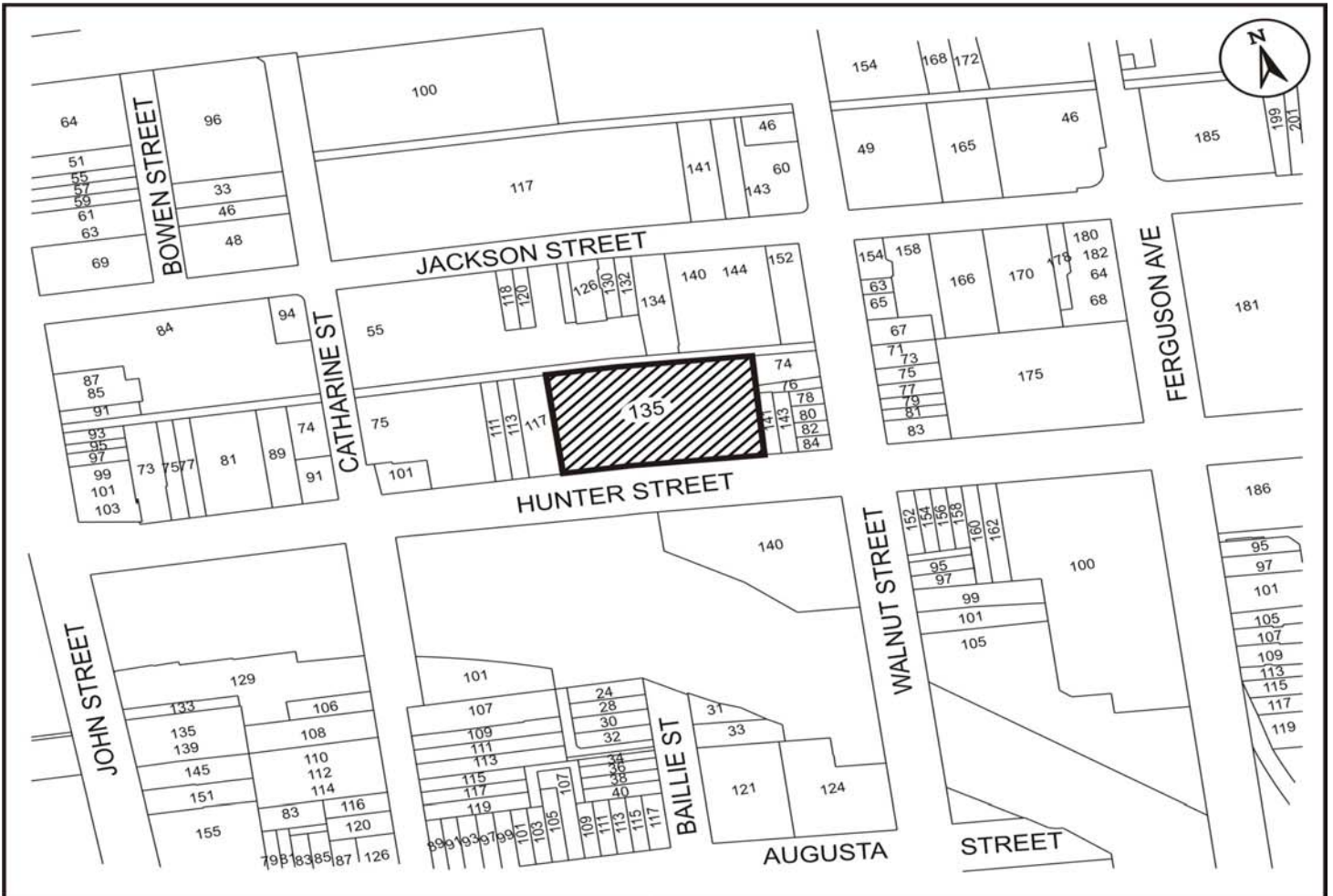
Yes No

Hamilton continues to lead initiatives related to renewal. Such initiatives are professionally stimulating and result in Hamilton being a choice for employment to those interested in bettering community life.

