



STAFF REPORT ACTION REQUIRED

Transfer of Additional Property Interests in 497 Richmond Street West to Build Toronto

Date:	December 14, 2015
To:	Government Management Committee
From:	Chief Corporate Officer
Wards:	Ward 20
Reference Number:	P:\2016\Internal Services\RE\Gm16003re (AFS 22359)

SUMMARY

This report recommends terms of transfer to Build Toronto for an additional stratified portion of the property municipally known as 497 Richmond Street West and other property interests in relation to 497 Richmond Street West, including the buildings located around its perimeter having the following convenience addresses: 505 and 511 Richmond Street West, 60 Brant Street and 17 Maud Street (collectively the "Property").

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council authorize the City to enter into an Option agreement with Build Toronto, for nominal consideration, pursuant to which Build Toronto will have the right to acquire additional airspace located above that portion of the Property municipally known as 497 Richmond Street West, between the elevations of 47.5 and 55.5 metres above grade, shown as Part 7 on Sketch No. 2012-0307-4 and as more particularly described in Appendix 2, for the purpose of fire exits and a mechanical penthouse, substantially on the terms and conditions set out in Appendices 1 and 2 attached, and on such other and amended terms and conditions as may be approved by the Chief Corporate Officer, and in a form satisfactory to the City Solicitor.

2. City Council authorize the City to enter into an agreement with Build Toronto, for nominal consideration, permitting Build Toronto to retain ownership of that portion of the Property known municipally as 60 Brant Street, shown as Part 2 on Sketch No. 2012-0307-4, as well as that portion of 60 Brant Street located to the west of the existing building structure, for the purpose of the future redevelopment of the adjoining lands, such agreement to otherwise be on terms and conditions as may be approved by the Chief Corporate Officer, and in a form satisfactory to the City Solicitor.
3. City Council authorize the City to enter into a Limiting Distance Agreement with Build Toronto, for nominal consideration, which will prevent any structure from being constructed above an elevation of 16.7 metres above grade on that portion of the Property known municipally as 60 Brant Street, shown as Part 5 on Sketch No. 2012-0307-4, and on such other terms and conditions as may be approved by the Chief Corporate Officer, and in a form satisfactory to the City Solicitor.
4. City Council authorize the City to enter into amending agreements in relation to the existing Reconveyance Agreement, Parking Space Conveyance Agreement and Reciprocal Agreement, or such other agreements respecting 60 Brant Street, substantially on the terms and conditions outlined in Appendix 4, and on such other and amended terms as may be approved by the Chief Corporate Officer, and in a form satisfactory to the City Solicitor.
5. City Council grant authority to fund the City's outstanding expenses related to the property in this report from the Approved Operating Budget for Facilities, Real Estate, Environment & Energy (FREEE), in the year(s) that the expenses are incurred, as necessary, and, once these expenses are known, to transfer the funding for these expenses from the Land Acquisition Reserve Fund (LARF), with appropriate adjustments to F&RE's Approved Operating Budget, as necessary, through subsequent Quarterly Variance Reports.
6. City Council grant authority severally to each of the Chief Corporate Officer and the Director of Real Estate Services to execute the transaction documents and agreements required to implement the Recommendations in this report on behalf of the City, including the extension of any required consents, approvals or permissions.
7. City Council authorize the City Solicitor to complete the transactions referenced in the above Recommendations on behalf of the City, including making payment of any necessary expenses, amending the closing and other dates to such earlier or later date(s), and amending or waiving the terms and conditions, as she may from time to time consider reasonable.

Financial Impact

The financial implications of property transfers to Build Toronto have been identified previously in staff report entitled "Principles of a Real Estate Strategy and Declaration of Surplus for Sale/Transfer or Turnover to Build Toronto" adopted, as amended, by City Council on May 25, 26 and 27, 2009 (EX32.5).

Build Toronto will be granted the right to acquire additional airspace located above that portion of the Property municipally known as 497 Richmond Street West for nominal consideration. Recommendations in this report will defer the receipt of proceeds from the disposition of this property during Build Toronto's development process. However, the transfer will optimize benefits to the City as a whole and achieve potentially greater returns over time.

