TO: Chair and Members
Planning Committee

WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: December 7, 2010

SUBJECT/REPORT NO:
Formal Membership of the Heritage Permit Review Subcommittee (City Wide) (PED10262) (City Wide)

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

PREPARED BY:
David Cuming
(905) 546-2424, Ext. 1215

SIGNATURE:

RECOMMENDATION:

(a) That Council formally establish the membership of the City of Hamilton Heritage Permit Review Subcommittee, together with the mandate, attached as Appendix “A” to Report PED10262.

(b) That a call for applications for citizen appointments on the City of Hamilton Heritage Permit Review Subcommittee be appropriately advertised.

(c) That the Selection Committee includes the Heritage Permit Review Subcommittee within their standard process for the selection of citizens to fill vacancies on various Agencies, Boards, and Committees.

(d) The Selection Committee shall include additional “Members-at-Large” on the City of Hamilton Heritage Permit Review Subcommittee in the event that there are insufficient members from designated Heritage Conservation Districts, with a maximum not to exceed the total membership of ten (10) members.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
(e) That Report PED10262 be forwarded to the Hamilton Municipal Heritage Committee for information.

EXECUTIVE SUMMARY

A request has been made to staff to re-establish the Mill Street Heritage Conservation District Advisory Committee established by the former Town of Flamborough. In considering this request, Planning staff has consulted with Clerk’s with respect to process and staffing implications. Staff has reviewed the matter, including subcommittee organization, both prior to and post amalgamation.

While the value of community engagement and volunteerism is recognized, staff is of the opinion that the current system of Heritage Permit application review works efficiently and in a cost-effective manner. Establishing additional subcommittees on an area basis is considered to be unmanageable with respect to cost and staffing implications.

Staff is of the opinion that the current informal membership of the Heritage Permit Review Subcommittee, essentially without an interview process or Council ratification, can be made more robust with a system of public advertising for membership, formal interviews by Council’s Selection Committee, and final Council ratification.

Staff is recommending that the Mandate and Subcommittee Membership, attached as Appendix “A”, be approved by Council. Essentially, membership is being proposed to include representation from Designated Districts based on the following:

- Two (2) Municipal Heritage Committee Members, one of whom shall be the Chair;
- Two (2) Members-at-Large;
- One (1) representative from St. Clair Avenue, Hamilton;
- One (1) representative from MacNab Charles, Hamilton;
- One (1) representative from St. Clair Boulevard, Hamilton;
- One (1) representative from Durand-Markland, Hamilton;
- One (1) representative from Mill Street, Waterdown; and,
- One (1) representative from Hamilton Beach, Hamilton.

This Subcommittee membership is anticipated to allow appropriate representation of local heritage and property owners’ interests. Where there is inadequate representation in a designated Conservation District, staff is also advising that the Selection Committee be directed to include other qualified Members-at Large, as required.

Alternatives for Consideration - See Page 7.
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: There are no financial implications.

Staffing: The Subcommittee will be staffed at current levels, and no new staffing is required.

Legal: There are no legal implications.

HISTORICAL BACKGROUND (Chronology of events)

Following municipal amalgamation in 2001, staff established a framework for consideration of heritage matters under the Ontario Heritage Act. This included re-establishment of a newly constituted Local Architectural Conservation Advisory Committee (LACAC) with a number of supporting subcommittees to assist in reviewing and advising on Heritage Permit applications, education and research, policy, and design matters, as follows:

- **Policy and Design Review Subcommittee** advises on matters primarily under the Planning Act, Environmental Assessment Act, and the Niagara Escarpment Planning and Development Act;

- **Inventory Subcommittee** advises on matters relating to preparation of inventory and research material;

- **Permit Review Subcommittee** advises on matters relating to required permits under Part IV and those districts under Part V that do not have a District Advisory Subcommittee; and,

- **Communication and Interpretation Subcommittee** advises on matters relating to celebration of cultural heritage matters.

