



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Hamilton Municipal Heritage Committee
<b>COMMITTEE DATE:</b>	May 13, 2022
<b>SUBJECT/REPORT NO:</b>	Heritage Permit Application HP2022-007, Under Part V of the <i>Ontario Heritage Act</i> , to Permit the Demolition of the Existing Dwelling and Garage, 940 Beach Boulevard, Hamilton (Ward 5) (PED22124)
<b>WARD(S) AFFECTED:</b>	Ward 5
<b>PREPARED BY:</b>	Chloe Richer (905) 546-2424 Ext. 7163
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Heritage Permit Application HP2022-007, for the demolition of the Part V designated existing dwelling and detached garage for lands located at 940 Beach Boulevard, under Section 42 of the *Ontario Heritage Act*, be **approved** with the following conditions:
- (i) Implementation of the demolition of the dwelling and detached garage, in accordance with this approval, shall be completed no later than April 30, 2024. If the alterations are not completed by April 30, 2024, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton;
- (b) That appropriate notice of the Council decision be served on the owner of 940 Beach Boulevard, Hamilton, and the Ontario Heritage Trust, as required under Section 42 of the *Ontario Heritage Act*.

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

## **EXECUTIVE SUMMARY**

The subject property is located at 940 Beach Boulevard, Hamilton on the west side of Beach Boulevard, south of Third Avenue (see Appendix “A” attached to Report PED22124). The property is designated under Part V of the *Ontario Heritage Act* as it is located within the Hamilton Beach Heritage Conservation District (HCD) by By-law No. 00-135 (see Appendix “B” attached to Report PED22124).

Staff concur with the advice of the Heritage Permit Review Subcommittee (HPRS) and recommend that the Heritage Permit Application HP2022-007 to demolish the existing dwelling and detached garage for the lands known as 940 Beach Boulevard be approved, as discussed below.

The Heritage Permit Review Subcommittee (HPRS) of the Hamilton Municipal Heritage Committee (HMHC) were consulted at the April 19, 2022 meeting and were supportive of the Application as submitted. Staff have also reviewed the submitted documentation, including a Cultural Heritage Impact Assessment (see Appendix “C” attached to Report PED22124), and are of the opinion that the proposed demolition is supportable based on the evidence provided by the qualified heritage consultants.

### **Alternatives for Consideration – See Pages 6 to 7**

### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: Given the property’s designation under Part V of the *Ontario Heritage Act*, this Heritage Permit Application has been processed and considered within the context of the applicable legislation, as per the date in which the Application was submitted to the City of Hamilton (March 30, 2022). This Application follows Section 42 of the *Ontario Heritage Act* for demolition of a Part V designated property within the Heritage Conservation District.

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; and,
- (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. 2005, c. 6, s. 32 (1).”

Section 42 (4) of the *Ontario Heritage Act* states that:

“Within 90 days after the notice of receipt is served on the Applicant under Subsection (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. 2005, c. 6, s. 32 (3).”

The City’s Heritage Permit process follows the legislative process required by the *Ontario Heritage Act* in relation to the requirement for Council approval to consent to demolition or removal of a building or structure designated under Part IV or V of the *Ontario Heritage Act*.

The Heritage Permit Application (HP2022-007) was received on March 30, 2022 and the Notice of Complete Application was issued on April 14, 2022. The *Ontario Heritage Act* requires that Council make a decision on a Heritage Permit Application within 90 days of the issuance of a Notice of Receipt. If no decision is reached within the 90-day timeframe, Council shall be deemed to consent to the Application. The subject Application’s 90-day timeframe will be reached on July 13, 2022.

## **HISTORICAL BACKGROUND**

The subject property was designated under Part V of the *Ontario Heritage Act* in 2000 as part of the Hamilton Beach HCD by By-law No. 00-135. The HCD Plan area was historically known as a lakeside community with a long, rich history of human settlement, hunting and fishing grounds, as well as an important travel route around the lake. The HCD Plan area has an eclectic mix of single detached dwellings, many still reminiscent of the original summer cottage and seasonal homes constructed along the beach strip in the early twentieth century.

As identified in the property history included in the Cultural Heritage Impact Assessment (CHIA), the existing dwelling located at 940 Beach Boulevard was constructed prior to

1954 and the garage after 1967. Previously the “Heath Cottage,” a single-storey frame dwelling with a wrap-around porch and single-storey accessory structure, was located on the northern half of the property, however, the Heath Cottage was removed prior to the construction of the current dwelling, a mid-century vernacular bungalow constructed of red brick on a concrete foundation with a small rear addition. Cut stone cladding is included on the east (front) elevation. The detached garage is also constructed of red brick with cut stone cladding on the east (front) elevation. The Ontario Regulation 9/06 evaluation included in the CHIA determined that the property does not contain a contributing heritage building within the Beach Boulevard streetscape, which staff concur with.