As the additional property interests to be transferred to Build Toronto are being transferred for nominal consideration, no revenue will be available to cover the expenses in affecting the transfers, such as registration charges that would normally be for the account of the vendor in a transaction of purchase and sale, survey fees, appraisal fees, etc. As the total of related expenses is not known at this time and as a standard practice, it is being recommended that these expenses be accommodated within the 2015 Council Approved Operating Budget for Facilities, Real Estate, Environment & Energy (FREEE). Once these expenses are determined, funds will be provided from LARF (XR1012) to reduce the pressure on FREEE's Operating Budget.

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

DECISION HISTORY

On November 29, 30 and December 1, 2011, City Council adopted GM9.10, as amended, and among other matters, declared surplus the property municipally known as 497 Richmond Street West (and also having the convenience addresses of 505 and 511 Richmond Street West, 60 Brant Street and 17 Maud Street, collectively the "Property") with the intended method of disposal to be by way of transfer to Build Toronto, on an "as is" basis, for nominal consideration. The Decision Document is available at the following web link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.GM9.10>

On July 16, 17, 18 and 19, 2013, City Council adopted Item GM23.9 and approved terms of transfer for a stratified portion of the Property, being limited to 47.5 metres above grade, to Build Toronto. In addition, City Council authorized the City to enter into various other agreements in relation to that portion of the Property municipally known as 60 Brant Street as further described therein, including a Reciprocal Agreement, Relocation Agreement, and a long term lease agreement with Eva's Initiatives for Homeless Youth ("Eva's"). The Decision Document is available at the following web link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.GM23.9>

On September 30, October 1 and 2, 2015, City Council adopted EX8.15, as amended, and among other matters, supported in principle a YMCA as an appropriate use in the potential redevelopment of the Property. The Decision Document is available at the following web link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX8.15>

ISSUE BACKGROUND

Title to a stratified portion of the Property, being limited to 47.5 metres above grade was transferred to Build Toronto on April 7, 2014.

The City has also entered into various agreements with Build Toronto in relation to 60 Brant Street, including but not limited to the following: an obligation that Build Toronto reconvey 60 Brant Street to the City (for the use by Eva's); and a Reciprocal Agreement addressing access, shared service connections, tie-back under-pinning, crane swings and minor encroachments that may result from the final design of the development to be located on the adjoining property. For the purpose of this report, the development component of the Property, known municipally by the addresses 497 or 505 Richmond Street West, shall be referred to as the "Development Site".

COMMENTS

Build Toronto has engaged in consultation with City Planning, the Ward Councillor and Real Estate Services regarding the preliminary redevelopment/revitalization concept for the Development Site. As noted above, a YMCA facility is proposed to be included in this development. The Development Site is also on the City of Toronto's Inventory of Heritage Properties and will be subject to a Heritage Easement.

Build Toronto has advised City staff that the floor area requirements for the YMCA facility, coupled with the design limitations required to protect heritage elements, place considerable pressure on the space available for redevelopment at this location. In order to reduce this pressure, and ensure the effective redevelopment of the Property, Build Toronto has requested that the City consider the following:

- (i) Transferring Build Toronto ownership of an area located above the current upper strata limit of 47.5 metres for the purpose of the construction of a mechanical penthouse and fire exits servicing the development, which improvements shall not exceed a strata of 55.5 metres above grade or a footprint of 850 square metres, as more particularly described in Appendix 2;
- (ii) Permitting Build Toronto to retain ownership of a portion of the 60 Brant Street site which it is currently required to reconvey to the City, in order to accommodate a cantilevered building design that would overhang, by approximately 3.8 metres, the 60 Brant Street site, shown as Part 2 on Sketch No. 2012-0307-4, as well as allowing for the redevelopment to abut against the westerly wall of the existing building located on the 60 Brant Street site;

- (iii) Entering into a limiting distance arrangement that would prevent any future building constructed on the 60 Brant Street site from exceeding a height of approximately 16.7 metres above grade;
- (iii) Releasing certain easement interests that benefit the 60 Brant Street site in order to convert the use of the south-easterly portion of the Property from a loading dock and garbage storage area to plaza space, provided that Build Toronto first identifies alternative arrangements acceptable to the City and its future tenant, Eva's; and
- (iv) Permitting amendments to the existing agreements in relation to the Property that would adjust the timing of certain transfer obligations, the location of easements, and parking arrangements as more particularly described in Appendix 4.

