



Staff Report for Committee of the Whole Meeting

Date of Meeting: July 3, 2018

Report Number: SRPRS.18.131

Department: Planning and Regulatory Services

Division: Development Planning

Subject: **SRPRS.18.131 – Request for Comments –
Radio-Communication and Broadcasting
Antenna System Public Consultation
Application – Yorkdale Centres Inc. – Town File
D25-15001**

Owner:

Yorkdale Centres Inc.
22 Boyle Drive
Richmond Hill, Ontario
L4C 6C9

Agent:

Fontur International Inc.
70 East Beaver Creek Road, Unit 22
Richmond Hill, Ontario
L4B 2B2

Location:

Legal Description: Part of Lot 57, Concession 1, E.Y.S.
Municipal Address: 11685 Yonge Street

Purpose:

A request for comments from Committee of the Whole with respect to a Radio-Communication and Broadcasting Antenna Systems Public Consultation Application regarding the replacement of an existing broadcasting antenna system.

Recommendations:

- a) **That SRPRS.18.131 regarding an application for public consultation related to the installation of a proposed Radio-Communication and Broadcasting Antenna System submitted by Fontur International Inc., on behalf of Yorkdale Centres Inc., for lands known as Part of Lot 57, Concession 1,**

Page 2

E.Y.S. (Municipal Address: 11685 Yonge Street) Town File D25-15001, be received;

- b) That Council acknowledge that consideration of the proposed radio-communication and broadcasting antenna system has been undertaken in accordance with the Town's Protocol for Public Consultation for Radio-Communication and Broadcasting Antenna Systems; and,**
- c) That Staff be directed to inform Industry Canada that Council acknowledges that no land use planning issues remain outstanding as it pertains to the installation of the proposed radio-communication and broadcasting antenna system on the subject lands for the reasons outlined in Staff Report SRPRS.18.131.**

Contact Person:

Ferdi Toniolo, Senior Planner – Site Plans, phone number 905-771-2442
Deborah Giannetta, Manager of Development – Site Plans, phone number 905-771-5542

Report Approval:

Submitted by: Kelvin Kwan, Commissioner of Planning and Regulatory Services

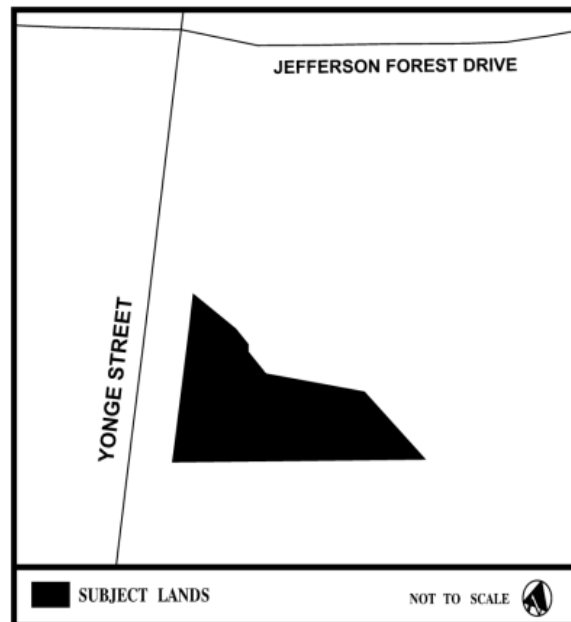
Approved by: Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

Page 3

Location Map:

Below is a map displaying the property location. Should you require an alternative format call the person listed under “Contact Person” above.



Background:

On November 3, 2015, Fontur International Inc., on behalf of Globalive Wireless Inc. (Wind Mobile Inc.), submitted a Radio-Communication and Broadcasting Antenna Systems Public Consultation Application (File D25-15001) to facilitate the replacement of an existing 15 metre (49.2 feet) telecommunication tower with a 40 metre (131.2 feet) tower. The application was subsequently circulated to Town departments and external agencies for review and comment in accordance with the Town's Protocol for Public Consultation for Radio-Communication and Broadcasting Antenna Systems (Town's Protocol). The applicant was provided with the necessary circulation information from the Town in order to send the required Notification Package to residents within 160 metres (525 feet) measured from the tower base in accordance with the Town's Protocol.

