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Western Region Community Council February 27, 2012

TO:

Chair and Members of Western Region Community Council

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SUBMITTED BY:

Phillip Townsend, Director, Planning and Infrastructure

DATE: February 2, 2012

SUBJECT:Case 17249 - Telecommunications Tower, Prospect Road,
Whites Lake

<u>ORIGIN</u>

Application by Bragg Communications Incorporated (Eastlink)

RECOMMENDATION

It is recommended that the Western Region Community Council forward no objections to Industry Canada in relation to the proposal by Bragg Communications (Eastlink) to place a 76.2metre telecommunication tower, and associated equipment cabinets, to the east of 2780 Prospect Road, Whites Lake, on a 4 acre portion of the subject property (92 acre parcel, PID# 00379594) as shown on Map 1 and Attachments A, B, and C of this report.

BACKGROUND

Proposal:

Bragg Communications Inc. (Eastlink) wishes to erect a new 76.2-metre (250 ft.) high guyed telecommunication tower to the east of 2780 Prospect Road, Whites Lake, on a 4-acre leased portion of the subject property. The property is approximately 92 acres in size (PID# 00379594) and has frontage on Prospect Road (Map 1). The proposed site layout is shown on Attachment A.

Eastlink is in the process of deploying a wireless network and venturing into the wireless marketplace (i.e. cellular telephones/wireless devices). Eastlink has indicated the installation of a telecommunication tower is required in the Whites Lake area as part of its wireless network design for the Halifax Regional Municipality. They have also indicated that all existing telecommunication structures in the area have been considered, and have come to the conclusion that none represent a viable co-location option.

The Proposed Tower:

- is approximately 76 metres (250 feet) in height;
- approximately 300 metres (1000 feet) from Prospect Road;
- approximately 200 metres (650 feet) from the closest residential dwelling/property;
- includes 6 antennae and 4-6 radios at the top of the tower and equipment cabinets at its base;
- protected by a new fence around the equipment cabinets and the tower base; and
- is not required to be illuminated, nor painted, pursuant to Transport Canada regulations.

Site Features and Surrounding Context:

The subject property is generally described as follows:

- approximately 92 acres (approx. 650 metres deep, 560 metres wide) (Map 1);
- currently treed/undeveloped;
- rises in elevation away from Prospect Road, then levels off (from approx. 55 metres to 80+ metres above sea level);
- located within the Prospect (Planning District 4) Plan Area;
- zoned RA-3 (Residential A-3), Prospect Land Use By-Law (Map 1);
- designated Residential A by the Prospect Municipal Planning Strategy (Map 2);
- adjacent area is developed primarily with low-density residential uses and vacant land, including Crown land to the north and south of the property; and
- land directly abutting the proposed tower location is densely treed and undeveloped.

Jurisdiction:

The federal government has exclusive and comprehensive jurisdiction over the area of radiocommunication and telecommunications. Industry Canada is the government agency responsible for regulating radiocommunication including authorizing the installation of radiocommunication towers and sites. When a new telecommunications facility is proposed, federal regulations require the applicant to consult with the local municipality to review and provide comment on the application to Industry Canada.

Municipal Process:

To facilitate this process, a public consultation policy has been instituted. The policy requires that an applicant notify the appropriate municipality of its intentions. The municipality is then given an opportunity to review the proposed antenna structure and site and provide comment. If any objections arise, the municipality is to provide written notice to the local office of Industry Canada. The submissions will be reviewed by Industry Canada, who will then determine whether or not a license is to be granted and/or upon what conditions such license is granted.

