

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF FEBRUARY 18, 2014

Item 12, Report No. 6, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on February 18, 2014, as follows:

By approving the following:

That the recommendation of the Commissioner of Planning and the Director of Development Planning, dated February 4, 2014, be approved, subject to the amendment set out in Communication C19 from the Commissioner of Planning, dated February 13, 2014, as follows:

- 1. THAT Attachment #4 of the Report of the Commissioner of Planning and Director of Development Planning, dated February 4, 2014, with respect to Site Development File DA.13.007 (Muzzo Brothers Group Inc.) be deleted, and replaced with the revised telecommunications tower elevation shown on Attachment #4, attached hereto;***

That the siting of a cell tower be subject to the tower being re-located directly north on the same property to 15 m south of the northern boundary of said property; and

That the revised coloured elevation drawings submitted by the applicant be received.

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**SITE DEVELOPMENT FILE DA.13.007
MUZZO BROTHERS GROUP INC.**

WARD 1 - VICINITY OF BATHURST STREET AND KING-VAUGHAN ROAD

The Committee of the Whole recommends:

- 1) That consideration of this matter be deferred to the Council meeting of February 18, 2014 to allow further consultation with the applicant;**
- 2) That the deputation of Mr. James Kennedy, Bell Mobility, East Beaver Creek, Richmond Hill, be received; and**
- 3) That the coloured elevation drawings submitted by the applicant be received.**

Recommendation

The Commissioner of Planning and the Director of Development Planning recommend:

- 1. THAT Site Development File DA.13.007 (Muzzo Brothers Group Inc.) BE APPROVED, to permit the installation of a 45 m high monopole telecommunication tower and associated radio equipment cabinets (Attachments #3 to #6) through a joint-build agreement between Bell Mobility Inc. and Rogers Wireless on the subject lands shown on Attachments #1 and #2**

Contribution to Sustainability

N/A

Economic Impact

There are no requirements for new funding associated with this report.

Communications Plan

Pursuant to the City's current telecommunication tower/antenna facilities protocol, the Proponent (Bell Mobility Inc.) held a Public Consultation Meeting on August 6, 2013, which is discussed in the Protocol section of this report.

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Purpose

The Proponent (Bell Mobility Inc.) has submitted Site Development File DA.13.007 on the subject lands shown on Attachments #1 and #2 for the installation of a 45 m high monopole telecommunication tower and associated radio equipment cabinets, as shown on Attachments #3 to #6. Rogers Wireless will be locating antennas on the proposed telecommunication tower through a joint-build agreement with Bell Mobility.

Background - Analysis and Options

Location

The subject lands shown on Attachments #1 and #2 are located on the west side of Bathurst Street, south of King-Vaughan Road, in the City of Vaughan.

City of Vaughan's Telecommunication Tower/Antenna Protocol

On June 23, 2003, Vaughan Council adopted a protocol for establishing telecommunication tower/antenna facilities. In accordance with the City's Protocol, all new tower/antenna systems greater than 16.6 m in height (now 15 m as superseded by Industry Canada's Protocol, January 2008) require consideration by Vaughan Council. The proposed 45 m high telecommunication tower exceeds the 15 m maximum tower exemption height and is subject to site plan approval.

In accordance with the Protocol, the Proponent attended a Pre-Application Consultation meeting with the Vaughan Development Planning Department, prior to submitting the subject application. The Proponent conducted a survey of the surrounding area and determined that there were no existing facilities suitable for co-location within the vicinity network coverage.

On June 7, 2011, Vaughan Council resolved to appoint a Telecommunication Facility Task Force comprised of residents, industry representatives, and two Vaughan Council Members to review the City of Vaughan's existing Protocol for establishing Telecommunication Tower/Antenna Facilities.

On June 7, 2011, Vaughan Council also resolved:

"THAT Site Development Applications for new telecommunication facilities submitted prior to approval of a new City protocol be reviewed under the current City of Vaughan Protocol for Establishing Telecommunication Tower/Antenna Facilities."

