

**Yonge/Dundas Redevelopment Project, Parcel C -
259 Victoria Street, Toronto Amendments to the
Master Agreement with Robert Sniderman
(Ward 24 - Downtown)**

(City Council on December 14, 15 and 16, 1999, adopted this Clause, without amendment.)

The Policy and Finance Committee recommends the adoption of the following report (November 29, 1999) from the Acting Commissioner of Corporate Services:

Purpose:

To authorize amendments to the Master Agreement with Robert Sniderman for the sale and lease of the City-owned lands at 259 Victoria Street as part of Parcel C of the Yonge/Dundas Redevelopment Project.

Financial Implications and Impact Statement:

Minimum revenue in the amount of \$2,750,000.00 plus interest from January 1, 2000 to Closing at the rate of Prime plus 1 percent will be realized from the sale of the land to offset the overall cost of the Yonge/Dundas Redevelopment Project. The sale price will be enhanced with the sale of a strata interest over Dundas Square at levels 2 and 3, subject to the necessary planning approvals. Additional Revenues will also be realized in future years (for 50 years) from the City's participation in net revenues to be generated by the advertising tower.

Recommendations:

It is recommended that:

- (1) the amendments to the Master Agreement as outlined in this report be approved;
- (2) that the City Solicitor be authorized and directed to complete this transaction according to the terms and conditions as set out in this report and pay any City costs incidental to the closing and be further authorized to amend the closing date to such earlier or later date as considered reasonable; and
- (3) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

At its meeting held on February 2, 3 and 4, 1999, Council approved, as amended, Clause 10 of Report No. 2 of the then Strategic Policies and Priorities Committee for the settlement of claims to the Salvation Army, Governing Council of Canada in the amount of \$2,000,000.00. Council declared 259 Victoria Street surplus to the City's requirements subject to the abutting road portions being stopped up and closed as public highway.

Council gave approval for the City to enter into an agreement with Robert Sniderman (Senator Restaurants Limited) for the sale of Parcel C comprised of 259 Victoria Street and a 5 metre strip of public road abutting to the north. Council also gave approval for the City to enter into a 50 year lease to permit an advertising tower and connecting pedestrian bridge to be constructed on portions of the lands outlined on Map 2.

Comments:

Robert Sniderman, owner of Senator Restaurants Limited, has confirmed that PenEquity Management Corporation has acquired an interest in the development. Robert Sniderman will maintain a minimum 25 percent interest in the project as required by the existing agreement.

Negotiations between Robert Sniderman/PenEquity and City staff have been recently conducted resulting in a number of amendments to the Master Agreement which enhance the City's position and provides the Purchaser with an opportunity to improve the development scheme.

The original proposal is depicted on the sketch attached hereto as Map 2. The revised scheme provides for additional space at levels 2 and 3 connecting the media tower to the main building to be constructed on Parcel C. This additional space is referenced as "infill density" and will span over Dundas Square. The TTC tracks are to remain in place on the Dundas Square road allowance to the north of 259 Victoria Street.

Subject to Dundas Square being closed the City will be conveying a freehold strata interest at levels 2 and 3 over the Dundas Square road allowance and at levels 1, 2 and 3 at the base of the proposed media tower. The balance of the media tower, where the signage is to be located, will continue to be under a 50 year lease from which the City receives 20 percent of net advertising revenue.

The amendments necessary to the Master Agreement have been agreed as follows:

- (1) the revised Condition Date is November 30, 1999. (It is noted that as of the date of writing this report, the proponents were poised to submit a revised application and thus the Condition Date for submission of the Municipal Applications was fixed accordingly);
- (2) subject to submission of the development applications no later than November 30, 1999, the definition of Development in the Master Agreement will be amended to incorporate infill density over the Dundas Square road allowance;
- (3) the definition of the Freehold Lands will be amended to include a freehold strata interest at levels 2 and 3 in Dundas Square and at levels 1, 2 and 3 at the base of the media tower, together with mutual supporting rights as required; subject to a condition relating to the closure and sale of the Dundas Square road allowance;
- (4) the revised Date of Closing is May 31, 2000;

