

January 20, 2009

To: Executive Committee

From: Affordable Housing Committee

Subject: Sale of a Portion of the Closed Magellan Drive to Habitat for Humanity Toronto Inc.

Recommendations:

The Affordable Housing Committee recommended to the Executive Committee and City Council that:

1. The Offer to Purchase from Habitat for Humanity Toronto Inc. ("Habitat") to purchase a portion of closed Magellan Drive shown on Plan 3621, also designated as Parts 1 and 4 on Plan 64R-10559, and shown as Parts 1 - 4 on Sketch No. PS-2007-283 (the "Sketch"), subject to an existing easement over Parts 2 and 4 on the Sketch in favour of Bell Canada (the "Property"), in the amount of \$380,000.00 less a forgivable Vendor Take Back Mortgage in the amount of \$360,000.00, be accepted substantially on the terms and conditions outlined in Appendix "A" to this report.
2. Each of the Chief Corporate Officer and the Director of Real Estate Services be authorized severally to accept the Offer to Purchase on behalf of the City.
3. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.
4. Authority be granted for the City to make or provide its consent as owner to any regulatory applications by Habitat and to grant licences for a term of up to six months, renewable for up to three months, for the purposes of entering onto the Property to carry out pre-development activities and that the Director of Real Estate Services, or his designate be authorized to execute the applications, consents and licences; and
5. Appendix "A" of this report be amended by replacing (10) affordable housing units to 2 affordable housing units.

Background:

The Affordable Housing Committee on January 20, 2009, considered a report (December 17, 2008) from the Deputy City Manager, Sue Corke and the Chief Corporate Officer, Bruce Bowes, recommending that:

1. The Offer to Purchase from Habitat for Humanity Toronto Inc. (“Habitat”) to purchase a portion of closed Magellan Drive shown on Plan 3621, also designated as Parts 1 and 4 on Plan 64R-10559, and shown as Parts 1 - 4 on Sketch No. PS-2007-283 (the “Sketch”), subject to an existing easement over Parts 2 and 4 on the Sketch in favour of Bell Canada (the “Property”), in the amount of \$380,000.00 less a forgivable Vendor Take Back Mortgage in the amount of \$360,000.00, be accepted substantially on the terms and conditions outlined in Appendix “A” to this report;
2. Each of the Chief Corporate Officer and the Director of Real Estate Services be authorized severally to accept the Offer to Purchase on behalf of the City;
3. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable; and
4. Authority be granted for the City to make or provide its consent as owner to any regulatory applications by Habitat and to grant licences for a term of up to six months, renewable for up to three months, for the purposes of entering onto the Property to carry out pre-development activities and that the Director of Real Estate Services, or his designate be authorized to execute the applications, consents and licences.

The following persons addressed the Affordable Housing Committee:

- Mr. Michael Fry, Vice President of Planning and Land Acquisitions, Habitat for Humanity Toronto; and
- Mr. Nicholas Volk, Habitat International Coalition

City Clerk

Dela Ting
Item AH8.7

cc: Deputy City Manager, Sue Corke
Chief Corporate Officer, Bruce Bowes
Director, Affordable Housing Office
Mr. Michael Fry, Habitat for Humanity Toronto
Mr. Nicholas Volk, Habitat International Coalition



STAFF REPORT ACTION REQUIRED

Sale of a Portion of the Closed Magellan Drive to Habitat for Humanity Toronto Inc.

Date:	December 17, 2008
To:	Affordable Housing Committee
From:	Sue Corke, Deputy City Manager and Bruce Bowes, Chief Corporate Officer
Wards:	9 – York Centre
Reference Number:	P:\2009\Internal Services\F&re\Af09005F&re – (AFS 9124)

SUMMARY

This report seeks approval for the sale of City-owned land adjoining 57 Giltspur Drive, being a portion of closed Magellan Drive, to Habitat for Humanity Toronto Inc. for its affordable housing building program in Toronto.

RECOMMENDATIONS

The Deputy City Manager responsible for the Affordable Housing Office and the Chief Corporate Officer recommend that:

1. The Offer to Purchase from Habitat for Humanity Toronto Inc. (“Habitat”) to purchase a portion of closed Magellan Drive shown on Plan 3621, also designated as Parts 1 & 4 on Plan 64R-10559, and shown as Parts 1 - 4 on Sketch No. PS-2007-283 (the “Sketch”), subject to an existing easement over Parts 2 & 4 on the Sketch in favour of Bell Canada (the “Property”), in the amount of \$380,000.00 less a forgivable Vendor Take Back Mortgage in the amount of \$360,000.00, be accepted substantially on the terms and conditions outlined in Appendix “A” to this report.
2. Each of the Chief Corporate Officer and the Director of Real Estate Services be authorized severally to accept the Offer to Purchase on behalf of the City.
3. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.
4. Authority be granted for the City to make or provide its consent as owner to any regulatory applications by Habitat and to grant licences for a term of up to six months, renewable for

up to three months, for the purposes of entering onto the Property to carry out pre-development activities and that the Director of Real Estate Services, or his designate be authorized to execute the applications, consents and licences.