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DISCUSSION

The Municipal Planning Strategy for Planning District 4 (MPS) contains no specific guidance with respect to telecommunication towers. However, this application was evaluated against Policy IM-11, which is a general implementation policy in the MPS under which all planning applications are evaluated. Policy IM-11 is presented as Attachment D. Upon review of the MPS, the proposal meets the intent of the relevant policies. While the proposal is consistent with the policy, staff has identified the following matters for specific discussion:

Location and Proximity to Existing Development:

The proposed telecommunication tower is to be situated approximately 300 metres (1000 feet) from Prospect Road and 200 metres (650 feet) from the closest residential property, which is an adequate separation distance. As well, the land directly abutting the proposed tower location is densely treed and undeveloped and the property abuts Crown land to the north and south. There are no watercourses or wetlands adjacent to the tower location. Therefore, the concern for land use compatibility is minimal.

Visual Impact:

The base and lower section of the proposed tower will generally be screened by existing trees and vegetation on the property. The uppermost portion of the tower may be visible in the distance to commuters travelling on the Prospect Road in some locations and from some residential properties. Due to the above factors, there will be minimal visual impact as a result of placing the tower in this location.

Site Access:

The proposed driveway access from Prospect Road has been checked and deemed suitable by N.S. Transportation and Infrastructure Renewal. Eastlink is now in the process of obtaining the official driveway access permit with NSTIR.

Health and Safety:

Aside from land use planning issues, there are often concerns about potential health risks from the placement of telecommunication facilities. Industry Canada requires that such systems are operated in accordance with the safety guidelines established by Health Canada's radiation protection bureau as stated in its publication - Limits to Radiofrequency Fields at Frequencies from 10kHz - 300 GHz. This is referred to as Safety Code Six. Prior to receiving a licence from Industry Canada, the operator must submit the calculations on the intensity of the radiofrequency

fields to ensure that this installation does not exceed the maximum levels contained in the Safety Code Six requirements. Information submitted in support of this proposal, indicates no concerns in relation to Safety Code Six. With this proposal, EastLink must demonstrate to Industry Canada that all federal requirements are met.

Summary:

Staff have reviewed the proposal and are of the opinion this proposal does not appear to pose undue concerns. It is therefore recommended that the Western Region Community Council inform Industry Canada that they have no objection to this proposal.

BUDGET IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the approved 2011/12 operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting which was held on November 9, 2011. Attachment E contains the minutes from the public meeting. Information relative to the proposal was also placed on the HRM website. For the Public Information Meeting, notices were posted on the HRM website, in the newspaper, and mailed to property owners within the notification area shown on Map 3.

A public hearing is not included in the telecommunications process. By resolution, Community Council will forward their comments to Industry Canada.

The location of the proposed tower could potentially impact the following stakeholders: local residents, property owners, telecommunication companies, and Industry Canada.

ALTERNATIVES

The following alternatives are presented to the Western Region Community Council for consideration:

1. Inform Industry Canada that Western Region Community Council has no objection to the proposal by Bragg Communications (Eastlink) to place a 76.2-metre telecommunication tower and associated equipment cabinets to the east of 2780 Prospect Road, Whites Lake, on a 4 acre portion of the subject property (92 acre parcel, PID# 00379594). This is staff's recommendation.

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- 2. Identify to Industry Canada that Western Region Community Council has additional comments or recommendations with respect to the proposed tower. In this event, staff will notify the local office of Industry Canada of Community Council's recommendations.
- 3. Identify to Industry Canada that the Western Region Community Council is not in favour of the proposal.

ATTACHMENTS

Map 1:	Location and Zoning Map
Map 2:	Generalized Future Land Use
Map 3:	Notification Area
Attachment A	Site Plan
Attachment B	Compound Layout
Attachment C	Tower Elevation
Attachment D	Excerpts from the Planning District 4 (Prospect) MPS
Attachment E	Public Information Meeting Minutes – November 9, 2011

A copy of this report can be obtained online at http://www.halifax.ca/commcoun/cc.html then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:

Paul Sampson, Planner 1, Planning Services, 490-6259

Report Approved by:

