SUBJECT: Heritage Permit Application (HP2006-008) Under Part V of the Ontario Heritage Act to Permit the Construction of a New Sunroom, a Master Suite, Entrance and Connecting Porticos, an Attached Two Car Garage, an Attached Three Car Garage, a Motor Court, a Driveway and Associated Miscellaneous Alterations at 31 Cross Street, Dundas (PED06148) (Ward 13)

RECOMMENDATION:

(a) That heritage permit application HP2006-008 be denied for the construction of a new sunroom, a master suite, entrance and connecting porticos, an attached two car garage, an attached three car garage, a motor court, a driveway and associated miscellaneous alterations, described in Appendix A to Report PED06148, as the proposed construction of this complex is contrary to the former Town of Dundas Official Plan policies and the former Town of Dundas Council approved Cross-Melville Heritage Conservation District Plan.

(b) That staff be directed to advise the applicant that a rear addition to accommodate a bedroom could be supported, in principle, subject to the preparation of detailed plans and drawings prepared by a suitably qualified design professional, such as an architect or architectural technologist, and submitted under a new heritage permit application.
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(c) That staff be directed to advise the applicant that a two-bay garage for the storage of vehicles to the rear and northeast of the existing dwelling could be supported, in principle, subject to the preparation of detailed plans and drawings prepared by a suitably qualified design professional, such as an architect or architectural technologist, and submitted under a new heritage permit application.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The owner of 31 Cross Street, Dundas has applied under Part V of the Ontario Heritage Act for a heritage permit (Application HP2006-008) for the construction of a new sunroom, a master suite, entrance and connecting porticos, an attached two car garage, an attached three car garage, a motor court, a driveway and associated miscellaneous alterations, as contained in Appendix A to Report PED06148. The existing structure to which the additions are being made comprise an 1840’s, one and one-half storey, stone structure located in extensive grassed grounds. An existing garage is located to the northeast of the existing residence and is accessed by an existing driveway.

The heritage permit has been considered in the context of the former Town of Dundas Official Plan policies and the former Town of Dundas Council approved Cross-Melville Heritage Conservation District Plan. The location, expanse, scale and variety of development and construction activity are contrary to these approved policies and guidelines. Additionally, the application does not satisfy triple bottom line.

Staff has advised the applicant that some form of development can be accommodated on site to address building additions and limited garage development in keeping with a typical, stable residential heritage setting.

BACKGROUND:

31 Cross Street is a residential property located on the east side of Cross Street within the Cross-Melville Heritage Conservation District in Dundas (see Appendix B to Report PED06148). The Cross-Melville Heritage Conservation District (HCD) was designated by the former Town of Dundas and approved by the Ontario Municipal Board in 1991 under Section 41 of the Ontario Heritage Act. Under Section 42 of the Ontario Heritage
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Act, a permit is required for altering any building or structure or for the demolition of any building or structure. Such permits may only be issued by the Council of the municipality.

The residence located on the subject property at 31 Cross Street (see location map Appendix B to Report PED06148) was generally described in The Cross-Melville Heritage Conservation District Study: Background Report (1988) as an important component of a nucleus of early stone buildings in the historic streetscape. The one-storey stone structure (constructed circa 1846-1851) was altered in 1878 with the addition of a mansard roof in the Second Empire style. This roof was, subsequently, replaced with a contemporary mansard roof. The mid-nineteenth century dwelling is located at the front of the lot with an existing circa 1920's garage located to northeast and the rear of the dwelling, accessed by a shared driveway (see Appendix C to Report PED06148).

The applicant first entered into pre-submission consultation with planning staff and the Cross-Melville Heritage Conservation District Advisory Committee in the summer of 2005. Preliminary plans indicated a number of construction and demolition activities at 31 Cross Street that can be summarized as follows:

- an addition to the existing residence to accommodate a new bedroom.
- an addition to the existing residence to provide for a new attached two-car garage accessed by a new portico.
- the demolition of an existing garage.
- installation of a new driveway and motor court turn-around.
- the removal of one or more trees.
- the installation of a new free standing structure providing a new three-car garage.

The applicant was advised that the various forms of construction activity are guided both by the former Town of Dundas Council approved Heritage Conservation District Plan, as well as generally accepted heritage conservation principles and practice.