City Planning staff have been consulted in relation to item (i) above and have advised that they have no objection to the additional strata request, provided that this area is only available for use as a mechanical penthouse and for fire exits, that the final footprint for these proposed uses shall not exceed 850 square metres in area and shall be located in a manner previously discussed with City Planning Staff. These requirements will be accommodated in an Option agreement that will be entered into with Build Toronto. Any development proposal for the Property will also continue to be subject to the City's established planning approvals process for developing property in the City of Toronto.

The Ward Councillor has been consulted and has advised that he has no objection to granting Build Toronto an option to purchase the additional strata to use for a mechanical penthouse and fire exits which are non-livable space, provided that the matter is subject to the standard City planning process and the use of the additional strata is limited to the intended purposes.

With respect to the amendments proposed by Build Toronto that impact on the future potential redevelopment of the 60 Brant Street component of the Property, including the limiting distance agreement, it has been determined that these restrictions would have minimal impact, given the heritage restrictions that affect this site.

Build Toronto has undertaken to ensure that any proposed amendments that impact upon the boundaries or potential future use of the 60 Brant Street site are also acceptable to Eva's and will confirm this in a manner satisfactory to the Chief Corporate Officer.

Having consulted with City Planning, the Ward Councillor and Build Toronto, the Chief Corporate Officer recommends that the property interests identified above be granted to Build Toronto, and that the relevant agreements pertaining to the Property be amended as more particularly outlined in the attached Appendices, for nominal consideration.

Implementation of the recommendations in this report will contribute to Build Toronto's portfolio of development properties and help to enhance and realize the value of the City's real estate holdings.

CONTACT

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SIGNATURE

Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Appendix 1 – Standard Terms for Transfers to Build Toronto
Appendix 2 – Upper Strata Portion of 497 Richmond Street West
Appendix 3 – Site Map and Sketch No. 2012-0307-4
Appendix 4 – Amendments to Existing Agreements

Appendix 1

STANDARD TERMS FOR TRANSFERS TO BUILD TORONTO

1. Closing on such date as the parties may agree.
2. Properties to be transferred “as is,” for nominal consideration, with Build Toronto to assume and be responsible for any and all liabilities arising from or connected with the state, quality, matter or condition of the properties, whether or not known, including, but not limited to, any expense or costs incurred in connection with or relating to the environmental condition of the properties.
3. Build Toronto will be responsible for all costs associated with development.
4. Build Toronto will pay any applicable Land Transfer Tax, HST, registration charges that would normally be for the account of the purchaser in a transaction of purchase and sale, and other taxes and costs.
5. Build Toronto will provide such usual closing documents as the City may require.
6. The City makes no representations about permitted use, zoning, Official Plan designation or any similar matter.
7. Build Toronto will obtain from any purchaser or tenant of the properties an agreement releasing Build Toronto and the City from liability for environmental contamination, and an indemnity in favour of Build Toronto and the City in respect of claims arising on the basis of environmental contamination.
8. Nothing in the transfer agreement will interfere with the exercise by the City of all of its rights as a municipality, or prejudice the City in carrying out its statutory rights and responsibilities, including planning rights and responsibilities.
9. No dealings between the City and Build Toronto as parties to the transfer agreement will relieve Build Toronto from the responsibility of discharging its obligations imposed by any shareholder direction, statute, regulation, by-law or in any other lawful manner.
10. Build Toronto will consult with the local councillor in planning the development of the properties.
11. Such other and amended terms and conditions as may be approved by the Chief Corporate Officer in a form satisfactory to the City Solicitor.

