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INDUSTRY CANADA'S REVISED PROCEDURES FOR INSTALLING RADIOCOMMUNICATION AND BROADCASTING ANTENNA SYSTEMS

The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report dated November 30, 2007, from the Commissioner of Planning and Development Services:

1. RECOMMENDATIONS

It is recommended that:

1. This report be circulated by the Regional Clerk to the local municipalities for the purposes of further consultation.
2. Regional staff report back to the Committee with an updated version of the Region's protocol after meeting with area municipal staff and industry stakeholders.

2. PURPOSE

The purpose of this report is to inform the Committee and Council of Industry Canada's revised procedures for the installation of radiocommunication and broadcasting antenna systems by highlighting the main differences between Industry Canada's procedures and the current York Region protocol.

3. BACKGROUND

Industry Canada recently presented their revised procedures for locating radiocommunication and broadcasting antenna systems to the York Region Commissioners and Directors Group. These new procedures took effect on January 1, 2008.

Radiocommunication and broadcasting services are important to all Canadians and are used daily by the general public, safety and security organizations, government, wireless service providers, broadcasters, utilities and businesses. In order for radiocommunication and broadcasting services to work, antenna systems including masts, towers, and other supporting structures are required. In exercising its mandate, Industry Canada has determined that it is important that antenna systems are deployed in a manner that considers the local surroundings.

York Region has a protocol for dealing with proposed antenna tower locates, which was adopted by Regional Council on April 18, 2002. Since then, Industry Canada has revised their procedures twice. The latest revision took effect on January 1, 2008.

The installation and operation of each antenna is controlled, in part, by Industry Canada through the issuance of licences. Before these licences are granted, proponents must receive written concurrence from the appropriate land use authority, that the consultation process has been reasonably adhered to. Planning Act tools and the municipal planning process may have limited effect because the final approval of the location of an antenna system rests with the Minister of Industry Canada. Section 5(1)f of the *Radiocommunications Act* states:

[the Minister has the power to] “approve each site on which radio apparatus, including antenna systems, may be located, and approve the erection of all masts, towers and other antenna-supporting structures.”

Industry Canada requires proponents to follow the municipal land use consultation process. In the event the municipal process has no public consultation requirement, proponents must then utilize Industry Canada’s Default Public Consultation Process.

4. ANALYSIS AND OPTIONS

The following comments highlight the areas where York Region’s 2002 protocol should be updated given Industry Canada’s changes since 2002. These will form the basis for further discussions between York Region Planning staff, Industry Canada and local municipal Planning staff in order to update and coordinate the Regional and local protocols.

4.1 Proponents Should First Consider Sharing Existing Antenna Systems

Industry Canada requires proponents to first consider sharing an existing antenna system, including modifying or replacing an existing structure if necessary. Proponents should also locate, analyze and attempt to use any feasible existing infrastructure such as rooftops, water towers, etc. Owners and operators of existing antenna systems are to respond to a request to share their antenna in a timely fashion and to negotiate in good faith.

York Region’s protocol simply encourages the use of existing infrastructure, wherever possible.

Action: Consider incorporating Industry Canada’s procedure as it is more directive.

4.2 York Region's Protocol Requires Proponents to Consult with Municipalities Within 500m of the Subject Property

Industry Canada requires proponents to directly contact, as a minimum, land use authorities within a radius of three times the tower height, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater.

York Region's protocol requires consulting any adjacent municipalities within 500m of the subject property.

Action: Consider maintaining York Region's protocol as it is more inclusive for adjacent municipalities within 500 metres.

4.3 York Region's Protocol Requires a More Thorough Consultation with Municipalities

Industry Canada requires proponents to discuss site options, ensure local processes are respected, address reasonable and relevant concerns, and obtain land use authority concurrence in writing.

York Region's protocol contains more detailed site location criteria and design considerations: i.e. distance separation from sensitive land uses, environmental concerns, views, and camouflage. The protocol also requires proponents to pay review fees and enter into development agreements.

Action: Consider maintaining York Region's protocol as it is more comprehensive and respectful of communities, and their potential issues.

4.4 Industry Canada's Procedures Contain a More Detailed Public Consultation Process

Industry Canada's default public consultation is quite detailed and prescriptive: there are specified timelines between proponents and the general public in which responses are expected, and examples of relevant and non-relevant issues. The proponent is required to notify landowners within a radius of three times the tower height. The proponent is also required to advertise a notice in a local community newspaper for proposed antenna towers greater than 30 metres in height.