In this regard, the applicant was also advised that the acceptance of the proposal is guided by a number of objectives and principles contained in the District Plan. These are concerned with maintaining, protecting and conserving the Cross-Melville Heritage Conservation District’s character. In particular, the guidelines advocate that features and spaces around buildings be conserved and maintained, that new additions be located at the rear or on an inconspicuous side of existing buildings, and garages are best placed at the rear of the lot away from front facades of buildings.

Accordingly, Heritage staff indicated that the addition to accommodate a master bedroom could generally be supported, provided that there was a substantial set-back from the front façade and that the applicant provided a clear indication of:
Staff advised that this was best addressed through a complete set of accurately scaled plans and drawings, prepared by a design professional that would accompany the heritage permit application.

In the matter of providing additional garage space for five vehicles in two distinct and separate structures together with a new driveway and turnaround, staff suggested that this did not satisfy the district guidelines. As noted in the guidelines, garages should be located towards the rear of the lot not only to reduce their visually intrusive effects upon heritage buildings and the streetscape but also to maintain historical continuity with the location of most service or accessory structures. In this instance, the associated paved motor court and driveway would result in adverse physical and visual by a loss of green space around the existing building.

In this regard, staff advised that a garage located at the north-east of the lot appeared to offer a satisfactory and acceptable solution as it took advantage of the existing driveway, does not require the removal of trees, could be developed in conjunction with the existing garage, and sits in a more traditional location for accessory structures. The applicant was advised that a complete set of accurately scaled plans and drawings should accompany the heritage permit describing this aspect of the proposed work.

As part of this preliminary consultation process, the Cross-Melville Heritage Conservation District Advisory Committee also made comments that were forwarded to the applicant as follows:

1) Construct an addition to the existing house.

   Upon review of a conceptual drawing the Committee feels that the addition to the house, which is primarily to the rear of the existing structure, could be supported. The District Plan does note that maintaining the existing symmetry of the original building is important as well as ensuring the addition is complimentary in terms of mass, materials, ratio of solids to voids (walls to windows) and colour. Architectural drawings will be required by the Committee to review these details prior to our support of the addition.

2) Construct a new double garage in the side yard beside the existing home connected by an adjoining archway over a new driveway, and construct a triple garage behind that with additional parking and a turnaround between the two structures.
According to the District Plan, the construction of any new building requires that it be compatible with the character of the adjoining properties and the streetscape. Property owners are encouraged to work with existing buildings, altering and adding to them in a sympathetic fashion rather than resorting to demolition and reconstruction. Garages are encouraged to be located at the rear or on an inconspicuous side of the building, limited in size and scale to complement the existing building and neighbouring property.

The width of a new residence should generally be less than the depth of the building in order to avoid excessively dominant facades and to encourage the retention of space around buildings. It is also important to maintain existing building and space rhythms within the streetscape. Garages, in particular, are best located away from front facades.

The above recommendations taken directly from the District Plan do not support the construction of a garage in the side yard. As there is already an existing garage on the property that is primarily at the rear on the northeast corner, the Committee recommends that the applicant explore the possibility of enlarging this garage slightly behind the house.

The Committee also notes that a previous application in 1998 by Mr. Sellens to enlarge the existing garage significantly was not supported by the former Town of Dundas and the District Committee."

In a related issue to the overall development of the property the applicant also subsequently sought to overcome the restrictions imposed by the Town of Dundas’ Zoning By-law provisions. The By-law provides for a maximum area for detached ancillary buildings (such as detached garages) in this residential zone. The applicant arranged that the proposed new garages be linked to the main building mass of the house by a “string” of connecting roofed porticos. While satisfying the Zoning By-law provisions, the building mass arranged around an elongated “L” shaped plan is out-of-keeping on this residential lot and the designated heritage conservation district generally.

Following further discussion with the applicant, and despite staff and district advisory Committee advice to retain a design professional to assist in providing a suitable architectural response, the applicant requested that the application be considered as submitted.

From review of the applicant’s hand drawn plans and elevations the applicant proposes the following:

- an addition to the existing residence to accommodate a new bedroom.
- an addition to the existing residence to provide for a new portico.
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- an attached two-car garage accessed by the new portico.
- a linking portico from the proposed new attached two-car garage.
- a new attached three-car garage accessed by the linking portico.
- installation of a new driveway to the two-car garage.
- installation of a motor court turn-around accessed by the new driveway.
- the retention of an existing garage.
- partial demolition and alteration to a front stone wall to permit a new entrance and driveway.
- the installation of a new metal gate.
- the removal of one or more trees.

