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**TO: GENERAL COMMITTEE**

**SUBJECT: SALE OF VETERAN'S LANE**

**WARD: 6**

**PREPARED BY AND KEY CONTACT: A. MILLS, MANAGER OF LEGAL SERVICES, EXT. 5051**

**SUBMITTED BY: I. PETERS, DIRECTOR OF LEGAL SERVICES**

**CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER**

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### **RECOMMENDED MOTION**

1. That the property legally described as Part 1 on 51R-32592 and known municipally as Veteran's Lane, Barrie (the "Subject Property") as shown in Appendix "A" to Staff Report LGL006-20, be sold to Sean Mason Homes (Vet Lane) Inc. (the "Purchaser") in accordance with the terms and conditions set out in the Agreement of Purchase and Sale (the "APS") attached as Appendix "B" to Staff Report LGL006-20.
2. That The Corporation of the City of Barrie (the "City") remove its condition on Council approval contained within the APS and proceed to complete the sale process.
3. That the City permanently close the Subject Property as a highway and pass a by-law to effect the closure.
4. That the Purchaser be permitted to include the Subject Property in development applications, including Site Plan Control, subject to any subsequent approvals associated with same being withheld until the transfer of the Subject Property is completed.
5. That the proceeds from the sale be transferred to the Tax Capital Reserve.
6. That the City Clerk be authorized to execute all associated and required documents necessary to remove the condition of sale or amend any term contained in the APS on the recommendation of and in a form approved by the Director of Legal Services.

### **PURPOSE & BACKGROUND**

#### **Report Overview**

7. The purpose of this Staff Report is to recommend the sale of the Subject Property in accordance with the terms and conditions contained in the APS.
8. The Subject Property forms part of the original Veteran's Drive road allowance and was renamed Veteran's Lane following the realignment of Veteran's Drive which resulted from development in the immediate area.
9. The Purchaser owns the lands surrounding the Subject Property being 341 Veteran's Drive, 339 Veteran's Drive and Block 35 on Plan 51M-572 and is seeking to acquire the Subject Property and develop it all into residential housing.

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10. On June 15, 2020, City Council adopted motion 20-G-092 regarding the Surplussing of Veteran's Lane (Ward 6) as follows:
1. That the property known municipally as Veteran's Lane, Barrie, outlined in Appendix "A" to Staff Report LGL003-20 (the "Subject Property") be declared surplus to the needs of The Corporation of the City of Barrie (the "City").
  2. That the Subject Property be offered for sale to Sean Mason Homes (Vet Lane) Inc. (the "Purchaser") to facilitate development in conjunction with the adjacent properties owned by the Purchaser.
  3. That the Purchaser be permitted to submit an Official Plan and Zoning By-law Amendment application for the Subject Property and include it in development applications.
  4. That the City Clerk be authorized to execute an Agreement of Purchase and Sale ("APS") conditional upon a future Council approval and in a form approved by the Director of Legal Services. (LGL003-20) (File: L17-111)

#### **ANALYSIS**

11. The notice provision requirements of Section 34 of the *Municipal Act, 2001* and the City's Sale of Property By-law 95-104 prior to the sale and closure of a highway have been complied with by way of publishing notices in the Barrie Advance.
12. The City is required to transfer half of the Subject Property to the Purchaser for nominal consideration pursuant to the requirements of Development Agreements registered on title to 339 Veteran's Lane as instruments RO1148413 in 1991 and SC23896 in 2002. The other half of the Subject Property is not subject to those same requirements and as such staff are recommending it be sold at fair market value.
13. The Purchaser requested that both halves of the Subject Property be transferred for nominal consideration given that other portions of the former right of way had been treated in that manner historically. Staff rejected this request as the current practice is to sell City owned property at fair market value. The City is continuing to honor its contractual commitments in the Development Agreements.
14. An appraisal was completed by Andrew, Thompson and Associates which estimated that one half of the Subject Property has a fair market value in the range of \$61,619 to \$83,819 based upon its highest and best use as of April 2, 2020.
15. Subsequent to completion of the appraisal, the Purchaser requested the purchase price for the Subject Property be the low end of the value range based on additional information the Purchaser had obtained with respect to restoration costs. Staff did not feel that was appropriate and instead advised the mid-point of the appraised value being \$72,719 was supportable and an APS reflecting that purchase price was executed by both parties.
16. The Purchaser will require site plan approval for its proposed development. Any development application made is entirely at the Purchaser's risk and expense and will be considered independently of the sale process.
17. A road widening requirement has been identified across the southern end of the Subject Property and will be transferred back to the City for nominal consideration along with other identified road widenings at the time of registration of Site Plan and in accordance with the terms of the APS.

