

Railway Lands West Pedestrian Bridge – Request for Direction

Date:	March 25, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	File No. 08 159310 STE 20 TM

SUMMARY

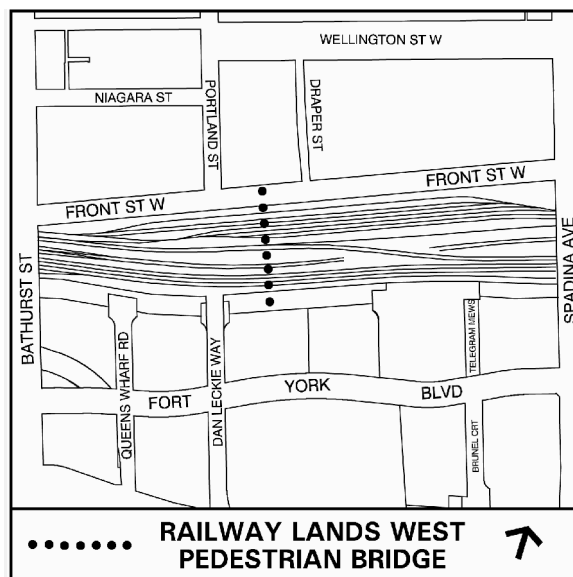
This report confirms City Council direction that staff continue to work with GO Transit, CN Rail and Toronto Terminals Railway to obtain the necessary permits and agreements for the proposed pedestrian bridge to cross the rail corridor in the Railway Lands West, including phased construction, as set out in this report.

Additional information regarding any necessary legal agreements is intended be provided in a separate report directly to City Council on April 6, 2009.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the location of the pedestrian bridge, including its height above the railway corridor, the location of the access ramps, and the location of the support pier within the railway corridor, as set out in this report;
2. City Council authorize City staff to negotiate and enter into agreements with CN Rail, GO Transit, Toronto



- Terminals Railway and Concord Adex, as required, for the construction, maintenance and use of the pedestrian bridge crossing and permits for the bridge crossing, on such terms and conditions as may be satisfactory to City staff;
3. City Council authorize the City Solicitor, in the event that acceptable crossing agreements cannot be negotiated, to undertake an application to the Canadian Transportation Agency under the *Canadian Transportation Act*, to obtain permission from that Agency for the construction, use and future maintenance of the proposed pedestrian bridge crossing;
 4. City Council authorize staff to support the construction of a bridge support pier in the rail corridor as discussed in this report, to be built in the second and/or third quarter of 2009. This will coordinate with the construction work already scheduled by the rail companies, in anticipation of completing the agreements or decision by the Canadian Transportation Agency under Recommendations 2 and 3; and
 5. City Council authorize City staff to report, as appropriate, directly to City Council regarding any legal actions or agreements as may be necessary to secure the construction of the proposed bridge crossing.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

The requirement for pedestrian bridges(s) across the rail corridor has been in the Council-approved Secondary Plan for the Railway Lands West since the mid-1980s, and has been incorporated into all amendments since then.

Concord Developments Corp. and Cityplace Developments Corp. (“Concord Adex”) have entered into a subdivision agreement regarding the development of the Concord Adex lands in the Railway Lands West. This agreement includes the ongoing obligation to build a pedestrian bridge over the rail corridor. Concord Adex is required to design and construct the pedestrian bridge entirely at its own cost. Once the bridge is built it will be conveyed to the City, and the City will be responsible for ongoing maintenance and upkeep. City staff have been working closely with Concord Adex, the railway companies (GO Transit and CN Rail), and their respective consultants to move forward on the design and construction of the bridge. Concord Adex will be hiring an artist to ensure that the bridge design incorporates a strong public art component.

A plan showing the location of the bridge is provided in Attachment 1. Staff request that City Council approve the location of the bridge, in order to provide certainty to all parties and move forward with detailed design and construction of a support pier in spring/summer 2009.

COMMENTS

Height and Location of the Bridge

City staff have been working closely with Concord Adex, CN Rail, GO Transit and their respective consultants to determine the precise height and location for the pedestrian bridge. The bridge's height above the tracks has been determined by the requirement for train engineers to maintain adequate sight lines to the train signals above the tracks. This requirement is not flexible, as GO Transit must ensure the safe passage of its trains through the corridor. The final bridge height of approximately 11.7 metres above the tracks is higher than originally anticipated, requiring ramps approximately 36.5 m long along the south side of Front Street and also within the Northern Linear Park, in the Railway Lands West.