The Task Force developed a comprehensive work plan to formulate a Findings Report with assistance from City staff. The Task Force also consulted with and heard presentations from a variety of sources such as Industry Canada, Public Health Ontario, Bell Mobility, and telecommunication industry professionals. The Task Force approved the final Findings Report at its December 17, 2013, meeting, and forwarded the following recommendation to the January 14, 2014, Committee of the Whole Meeting, where it was adopted by the Committee:

"That the Findings Report be referred to staff for review, and that a report be provided to a future Committee of the Whole meeting; and,

That the Findings report form the basis for developing the City of Vaughan's Telecommunication Facility Siting Protocol."

The City's in-effect Protocol states that applications for telecommunication towers located within the rural area require the Proponent to provide notice of a Community Information Meeting by regular mail to all landowners within a radius of 250 m from the tower base, as shown on Attachment #2.

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On August 6, 2013, the Proponent held a Community Information Meeting at the Elgin West Community Centre from 6:30 pm to 8:30 pm. At that time, the telecommunication tower was slightly north of the south property line together with a new driveway along the south property line and access along Bathurst Street, as shown on Attachment #3. In accordance with the City's Protocol, notice for this meeting was provided by regular mail to all notified residents a minimum of 20 days in advance of the Public Consultation meeting. Two (2) residents attended the Public Consultation Meeting. To date, the following correspondence was received:

- i. Michael Watson, Bathurst Street, correspondence dated August 6, 2013, respecting concerns with the location and health concerns of the tower; and,
- ii. Lucia Milani and Cam Milani, Dufferin Street, correspondence dated August 6, 2013, October 30, 2013, and January 8, 2014, respecting the following concerns:
 - a) The location of the proposed tower as it relates to compatibility with, and maximizing distance to future residential land uses.
 - b) The proposed access point and access road being located too close to the abutting property to the south.
 - c) The visual prominence of the proposed tower from Bathurst Street due to topographical slope on the subject lands.

The Development Planning Department met with the Proponent to address the concerns of the residents identified above. As a result, the Proponent agreed to relocate the telecommunication tower to a more central location on the subject lands in order to create a greater distance separation to the abutting property to the south. The Proponent also agreed to abandon the new south access on Bathurst Street and use the existing north access and a new internal driveway leading to the relocated telecommunication tower. The concerns noted above are discussed later in this report in the "Response to Correspondence" section.

Official Plan and Zoning

The subject lands are designated "Rural Use Area" by in-effect OPA #600 and "Natural Core Area" and "Natural Linkage Area" by in-effect OPA #604 (Oak Ridges Moraine Conservation Plan). There are no policies regarding the use or location of telecommunication infrastructure within the "Rural Use Area" and overall general policies of OPA #600. Section 10.2 and 10.3 in OPA #604 permits "the use of telecommunications lines and facilities, including broadcasting towers" within the "Natural Core Area" and "Natural Linkage Area", provided that the need for the project has been demonstrated and the area of construction disturbance is kept to a minimum.

The subject lands are also designated "Oak Ridges Moraine Natural Core" and "Oak Ridges Moraine Natural Linkage" by the City of Vaughan Official Plan 2010 (VOP 2010), which was adopted by Vaughan Council on September 7, 2010 (as modified September 27, 2011, March 20, 2012, and April 17, 2012), as further modified and endorsed by Region of York Council on June 28, 2012, and approved, in part, by the Ontario Municipal Board on July 23, 2013 and December 2, 2013. The proposed telecommunication tower is located on the portion of the subject lands designated "Oak Ridges Moraine Natural Linkage Area". Section 3.4.10.2 of VOP 2010 states that telecommunication towers are permitted in the "Oak Ridges Moraine Natural Linkage" designation provided that the following are demonstrated:

- a) the need for the project has been demonstrated and there is no reasonable alternative; and,
- b) the applicant demonstrates that the following requirements will be satisfied, to the extent that is possible while also meeting all applicable safety standards:

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- i. the area of construction disturbance is kept to a minimum;
- ii. right-of-way widths will be kept to the minimum that is consistent with meeting other objectives such as stormwater management and with locating as many transportation, infrastructure and utility uses within a single corridor as possible;
- iii. the project will allow for wildlife movement;
- iv. lighting will be focused downwards and away from Oak Ridges Moraine Natural Core Areas; and,
- v. the planning, design and construction practices adopted will keep any adverse effects on the ecological integrity of the Oak Ridges Moraine Conservation Plan Area to a minimum.

