

**Sale of Stratified Portion of 30 Roehampton Avenue
Municipal Carpark No. 49**

Date:	July 26, 2010
To:	Government Management Committee
From:	President, Toronto Parking Authority
Wards:	Ward 22 – St. Paul’s
Reference Number:	

SUMMARY

The purpose of this report is to obtain City Council authority for the sale of the development rights at Municipal Carpark 49 (30 Roehampton Avenue) (the “Property”) to MUC Properties Inc. (“MUC”, “Minto” or the “Purchaser”) for the purpose of constructing a condominium complete with a public parking garage containing approximately 150 spaces to be built to TPA specifications on the terms and conditions as outlined in the body of this report and detailed in Appendix A.

RECOMMENDATIONS

It is recommended that:

1. City Council approve a transaction between the TPA and MUC involving a conveyance to MUC of a stratified interest in the City-owned lands declared surplus and located at 30 Roehampton Avenue. Conveyance consideration is for a minimum Base Purchase Price of \$18.4 million. The Base Purchase Price will be reduced by a sum equal to \$95.00 for each square foot of GFA for which the Project is less than 250,000 square feet however the agreement of purchase and sale provides for a guaranteed Base Purchase Price of no less than \$17.0 million. The Base Purchase Price will be increased as part of a density related Purchase Price Bonus of up to \$1.2 million. The purpose of the conveyance is to construct a condominium complete with a public parking garage to be built to TPA specifications and containing approximately 150 spaces, on the terms and conditions as outlined in the body of this report and detailed in Appendix A;
2. City Council authorize and direct the appropriate City Officials to execute all necessary documents including but not limited to an Interim Parking Lease

- Agreement, Construction Procedures Agreement and Reciprocal Cost Sharing Agreement along with all necessary transfers and undertakings; and
3. City Council authorize and direct the appropriate City Officials to take the necessary actions to give effect thereto.

Financial Impact

For the sale of the development rights at the Property, the TPA will be paid by MUC a Base Purchase Price of \$18.4 million for a project having 250,000 square feet of Gross Floor Area (GFA). Should the approved development density of the project be less than 250,000 square feet of GFA, the Base Purchase Price will be adjusted down by \$95.00 for each square foot of GFA below 250,000 square feet, with a guaranteed Base Purchase Price of no less than \$17.0 million. MUC will construct a municipal parking garage to TPA specifications containing approximately 150 spaces at no additional cost to the TPA, the construction cost of which is estimated to be \$6.75 million. Assuming a 250,000 square foot development, the total value of the sale of development rights, including the construction of the public parking garage, amounts to approximately \$25.15 million. At a minimum, the total consideration will not be less than \$23.75 million.

No funding is required for this project.

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

DECISION HISTORY

At its meeting of July 22, 2008 (TPA Board Minute #08-102), the TPA Board of Directors authorized staff to proceed with retaining CB Richard Ellis Limited, Brokerage (CBRE) to market the sale of the development rights at Municipal Carpark 49 (30 Roehampton Avenue).

An agreement of purchase and sale ("PSA") has been executed between the TPA and MUC. The agreement contains conditions in favour of the TPA and MUC which the parties are working to satisfy, one of which is obtaining City Council approval of the transaction.

At its meeting of January 25, 2010 (TPA Board Minute #10-010), the TPA Board of Directors approved the PSA with MUC involving a conveyance to MUC of a stratified interest in City-owned lands to be declared as surplus and located at 30 Roehampton Avenue. A summary of the terms and conditions of the PSA as approved are detailed at Appendix A.

At its meeting of April 20, 2010 (TPA Board Minute #10-055), the TPA Board of Directors approved an amendment to the PSA with MUC. Originally, the Base Purchase Price was \$18.4 million without any downward adjustments to account for reductions in development density below 250,000 square feet of GFA. The terms and conditions of the PSA as amended are detailed at Appendix A.

At its meeting of June 8, 2010, pursuant to a report to Government Management Committee Item GM30.16, City Council declared the Property surplus as per the recommendation of the City's Chief Corporate Officer.

