SUBJECT: Delegation of Council Consent to Staff for Alterations to Designated Property Under the Ontario Heritage Act (PED05096(a)) (City Wide)

RECOMMENDATION:

(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 Sub-committee 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.
EXECUTIVE SUMMARY:

Report PED05096 was considered by the Planning and Economic Development Committee (PEDC) at its meeting of October 4, 2005. The report addressed matters of heritage permit approval delegation under the Ontario Heritage Act. The matter was referred back to the Hamilton LACAC (Municipal Heritage Committee) for final review and comment following their initial review of the staff report and the accompanying delegation By-law. This revised Report PED05096(a) incorporates a minor amendment to the staff recommendation addressing the matter of any potential disagreement between staff and advisory committees on advice to refuse an alteration under the Ontario Heritage Act.

Recent changes to the Ontario Heritage Act provide for delegation powers relating to the consent or granting of alterations to designated property, either under Part IV or V of the Act. These may be delegated to a municipal employee or official of the municipality by By-law. Prior to delegating such power, the Act requires that the Municipal Heritage Committee be consulted. This matter was considered by the Hamilton LACAC (Municipal Heritage Committee) at its meeting of August 25, 2005 and again at its meeting of October 27, 2005.

The Committee indicated concern about delegation of approval authority to the Director of Development and Real Estate without the Hamilton LACAC (Municipal Heritage Committee) being provided an opportunity to advise on each and every application for alteration prior to approval by the Director. Staff advised that this ran counter to the principle of delegation and of expeditious and efficient service delivery. Regardless, the Committee, at its meeting of August 25, 2005, formally agreed to delegation but only “as advised by the Hamilton LACAC (Municipal Heritage Committee)”. Staff included this advice in the staff report to PEDC as Alternative 4.

Staff presented Alternative 3 as the preferred alternative and in order to address Hamilton LACAC (Municipal Heritage Committee) concerns included the following text as a condition of staff delegation: “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.”

Following consideration by PEDC, this matter was referred back to the Hamilton LACAC (Municipal Heritage Committee) for further review and final consideration. Following discussion, and in the interest of an efficient delivery of service, the Hamilton LACAC (Municipal Heritage Committee) accepted the staff recommendation with a minor amendment. The amendment provides that in the matter of a disagreement on the approval of a heritage permit application between an advisory committee and the Director, that the matter would be referred to the Hamilton LACAC (Municipal Heritage Committee) and PEDC for consideration. Staff also met with the Cross-Melville District Advisory Committee and explained the intent of the By-law. The Advisory Committee had no adverse comments.
Staff is recommending that, pursuant to Subsections 33(15) and (16) and Subsections 42(16) and (17) of the Act, a By-law be adopted with respect to delegated consents or approvals affecting property designated under Parts IV and V of the Act. It is recommended that powers of approval be delegated to the Director of Development and Real Estate.

Recognizing the concerns of the Hamilton LACAC (Municipal Heritage Committee), staff is also advising that the Heritage Permit Review Subcommittee of the Hamilton LACAC (Municipal Heritage Committee) or, in the case of designated Heritage Conservation Districts, the Cross-Melville District Advisory Committee or the Mill Street District Advisory Committee be consulted on all applications for alterations. This allows involvement of the Municipal Heritage Committee members through the various sub-committees and provides flexibility in effective service delivery.

The delegation of approval authority respecting alterations to the Director of Development and Real Estate does not include the authority to consider permit applications for demolitions or removals under Parts IV and V of the Ontario Heritage Act. The Act does not allow for delegation provisions in these instances. Any refusals of heritage permit applications would still continue to follow current practice, i.e., full consideration by Hamilton LACAC (Municipal Heritage Committee), PEDC and City Council.

**BACKGROUND:**

Prior to recent changes to the Ontario Heritage Act, all heritage permit applications submitted either under Part IV (individually designated properties) or Part V (heritage conservation districts) of the Act were required to be considered by Council, as advised by their Municipal Heritage Committee. The Act provided that applications could be approved, approved with conditions, or refused.