18. Disposition of the Subject Property and development in conjunction with the Purchaser's Lands will create a revenue source for the City through the sale proceeds, development charges and future property taxation while reducing City liability and ongoing maintenance costs.

#### **ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS**

19. The Purchaser has agreed to purchasing the Subject Property on an "as is, where is" basis that is absent of any representations or warranties made by the City with respect to soil or environmental condition.

#### **ALTERNATIVES**

20. The following alternative is available for consideration by General Committee:

##### **Alternative #1**

General Committee could choose not to sell the Subject Property to the Purchaser and retain ownership.

This alternative is not recommended as pursuant to an internal circulation and previous Council direction, the Subject Property is not required for City purposes and the sale would create a source of revenue to the City while reducing the City's liability and maintenance costs.

#### **FINANCIAL**

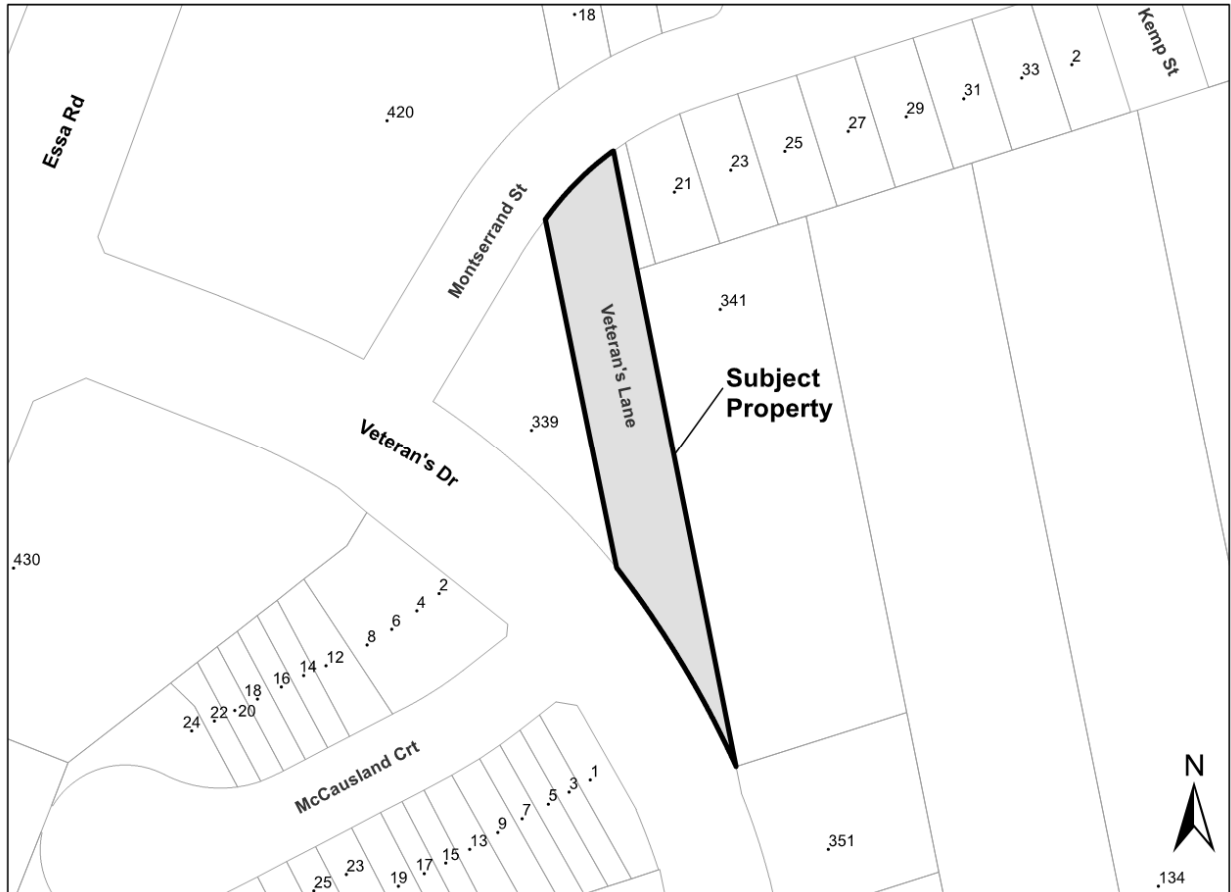
21. The Purchaser shall pay all of the City's costs and fees associated with the transfer of the Subject Property including advertising and legal.
22. The sale proceeds will be transferred to the Tax Capital Reserve.

