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Date December 13, 2022 **Report No.** 2022-676

To Chair and Members
Committee of the Whole – Planning and Administration

From Nicole Wilmot, MCIP, RPP
Chief Planner and Director of Planning and Development Services
People, Legislated Services and Planning

1.0 Type of Report

Consent Item []
Item For Consideration [X]

**2.0 Topic Brownfields Financial Tax Incentive Program (BFTIP)
Application – 352-356 West Street [Estimated \$7,422,703
(including Brownfield Development Charge Reduction of
\$7,365,960 and BFTIP tax-increment grant of \$56,743)]**

3.0 Recommendation

- A. THAT the application by West Street Apartments Inc. for financial assistance under the Brantford Brownfield Financial Tax Incentive Program (BFTIP) for the environmental remediation of 352-356 West Street BE APPROVED subject to the following conditions:
- i. THAT the maximum financial assistance shall not exceed the estimated cost of \$7,422,703; and
 - ii. THAT the maximum financial assistance will be reduced by any other amount that may be awarded to this project for environmental remediation work and will be based on proof of payment;

- B. THAT the By-law authorizing the maximum financial assistance of estimated eligible costs of \$7,422,703 for 352-356 West Street BE PRESENTED to Council for approval;
- C. THAT the General Manager of People, Legislated Services and Planning BE AUTHORIZED, in accordance with Corporate-010 Delegation of Authority Policy, to sign the required Agreement with the Applicant; and
- D. THAT the net financial assistance, not exceeding the estimated eligible cost of \$7,422,703, BE FUNDED from a reduction in development charges and through the annual incremental increase in property taxes resulting from the redevelopment of the property, from the time of approval until all eligible remediation costs are reimbursed.

4.0 Executive Summary

This Report reviews the Brownfields Financial Tax Incentive Program (BFTIP) Application for 352-356 West Street. The Applicant, West Street Apartments Inc. has submitted a complete BFTIP application to assist with the “dig and dump” remedial approach for the 352-356 West Street property. Staff has reviewed the application and proposed remedial approach against the Brownfield Sites Community Improvement Plan and Brownfields Financial Tax Incentive Program guidelines and determined that the objectives and eligibility requirements of the program have been met. Staff is of the opinion that the development supported by the work outlined in the Brownfields Financial Tax Incentive Program (BFTIP) Application for 352-356 West Street makes use of underutilized lands within the City, encourages greater density within the City’s built boundary, and meets the objectives of the City’s Brownfield Strategic Action Plan. Accordingly, Staff recommends that eligible estimated remediation expenses of up to \$7,422,703 be approved in accordance BFTIP program. Staff anticipate that the eligible remediation expenses of \$7,422,703 will first be reduced by the applicable Development Charge Reduction (estimated \$7,365,960) and the remaining eligible remediation expenses (balance of \$56,742.75) will be reimbursed through a future BFTIP tax rebate over the course of approximately (1) year. The Brownfields Community Advisory Committee provided its support for the application at its meeting on November 28, 2022.

5.0 Purpose and Overview

The purpose of this Report is to seek Council approval for financial assistance for the environmental remediation of 352-356 West Street (herein the “subject property”) under the Brantford Brownfield Financial Tax Incentive Program

(BFTIP). The subject property is located within the Brownfield Sites Community Improvement Project Area and is eligible to apply to both the BFTIP and the Brownfield Development Charge Reduction Program. The Applicant is seeking approval for an estimated total of \$7,422,703 in eligible remediation expenses in order to file a Record of Site Condition to permit the proposed development of three (3) apartment buildings with 408 dwelling units.

6.0 Background

6.1 Brantford Brownfields Financial Tax Incentive Program (BFTIP)

The City's Brownfields Financial Tax Incentive Program (BFTIP) helps to support private sector investment in properties that are under-utilized, but which are excellent candidates for intensification, and which could provide a greater contribution to the municipal tax base if remediated and redeveloped. The BFTIP is administered under the City of Brantford Brownfield Sites Community Improvement Plan, approved by Council in 2003 (By-law 19-2003), and subsequently amended in 2005 (By-law 178-2005). The establishment of a Community Improvement Plan under the *Planning Act* allows municipalities to provide grants and/or loans to the registered owners of lands and buildings within a corresponding Community Improvement Project Area (CIPA). The Brownfield Sites CIPA is shown in **Appendix A** to this Report.