The City has satisfied the necessary requirements governing the disposal of property as defined under Chapter 213 of the City of Toronto Municipal Code "Sale of Real Property" including Council declaring the Property as surplus, providing notice to the public of the proposed sale of the Property and obtaining at least one Fair Market Value Appraisal of the Property.

ISSUE BACKGROUND

In 1959, the former City of Toronto Council authorized the establishment of a new municipal Carpark No. 49 on the north side of Roehampton Avenue, just east of Yonge Street, the acquisition of three properties and expropriation of 44 Roehampton Avenue to form part of the new carpark. Shortly after taking title to four (4) properties, buildings thereon were demolished and the carpark began operating 126 parking spaces. Carpark No. 49 is now municipally known as 30 Roehampton Avenue.

In August 2008, CBRE issued a "Request for Proposals" (RFP), offering the Property on the open market in order to redevelop the Property which would include a sale of the development rights, under a stratified ownership arrangement, and the construction of a 150 space municipal parking facility, the title to which would remain with the City.

Unfortunately, the sale of the Property took place during the financial crisis of late 2008 and the short-listed proponents could not meet the minimum conditions of the RFP. The TPA decided to postpone the sale until the summer of 2009 when market conditions had improved considerably enough that CBRE issued a second RFP.

The second RFP resulted in a total of ten (10) proponents submitting offers which were then short-listed to three (3) bids through a second round bid process. The three developers were Norstar Group of Companies ("Norstar"), MUC Properties Inc. ("MUC"), and Conservatory Group ("Conservatory"). Both qualitative and quantitative factors were considered to determine which proposal was best suited for the development of the site. The proposals were evaluated based on impact of chosen uses and the financial benefit to the City and the TPA. After careful consideration, MUC was determined to be the preferred proponent.

In conjunction with the RFP, the TPA requested that a circulation to the City's Agencies, Boards, Commissions and Divisions be undertaken to identify any other municipal interest that need to be accommodated before proceeding to declare the Property surplus. No municipal interest was expressed.

Prior to executing the PSA, TPA staff met with numerous consultants and City staff including the local Councillor to assess the merits of MUC's proposal to assure that their proposal was the best option in terms of benefit to the City and the TPA from a planning and financial perspective. The following consultants and professional groups were engaged or approached by TPA staff:

- Development and Planning Consultant - R.E. Millward & Associates was retained

to provide development and planning advice as it relates to the Property. Mr. Robert Millward has many years experience in development and planning, having worked as the Commissioner of Planning with the City of Toronto;

- Planning, City of Toronto – TPA staff liaised with City Planning officials regarding the limitations and restrictions inherent with the area and any site specific matters to consider;
- Value Consultant - Integris Real Estate Counsellors was retained to provide: (i) an appraisal of the development rights for the Property; and (ii) a financial evaluation of the three (3) bids received in order to identify which offer was considered the best option in terms of financial benefit;
- Environmental Engineering Consultants – Toronto Inspection Ltd., an environmental engineering group was retained to provide a report related to environmental and soil composition analysis;
- Legal Counsel - Mr. Ian Kady of Fogler, Rubinoff LLP was chosen as TPA’s Legal Counsel related to the closing of the PSA and the completion of any associated agreements related to this transaction. Mr. Kady has worked with the TPA on several joint venture development projects including 100 Yorkville, Chateau Royal and 30 Alvin Avenue (Wittington).

COMMENTS

The following is a summary of the issues related to the recommended approval for the sale of the development rights at Municipal Carpark 49 (30 Roehampton Avenue) to MUC Properties Inc.

Location and Particulars

Municipal Carpark 49 - 30 Roehampton Avenue, a 126-space surface parking facility is located in the northeast quadrant of Yonge & Eglinton (see attached Site Location Map). The Property is positioned on the north side of Roehampton Avenue and is bounded by retail and commercial uses to the west along Yonge Street, multi-unit residential uses to the south, and Tridel’s Republic development at North Toronto Collegiate to the east. On the Republic site, Tridel is constructing two towers of 24 and 27 storeys with the provision of redeveloping the original North Toronto School providing a new track and playing field as well as monetary contributions for community benefits.

Corporate Profile – MUC Properties Inc.

MUC Properties Inc. is a wholly owned subsidiary of Minto, a family owned integrated real estate development, construction and management company since 1955 with operations in Ottawa, Toronto and Florida.