JEG

Attach. (2)

**Appendix A to Report PED06106
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Site of Application



Ward 8 Keymap

N.T.S.



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Location Map



File Name/Number:
135-Hunter-StE

Date:
March 7, 2006

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
JG/LMM



Subject Property
135 Hunter Street East

City of Hamilton

**ENTERPRISE ZONE
MUNICIPAL REALTY TAX INCENTIVE GRANT PROGRAM**

Grant Payment – Letter of Understanding

Application No. EZ02/003

DATE: January 18, 2006

PROPERTY INFORMATION

Name of registered property owner: 135 Hunter Street East (Hamilton) Limited
(Attention: Mr. Thomas J. Weisz)

Address of property (subject of Grant Program): 135 Hunter Street East, Hamilton

Roll Number(s): 251802014450790 0000

Mailing Address of Owner (where address is different from address of property)

135 Hunter Street East (Hamilton) Ltd.

Tel No: (905) 528-8956

242 Main Street East
Hamilton ON
L8N 1H5

Fax No: (905) 528-3504

Attention: Mr. Thomas J. Weisz

GRANT CALCULATION

The Grant shall be calculated according to the following formulas:

Grant Level:	100%	
Total Eligible Costs (Maximum):	\$2,740,383	
Pre-project AV:	\$ 270,000.00	Year: 2002
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Education Levy:	\$ 7,292.33	
Pre-project Property Taxes:	\$ 16,250.90	
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Municipal Tax Increment = Post-project Municipal Taxes (actual) - Pre-project Municipal Taxes

“Grant Payment in Year 1” (first full calendar year after re-valuation of the completed and occupied project by the Municipal Property Assessment Corporation) or the “Initial Grant Payment” = Municipal Tax Increment*100%

Calculation of Grant Payment in Year 1 (Initial Grant)

Pre-project Municipal Taxes = Municipal Levy = \$ 8,958.58
 Post-project Property Taxes = \$119,307.83
 Post-project Municipal Taxes = \$72,582.63
 Municipal Tax Increment = \$72,582.63 - \$8,958.58 = \$63,624.05
 Grant Payment in Year 1 = \$63,624.05 x 1.0 = \$63,624.05

EXAMPLE GRANT PAYMENT SCHEDULE

(subject to re-calculation each year and up to the total eligible costs)

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8	40%	\$58,289.29	\$23,315.71
9	20%	\$58,289.29	\$11,657.85
Total			\$413,359.77

Grant Terms

1. The actual amount of annual Grant payments is subject to re-calculation of (Municipal Tax Increment*the applicable %) in each and every year.
2. The total value of the sum of the annual Grant payments that may be provided under the Enterprise Zone Program shall not exceed the total eligible costs of the said redevelopment that have been accepted by the City (\$2,740,383).
3. Annual Grant payments shall be paid, subject to these terms and conditions, by the City to a maximum of 9 payments. Such payments shall cease when the total amount paid out equals the total eligible cost amount as determined by the City, or after 9 grant payments, whichever comes first.
4. The total value of the eligible Grant provided under this Program shall be reduced by the amount of any property tax arrears in respect of any and all taxes that have been cancelled or reduced on the subject property by the City under any other programs or by relief allowed under any statute.