In addition, two legacy Subcommittees were formally recognized and carried over from the former Town of Dundas and the former Town of Flamborough, namely the Cross-Melville Heritage Conservation District Advisory Committee (Dundas), and the Mill Street Heritage Conservation District Advisory Committee (Waterdown). Both Subcommittees served to advise on matters relating to required Heritage Permit applications under Part V of the Ontario Heritage Act relating to their respective districts. Their advice was formally incorporated into staff reports on each Heritage Permit application that went forward to Council.

From 2001 to 2005, every Heritage Permit application was the subject of an individual staff report that was considered through the respective Subcommittee to LACAC, (now the Hamilton Municipal Heritage Committee), reported to the former Planning and
Economic Development Committee for recommendation, and eventually to Council as the decision maker under the Act. Following changes to the Ontario Heritage Act, which allowed for the delegation of Council approval authority for alterations to the Director of Planning, the Heritage Permit Review Subcommittee was formally brought into the Heritage Permit approval process as part of Staff Report PED05096(a), considered by the Planning and Economic Development Committee on December 6, 2005, and ratified by Council on December 14, 2005, as follows.

“(a) That, pursuant to the provisions of the Ontario Heritage Act, the power to consent to alterations to property designated under the Ontario Heritage Act be delegated to the Director of Development and Real Estate, Planning and Economic Development Department, as per the draft By-law attached as Appendix “A” to Report PED05096(a), subject to prior consultation with the Heritage Permit Review Subcommittee of the Hamilton LACAC (Municipal Heritage Committee), or, in the case of Heritage Conservation Districts, the Cross-Melville District Advisory Committee or the Mill Street District Advisory Committee, as applicable.

(b) That this delegation authority does not apply, nor is it extended to, any proposed decision by the Director of Development and Real Estate that is not in accordance with the recommendation of the Hamilton LACAC (Municipal Heritage Committee), the Heritage Permit Subcommittee, or any of the Conservation District Advisory Committees.

(c) That the draft By-law, attached as Appendix “A” to Report PED05096(a), which has been prepared in a form satisfactory to Corporate Counsel, be enacted by Council.”

Since that time, the Heritage Permit Review Subcommittee has successfully continued to function, as intended, and has advised on between 50 and 80 Heritage Permit applications a year, with meetings held on a monthly basis at City Hall, usually the first Wednesday of every month. In certain instances, it has met on a bi-weekly basis to deal with complex or time-driven projects, such as in the case of the re-development of the Lister Block and the refurbishment of City Hall. The Subcommittee is only advisory in nature, and does not make decisions. Typically, staff report on the applications to the Heritage Permit Review Subcommittee, assisted by a written summary of issues, plans, drawings, and power point presentation. Applicants are encouraged to be present, but this is left to their own discretion.

In October, 2010, correspondence was received from a local property owner (see Appendix “B”) with a request to re-establish the Mill Street Heritage Conservation Advisory Committee. The consideration of this request, together with some recent confusion arising from an informal but non-recognized group in the St. Clair Avenue-St. Clair Boulevard area, was considered by staff as an appropriate time to review the membership requirements for the Heritage Permit Review Subcommittee, and what staffing support levels could be accommodated.
POLICY IMPLICATIONS

There is no legal requirement for the establishment of a Heritage Permit Review Subcommittee under the Ontario Heritage Act. Under Part IV of the Ontario Heritage Act, the Municipal Heritage Committee’s role is “to advise and assist the Council on matters relating to this Part, matters relating to Part V, and such other heritage matters as the Council may specify by By-law.” In certain instances, roles are clearly prescribed as to when and how advice and assistance are to be sought. The City of Hamilton Municipal Heritage Committee is expected to fulfil all its legal functions, as prescribed under the Act, and Council has passed such a By-law to this effect. These are not discussed further in this Report.

The Act is silent on the establishment of any form of Municipal Heritage Committee Subcommittees. Past practice in many Ontario municipalities, including the former municipalities prior to amalgamation, indicates that these have helped in successfully addressing the variety of heritage conservation issues that a Municipal Heritage Committee may be called to advise upon.