Financial Impact

This report recommends the sale of the Property to Habitat for \$380,000.00. Habitat expects to construct 2 affordable housing units on the Property, and will pay the City \$10,000.00 per affordable housing unit constructed. The balance of the sale price of \$360,000.00, will be secured by a vendor take back mortgage (“VTB”) granted to the City in order to assist Habitat in building of affordable housing. Once the units have been built and ready for transfer to families chosen by Habitat, consistent with its guidelines, the City will forgive the mortgage.

Actual proceeds from this sale of \$20,000.00 will be directed to the Land Acquisition Reserve Fund in accordance with the City policy governing land transactions.

The Acting Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In accordance with the City’s Real Estate Disposal By-law, No. 814-2007, the Property was declared surplus on October 10, 2008 (DAF No. 2008-102), with the intended manner of disposal to be by inviting an offer to purchase the Property from Habitat at below market value, for the development of affordable housing.

ISSUE BACKGROUND

In 1984, pursuant to By-law No. 30969, the former City of North York, stopped up and closed that portion of Magellan Drive adjoining 57 Giltspur Drive and authorized the sale thereto to the owner of 57 Giltspur Drive (the “Owner”). In 1989, the City and the Owner entered into an Agreement of Purchase and Sale (“APS”) for the sale of the Property. However, due to delays incurred in accommodating the relocation of Bell Canada services the APS was mutually terminated by both parties. The Owner executed Release documents with respect to the APS and with respect to certain rights to purchase the road allowance pursuant to Section 315 of the Municipal Act, and that the Owner refused to exercise these rights as an abutting owner. An easement over Parts 2 & 4 on the Sketch has since been granted in favour of Bell Canada.

A circulation to the City's ABCDs was undertaken to ascertain whether or not there is any municipal interest in retaining the Property. Staff of the Affordable Housing Office ("AHO") advises that the Property would be suitable for a Habitat for Humanity project. Habitat has been consulted and has stated that the land would be suitable for its building program in Toronto.

After reviewing the housing development model used by Habitat (formerly Metropolitan Toronto Habitat for Humanity Inc.) several years ago, City staff developed guidelines under which the City could agree to assist Habitat in the building of affordable housing, by providing it with land at below fair market value. Habitat pays the City \$10,000 per unit and provides a VTB for the balance of the purchase price (at fair market value). Once a home has been built and is ready to be transferred to a family, chosen by Habitat using its guidelines, the City forgives the mortgage with respect to that parcel of land, thus ensuring the ultimate use of the Property.

No land has been transferred to Habitat since 2004, when surplus property on Donald Avenue, in Ward 12, was transferred. Habitat has grown in the Toronto area in that time and the requirement for land is high.

Habitat chooses families to occupy its volunteer-built homes, based on three criteria. First, the family's income must be below the poverty line for their geographic area, second, the family must be willing to pay back a long-term mortgage provided by Habitat and thirdly, it must be willing to contribute 500 hours of volunteer labour towards building their home and other Habitat homes (often referred to as "sweat equity").

When title to a home is transferred from Habitat to a qualified family, Habitat takes back two non-interest bearing mortgages on the home. The first mortgage is for the "at-cost" value of the house, representing what it cost Habitat to build. Monthly payments are made by the purchasers to Habitat on this mortgage only. The second mortgage is for the difference between the home's "at-cost" value and its appraised market value. No payments are made on this mortgage.

The "at-cost" price is significantly lower than the market price because of donations, particularly of building materials, and volunteer labour. Both mortgages usually have terms of between 20 and 25 years and are due in full on maturity or resale, whichever occurs first. The second mortgage is often referred to as an "anti-flip" mortgage because the fact that it must be paid on resale guards against windfall capital gains should a buyer family try to make a quick profit by selling the home soon after purchase. Any funds repaid through Habitat's mortgages are used to build more homes using the same model.

The Habitat model also includes extensive training that has proved to be a key component in their chosen families being successful homeowners.