ANALYSIS/RATIONALE:

This permit application has been considered in the context of the Cross-Melville Heritage Conservation District Guidelines and current heritage conservation planning practice.

Key factors in the evaluation of any change affecting a heritage building or its setting are “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 a heritage feature).

The proposed addition will result in displacement effects through loss of valued heritage fabric on the south elevation and loss of the setting of the existing house through development of the grassed grounds to the south of the residence. The proposed new development, alterations, partial demolition and loss of lawn and plantings is considered to be too extensive, causing loss of heritage fabric, disruption of the heritage setting of the 1840’s structure and landscape and general over-intensification of the subject site.

Accordingly, the submitted heritage permit application is considered to be contrary to the intent of the former Town of Dundas Official Plan and the Council approved Heritage Conservation District Plan and has no precedent elsewhere in the designated heritage conservation district. (See “Policies affecting Proposal” for further elaboration.)

Staff has indicated to the applicant the scope of acceptable development capable of being accommodated on site and in keeping with the designated heritage district. These are accounted for in Recommendations b) and c) of this staff report.

ALTERNATIVES FOR CONSIDERATION:

In addressing alternatives for consideration these can only be reasonably related to the information or lack thereof contained in the permit application. The proponent is proposing two forms of new building: one related to a domestic addition to provide more
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living accommodation and the other related to the storage of motor vehicles. These are addressed separately below as part of alternative considerations.

Accordingly there are three alternatives for consideration as follows:

1. **Approval of the heritage permit application as submitted**
   The application proposes a conjoined and extensive building mass and form that is out of keeping with the heritage conservation district and would be contrary to triple bottom line, the policy intent of the Official Plan and specific guidelines contained in the Cross-Melville Heritage Conservation District Plan.

   If the Committee sees any benefit to this form of building and construction activity the heritage permit should only be approved subject to the condition that:

   The applicant have detailed plans and drawings prepared by a suitably qualified design professional and submitted for approval by staff of the Development Planning and Real Estate Division and the Cross-Melville Heritage Conservation District Advisory Committee.

   Staff does not support this alternative.

2. **Approval in principle of the master suite only as submitted**
   Staff has indicated verbal and written support in principle for the construction of this form of addition towards the rear of the existing structure. This would allow the applicant to enjoy enhanced living accommodation and would be in keeping with prior approvals elsewhere in the district.

   The precise location, acceptable materials to be used and how building connections are to be made to the existing structure have not been supplied to staff despite repeated requests for such information. Accordingly, staff and the Cross-Melville Heritage Conservation District Advisory Committee have been unable to assess the extent of any damage that may be caused to existing heritage building fabric such as the stone work and openings contained in the south and east elevations of the existing building.

   Staff would support this alternative, in principle, (construction of a master suite) subject to refinement of precise location and the submission of detailed plans and drawings prepared by a suitably qualified design professional.

   This alternative has been accommodated in Recommendation b) of this report modified only by the submission of a new heritage permit application.
3. **Approval in principle of the two and three bay garages only**
   The construction of two garage structures accommodating five vehicles (in addition to an existing garage on the property) together with linking porticos account for the extensive building mass and form that is out of keeping with the heritage conservation district. As discussed previously, approval of the construction of two garage masses, together with retention of the existing garage, results in a total of three structures that are considered to be excessive in any stable residential environment. Approval of such construction would be contrary to triple bottom line, the policy intent of the official plan and specific guidelines contained in the Cross-Melville Heritage Conservation District Plan.

   If the Committee sees any benefit to this form of building and construction activity the heritage permit should only be approved subject to the condition that:

   The applicant has detailed plans and drawings prepared by a suitably qualified design professional and submitted for approval by staff of the Development Planning and Real Estate Division and the Cross-Melville Heritage Conservation District Advisory Committee.

   Staff does not support this alternative.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

- **Financial** - Not applicable.
- **Staffing** - Not applicable.
- **Legal** - The application has been considered within the context and provisions of the *Ontario Heritage Act*.

