

## **Honest Ed's and Mirvish Village - Proposed Purchase of Community Use Space Within or Adjacent to Development Site and Proposed Sale of City-owned Public Lane known as Honest Ed's Alley**

**Date:** July 6, 2017

**To:** City Council

**From:** Chief Corporate Officer

**Wards:** Wards 20 and 21

### **SUMMARY**

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This report is in response to City Council's direction in Part 14 of Item TE23.6, as adopted by City Council at its meeting held on April 26, 27 and 28, 2017, that the Director, Real Estate Services report directly to City Council at its July 5, 2017 meeting with the details of a negotiated agreement for the purchase or lease by the City of a minimum of 3,500 square feet within the Honest Ed's and Mirvish Village development site.

This report also requests authority to enter into an agreement with the owner of the Honest Ed's and Mirvish Village site for the proposed sale of the public lane known as Honest Ed's Alley.

### **RECOMMENDATIONS**

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The Chief Corporate Officer recommends that:

1. City Council authorize and direct the City to exercise its right to elect to accept a financial payment of \$1,000,000.00 from 500 Bloor Street Property Inc. (the "Owner") in lieu of the Owner providing the City with leased non-profit community and/or cultural space within the Owner's approved development.
2. City Council authorize the City to enter into an agreement of purchase and sale with the Owner for the purchase by the City of certain property for community and/or cultural use within or adjacent to the Owner's approved development, as described in Appendix "A", in the amount of \$2,550,000, substantially on the terms set out in Appendix "A" and on such further and amended terms as may be acceptable to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.

3. City Council authorize the City to accept the Offer received from the Owner for the sale by the City of the public lane known as Honest Ed's Alley (the "Lane"), in the amount of \$4,425,000, substantially on the terms set out in Appendix "B" and on such further and amended terms as may be acceptable to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.
4. City Council authorize the General Manager, Transportation Services to give notice to the public of a proposed by-law to permanently close the Lane in accordance with the requirements of the City of Toronto Municipal Code, Chapter 162, with the Toronto and East York Community Council to hear any member of the public who wishes to speak to the matter during consideration of the proposed by-law.
5. City Council authorize the General Manager, Transportation Services to advise the public of the proposed closure of the Lane prior to implementation, in accordance with the requirements of the Municipal Class Environmental Assessment for Schedule "A+" activities, by posting notice of the proposed closure on the notices page of the City's Website for at least five working days prior to the Toronto and East York Community Council meeting at which the proposed by-law to close the Lane will be considered.
6. City Council direct that a portion of the proceeds of closing be directed to fund the outstanding expenses related to the completion of the sale transaction.
7. City Council authorize the City Solicitor to complete the transactions 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.

## **FINANCIAL IMPACT**

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The net financial impacts of the recommended transactions are as follows:

City sale proceeds and received payments:

Proceeds from Owner (Section 37)	\$1,000,000
Sale of Lane	\$4,425,000
Total sale proceeds and payments	\$5,425,000

City acquisition costs and fees:

Cost to Purchase Community Use Space	\$2,550,000
Closing Costs & Fees	\$92,555
Total acquisitions costs and fees	\$2,642,555

Net financial impact/revenue to the City is \$2,782,445 [\$5,425,000 less \$2,642,555].

The proceeds from the sale of the Lane received from the Owner will be used to fund the above acquisition of the community use space and closing costs & fees, and the remaining proceeds from the sale of the lane in the amount of \$1,782,445 will be directed to the Land Acquisition Reserve Fund (the "LARF").

The \$1,000,000 payment received from Owner will be used to fit out the community use space as per the Section 37 agreement.

Additional to the financial impact of the transactions are the risks of property ownership, including the costs of staff to manage, maintain and find appropriate use of the purchased property to recover costs, which may have future budget impact. However, market effects of capital appreciation of the asset over the long term may offset any of this risk.

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

## **DECISION HISTORY**

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City Council, at its meeting on April 26, 27 and 28, 2017, amended and adopted Item TE23.6, including:

Part 6(ii) - the owner will provide a non-profit community and/or cultural space within the approved development, finished to a shell condition, to be leased to the City, at nominal cost to the City within the approved development, with direct access from a public right-of-way and or/Publicly-Accessible Privately Owned Space and/or publicly accessible pedestrian walkway fronting parkland, with a contribution by the owner of \$1,000,000.00, or, alternatively, should the City so elect in its sole discretion, in lieu of the provision of non-profit community and/or cultural space within the approved development, the owner shall make a financial payment of \$1,000,000.00 to the City for use towards community and/or cultural space prior to the issuance of the first above-grade building permit and that the Chief Planner and Executive Director, City Planning report back to the meeting of June 13, 2017 Toronto and East York Community Council respect to details regarding the lease or potential sale of the community space.