Bill 60, An Act to Amend the Ontario Heritage Act, which received Royal Assent in May 2005, now allows a municipal Council to delegate its consent or approval authority on heritage permit applications to a municipal employee or official. Prior to enacting any such By-law to do this, Subsections 33(15) and (16) Act states that:

**Delegation of council’s consent**

(15) The power to consent to alterations to property under this section may be delegated by By-law by the Council of a municipality to an employee or official of the municipality if the Council has established a Municipal Heritage Committee and has consulted with the Committee prior to delegating the power. 2005, c.6, s.21(3).

**Scope of delegation**

(16) A By-law that delegates the Council’s power to consent to alterations to a municipal employee or official may delegate the power with respect to all alterations or with respect to such classes of alterations as are described in the By-law. 2005, c.6, s.21(3).
Similarly, Subsections 42(16) and (17), respecting delegation of power to grants permits for alterations in designated heritage conservation districts, provide that:

**Delegation**

(16) 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. 2005, c.6, s.32(6).

**Same**

(17) A By-law under Subsection (16) may specify the alterations or classes of alterations in respect of which power to grant permits is delegated to the employee or official of the municipality. 2005, c.6, s.32(6).

The current system of heritage permit approval comprises a number of steps that must be taken within 90 days, after which time, unless an application is formally Council-approved, the permit is deemed to have been approved.

The heritage permit administrative process is summarized in the following six steps:

- Receipt of heritage permit application.
- Consideration by Heritage Permit Review Subcommittee or by the Cross-Melville District Advisory Committee (Dundas) or the Mill Street District Advisory Committee (Waterdown).
- First staff report to Hamilton LACAC (Municipal Heritage Committee) for review and recommendation.
- Second staff report to Planning and Economic Development Committee (PEDC) for approval.
- Final Council approval.
- Approval letter to applicant.

All heritage permits that are recommended for approval appear as consent items on the PEDC agenda and have caused little or no discussion either by Committee members or the public.

**ANALYSIS/RATIONALE:**

Staff has prepared four alternatives in the consideration of delegation approvals. An evaluation of each is described in “Alternatives for Consideration” in the following section. Given the criticisms of the *Ontario Heritage Act* that resulted in the new delegation provisions and Council’s own stated intent to provide efficient and effective service to Hamilton taxpayers, the principle of delegation to staff is sound. Delegation of specific approvals under the *Planning Act* has already established an acceptable track record of expedient service delivery.
Concerns have been raised by the Hamilton LACAC (Municipal Heritage Committee) regarding accountability of staff in the delegation process. In response, staff has provided a number of safeguards, contained in the recommendations of Report PED05096(a), which will continue to provide the various heritage subcommittees with opportunities for valued comment and input.

Strategic direction with respect to the overall provision of service within the City is described in both Council’s Mission Statement and Vision 2020 as follows:

Mission
Council has developed a document that defines the mission of our local government and a vision for the future of Hamilton. A core set of values also exists to guide behaviour and actions concerning the management of the City.

For staff and residents of the City of Hamilton, the document represents a promise for the future and provides clear direction for where our City is going. To “get there”, Council has also committed to a set of priorities known as the Strategic Plan, towards which the City’s financial and human resources will be focused in the coming years.

The following goal from that document applies to the matter of delegation under the Ontario Heritage Act.

5. A City That Spends Wisely and Invests Strategically
To get the best value for taxpayer dollars, and to ensure that we have the financial resources available to invest in our economic development and other community priorities, Council commits to increase the efficiency of our City government.

a) Maintain Service Levels
Except where mandated by statutory obligation or to address priority infrastructure deficiencies, Council will maintain, but not increase, service levels until its economic development program is complete.

b) Best Practices – Best Value
Council will pursue best practices to lower the cost of government and ensure best value in service delivery. It is recognized that best value is not just a calculation of dollars: it also includes accountability, service quality, accessibility and other community priorities which must be taken into account, as per Council policy.

Delegation as provided by the staff recommendation in this report will positively affect service delivery with a quick and more efficient turn-around time for applicants. The reduction in the cost of materials in report processing and production also results in direct cost-savings. Accordingly, this goal is being met.
Vision 2020

Vision 2020 is a Council adopted strategic commitment to a vibrant, healthy and sustainable future for the community. The specific vision for “Quality of Life” includes a statement that “Government is open, accessible, efficient, effective and participatory”. The principle of delegation ensures efficiency and effectiveness. Open access by heritage permit applicants to staff, the various permit review subcommittees and the involvement and advice from volunteer committee members also meet the goals and objectives of Vision 2020.