The requisite Community Information Session regarding the subject proposal was held on April 5, 2016, and was attended by members of the public, the local Councillor for Ward 2, Town staff and the applicant's representative. As per Section 7.5 of the Town's Protocol for undertaking public consultation for a proposed antenna system, the holding of this meeting has complied with the requirements of the Town. Further, in accordance with the Town's Protocol, staff are required to bring forward a report to Committee of the Whole advising that public consultation that has been completed, that a review of land use planning matters related to the subject site has been undertaken and a request to

Page 4

provide comments with respect to the Town's official position concerning the proposed antenna system. Accordingly, the purpose of this report is to seek comments and a position from Council that will be forwarded to Industry Canada as the Town's official position regarding the proposed antenna system.

Understanding Government Jurisdiction

Radio-communication and broadcasting facilities come under the jurisdiction and responsibility of the Federal Government, with municipal governments generally being permitted to engage in public consultation with proponents in order to address reasonable and relevant concerns from a land use planning perspective. As such, only the Federal Minister of Industry has the authority under the *Radio-Communication Act* to issue radio authorizations, to approve each site upon which antenna systems are to be installed and to approve the erection of all masts, towers and other antenna-supporting structures.

Industry Canada's ultimate role is to ensure orderly development and the efficient operation of antenna systems throughout Canada. It is acknowledged however, that municipal government is best suited to explain to applicants the particular amenities, sensitivities, planning priorities and other relevant characteristics of the areas within which such facilities are to be located. It is for this reason that municipal governments facilitate consultation between the public and proponents albeit strictly from a land use planning perspective.

Non-Applicable Consultation Topics

Industry Canada's protocol outlines that applicants have specific obligations that are subject to Federal requirements and therefore the Town's requirement for initiating public consultation cannot intrude on obligations already subject to Federal review. The Town may however seek clarification from proponents concerning their proposal and the alternatives available to satisfy these and any other radio authorization requirements. The Federal requirements include compliance with the following:

- Health Canada's Public Radio Frequency Exposure Guidelines - Safety Code 6 (Safety Code 6);
- radio frequency interference and immunity – EMCAB-2;
- notification of nearby broadcasting stations;
- environmental considerations; and,
- transport Canada/NAV CANADA aeronautical safety responsibilities.

Summary Analysis:

Site Location and Adjacent Uses

The subject lands are located on the east side of Yonge Street, south of Jefferson Forest Drive and have a lot area of approximately 0.76 hectares (1.8 acres). The lands presently support an existing commercial plaza and abut Yonge Street to the west, valley lands to the north and east, and an existing auto dealership to the south (refer to Maps 1 and 2).

Page 5

Development Proposal

Wind Mobile Inc. operates an existing telecommunication tower measuring 15 metres (49.2 feet) in height within a fenced compound located at the rear of the subject lands (refer to Maps 5 and 6). The applicant proposes to replace the existing tower with a flagpole tower design measuring 40 metres (131.2 feet) in height in order to extend telecommunication service coverage to the businesses and residents in the area. All antennas are to be shrouded and the facility will include a relocated equipment pad. It is proposed that the antenna system will continue to be accessed via the existing driveway entrance from Yonge Street (refer to Maps 7 and 8). The proposed tower will initially support the wireless services by Wind Mobile Inc.; however, the tower has been designed to facilitate future co-location by other carriers.

The applicant has noted that the area is currently assessed as having very weak coverage with poor signal strength which generates significant coverage requirements given the density of nearby users. In light of the increased growth in the number of users in the general area, the existing tower needs to be replaced as there are no other towers in the general area that are suitable for co-location.

It should be noted that the applicant's original submission proposed utilizing the foundation of the existing monopole on the subject lands. However, upon further review, the applicant determined that a new foundation was required to support the replacement antenna system on the subject lands. In this regard, the Toronto and Region Conservation Authority had concerns with the proximity of the new proposed foundation to the top of slope of the adjacent valley lands. The applicant revised the location of the proposed foundation for the new monopole to the west within the existing triangular compound on the site to satisfy these concerns. However the proposed new location conflicted with an existing tree on the neighbouring property requiring its removal in order to permit the new facility. The applicant has satisfied the Town's requirements for a Tree Preservation and Arborist report, gained consent from the neighbouring property owner for removal of the tree and was recently issued a Tree Removal Permit to remove the neighbouring tree (in poor health).