Part 7 - City Council direct that prior to the introduction of the Bills for the Official Plan Amendment and Zoning By-Law Amendments to City Council for enactment, the owner shall have entered into an agreement to purchase the public lane known as Honest Ed's Alley (the "Lane") from the City, conditional upon City Council approving the permanent closure of the Lane, and subject to the necessary approvals being granted by the appropriate City authorities to declare the Lane surplus and authorize the sale of the Lane to the owner, all to the satisfaction of the City Solicitor and the Director of Real Estate Services. In the event that the public lane known as Honest Ed's Alley is sold to the Owner, City Council direct that the proceeds of sale (the "Lane Proceeds") be directed towards the Section 37 Community Benefit identified in Part 6(ii) above.

Part 14 - City Council direct the Lane Proceeds and any funds received pursuant to the financial contribution of \$1,000,000.00 identified in Part 6.ii. above, be used by the City to enter into a lease or a potential sale, of a minimum of 3,500 square feet within the development, on terms satisfactory to the Chief Corporate Officer, in consultation with the local Ward Councillors as well as with the applicable City Division, and in a form satisfactory to the City Solicitor, and request, and request the Director, Real Estate Services to report to Council with details of a negotiated agreement with the Owner at the July 5, 2017 City Council meeting.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE23.6>

## COMMENTS

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Pursuant to Council's direction in Part 14 of Item TE23,6, Real Estate Services staff, in consultation with the Ward Councillor, have negotiated the major terms of an agreement for the City to acquire community and/or cultural space in fee simple from the Owner, within or adjacent to the Owner's approved development site. The major terms of the recommended agreement are outlined in Appendix "A" and are considered to be fair, reasonable and reflective of market value.

It is recommended that the City exercise its right to elect to accept the \$1,000,000.00 cash payment from the Owner in lieu of the Owner providing the City with leased non-profit community and/or cultural space within the Owner's approved development, so that these funds can be used, along with the proceeds from the sale of the Lane, to purchase the fee simple community and/or cultural space, as directed by Council in Part 14 of Item TE23.6.

In accordance with the City's Real Estate Disposal By-law, No. 814-2007 (Municipal Code Chapter 213), the Lane was declared surplus by way of Delegated Approval DAF 2017-087, conditional on City Council approving the permanent closure of the Lane, with the intended manner of disposal to be by way of inviting an offer to purchase the Lane from the adjoining owner of 571-592 Bloor W., 738-782 Bathurst St. (except 756 and 758 Bathurst St.), 26-38 Lennox St., 581-603 and 588-612 Markham St. All 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.

Real Estate Services staff commissioned and reviewed an independent Appraisal Report dated May 5th 2017, estimating the fee simple fair market value of the Lane in accordance with the standard policies and procedures applicable to the sale of City-owned land.

The agreed to price for the Lane takes into consideration the marketability of the Lane to the open market; the potential effects of recent provincial legislation on the housing market; and the potential lower value of a rental based development.

Real Estate Services staff have negotiated the major terms of an agreement for the City to sell the Lane to the Owner. The major terms of the recommended agreement are

outlined in Appendix "B" and are considered to be fair, reasonable and reflective of market value.

## **CONTACT**

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## **SIGNATURE**

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Josie Scioli  
Chief Corporate Officer

Appendix A  
Major Terms of Purchase of Community Space

Vendor: 500 Bloor Street Property Inc. ("Owner")

Purchaser: City of Toronto

Property: The Property shall be either: (1) the existing heritage-listed property municipally known as 756 Bathurst Street (the "756 Bathurst Property"); or (2) an alternative property located within or directly adjacent to the Owner's Council approved development site, having a minimum total area of 3,500 square feet, with a minimum of 500 square feet of space at grade fronting onto Bathurst Street and the remainder on the second level of the building (the "Alternative Property"). The Owner shall have the right, in its sole discretion, to decide which property shall be purchased by the City.

Price: \$2,550,000.00

Closing Date: On 30 days' written Notice provided by the Owner to the City, and not later than 5 years following the issuance of the first above-grade building permit for the Council approved development site.

