TO: Chair and Members Planning Committee

WARD AFFECTED: Ward 5

COMMITTEE DATE: December 7, 2010

SUBJECT/REPORT NO:
Request for Extension of Building Covenants from Bernard Hanna (Owner) of 415 Beach Boulevard, Hamilton (PED10266) (Ward 5)

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

PREPARED BY:
Darlene Cole
(905) 546-2424, Ext. 7910

SIGNATURE:

RECOMMENDATIONS:

(a) That a request to extend building covenants imposed by the City upon Bernard Hanna, owner of 415 Beach Boulevard, a building lot described as Part 1 on Plan 62R-16126, being all of PIN 17570-0113(R) and shown on Appendix “A” attached to Report PED10266, be approved. Mr. Hanna is requesting that the date for commencement of construction be extended from December 11, 2010 to April 30, 2011 and that the date for completion of construction be extended from December 11, 2011 to April 30, 2012.

(b) That the Mayor and Clerk be authorized and directed to execute all necessary documents in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY:

415 Beach Boulevard was acquired from the City by Bernard Hanna on December 11, 2009. This conveyance is subject to certain performance covenants including
commencement of construction of a single family detached dwelling within twelve (12) months, and completion thereof within twenty-four (24) months.

Valleycrest Homes has been contracted to build a custom 3,600 square foot detached dwelling on the property; the building drawings and site plan are stamped and ready for submission to the City. As December 11, 2010 is quickly approaching, Mr. Hanna and his builder recognize that the site plan review process will likely extend beyond this date. Accordingly, an extension to the date(s) of commencement and completion of construction is being requested.

**Alternatives for Consideration - Page 3**

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

**Financial:** There are no identified financial implications arising out of the recommendation.

**Staffing:** There are no identified staffing implications arising out of the recommendation.

**Legal:** Staff in Legal Services will prepare a letter of confirmation for execution by the Mayor and Clerk.

**HISTORICAL BACKGROUND:** (Chronology of Events)

The information and recommendations contained in this Report primarily affect Ward 5.

415 Beach Boulevard is a vacant building lot comprising an area of 1,015.94 square metres (10,935.5 square feet) on the north side of Beach Boulevard. This parcel is on the “lake side” of Beach Boulevard, separated from the water’s edge by approximately 53 metres (175 feet) of public open space. The open space forms part of a popular walking/biking path and beachfront which extends from Burlington to Gray’s Road.

Bernard Hanna currently resides in Burlington. His property at 415 Beach Boulevard will be developed with 3,600 square feet of residential space custom designed by Ashenhurst Nouwens Limited and being built by Valleycrest Homes.

Although plans for construction of this residence are now complete and ready for submission, the site plan review process has yet to occur. As the date for commencement of construction (December 11, 2010) approaches, the timing for site plan approval and securing building permits is still unknown. At this time, the owner is requesting that the dates for commencement and completion of construction be
extended. Granting of these extensions will provide sufficient time for the site plan approval process, the issuance of building permits and the completion of this project.

**POLICY IMPLICATIONS:**

- Real Estate Portfolio Strategy Plan
- Growth Related Integrated Development Strategy
- Building a Strong Foundation
- Provincial Policy Statement
- Places to Grow

**RELEVANT CONSULTATION:**

- Development Planning, Planning & Economic Development Department
- Real Estate Section, Planning & Economic Development Department

**ANALYSIS / RATIONALE FOR RECOMMENDATION:**

(include Performance Measurement/Benchmarking Data, if applicable)

Mr. Hanna is demonstrating a significant investment in the City’s Beach Neighbourhood. The land value together with construction value of the proposed residence will amount to about $760,000, the building representing $540,000 of this investment.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

To withhold Mr. Hanna’s request would mean that the City could invoke its right to re-purchase the lot, pursuant to the following covenant contained in the transfer:

*If the Transferee fails to comply with the conditions within the time required, then the Transferor shall have the option to re-purchase the property and to receive a conveyance of it free and clear of all charges and encumbrances, liens, claims or adverse interests whatsoever, and the Transferor agrees to pay the Transferee the original purchase price for the said lands, less the deposit, less real estate commission, less arrears of realty taxes, penalty and interest (including local improvement charges), less amounts required to discharge any mortgages, liens, charges or other encumbrances against the said lands and less the costs of the Transferor incurred in entering on the land and retaking and reselling the land and without increase or compensation for any improvements, additions, alterations in, on or under the said lands.*
Should the extensions not be granted, the City would be obliged to reimburse Mr. Hanna the amount of $221,000 for the lot, less his deposit of $22,100 and associated expenses as provided in the foregoing covenant. Following re-purchase, the City would again place the property on the market and wait for a buyer.

Considering the time, investment and commitment to this project by Mr. Hanna, staff recommends that the extension be granted so that he may complete his project and join us here in Hamilton.

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


**Financial Sustainability**
- Financially Sustainable City by 2020
- Enhancement to local property tax base
- Management of City asset in a sustainable and cost effective manner

**Growing Our Economy**
- Investment in Hamilton is supported

**APPENDICES / SCHEDULES:**

Appendix “A” to Report PED10266 - Location Map

DC/sd