Public Consultation Analysis: Industry Canada and Town Richmond Hill Exemptions

Certain kinds of radio-communication and broadcasting antenna systems are not subject to the Town's Protocol for undertaking consultation on land use matters relating to antenna systems. Staff confirms that the proposed replacement antenna system is ground-based, is to have a height of 40 metres (131.2 feet) and will not qualify under either of the exemption conditions that are set out by Industry Canada or under the Town-specific exemptions.

Pre-Consultation Meeting

The applicant met with Town staff prior to submitting the application for public consultation. Staff also discussed potential locations for the proposed antenna system on the subject lands and generally agreed with the applicant that the location of the new

Page 6

tower in the same general area as the existing tower would minimize impact on surrounding areas. From a location perspective, the proposed tower would provide adequate separation and buffer from existing residential uses located in proximity to the lands.

Public Notification

In accordance with the Town's Protocol, the Town provided the applicant with mailing addresses for those properties located within 160 metres (525 feet) of the proposed tower base (refer to Map 1). The applicant has fulfilled its obligations by mailing the required Notification Packages and posting a sign on the subject lands that describes the application and advertised the Community Information Session as required by the Town's Protocol (refer to Appendix A).

Community Information Session

As previously noted, the requisite Community Information Session was hosted by the applicant on April 5, 2016, between 6:00 pm and 8:00 pm at the Elgin West Community Centre. Town staff as well as the Councillor for Ward 2 and approximately 100 members of the public were in attendance. This meeting meets the requirement of holding a Community Information Session regarding the subject proposal in accordance with Section 7.5 of the Town's Protocol.

Public Consultation Comments

Staff and the applicant received numerous comments from the public via written submissions to the Town. The issues and/or concerns that were raised can generally be grouped into the following categories:

- demonstration of need;
- co-location;
- impact on property values; and,
- impact on health and safety.

Upon completion of the public consultation phase in accordance with the Town's Protocol, the applicant forwarded a response letter dated June 3, 2016 (refer to Appendix B) to address to the concerns and/or comments raised during the public consultation as follows:

Demonstration of Need

The applicant has advised that the primary reason for the site is coverage improvement. In selecting the site, a number of factors were considered including land use considerations, participating landlords, airport height restrictions, site conditions, availability of electric power and ground base requirements. The site was chosen given that the tower base and compound would be screened and blend well with the existing surrounding uses and that the closest residential property would be approximately 150 metres (492 feet) from the tower. Furthermore, given that the site is currently supporting

Page 7

an existing antenna system, utilizing the existing compound and existing services would minimize impact on the site and the surrounding area.

Co-location

The applicant has advised that their license requires them to allow another carrier to add equipment provided that the additional equipment meets the standards set out under Safety Code 6. The applicant has confirmed that the proposed tower can accommodate co-location.

Impact on Property Values

Pursuant to Section 4.2 of Industry Canada's Client Procedures Circular for Radiocommunication and Broadcasting Antenna Systems, it is noted that the potential of a proposed antenna system will have on property values or municipal taxes is not a relevant concern and is exempt from the public consultation process.

Impact on Health and Safety

The applicant has advised that the proposed antenna system is in full compliance with Health Canada and Industry Canada requirements for "Limits to Exposure to Radiofrequency Electromagnetic Energy in the Frequency Range from 3Hz to 300 GHz - Safety Code 6 (2015)". In this regard, results of the *Safety Code 6 Site Validation* assessment for the proposed replacement cell tower facility in relation to these guidelines concluded that it would be less than 1% of the Safety Code 6 limits for these types of facilities.

Concluding Public Consultation

In accordance with the Town's Protocol for conducting consultation on proposed antenna systems, the public consultation process is to be finalized once Council ratifies their final comments as being the official position of the Town in regard to the proposed submission. Ratification of the Town's official position is to be in the affirmative or the negative. In other words, the official position of the Town is to concur or to object to the proposed antenna system. Concurrence indicates that no land use planning matters remain outstanding while an objection would indicate to Industry Canada that land use planning matters remain outstanding.