Appendix 2

Upper Strata Portion of 497 Richmond Street West - Ward 20

BACKGROUND

The property municipally known as 497 Richmond Street West was acquired by a crown patent in 1837. Convenience addresses for this property include 505 and 511 Richmond Street West, 60 Brant Street and 17 Maud Street. City Council declared 497 Richmond Street West surplus on November 29, 30 and December 1, 2011 (GM9.10). Stratified portion of 497 Richmond Street West, being limited to 47.5 metres above grade and was transferred to Build Toronto on April 7, 2014. The City retained ownership to the upper strata portion from 47.5 metre above grade shown as Parts 3 and 7 on Sketch No. 2012-0307-4

DETAILS OF ADDITIONAL STRATA:

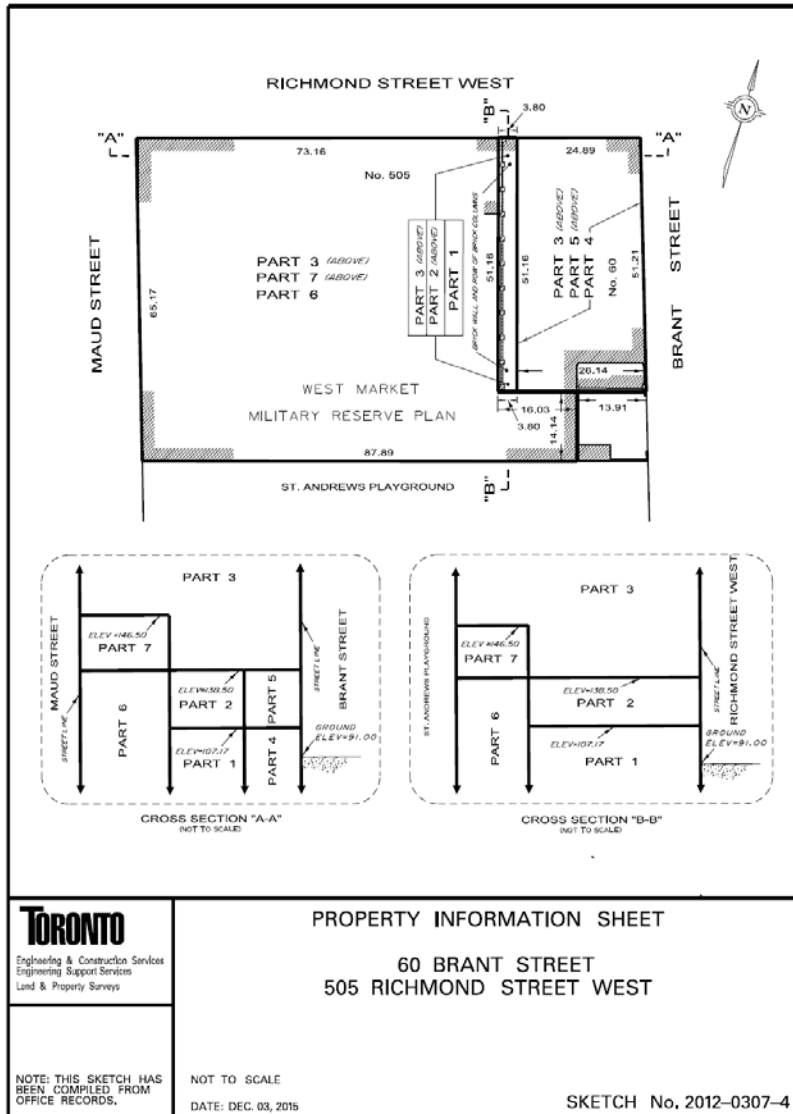
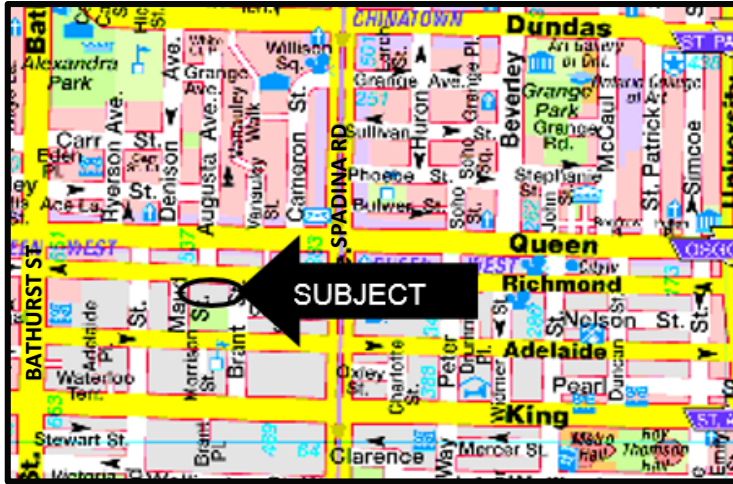
Legal Description	Part of Lot Section West Market, Plan Military Reserve, and Part of Brant Street, Richmond Street, and Maud Street, Plan Military Reserve closed by WF17729, City of Toronto.
Strata Space:	Transfer limited to 8 metres, being between the elevations of 47.5 and 55.5 metres above grade (shown as Part 7 on the Sketch), and shall not exceed 850 m ² (9,150 ft ²) in area.

