**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
*Economic Development Division*

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<th>TO: Mayor and Members</th>
<th>WARD(S) AFFECTED: Ward 5</th>
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<td>General Issues Committee</td>
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<th>COMMITTEE DATE:</th>
<th>October 17, 2012</th>
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<th>SUBJECT/REPORT NO:</th>
<th>SUBMITTED BY:</th>
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| City Re-purchase of 1020 Beach Boulevard, Hamilton, from Kerrin Ann Simon (PED12192) (Ward 5) | Tim McCabe  
General Manager  
Planning and Economic Development Department |

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<th>PREPARED BY:</th>
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| Adam Millington  
(905) 546-2424, Ext. 7024 |  
| |

**RECOMMENDATIONS:**

(a) That the City Solicitor be authorized and directed to re-purchase 1020 Beach Boulevard, described as Parts 7 and 8 on Plan 62R-15481, subject to an easement over Parts 2, 4, 6, 8, and 10, as in Instrument Number HL109625, being all of PIN 17568-0142(LT), as shown on Appendix “A” attached to Report PED12192, pursuant to the restrictive covenants contained in the conveyance to Kerrin Ann Simon registered as Instrument No. VM255639;

(b) That, as a condition of the re-purchase, the City Solicitor be directed to deduct all outstanding municipal property taxes and local improvement charges from the purchase price;

(c) That the re-purchase price of $32,625 for the lands be charged to Account No. 59259-3561250201 (Beach Properties Sales and Maintenance). The funding for...
this purchase is to be transferred from the Beach Park Development Reserve No. 108037;

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

**EXECUTIVE SUMMARY:**

Kerrin Ann Simon acquired 1020 Beach Boulevard from the City in 2002, subject to certain building covenants which have not been fulfilled. Staff is, therefore, recommending re-purchase of 1020 Beach Boulevard.

*Alternatives for Consideration – see Page 4.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS:**

Financial: Funding for the re-purchase of 1020 Beach Boulevard will be funded from the Beach Park Development Reserve No. 108037.

Staffing: N/A

Legal: Legal Services will be required to assist in the preparation of the necessary documents required to complete the transaction as set out herein.

**HISTORICAL BACKGROUND:**

The Hamilton Beach Neighbourhood Plan evolved from an assembly of 159 properties formerly held by the Hamilton Regional Conservation Authority together with 10.32 ha (25.49 ac) of surplus Ministry of Transportation (MTO) lands.

From this assembly, 68 parcels were declared surplus by City Council on June 27, 2000. The surplus parcels, many being buildable lots, were to be sold for residential development while any parcels considered unbuildable due to irregular shape or being undersized, were to be offered to abutting owners at market value.

On December 19, 2002, the City sold 1020 Beach Boulevard, to Kerrin Ann Simon for $36,250. As a condition of sale, the purchaser was required to commence construction of a single detached dwelling on the lot by December 19, 2003, and complete construction by December 19, 2003.

Since acquiring this property in 2002, Ms. Simon was successful in obtaining a Heritage Permit, Site Plan Approval and Minor Variance to allow for the construction of a two story, single detached dwelling. Accordingly, Real Estate staff granted several
extensions to the building covenants to allow Ms. Simon time to move through the development approval process.

On August 27, 2012, Ms. Simon contacted Real Estate staff advising that she was unable to move forward with construction as her retirement plans had changed. In turn, staff agreed to re-purchase the subject property for the original purchase price less the deposit.

This recommendation results from Ms. Simon’s default in satisfying the covenants contained in Deed registered as Instrument Number VM255639 on December 19, 2002. Specifically, the covenants in the Deed provide as follows:

“Paragraph 1: The Transferee covenants and agrees to proceed to redevelop the property with a single detached dwelling, construction of said new building shall be commenced within 12 months and completed within 24 months (as evidenced by the approval of Occupancy by the Transferor (City)) from the date this transaction is completed, being the date of registration within Transfer/Deed of Land.

Paragraph 3: If the Transferee fails to comply with the condition in Paragraph 1 within the time required, then the Transferor (City) shall have the option, which option is granted to the Transferor by the Transferee for good and valuable consideration, 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 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.”

The total re-purchase price is calculated at $32,625 being the original sale price minus the deposit in the amount of $3,625. Any arrears of realty taxes, penalty and interest will be adjusted on closing.

Upon re-purchase, the lot will be returned to the City’s inventory of properties for sale.

**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 Section, Planning and Economic Development Department
- Legal Services Division, City Manager’s Office
- Ward 5 Councillor Chad Collins

ANALYSIS / RATIONALE FOR RECOMMENDATION:

In recent months, demand has increased for residential building lots fronting on Beach Boulevard. This has been stimulated, in part, from developments by Branthaven Homes with 59 townhomes and Beach Community and Development Real Estate Inc. with 99 townhomes. Investors from other municipalities are also showing an interest in the area for its proximity to the major highways and Lake Ontario. The subject parcel is an attractive building lot which will likely be absorbed and developed in the short term, given its orientation in the neighbourhood and location.

ALTERNATIVES FOR CONSIDERATION:

Should the City choose not to re-purchase, Ms. Simon would be unable to sell the property on the open market due to the restrictive covenants registered on title. The lot would remain undeveloped for an unknown period of time. Considering the development community’s interest in this neighbourhood, reselling the property would be beneficial by creating an assessable, productive parcel.

CORPORATE STRATEGIC PLAN:


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 PED12192 – Location Map

AM/sd