York Region's protocol requires the proponent to notify landowners within 120 metres of the subject property.

Action: Consider incorporating Industry Canada's procedures as they are more detailed and will notify a larger percentage of the general public.

4.5 Decisions by Local Council on Site Plan Applications Conclude the Consultation Process as Required by Industry Canada

Industry Canada's protocol contains detailed processes for concluding land use authority consultation and their Default Public Consultation Process. The requirement is for written confirmation that the proponent engaged in the requisite public consultation and addressed all reasonable and relevant issues. This may include such steps as obtaining final concurrence for the proposal via the relevant committee, a letter or report acknowledging that the relevant municipal process or other requirements have been satisfied, or other valid indication, such as the minutes of a town council meeting indicating their approval.

York Region's protocol does not contain formal procedures for concluding the consultation process.

Action: None required, so long as the local process concludes with a Council decision.

4.6 Industry Canada's Procedures Contain a Dispute Resolution Process

Industry Canada procedures include a dispute resolution process whereby Industry Canada will either make a final decision on the issue(s) in question or suggest the parties enter into an alternate dispute resolution process in order to come to a final decision.

York Region's protocol does not contain a dispute resolution process.

Action: Consider incorporating Industry Canada's procedures.

4.7 Other Requirements Currently Absent from the York Region Protocol

The following technical requirements are exclusive to Industry Canada's procedures and are not present in the York Region protocol:

- Compliance with Health Canada's Safety Code 6: Limits of Human Exposure to Radiofrequency Electromagnetic fields in the Frequency Range from 3 kHz to 300 GHz.
- Proponents are to ensure their installations are designed and operated to minimize the malfunction of electronic equipment in the local surroundings.
- Proponents with proposed structures in excess of 30m are to notify operators of AM, FM and TV undertakings within two kilometres.
- Installations and modifications of antenna systems are required to comply with appropriate environmental legislation, including the Canadian Environmental Assessment Act and local environmental assessment requirements.
- Proponents are also required to consult with Transport Canada to assess potential hazards to air navigation and NAV CANADA to determine whether the proposal impacts the provision of their national air navigation system, facilities and other services located off-airport.

Action: Consider incorporating Industry Canada's procedures.

4.8 Next Steps

York Region Community Planning staff will consult with Industry Canada and local municipal Planning staff to collaboratively revise the Region's protocol. The action steps described above will form the basis of the revised protocol. The new protocol will enhance the approvals process as all stakeholders will benefit from early and fulsome consultation with pragmatic expectations.

The Township of King's Planning Department is reviewing their protocol. Their review will enhance the consultation process between the local area municipalities and York Region.

5. FINANCIAL IMPLICATIONS

Updating York Region's protocol will not lead to any financial implications that would require adjustments to the Region's taxation structure.

6. LOCAL MUNICIPAL IMPACT

Seven of the nine local municipalities, in York Region, currently have protocols that specify the process for proposed antenna systems. Their protocols were modelled after the Region's 2002 protocol in order to achieve a high level of consistency. Industry Canada's 2008 procedures have changed and it maybe appropriate for local municipal staff to review their protocols.

7. CONCLUSION

Industry Canada has recently released their revised procedures for the installation of radiocommunication and broadcasting antenna systems. These revised procedures took affect on January 1, 2008. The key changes include: clearer processes for public notification and consultation, and added community involvement.

Even though Industry Canada is the regulatory agency that issues licences for new or modifications to existing radiocommunication and broadcasting antenna systems, proponents are required to first consult with local land use authorities, adjacent landowners and the general public. The proponent is also required to obtain the concurrence of the local land use authority in writing.

York Region and many of the local municipalities currently have in place protocols that specify the process for proposed antenna systems. The local protocols were modelled after the Region's protocol which was adopted by Regional Council back in 2002.

Industry Canada has since revised their procedures twice. It is now an appropriate time to review and update the Regional and local protocols.

The main differences between Industry Canada's procedure and the Region's protocol are that Industry Canada's procedures are generally more extensive. However, the Region's protocol is more detailed in describing specific site selection criteria and the required local site plan approvals process.

It is recommended that Regional staff meet with area municipal staff and industry stakeholders to update the Region's protocol and report back to the Committee and Council subsequent to the meeting(s).

For more information on this report, please contact Augustine Ko, Senior Planner, Community Planning Branch at 905 830-4444 ext. 1524 or augustine.ko@york.ca.

The Senior Management Group has reviewed this report.