Benefits of delegation

Aside from meeting a number of strategic objectives, delegation of Council authority to staff has a number of important benefits:

- Greatly improved customer service by reducing waiting periods for heritage permit approvals, potentially from 60 days to a minimum of 10 working days (or two working weeks), and enhanced notion of the City as being “user friendly” and dispensing with unnecessary “red-tape”.

- Significant reduction in staff time spent on report preparation and processing that would be freed up to be more efficiently spent on other heritage activities, particularly the processing of property designation requests, (of which there is a backlog) and the more expedient review of development planning applications.

- Considerable reduction in the amount of paper that is utilized in report preparation for the Hamilton LACAC (Municipal Heritage Committee) agenda package and the PEDC agenda. There would be a reduction in costs for paper and photocopying, and the obvious environmentally beneficial impacts. (Heritage permit reports typically use up an average of 5 to 15 pages comprising written text, location maps, site photographs and reduced scaled drawings and plans.)

Assuming approvals are delegated to a municipal employee (in this case, the Director of Development Planning and Real Estate), the submission and approval of a complete heritage permit application could be completed within two working weeks.

Any potential refusals of heritage permit applications would continue to follow current practice. To date, only one heritage permit has been refused: demolition of the Tivoli auditorium. Since 2001, approximately ninety-five heritage permit applications have been approved by Council.

In considering heritage permit applications for substantial changes to heritage building fabric or those involving significant landmark buildings and particularly complex conservation issues it is anticipated that these will be flagged by staff, members of the subcommittees or Council representatives on the Hamilton LACAC (Municipal Heritage Committee). Such extraordinary applications would be forwarded for full consideration by the Hamilton LACAC (Municipal Heritage Committee) and then to the Director of
SUBJECT: Delegation of Council Consent to Staff for Alterations to Designated Property Under the Ontario Heritage Act (PED05096(a)) (City Wide) - Page 7 of 12

Development Planning and Real Estate for approval. In certain instances, particularly where there may be controversial aspects to an application, these would be forwarded to the Planning and Economic Development Committee and Council for consideration and final approval.

Accordingly, staff is recommending delegation of heritage permit approvals that is based upon a process that involves both City staff and includes consultation with the currently established Heritage Permit Review Subcommittee, the Cross-Melville District Advisory Committee (Dundas) and the Mill Street District Advisory Committee (Waterdown).

ALTERNATIVES FOR CONSIDERATION:

In presenting alternatives to the Hamilton LACAC (Municipal Heritage Committee) on August 25, 2005 staff presented the following three alternatives:

Alternative 1: Do nothing

Maintaining the status quo would offer no benefits to either heritage permit applicants or City staff. “Do nothing” would also not fulfill a clear intent of the Ontario Heritage Act to allow for delegated authority in response to a clear community need enunciated over the past decades. Service delivery would not be enhanced and there would be no other forms of cost savings to the City.

This alternative is not acceptable, especially as there are a number of significant benefits to a system of delegated approvals. These are discussed further in Alternatives 2 and 3.

Alternative 2: Delegation to staff with no heritage committee consultation

This alternative is predicated upon a permit approval process that involves only City staff and excludes any consultation with the currently established Heritage Permit Review Subcommittee, the Hamilton LACAC (Municipal Heritage Committee), the Cross-Melville District Advisory Committee (Dundas) and the Mill Street District Advisory Committee (Waterdown).

This alternative would allow the speedy internal processing of applications. Limited only to a staff function, complete heritage permit applications could be processed, on average, within five working days. This would allow for permit review, site visits, assessment of conformity to sound heritage conservation practice and preparation of an approval letter to the applicant from the Director of Development and Real Estate.

Although this alternative offers the most expeditious processing time by not requiring the preparation of staff reports, the exclusion of existing volunteer committee members that bring specialized knowledge of buildings, structures and the local history and knowledge of an area is considered a drawback. It would, as a consequence, make the advisory committees on heritage permits redundant.
Alternative 3: Delegation to staff including consultation with heritage advisory committees

This alternative is based upon a permit approval process that involves City staff and includes consultation with the currently established Heritage Permit Review Subcommittee, the Cross-Melville District Advisory Committee (Dundas) and the Mill Street District Advisory Committee (Waterdown). All committees have municipal heritage committee representation either as chairs or members.