The BFTIP provides financial assistance to landowners through the rebate of municipal property taxes paid on a remediated brownfield property equal to the cost of environmental remediation work, including the costs associated with the preparation of environmental assessment studies and the development of a remediation strategy. The value of the BFTIP assistance is to exclude the value of any other financial assistance, including any grants and development charge credits provided by the municipality, as well as any provincial or federal assistance provided for the purpose of environmental remediation. Execution of a BFTIP Agreement between the City and Applicant is required before rebates are finalized and granted.

6.2 The Subject Property: 352-356 West Street

West Street Apartments Inc. has submitted a complete BFTIP application for 352-356 West Street. The property is approximately 1.83 hectares

(4.52 acres) with frontage along West Street and Galileo Boulevard. It includes lands formerly known as 352 and 354-346 West Street, unaddressed vacant lands on Galileo Boulevard and 190 Charing Cross Street prior to their consolidation in 2022. An aerial photo of the subject property is attached as **Appendix B**.

According to the Phase One Environmental Site Assessment (ESA) completed by Stantec Consulting Ltd. in June of 2020, the subject property was used for various purposes over the past century. A service garage was located on the eastern portion of 354 West Street from 1953 to 2019 and an automobile scrapyard was present to the west of the service garage from 1953 to the mid-1990s. Reviewing historic aerial photography and site interviews, Stantec determined that fill material was used at 190 Charing Cross Street. Additional fill material was also used to fill in two ponds and regrade lands at 69 Galileo Boulevard in 1966, containing construction debris. The Phase One ESA also determined two landfills were previously located in the vicinity of Charing Cross Street and West Street.

Stantec concluded that properties within the Phase One Study Area were developed for a combination of commercial and residential uses in the 1950s and 1960s, including former and current service garages to the northeast and former underground storage tanks to the southeast. Prior to the 1950s, these properties were primarily agricultural or undeveloped land. The property to the west of 190 Charing Cross Street was developed for industrial use (i.e., a landfill site) in the 1960s, but was observed to be vacant during the Phase One work in 2020. Properties to the east across West Street and southwest across Galileo Boulevard were developed for residential use starting in the 1920s.

Currently, the subject site contains an unoccupied vehicle repair shop at 354 West Street, with the rear yard being utilized as a salvage/scrap yard; a single detached dwelling at 352 West Street; with the balance of the lands vacant.

6.3 The Proposed Development

The Applicant is proposing to develop three (3) apartment buildings with 408 dwelling units including 185 units in Building 1, 126 units in Building 2 and 97 units in Building 3. A concept plan of the proposed development is attached as **Appendix C**. An Application to Amend the Zoning By-law was required to permit this development. This application (File PZ-17-21)

was considered at the September 22, 2022 Planning Committee through Report 2022-554 and subsequently approved by City Council on October 4, 2022. Site Plan approval is also required to facilitate the redevelopment of the subject lands. A Site Plan application has been submitted by the Applicant and is currently being processed.

7.0 Corporate Policy Context

7.1 City of Brantford Council Priorities, 2021-2022

Council approval of this BFTIP application will support the following desired outcomes and priority as stated in the 2021-2022 City of Brantford Council Priorities document:

Desired Outcome:

7. The City is mitigating its environmental footprint and adapting to climate change.

Tier 1 Priorities:

- c) Redevelop brownfield lands in conjunction with private sector and nonprofit organizations which includes community consultation.

7.2 Brantford Brownfields Strategic Action Plan (2002)

The primary goal for the Brownfields Strategic Action Plan is to facilitate the remediation and redevelopment or reuse of brownfields sites through the stimulation of private sector initiatives and strategic municipal action.

The following objective of the Brownfields Strategic Action Plan is applicable to this Report and the BFTIP:

- Provide incentive programs, where possible in partnership with the provincial and federal governments, to encourage private sector initiative and investment towards the remediation and redevelopment or reuse of contaminated properties.