Specific Strategic Policy direction is addressed in the discussion under the Corporate Strategic Plan.

RELEVANT CONSULTATION

Clerk’s has been consulted and has advised on staffing matters and process issues. There has been no consultation with the Municipal Heritage Committee in the preparation of this staff report, as this is primarily an internal administrative matter.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Following Council’s delegated approval authority for Heritage Permits being assigned to the Director of Planning, Planning staff has administered and managed approximately 277 Heritage Permit applications since 2006. Of these, approximately 46 (or 16%) originate within the Mill Street Heritage Conservation District. The lowest number of Heritage Permit applications received in the District was 7, in 2007; and the highest is 12 in the current year, 2010. All have been managed expeditiously by staff and the current Heritage Permit Review Subcommittee, and well within the allowed 90-days under the Ontario Heritage Act. Additionally, all Heritage Permit applications within the Mill Street Heritage Conservation District have been approved, aside from the installation of City parking meters.
Typically, membership of the Heritage Permit Review Subcommittee has included two Municipal Heritage Committee members (one of whom Chairs the Subcommittee). The Heritage Permit Review Subcommittee also comprises six volunteers that were not formally selected to sit on the Municipal Heritage Committee, and some of whom were informally advised as part of the Council Selection Committee deliberations to consider participation in the Heritage Permit Review Subcommittee’s work. There is currently no formal selection procedure in place for the Heritage Permit Review Subcommittee.

Following public advertisements for membership of the Mill Street Heritage District Conservation Advisory Committee in 2006, no applications were received. Consideration of Heritage Permit applications in this District was then assumed by the Heritage Permit Review Subcommittee, and this process has continued successfully for the past four years.

Currently there are seven Heritage Conservation Districts designated under Part V of the *Ontario Heritage Act* in the City of Hamilton:

- St. Clair Avenue, Hamilton (By-law: 86-125); 23 properties.
- Cross-Melville, Dundas (By-law 90-3899); 38 properties.
- MacNab Charles, Hamilton (By-law: 90-144); 10 properties
- St. Clair Boulevard, Hamilton (By-law: 92-140); 38 properties.
- Durand-Markland, Hamilton (By-law: 94-184); 52 properties.
- Mill Street, Waterdown (By-law 96-34-H); 130 properties.
- Hamilton Beach, Hamilton (By-law: 00-135); 57 properties.

Aside from the current Cross-Melville Conservation District Advisory Committee, which comprises a small number of local residents supported at monthly meetings by Heritage Planning staff, none of the remaining six Heritage Conservation Districts have Advisory Committees established by Council.

The current Heritage Permit Review Subcommittee, however, does have quasi representation for two of the designated districts. Of the six current “public” members, a Flamborough resident, who was a member of the former Town of Flamborough LACAC prior to amalgamation and is a current member of the Waterdown Business Improvement Area, speaks to Heritage Permit matters in the Mill Street area. Accordingly, both heritage interests and community interests in the Mill Street Heritage Conservation District are well represented on the Heritage Permit Review Subcommittee.

Additionally, the current Heritage Permit Review Subcommittee includes two members who live in the St. Clair Avenue area, who bring knowledge and community awareness of the two designated St. Clair districts, St. Clair Avenue, and St. Clair Boulevard. There is no specific representation of the remaining four districts (not including Cross-Melville), and the remaining members are generally drawn from Hamilton, Dundas, and Ancaster and have, in the past, served on a number of volunteer heritage committees.
Notwithstanding the success of the current Heritage Permit Review Subcommittee, staff recognizes that there may be a wider interest in membership of this Subcommittee based upon specific Heritage Conservation District interests, as indicated by the recent request respecting Mill Street. Accordingly, staff is recommending that the Heritage Permit Review Subcommittee be enabled to continue its important function (see Appendix “A”), but with a formal membership comprising the following:

- Two (2) Municipal Heritage Committee Members, one of whom shall be the Chair;
- Two (2) Members-at-Large;
- One (1) representative from St. Clair Avenue, Hamilton;
- One (1) representative from MacNab Charles, Hamilton;
- One (1) representative from St. Clair Boulevard, Hamilton;
- One (1) representative from Durand-Markland, Hamilton;
- One (1) representative from Mill Street, Waterdown; and,
- One (1) representative from Hamilton Beach, Hamilton.

