



## STAFF REPORT ACTION REQUIRED

### Sale of the Public Lane at the Rear of 76 Davenport Road

<b>Date:</b>	September 4, 2007
<b>To:</b>	Government Management Committee
<b>From:</b>	Chief Corporate Officer
<b>Wards:</b>	27 – Toronto Centre-Rosedale
<b>Reference Number:</b>	P:\2007\Internal Services\F&re\ Gm07089F&re – mss/vb (AFS 5286)

#### SUMMARY

---

The purpose of this report is to authorize the Chief Corporate Officer to enter into an Agreement of Purchase and Sale with the adjoining land owners, Seventy-Six Davenport GP Ltd. and 964496 Ontario Limited for the sale of the public lane at the rear of 76 Davenport Road.

The terms for completing the transaction, as set out herein, are considered to be fair, reasonable and reflective of market value.

#### RECOMMENDATIONS

---

**The Chief Corporate Officer recommends that:**

1. The City of Toronto be authorized to enter into an Agreement of Purchase and Sale with the adjoining owners, Seventy-Six Davenport GP Ltd. and 964496 Ontario Limited (collectively, the “Purchaser”) for the sale of the public lane at the rear of 76 Davenport Road, shown as Part 1 on Sketch No. PS-2007-046 (the “Lane”), for a total of \$612,360.00, to be satisfied by way of a cash payment of \$344,260.00 and a contribution of additional public benefits to the City valued at \$268,100.00, substantially on the terms and conditions outlined in Appendix “A” to this report, and that each of the Chief Corporate Officer and the Director of Real Estate Services be authorized severally to execute the Agreement of Purchase and Sale on behalf of the City.

2. Authority be granted to direct a portion of the proceeds of closing to fund the outstanding expenses related to the Lane and the completion of the sale transaction.
3. The City Solicitor be authorized to complete the transaction on behalf of the City, including making payment of any necessary expenses and amending the closing and other dates to such earlier or later date(s) and on such terms and conditions as she may from time to time consider reasonable.

### **Financial Impact**

The City and the Purchaser have agreed that the value of the Lane is \$612,360.00. A cash payment from the Purchaser in the amount of \$344,260.00 plus GST if applicable, less closing costs and the usual adjustments is anticipated from the sale of the Lane. In addition, the City will be receiving certain benefits from the Purchaser, to be secured in a Section 37 Agreement, being the provision of an additional 2-metre pedestrian setback area to be maintained at grade along Davenport Road, in front of the proposed 76 Davenport Road building and additional publicly accessible open space areas within the proposed development, such benefits having been valued at \$268,100.00.

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

### **DECISION HISTORY**

City Council, at its meeting of December 5, 6 and 7, 2005, adopted as amended, Clause No. 17 of Toronto and East York Community Council Report No. 9, which recommended that the Official Plan Amendment and Rezoning Application for 76 to 100 Davenport Road be refused. However, as part of the Clause, Council approved the closure and sale of the Lane if, among other things, the owner complied with certain development requirements for the Lane.

Following Ontario Municipal Board (“OMB”) Decision/Order No. 1629, issued on June 5, 2006, which approved the proposed development, City Council, at its meeting of June 27, 2006, adopted Notice of Motion J(37), thereby replacing the previously amended Recommendation (4) in the above-noted Clause No. 17 with a new Recommendation (4). This new recommendation did not affect the approval to close and sell the Lane. It only amended the related development requirements.

City Council, at its meeting held on April 23 and 24, 2007, adopted the recommendations in Item TE4.108 of the Toronto and East York Community Council, thereby approving the permanent closure of the Lane, provided that Council subsequently approves a sale of the Lane, declaring the Lane surplus and authorizing the Chief Corporate Officer to invite an offer to purchase the Lane from Diamante Development Corporation.

### **ISSUE BACKGROUND**

OMB Decision/Order No. 1629 states that the OMB is satisfied that incorporating the Lane into the development would provide flexibility for several matters of benefit to the

public. Accordingly, the OMB withheld its Order, to provide the City with an opportunity to decide whether to sell the Lane to the proponent. The OMB decision further states that if the Lane is sold to the proponent and its acquisition alters the lands to be included in the official plan amendment and zoning-by-law amendments, the OMB will deal with any adjustments necessary to these planning instruments.

In addition, the OMB decision approved a number of Section 37 benefits to the City, including the provision of a 2.2 to 2.8 metre pedestrian setback area to be maintained at grade along Davenport Road, in front of the proposed 76 Davenport Road building, and the provision of a publicly-accessible landscaped open space area at the rear of the proposed development. The proposed development includes 22 stories of residential condominiums and at grade commercial space.

## COMMENTS

Negotiations between the City and the Purchaser have been completed. The Purchaser is the registered owner of the adjoining development site and staff is advised that both corporations are related corporations to Diamante Development Corporation.

The Purchaser and City staff have agreed that the value of the Lane is \$612,360.00. The Purchaser has agreed to pay \$344,260.00 in cash for the Lane and to provide the following additional public benefits, which have been valued at \$268,100.00, over and above what the OMB decision requires, in payment of the balance of the purchase price:

- (a) an additional 2-metre pedestrian setback area to be maintained at grade along Davenport Road, in front of the 76 Davenport Road building (so that the total pedestrian area will be 4.2 to 4.8 metres); and
- (b) additional publicly-accessible landscaped open space areas to be provided along the east side of the development and at the rear of the development.

These additional public benefits will be secured in the Section 37 Agreement to be executed by the Purchaser prior to completion of the sale of the Lane.

Additional details of the terms and conditions of sale are set out in Appendix “A”.

Further details of the L-shaped Lane:

Approximate North/South Measurement:	27.1 m (88.9 ft)
Approximate East/West Measurement:	14.5 m (47.57 ft)
Approximate Site Area:	161 m <sup>2</sup> (1,733.05 ft <sup>2</sup> )

It should be noted that the sale of the Lane is time sensitive as the parties are required to report back to the OMB by October 15, 2007 on the status of the outstanding matters.

A Cost Centre has been put in place to charge costs directly related to the sale of City-owned properties, and includes such items as commissions and surveying. A

recommendation is included in this report to direct a portion of the sale proceeds to fund the outstanding expenses related to the Lane.

## **CONTACT**

Joe Casali  
Director of Real Estate Services  
Tel: (416) 392-7202  
E-Mail: [jcasali@toronto.ca](mailto:jcasali@toronto.ca)

Chuck Donohue, P. Eng.  
Executive Director, Facilities & Real Estate  
Telephone (416) 397-5151  
E-Mail: [cdonohue@toronto.ca](mailto:cdonohue@toronto.ca)

## **SIGNATURE**

---

Bruce Bowes, P. Eng.,  
Chief Corporate Officer

## **ATTACHMENTS**

Appendix "A", Terms and Conditions of Agreement of Purchase and Sale  
Appendix "B", Site map and Sketch No. PS-2007-046