

MEETING DATE: April 19, 2006

SUBJECT: Pemberton Avenue Road Allowance – Property Acquisition For New Finch Station Bus Exit

RECOMMENDATION

It is recommended that the Commission authorize an increase in the estimated final cost for Project 3.3 – Yards and Roads – Bus Roadway Improvements, Finch Station by \$320,611 bringing the total cost of the project to \$1,735,611 to allow the completion of the property expropriation process.

FUNDING

Funding in the amount of \$1,415,000 was included in the Project 3.3 – Yards and Roads – Bus Roadway Improvements, Finch Station, pages 621-623, Improvement Category of the TTC's 2006 – 2010 Capital Budget approved by the City of Toronto Council on December 12, 2005. Efforts will be made to accommodate these additional costs in the approved 2006 budget allocation and they will be included in the 2007-2011 Capital Program budget submission.

The expropriated property owner, 1260383 Ontario Limited, accepted the Section 25 offer tabled by the City of Toronto for \$1,103,200. Under the Expropriations Act, acceptance of this offer is on a “without prejudice” basis and allows the affected party to apply to the Ontario Municipal Board to claim for further compensation over and above that set out in this report. The implications of an OMB Hearing, if required, will be the subject of a further report.

BACKGROUND

At its meeting of August 27, 2003, the Commission approved the following recommendations required:

- 1) Approve the property settlement with the Toronto Parking Authority (TPA) to allow for the jurisdictional transfer of the Pemberton Avenue road allowance, currently used by the TPA as a parking lot, to the TTC for use as a new bus exit from Finch Station;
- 2) Authorize the acquisition (by expropriation if necessary) of 5667 Yonge Street as a replacement parking lot for TPA; and
- 3) Authorize an increase in the estimated final cost for Project 3.3 – Yards and Roads – Bus Roadway Improvements, Finch Station, pages 483-489 of the (TTC's 2003-2007) Capital Program, by \$320,000 from \$1,005,000 bringing the total cost of the project to \$1,325,000.

DISCUSSION

Based on the approved recommendations, the City of Toronto initiated the process to expropriate the property interests at the south/east corner of Yonge Street and Bishop Avenue (5667 Yonge Street – the Expropriated Lands) for the purpose of constructing a 13 space replacement parking lot for the TPA. In exchange for the replacement lot, the TPA would agree to the jurisdiction transfer of the Pemberton Avenue road allowance, currently used as a 10 space parking lot, to the TTC to facilitate construction of a new bus exit driveway from Finch Station.

An initial Limited Restricted Appraisal report of the expropriated lands was completed for the TPA by Integris Real Estate Counsellors in February 2003 which valued the expropriated lands from between \$600,000 and \$800,000. This report was prepared as a preliminary step to assist in negotiations between TPA and TTC.

However, since the initial Integrus appraisal report, the City, in accordance with the Expropriations Act, engaged John D. Weir and Associates Ltd. to undertake an appraisal that would serve as the basis for the City's Offer of Compensation to the owner. The Weir appraisal concluded that the full appraised value of \$1,103,200 is attributable to the fee simple owner of the property. The settlement agreement with TPA obligated TPA to contribute a fixed \$725,000 towards the cost of the expropriation, and TTC would incur the costs for the balance including land transfer costs and TPA/City legal costs. The August 23rd report approved by the Commission contemplated a TTC risk factor for the premium associated with the Offer of Compensation of between 7.5% and 15% of the fair market value of the lands based on the February 2003 appraisal (\$725,000). However, due to the unprecedented surge in land values throughout the Greater Toronto Area, the premium has increased to approximately 34%.

At the time it was recognized that the expropriation premium, construction costs, and all other related costs incurred to facilitate the completion of the TTC bus exit project were estimates and that the TTC would pay the actual costs incurred.

Under the Expropriation Act, the expropriating authority (the City of Toronto) is obliged to serve a Section 25 Offer of Compensation to the owner based on an updated appraisal within 3 months after the registration of an Expropriation Plan and prior to taking possession of the lands, therefore the recent appraisal was the basis of this offer.

Additional costs are also related to the design and construction of the new TPA lot on the expropriated lands, from an earlier estimate of \$125,000 to an updated estimate of \$200,000, verified and confirmed by TTC; revenue loss compensation for the expected loss in net profits resulting from the replacement of the existing TPA lot on the Pemberton Avenue road allowance and the new 13 space lot constructed on the expropriated lands; and miscellaneous expenses such as land transfer taxes, environmental clean-up and legal expenses.

The TTC's property related cost impacts are summarized in the following table, noting that a net increase of \$320,611 is required from the currently approved property costs of \$620,000.

Property Cost Item	Budget Estimate	Current Projected	Variance
Expropriation (Offer of Compensation incl. interest)	\$833,000	\$1,106,070	\$273,070
Design/Construction of new TPA lot	125,000	200,000	75,000
Environmental Clean-up	0	25,000	25,000
Disbursements (land transfer tax, legal)	35,000	70,000	35,000
Revenue Loss Compensation	352,000	264,541	(87,459)
Subtotal			
Less: TPA Contribution	<u>(725,000)</u>	<u>(725,000)</u>	<u>0</u>
Net Property Cost	\$620,000	\$940,611	\$320,611

The TTC may incur additional costs should the 13 space lot become smaller than anticipated following the City's review of the Site Plan Application for the new lot to accommodate City requirements for landscaping, ramps, etc. and should the OMB award higher settlement than the Offer of Compensation. Any additional costs will be subject of a further report to the Commission.

The City completed the expropriation process on June 23, 2005 and in accordance with the provisions of the Expropriation Act, it subsequently assumed possession of the property effective October 24, 2005.

A Memorandum of Understanding dated November 22, 2005 has been executed between the TPA and TTC setting out the terms and conditions on which the jurisdictional transfer of the Pemberton lands would be conveyed, the responsibility for specific costs associated with the expropriation of the 5667 Yonge Street lands and the short-term operation of the Pemberton road allowance by TPA for the TTC.

JUSTIFICATION

In recognition of the significant operating benefits to the TTC for securing a new bus exit from Finch Subway Station utilizing the Pemberton Avenue road allowance, the additional costs are seen to be necessary and are the TTC's responsibility based on past agreements with TPA.

 April 19, 2006

22-7-5

P:\Commission Reports\Reports\CR - Pemberton - April 2006.doc