To date, Minto has built more than 67,000 new homes, manages more than 15,000 residential rental homes and apartments, and carries a commercial portfolio of more than 2.5 million square feet of office, retail and industrial space. In Toronto, the company has recently completed the following projects:

- mintoSkyy! – A single 200 suite condominium residence completed approximately three years ago and located at Broadview & Pottery Road;
- Richgrove Village – A town home development along Richgrove Drive at Martin Grove in Etobicoke;
- The Prince Arthur (MintoYorkville) – Located at Avenue Road and Bloor Street;
- MintoMidtown - Two condominium towers at Yonge & Eglinton (Quantum 1 and Quantum 2) completed in August 2008;
- Spring at MintoGardens – A new 342 suite condominium residence at Yonge & Sheppard in North York along with three-storey town homes with the first closings scheduled for late summer of 2010;
- The St. Thomas / Minto King West (minto775) – With economic stability returning to the marketplace and renewed consumer confidence, Minto is re-launching these two projects in February 2010.

Development Proposal

Originally, MUC contemplated a residential condominium development capped at a total GFA of no more than 300,000 square feet. However during MUC's due diligence period and discussions with various consultants including the City's planning staff, they have determined that a development density of approximately 250,000 square feet of GFA would be more achievable. GFA means the total gross floor area of the project permitted by the applicable zoning by-laws determined when the Project is zoned in final form.

With respect to the municipal parking garage component of the development, it was originally contemplated that the garage would be located above grade on account of the site's high water table issues. During MUC's discussions with planning staff however, it was learned that the planning department would not support an above grade parking structure and therefore it is being relocated below grade.

Parking Supply and Demand

This is an area that currently has an adequate supply of parking. Although the surface lot's current capacity of 126 spaces is sufficient to meet the parking needs of the subject area, the addition of approximately 24 spaces will ensure that the future parking needs of the area will be met.

Summary of MUC Purchase and Sale Agreement

Summarized at Appendix A are the terms and conditions of the PSA between the TPA / City (as "Vendor") and MUC (as "Purchaser").

Financial Analysis

TPA staff undertook a financial analysis to determine the returns that would be realized with converting the surface parking lot into a below grade garage. Taking a conservative approach, we assumed revenue on a per space basis would decrease by 40% due to the conversion of surface parking to an underground parking garage. Although the garage is

projected to generate positive income, the potential decrease was capitalized to compensate for any loss in income. Also included is a risk premium of 15% which deals with unforeseen delays and losses in income due to the closure of the facility for development. Our analysis indicates a minimum consideration of approximately \$12.3 million was required. In other words, for the TPA to accept a lower income and take on any risks associated with developing this site, a Base Purchase Price of \$12.3 million was considered the minimum compensation required. Therefore, at a guaranteed Base Purchase Price of not less than \$17.0 million, TPA's benchmark criteria used to assess the merits of this transaction remain intact and have been achieved.

TPA's financial consultant also reviewed MUC's proposal and verified that it is financially the best option for this redevelopment. The TPA will be paid by MUC and receive net proceeds of approximately \$18.4 million less \$95.00 for each square foot of GFA for which the Project is less than 250,000 square feet with a guaranteed Base Purchase Price of no less than \$17.0 million. As part of the Project, MUC will construct a public parking garage containing approximately 150 spaces at a cost estimated to be \$6.75 million (\$45,000 per stall X 150 stalls). Therefore, the total value for the sale of development rights which will include the construction of the public parking garage may likely range from a low of \$23.75 million to about \$25.15 million.

An appraiser, Integris Real Estate Counsellors, was retained by the TPA to assess the fair market value of the development rights of the Property. The reported sale price achieved is within the value range estimated for the Property at between \$23.0 million and \$27.0 million.

We have met with the local Councillor, Michael Walker and he is supportive of the business terms of this sale transaction which however should not be mistaken and construed as approving of the proposed development. The developer will be required to go through the appropriate rezoning and site plan process.

Conclusion

The approval of the transaction with MUC will provide net proceeds to the TPA, provide capital to fund acquisitions in other areas of the City where there are parking shortfalls, as well as continue to service the parking requirements in the Yonge and Eglinton Avenue neighbourhood. Seventy-five percent (75%) of the proceeds from this transaction will be paid to the City.

