TO: Chair and Members  
Economic Development and Planning Committee  
WARD AFFECTED: WARD 5  

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COMMITTEE DATE: March 23, 2010  

SUBJECT/REPORT NO:  
Heritage Permit Application HP2010-005 Under Part V of the Ontario Heritage Act for Erection of Structures at 978 Beach Boulevard, Hamilton (PED10079) (Ward 5)  

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department  
PREPARED BY:  
Joseph Muller  
(905) 546-2424, Ext. 1214  

SIGNATURE:  

RECOMMENDATION:  
That Heritage Permit Application HP2010-005 be approved for the erection of a new single detached residence, and detached garage, on the designated property at 978 Beach Boulevard (Hamilton Beach Heritage Conservation District), Hamilton, as shown on Appendix “A” to Report PED10079, subject to the following conditions:

(a) That final scaled and dimensioned plans and elevations, showing materials and colours for roofing, siding, trim, eaves, downspouts, vents, rails, pickets, columns, hardware, windows, doors, and garage doors be submitted, to the satisfaction and approval of Heritage staff prior to construction; and,

(b) That this approval expires on March 31, 2012.
EXECUTIVE SUMMARY

The subject property, located at 978 Beach Boulevard, Hamilton, is designated as part of the Hamilton Beach 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 erection of a new single detached residence and attached garage. The Heritage Permit Review Subcommittee and the Hamilton Municipal Heritage Committee have reviewed this application, and have advised conditional approval of the application.

Alternatives for Consideration - See Page 6.

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.”

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(17) of the Ontario Heritage Act further defines the scope of this power as “Council’s power to consent to alterations,” and does not apply to applications for the demolition of existing structures, or erection of new structures, on a designated property. In addition, By-law No. 05-364 states that: “the delegated powers in Section 1 do not include the power to refuse an application”.

HISTORICAL BACKGROUND

The subject property at 978 Beach Boulevard, Hamilton (Appendix “A”), is located in the Hamilton Beach Heritage Conservation District (HCD), designated by the former City of Hamilton, and approved by the Ontario Municipal Board in 2001 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 excludes the power to consent to an application for the demolition of existing structures or erection of new structures (see Legal Implications).

The existing lot is vacant, with no extant structures (Appendix “B”). The applicant has applied for consent to erect a new, two-storey, side-gable, single-detached dwelling of frame construction with a detached, one-storey, two-car garage to the rear (Appendix “C”). The asymmetrical east (front) elevation has bays on the ground floor: two bays in the tower on the north half of the elevation, with a central door and window on the south half. The latter door and window are under an open porch, with two support columns and a rail with pickets. The upper floor of the tower has two windows identical to those below, under bracketed eaves, while the remainder of the second storey has a single window set within a gable dormer. On the front facade, cladding of the tower and first floor under the porch is stucco (pale rose), with board and batten siding (blue-grey) on the level above the porch, and on all other facades: likewise the small, one-storey utility
room projecting off the west (rear) facade. Trim around windows, doors, and the tower eaves is a light-brown, while cutters, downspouts, chimney, and shingle roof are dark grey. Fenestration on the remaining facades is asymmetrical as well - all windows have offset two-over-two exterior-profile muntins, except for windows on the south elevation, which are all glass block, and minor windows on the north elevation. The foundation wall is concrete. The garage is side-gable, with board and batten cladding, and a dark grey shingle roof. The garage doors are on the east (front) facade, with a gable dormer and window above the pedestrian door at the south end of this facade: the garage doors have a vertical strip pattern, to match the cladding, with windows in the top section.

The Heritage Permit Review Subcommittee of the City of Hamilton Municipal Heritage Committee reviewed this application on February 3, 2010, and advised conditional approval of the application. At its meeting on February 25, 2010, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the 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). The Official Plan also states that encouragement may be given to Commercial development schemes, in appropriate locations, proposed to incorporate a building, or group of buildings, with historic character or architectural value.