Austin French, Manager, Planning Services, 490-6717















Excerpts from the Planning District 4 (Prospect) Municipal Planning Strategy

- IM-11 In considering development agreements or amendments to the land use bylaw, in addition to all other criteria as set out in various policies of this Planning Strategy, Council shall have appropriate regard to the following matters:
 - (a) that the proposal is in conformity with the intent of this Planning Strategy and with the requirements of all other municipal by-laws and regulations;
 - (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;
 - (ii) the adequacy of on-site sewerage and water services;
 - (iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;
 - (iv) the adequacy of road networks leading to or within the development; and
 - (v) the potential for damage to or for destruction of designated historic buildings and sites.
 - (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern.
 - (d) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.
 - (e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)

<u>ATTACHMENT E:</u> Public Information Meeting Minutes - Wednesday, November 9, 2011

7:00 p.m. Wednesday, November, 2011 Prospect Road Community Centre

IN ATTENDANCE:Paul Sampson, Planner, HRM Planning Services
Shanan Pictou, Planning Technician, HRM Planning Services
Donna Honeywell, PAC Coordinator, HRM Planning Services
Councillor Reg Rankin, District 22 (Timberlea – Prospect)Applicant, Colin MacPhee, Bragg Communications Inc. (EastLink)
Applicant, Stephen Banks, Bragg Communications Inc. (EastLink)
Applicant, Alex Forrest, Bragg Communications Inc. (EastLink)
Applicant, Jennifer Lowindoski, Bragg Communications Inc.
(EastLink)PUBLIC IN
ATTENDANCE:Approximately5

The meeting commenced at approximately 7:00 p.m.

1. Opening remarks/Introductions/Purpose of meeting – Paul Sampson

Paul Sampson opened the meeting by introducing herself as a Planner for the Western Region with Halifax Regional Municipality (HRM). HE introduced HRM Staff and applicant. He welcomed everyone and thanked them for coming.

He stated that the reason for the meeting was to review an Application by Bragg Communications Inc. (EastLink) to construct a new 76.2 meter telecommunication tower near 2780 Prospect Road, Whites Lake.

2. Overview of planning process/Presentation of Proposal - Paul Sampson

Mr. Sampsoon stated that the purpose for the Public Information Meeting is to inform the community with the proposal's details, to explain planning policy and the telecommunication planning process, and for the applicant to present the proposal. He noted that this was an opportunity for members of the public to speak and ask questions about the application. He noted that no decisions had been made on the application and no decisions would be made at the meeting.

He gave the meeting's agenda and ground rules.

Mr. Sampson explained that an application was received by Bragg Communications Inc. (EastLink) to construct a new 76.2 meter telecommunication tower near 2780 Prospect Road, Whites Lake. He showed the General location of the site.

He showed an aerial view of the site. The site is currently treed and is located on the east side of the Prospect Road. She showed 2 renderings submitted by the applicant that showcases the size and the shape of the purposed telecommunications tower.

He stated that the property is currently zoned RA-3 (Residential A-3) under the Land Use By-law for Planning District 4. It is bounded by crown land to the north and south, shown here as the PA (Protected Area) Zone and P-3 (Conservation) zone, and privately owned land to the east & west.

She showed a slide of permitted uses under the current zoning. In terms of Planning Policy, the property is designated as RA-3. Permit uses include: Single unit dwellings; Two unit dwellings; Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings; Home occupations in conjunction with permitted dwellings; Open space uses; Fishery support uses; Existing mobile dwellings. Currently, there are no specific Municipal Policies to address telecommunications facilities. The Municipal Planning Strategy (MPS) consists of Implementation Policies that focus on community compatibility. HRM Staff evaluates telecommunications applications in term of adverse effect such as land use compatibility, visual and aesthetic impacts. The Regional Municipal Planning Strategy contains a policy that requires HRM to undertake a Communication and Tower/Antenna Functional Plan. The Functional Plan intends to address and consider establishing recommendations regarding a formal public consultation process and siting and design guidelines for various types of structures.

