SUBJECT: Heritage Permit Application (HP2009-030) Under Part V of the Ontario Heritage Act to Erect a Building at 1014 Beach Boulevard, Hamilton (Hamilton Beach Heritage Conservation District) (PED09285) (Ward 5)

RECOMMENDATION:

That approval be given to Heritage Permit Application (HP2009-030) by John L. Ulbinas, Owner, to permit 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, 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 this approval expires November 30, 2011.
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 erection or demolition of any structures or buildings on the property. The applicant is applying for the erection of a new building, in the form of a single detached residence, comprising a two-storey frame structure. The subject application satisfies the intent of the applicable Heritage Conservation District (HCD) guidelines. The Hamilton Municipal Heritage Committee has advised approval of the proposed work, and staff is recommending approval of the application, as submitted.

BACKGROUND:

The subject property at 1014 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 the demolition of any existing building or structure and/or the erection of a new building or structure. Demolition and construction are not approvals delegated to staff, and only the Council of the Municipality may issue such permits.

The existing lot is vacant, with no extant structures (Appendix “B”). The work subject to this heritage permit comprises the erection of a new, two-storey, single detached dwelling of frame construction with attached two-car garage (Appendix “C”). The three-bay east (front) elevation will comprise 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 Heritage Permit Review Subcommittee and the Hamilton Municipal Heritage Committee reviewed this application and advised approval of the proposed new construction.

ANALYSIS/RATIONALE:

According to the Ontario Heritage Act, Section 42, no Owner of property designated under Section 41 of the Act shall demolish or remove a building or structure on the
property, or permit the demolition or removal of a building or structure on the property unless the Owner applies to the Council of the municipality in which the property is situate and receives consent, in writing, to the demolition or removal. The Council, after consultation with its Municipal Heritage Committee may, under Section 42(4):

- Consent to the application;

- Consent to the application, subject to such terms and conditions as may be specified by the Council; or,

- Refuse the application.

If Council refuses to approve the application, the Owner can appeal the matter to the Ontario Municipal Board.

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 recommends 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 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.

If construction of the new building is carried out according to the recommended conditions, it is anticipated that the structure will conform to district guidelines, and shall contribute positively to the district and streetscape.
ALTERNATIVES FOR CONSIDERATION:

1. **Refuse the heritage permit application for demolition.**

   Refusal of the heritage permit to erect the new residential structure does not contribute to the built heritage landscape of the Hamilton Beach Heritage Conservation District (HCD), and contravenes the Hamilton Beach HCD Guidelines that permit the construction of new buildings on vacant lots that fall within the appropriate design parameters.

2. **Approval of the heritage permit for demolition with no conditions.**

   Approval of the heritage permit with no conditions will require all details on the proposed building to be finalized prior to approval of the permit, and will not place a time-limit on the approval. The former is an onerous burden on the applicant, both in requiring all details to be resolved prior to construction, when compromises in the design are sometimes found, and any subsequent non-compliance with the approved Heritage Permit places the applicant in contravention of the **Ontario Heritage Act**. The absence of a set lifespan for a Heritage Permit also places the City at some future liability, and does not conform to other building-related permits issued by the City.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

**Financial** - N/A.

**Staffing** - N/A.

**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: 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.” Within 90 days after receipt of an application under Subsection (1), the Council, after consultation with its Municipal Heritage Committee may: i) consent to the application; ii) consent to the application, subject to such terms and conditions as may be specified by the Council; or iii) refuse the application. The Ontario Heritage Trust must be notified of the Council decision.

If after 90 days no decision has been made by Council, the application is deemed to have been approved.
Policies Affecting Proposal:

City of Hamilton Official Plan

Subsection C.6-Heritage Resources: The City of Hamilton OP 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 Urban Hamilton 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.

Provincial Policy Statement

The construction of a new residence on the subject property will require other approvals (site plan) pursuant to the Planning Act. Any planning application approvals would have to take into account matters of provincial heritage interest under Subsection 2(d) of the Planning Act, as well as the Provincial Policy Statement. The Provincial Policy Statement specifies that “Significant built heritage resources and significant cultural heritage landscapes shall be conserved” (Section 2.6.1). The proposed construction is in conformity with these provincial policies because the district plan supports the erection of new buildings within the Hamilton Beach Heritage Conservation District that conform to the guidelines of the district plan.

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 IV and Part V of the Ontario Heritage Act. At its meeting of September 24, 2009, the City of Hamilton MHC considered this application, together with a staff report, and recommended to Council that the subject application be approved, subject to the following conditions:
Further design, material, and colour details are to be confirmed, to the approval and satisfaction of City Planning staff, including entry and garage doors, windows, soffits, fascia, eaves and downspouts, vents, chimneys, foundation, trim, hardware, and lights; and,

This approval expires November 30, 2011.

These conditions are included in the recommendation for approval.

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 approve 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 supported and enhanced.

Environmental Well-Being is enhanced. ☑ Yes □ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes □ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes □ No
Yes, as noted above. These are complementary benefits.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes □ No
The creation of a respectful, desirable, and supportive workplace through the practice of effective and consistent process to ensure quality work and product.

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