For the reasons outlined within the body of this report, we recommend that City Council approve the sale of the development rights at Municipal Carpark 49 (30 Roehampton Avenue) to the Purchaser for the purpose of constructing a condominium complete with a public parking garage to be built to TPA specifications and containing approximately 150 spaces on the terms and conditions as outlined in the body of this report and detailed in Appendix A.

CONTACT

Gwyn Thomas
President, Toronto Parking Authority
Phone: (416) 393-7276
Fax: (416) 393-7352
gwthomas@toronto.ca

Lorne Persiko
Vice President, Real Estate & Development
Phone: (416) 393-7294
Fax: (416) 393-7352
lpersiko@toronto.ca

SIGNATURE

Gwyn Thomas, President

ATTACHMENTS

Site Location Map
Appendix "A" – Summary of MUC Purchase and Sale Agreement

Appendix "A"

Summary of MUC Purchase and Sale Agreement

Summarized below are the basic terms and conditions of the current PSA between the TPA / City (as "Vendor") and MUC (as "Purchaser"):

1. Purchaser – MUC Properties Inc.;
2. Base Purchase Price – The consideration to be paid by MUC for the Property shall be \$18.4 million less \$95.00 for each square foot of GFA for which the Project is less than 250,000 square feet with a guaranteed Base Purchase Price of no less than \$17.0 million. The price is payable on closing;
3. Closing - Closing shall take place on or before December 15, 2010 (subject to the satisfaction of various conditions pending TPA / City approval of the business terms of this sale transaction);
4. Purchase Price Bonus – Base Purchase Price was determined on the basis of an estimated zoning GFA of 250,000 square feet which excludes any parking garage structure. If the Purchaser obtains approval to construct a larger development; in addition to the Base Purchase Price, the TPA will receive the following Purchase Price Bonus:
 - \$700,000 if the gross floor area of the Project permitted by the applicable zoning by-laws determined when the Project is Zoned in Final Form is 250,000 square feet or more; plus
 - \$500,000 if the gross floor area of the Project permitted by the applicable zoning by-laws determined when the Project is Zoned in Final Form is 275,000 square feet or more; plus
 - \$20.00 per square foot of gross floor area of the Project permitted by the applicable zoning by-laws determined when the Project is Zoned in Final Form is greater than 300,000 square feet.

The restrictive covenant (as detailed below at #13), limits the size of the development to a maximum of 300,000 square feet and therefore the realization of the additional bonus provision above 300,000 square feet without the TPA's prior written consent is unlikely. It should also be noted that there is a provision for allowing an adjustment to price if the gross floor area of the Project when zoned in Final Form is less than 250,000 square feet (as detailed above at #2);

5. Deposit Structure – Initial deposits of \$50,000 and \$450,000 respectively were received by CBRE, in trust. A third deposit amount of \$1.5 million will be paid upon satisfaction or waiver of the MUC and TPA conditions. The balance of the Base Purchase Price will be paid on closing. The Purchase Price Bonus will be paid within three Business Days of the date upon which the Project is Zoned in Final Form;
6. Municipal Parking Garage Construction and Costs – The Vendor and Purchaser agree that the Public Parking Garage shall contain approximately 150 parking stalls and that the purchase price established pursuant to this Agreement

contemplates the construction of 150 parking stalls by the Purchaser at its sole cost and expense. In the event that the Approved Rezoning of the Property provides for either more or less than 150 parking stalls, then the Purchase Price shall be adjusted accordingly either by way of increase to the Purchase Price on Closing in the event of a shortfall in the number of spaces, or by reduction to the Purchase Price on Closing in the event the number of spaces exceeds 150, calculated by multiplying the sum of \$40,000 per parking stall, under or over, as the case may be. Notwithstanding the foregoing, the Public Parking Garage will consist of not less than 140 spaces. Any increase in spaces in the Public Parking Garage in excess of 160 spaces, must be approved by the Vendor in its sole and absolute discretion;