An objection would also trigger a dispute resolution process outlined in Section 8 of the Town's Protocol for Radio-Communication and Broadcasting Antenna Systems. In this regard, the next section of this report is intended to brief Council on the land use planning issues pertaining to the subject lands and assist Council in determining the most appropriate land use position for the Town with respect to the applicant's proposal.

Land Use Planning Analysis:

Official Plan and Zoning

The subject lands are designated **Regional Mixed Use Corridor** in accordance with Schedule A2 (Land Use) of the Town's Official Plan (the Plan) (refer to Map 3) which

Page 8

permits medium density and high density residential, office, commercial, retail, automotive service commercial, parks and urban open spaces and live-work units.

Policy 3.1.9.6.5 of the Plan states the following:

“Where it is not possible to install utilities underground, above ground structures should be clustered, where feasible, and shall be required to locate in areas that minimize the visual effects of utilities, where feasible, through screening or buffering that maintains the character of the surrounding area.”

The subject lands are presently zoned **Village Centre Commercial (VCC) Zone** pursuant to Zoning By-law 235-97, as amended (refer to Map 4). Main permitted uses under the **VCC Zone** category include apartment dwellings, bake shop, block townhouse dwellings, business and professional offices, retail, restaurants, financial institutions, health centres, hotels, medical offices and clinics, personal service shops, pet stores, supermarkets, etc.

Staff has previously noted that the Federal Minister of Industry has the authority under the *Radio-Communication Act* to issue radio authorizations, to approve each site on which antenna systems are to be installed and to approve the erection of all masts, towers and other antenna-supporting structures. Staff provides the following comments respecting the Plan and Zoning By-law provisions applicable to the subject lands:

- the **Regional Mixed-Use Corridor** designation supports a broad range and mix of land uses. The proposed antenna system will act to improve service delivery to local residents and businesses and promote connectivity. From a design perspective, the proposed antenna system will be located at the rear of an existing commercial plaza, partially screened from Yonge Street by the existing commercial buildings located on the subject lands and adjacent properties and from existing residential uses to the east by the abutting valley land at the rear of the lands;
- the applicable zoning provisions permit a broad range of commercial, retail and higher order residential uses along Yonge Street. The proposed antenna system will not detract from the ability to develop these uses along Yonge Street. The existing commercial development located on the subject lands will still comply fully with all zoning regulations found with Zoning By-law 235-97, as amended. No relief from any part of the applicable Zoning Bylaw will be required in order to implement the proposed antenna system; and,
- staff is generally satisfied that the proposed installation does not create any land use planning conflicts with adjacent land uses (refer to Maps 1, 2 and 8). The proposed replacement antenna system will utilize existing infrastructure and will be appropriately located to minimize impact on surrounding land uses.

Department and Agency Comments

Staff has circulated the application to relevant Town departments and external agencies. The following table summarizes comments received to date:

Page 9

Department/Agency	Comments
Enbridge Gas	No objections.
Finance Department	No objections.
Fire and Emergency Services Division	No objections.
Urban Design and Heritage Section	No objections.
Building Services	No objections.
Zoning Section	No comments.
Development Engineering Division	No objections.
Park and Natural Heritage Planning Section	Tree Inventory required.
Power Stream	No objections. Applicant to contact Power Stream to confirm service supply and determine charges for new connections, if required.
Toronto and Region Conservation Authority (TRCA)	Applicant to consider relocating tower away from top of slope.

As previously mentioned, in response to comments received, the applicant revised the location of the proposed foundation and tower to the opposite end of the existing compound, away from the top of slope and submitted an Arborist Report and Tree Preservation Plan (refer to Map 7). The revised Site Plan has received clearance from the TRCA and the Town's Park and Natural Heritage Section (including the issuance of a Tree Removal Permit). As such, there are no outstanding issues that would result in the Town requesting Industry Canada to defer a decision on approval or denial of the subject lands as a suitable site for the replacement antenna system.

