



## Corporate Report

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**Report from** Planning & Development Services, Implementation

**Date of Report:** November 12, 2012      **Date of Meeting:** November 26, 2012

**Report Number:** PDS-647-2012      **File:** 60.2.60

**Subject:** Municipal Consultation Process for Wireless Telecommunication Facilities

### Recommendation

That Council receive for information purposes the report from Planning and Development Services, dated November 12, 2012, regarding the municipal consultation process for wireless telecommunication facilities. FORTHWITH

### Summary

The regulations of telecommunication towers are a federal jurisdiction. The municipality acts in a consultation capacity but has no approval authority.

### Background

On October 29, 2012, Council requested a report on cell phone towers installed within our community, including provincial and federal regulations and local planning policies.

### Report

Under the Radiocommunication Act, the federal government has exclusive and comprehensive jurisdiction over radiocommunications and telecommunications. Industry Canada is the approval authority with respect to telecommunications towers and other equipment in Canada under Section 5 of the Radiocommunication Act. As a result of federal jurisdiction over telecommunications operations, municipal land-use planning controls such as zoning by-laws, site plan control, development approvals and building code requirements are not applicable. While no authority is given to the municipality to regulate telecommunication towers under the Planning Act, Industry Canada requires proponents to work with local land-use authorities and to accommodate reasonable local requirements.

Industry Canada's public and municipal consultation requirements are set out in CPC-2-0-03 entitled *Radiocommunication and Broadcasting Antenna Systems*. The purpose of these consultations is to discuss siting options, to ensure that local review processes related to communication towers are respected, to address reasonable and relevant concerns, and finally to obtain concurrence from the land

use authority in writing. Industry Canada expects municipal concurrence to be obtained no later than 120 days after the beginning of consultations.

Where the local land use authority has established a consultation process for the siting of telecommunication facilities, proponents are required to follow this process. Council has approved a Consultation Process for Telecommunication Facilities and delegates approval authority to the Manager of Planning Services (Appendix “1”). Planning and Development Services undertakes preliminary consultation with the proponent to ensure the requirements of the Council-approved consultation process are satisfied. The proponent will then submit an application, including supporting documentation such as a report justifying the height and location of the tower. Planning and Development Services will circulate the submission to the applicable municipal departments and assist the proponent with the required public consultation requirements. In accordance with Industry Canada requirements, the proponent is required to provide notice to property owners within a circulation radius of three times the height of the proposed tower, as measured from the base of the proposed tower location. Proponents of structures that are proposed to be 30 metres or more in height must additionally place a notice in a local community newspaper. A letter of undertaking is required by the municipality prior to the issuance of a municipal letter of concurrence.

Since July of 2008 when Council approved the above noted consultation process, three (3) telecommunication towers have been approved (20 Hartzel Road; 47 Commerce Place; and 1 Spring Street). Additional locations have been investigated by proponents but were never finalized. Planning and Development Services is in the process of reviewing two proposals: 1230 Old Martindale Road and 259 Main Street. A recent proposal for 1059 Lakeshore Road West entered the consultation process but has seen no further action by the proponent. In these locations, municipal requests have related to site design, setbacks, tower design, landscaping, maintenance access, and fencing requirements.

## **Conclusion**

Telecommunication towers, including cellphone towers, are exclusively regulated by the federal government. Municipal land-use planning controls such as zoning by-laws, site plan control, development approvals, and Building code requirements are not applicable. In accordance with Industry Canada requirements, the municipality comments on proposed tower locations in accordance with the Council approved consultation protocol.

## **Financial Implications**

There are no financial implications associated with the report.

### **Submitted by:**

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Manager of Planning Services

### **Prepared by:**

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Planner I

### **Approved by:**

James N. Riddell, M.Pl., M.C.I.P., R.P.P.  
Director of Planning & Development Services

**ITEM NO.** 366  
**Report from the** Financial Management Services Department  
**Dated:** July 3, 2008  
**Re:** Consultation Process for Wireless  
Telecommunications Facilities  
Realty File 08-25  
**File(s):** 60.2.60

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Staff has been approached by solicitors representing Bell Mobility (Bell), Rogers Wireless (Rogers) and TELUS Mobility (TELUS), each seeking to improve the quality of their wireless service in this area, to suggest a process for consultation with the City to ensure that municipal concerns are addressed in the early planning stage, and have requested that Council designate an official to facilitate such consultation.

