

**CITY OF HAMILTON**

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

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> Ward 5
<b>COMMITTEE DATE:</b> November 14, 2011	
<b>SUBJECT/REPORT NO:</b> City Re-purchase of 958, 962, 966 and 970 Beach Boulevard from 2202918 Ontario Inc. (Neeru Chopra) and Extension of Building Covenants - 974 Beach Boulevard, Hamilton (PED11201) (Ward 5)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Adam Millington (905) 546-2424, Ext. 7024
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

- (a) That the City Solicitor be authorized and directed to re-purchase the properties listed below pursuant to the restrictive covenants contained in each of the conveyances to 2202918 Ontario Inc. (Neeru Chopra) registered as:

<b><i>Instrument No.</i></b>	<b><i>Legal Description</i></b>	<b><i>Municipal Address</i></b>
VM280404	Parts 11 & 12, Plan 62R-17405	958 Beach Boulevard
VM280401	Parts 9 & 10, Plan 62R-17405	962 Beach Boulevard
VM280402	Parts 7 & 8, Plan 62R-17405	966 Beach Boulevard
VM280403	Parts 5 & 6, Plan 62R-17405	970 Beach Boulevard

- (b) That the City Solicitor amend the restrictive covenants contained in the transfer of 974 Beach Boulevard to 2202918 Ontario Inc. (Neeru Chopra) registered as Instrument VM280026 dated October 30, 2009, by extending the date for

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commencement of construction from November 1, 2010 to November 1, 2012, and the date for completion of construction from November 1, 2012 to November 1, 2013;

- (c) That in the event construction on the land at 974 Beach Boulevard has not commenced by November 1, 2012, in accordance with Recommendation (b), the City Solicitor be authorized and directed to re-purchase 974 Beach Boulevard pursuant to the restrictive covenants contained in Instrument No. VM280026;
- (d) That as a condition of the re-purchase of the lands identified in Recommendations (a) and (b), the City Solicitor be directed to deduct all outstanding municipal property taxes and local improvement charges from the purchase price;
- (e) That the re-purchase price of \$216,000 for the lands identified in Recommendation (a), be debited from Account No. 59259-3560150200 (Property Purchases and Sales). The funding for this purchase is to be transferred from the Beach Park Development Reserve No. 108037; and,
- (f) 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:**

2202918 Ontario Inc. (Neeru Chopra) acquired five building lots from the City in 2009, subject to certain building covenants which have not been fulfilled. Staff is recommending the re-purchase of four building lots identified as 958, 962, 966 and 970 Beach Boulevard, and granting one further extension of the building covenants for 974 Beach Boulevard. This will allow Mr. Chopra the opportunity to develop one lot on the Beach Strip.

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS:**

**Financial:** Funding for the re-purchase of 958, 962, 966 and 970 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 transactions and extensions 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 and 10.32 ha (25.49 ac) of surplus Ministry of Transportation (MTO) lands.

From this holding, 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. Any parcels considered unbuildable due to irregular shape or being undersized were to be offered to abutting owners at market value.

On October 30, 2009, the City sold five vacant building lots, identified as 958, 962, 966, 970 and 974 Beach Boulevard, to 2202918 Ontario Inc. (Neeru Chopra) at \$60,000 per lot. As a condition of the sale, the purchaser was required to commence construction of a single detached dwelling on each lot by October 30, 2010, and complete construction on each lot by October 2011.

After delays in submitting applications for Heritage Permits and Site Plan approvals, Mr. Chopra, on September 24, 2010, requested the City for extensions of the building covenants from November 1, 2010 to November 1, 2011, to complete construction of the five dwellings. On October 25, 2010, the City obliged by granting the requested extensions to Mr. Chopra.

Although a construction mortgage was registered on title to 974 Beach Boulevard, there is little or no evidence that Mr. Chopra is proceeding to develop the five lots. No plans or applications have been submitted to the City, yet Mr. Chopra has requested a further extension of the building covenants to November 1, 2012.

Following consultations among staff in the Planning Division it was agreed to allow Mr. Chopra the opportunity to retain one of the five building lots. This would permit Mr. Chopra the opportunity to build a dwelling on the Beach Strip. The remaining four lots will be re-purchased and returned to the City's inventory of properties for sale.

This recommendation results from Mr. Chopra's default in satisfying the covenants contained in Deeds registered as Instrument Numbers VM280404, VM280401, VM280402, VM280403, and VM280026 on October 30, 2009. Specifically, the covenants in the Deeds 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 \$216,000 (\$54,000 per lot) being the original sale price minus deposits totalling \$24,000 (\$6,000 per lot). Any arrears of realty taxes, penalty and interest will be adjusted on closing.

Upon re-purchase, the four lots will be included on the list of City 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, Planning & Economic Development Department
- Real Estate Section, Planning & Economic Development Department
- Legal Services, 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 recent 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.

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The subject parcels are attractive building lots which will likely be absorbed and developed in the short term, given their orientation in the neighbourhood and location.

**ALTERNATIVES FOR CONSIDERATION:**

Should further extensions be granted, the purchaser may continue to postpone development of the lots, ultimately delaying additional tax revenue and the City's intent on redevelopment of the Hamilton Beach Neighbourhood.