TERMS AND CONDITIONS OF TRANSFER

1. Build Toronto will acknowledge that:
 - a. The Strata Space is only available for use as a mechanical penthouse and for fire exits.
 - b. Any development proposal for the Strata Space will be subject to the City's established planning approval process.
 - c. The location of the final footprint of the Strata Space shall be located in a manner previously discussed with City Staff.
2. Build Toronto will deliver the following in advance of the grant of the option to transfer the Strata Space:
 - a. Any new survey and reference plan required to define the Strata Space, such materials to be developed in consultation with City staff; and
 - b. A detailed sketch illustrating the boundaries of the proposed mechanical penthouse and fire stairwells, which shall be generally as previously discussed by City Staff or as otherwise approved by the City.
3. Title to the Property will be taken "as is" and will be subject to all existing interests and to such easements or other interests as are required for existing and future utility installations and municipal services on the property.

Appendix 3

497 Richmond Street West - Ward 20



Appendix 4

Amendments to the Terms of the Reconveyance Agreement

Revised Property Description of 60 Brant Street	Currently defined as all building and lands within the premises known as 60 Brant Street and designated as Part 3 on Plan 66R-27056. This will be amended to exclude the westerly 3.8 metres of air space commencing from an elevation of approximately 16.17 metres above grade up to elevation of 47.5 metre above grade, approximately shown as Part 2 on Sketch No. 2012-0307-4 (the "airspace") and also to exclude all property located to the west of the existing physical building structure at 60 Brant Street, which may include columns, footings, roof overhangs, etc. A new Reference Plan will be required to define the revised property boundaries.
Closing Date of Transfer to City	City may accept a reconveyance of 60 Brant Street prior to the completion of construction of the Eva's facility.
Eva's Relocation	Build Toronto undertakes to manage all aspect of Eva's relocation on behalf of the City, and to indemnify the City and assume all liability in relation thereto, until such time as the Eva's facility is completed and Eva's has completed its relocation.
Eva's Consent	Build Toronto to obtain Eva's written agreement confirming that Eva's (a) acknowledges and consents to the proposed use of the airspace and to the related limiting distance agreement; (b) releases the City from any claim related to the proposed use of the airspace or the limiting distance agreement; and (c) shall enter into a lease amending agreement confirming the above upon request by the City.

Amendment to the Terms of the Parking Reconveyance Agreement

Parking Transfer Right	Three (3) parking spaces may be transferred to the City by way of a long-term lease for nominal rent, rather than by conveyance of condo units
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Amendments to the Reciprocal Agreement

Loading Dock & Garbage Storage Area	The easement in favour of 60 Brant Street for access to loading dock and garbage storage area be released, for nominal consideration, provided that Build Toronto secure alternative permanent loading dock and garbage storage arrangements for 60 Brant Street that are acceptable to Eva's and the City.
Eva's Consent	Build Toronto shall secure and deliver written agreement of Eva's, that it (a) releases the City from any claims related to the release of the easement respecting the loading dock and garbage storage area and its potential impact on the future use of the leased lands; and (b) Eva's shall enter into a amending agreement confirming the above upon request by the City.