8.0 Input From Other Sources

Staff from the Finance Department, Building Services, and Legal Services were consulted and their comments have been incorporated into this Report. Building Staff provided a calculation of the applicable development charges and Finance

Staff calculated the estimated BFTIP annual tax rebate. Pending Council approval, Legal Services will prepare the BFTIP Agreement and related by-law.

The Brownfields Community Advisory Committee (BCAC) also reviewed the application as required by the BFTIP Guidelines and in accordance with City of Brantford Brownfield Sites Community Improvement Plan. The Brownfields Financial Tax Incentive Program (BFTIP) Application for 352-356 West Street was presented to the BCAC for review at its meeting on November 7, 2022 and the BCAC passed the following resolution at its meeting on November 28, 2022:

THAT the following comments from the Brownfields Community Advisory Committee BE INCLUDED in Staff's future report to Committee of the Whole – Planning and Administration regarding the Brownfields Financial Tax Incentive Program (BFTIP) Application – 352-356 West Street:

- i. The Brownfields Community Advisory Committee supports the remediation of underutilized lands towards purpose built housing.
- ii. The Brownfields Community Advisory Committee notes that without the BFTIP program the subject lands would be unlikely to have been developed.

9.0 Analysis

9.1 Application Eligibility

To receive financial assistance through the BFTIP, the following eligibility criteria must be achieved:

1. The property must be located within the Brownfield Sites Community Improvement Project Area.
2. If the Applicant is a registered corporation, the corporation must be in good standing under the applicable incorporating legislation and shall have supplied a Certificate of Status verifying the same.
3. The owner applying for assistance through this program must not be bankrupt or insolvent at the time of submission. The land for which assistance is being requested should not have any encumbrances that are outside the normal course of business.
4. A copy of the most recent tax assessment for the property must accompany the application for review.

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5. Applicants who have accrued tax arrears on title while in the applicant's ownership will not be eligible for this program.
 6. A Phase 2 Environmental Site Assessment (ESA) must have been completed for the property verifying that the property does not meet the provincial environmental standards to permit the filing of a Record of Site Condition with the Ministry of the Environment, Conservation and Parks, or a Risk Assessment has been completed to identify the work required to comply with a Certificate of Property Use issued under the *Environmental Protection Act*.
 7. The Applicant must provide the City with estimates, prepared by a Qualified Person as defined by the *Environmental Protection Act*, that outlines the cost of rehabilitating the property to permit the filing of a Record of Site Condition with the Ministry of the Environment, Conservation and Parks, and the cost of complying with the Certificate of Property Use.

Further to these eligibility criteria, the BFTIP Guidelines specify that eligible costs under the program include:

1. Costs associated with the preparation of Phase 1 and 2 Environmental Site Assessments or Risk Assessments prepared by qualified professionals, less of any funds provided by other grants to the property owner to carry out such studies;
2. Costs associated with the removal of designated substances and environmental remediation; and
3. Only costs incurred after the execution of the BFTIP Agreement with the City will be eligible for rebate.

Staff reviewed the BFTIP application against the BFTIP eligibility criteria listed above. Staff confirm that the subject property is located within the Brownfield Site Community Improvement Area, as shown on **Appendix A** of this Report. Based on documentation provided with the BFTIP application, Staff can confirm that the Applicant is a corporation in good standing, and that the subject property is not in tax arrears; a title search on the subject property confirms that there are no other encumbrances upon it.

9.2 Proposed Remediation Strategy

A Phase One Environmental Site Assessment (Phase One ESA, dated June 4, 2020) and a Phase Two Environmental Site Assessment (Phase Two ESA, dated November 18, 2020) were completed by Stantec Consulting. Soil contamination was confirmed on the property and a Supplemental Phase Two ESA was recommended to address Areas of Potential Environmental Concern (APECs).

West Street Apartments Inc. retained G2S Consulting Inc. (G2S) to complete a Supplemental Phase Two Environmental Site Assessment (ESA) for the subject property in 2021, which confirmed the previous data sets and delineated the extent of contamination.