The telecommunication tower is located on the portion of the subject lands zoned ORM Oak Ridges Moraine Zone (with the balance of the westerly area of the site zoned OS5 Open Space Environmental Protection Zone) by Zoning By-law 1-88. The *Radiocommunication Act* designates Industry Canada as the approval authority for all matters respecting telecommunication towers and antenna facilities. Federal regulations are not subject to Provincial policies, which include the *Planning Act* and *Building Code Act*. As such, telecommunication towers and antenna facilities are exempt from municipal official plan policies and zoning by-law requirements and site plan control (i.e. no implementing Site Plan Agreement or Letter of Undertaking).

Oak Ridges Moraine Conservation Plan

The subject lands are located within the Oak Ridges Moraine Conservation Area. The Proponent submitted an "Evaluation of Natural Heritage Features Report" prepared by North-South Environmental Inc. The report indicates that no Key Natural Heritage Features (KNHF) were identified within 200 m of the proposed telecommunication tower, with the exception of a Barn Swallow's nest located in one of the existing barns.

Barn Swallows are identified as being an endangered, rare and threatened species under the Oak Ridges Moraine Conservation Plan. The report by North-South Environmental Inc. concludes that the proposed access laneway and tower will not negatively affect the existing barn or the foraging habitat (e.g. open agricultural fields) of the Barn Swallow. In addition, the Proponent has contacted the Ministry of Natural Resources (MNR), the Provincial Ministry responsible for assessing impacts to threatened and endangered species such as the Barn Swallow. The MNR has indicated in an email that it has no objections to the proposed telecommunication tower, provided that construction of the tower proceed outside of the active season for this species, being April 20 to September 15. The Proponent has agreed to construct the tower outside of this period.

Planning Considerations

The Proponent originally proposed to construct the telecommunication tower along the southern property line with a front yard setback of 180 m from Bathurst Street, as shown on Attachment #3. However, through the Public Consultation process, two property owners located south of the subject lands had concerns with the proximity of the tower relative to their properties, as well as the potential health effects of the proposed tower, explained in more detail in the upcoming "Response to Correspondence" section.

Through discussions with the Development Planning Department and in consideration of the concerns identified by the two area residents at the public consultation meeting, the Proponent agreed to relocate the telecommunication tower approximately 100 m north and 70 m west from

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its original location, as shown on Attachment #3. The Proponent also agreed to move the proposed access point and road from the south side of the subject lands to an existing access point located on the north side of the subject lands and entering west from Bathurst Street, as shown on Attachment #3.

The proposed 84 m² equipment compound is enclosed by a 2.4 m high chain link fence. The compound is approximately setback 250 m from Bathurst Street, and includes a 45 m high monopole tower and one (1) radio equipment cabinet, as shown on Attachments #3 and #4. The accessory radio cabinet is constructed of galvanized steel and measures approximately 2.0 m x 2.4 m in area and 2.4 m in height, as shown on Attachments #5 and #6. All hydro requirements to service the equipment cabinets for the telecommunication tower must be to the satisfaction of PowerStream Inc.

Due to the tower's relocation to a more central area on the subject lands, pinwheel-style antennas, as shown on Attachment #4, are required to achieve the Proponent's intended network coverage, which includes co-location with Rogers Wireless. However, given the towers distance from Bathurst Street and proximity to existing mature vegetation located on the subject lands, the visual impact of the proposed tower and associated antennas on the overall streetscape will be minimal.

The Proponent has advised that the proposed telecommunication tower is required to maintain network coverage in the area and to respond to costumer's request for improved wireless signal quality. The design of the proposed tower supports co-location with additional carriers. The Proponent has confirmed that Rogers Wireless will be locating antennas on the proposed telecommunication tower through a joint-build agreement with Bell Mobility, thereby reducing the need for additional telecommunication infrastructure in the general vicinity. The Development Planning Department has no objection to the proposed layout, design and location of the compound and telecommunication tower.

Response to Correspondence

As noted earlier, two (2) residents attended the Public Consultation Meeting held by the Proponent on August 6, 2013, and identified specific concerns related to the proposed telecommunication tower, which are identified below together with a response to each concern.