As operators of inter-provincial wireless telecommunications businesses, Bell, Rogers and TELUS are exclusively regulated by the federal government; thus their facilities do not require permitting of any kind. In recognition of the federal government's exclusive jurisdiction, proponents of telecommunication facilities are required to consult with land use authorities to ensure that the authorities are aware of significant antenna structures and/or installations proposed so that the systems are deployed in a manner which considers local surroundings.

The solicitors have suggested that consultation for new wireless telecommunications facilities occur in the following manner:

1. Council will delegate the consultation function to a suitable official in order to facilitate discussion and the timely exchange of information (the "Designated Official").
2. Prior to finalizing their plans, the operators will consult with the Designated Official to identify local concerns in the search area, opportunities to co-utilize existing structures, and to identify land owned by the municipality which may be a suitable site for lease.
3. The operators agree, that where reasonably possible, having regard to matters of engineering and economics, that the proposed sites will be considered in the following order:
  - Sites co-located on existing structures;
  - Land outside of zoned residential areas where possible;
  - Land owned by the municipality; and
  - New structures on land owned by private land owners.
4. While the municipality has no jurisdiction to regulate such facilities under the Planning Act, the operators will provide drawings and information for review by the municipality at a site plan level of detail together with a justification report in which the operators will document their site selection process and include the justification for the height and built form of the new facility. The operators will also provide the information package to those agencies identified by the City for circulation purposes.
5. The operators will consult with the Designated Official to identify options for tower types and colour, equipment shelter design, landscaping and the placement of the tower on the leased site. If an agreement is reached between the Designated Official and the operators, the operators will provide the municipality with a legally binding undertaking to construct the facility in accordance with the information package subject to agreed upon modification.
6. In order to ensure that the affected public are also consulted, when facilities are located close to residential zone (3 times the antenna height measured from the base of the support structure to the edge of a residential zone), the operators will abide by Industry Canada's detailed public written notification process.
7. Where towers are proposed to be constructed in excess of 100 metres in height, notice will be published in the local newspaper in accordance with Industry Canada's requirements.

8. If the proposed facility is located within 3 times the antenna height, measured from the base of the facility, from a neighbouring municipality, the operators will also notify that municipality.
9. All of the foregoing will respect Industry Canada's expectation that consultation will be concluded within 120 days.

The request arises because the federal approval process requires consultation with affected municipalities. This allows for some influence as to the location of towers but does not confer to municipalities any federal power or right of veto. Delegating the consultation function to a municipal official is a convenience to federally regulated entities engaged in multiple projects, and is seen as a reasonable approach to facilitate the process in an expedient manner. Given the nature of the request, it is recommended that Council adopt the process outlined above to facilitate consultation with the operators of federally regulated wireless telecommunication facilities, and name the Manager of Planning Services as the Designated Official for this purpose.

RECOMMENDATION:

That Council adopts the consultation process for wireless telecommunication facilities outlined in the report from Financial Management Services Department dated July 3, 2008;

and that the Manager of Planning Services be named as the Designated Official for this purpose;

and that Thomson, Rogers, Barristers and Solicitors, Suite 3100, 390 Bay Street, Toronto, Ontario, M5H 1W2, be so advised.

FORTHWITH

MOVED BY COUNCILLOR PHILLIPS:

That the recommendation contained in the report from the Financial Management Services Department, Item Number 366 of the General Committee Minutes, July 14, 2008, be approved.

CARRIED FORTHWITH.

<b>ITEM NO.</b>	<b>367</b>
<b>Report from the</b>	<b>Planning Services Department</b>
<b>Dated:</b>	<b>July 4, 2008</b>
<b>Re:</b>	<b>Application for Amendment to Zoning By-law</b>
	<b>76-86 (Zone 7) to Permit Four (4) Street</b>
	<b>Townhouse Dwelling Units and Two (2) Single</b>
	<b>Detached Dwelling Units (one unit currently</b>
	<b>existing)</b>
	<b>70 and 76 St. David's Road</b>
	<b>Applicant: Hynde Paul Associates Inc. (Greg</b>
	<b>Hynde)</b>
	<b>Owner: Francesca Fusarelli</b>
<b>File(s):</b>	<b>60.35.932</b>

The Proposal

The purpose of the rezoning application is to permit the development of 2,027 m<sup>2</sup> of land for four (4) street townhouse dwelling units (freehold) and two (2) single detached dwelling units (one unit is currently existing).