**POLICIES AFFECTING PROPOSAL:**

**The Official Plan of the former Town of Dundas**

The Official Plan of the former Town of Dundas contains principles and policies respecting heritage resources and their management. General Principle 1.5.5 Heritage Resources states that:

“The central and older areas of Dundas, particularly along the main shopping district of King Street West and the Cross-Melville Heritage District, contain numerous attractive historic buildings which contribute strongly to Dundas’ unique heritage character and sense of place. A major objective of the plan is to preserve the overall character of these heritage areas and to provide a design framework for appropriate new development within a historic context.”
The overdevelopment and intensive scale of construction on the subject heritage property would not be in keeping with this principle.

Section 1.6.1, Vision, also presents a vision of Dundas that is characterized in part by a “strong heritage character”. Section 1.6.2, Guiding Principles, also states that:

- “Dundas’ strong sense of place and community will be fostered by preserving the natural, cultural and built heritage of the Town”;

and that

- “high quality urban design will be fostered to create a strong sense of place, and to ensure that new development is compatible with the scale and character of older areas of the Town:”

The intensive scale and design of structures on the subject heritage property, as proposed in the heritage permit application, would not further the vision or satisfy these guiding principles.

Section 1.7, Strategic Development Concept, of the Plan also sets out to provide a context for the overall land use plan. Section 1.7.9 addresses the Cross-Melville Heritage District, noting that it is a “unique residential neighbourhood”, and intensification must be undertaken with particular regard for “preserving the heritage character of the area” and ensuring “that the outside structure and design of buildings is not compromised”.

The intensification of use on this property for the storage of motor vehicles (a minimum of six vehicles) in three structures would compromise the setting and appearance of the lot and the heritage character of the district.

Section 2.4, Historic and Architectural Resources, of the Official Plan, provides a goal, a number of objectives and a variety of policies for preserving, restoring and maintaining significant buildings and districts. The heritage permit application and proposed construction would not satisfy the objectives in Section 2.4.2.1 of preserving and restoring this heritage district.

The Cross-Melville Heritage Conservation District Plan
The Council of the former Town of Dundas approved a District Plan for the Cross-Melville Heritage Conservation District that included goals, objectives and guidelines for the conservation and management of this sensitive heritage area.
Section 6.0 of the District Plan provides guidance in the construction of alterations, additions and new construction. The intent of the guidelines “is not to stop change but to manage change in a way that will protect valued heritage features as well as encourage sensitive new design”. Additionally, the guidelines seek to ensure that:

- “Historical building materials and architectural features are protected; and,

- Character defining elevations, especially those that face the street are not radically changed”.

The applicant proposes alterations to the prominent south side elevation of the existing 1840’s stone structure that comprise the addition of a new sunroom and a master bedroom. The applicant has declined to provide any construction details of how these additions are to be tied into existing heritage construction materials or how the bedroom suite will be accessed from the existing house. Existing exterior walls would eventually become interior walls of the new addition and require the cutting in of “a new entrance and stairway” as a minimum (see drawings attached as Appendix A to Report PED06148). The applicant has declined to inform staff and the District Advisory Committee about how this will be accomplished. Accordingly, the two guiding principles are not satisfied.

Section 6.2, Alterations to Existing buildings and Sites, states in a subsection entitled Features and Spaces around Buildings that:

- “Attempt to preserve and maintain driveways, walkways, fences and walls that contribute to the special character of the space around a heritage building.

- Design and locate new parking spaces so that they are unobtrusive as possible, ensuring that front lawns and tree plantings are maintained.”

The applicant is proposing partial removal of a stone wall to create a new driveway and access to a new motor court and garages. The new facilities and structures will occupy a substantial portion of a grassed area located at the side of the building. Soft landscaping will be lost to paved hard surfaces. The submitted drawings indicate the loss of a tree but do not indicate the extent and drip lines of affected trees or the affects of soil compaction on tree roots. Accordingly, the guidelines have not been adequately satisfied.

Section 6.3, Additions to Buildings, notes in the introduction that “Exterior additions have the potential to radically alter the appearance of a heritage building”. The guidelines indicate that new additions should be constructed in a way that:

- “ensure the continued protection of distinguishing architectural features and do not radically change, damage, obscure, destroy or detract from such features.”
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The guidelines expand on this by advising that:

- “Exterior additions, including garages, balconies and greenhouses are encouraged to be located at the rear or on an inconspicuous side of the building, limited in size and scale to complement the existing building and neighbouring property.

- Additions to structures with symmetrical façades should avoid creating imbalance and asymmetrical arrangements in building form”.

