That Heritage Permit Application HP2011-057 be approved for the erection of a new two-storey, single detached dwelling, on the designated property at 1014 Beach Boulevard (Hamilton) (Hamilton Beach Heritage Conservation District), as shown on Appendix “A” to Report PED09285(a), subject to the following conditions:

(a) That details are provided for material and colour of entry and garage doors, windows, vents, chimneys, trim, hardware, and lights, to the approval and satisfaction of City Planning staff;

(b) That construction and site alterations, in accordance with this approval, shall be completed no later than December 31, 2013. If the construction and site alterations are not completed by December 31, 2013, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.
EXECUTIVE SUMMARY

The subject property, located at 1014 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 applied for and received approval with Heritage Permit HP2009-030 in November, 2009, for the erection of a new two-storey, single detached residence with an attached two-car garage, on a vacant lot. Due to logistical difficulties, the applicant has been unable to complete construction prior to the expiry date for Heritage Permit HP2009-030 on November 30, 2011. Because the erection or demolition of buildings or structures on, or alterations to, a designated property requires a Heritage Permit, and legislation does not enable the extension of an approved Heritage Permit, this second Heritage Permit is required. This application is considered to be worthy of support, in principle, subject to conditions related to review of the proposed construction materials. A Building Permit was approved on April 21, 2011, for the proposed new dwelling. The Heritage Permit Review Sub-committee and the Hamilton Municipal Heritage Committee have reviewed this application, and have advised conditional approval of the 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 Sub-section (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 Sub-section (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 Sub-section (4) within the time period mentioned in Sub-section (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, Sub-section 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 1014 Beach Boulevard (Hamilton) (see the location map attached as Appendix “A”) is located in the Hamilton Beach Heritage Conservation District (HCD), designated by the former City of Hamilton By-law No. 00-135, approved by the Ontario Municipal Board under Part V, Section 41, of the Ontario Heritage Act in 2001. 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 provisions exclude the delegation of Council’s authority 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 several mature trees (a photograph of the existing lot is attached as Appendix “B”). The work subject to this Heritage Permit application comprises the erection of a new, two-storey, single detached dwelling of frame construction with attached two-car garage (see Appendix “C”). The three-bay east (front) elevation will comprise of stucco cladding in peach, with a base of stone veneer to a maximum of four feet (1.1 metres) above porch floor level, principally visible on the base of the four columns along the two-story porch exterior and the front door. The east (front) halves of the north and south (right and left, respectively) elevations are to be clad in peach stucco, while the west (rear) halves will be clad in grey-green or grey-blue vertical siding. The foundation along these and the west elevations is to be parged and clad in stone veneer. The west elevation will be clad in vertical siding. The garage is to be clad in the same style and colour of vertical siding, with a parged foundation of stone veneer. The home and garage are to be roofed with metal shingle in charcoal colour.

The applicant applied for and received conditional approval for Heritage Permit HP2009-030 in November, 2009, and a Building Permit was issued on April 21, 2011, for the proposed new dwelling. The applicant has been unable to complete construction prior to the November 30, 2011, expiry date included as a condition on Heritage Permit HP2009-030. The intent of the expiry date is to encourage completion of the work in a timely manner, and to facilitate approvals monitoring. Therefore, extensions of the two-year period were not contemplated in the initial staff recommendations. This application is identical to the previous application, and is considered to be worthy of support.

This application was sent out via email to the Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee on October 19, 2011. At its meeting on October 20, 2011, the Hamilton Municipal Heritage Committee recommended conditional approval of the application, pending staff receiving confirmation from members of the Heritage Permit Review Sub-committee. The Sub-committee supported the proposed site plan and the design of the new house, in principle, subject to the recommended conditions.

POLICY IMPLICATIONS

City of Hamilton Official Plan

Section C.6 - Heritage Resources of the former City of Hamilton Official Plan encourages the preservation, maintenance, reconstruction, restoration, and management of property considered to have historic, architectural, or aesthetic value (C.6.1). The recommendations of this Report do no conflict with this policy.
Urban Hamilton Official Plan

Volume 1, Section 3.4 - Cultural Heritage Resources Policies of the Council-adopted (adopted July 9, 2009) Urban Hamilton Official Plan states that the City shall “protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes” (Volume 1, 3.4.2.1(a)), and “identify cultural heritage resources through a continuing process of inventory, survey, and evaluation, as a basis for the wise management of these resources” (Volume 1, 3.4.2.1(b)). The policies also provide that the “City may, by By-law, designate individual and groups of properties of cultural heritage value under Parts IV and V, respectively, of the Ontario Heritage Act” (Volume 1, 3.4.2.3). The Urban Hamilton Official Plan has been approved by the Ministry of Municipal Affairs and Housing, but has been appealed in its entirety to the Ontario Municipal Board (OMB). While the plan is not in full force and effect, these policies demonstrate Council’s commitment to the identification, protection, and conservation of the cultural heritage resources, and the recommendations of this Report do no conflict with these policies.