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 “ensure that all new development, site alterations, building alterations, and additions are contextually appropriate, and maintain the integrity of all on-site or adjacent heritage resources” (3.4.1.3). Additional goals are to “protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes” (3.4.2.1.a), and 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 Hamilton Beach Heritage Conservation District Guidelines for conservation and change (Section 5.0 - Design Guidelines for New Infill Construction) specifies that new construction be compatible with the character of adjoining properties and the streetscape, avoid replication of design, and be of modern design sympathetic to, but
not attempting to replicate, heritage buildings (5.3). Section 5.4 provides detailed guidance for new construction, as follows. New residences are intended to be two-storeys or less in height, relatively narrow, and set back slightly further from the road than the earlier pre-1900 houses (to a setback similar to those for the post-1900 buildings). Suitable construction is frame with horizontal facades and cladding in wood (clapboard, board-and-batten, or shingle), stucco, pebble-dash or rough-cast, with no or minimal brick or stone. Other forms sought are front-gable, cross- or centre-gable, or hipped or truncated hip roofs. The intent for windows is traditional vertical and rectangular lights, not overwhelming the front façade, and avoiding large, full-length, multi-storey or picture windows. The guidelines seek emphasized front entrances that may be accentuated by surrounds, within porches, or recessed or projecting. Parking and other outbuildings are intended to be in the rear yard.

RELEVANT CONSULTATION

Pursuant to Subsection 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 of February 3, 2010, the Heritage Permit Review Subcommittee of the City of Hamilton MHC considered this application, together with staff memoranda, and recommended to Council that the subject application be approved, subject to the following conditions:

- That final scaled plans and elevations showing materials and colours for roofing, siding, trim, eaves, downspouts, vents, rails, pickets, columns, hardware, windows, doors, and garage doors be submitted, to the satisfaction and approval of Heritage staff prior to construction; and,

- That this approval expires on March 31, 2012.

These conditions are included as part of the recommended approval. At its meeting on February 25, 2010, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the application.

ANALYSIS / RATIONALE FOR RECOMMENDATION

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**: In this application, there are no displacement effects, as there is no existing building on the subject property.
Disruption: Disruption effects may result within the district by the erection of new structures that are not sympathetic to the existing original building fabric and heritage landscape. The guidelines for new construction within the Hamilton Beach Heritage Conservation District recommend minimal use of stone, and in new buildings, primarily for stylistic accents, the use of traditional materials such as wood or stucco, and avoidance of design duplication. Building forms are to be modest in height and massing, from one to two storeys, with any garages detached and/or to the rear of the property. The proposed structure addresses these guidelines, and the detached garage is set back from the road. The new structure does not closely resemble any existing residences, or any designs previously-approved for Heritage Permit but not yet erected.

Accordingly, staff recommends that Heritage Permit Application HP2010-005 be approved with an expiry date of March 31, 2012. An expiry date of two years after approval is standard on all approved Heritage Permits, and the March, 2012 date will reflect the expected end date of the new construction.

ALTERNATIVES FOR CONSIDERATION:

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

   Refusal of the Heritage Permit to erect the new structure does not contribute to the built heritage landscape of the Hamilton Beach Heritage Conservation District (HCD), and does not advance the Hamilton Beach HCD Guidelines that permit the erection of new buildings sympathetic to the existing building fabric and other alterations that maintain the landscape features and views of the property.

2. **Approve the Heritage Permit with additional conditions.**

   The Hamilton Municipal Heritage Committee may recommend that Council approve this application with alternative conditions to those recommended by staff. This is not being recommended.

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

   The Hamilton Municipal Heritage Committee may recommend that Council approve this application with no conditions. The alternative is not recommended, as it would remove other approvals on the quality of the final implementation of the project design.
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 assessment growth/non-tax revenues.
- Increasing the quality and value of designated properties.

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

**Growing Our Economy**
- A skilled and creative labour pool that supports new employers.
- Contributing to a market for heritage specialists and contractors working in the City.

**Social Development**
- Everyone has a home they can afford that is well maintained and safe.
- Ensuring the construction of appropriately designed infill development.

**Environmental Stewardship**
- Reduced impact of City activities on the environment.
- Utilizing existing City infrastructure through infill development.
Healthy Community

- Plan and manage the built environment.
- Contributing positively to an existing heritage neighbourhood by providing guidance on matching infill construction to the existing building fabric.

APPENDICES / SCHEDULES

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

JM
Attachs. (3)
978 Beach Boulevard, Hamilton
East and West Elevations
South Elevation
North Elevation