This alternative would still allow for speedy internal processing of applications by City staff and also provides for the input and advice of the Heritage Permit Review Subcommittee and the Cross-Melville District Advisory Committee (Dundas). Both committees usually meet on a specified day of the month and this could potentially reduce efficient processing of heritage permits. The Heritage Permit Review Subcommittee has met on occasions, outside of their monthly schedule, to facilitate and expedite permit approvals. The Mill Street District Advisory Committee (Waterdown) only meets on an “as required” basis to review heritage permit applications.

This alternative can function to allow heritage permit applications to be processed within a minimum of ten and maximum of twenty working days (two to four working weeks). This would allow for permit review by staff, site visits, assessing conformity to sound heritage conservation practice, establishing committee meetings and the preparation of an approval letter to the applicant from the Director of Development and Real Estate. If all committees met on an “as required” basis rather than a monthly schedule, this could potentially reduce the processing time to ten working days.

This alternative offers an expeditious processing time and also benefits from the inclusion of existing volunteer committee members that bring specialised knowledge.

In presenting conclusions to the Hamilton LACAC (Municipal Heritage Committee) staff evaluated the alternatives, with Alternative 3 as the preferred process:

Alternative 1 ("Do nothing") is not acceptable as it involves no benefits in either reduction in costs or improved service delivery.

Alternative 2 (Staff delegation with no input from heritage committees) provides the most effective and expeditious processing time. Exclusion of volunteer committee input and expertise is considered to be a drawback.

Alternative 3 (Staff delegation with input from heritage committees) is preferred as it provides both a significantly reduced processing time than currently exists and also allows for continuing input by volunteer heritage committees with proven experience in reviewing heritage permits. The process associated with Alternative 3 would result in the reduction of six administrative steps to the following three:
• Receipt of heritage permit application.
• Consideration, advice and endorsement by Heritage Permit Review Subcommittee or by the Cross-Melville District Advisory Committee (Dundas) or the Mill Street District Advisory Committee (Waterdown), as appropriate.
• Approval letter to applicant.

The following components would no longer be required as part of the administrative process:

• First staff report to Hamilton LACAC (Municipal Heritage Committee) for review and recommendation.
• Second staff report to PEDC for approval.
• Final Council approval.

Any refusals of heritage permit applications would still continue to follow current practice, i.e., full consideration by Hamilton LACAC (Municipal Heritage Committee), PEDC and City Council.

It should be made clear to Council that the delegation of “alterations” to the Director of Development and Real Estate does not include the authority to consider permit applications for demolitions or removals which are governed under Parts IV and V of the new Ontario Heritage Act, and no delegation provisions apply in these instances.

Consultation with the Hamilton LACAC (Municipal Heritage Committee) at its meeting on August 25, 2005 resulted in the preference for a new alternative, evaluated below as Alternative 4.

Alternative 4: Delegation to staff as advised by the Hamilton LACAC (Municipal Heritage Committee)

Alternative 4 is based upon a permit approval process that is delegated to City staff “as advised by the Hamilton LACAC (Municipal Heritage Committee)” including consultation with the currently established Heritage Permit Review Subcommittee, the Cross-Melville District Advisory Committee (Dundas) and the Mill Street District Advisory Committee (Waterdown).

This alternative would not allow for speedy internal processing of applications anticipated in the principle of delegation. This would extend processing time by another three working weeks: the time that passes between consideration of permit applications by the Heritage Permit Review Subcommittee, on the first Wednesday of the month, and then presentation at the Hamilton LACAC (Municipal Heritage Committee) held on the fourth Thursday of the month. This alternative does not provide an expeditious processing time and for all intents moves back towards a “do nothing” approach.

Accordingly, Alternative 3 remains, in principle, the staff preferred approach. Recognizing the issues expressed by members of the Hamilton LACAC (Municipal
Heritage Committee) at its meeting of October 27, 2005, staff agreed with an amendment to the preferred alternative that would add the following provision:

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 Sub-committee or any of the Conservation District Advisory Committees.

This revised wording now forms part (b) of the recommendation in this staff report.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial— Delegation to staff will provide a variety of savings in staff time and cost savings in report reproduction for two City committees and allow for greater efficiencies and focus on more pro-active heritage planning.

Staffing – No extra staffing is required. Delegation would offer more efficient use of existing staff resources and allow more time devoted to other related heritage activities.