Any applicant for a “district” position must be a property owner residing in the designated district. It is also being recommended that in the event that not all “district” positions are taken up, that the Selection Committee be given the flexibility to appoint additional Members-at-Large, as appropriate.

**ALTERNATIVES FOR CONSIDERATION:**
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

There are a number of potential alternatives to the recommended course of action. Three are discussed below.

*Dispense with the need for a Heritage Permit Review Subcommittee or District Advisory Committees and rely on staff advice only.*

The Heritage Permit Review Subcommittee is not a mandated requirement under the [Ontario Heritage Act](#). If the Heritage Permit Review Subcommittee was not reconstituted, there would be potential cost savings in terms of staff time needed to organize and attend evening meetings, prepare agendas, photocopy staff briefing notes, circulate required information, and other administrative duties. Minute-taking is currently undertaken by Heritage staff, and this forms part of the completed sign-off reporting form forwarded to the Director of Planning for approval.

The Heritage Permit Review Subcommittee does provide an opportunity for an engaged citizenry and an opportunity for volunteerism in the community. Applicants not successful in being appointed to the Municipal Heritage Committee are often advised to serve on an MHC Subcommittee to familiarize themselves with the activities of the MHC and the provisions of the [Ontario Heritage Act](#). Current Subcommittee members also
bring a variety of knowledge and expertise from an array of related disciplines that assist in the review of Heritage Permit applications, in addition to details on local conditions and context to specific Heritage Permit applications.

Staff does not consider this an acceptable alternative, as it does not promote civic or volunteer engagement.

**Establish District Advisory Committees for each of the designated Heritage Conservation Districts.**

In addition to the existing Heritage Permit Review Subcommittee and the Cross-Melville Heritage Conservation District Advisory Committee, six additional Heritage Conservation District Advisory Committees could potentially be formed to advise on Heritage Permit applications within their respective districts. This would allow an enhanced level of community engagement and opportunities for volunteerism.

Assuming a standard committee member format of 4-8 members, it is considered that the management of eight volunteer committees with regular meetings (every month or two months) would be well beyond the capacity of the two current Heritage Planning staff members to adequately service and manage. It is anticipated that there would be substantial demands on staff time and inherent costs in establishing barrier-free and geographically accessible meeting places, organizing and attending evening meetings, preparing agendas, photocopying staff briefing notes, circulating required information, and participating in other administrative duties.

While this alternative has the potential to promote civic or volunteer engagement, there are considerable demands on staff time and inherent overtime costs that make this alternative non-viable. It could also lead to poor service delivery.

**Re-establish District Advisory Committees for each of the designated Heritage Conservation Districts on an “as-requested” basis.**

This responds in part to the current request to re-establish the Mill Street Heritage Conservation District Advisory Committee. The former system that staff participated in was managed on an “as-needed” basis and was driven by Heritage Permit application demand. Experience has shown that interest in involvement on the former Heritage Conservation District Advisory Committee has slowly declined. Organizing meetings and co-ordinating applicant’s availability, as well as volunteers, fell to Heritage Planning staff, and made demands on staff time, especially attending evening meetings.

An “as requested” basis for the establishment of Heritage Conservation District Advisory Committees, if fully realized, essentially leads to the former alternative, which is beyond staff’s capability to appropriately administer and manage.
As with the previous alternative, this alternative has the potential to promote civic or volunteer engagement, but results in demands on staff time, inherent overtime costs, and poor service delivery that make this alternative non-viable.