Requirements for Building Permits and/or Agreements

The Town's Building Services Division has confirmed that a Building Permit will be required to the proposed tower foundation. Staff is satisfied that no Agreements are necessary in order to facilitate the construction of the proposed replacement antenna system.

Relationship to Protocol Objectives

Section 7.7 of the Town's Protocol requires that staff outline in particular how a proposed antenna system has contributed to and satisfied the Town's objectives for requiring public consultation on proposed antenna systems. Staff therefore advises that:

- i) the Town's Designated Municipal Contact has received, reviewed, provided all comments to the applicant and overseen the public consultation process;

Page 10

- ii) the applicant has fully complied with the Town's submission and public consultation requirements;
- iii) the revised location of the proposed antenna system does not impact the existing streetscape and any significant sight lines that are present both on the subject lands and in the immediately surrounding area;
- iv) the proposed antenna system is appropriately located at acceptable distances from surrounding residential uses;
- v) the proposed antenna system appropriately balances the need to provide a high level of technical service to residents, surrounding properties and users with the objectives of the Town stated in this protocol;
- vi) the proposed antenna system has been designed to support co-location and staff is satisfied that co-location in this part of the Town would be desirable as it would potentially reduce the need for an additional antenna system in the immediate vicinity; and,
- vii) the Town's Protocol has provided an effective forum to inform the public through the mailing of the Notification Package, the holding of a Community Information Session, and this report to Committee of the Whole.

Financial/Staffing/Other Implications:

The recommendations of this report do not have any financial, staffing or other implications.

Relationship to the Strategic Plan:

The recommendations of this report will facilitate a development proposal that is aligned with the Town's Strategic Plan. In this regard, the development proposal is aligned with **Goal One – Stronger Connections in Richmond Hill** by planning for a connected community. The proposed development would align with **Goal Four – Wise Management of Resources in Richmond Hill** by being responsible through a commitment to use land responsibly.

Conclusion:

The applicant is seeking comments from Council with respect to a public consultation application involving the installation of a replacement radio-communication and broadcasting antenna system on the subject lands. Staff is satisfied that all relevant land use planning concerns relating to the subject proposal have been addressed by the applicant. Staff therefore recommends that Council receive Staff Report SRPRS.18.131, acknowledge the application has been undertaken in accordance with the Town's approved protocol for Public Consultation for Radio-Communication and Broadcasting Antenna Systems, and that Industry Canada be informed of the preceding as it relates to the proposed replacement antenna on the subject lands.

Page 11

Appendix Contents and Maps:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A, letter from Fontur International Inc. dated October 10, 2017 confirming responsibilities fulfilled pursuant to Town's Protocol
- Appendix B, letter dated June 3, 2016 from Fontur International Inc. responding to public concerns
- Map 1, Aerial Photograph
- Map 2, Neighbourhood Context
- Map 3, Official Plan Designation
- Map 4, Existing Zoning,
- Map 5, Photo of Existing Tower
- Map 6, Original Site Plan
- Map 7, Current Site Plan
- Map 8, Photographic Simulation

Page 12

Report Approval Details

Document Title:	SRPRS.18.131.docx
Attachments:	<ul style="list-style-type: none">- Appendix A.pdf- Appendix B.pdf- MAP_1_AERIAL PHOTOGRAPH.pdf- MAP_2_NEIGHBOURHOOD_CONTEXT_S2515001A.pdf- MAP_3_OFFICIAL_PLAN_DESIGNATION.pdf- MAP_4_EXISTING_ZONING_S2515001A.pdf- MAP_5_PHOTO_OF_EXISTING_TOWER_NEW.pdf- MAP_6_ORIGINAL_SITE_PLAN.pdf- MAP_7_CURRENT_SITE_PLAN.pdf- MAP_8_PHOTOGRAPHIC_SIMULATION.doc
Final Approval Date:	Jun 26, 2018

This report and all of its attachments were approved and signed as outlined below:

Gus Galanis - Jun 26, 2018 - 3:02 PM

Kelvin Kwan - Jun 26, 2018 - 4:10 PM

Neil Garbe - Jun 26, 2018 - 4:22 PM