Legal – Delegation of Council authority to approve heritage permits is permitted by the Ontario Heritage Act. The delegation By-law, attached as Appendix A to Report PED05096(a), has been approved by Legal Counsel as to form.

**POLICIES AFFECTING PROPOSAL:**

There are no current Official Plan policies that address the delegation of administrative provisions under the Act, as this is a new provision in the legislation. Delegation, in and of itself, would not be contrary to former Official Plan policies. Delegation authority under the Act does not need to be sanctioned through Official Plan policies.

**RELEVANT CONSULTATION:**

Heritage staff of the Community Planning and Design Section has consulted with the Legal Services and Corporate Counsel staff and Clerks with respect to the preparation of the draft delegating By-law attached as Appendix A to Report PED05096(a).

On August 25, 2005, the matters of delegation together with an accompanying staff report were considered by the Hamilton LACAC (Municipal Heritage Committee). Following discussion Committee members were concerned that the Committee was being deprived of the opportunity to provide advice and amended the staff recommendation by adding the following bolded, italicized text:

“(a) That Council be advised, that as per the provisions of the Ontario Heritage Act, that 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 this report and as advised by the Hamilton LACAC (Municipal Heritage Committee).

(b) That the draft By-law, attached as Appendix A to this report, which has been prepared in a form satisfactory to Corporate Counsel, be forwarded to Council for enactment."

Following further consultation with legal counsel and evaluation by staff (now considered as Alternative 4 in this staff report) it is considered that this still runs counter to a number of principles, namely:

- the purposes and intent of delegation.
- speeding up approval processes.
- improving customer service.

In order to address the concerns expressed by Committee members regarding input of members, staff is supporting the inclusion of revisions to the Committee’s amending text: “and as advised by the Hamilton LACAC (Municipal Heritage Committee)” by substituting with the following:

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.

The following additional provision was also added after discussion at the Committee’s October 27th meeting:

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 Sub-committee or any of the Conservation District Advisory Committees.

These changes address the concerns of the Hamilton LACAC (Municipal Heritage Committee) by:

- providing a formal written record of required consultation and recognition of Committee members.

- fully involving Committee members in the review of heritage permit applications through attendance and participation on the Heritage Permit Review Subcommittee.
The current recommendation, as amended by staff and the Hamilton LACAC (Municipal Heritage Committee), was also considered by the Cross-Melville District Advisory Committee at its meeting of November 8, 2005. Staff explained the intent of the By-law, which was understood by the Committee. There were no adverse comments.

**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.

- **Community Well-Being is enhanced.** ☑ Yes ☐ No
  Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
  Waste is reduced and recycled.

- **Economic Well-Being is enhanced.** ☑ Yes ☐ No
  Hamilton's high-quality environmental amenities are 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

The process of delegation to staff attests to Council's commitment to a program of heritage conservation that is efficient and effective and that can be entrusted to staff to appropriately manage.

:DC:

Attach. (1)
CITY OF HAMILTON

BY-LAW NO. 05_______

BEING A BY-LAW TO DELEGATE TO THE DIRECTOR OF DEVELOPMENT AND REAL ESTATE CERTAIN ASSIGNED COUNCIL AUTHORITY UNDER THE ONTARIO HERITAGE ACT FOR THE POWER TO CONSENT TO PERMITS FOR THE ALTERATION OF DESIGNATED PROPERTY

WHEREAS pursuant to subsections 33(1) and 33(4) of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, as amended (hereinafter referred to as “the Ontario Heritage Act”), the Council of the City of Hamilton is the decision-maker in respect to the consent of alterations to designated heritage property under Part IV of the Ontario Heritage Act

AND WHEREAS pursuant to subsection 42(4) of the Ontario Heritage Act, the Council of the City of Hamilton is the decision-maker in respect to the granting of permits for the alteration of property within a heritage conservation district under Part V of the Ontario Heritage Act

AND WHEREAS pursuant to subsection 33(15) of the Ontario Heritage Act the Council of a municipality may by by-law delegate the power to consent to alterations to property to an employee or official of the municipality after having consulted with its municipal heritage committee;

AND WHEREAS pursuant to subsection 42(16) of the Ontario Heritage Act the Council of a municipality may by by-law delegate the power to grant permits for the alteration of property situated in a heritage conservation district designated under Part V to an employee or official of the municipality after having consulted with its municipal heritage committee;