#### **LINKAGE TO 2018–2022 STRATEGIC PLAN**

23. The recommendation(s) included in this Staff Report support the following goals identified in the 2018-2022 Strategic Plan:
- ☒ Growing Our Economy
  - ☒ Building Strong Neighbourhoods
24. The disposition of the Subject Property will assist in creating a better overall development in the immediate area and local economic growth.

APPENDIX "A"

Subject Property - Veteran's Lane





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**APPENDIX "B"**



## Agreement of Purchase & Sale



### AGREEMENT OF PURCHASE AND SALE (FOR USE IN THE PROVINCE OF ONTARIO)

BUYER: Sean Mason Homes (Vet Lane) Inc. \_\_\_\_\_, agrees to purchase from  
(Full legal names of all Buyers)

SELLER: The Corporation of the City of Barrie \_\_\_\_\_ the following  
(Full legal names of all Sellers)

**REAL PROPERTY:**

Address: Schedule "B" fronting on the Schedule "B" side of Schedule "B"  
in the City of Barrie

and having a frontage of Schedule "B" more or less by a depth of Schedule "B" more or less, legally described as  
Part 1 on 51R-32592 (Part of PIN: 587330392) ("the Property").  
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: Seventy-Two Thousand Seven Hundred Nineteen Dollars (CDNS 72,719.00)

DEPOSIT: Buyer submits (Upon Acceptance) One Dollars (CDNS 1.00)  
(Herewith/Upon acceptance)

By negotiable cheque payable to the Seller to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as follows:

**On closing, the balance of the purchase price, subject to the adjustments described herein, by cash or certified cheque to the Seller or as the Seller may direct.**

SCHEDULE(S) "A" and "B" attached hereto form(s) part of this Agreement.

1. CHATTELS INCLUDED: NONE
2. FIXTURES EXCLUDED: NONE
3. RENTAL ITEMS: The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable: N/A
4. IRREVOCABILITY: This Offer shall be irrevocable by Buyer until 4:00 p.m. on the 19th day of February, 2021  
(Seller/Buyer)  
after which time, if not accepted, the Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
5. COMPLETION DATE: This Agreement shall be completed by no later than 4:00 pm. on the \_\_\_\_\_ day of (SEE SCHEDULE "A") 2021.  
Upon completion, vacant possession of the Property shall be given to the Buyer unless otherwise provided for in this Agreement.
6. FAX No. (705) 739-4243 (For delivery of notices to Seller) FAX No. \_\_\_\_\_ (For delivery of notices to Buyer)
7. HST: If this transaction is subject to Harmonized Sales Tax (H.S.T.), then such tax shall be \_\_\_\_\_ in addition to \_\_\_\_\_ the Purchase Price.  
(included in/in addition to)  
If this transaction is not subject to H.S.T., Seller agrees to certify, on or before closing that the transaction is not subject to H.S.T.
8. TITLE SEARCH: Buyer shall be allowed until 6:00 p.m. on the \_\_\_\_\_ day of \_\_\_\_\_ completion of this transaction 2021  
(Requisition Date) to examine the title to the Property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or, (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the Property, that its present use (N/A) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality other governmental agencies releasing to Buyer details of all outstanding work orders affecting the Property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
9. FUTURE USE: Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the Property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.
10. TITLE: Provided that the title to the Property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the Property or adjacent properties; and (d) any easement for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact that said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the Property.
11. CLOSING ARRANGEMENTS: Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part 111 of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electric Registration Act, S.O. 1991, Chapter 44, and any amendments thereto the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
12. DOCUMENTS AND DISCHARGE: Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the Property except such as are in the possession or control of Seller. If required by Buyer, Seller will deliver any sketch or survey of the Property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, prepared by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. INSPECTION: Buyer acknowledges having had the opportunity to inspect the Property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):