Based on the findings of this Supplemental Phase Two ESA, the chemical quality of the soil at the property did not meet the applicable Provincial site condition standards for a non-potable ground water use setting for residential/parkland/institutional (RPI) land use. The contamination comprises several metals and Polycyclic Aromatic Hydrocarbons (PAHs). Electrical Conductivity (EC) and/or Sodium Adsorption Ratio (SAR) were also found to be elevated at two locations within the south portion of the property. Based on this work, G2S Consulting Inc. (G2S) indicated that a Record of Site Condition (RSC) will be required before site development.

The proposed remediation strategy includes excavation and off-site disposal to a licensed landfill, often referred to as a “dig and dump approach”. This process involves excavation of the contaminated soil for direct load into MECP licensed trucks and disposal at a landfill. Once the excavation is complete and the results of confirmatory sampling indicate the contamination has been removed, the area will be rough graded to ensure stable slopes. G2S will then complete a Site Remediation report and prepare the Record of Site Condition (RSC), which will be submitted to the MECP.

9.3 Eligible Remediation Expenses – BFTIP

The estimated total remediation expenses for the subject property are summarized in **Table 1** of this Report. (A more detailed breakdown of the Applicant’s estimated remediation expenses is provided in **Appendix D** of this Report.) The estimated expenses are comprised of \$56,742.75 for the cost of the Phase One, Phase Two and Supplemental Phase Two ESA Reports and follow up reporting to the Ministry of the Environment, Conservation and Parks (MECP), \$6,975,960.00 for the remediation program, and an approximate 10% contingency value of \$390,000.00, for

a total estimated cost of \$7,422,702.75. A contingency value is typically applied to brownfield remediation projects to cover unforeseen expenses. The costs associated with the estimated expenses were prepared by a Qualified Person (QP) licensed under the *Professional Engineers Act*.

Table 1 - Summary of Estimated Remediation Expenses for 352-356 West Street

Remediation Expenses – 352-356 West Street	
Phase One and Phase Two ESA Reports, Supplemental Phase Two Report, Reporting to the Ministry of the Environment, Conservation and Parks	\$56,742.75
Environmental Remediation Work & Consulting Oversight	\$6,975,960.00
Contingencies	\$390,000.00
Total Eligible Expenses Under the BFTIP Program	\$7,422,702.75

9.4 Applicable Development Charge Reductions

As previously noted, the value of the BFTIP rebate will exclude any development charge reductions applied to the development. Under the Brownfield Development Charge Reduction Program, the development charge payable can be reduced by an amount equal to the cost of the environmental remediation of the lands required for the proposed use of the lands. For this program, environmental remediation refers to the work carried out to remove contaminated substances from soil, sediment or ground water, including off-site disposal, but does not include environmental site assessments. The estimated total remediation expenses eligible under Brownfield Development Charge Reduction Program are summarized in **Table 2** below. This reduction is subject to the submission of documentation to verify environmental remediation work carried out and the expenses incurred to the satisfaction of the City of Brantford.

Table 2 - Summary of Estimated Brownfield Development Charge Reduction for 352-356 West Street

Development Charge Reduction Eligible Expenses – 352-356 West Street	
Environmental Remediation Work & Consulting Oversight	\$ 6,975,960.00
Contingencies	\$ 390,000.00
Total Eligible Expenses Under the DC Reduction Program	\$ 7,365,960.00

The Applicant may also be eligible to receive a development charge exemption for approximately 19-28 apartment units proposed to be provided at “affordable” rents through a 20-year Municipal Housing Facilities Agreement with the City’s Housing Department. As an incentive for private and not-for-profit developers to create “affordable” housing rental units, the City’s Development Charges By-law exempts the development charges for affordable housing dwelling units that meet the definition of affordable housing and all required criteria as outlined in the Municipal Housing Facilities By-law 102-2003, as amended. For the purposed of estimated eligible funds under the BFTIP and the Development Charge Reduction Program, 28 units were identified as affordable housing rental units and therefore not factored in to Brownfield Incentive Program calculations below in Section 9.5.

