CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:   Chair and Members
      Planning Committee

WARD AFFECTED: WARD 5

COMMITTEE DATE: June 7, 2011

SUBJECT/REPORT NO:
Heritage Permit Application HP2011-010 Under Part V of the Ontario Heritage Act for
Erection of Structures at 908 Beach Boulevard (Hamilton) (PED11106) (Ward 5)

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

PREPARED BY:
Meghan House
(905) 546-2424, Ext. 1202

SIGNATURE:

RECOMMENDATION:

That Heritage Permit Application HP2011-010 be approved for the erection of a new
single-detached residence, and detached garage, on the designated property at 908
Beach Boulevard (Hamilton Beach Heritage Conservation District) (Hamilton), as shown
on Appendix “A” to Report PED11106, subject to the following conditions:

(a) That the specifications of the cladding materials for the new house and garage
shall be submitted, to the satisfaction and approval of the Heritage Permit
Review Sub-committee and Planning staff, prior to submission as part of any
application for a Building Permit.

(b) That the dimensions and surfacing materials for the new driveway and any
walkways, patios, or other hard-surface areas shall be submitted, to the
satisfaction and approval of Planning staff, prior to installation.

(c) That the dimensions, design, and materials for any new fencing and gates shall
be submitted, to the satisfaction and approval of Planning staff, prior to
installation.
(d) That as many existing trees as possible shall be retained, and/or that one to three new trees of a minimum caliper of 55mm and of a species consistent with the City of Hamilton’s Tree Species and Recommended Use Index shall be planted within one year of occupancy of the new dwelling.

(e) That a Tree Management Plan, Tree Protection Plan, Landscape Plan, and/or other plan depicting the removed, retained, and new trees, including the caliper size, locations, and species shall be submitted, to the satisfaction and approval of Planning staff, prior to any grading or tree removals.

(f) That detailed elevation drawings for the new garage, consistent with the submitted concept drawing, shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.

(g) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.

(h) That construction and site alterations, in accordance with this approval, shall be completed no later than May 31, 2013. If the construction and site alterations are not completed by May 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 908 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 detached garage on a vacant lot. This application is considered to be worthy of support subject to certain conditions related to tree protection and construction materials. 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 8.*

**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 908 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 applicant has applied for consent to erect a new, 2-storey, single-detached dwelling, with a detached 1-storey garage, with loft, to the rear (the plans and elevations for the proposed new construction are attached as Appendix “C”). The proposed new dwelling will be built of frame construction with a front gable, a front porch, and a Palladian-style window in the front gable. The applicant has proposed vinyl board-and-batten style cladding and vinyl windows on the house and the garage, with vinyl simulated shake cladding in the front gable of the house.

The Heritage Permit Review Sub-committee of the City of Hamilton Municipal Heritage Committee reviewed this application on March 30, 2011. The Sub-committee supported the proposed site plan and the design of the new house, but advised that they did not support the use of vinyl siding and the height of the garage, as per the submitted sketch (19'-0.5" to 19'-10.5"). Subsequently, the overall height of the garage, with loft, was reduced to 16'-0". At its meeting on May 19, 2011, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the application.
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 not 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 not 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 2-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.

**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*. At its meeting of March 30, 2011, the Heritage Permit Review Sub-committee of the HMHC considered this application, together with staff memoranda and comments from the applicant. The Sub-committee supported the proposed site plan and the design of the new house, but advised that they did not support the use of vinyl siding and the height of the garage (approximately 19'-0.5" to 19'-10.5"). The applicant was requested to investigate other cladding options and report back to the Sub-committee. The applicant, subsequently, submitted a sketch of the garage and loft depicting an overall height of 16'-0".

The Sub-committee recommended approval of the subject application provided that other options for the cladding were considered. Accordingly, staff has recommended Condition (a) to allow for further discussion between staff, the applicant, and the Heritage Permit Review Sub-committee regarding the cladding. The Sub-committee expressed support of the other conditions recommended by staff (Conditions (b) through (f)) regarding the retention of existing trees and/or planting of new trees, and the staff approval of materials and details regarding the driveway, walkways, fencing, and final garage design. These conditions are included as part of the recommended approval. At its meeting on May 19, 2011, the Hamilton Municipal Heritage Committee affirmed this recommendation, and advised conditional approval of the application as per the recommendations of this Report.
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: The existing lot is currently vacant, except for several mature trees. These trees are primarily non-native and invasive species; however, the existing trees screen the Skyway and contribute to the landscape character of the area. The existing trees will be displaced by the grading and construction. Staff will review a Tree Management Plan as a condition of any Heritage Permit approval and through Site Plan control under the Planning Act to ensure retention of some of the existing trees and/or appropriate planting of new trees.

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 height, width, massing, and setbacks. The design of the new dwelling does not replicate a historical style, but incorporates sympathetic features, such as a front-facing gable roof, a central Palladian-style window, a front porch constructed of wood, and a mix of cladding textures.

The applicant has proposed siding, simulated shakes, windows and trim made of vinyl. The use of synthetic materials is discouraged in the District Plan, and has not been approved under any previous Heritage Permit applications for new construction within the District. The District Plan encourages a variety of cladding materials, including wood (clapboard, board-and-batten or shingles), stucco, pebble-dash or rough-cast. Contemporary engineered wood products, such as pre-finished wood and fibre-cement board, have been permitted under previous Heritage Permit approvals. Given the advice of the Heritage Permit Review Sub-committee and the District Guidelines, staff cannot support the use of vinyl cladding for the proposed new construction. Accordingly, staff has included a condition in the recommendations to allow for further discussions between staff, the Heritage Permit Review Sub-committee, and the applicant regarding the use of a cladding material other than vinyl.

The garage is set back to the rear of the property, and the submitted concept drawing depicts a building of an appropriate height and scale. Staff is recommending conditions with respect to the submission of detailed garage elevations, materials for driveway surfacing and fencing, and a plan for the retention of existing trees and/or compensation for the loss of trees.
Accordingly, staff recommends conditional approval of Heritage Permit Application HP2011-010, with an expiry date of May 31, 2013. An expiry date of two years after approval is standard on all approved Heritage Permits, and the May 31, 2013, 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 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. The alternative is not recommended, as it would prevent the review by staff and the Heritage Permit Review Sub-committee 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 & 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

:MH
Attachs. (3)
Location Map

File Name/Number: HP2011-010
Date: March 31, 2011
Appendix "A"

Plan: N.T.S.

Planner/Technician: MH / SW

Subject Property

908 Beach Boulevard, Hamilton.

Ward 5 Key Map N.T.S.
Existing lot and adjacent house to the south