The east-west location of the bridge has been set by the location of a required support pier in the railway corridor. This is the only location acceptable to GO Transit. The pier will be embedded into a retaining wall that is being reconstructed by GO Transit. Although the bridge itself is east of Portland Street and Dan Leckie Way, the ends of the access ramps will line up with these streets.

Staff from the City Planning Division have consulted with Technical Services and with Parks, Forestry and Recreation Divisions regarding the height and location of the bridge. Staff from these divisions concur with the location and height of the bridge. Staff will continue to work collaboratively with Concord Adex and the railway companies to address the requirements of GO Transit to ensure that the detailed design of the bridge is both functional and aesthetically pleasing.

Legal Agreements with GO Transit and CN Rail

GO Transit and CN Rail have requested the City to enter into agreements regarding the construction of the bridge over the rail corridor and its subsequent maintenance. These agreements are currently being drafted by legal counsel for the railway companies and will be reviewed by City staff. Staff do not currently expect the content of the agreements to be contentious, with the exception of a payment of approximately \$700,000.00 being requested by CN Rail for the passage of the bridge through the "air rights" over the rail corridor which are owned by CN Rail and Toronto Terminals Railway. CN has conveyed the ownership of the rail tracks to GO Transit, however as part of that transaction it has retained the potential development rights for space higher than 8.2 metres above the rails. Since the bridge is located within this airspace, which has been retained by the railways for development purposes and not for rail use, it is their position that the bridge falls outside of the normal railway/road crossing regime under the *Canadian Transportation Act*. City Legal Staff have, in response, forwarded a letter to CN Rail, which:

1. notes that CN's request to be compensated is inconsistent with CN's historical commitments (as the former owner of the Railway Lands) and is contrary to its past contractual arrangements with the City with respect to the development of the subject lands and the requirement for a bridge;

2. submits that for a variety of reasons, including the lack of any real development potential, “nil” would be an appropriate valuation in lieu of the \$700,000.00 asserted by CN Rail; and
3. in the City’s view, the Canadian Transportation Agency would continue to have jurisdiction to permit the construction, use and future maintenance of the proposed pedestrian bridge to cross the rail corridor without payment of any additional compensation to CN Rail.

CN has not yet responded to the letter. In anticipation of the possible responses, this report is seeking authority to negotiate and enter into appropriate agreements with CN Rail, GO Transit, Toronto Terminal Railway and Concord Adex, as required, for the construction, use and maintenance of the proposed bridge. If necessary, an application to the Canadian Transportation Agency will be initiated for permission to cross the rail corridor.

Support Pier for the Pedestrian Bridge

As noted above, the bridge requires the construction of a support pier within the rail corridor. There is a retaining wall within the corridor that GO Transit is reconstructing in the spring and/or summer of 2009. There are significant constraints to undertaking construction in the corridor, as it may require interruption of rail service and/or cranes to be hauling loads over the corridor during active rail service, which is not permitted by the railway companies. City staff, Concord Adex and GO Transit have been in discussions to coordinate the construction of the bridge support pier in conjunction with the reconstruction of the retaining wall, such that the pier would be physically integrated into the wall and would not require a separate construction period. The support pier must be constructed as part of GO Transit’s retaining wall work, in order to take advantage of this rare opportunity to construct within the rail corridor.

Staff is therefore requesting confirmation from City Council that City staff should continue to work with GO Transit, CN Rail and Toronto Terminals Railway to permit the proposed pedestrian bridge to cross the rail corridor as set out in this report, including the construction of the support pier, in anticipation of completing the required agreements and/or the granting of permission, if necessary, from the Canadian Transportation Agency.

CONCLUSION

City Council direction on these matters will allow staff to continue to work toward the construction of the proposed pedestrian bridge as set out in the approved Secondary Plan.

CONTACT

Judy Josefowicz, Senior Planner

Tel. No. 416-392-1306

Fax No. 416-392-1330

E-mail: jjosefo@toronto.ca

SIGNATURE

Raymond David, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Plan showing proposed bridge height

Attachment 2: Plan showing proposed bridge location

Attachment 2: Plan showing proposed bridge location