Concern 1:

Health concerns related to the proposed telecommunication tower

Response

Health Canada has established safety guidelines for exposure to radio frequency fields, in its Safety Code 6 publication entitled "Limits of Human Exposure to Radiofrequency Electromagnetic Fields in the Frequency Range from 3 kHz to 300 GHz". Industry Canada has adopted this guideline for the purpose of protecting the general public, which concludes that there is no scientific or medical evidence that a person will experience adverse health effects from exposure to radio frequency fields, provided that the installation complies with Safety Code 6.

It is the responsibility of proponents and operators of the installations to ensure that all radiocommunication and broadcasting installations comply with Safety Code 6 at all times, including the consideration of combined effects of nearby installations within the local radio environment. For all proponents following Industry Canada's Default Public Consultation Process, the proponent's notification package must provide a written attestation that there will be compliance with Safety Code 6 for the protection of the general public, including consideration of

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nearby radiocommunication systems. The notification package must also indicate any Safety Code 6 related signage and access control mechanisms that may be used.

Prior to Industry Canada's approval of a telecommunication tower, the Proponent must submit a signed attestation or an acceptable analysis to Industry Canada indicating compliance with Safety Code 6. The Industry Canada departmental officer processing the application is expected to exercise judgment on the validity of the submission. If there is any doubt about the compliance or if the application is not accompanied by an attestation or an analysis, further testing for Safety Code 6 compliance may be required as outlined in the technical requirements of Industry Canada's "Safety Code 6 Radio Frequency Exposure Compliance Evaluation Template".

Compliance with Safety Code 6 is an ongoing obligation. At any time, antenna system operators may be required, as directed by Industry Canada, to demonstrate compliance with Safety Code 6 by (i) providing detailed calculations, and/or (ii) conducting site surveys and, where necessary, by implementing corrective measures. Proponents and operators of existing antenna systems must retain copies of all information related to Safety Code 6 compliance such as analyses and measurements.

The Proponent's notification package for this proposal includes written attestation confirming compliance with Safety Code 6 for the protection of the general public.

Concern 2:

The location of the proposed tower as it relates to compatibility with, and maximizing distance to future residential land uses.

Response

The Proponent originally proposed to construct the telecommunication tower along the southern property line, as shown on Attachment #3. However, Ms. Lucia Milani and Mr. Cam Milani, the abutting landowners to the south, are concerned with the proximity of the proposed telecommunication tower relative to their property and its visual impact on potential future residential land uses on their property. The Milani's requested that the proposed telecommunication tower be relocated to the northern property line of the subject lands. In consideration of these concerns, the Proponent moved the tower and access point to its proposed location, as shown on Attachment #3.

According to the Proponent, the new location of the telecommunication tower is the farthest location the tower can be placed without impeding network coverage. In addition, existing agricultural uses (i.e. the harvesting of horticultural crops) continue to operate on the north portion of the subject lands. VOP 2010 designates the subject lands as "Oak Ridges Moraine Natural Core" and "Oak Ridges Moraine Natural Linkage", which permits and encourages such agricultural uses. Constructing the tower closer to the northern property line of the subject lands would interfere with the Proponent's network coverage requirements while disturbing the existing agricultural operations; a permitted use encouraged in the "Oak Ridges Moraine Natural Core" and "Oak Ridges Moraine Natural Linkage" land use designations in VOP 2010.

The "Site Selection Criteria" section of the in-effect Protocol states that maximizing distances from residential areas and compatibility with adjacent land uses shall be considered when selecting a site for a new tower. The proposed tower is approximately 495 m away from the nearest existing residential area, as shown on Attachment #2. The subject lands and the zoning on the properties directly adjacent to the north and south are zoned ORM Oak Ridges Moraine Zone. The ORM Zone permits limited residential uses by allowing one (1) single detached

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dwelling on a lot existing as of November 15, 2001. The proposed telecommunication tower is located on a central portion of the subject lands, thereby having minimal impact on the abutting properties to the north and south.

Concern 3:

The proposed access point and access road being too close to the abutting property to the south.

Response

The original access point to the telecommunication tower entered west from Bathurst Street on the south side of the subject lands, with an access road located adjacent to the southern property line for approximately 170 m. The Region of York issued a Road Occupancy Permit to the Proponent on October 23, 2013 for the original access point.