**CORPORATE STRATEGIC PLAN:**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Financial Sustainability***

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

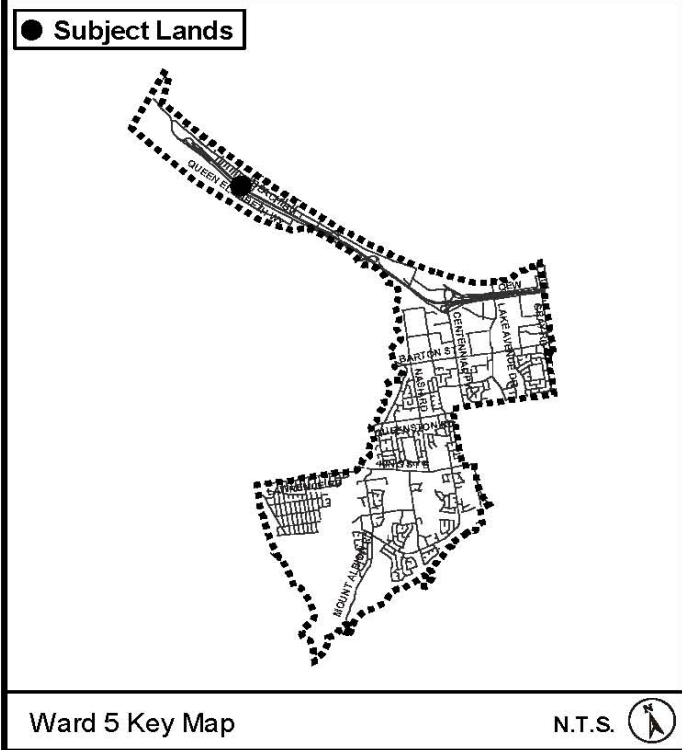
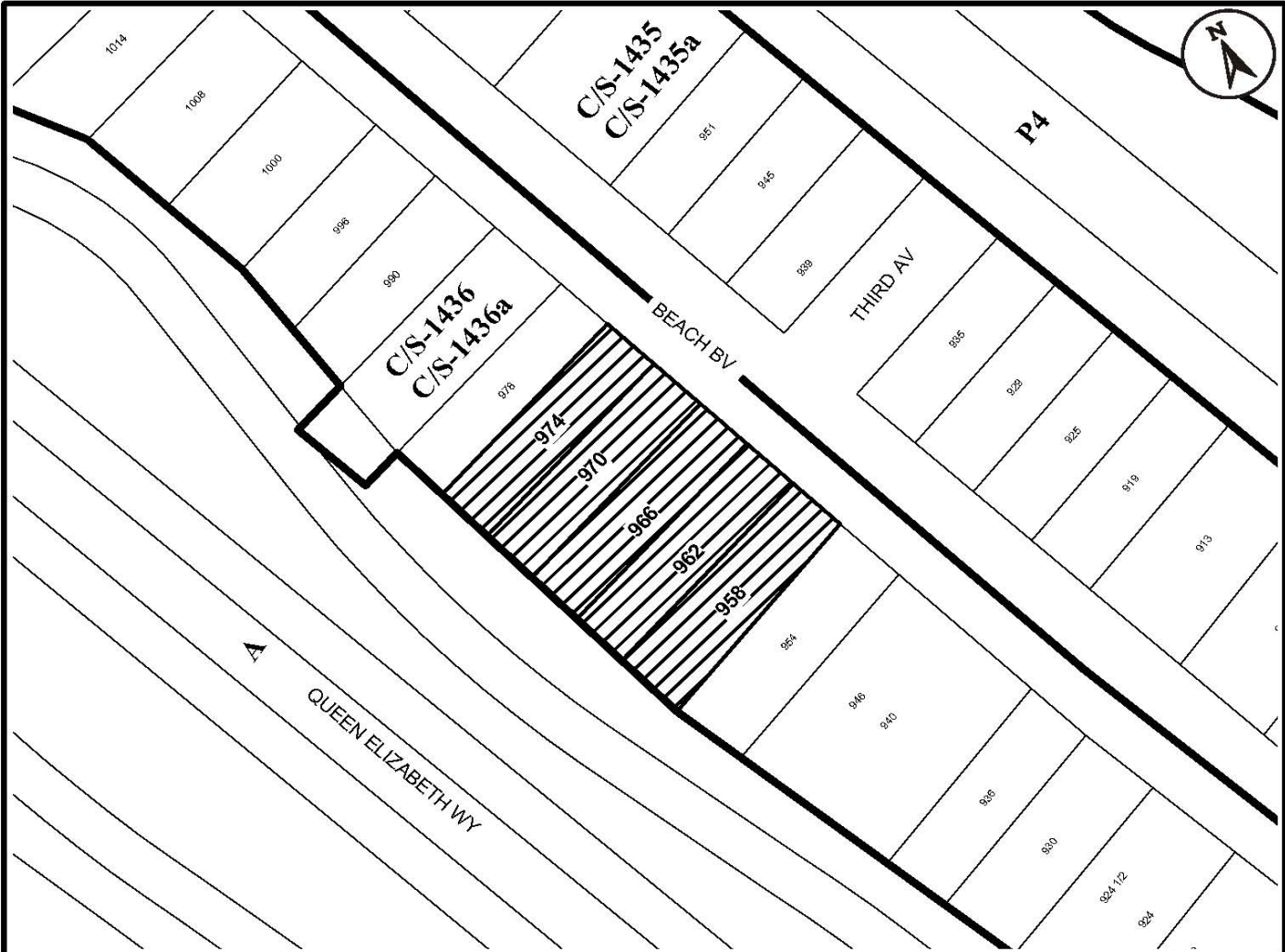
***Growing Our Economy***

- ◆ Investment in Hamilton is supported

**APPENDICES / SCHEDULES:**

Appendix "A" to Report PED11201 – Location Map

AM/sd



## Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: BeachBlvd	Date: October 17, 2011	
Appendix "A"	Scale: N.T.S.	Planner/Technician: AM/KA

**Subject Property**

958, 962, 966, 970, and 974 Beach Blvd

N.T.S.