He explained the Municipality's role, in terms of the Planning Process for telecommunication applications. The Federal Government has jurisdiction over radio communications. As a result, they are the main body that is involved in deciding what happens when telecommunications is involved. Municipal Government has little constitutional jurisdiction to interfere. Industry Canada is the Federal Agency, which licenses and regulates these facilities. Industry Canada recognizes that the Municipal authorities have an interest. They require the applicant to notify the Municipality of its intentions, which EastLink has done by making the application. The Municipality has the opportunity to review the proposal, consult with the public and make comments. If there are objections, the Municipality provides a written notice to Industry Canada. Submissions are reviewed by Industry Canada who determines if there is a license to be granted and what there conditions are.

Mr. Sampson stated that as a part of the telecommunication application, the applicant is responsible for submitting a Safety Code 6. Health Canada is responsible for establishing standards related to the health and safety to the residents. One of these standards is called Safety Code 6. The health and safety aspects of telecommunication applications are dealt with by Health Canada, and Industry Canada will not approve any installation that does not meet the standards of Safety Code 6. Therefore, all proponents are required to submit an attestation that the proposed installation meets Safety Code 6.

He advised that in terms of the Municipal Planning Process involved with telecommunication towers, all start with an application. HRM Staff does an initial review to ensure that the Municipal Planning Strategy allows them to consider the request. In the case of telecommunication towers, the Municipal Planning Strategy does not contain specific policy, only Implementation Policies. HRM Staff evaluates the application against land use compatibility, visual and aesthetic impacts. Next would be a public information meeting, which is an important part of the evaluation from the public's input. After this meeting, HRM staff will gather feedback from the public and comments from other HRM departments. Along with the minutes, from the Public Information Meeting, there will be a Staff Report that either recommends that Western Region Community Council to approve the application and forward a positive recommendation, to request modification or reject the proposal. Then, Council's position is forwarded to Industry Canada.

Mr. Sampson stated that when Council's decision is forwarded to Industry Canada and there is concurrence from HRM, Industry Canada will likely approve the application, provided that the applicant fulfills other important obligations, listed under General Requirements, which consists of compliance with Health Canada's Safety Code 6 guideline for the protection of the general public; compliance with radio frequency immunity criteria; notification of nearby broadcasting stations; environmental considerations; and requirements for Transport Canada and NAV Canada. After this, Industry Canada will make the final decision to approve or refuse the proposal. Secondly, if there is a request for modification, from HRM, there will be some level of negotiation with the applicant to see if any adjustments can be made to improve the situation. Industry Canada will make a final decision based on the results of the negotiation and the general requirements listed earlier. Finally, if HRM does not concur with the proposal, the applicant is eligible to request that Industry Canada intervenes to resolve the differences, as long as there are reasonable and relevant concerns. Industry Canada will investigate the issue and explore reasons for the non-concurrence by gathering other information from the applicant and HRM. If the parties are unable to reach a solution, which is the Impasse stage, then Industry Canada makes the final decision. Therefore, in all possible situations, Industry Canada is the main body that decides on approving or refusing the telecommunication application.

He passed the floor to Colin MacPhee for presentation of the proposal.

3. Presentation of Proposal

Colin MacPhee introduced himself and his colleges. He is the Supervisor of Municipal Planning and Regulation with Bragg Communications (EastLink). He gave some background of the company. He stated that the company is a provider of many of the modern day services, such as internet and telephone. He stated that this Nova Scotia based company has expanded across the country. He noted that they are building, after identifying an opportunity to get into the wireless aspect of the communications industry, a world-class wireless network that will be capable of 4G high-speed communications that will serve both voice and data. He noted that a smart phone can be used on the network as well.

He stated that they are mandated by Industry Canada to review the process of siting antennas in general. The last choice they make is the choice to put up a new antenna tower. The first choice and what their mandate is for from their regulator, Industry Canada, is to co-locate wherever

possible.

He stated that the benefits they are looking forward to, for their customer base and the people of Nova Scotia, are perhaps a bundled service and so on. He addressed this because often the question does come up. He feels that this is not about marketing but about telling everyone what they are intending to do once they get the network up and running.

