CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Economic Development and Planning Committee

WARD AFFECTED: WARD 15

COMMITTEE DATE: May 4, 2010

SUBJECT/REPORT NO:
Heritage Permit Application (HP2010-030), Under Part V of the Ontario Heritage Act, for the Installation of Parking Meters on Mill Street North, Waterdown (PED10105) (Ward 15)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
Joseph Muller
(905) 546-2424, Ext. 1214

SIGNATURE:

RECOMMENDATION:

That approval be given to Heritage Permit Application (HP2010-030), by City of Hamilton Planning and Economic Development, to permit the installation of 15 new parking meters, situated on 9 new posts (6 twinned meters and 3 individual meters, for a total of 15 new parking spots), on the Right-of-Way adjacent to Numbers 6, 24, 21, 25, 30, 40, and 50 Mill Street North, Waterdown (Mill Street Heritage Conservation District), as shown on Appendix “A”, subject to the following conditions:

(a) That the number and locations of the parking meters be confirmed, to the approval and satisfaction of City Planning staff, prior to installation; and,

(b) That implementation of the parking meters, in accordance with this approval, shall be completed no later than May 31, 2012.

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EXECUTIVE SUMMARY

The subject Right-of-Way, located approximately adjacent to Numbers 6, 24, 21, 25, 30, 40, and 50 Mill Street North, Waterdown, is designated as part of the Mill Street Heritage Conservation District, under Part V of the Ontario Heritage Act. A Heritage Permit is required for the alteration of any part of the property, and for the erection or demolition of any structures or buildings on the property. The applicant is applying for the installation of 15 new parking meters, situated on 9 new posts (6 twinned meters and 3 individual meters, for a total of 15 new parking spots). The Heritage Permit Review Sub-committee and the Hamilton Municipal Heritage Committee have reviewed this application and advised denial of the proposed work. Staff recommends approval of the subject application.

Alternatives for Consideration - See Page 7.

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

Financial - None.

Staffing - None.

Legal - This Heritage Permit application has been processed and considered within the context of the applicable legislation.

Section 42(1) of the Ontario Heritage Act states that: “No owner of property situated in a Heritage Conservation District that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so: 1. Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property; or, 2. Erect, demolish, or remove any building or structure on the property or permit the erection, demolition, or removal of such a building or structure.”

Section 42(4) of the Ontario Heritage Act states that: “Within 90-days after the notice of receipt is served on the applicant under Subsection (3), or within such longer period as is agreed upon by the applicant and the Council, the Council may give the applicant,

(a) The permit applied for;
(b) Notice that the Council is refusing the application for the permit; or,
(c) The permit applied for, with terms and conditions attached.”

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Section 42(4.1) of the Ontario Heritage Act states that: “If the Council of a municipality has established a Municipal Heritage Committee under Section 28, the Council shall, before taking any action under Subsection (4) with respect to an application to demolish or remove any building or structure on property in a Heritage Conservation District, consult with its Municipal Heritage Committee.”

Section 42(5) of the Ontario Heritage Act states that: “If the Council fails to do any of the things mentioned in Subsection (4) within the time period mentioned in Subsection (4), the Council shall be deemed to have given the applicant the permit applied for.”

Section 42(16) of the Ontario Heritage Act states that: “The Council of a municipality may delegate, by By-law, its power to grant permits for the alteration of property situated in a Heritage Conservation District designated under this Part to an employee or official of the municipality if the Council has established a Municipal Heritage Committee, and consulted with it before the delegation.” This power to consent to applications was granted to the Director of Planning by City of Hamilton By-law 05-364. However, Subsection 42(16) of the Ontario Heritage Act further defines the scope of this power as “Council’s power to consent to alterations”. Accordingly, By-law No. 05-364 states that: “the delegated powers in Section 1 do not include the power to refuse an application”. In addition, Council resolved on December 14, 2005, that “this delegated authority does not apply, nor is it extended to any proposed decision by the Director of Planning that is not in accordance with the recommendation of the Hamilton Municipal Heritage Committee, or the Heritage Permit Sub-committee, or any of the Conservation District Advisory Committees”.

HISTORICAL BACKGROUND

On January 11, 2010, Council approved Recommendation (b) in Report PED08059(c) that paid parking be implemented in additional commercial areas of the City, including Waterdown.

