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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JANUARY 17, 2023

SUBJECT **Radiocommunication and Broadcasting Antenna Systems Application for Lot 2, District Lots 143 and 200, and Section 154, Sooke District, Plan 42290 - 6246 Gordon Road**

ISSUE SUMMARY

An application has been received from 1291956 BC ULC for a 49 m radio communication antenna system. The purpose of the tower is to provide long-range, high-throughput data communications in the high frequency band to support business activities in the area of data communications.

BACKGROUND

1291956 BC ULC. has requested a statement of concurrence from the CRD to construct a 49 m radio communication antenna system on the subject property (Appendix A).

The approximately 18.44 hectare (ha) property at 6246 Gordon Road is zoned Rural Residential 3 (RR-3) in the Juan de Fuca Land Use Bylaw, Bylaw No. 2040. The property is designated Settlement by the East Sooke Official Community Plan (OCP) Bylaw, Bylaw No. 4000, which signifies that the predominant land use is rural residential. The property is also partially designated as Steep Slope, Riparian and Sensitive Ecosystem development permit areas. There are two existing towers on the property.

The proposal includes a fenced compound enclosing a self-supported tower structure and associated infrastructure (Appendix B).

In accordance with the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application policy, staff initiated a 30-day public consultation period for the application from September 15 - October 14, 2022. Nine submissions were received from members of public and forwarded to the applicant to provide a response. A web petition with 90 names was also forwarded to the applicant. Responses and a response matrix as provided by the applicant are included as Appendices C and D. CRD First Nations Relations and CRD Regional Parks responded to the referral sent to CRD departments (Appendix E). As the land use authority for the application, the CRD Board is requested to provide a statement of concurrence or non-concurrence to the applicant and Industry Canada.

ALTERNATIVES

Alternative 1

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:
That a statement of concurrence be provided to 1291956 BC ULC for the proposed 49 m radio communication and broadcasting antenna system on Lot 2, District Lots 143 and 200, and Section 154, Sooke District, Plan 42290.

Alternative 2

The Juan de Fuca Land Use Committee recommends to the CRD Board:
That a statement of non-concurrence be provided to 1291956 BC ULC for the proposed 49 m radio communication and broadcasting antenna system on Lot 2, District Lots 143 and 200, and Section 154, Sooke District, Plan 42290.

IMPLICATIONS

Legislative

Section 5 of the *Radiocommunication Act* states that the Minister may, taking into account all matters that the Minister considers relevant for ensuring the orderly development and efficient operation of radio communication in Canada, issue radio authorizations and approve each site on which radio apparatus, including antenna systems, may be located. Further, the Minister may approve the erection of all masts, towers and other antenna-supporting structures. Accordingly, proponents must follow the process outlined in Innovation, Science and Economic Development Canada's (ISED) *Spectrum Management and Telecommunications Client Procedures Circular* when installing or modifying an antenna system.

Part of the process includes contacting the land use authority and following the required consultation process. The CRD is the land use authority for the Juan de Fuca Electoral Area where the subject property is located.

The CRD Board approved Bylaw No. 3885, the Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, and the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy (the “Policy”) in 2019. The Policy establishes a public consultation process and procedures.

Public Consultation

In accordance with the Policy, a notice was published in the local newspaper and a notice was delivered to property owners and occupants within 500 m of the subject property to advise of the application and the opportunity to provide written comments and questions. The notice was published on September 15, 2022, and submissions were to be received by 9:00 am on October 14, 2022. Nine submissions and a web petition with 90 names were received for LP000034 during the notification period. The submissions were forwarded to the applicant who then provided a response to the concerns and questions raised (Appendix C).

In advance of the January 17, 2023, Land Use Committee meeting, notices were sent to property owners and occupants within 500 m of the subject property advising of the second opportunity to be heard and provide additional comment at the meeting.

A recommendation from the Land Use Committee along with any additional public comments received will be considered by the CRD Board and forwarded to the applicant and Industry Canada.

Referral Comments

In accordance with the JdF Radiocommunication and Broadcasting Antenna Systems policy, staff referred the application to applicable CRD departments.