9.5 Brownfield Financial Tax Incentive Program Rebate

The proposed BFTIP rebate is summarized in **Table 3** and is based on the estimated property tax increase resulting from the remediation and redevelopment of the property. This resulting tax increase will be the amount of the annual tax rebated to the Applicant until their remediation expenses are reimbursed. Based on the Applicant’s proposal, it is anticipated that payment could begin in 2026 once the final phases of redevelopment have occurred and the property has been reassessed by MPAC to determine the new property taxes.

The final tax rebate awarded through the BFTIP Agreement will be based on actual expenses incurred and mandatory proof of payment for those expenses to the satisfaction of the City’s Planning and Development Services and Finance Staff. City staff will also utilize a Third-Party Environmental Engineering consulting team to review costs alongside the internal departmental review. No rebate will be awarded without proof of actual expenses.

The current taxes (municipal portion) on the subject property are \$10,300. The estimated value of the proposed redevelopment project of three (3) apartment buildings with a total of 408 dwelling units is \$69,123,000. Applying the City’s Multi-Residential Tax Rate, the new post-redevelopment annual taxes on the property are estimated to be \$916,000 in municipal property taxes, of which \$10,300 will continue to remain in the general tax levy revenues, and the remaining value of \$905,700 (which represents the difference between pre-development and post-

redevelopment property taxes) will become the value of the annual rebate used to reimburse the applicants remediation expenses.

The eligible remediation expenses of \$7,422,703 will first be reduced by the applicable Development Charge Reduction, estimated to be \$7,365,960. Therefore, the remaining eligible remediation expenses of \$56,742.75 will be reimbursed through a future BFTIP tax rebate, and it will take approximately one (1) year to reimburse the remediation expenses under the BFTIP program.

Table 3 - Summary of Proposed BFTIP Rebate for 352-356 West St (Buildings 1, 2 and 3)

BFTIP Reimbursement	
Estimated Value of the Redevelopment	\$69,123,000 [†]
Estimated Anticipated Taxes after redevelopment (Municipal Portion only) at the New Multi-Residential Tax Rate (2022 tax rate used)	\$916,000 ^{††} (A)
Current Annual Taxes on the Property (municipal share only)	\$10,300 (B)
BFTIP reimbursement per year (Annual Increase from pre-redevelopment to post-redevelopment) (A minus B)	\$905,700^{†††} (C)
TOTAL ELIGIBLE EXPENSES	\$7,422,703 (D)
Value of <u>Eligible</u> Municipal Development Charges to be rebated towards remediation expenses (does not include environmental site assessments)	7,365,960 (E)
Value of Eligible Remediation Expenses to be reimbursed through BFTIP (D minus E)	\$56,743 (F)
Anticipated Recovery Period for \$56,743 (F divided by C)	1 year

[†] At the time of this Report, this value is only an estimate. The value of the redevelopment will only be confirmed once MPAC re-assesses the value post-redevelopment.

^{††} The annual property taxes will be based on the MPAC-confirmed reassessment value.

^{†††} The BFTIP re-imbursement rate will be adjusted according to the confirmed taxes after MPAC reassessment.

At the time of this Report, all property values and anticipated tax rates are only an estimate. The value of the redevelopment and the corresponding increase in taxes will only be confirmed once MPAC re-assesses the value after redevelopment is complete. The taxes will be based on this re-assessed value and the BFTIP reimbursement rate will be adjusted accordingly and applied. These estimates also do not account for any change in future tax rate or changes to property value over time. The value of the applicable development charges will be confirmed when the Applicant applies for their building permits. Pending that date, the estimated value of \$7,365,960 may be subject to change due to any

indexing of the rate that occurs each year on January 1st. The rebate will be assessed each year and calculated and issued accordingly.

9.5.1 Alternate Scenario

Throughout the BFTIP application process, the Applicant has communicated that phasing of the future development may occur in stages and may or may not include the construction of all three (3) buildings (408 dwelling units). Planning Staff have made the applicant aware that future deviations or changes to the development proposal can affect the BFTIP Agreement and the ratio of financial assistance provided between the BFTIP and the Brownfield Development Charge Reduction Program.