He noted that in order for a cellular antenna to work, it has to provide what is known as coverage to any given area. This is a radio communication between the phone and the tower. A combination of the geographic location of the tower, the elevation of the land and environmental concerns come together with land availability. Any one of these sites that they build is arranged with the landowner and has to have access. This is a big factor in them being able to build an antenna tower. For the most part, they avoid any properties where there is a significant amount of water but they do follow the environmental regulations.

He stated that as for safety and security concerns, they fence and gate roads where appropriate.. This is for the safety of residents and wildlife that might approach the tower. He noted that they are regulated by several Federal regulators. Health Canada addresses all of the health and safety for all of the radio communications across the country. He stated that they adhere to all regulations very strictly. They also follow two very important regulations by Transport Canada and NAV Canada. They have to make submissions about the proposed locations and they analyze the elevation of the land and the height of the tower. They look at any concerns that might arise from passing aircraft.

Mr. MacPhee thanked everyone and passed the floor over to Mr. Sampson.

Mr. Sampson provided the ground rules and opened the floor for questions and comments.

4. <u>Questions/Comments</u>

Jim McGowen, Prospect Road, explained that he is the home owner of the property that the notice billboard was erected on and didn't receive any notice about the signage. He wasn't happy about that part of the process. He is concerned about the positive/negative impacts on housing values.

Paul Sampson will investigate about the placement of the sign. Colin McPhee explained that the sign was put on what he believed to be the right of way, but the home owner should be notified in the future.

Colin McPhee explained that Eastlink is required by HRM process to erect a sign. Eastlink provides the sign company the exact location of where it is to be places, and the sign company in fact installs the sign on behalf of Eastlink.

Councillor Reg Rankin inquired as to the location of the proposed tower in relation to Mr. McGowen's home.

Mr. Sampson explained that typically a tower would be at least 500 feet from the boundaries of the property. However, in this case, the tower is proposed to be well beyond the 500 feet.

Mr. McGowen commented that the tower doesn't look as imposing as he had pictured it to be, especially if the trees and vegetation are left in place.

Kathy Oakley, doesn't live anywhere near but she will be jogging by it most days of the week. She is happy to see it far off the road because there is one in Goodwood and it is not pleasing to the eye. The further out of the way the better. She asked what the size of the footprint would be and how "unugly" can this site be made.

Stephen Banks explained that the proposed tower would sit on 4 acres and the middle of the tower would be situated on an area of $60' \times 60'$. Eastlink tries to blend the tower into the area and set it back as far as possible from the roadway, leave any existing trees around the property that will help blend the tower into the area. The tower itself doesn't have very many options esthetically. The base of the tower will sit on a steel platform which minimizes visual impact on the property and therefore we do not need to put a small building on the property alongside the tower.

Katherine Rudolph, Prospect Road, has concerns with wind and lighting strikes on the tower. She also has property value concerns and asks if these will be addressed at some time.

Mr. Sampson commented that with respect to property values it is not something that falls within HRM's process. He explained that following this evening, staff will make a recommendation to Community Council; Community Council will make a recommendation to Industry Canada, and property values do not get taken into account when Industry Canada makes the final decision. HRM can advise Industry Canada not to approve but not based on property values. It would be in terms of the compatibility with the surrounding uses; the accuracy of the road network leading to and from the site; potential for damage to historic sites; height, bulk, and lot coverage; suitability of the site in terms of the topology; and, any other relevant matters of planning concern.

Kathy Oakley asked when this would be built.

Mr. McPhee was unsure of the timing (several months from now). Eastlink will need to follow the approval process.

Councillor Rankin commented that he has no objection to the tower, however, he is not in the business of recommending. He noted that there are more presenters at this meeting than homeowners.

5. <u>Closing comments</u>

Mr. Sampson gave his contact information and encouraged the public to contact his with any other questions and comments.

6. Adjournment

The meeting adjourned at approximately 8:05 p.m.

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