The Milani's have requested relocation of the access road to an existing access point entering west from Bathurst Street on the north side of the subject lands. The Proponent has agreed to move the access point to this location, as shown on Attachments #2 and #3. As a result of the relocated access point, driveway access to the tower has also been relocated to a more central location on the subject lands. The driveway access has been designed to mitigate impact on the abutting properties to the north and south while allowing the existing agricultural uses to continue operating without interruption. The Proponent has indicated that Bell/Rogers will use the access road for maintenance and servicing purposes approximately four (4) times a year.

Accordingly, the Development Planning Department is satisfied with the proposed access point and road, as it will have minimal impact on the abutting properties to the north and south while allowing the existing agricultural uses to continue operating on the subject lands.

Concern 4:

Visual prominence of the proposed tower from Bathurst Street due to topographical slope on the subject lands.

Response

The "Site Selection Criteria" section of the Protocol states that areas of topographical prominence shall be avoided, where possible, to minimize long/short range views. The subject lands contain an upward slope of approximately 10 m from Bathurst Street to the proposed location of the telecommunication tower. However, the proposed tower is setback 250 m from Bathurst Street and is located in proximity to existing mature vegetation, thereby minimizing the visual impact of the proposed tower. In addition, an existing berm located on the west side of Bathurst Street provides for greater visual mitigation of the tower from the streetscape of Bathurst Street. On this basis, the Development Planning Department is of the opinion that the proposed tower will have minimal visual impact on the overall streetscape.

Summary:

Similar to the Milani's concerns regarding proximity of the tower on their property, the owner of the adjacent property to the north may have similar concerns. Accordingly, the proposed tower is located in a central area on the subject lands in order to mitigate any potential impact the telecommunication tower may have on the abutting properties to the north and south. In addition, the location of the tower will allow for the protection of existing agricultural uses located on the north portion of the subject lands. Finally, the tower's location will facilitate achievable network coverage for both Bell Mobility and Rogers Wireless, thereby ensuring that there are fewer towers built in the general vicinity.

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On this basis, taking into account the concerns of the Milani's while also considering the abutting property to the north, the existing residential uses to the east, and the existing agricultural uses operating on the subject lands, the Development Planning Department is of the opinion that the relocated tower meets the "Site Selection Criteria" as outlined in the in-effect Protocol, and is compatible with the surrounding land use context.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the following initiative set forth in the Vaughan Vision 20/20 Strategic Plan:

i) **Manage Growth and Economic Well-being**

The proposal will support the development of a high-speed telecommunications and data network throughout Vaughan to contribute to economic competitiveness and support widespread access to such services.

Regional Implications

On April 23, 2009, the Region of York adopted Industry Canada's Protocol (CPC-2-0-03) to reduce redundancies and permit a more efficient and consistent approach for regulating telecommunication facilities, while providing an opportunity for local municipalities to determine individual procedures and protocols. The proposed compound area and telecommunication tower conforms to the Region of York's adopted Protocol.

Conclusion

The Vaughan Development Planning Department has reviewed the proposal for a co-located 45m high monopole telecommunication tower and associated radio equipment cabinets in accordance with the Official Plan, Zoning By-law 1-88, the City of Vaughan's Protocol for Establishing Telecommunication Tower/Antenna Facilities, and Industry Canada's Protocol for Radiocommunication and Broadcasting Antenna Systems. The installation of the co-located tower (Bell and Rogers) and accessory radio equipment is considered acceptable. The proposed tower is located in a central area on the subject lands in order to mitigate any potential impact the telecommunication tower may have on the abutting properties to the north and south. The location of the tower will also allow for the protection of existing agricultural uses located on the north portion of the subject lands. Finally, the tower's location will facilitate achievable network coverage for both Bell Mobility and Rogers Wireless, thereby ensuring that there are fewer towers built in the general vicinity. Accordingly, the Development Planning Department can support the approval of Site Development File DA.13.007.

Attachments

1. Context Location Map
2. Location Map
3. Site Plan
4. Compound Layout Plan & Tower Elevation
5. Cabinet Details – East Elevation
6. Cabinet Details – South Elevation

Report prepared by:

Mark Antoine, Planner, ext. 8212

Mauro Peverini, Manager of Development Planning, ext. 8407

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)