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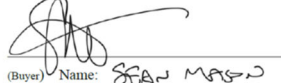
**APPENDIX "B" cont'd**

**Agreement of Purchase & Sale**

14. **INSURANCE:** All buildings on the Property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50 (22) of the Planning Act, R.S.O. 1990.
16. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
17. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself be apportioned to Buyer.
18. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing and completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
19. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
20. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent, hereinafter provided.
21. **UFFT:** Seller represents and warrants to Buyer that during the time Seller has owned the Property, Seller has not caused any building on the Property to be insulated with insulation containing urea formaldehyde, and that to the best of Seller's knowledge no building on the Property contains or has ever contained insulation that contains urea formaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is subject of this transaction.
22. **CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
23. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision written or typed in this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition which affects this Agreement other than as expressed herein. This Agreement shall be read with all changes of gender or number required by the context.
24. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

  
 (Witness)

  
 (Buyer) Name: SEAN MASON

DATE: Feb 19 2021  
 (Seal)

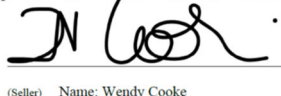
Title: OWNER

I have authority to bind the corporation

I, the Undersigned Seller, agree to the above Offer.

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

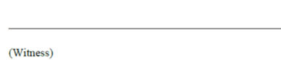
  
 (Witness)

  
 (Seller) Name: Wendy Cooke

DATE: February 19, 2021  
 (Seal)

Title: City Clerk

I have authority to bind the corporation

  
 (Witness)

  
 (Seller) Name:

DATE: \_\_\_\_\_  
 (Seal)

Title:

I have authority to bind the corporation

**CONFIRMATION OF ACCEPTANCE:** Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally executed by all parties at:

10:15 am this 19th day of February, 2021  
 (Time)

  
 (Signature of Seller/Buyer)

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 



## Agreement of Purchase & Sale

### SCHEDULE "A" TO THE AGREEMENT OF PURCHASE AND SALE (FOR USE IN THE PROVINCE OF ONTARIO)

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER: Sean Mason Homes (Vet Lane) Inc., and

SELLER: The Corporation of the City of Barrie

For the purchase and sale of Part 1 on 51R-32592 (Part of PIN: 587330392)

25. This Agreement has been executed by the City Clerk pursuant to Council motion 20-G-092 and is conditional for a period of 90 days following acceptance upon the ratification or approval of this agreement by the Council of The Corporation of the City of Barrie. Unless the Seller gives notice in writing delivered to the Buyer that this condition has been fulfilled this Agreement of Purchase and Sale shall become null and void and the deposit shall be returned to the Buyer forthwith without deduction.
26. The completion date shall occur within 60 days following the removal of all conditions contained in this Agreement of Purchase and Sale.
27. The Buyer acknowledges that all development applications submitted for the Property are done so at the Buyer's sole risk and expense.
28. The Seller makes no representation or warranty concerning the soil and/or environmental condition of the Property. The Buyer is purchasing the Property on an "as is where is" basis.
29. The Buyer agrees to pay the Seller's reasonable costs associated with this transaction which include legal and advertising fees.
30. The Buyer acknowledges that a road widening is required from the Property and agrees to transfer it to the Seller for nominal consideration on or before registration of the Buyer's site plan.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):





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**APPENDIX "B" cont'd**

**Agreement of Purchase & Sale**

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