Due Diligence: City to have a Due Diligence Period with respect to the 756 Bathurst Property, commencing upon the Owner acquiring title to such property and ending on December 18, 2017. Notwithstanding such Due Diligence Period, Owner will give to the City copies of the environmental studies and reports obtained by the Owner in respect of the 756 Bathurst Property together with reliance letters in favour of the City from those environmental consultants retained by the Owner and who prepared such reports, such reliance letters permitting the City to rely on such reports. During such Due Diligence Period, the City will determine if the 756 Bathurst Property, including its environmental condition, is suitable for the City's purposes. If the Owner elects to sell the Alternative Property to the City after the City conducts such due diligence in respect of the 756 Bathurst Property, then the Owner will reimburse the City for its third party consultant costs relating to such due diligence, upon the City providing copies of invoices relating thereto, up to a maximum of \$5,000.

Condition of Property:

1. If the Owner elects to convey the 756 Bathurst Property, it will be conveyed on Closing in the following condition:

- a. With the exterior in as is, where is condition, with no exterior maintenance, expansion or heritage restoration work performed by the Owner
- b. With the interior of the first and second levels cleaned out and patched, without altering the basic structure, but improved by the Owner to base building condition, which includes ceilings, basic lighting, plumbing, heating and cooling (HVAC), interior walls (painted or unpainted), electrical outlets, basic rest rooms, and a concrete/unfinished floor.

2. If the Owner elects to convey the Alternative Property, it will be conveyed on Closing in the following condition:

a. Constructed as new-build construction, with a conventional layout configured to allow for a stair connection between the grade-level and second level areas, with ceilings of a minimum height of 9 feet

b. In base building condition which includes ceilings, basic lighting, plumbing, heating and cooling (HVAC), interior walls (painted or unpainted), electrical outlets, basic rest rooms, and concrete floor, and with one internal concrete stair between the levels

Additional Terms:

1. If the Owner elects to convey the Alternative Property, on Closing, the City and the Owner shall enter into a mutual easement and shared facilities agreement, on terms satisfactory to the Chief Corporate Officer and in a form satisfactory to the City Solicitor, to provide for the necessary easements and the fair and equitable cost sharing of applicable shared services and use of common areas.

2. On Closing, the City and the Owner shall enter into the following additional agreements as may be required by the Owner, on terms satisfactory to the Chief Corporate Officer and in a form satisfactory to the City Solicitor, but with no additional consideration to be paid by the Owner for the rights to be granted in such additional agreements:

a. a limiting distance agreement, limiting the City, its successors, assigns and successors in title to the Property from vertical construction above the maximum height of the structures in existence on the Property as of the date of Closing

b. Tiebacks (to be destressed by the Owner), shoring and crane swing agreements pertaining to the Property

## Appendix B

### Major Terms of Purchase of Lane Sale

Property: PIN 21254-0218 (LT), being part of the public highway described as Lane on Plan 93 Toronto North of Lennox Street, Between Markham Street & Bathurst Street, City of Toronto, designated as Parts 15, 16, 17, 18 and 19 on Plan 66R-29394

Purchaser: 500 Bloor Street Property Inc. (the "Owner")

Price: \$4,425,000

#### Deposits:

Deposits	Amount	Deposit Due Date
First Deposit	\$221,250	5 business days following Acceptance by City
Second Deposit	\$221,250	2 business days following enactment of Lane Closing by-law
Total Deposit	\$442,500	

Irrevocable date: 5th day after the date the executed Offer from the Owner is received by the City

Closing date: First anniversary of date Closing By-law is enacted, or earlier on 30 days' Notice provided by Owner in writing

#### Conditions of Closing:

1. If Lane Closing By-law is not enacted by November 30, 2017, Purchaser has right to terminate agreement
2. Prior to Closing, City and Owner must have entered into an agreement for the purchase by the City of certain property within or adjacent to the Owner's approved development site, substantially on the terms set out in Appendix "A"; This condition is for the sole benefit of the City and can be waived by the City in its sole discretion
3. Satisfaction of City's requirements regarding indemnification by Owner of any Lane closing claims, delivery of release from adjacent owner for any Lane closing claims if available having used commercially reasonable efforts, confirmation of payment by Owner of 3rd party utility relocation costs, and release from Owner from any environmental liability
4. If Closing Date is more than six (6) months after the date the Lane Closing By-law is enacted, purchase price shall be increased by a percentage equivalent to the percentage increase in TREB index between date Lane Closing By-law is enacted and Closing Date