CRD First Nations Relations commented that the closest registered archaeological site is located ~800m north of the proposed tower and, given that there is no registered archaeological site on the property, a *Provincial Heritage Conservation Act* permit is not required to undertake the work. A *Provincial Heritage Conservation Act* permit would be required if archaeological deposits, features or materials are exposed and/or encountered during land-altering activities that includes tree felling.

CRD Regional Parks commented that its primary concern is that the tower be sited in such a way as to minimize the height difference between the tower and the surrounding trees in order to reduce its visual impact on park visitors. CRD Regional Parks further replied that it does not support any trail or road development from the tower compound into East Sooke Regional Park. Upon review of additional information provided by the applicant (Appendix E), which states that the tower will be hidden from view from most vantage points due to the rolling terrain of the area and that access points from the tower site to East Sooke Regional Park are not planned, CRD Regional Parks has stated that it does not believe its interests will be unduly impacted by the tower.

Land Use

The RR-3 zone does not expressly permit radio communication towers; however, it is considered a use permitted in all zones in accordance with Part 1, Section 4.15 of Bylaw No. 2040, which states: “Except where specifically excluded, the following uses shall be permitted in any zone: public utility poles, pipelines, radio, television, and transmission towers and wires; traffic control devices; and underground or submarine utility systems, the installation of which may be sited on any portion of a lot.”

Portions of the property are designated as Steep Slope, Riparian and Sensitive Ecosystem development permit areas by Bylaw No. 4000; however, the proposed tower and compound are located outside these DP areas. CRD Building Inspection has indicated that a building permit is not required for the tower.

Evaluation criteria to be considered by the CRD when reviewing an application for a radio communication and broadcasting antenna system is outlined in the Policy and included in Appendix F.

Rationale for the proposed location: 1291956 BC UCL stated that the site location was chosen as it can provide the line of sight required for technical purposes while minimizing the visual impact of the tower. It was further stated that the location was also chosen as there are already existing towers on the subject property and that the proposed tower location is located outside of the designated Steep Slope, Riparian and Sensitive Ecosystem development permit areas.

Proximity to residential uses, institutions, and public lands: The proposed tower site is adjacent to RR-3

zoned properties to the north and west, a Rural Watershed (AW) zoned property to the north, and Public Recreation (P-1) zoned properties to the east and south. The AW zoned property is held by the CRD. The P-1 zoned properties are part of East Sooke Regional Park. The closest dwelling is located on the subject property, approximately 360 m from the tower. The next closet dwelling is located on Copper Mine Road, approximately 390 m away.

Visibility and measures to integrate the tower into local surroundings: The proposed antenna system would be located adjacent to undeveloped portion of East Sooke Regional Park. The applicant has stated that tower will be hidden from view from most vantage points due to the rolling terrain of the area and due to the local tree canopy, which is approximately 38 m tall.

Security measures: The applicant stated that there is an existing locked gate at the beginning of the access road to the proposed site and that the compound and tower area would be fenced and signed to restrict public access. The applicant further stated that the widening of Valentine Road, required to permit access to construction vehicles, will be backfilled once construction is completed. Security cameras to be considered in future.

Alternatives/mitigation measures: The proposed location for the tower meets the applicant's required conditions, including line of sight, ease of access, cleared land and a willing property owner. Other locations were investigated and were either found to be unsuitable because line of sight could not be achieved or for technical operation reasons including structure and height requirements. The applicant also examined colocation options in the area and has determined that no existing structures are available to satisfy its coverage objectives. The applicant has stated that the display of any type of lighting, except where required by Transport Canada, will be avoided.

Hazardous areas: There are no known hazardous conditions in proximity to the proposed tower location.

Environmentally sensitive areas: The proposed tower and compound are located outside the Steep Slope, Riparian and Sensitive Ecosystem development permit areas; therefore, there is no requirement for a professional report or permit.

Aeronautical safety requirements: The applicant will be required to abide by any Transport Canada specifications for installing lights on the proposed antenna system.

Impact on community: Nine submissions from members of the public and a web petition with 90 names were received during the notification period. The petition spoke in opposition to the proposed tower; however, it does not provide information to determine if the individuals reside or own property in the local community. The remainder of the submissions requested information regarding the identity of the applicant, purpose of the tower installation, tower and antenna design details and public consultation measures. The submissions expressed general health and safety concerns including concerns related to emissions/transmissions. The applicant responded that the radiation type is non-ionizing radiation and that the power level is below levels established by Health Canada and ISED Safety Code 6 levels, and that the transmission technology is mature and tested.