The subject property, comprising the Right-of-Way adjacent to Numbers 6, 24, 21, 25, 30, 40, and 50 Mill Street North, Waterdown (Appendix “A”), is located within the Mill-John-Union-Griffin Heritage Conservation District (HCD), designated by the former Town of Flamborough, and approved by the Ontario Municipal Board in 1996 under Part V, Section 41, of the Ontario Heritage Act. Under Section 42 of the Ontario Heritage Act, a permit is required for alterations to a property.
The power to consent to alterations to property designated under the Ontario Heritage Act was delegated by Council to the Director of Planning under City of Hamilton By-law No. 05-364. However, the Ontario Heritage Act and By-law No. 05-364 exclude the power to refuse an application (see Legal Implications). Furthermore, Council resolved on December 14, 2005, that “this delegated authority does not apply, nor is it extended to any proposed decision by the Director of Planning that is not in accordance with the recommendation of the Hamilton Municipal Heritage Committee, the Heritage Permit Sub-committee, or any of the Conservation District Advisory Committees”.

The subject property, comprising the Right-of-Way located adjacent to Numbers 6, 24, 21, 25, 30, 40, and 50 Mill Street North, Waterdown (Appendix “B”), consists of a paved and curbed public two-lane urban roadway broken by curb-cuts for private and public driveways. Existing parking is unrestricted in the proposed parking spaces, which all front either commercial-use or institutional (church and library) properties, with the exception of the two proposed parking spaces adjacent to 50 Mill Street North, where parking is prohibited. The applicant has applied for consent to install 15 new parking meters, situated on 9 new posts (6 twinned meters and 3 individual meters, for a total of 15 new parking spots) (Appendix “C”).

The Heritage Permit Review Subcommittee of the City of Hamilton Municipal Heritage Committee reviewed this application on April 7, 2010, and advised denial of the application. At its meeting on April 22, 2010, the Hamilton Municipal Heritage Committee affirmed this recommendation, moving that:

“Whereas no other Heritage Conservation Districts in the City of Hamilton have metered parking; and,

Whereas the Mill Street Heritage Conservation District is predominantly residential in nature, versus commercial; and,

Whereas the staff of the City's Parking Department has indicated that the denial of the 15 parking meters within the Mill Street Heritage Conservation District would have a minimal impact on parking revenues;

Therefore, be it resolved that Council be advised that Heritage Permit Application (HP2010-030) be denied.”

Staff recommends approval of the subject application.
POLICY IMPLICATIONS

Subsection C.6-Heritage Resources: The City of Hamilton Official Plan 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 Hamilton Urban Official Plan (adopted July 9, 2009) is for the City to “conserve the character of areas of cultural heritage significance, including designated Heritage Conservation Districts and cultural heritage landscapes, by encouraging those land uses and site alteration activities that protect, maintain, and enhance these areas within the City” (3.4.2.1.h). Although the new Urban Hamilton Official Plan has not been approved by the Ministry of Municipal Affairs and Housing, and is not in effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources.

The Mill-John-Union-Griffin Heritage Conservation District Plan (Section 3.0 - Conservation Principles, Goals and Objectives) is silent on parking meters, although Sections 3.3 and 3.4.2 advise that Public Works should seek to avoid undue impacts on the character of the grass boulevards within the district by not paving them, and encourage maintenance and protection of the urban landscape character of the district. Section 2.2 acknowledges diverse interests within the district, and that Council should seek to resolve these.

RELEVANT CONSULTATION

Pursuant to Subsections 42(1) and 42(4.1) of the Ontario Heritage Act, the City of Hamilton Municipal Heritage Committee (MHC) advises and assists Council on matters relating to Part V of the Ontario Heritage Act. At its meeting on April 7, 2010, the Heritage Permit Review Sub-committee (HPRS) of the City of Hamilton MHC considered this application, together with the staff memorandum, correspondence from a resident arguing against the installation of meters due to visual disruption of the streetscape, and communication from a local Business Improvement Area member. The HPRS recommended to the MHC and Council that the subject application be denied on the basis that local citizens were objecting to metered parking, and that this would set an unwanted precedent for paid parking within Heritage Conservation Districts in Hamilton.
The City of Hamilton Municipal Heritage Committee considered this application on April 22, 2010. Two delegations from individual citizens of Flamborough were heard in opposition to Heritage Permit Application HP2020-030, each of whom provided a letter summarizing their arguments. In addition, a petition of approximately 406 names was received, signed in opposition to metered parking in the Waterdown commercial area in general.