- (5) the Purchaser shall have the right, to extend the Date of Closing, for up to two successive periods of up to three (3) months each;
- (6) the Initial Conditions as outlined in Paragraph 5.1 (a) shall be amended to refer only to environmental and soil conditions; and Paragraphs 5.1 (b) and 5.1 (d) shall be deleted;
- (7) the Conditions of Closing contained in Paragraphs 5.2 (b) and 5.2 (c) shall be deleted and replaced by a covenant by the City to deliver vacant possession upon Closing;
- (8) Purchase Price and Adjustments:
 - (i) the Purchase Price shall be increased to reflect interest on the unpaid original Purchase Price for the period January 1, 2000 to Closing (including any period during which the Municipal Applications are before the Ontario Municipal Board) at the rate specified in Section 3.3;
 - (ii) the Purchase Price shall be further adjusted at a rate of one thousand seventy six dollars and thirty-nine cents (\$1,076.39) per square metre for Non-Residential gross floor area for any additional density associated with the conveyance of a strata interest in levels 2 and 3 over the Dundas Square road allowance. For purposes of clarity this rate shall not apply to the freehold strata interest on levels 1, 2 and 3 at the base of the tower; and
 - (iii) exclusive of the infill density referred to in (8) (ii) above, if the Development as actually approved upon completion of the Municipal Applications, permits construction of more than 3,145 square metres of Non-Residential gross floor area, then to the extent that the additional density relates to the Lands as originally defined in the Master Agreement, the Purchase Price shall be adjusted by multiplying the amount of excess Non-Residential gross floor area by six hundred and forty five dollars and eighty-three cents (\$645.83) per square metre. The provision in Section 6.1 of the Master Agreement relating to the timing of this obligation remains unamended;
- (9) the City has received 2 deposits of \$50,000.00 each. A further cheque in the amount of \$175,000.00 was received on October 29, 1999. This cheque is being held pending satisfactory resolution of the Amendments set out herein and if satisfactory resolution is achieved will be deposited. A further \$225,000.00 as deposit will be paid by the Purchaser 5 days after approval of these amendments to the Master Agreement by Council;
- (10) the Purchaser shall, at its expense, undertake the immediate demolition of the existing property at 259 Victoria Street. The City shall have a right of approval of the amount of the demolition costs. If the transactions contemplated by the Master Agreement do not close for any reason other than the default of the Purchaser, the City shall reimburse the Purchaser the amount of the demolition costs on the termination of the Master Agreement; and

(11) Other:

- (i) the Purchaser shall agree to file its development applications by no later than November 30, 1999; and
- (ii) the Master Agreement is between the City and Robert Sniderman in trust for a company to be incorporated. Since, Robert Sniderman has incorporated one or more companies (which in turn have formed a limited partnership with PenEquity Management Corporation for development of the Project), the Master Agreement will be amended to be a contract with the appropriate legal entity or entities.

Staff of City Planning have advised that the technical components of the revised scheme will be refined upon receipt of the Municipal Applications.

Conclusions:

The proposed amendments to the Master Agreement with Robert Sniderman/PenEquity, result in the following enhancements for the City:

- (1) an increase to the deposit amount from \$275,000.00 to \$500,000.00;
- (2) provision for the sale of “infill density” based on a rate of \$1,076.39 per square metre;
- (3) the Purchase Price shall be increased to reflect interest on the unpaid original Purchase Price for the period January 1, 2000 to Closing (including any period during which the Municipal Applications are before the Ontario Municipal Board) at the rate specified in Section 3.3; and
- (4) waiving by the Purchaser of certain Initial and Closing Conditions.

The proposed amendments to the Master Agreement result in improved revenues for the City and should be approved.

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Report No. pfc99184

Insert Table/Map No. 1
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Insert Table/Map No. 2