The submissions stated concern regarding the tower's vicinity to a residential neighbourhood and/or East Sooke Regional Park and the potential impacts of light pollution and potential impacts to property values and to wildlife. The applicant responded to state its responsibility under ISED Procedures Circular CPC-2-0-03, Radiocommunication and Broadcasting Antenna Systems, for ensuring that antenna systems are installed and operated in a manner that respects the local environment and that complies with other statutory requirements. The applicant further replied that issues related to the impact on property values are outside of the scope of the application. One submission questioned how East Sooke will benefit from the tower installation. The applicant responded that it may consider third-party requests for colocation for the purpose of hosting safety/emergency services telecommunication infrastructure. Five of the submissions and the petition stated non-support for the application.

In addition to replying to each submission, the applicant has provided a response matrix which is included as Appendix D.

Designs that address the guidelines: The distance between the proposed tower and adjacent residences is greater than three times the tower height, as recommended by the CRD policy. The proposed tower site is located adjacent to undeveloped portion of East Sooke Regional Park. The closet dwelling on an adjacent property is located on Copper Mine Road, approximately 390 m away.

ISED Procedures Circular CPC-2-0-03 outlines matters and concerns that are considered “reasonable” and “unreasonable” under the public consultation process for proponents. Matters that are considered “reasonable” include: why the use of an existing antenna system or structure is not possible; why an alternate site is not possible; what the proponent is doing to ensure that the antenna system is not accessible to the general public; how the proponent is trying to integrate the antenna into the local surroundings; what options are available to satisfy aeronautical obstruction marking requirements at this site; what steps the proponent took to ensure compliance with the general requirements of this document. These concerns form the basis of the information requested of applicants in the CRD’s radio antenna system application policy in order to guide staff in providing a recommendation regarding antenna proposals.

Matters that are considered by ISED to be “unreasonable” include: those that are related to disputes with members of the public related to the proponent’s service, but unrelated to antenna installations; potential effects that a proposed antenna system will have on property values or municipal taxes; and questions as to whether the *Radiocommunication Act*, the CPC-2-0-03 document itself, Safety Code 6, locally established bylaws, or other legislation, procedures and processes are valid or should be reformed in some manner.

The concerns raised by the public primarily relate to uncertainty around the health consequences attributed to electromagnetic fields and around benefits to the local community of the proposal as a system intended for research purposes rather than improving service directly to residents. However, the proposed tower location and design satisfy the evaluation criteria outlined in the CRD’s policy. The applicant has presented rationale for the proposed location, demonstrated consideration of alternatives and mitigation measures, and provided information that address comments and questions received from members of the public. Therefore, staff recommend that a statement of concurrence be provided for the proposed 49 m telecommunications tower (LP000034).

CONCLUSION

An application has been received from 1291956 BC ULC to construct a 49 m telecommunications antenna system at 6246 Gordon Road for the purpose of providing long-range, high-throughput data communications in the high frequency band to support business activities in the area of data communications. Through the public consultation process, owners and occupants of land in proximity to the subject properties were provided opportunity to comment or ask questions. Nine submissions and a web petition with 90 names were received. The applicant submitted responses to each of the submissions and has provided a response matrix. The proposal addresses the evaluation criteria in the CRD’s Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy and concerns raised in the submissions are outside the scope of matters that are considered “relevant” as part of the public consultation process outlined in ISED Procedures Circular CPC-2-0-03. Therefore, staff recommend that a statement of concurrence be provided.

RECOMMENDATION

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board: That a statement of concurrence be provided to 1291956 BC ULC. for the proposed 49 m radio communication and broadcasting antenna system on Lot 2, District Lots 143 and 200, and Section 154, Sooke District, Plan 42290.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Larisa Hutcheson, P. Eng., Acting Chief Administrative Officer

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Development Proposal
Appendix C: Public Submissions and Applicant Responses
Appendix D: Response Matrix
Appendix E: Referral Comments
Appendix F: Evaluation Criteria