The Hamilton Municipal Heritage Committee affirmed the recommendation of the Heritage Permit Review Sub-committee, moving that:

“Whereas no other Heritage Conservation Districts in the City of Hamilton have metered parking; and,

Whereas the Mill Street Heritage Conservation District is predominantly residential in nature, versus commercial; and,

Whereas the staff of the City’s Parking Department has indicated that the denial of the 15 parking meters within the Mill Street Heritage Conservation District would have a minimal impact on parking revenues;

Therefore, be it resolved that Council be advised that Heritage Permit Application (HP2010-030) be denied.”

ANALYSIS / RATIONALE FOR RECOMMENDATION

Heritage Considerations

According to the Ontario Heritage Act, Section 42(1), no owner of property situated in a Heritage Conservation District that has been designated under Section 41 of the Act shall Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property, unless the owner obtains a permit from the municipality to do so.

Section 42(4) of the Ontario Heritage Act states that: “Within 90-days after the notice of receipt is served on the applicant under Subsection (3), or within such longer period as is agreed upon by the applicant and the Council, the Council may give the applicant,

(a) The permit applied for;
(b) Notice that the Council is refusing the application for the permit; or,
(c) The permit applied for, with terms and conditions attached.”

If Council refuses to approve the application, the owner can appeal the matter to the Conservation Review Board.
The applicant is proposing to install 15 new parking meters, situated on 9 new posts (6 twinned meters and 3 individual meters, for a total of 15 new parking spots), on the Right-of-Way adjacent to Numbers 6, 24, 21, 25, 30, 40, and 50 Mill Street North, Waterdown.

Key factors that are considered in the evaluation of any change affecting a heritage building, or its setting, are consideration of “displacement effects” (those adverse actions that result in the damage, loss, or removal of valued heritage features) and “disruption effects” (those actions that result in detrimental changes to the setting or character of the heritage feature).

**Displacement:** The installation of each post for single or twinned parking meters requires the excavation of a hole in the existing boulevard turf or concrete, approximately 4-inches (10 cm) in diameter, to a depth of 2 feet (60 cm). The Mill Street HCD Guidelines permit alterations to the landscape that maintain grass boulevards within the district, and so no significant displacement of heritage fabric is anticipated.

**Disruption:** Minor and reversible disruption is anticipated with the installation of nine removable posts supporting single or twinned parking meters within the central portion of the Mill Street Heritage Conservation District. The 2" (5 cm) diameter posts, 36 inches (90 cm) high, are capped with one or two meters, for a total height of approximately 4 feet, 4 inches (1.35 m).

Accordingly, staff recommends that Heritage Permit Application HP2010-030 be approved, with an expiry date of May 31, 2012. An expiry date of two years after approval is standard on all approved Heritage Permits, and the May 31, 2012, date will reflect the maximum end date of the installation.

**ALTERNATIVES FOR CONSIDERATION:**

1. **Refuse the Heritage Permit application.**

   Refusal of the Heritage Permit is in part contrary to the Council approval (in Report PED08059(c)) to install paid parking in all commercial areas of the City: 15 of the approximately 85 parking meters proposed for the Waterdown commercial area fall within the Mill Street Heritage Conservation District (HCD). The Municipal Heritage Committee is recommending denial of the Heritage Permit application.

2. **Approve the Heritage Permit with no conditions.**

   Council may approve this application with no conditions. This alternative is not being recommended by the Municipal Heritage Committee, and is not recommended by staff as the exact configuration of metered parking spaces is not yet confirmed.

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CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Skilled, Innovative & Respectful Organization

- A culture of excellence.
- Ensuring that staff is able to enforce high standards in the management of heritage resources.

Financial Sustainability

- Generate non-tax revenues.
- Generating revenue from paid parking.

Intergovernmental Relationships

- Maintain effective relationships with other public agencies.
- Complying with Provincial legislation, regulations, standards, and process in managing heritage resources.

Growing Our Economy

- Competitive business environment.
- Standardizing parking in commercial areas across the City.

Healthy Community

- Plan and manage the built environment.
- Managing cultural heritage resources to ensure their ongoing conservation.

APPENDICES / SCHEDULES

- Appendix “A” - Location Map.
- Appendix “B” - Existing Conditions.
- Appendix “C” - Proposed Work.

:JM
Attachs. (3)
Mill Street North (facing north), Waterdown

Mill Street North (east side facing north), Waterdown
Mill Street North (east side facing north), Waterdown

Mill Street North (east side facing north), Waterdown
Mill Street North (east side facing north), Waterdown
Mill Street North (west side facing north), Waterdown

Mill Street North (west side facing north), Waterdown
Standard Post with Twinned Parking Meters