To illustrate how changes to the proposal could affect the BFTIP rebate, Table 4 provides a summary of the rebate if only Buildings 1 and 2 were completed for the purposes of this Application. As shown below, this alternate scenario would result in a lower estimated property value of the redevelopment (\$52,287,000), which would generate less of a tax increase (\$682,700). With less development charges to be rebated through the Brownfield Development Charge Reduction Program (\$5,578,904), due to a smaller redevelopment project, the value of eligible remediation expenses to be rebated through the BFTIP would increase to \$1,843,799, provided over approximately three (3) years.

Table 4 - Summary of Proposed BFTIP Rebate for 352-356 West St (Alternate Scenario - Buildings 1 and 2 only)

BFTIP Reimbursement	
Estimated Value of the Redevelopment	\$52,287,000 [†]
Estimated Anticipated Taxes after redevelopment (Municipal Portion only) at the New Multi-Residential Tax Rate (2022 tax rate used)	\$693,000 ^{††} (A)
Current Annual Taxes on the Property (municipal share only)	\$10,300 (B)
BFTIP reimbursement per year (Annual Increase from pre-redevelopment to post-redevelopment) (A minus B)	\$682,700^{†††} (C)
TOTAL <u>ELIGIBLE</u> EXPENSES	\$7,422,703 (D)
Value of Municipal Development Charges to be rebated towards remediation expenses	\$5,578,904 (E)
Value of Eligible Remediation Expenses to be reimbursed through BFTIP	\$1,843,799

(D minus E)	(F)
Anticipated Recovery Period for \$1,843,799 (F divided by C)	2.7 years

† At the time of this Report, this value is only an estimate. The value of the redevelopment will only be confirmed once MPAC re-assesses the value post-redevelopment.

†† The annual property taxes will be based on the MPAC-confirmed reassessment value.

††† The BFTIP re-imbursement rate will be adjusted according to the confirmed taxes after MPAC reassessment.

9.6 Next Steps

If approved, Staff in Legal Services will prepare the BFTIP Funding Agreement, which will define the maximum financial assistance to be provided and the responsibility of the Applicant to present all invoices for eligible work. The final BFTIP assistance awarded will be based on actual expenses incurred and proof of payment to the satisfaction of the City's Finance Department.

10.0 Financial Implications

In accordance with the eligibility criteria, the value of the BFTIP tax rebate will exclude any other financial assistance including any grants and development charge reductions provided by the municipality, as well as any provincial or federal government assistance specifically for remediation-related expenses.

As the applicant advances through the Site Plan approval process, the approved unit count and built form will be finalized in order to determine the utilization of both the Brownfield Development Charges Reduction Program and the Brownfield Financial Tax Incentive Program (BFTIP). The eligible estimated remediation expenses of up to \$7,422,703 will first be reduced by the applicable Development Charge Reduction and the remaining remediation expenses of will be reimbursed through future BFTIP tax rebates. The development charges to be reduced and the final tax rebate awarded through the BFTIP Agreement will be based on actual expenses incurred and mandatory proof of payment for those expenses to the satisfaction of the City of Brantford.

11.0 Climate and Environmental Implications

There are no negative climate or environmental implications arising from this Report. The objective of the Brownfield Financial Tax Incentive Program (BFTIP) is to promote and support private-sector investment in the remediation and redevelopment of brownfield properties. By providing financial incentives, the BFTIP supports environmental site remediation to facilitate infill development

and the intensification of existing land and infrastructure within the City of Brantford's built boundary.

12.0 Conclusion

The Application for financial assistance under the BFTIP submitted by West Street Apartments Inc. for the environmental remediation of 352-356 West Street meets the objectives of the BFTIP and the eligibility requirements for this program. The redevelopment project makes use of underutilized lands within the City, encourages greater density within the City's built boundary, and meets the objectives of the City's Brownfield Strategic Action Plan. Therefore, Staff recommends that the application be approved in accordance with the conditions outlined in Section 10.0 of this Report.



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Attachments:

Appendix A - Brownfield Sites Community Improvement Project Area
Appendix B - Aerial Photo 352-356 West Street
Appendix C - Concept Plan 352-356 West Street
Appendix D - Estimated Remediation Expenses

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required ☒ yes ☐ no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk ☒ yes ☐ no

Is the necessary by-law or agreement being sent concurrently to Council?

☐ yes ☒ no