AND WHEREAS pursuant to subsections 33(15) and 42(16) of the Ontario Heritage Act the Council of the City of Hamilton consulted with its municipal heritage committee on August 25th, 2005;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That the Council hereby delegates to the Director of Development and Real Estate all power respecting the granting of consents and approvals which was assigned to Council under subsections 33(1), 33(4) and 42(4) of the Ontario Heritage Act including the authority to attach terms and conditions.
2. The delegated powers in Section 1 do not include the power to refuse an application. Where the Director of Development and Real Estate would refuse an application if he or she had the power, he or she shall so advise Council who retains all decision-making power in relation to that application.

3. That the Director of Development and Real Estate is authorized to undertake all acts necessary to carry out the authority vested in the Director of Development and Real Estate pursuant to this By-law, including affixing his/her signature as required to all documents.

4. That when the Director of Development and Real Estate is absent through illness or vacation or his/her office is vacant, then the Manager of Community Planning and Design of the City’s Development and Real Estate Division (Planning and Economic Development Department) shall act in the place and stead of the Director of Development and Real Estate. While so acting, the Manager of Community Planning and Design has and may exercise all the rights, powers and authority of the Director as delegated by this By-law.

5. This By-law shall come into force and effect on the date of its passing and enactment.

PASSED and enacted this day of , 2005.

________________________________________________________________________

Mayor

City Clerk
CITY OF HAMILTON

BY-LAW NO. 05_______

BEING A BY-LAW TO DELEGATE TO THE DIRECTOR OF DEVELOPMENT AND REAL ESTATE CERTAIN ASSIGNED COUNCIL AUTHORITY UNDER THE ONTARIO HERITAGE ACT FOR THE POWER TO CONSENT TO PERMITS FOR THE ALTERATION OF DESIGNATED PROPERTY

WHEREAS pursuant to subsections 33(1) and 33(4) of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, as amended (hereinafter referred to as “the Ontario Heritage Act”), the Council of the City of Hamilton is the decision-maker in respect to the consent of alterations to designated heritage property under Part IV of the Ontario Heritage Act

AND WHEREAS pursuant to subsection 42(4) of the Ontario Heritage Act, the Council of the City of Hamilton is the decision-maker in respect to the granting of permits for the alteration of property within a heritage conservation district under Part V of the Ontario Heritage Act

AND WHEREAS pursuant to subsection 33(15) of the Ontario Heritage Act, the Council of a municipality may by by-law delegate the power to consent to alterations to property to an employee or official of the municipality after having consulted with its municipal heritage committee;

AND WHEREAS pursuant to subsection 42(16) of the Ontario Heritage Act, the Council of a municipality may by by-law delegate the power to grant permits for the alteration of property situated in a heritage conservation district designated under Part V to an employee or official of the municipality after having consulted with its municipal heritage committee;

AND WHEREAS pursuant to subsections 33(15) and 42(16) of the Ontario Heritage Act, the Council of the City of Hamilton consulted with its municipal heritage committee on August 25th, 2005;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That the Council hereby delegates to the Director of Development and Real Estate all power respecting the granting of consents and approvals which was assigned to Council under subsections 33(1), 33(4) and 42(4) of the Ontario Heritage Act including the authority to attach terms and conditions.
2. The delegated powers in Section 1 do not include the power to refuse an application. Where the Director of Development and Real Estate would refuse an application if he or she had the power, he or she shall so advise Council who retains all decision-making power in relation to that application.

3. That the Director of Development and Real Estate is authorized to undertake all acts necessary to carry out the authority vested in the Director of Development and Real Estate pursuant to this By-law, including affixing his/her signature as required to all documents.

4. That when the Director of Development and Real Estate is absent through illness or vacation or his/her office is vacant, then the Manager of Community Planning and Design of the City’s Development and Real Estate Division (Planning and Economic Development Department) shall act in the place and stead of the Director of Development and Real Estate. While so acting, the Manager of Community Planning and Design has and may exercise all the rights, powers and authority of the Director as delegated by this By-law

5. This By-law shall come into force and effect on the date of its passing and enactment.

PASSED and enacted this day of , 2005.

________________________________________  ____________________________________
Mayor                        City Clerk