The proposed sunroom, portico and two-car garage do not satisfy these guidelines as they are expansive in extent, located on a conspicuous side of the building and are asymmetrical in elevation, conflicting with the symmetrical elevation of the 1840’s structure.

Accordingly, the submitted heritage permit application is considered to be contrary to the intent of the former Town of Dundas Official Plan and the Council approved Heritage Conservation District Plan. The proposed new development, alterations, partial demolition and loss of lawn and plantings is considered to be too extensive, causing loss of heritage fabric, disruption of the heritage setting of the 1840’s structure and landscape and general over-intensification of the subject site.

The form of development proposed has no precedent elsewhere in the designated Heritage Conservation District and would be out of keeping with the high level of overall heritage amenity that has been achieved over the past decade and a half.

Staff has indicated to the applicant the scope of accepted development capable of being accommodated on site and in keeping with the designated heritage district. These are accounted for in Recommendations b) and c)

RELEVANT CONSULTATION:

The former Town of Dundas established a district advisory committee to advise Council on heritage conservation matters within the designated district. At its meeting of March 14, 2006, the Cross-Melville Heritage Conservation District Advisory Committee considered the heritage permit application HP2006-008. The applicant, Mr. Sellens, was in attendance and presented the proposed changes and alterations. The minutes of that meeting were recorded by Ms. Donna Lavin, Chair, as follows:

“2. Application for 31 Cross Street - Mr. Sellens - presented a description of his proposal from his working drawings which were unchanged from our February Meeting.
In summary:

(1) The existing over double garage would remain.

(2) There would be an addition to the south and east sides of the existing house to accommodate a new sunroom (approx.) 15 ft. wide and main floor master suite size to be determined. Details of connection and affect on the existing stone structure not specified.

(3) A new driveway would be created on the south side beside the sun room to access a motorcade behind a new double garage.

(4) There would be a new double garage set back at an undetermined distance from the front of the existing house and the width of a driveway to the south of the new sunroom.

(5) There would be a triple garage installed across the back of the property at the top of the ravine, on the south east side to accommodate an antique car collection.

(6) All of these new structures would be joined by a roof and column support, both across the drive and along the south side of the property.

Mr. Sellens indicated he was frustrated with the process.

Mr. Cuming reminded Mr. Sellens that the delays he has incurred were a result of insufficient plan details and information.

Libby Toew reminded Mr. Sellens of his agreement at the February meeting to provide full details to this Committee for their consideration.

Ms. Neufeld asked Mr. Sellens if he would like to stop the process by way of a written letter of request until such time as he was able to provide all of the necessary details and he declined. He wishes to proceed with his information as submitted.

Following a discussion the Committee agreed that this type of addition has no precedent anywhere within the Heritage District. With the lack of details defined, we could not support the submission, however, we could likely support the addition to the structure to provide a main floor master suite and sunroom, and we recommend that Mr. Sellens increase the size of the existing garage to a maximum of triple (which is the largest elsewhere within the District) and that as recommended in the District Plan the garage be kept at the rear of the property. Ref.6.3.
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An integral element of the Heritage District are the spaces that surround the existing building and enhance their overall appearance. The stone wall being a Heritage component of the property should be restored and retained. Ref.6.2.

While the Committee understands what Mr. Sellens would like to achieve, their responsibility is to make recommendations that are compliant with the District Plan, which was implemented to preserve and protect this historically significant collection of homes and, therefore, we strongly recommend that this application not go forward.”

At its meeting of April 27, 2006, the Hamilton LACAC (Municipal Heritage Committee) considered this heritage permit application for additions and alterations together with a staff report on this matter and approved the recommendations and advice as contained in Page 1 of this report.

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.

The recommendation to deny this application would achieve the following triple bottom line objectives as follows:

Community Well-Being is enhanced. ☑ Yes ☐ No
Arts, culture, archaeological and cultural heritage are not supported and enhanced.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are not protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Hamilton’s high-quality environmental amenities are not maintained and enhanced.

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

Denial of this application will conform to sound heritage practice and established Council policies and guidelines, hence illustrating Council’s commitment to heritage programmes and policies.

:DC/dkm
Attachs. (3)
Front (West) Elevation

South Side Yard, Location of Proposed Addition and Garage
North Side Yard and Existing Garage at Rear

South Side Elevation