COMMENTS

Further details of the Property are:

Approximate Dimensions:	Frontage : 20 m (66 ft) Depth: 35.2 m (115.5)
Approximate Area:	653 m ² (7,029 ft ²)

Negotiations, in consultation with Affordable Housing Office, have resulted in Habitat submitting an Offer to Purchase the Property in the amount of \$380,000.00. Payment to the City would be comprised of a cash payment of \$20,000.00, with \$360,000.00 to be secured by a vendor take back mortgage (“VTB”) granted to the City which mortgage would be forgiven by the City on certain terms and conditions. The VTB would be for a term of 30 months, with a possible extension of one year, at an annual interest rate of 6%. No interest is payable during the term. If, by the end of the VTB term, Habitat has completed the construction of the affordable housing unit and certifies that it has transferred the unit to a Habitat family, and that it has remained a non-profit registered charitable corporation, then the VTB, both principal and all interest accrued thereon, would be forgiven by the City and the mortgage would be discharged. However, if Habitat has not completed the affordable housing initiative by the end of the VTB term, then the VTB, both principal and all interest, would become due and payable in full to the City.

Once title to the Property is transferred to Habitat, the City will not have future control over the use of the Property. While the mortgages given in favour of Habitat by home purchasers, and the right to re-purchase that Habitat may exercise if the homeowners elect to sell the properties are intended to secure the long-term availability of the homes for affordable housing, once Habitat has transferred title to a home to a Habitat family, Habitat itself (unless it exercises its right to re-purchase the home) does not control the future use of the Property and cannot guarantee it will continue to be used for affordable housing. However, the Habitat model appears generally to have been successful in providing long-term affordable housing.

As of the writing of this report, not all of the steps necessary to comply with the City’s real estate disposal process, as set out in Chapter 213 of the City of Toronto Municipal Code, have been complied with, as notice of the proposed sale has not been given. However, by the date of consideration of the Committee, the required public notice will have been given.

A Cost Centre has been put in place to charge costs directly related to the sale of City-owned properties. A recommendation is included in this report to direct a portion of the sale proceeds to fund the outstanding expenses related to this property.

CONTACT

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SIGNATURE

Sue Corke
Deputy City Manager

Bruce Bowes, P.Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Terms & Conditions
Appendix "B" – Site Map & Sketch

Appendix “A”**Terms and Conditions of Agreement of Purchase and Sale**

Subject Property:	Portion of closed Magellan Drive adjoining 57 Giltspur Drive, shown as Parts 1-4 on Sketch No. PS-2007-283 (the “Sketch”)		
Legal Description:	Part of PIN 10262-0462 LT, City of Toronto Portion of closed Magellan Drive shown on Plan 3621, also designated as Parts 1 & 4 on Plan 64R-10559		
Easement:	Subject to an existing easement over Parts 2 & 4 on the Sketch in favour of Bell Canada		
Purchaser:	Habitat for Humanity Toronto Inc.		
Recommended Sale Price:	\$380,000.00 less a forgivable mortgage of \$360,000.00 \$20,000.00 payable on closing		
Vendor Take Back Mortgage (VTB):	Amount:	\$360,000.00	
	Term:	Thirty (30) months, with an option to extend for a further twelve months at the sole and absolute discretion of the Chief Corporate Officer.	
	Rate of Interest:	6 percent per annum (no interest payments due during the Term)	
	Provision:	If, prior to the VTB balance due date, Habitat has completed construction of ten (10) affordable housing units and certifies that the Property has been conveyed to an Habitat family and that Habitat has remained a non-profit registered charitable corporation, then the principal amount and all interest accrued thereon will be forgiven, and the VTB will be discharged. However, if these conditions are not met by the VTB balance due date, then the VTB, both principal and all interest become due and payable in full.	
Deposit:	\$10,000.00		
Irrevocable Date:	March 16, 2009		
Requisition Date	November 30, 2009		
Environmental Condition:	This offer to purchase is conditional upon Habitat satisfying itself during the Due Diligence Period, at its own expense, with the results of a Phase I and Phase II environmental assessment of the Property until September		

30, 2009.

Habitat shall have the right to terminate this Agreement by notice in writing to the City on or before the expiry of the time set out above in the event that the foregoing condition has not been satisfied. Upon such notice, this Agreement shall be null and void. In the event Habitat does not notify the City within the time so limited, Habitat shall be deemed to have waived this condition. This condition is expressed to be for the sole benefit of the Habitat which Habitat shall have the right to waive, at any time or times.

Board Condition

This Offer to Purchase is conditional for a period of thirty (30) days following the date of signing by Habitat, upon the Board of Directors approving the entering into the Offer to Purchase.

Closing Date:

November 30, 2009

APPENDIX "B"