The purpose of the proposal to demolish the existing dwelling and detached garage is to facilitate the severance of the property into three parcels. An Application for Consent to Sever Land went before the Committee of Adjustment on September 9, 2021 and was tabled as a Heritage Permit had not been approved to demolish the existing structures on the property. The owner then retained qualified heritage consultants to prepare a CHIA in support of this Heritage Permit Application.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Urban Hamilton Official Plan**

Volume 1, Chapter B, Section 3.4.6.3-5 of the Urban Hamilton Official Plan (UHOP) speaks to Heritage Conservation Districts and states that “the City may in accordance with the *Ontario Heritage Act* by by-law prohibit or set limitations with respect to property alteration, erection, demolition, or removal of buildings or structures, or classes of buildings or structures, within the heritage conservation district study area.”

The intent of the Official Plan policies pertaining to cultural and built heritage is to ensure the preservation and conservation of these resources and demolition being a last resort. Staff review each Heritage Permit Application on its own merits and policies set out a number of requirements in order to ensure the proposal is adequately and appropriately assessed by qualified candidates. In this instance, it has been determined that the structures on the property are not contributing heritage buildings within the Beach Boulevard streetscape. As such, staff are of the opinion that the Applicant has demonstrated that the proposed demolition does not contravene the overall intent of the Official Plan.

## **RELEVANT CONSULTATION**

### **Heritage Permit Review Subcommittee**

Pursuant to Section 28 (1) of the *Ontario Heritage Act* and the Council approved Heritage Permit Process (Report PED05096), the HMHC advises and assists Council on matters relating to Part IV and V of the *Ontario Heritage Act*.

The HPRS of the HMHC reviewed the subject Application at the April 19, 2022 meeting. After a presentation and question and answer period with the Applicant's project team, the Subcommittee passed a motion to recommend approval of the Application as submitted, subject to two standard conditions, of which only (b) has been deemed necessary by staff:

- (b) Implementation / installation of the alteration(s), in accordance with this approval, shall be completed no later than April 30, 2024. If the alteration(s) are not completed by April 30, 2024, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

Staff are in agreement with the recommendation of the HPRS regarding approval and standard condition (b) is reflected in Recommendation (a)(i). Staff would note that standard condition (a) regarding minor changes to plans and elevations is not required for a demolition proposal. Staff are recommending a further condition regarding notice to the owner and the Ontario Heritage Trust regarding Council's decision.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The Heritage Permit Application (HP2022-007) is seeking approval to demolish the existing dwelling and detached garage in order to facilitate the severance of the property into three parcels. In support of the Application, the following documents were submitted:

- Completed Heritage Permit Application form;
- Cultural Heritage Impact Assessment, prepared by LHC Heritage Planning and Archaeology (March 2022); and,
- Committee of Adjustment Application and Notice of Public Hearing for HM/B-21:66 (tabled September 9, 2021).

Key factors that are considered in the evaluation of any change affecting a heritage resource are:

- **Displacement effects:** those adverse actions that result in the damage, loss, or removal of valued heritage features; and,
- **Disruption effects:** those actions that result in detrimental changes to the setting or character of the heritage feature.

In consideration of any Heritage Permit Application, staff must assess the impact of the displacement and disruption effects on the heritage resources. No heritage attributes for the subject property are identified but the proposal was assessed against the guidelines of the HCD Plan, while taking into account the recommendations of the supporting documentation.

As part of the supporting documentation, the Cultural Heritage Impact Assessment (CHIA) provided a property history, Ontario Regulation 9/06 evaluation and assessment of existing conditions of the property, including images of the pre-1954 dwelling (which is not the original Heath Cottage), post-1967 garage and streetscape. The CHIA noted that the structures on the property are not contributing heritage buildings within the Beach Boulevard streetscape, which staff concur with. As such, the demolition of the existing structures would not result in displacement effects as valued heritage features are not being removed.

Minimal disruption effects are expected to the overall heritage context of the HCD Plan area as the Applicant is seeking to construct three new dwellings. This scope of work would require a future Heritage Permit Application following the return of the Application for Consent to Sever Land to the Committee of Adjustment. As the HCD Plan provides guidelines regarding new construction, the new dwellings must be designed in a fashion that complies with the HCD Plan and the design should be reviewed for compliance early in the process. However, the design of the new dwellings is beyond the scope of the Heritage Permit Application to demolish the existing dwelling.

## **ALTERNATIVES FOR CONSIDERATION**

### **(1) Refuse the Heritage Permit Application.**

HMHC may advise Council to refuse this Application. This is not being recommended.

### **(2) Approve the Heritage Permit with Additional or Amended Conditions.**

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HMHC may advise Council to approve this Application with additional or amended conditions of approval. This is not being recommended.

**(3) Approve the Heritage Permit with No Conditions.**

HMHC may advise Council to approve this Application with no conditions. This alternative is not recommended.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED22124 - Location Map

Appendix “B” to Report PED22124 - By-law No. 00-135

Appendix “C” to Report PED22124 - Cultural Heritage Impact Assessment, prepared by  
LHC Heritage Planning and Archaeology

CR:sd