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5. The Grant Payment in Year 1 and subsequent annual Grant payments are calculated based upon changes in property taxes as a result of completion of the accepted eligible works and construction and improvement to the property.
6. If at any point after the original redevelopment of the land, new construction is added to the land that is not part of the original Enterprise Zone Grant application, the Grant will be calculated only in respect of the original eligible costs, original redevelopment works, and original building size contained in the original Enterprise Zone Grant application.
7. Each annual Grant payment is not payable by the City until each of the following conditions are fulfilled, satisfactory to the City, each year during the term of the Grant:
 - (a) redevelopment of the property took place in accordance with the proposed redevelopment as specified in the Enterprise Zone Grant application;
 - (b) the Owner has supplied the City with evidence satisfactory to the City as to the amount of the eligible costs incurred by the Owner;
 - (c) the Owner has satisfied the City that the total eligible costs, incurred in respect of the redevelopment have been paid in full and that there are no liens, claims or litigation in respect of the Owner's obligation to pay the total eligible costs;
 - (d) the Owner has satisfied the City that the accepted redevelopment that is subject of the Grant application has not been substantially altered or has not been demolished;
 - (e) the Owner has satisfied the City that there are no outstanding work orders and/or orders or requests to comply from any City department or other regulatory authority in respect of the redevelopment, the property and the business of the Owner conducted on the land;
 - (f) the Owner has satisfied the City that the Owner, its redevelopment and property are in full compliance with:
 - (i) any Agreement(s) relating to the property in favour of the City, including any Agreement relating to: condominium, service, site plan approval, encroachment, joint sewer & water use, easement or other Agreement; and,
 - (ii) by-laws of the City and provincial and federal legislation and regulations.
 - (g) the Owner has satisfied the City that the assessed value of the subject property has increased as a result of the said redevelopment to the property and that the assessed value was increased for reasons that meet the eligibility requirements of the City's Enterprise Zone Program;
 - (h) the Owner or the municipality has not appealed said increased assessed value and there exists no other pending appeal which has not been settled completely in respect of the assessed value as of a date which is either in advance of or as of a date, which follows the said redevelopment;

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- (i) the Owner has satisfied the City that the property taxes for the year during which property taxes were calculated pursuant the said increased assessment and for each of the preceding years, have been paid in full, have not been deferred and there are, at the time of application for payment of the annual Grant payment, no instalments for the current year remaining to be invoiced and paid;
 - (j) the Owner has satisfied the City that the Owner, as of the date of the proposed annual Grant payment, has paid in full and not deferred all other charges (where applicable) against the property in favour of the City, including but not limited to: Development Charges, park land dedication fees, special assessments and frontage charges.
 - (k) there was and remains in each year of the payment of the Grant, an increase in the municipal portion of net property taxes as a result of an increase in the assessed value attributable to the completion of the accepted eligible works and redevelopment, construction and improvement to the property;
 - (l) annual grant payments after the first grant payment are adjusted downwards in the event the Municipal Tax-increment in any subsequent year has been reduced.
8. The decision of the City regarding the total amount of eligible costs and the calculation of the actual total redevelopment Grant and annual Grant payments is final.
 9. Payment of the Grant and the actual amount of the total Grant will be subject to the City's review and satisfaction with all reports and documentation submitted in support of the application, including but not limited to: documentation of the estimated and actual costs of eligible works. Any and all of these costs may be, where required by the City subject to verification, third party review or independent audit, at the expense of the Owner.
 10. Grants are not payable by the City until such time as all taxes eligible for a Grant have been billed by the City, and all outstanding taxes have been paid in full for all years by the Owner. Grant cheques will not be issued if there is an outstanding tax payment.
 11. On an annual basis, the City, upon ascertaining that the Owner is in compliance with this Agreement and has met all and any other requirements of the City, shall pay the annual Grant payment.
 12. If in the opinion of the City the property is not maintained in its rehabilitated condition, the City may, at its own discretion and without notice, terminate all future Grant payments and require repayment of all Grant payments already paid out by the City to the Owner.
 13. The City retains the right at all times not to make any or all of the Grant payments or to delay payment where the City deems that there is non-compliance by the

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Owner with this Agreement. In particular, without limiting the generality of the foregoing, the Grant is conditional upon periodic reviews satisfactory to the City to there being no adverse change in the redevelopment and to there being compliance on the part of the Owner with all other requirements contained in this Agreement.

- 14. Where property taxes are in arrears on the subject property for a year or more, the City may, at its discretion and without notice, terminate all future Grant payments.
- 15. This agreement is not transferable from the property owner to subsequent owners. Following the conveyance of the subject property all grant payments shall cease.

IN WITNESS WHEREOF the parties duly execute this Agreement, as follows as of the day and date set out in the date of this Agreement:

Approved As To Form:

CITY OF HAMILTON

Legal Services

(1 -)

Larry Dilanni, Mayor

Kevin C. Christenson, City Clerk *c/s*

OWNER

per: _____

per: _____ *c/s*

I/We have authority to bind the corporation.