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


**Skilled, Innovative and Respectful Organization**
- A skilled, adaptive and diverse workforce, i.e. more flexible staff
- More innovation, greater teamwork, better client focus
- An enabling work environment - respectful culture, well-being and safety, effective communication
- The proposed course of action recommended by staff recognizes our adaptability to react positively to an alternative course of action separate and apart from the status quo, build teamwork and enhance communication with others.

**Social Development**
- People participate in all aspects of community life without barriers or stigma
- The recommended action embraces a larger community of involved citizenry.

**Healthy Community**
- An engaged Citizenry
- The recommended action promotes an engaged and involved citizenry.

**APPENDICES / SCHEDULES**

- Appendix A: Heritage Permit Review Subcommittee: Mandate and Membership
- Appendix B: Request to re-establish Mill Street Heritage Conservation District Advisory Committee

:DC
Attachs. (2)
HERITAGE PERMIT REVIEW SUBCOMMITTEE: MANDATE AND MEMBERSHIP

**Mandate**

The Heritage Permit Review Subcommittee serves to:

Advise the Hamilton Municipal Heritage Committee, Cultural Heritage planning staff, and the Director of Planning on the consideration of Heritage Permit applications to alter designated heritage properties under Part IV of the *Ontario Heritage Act*; and,

Advise the Hamilton Municipal Heritage Committee, Cultural Heritage planning staff, and the Director of Planning on the consideration of Heritage Permit applications to alter properties within a Heritage Conservation District designated under Part V of the *Ontario Heritage Act*.

**Membership**

The Heritage Permit Review Subcommittee shall comprise the following members:

- Two (2) Municipal Heritage Committee Members, one of whom shall be the Chair;
- Two (2) Members-at-Large from the City of Hamilton;
- One (1) representative from St. Clair Avenue, Hamilton;
- One (1) representative from MacNab Charles, Hamilton;
- One (1) representative from St. Clair Boulevard, Hamilton;
- One (1) representative from Durand-Markland, Hamilton;
- One (1) representative from Mill Street, Waterdown; and,
- One (1) representative from Hamilton Beach, Hamilton.

In the event that there are insufficient applicants from designated Heritage Conservation Districts, additional “Members-at-Large” may be selected to serve on the City of Hamilton Heritage Permit Review Subcommittee provided that the maximum not exceed the total membership of ten (10) members.
-----Original Message-----
From: Andy MacLaren and Denise Reinhart
Sent: Thursday, October 21, 2010 2:22 PM
To: Muller, Joseph
Cc: Cuming, David; House, Meghan
Subject: A hard copy with signatures will be sent to you.

Dear Joseph Muller

My name is Andy MacLaren and I live at 37 Mill St. N. in the Heritage district of downtown Waterdown. As I discussed with you earlier, I am interested in applying to the Heritage District Advisory Committee and it is my understanding that the opportunity to apply for this committee occurs at the same time of the Municipal elections. It is also my understanding that at the last Municipal Election the Mill Street Heritage District Advisory Committee was discontinued because of a lack of interest. I would like to ask the City of Hamilton's Heritage committee to reinstate the Mill Street Heritage Committee for this years Municipal Elections because there are a number of people that are now living in the Mill Street Heritage District, that would be interested in joining the Mill St. Heritage District Advisory Committee.

Please see below a list of Mill Street residents that are interested in joining the Mill Street Heritage Advisory Sub Committee. If there is anything that I need to do, to move this process along, please let me know.

Thanks
Andy MacLaren

------------------------------------------------------------------------------------------------------------

Andy MacLaren
Mill ST. N. PO Box 343
Waterdown ON
L0R 2H0

Silvia Wray
807 Centre Road
R.R.2 Hamilton, ON
L8N2Z7

Mary Elizabeth Huxley
323 Dundas St. E.
Waterdown, ON
L0R 2H0
Rob Posavad
62 Mill St. N, PO Box 301
Waterdown, on
L0R2H0

Debbie Romancio
65 Mill St. N, PO Box 313
Waterdown, On
L0R 2H0