7. Temporary Lease-Back Provision – Following closing but until such time as the Purchaser requires access to the site to commence construction, it will lease to the City and the TPA, the existing surface parking facility at 30 Roehampton Avenue. The Vendor shall pay the sum of \$80,000 (plus GST/HST) per month adjusted annually based on the CPI (Toronto) as rent for its lease of the parking lot. In the event that construction of the Project is staged so that a portion of the Property is not affected by the construction, the TPA shall have the option of leasing a portion of the Property as aforesaid and the rent shall be adjusted pro rata based on the number of parking spaces. The Purchaser shall be responsible for all realty taxes payable in respect of the Property during the term of the lease and the Vendor shall be responsible for all utilities, insurance premiums and any other costs, charges and expenditures arising from or relating to the leased spaces or leased property;
8. Lost Revenue during Construction – The Purchaser will pay the TPA \$80,000 (plus GST/HST) per month adjusted annually based on the CPI (Toronto) to compensate for its lost income during the period of construction until turnover of the Public Parking Garage;
9. Construction Security – The Purchaser is required to provide the following security in order to secure the Purchaser’s obligation to construct and complete the Public Parking Garage:
 - a 100% Performance Bond (which bond shall not be released until one year after Substantial Completion of the Parking Garage);
 - a 100% Labour and Material Bond (which bonds shall be provided by the Purchaser in respect of the excavation, shoring, forming and concrete, electrical, mechanical and waterproofing contracts, in amounts representing 100% of the anticipated cost of such contracts); and
 - an irrevocable Letter of Credit, which is automatically renewable and payable upon demand by the Vendor, in the form of Purchaser’s lender(s) (with such amendments as may be reasonably required) in an amount being not less than 110% of the anticipated construction cost to complete the Parking Garage as estimated by the Quantity Surveyor, which written estimate is to be supported by tender bids which set forth the anticipated

construction cost of the Project and the amount specifically allocated to the Parking Garage. The Letter of Credit may be drawn upon by the Vendor throughout the construction of the Parking Garage in the event of any delay or stoppage of construction, or otherwise, upon the occurrence of an Event of Default by the Purchaser;

10. Purchaser's Conditions – The Purchaser had until March 26, 2010 to waive all of the Purchaser's conditions due diligence with respect to the Property which they have done so. The PSA remains subject to the Purchaser's condition for settlement of the temporary lease-back, the reciprocal cost-sharing and easement agreement and a construction procedures agreement (the "Agreements") until September 10, 2010;
11. Vendor's Conditions – The Vendor has until September 30, 2010 to waive all of the Vendor's conditions including the approval of the terms of this transaction by City Council. The PSA is also subject to the Vendor's condition for settlement of the Agreements until September 10, 2010;
12. Reciprocal Cost Sharing and Easement Agreement – As with all of TPA's agreements involving a redevelopment of a property to include a public parking garage, it will be necessary for the City to grant and receive easements with the developer and related rights in favour of each party in order to allow for the proper operation of the Project upon completion and to provide for the sharing of maintenance responsibilities and costs;
13. Restrictive Covenant(s) – The Purchaser acknowledges and agrees that the gross floor area of the Project shall not exceed 300,000 square feet without the Vendor's prior written consent first having been obtained, which may be withheld in the Vendor's sole and absolute discretion; and in connection with the Public Parking Garage to be operated by the Vendor, the Purchaser acknowledges and agrees that no parking spaces within the balance of the Parking Garage or elsewhere upon the Property or any abutting lands owned by the Purchaser or used in connection with the Project, save for the Public Parking Garage, shall be used as a commercial parking lot having parking spaces available on a daily fee, monthly or long-term basis, nor shall such parking spaces be operated by a third-party commercial parking lot operator without prior written consent of the Vendor which may be unreasonably or arbitrarily withheld in its sole and absolute discretion. The Purchaser acknowledges that save for the Public Parking Garage parking spaces, all additional spaces as aforesaid shall only be used by the residential unit owners or residential tenants of the Project;
14. MUC has acknowledged and agreed that nothing contained in the agreement shall in any manner limit or restrict the normal exercise of discretion by the various municipal departments and officials or fetter the discretion of City Council in any way, including the consideration of MUC's development application. MUC is expected to be the development applicant on this Project.