Hamilton Beach Heritage Conservation District - Guidelines for Conservation and Change

The Council-adopted 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. However, new construction should also avoid replication of historical styles design, and be of modern design sympathetic to, but not attempt to replicate, existing heritage buildings or styles (Sub-section 5.3). Sub-section 5.4 provides detailed guidance for new construction, summarized 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. Small areas of high-quality synthetic cladding may be permitted.
- Roof forms are encouraged to be well proportioned front-gable, cross-gable, centre-gable, hipped, or truncated hip roofs.
- Windows of vertical and rectangular orientation that reflect traditional proportions and do not overwhelm the front façade (i.e. avoid large, full-length, multi-storey, or picture windows) are appropriate.
Front entrances are intended to be prominent and easily identifiable and can be recessed or projecting and/or accentuated by door surrounds or porches.

Parking and other outbuildings are intended to be in the rear yard.

The recommendations of this Report do no conflict with the Guidelines for Conservation and Change.

### RELEVANT CONSULTATION

Pursuant to Sub-sections 42(1) and 42(4.1) of the Ontario Heritage Act, the City of Hamilton Municipal Heritage Committee (HMHC) advises and assists Council on matters relating to Part V of the Ontario Heritage Act. Between October 19 and October 21, 2011, the Heritage Permit Review Sub-committee of the HMHC reviewed this application via email, together with comments from staff. The Sub-committee supported the proposed site plan and the design of the new house, contingent on further details with respect to design material and colour for entry and garage doors, windows, soffits, fascia, eaves and downspouts, vents, chimneys, foundation, trim, hardware, and lights.

Accordingly, the Sub-committee recommended approval of the subject application. The Sub-committee supported staff's review and approval of detailed specifications with respect to design material and colour for entry and garage doors, windows, soffits, fascia, eaves and downspouts, vents, chimneys, foundation, trim, hardware, and lights, subsequent to the Heritage Permit approval. At its meeting on October 20, 2011, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the application pending the recommendation for approval by the Heritage Permit Review Subcommittee members.

### 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:** A new house is under construction on the lot, and no displacement of heritage features is anticipated.

**Disruption:** The new construction will impact the Beach Boulevard streetscape and the character of the Hamilton Beach HCD. However, the site plan and general design of the new structures are consistent with the character of the HCD and previously approved new buildings within the District in terms of width, massing, and setbacks. The proposed structure addresses these guidelines with a reduction in the proportion of
stone façade from the original design, along with the inclusion of more stucco and a reduction of the building footprint. The garage, while attached, is set back from the road. The effect of the building on the neighbouring residence to the south was moderated by reversing the layout. The original design has also been altered in order to avoid design duplication within the district owing to similarities to an approved, but not yet built, structure four lots to the north.

The applicant has proposed stucco cladding on the front and sides of the house, a stone veneer along the foundation, and vinyl board-and-batten style cladding on the garage and the rear elevation of the house. Design, material and colour details for entry and garage doors, windows, soffits, fascia, eaves and downspouts, vents, chimneys, foundation, trim, hardware, and lights have not been submitted. Therefore, staff recommends that these details will be reviewed and approved by staff, as per Recommendation (a).

It is also recommended that the Heritage Permit have an expiry date of December 31, 2013 (Recommendation (b)). An expiry date of two years after approval is standard on all approved Heritage Permits, and the December 31, 2013, date will reflect the expected end date of the new construction. The City instituted this two-year limit on Heritage Permit approvals in 2009, and approximately 220 Heritage Permits have been approved with this condition. This application is the first example of an approved Heritage Permit expiring before the permitted work was completed.

Accordingly, staff recommends conditional approval of Heritage Permit Application HP2011-057, as per the recommendations of this Report.

**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 and other site alterations which are sympathetic to the existing building fabric and maintain the character of the Hamilton Beach HCD.

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

   Council may approve this application with additional or amended conditions of approval. This is not being recommended.
3. Approve the Heritage Permit with no conditions.

Council may approve this application with no conditions. This alternative is not recommended, as it would prevent the review by staff of additional details to ensure that the Heritage Permit approval will result in high-quality construction and the implementation of the project design, as submitted.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**


**Skilled, Innovative, and Respectful Organization**
- A culture of excellence.
- Council and SMT are recognized for their leadership and integrity.
- **Staff Comment:** The approval of the recommendations of this Report demonstrates Council’s commitment to the Council-approved Hamilton Beach Heritage Conservation District - Guidelines for Conservation and Change, and to the City’s Official Plan policies.

**Financial Sustainability**
- Generate assessment growth/non-tax revenues.
- **Staff Comment:** The approval of the recommendations of this Report will permit new construction on an existing vacant lot and will increase the property’s assessed value. The existing lot is located in an area that is already serviced by municipal infrastructure.

**Intergovernmental Relationships**
- Maintain effective relationships with other public agencies.
- **Staff Comment:** The approval of the recommendations of this Report demonstrates Council’s commitment to conserving cultural heritage resources, as directed by provincial and federal level policies.

**Environmental Stewardship**
- Reduced impact of City activities on the environment.
- **Staff Comment:** The approval of the recommendations of this Report will permit new construction on an existing vacant lot that is already serviced by municipal infrastructure.
Healthy Community

- Plan and manage the built environment.
- **Staff Comment:** The proposed new construction will conserve and enhance the character of an existing neighbourhood.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Photograph of the Existing Lot
- Appendix “C”: Plans and Elevations for the Proposed New Construction

:JPM
Attachs. (3)
1014 Beach Boulevard: Existing Site Conditions
East (front) Elevation
West (rear) Elevation
South (left) Elevation