

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b> Mayor and Members General Issues Committee	<b>WARD(S) AFFECTED:</b> WARD 13
<b>COMMITTEE DATE:</b> March 21, 2012	
<b>SUBJECT/REPORT NO:</b> Declaration of Surplus, Sale of Easement, and Lease Agreement with Bell Mobility Inc. - 70 Olympic Drive - Dundas Olympic Arena, Dundas (PED12040) (Ward 13)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> John Hamilton (905) 546-2424, Ext. 7045
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That the subject lands, being Part of Lot 20, Concession 1, West Flamborough, described as Parts 1 to 4 on Survey W4053, forming part of 70 Olympic Drive in Dundas (Dundas Olympic Sports Park), with an area of approximately 789.5 square metres (8,498 square feet) as shown on Appendix "A" attached to Report PED12040, be declared surplus to the requirements of the City of Hamilton in accordance with Procedural By-law 04-299;
- (b) That an Offer to Purchase (Easement) by Bell Mobility Inc. scheduled to close on or before April 1, 2012 for the land described in Recommendation (a) be approved and completed at the sale price of \$2.00;
- (c) That the sale price of \$2.00 does not include the Harmonized Sales Tax (HST); should HST be applicable and collected by the City, that the HST amount be credited to Account No. 22828 000100 (HST Payable);

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- (d) That the sale proceeds be credited to the Dundas Reserve Fund Account 108031;
- (e) That the City enters into a lease with Bell Mobility Inc. over the land described in Recommendation (a) upon the following conditions:
  - (i) **Term:** Five (5) Years commencing April 1, 2012 to March 31, 2017 followed by three (3), five (5) year renewal options;
  - (ii) **Rental Rate:** From the date of commencement, being April 1, 2012, Bell Mobility Inc. shall pay rent based on \$25,000.00 per year net, plus H.S.T. throughout the first year of the term and increase by 2.5% per year thereafter;
  - (iii) **Operating Costs:** The tenant will be responsible for paying all operating costs and property taxes, in addition to the rent;
- (f) That all rent proceeds from the lease described in Recommendation (e) be credited to the Dundas Reserve Fund Account 108031;
- (g) That any disbursements, legal fees and expenditures incurred by Legal Services be charged to the Dundas Reserve Fund Account 108031;
- (h) That the Mayor and Municipal Clerk be authorized and directed to execute and issue a Certificate of Compliance in the form prescribed pursuant to Section 268 of the Municipal Act, incorporating the following:
  - (i) That as required by Section 3 (a) of By-Law 04-299, the subject lands be declared surplus by inclusion in Report PED12040 to City Council;
  - (ii) That, in accordance with the approved method of providing notice in the City of Hamilton By-Law No. 04-299 "Procedural By-Law for the Sale of Land", Section 12 (a) (6), notice to the public of the proposed sale of land is given by inclusion of this recommendation to City Council, and;
- (i) That the Mayor, General Manager of Finance and Corporate Services, and City Clerk be authorized and directed to execute the easement and lease agreements in a form satisfactory to City Solicitor.

**EXECUTIVE SUMMARY**

Bell Mobility Inc. wishes to erect a new, 50 metre tripole cell tower together with an equipment compound within the area defined as Part 1 on Survey W4053 as shown on

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Appendix "B" to Report PED12040. The proposed tower and compound is designed for co-sharing, thereby preventing the need for additional cell towers in this vicinity.

Bell Mobility Inc. is requesting a long term lease and an easement to facilitate this communications installation. The area around the proposed cell tower is primarily improved as parkland (Dundas Sports Park) or open space. This proposed installation near a hydro corridor and away from residential uses should not be a cause for concern by area residents.

The proposed lease will allow Bell Mobility Inc. to provide improved coverage in the Dundas area and, more importantly, it will enable Bell Mobility Inc. to handle the increased capacity it has experienced since the advent of smartphones.

*Alternatives for Consideration - Page 5*

### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** Proceeds from the sale and lease be credited to the Dundas Reserve Fund Account 108031.

**Staffing:** Staff will take the necessary steps to complete the lease and transfer of the easement. Development Planning Section is working concurrently to approve a formal consultation application and minor site plan review.

**Legal:** Legal Services Division has been involved in the development of the easement and lease agreements and will continue its involvement until both transactions are completed.

### **HISTORICAL BACKGROUND**

On February 24, 2010, the City approved the Telecommunication Tower and Antenna Protocol Follow-up Report, which governs the location and make-up of new cell towers. In December 2011, Bell Mobility Inc. applied to erect a new cell tower at the site of the Dundas Olympic Sports Park Arena. The cell tower (tripole style) proposed by Bell Mobility Inc. adheres to the City's Telecommunication Tower and Antenna Protocol.

As shown on Appendix "B" attached to PED12040, Parts 1 to 4 on Survey W4053 define the areas where the tower, compound and easement are proposed, comprising an overall area of 789.5 square metres (8,498 square feet). The actual compound area housing the equipment shed and tower is represented by Part 1, being 223 square metres (2,400 square feet) in size. Parts 2, 3 and 4, which traverse the driveway entrance into the Park, comprise an area of 566.5 square metres (6,098 square feet).

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An easement is required over Parts 2, 3 and 4 to facilitate installation of fibre and hydro service from Olympic Drive to the compound.

Development Planning Section is working concurrently to approve a formal consultation application and minor site plan review. The application appears to address all pertinent issues, including appropriate landscaping.

The first five (5) year lease term will commence on April 1, 2012 and terminate on March 31, 2017. Net rent of \$25,000.00 per year reflects the current rate obtained in three (3) cell tower leases and this rate will escalate at 2.5% per year after the first year. At the end of the first term, the option to renew for three (3) additional five (5) year terms will follow and rent will be renegotiated at the start of each renewal period.

### **POLICY IMPLICATIONS**

The recommendations are consistent with the City's Real Estate Portfolio Management Strategy Plan as approved by City Council on November 24, 2004 and Procedural By-Law No. 04-299. On June 29, 2005, City Council approved the Delegation of Authority to staff for the acquisition, disposition or lease of properties as follows:

- General Manager or designate not exceeding \$150,000;
- City Manager or designate not exceeding \$250,000; and,
- City Council must declare surplus any lands to be disposed of by the City.

Although the amount of the annual lease payments is below the foregoing limits, Council approval is required for leases having a term or commitment of more than five (5) years, as mandated by Council. The subject property was not circulated to all City Departments as the client departments, were each in agreement with the lease and easement.

### **RELEVANT CONSULTATION**

- Public Works, Waste Processing and Disposal Section
- City Manager's Office, Legal Services Division
- Public Works, Environmental Services Section, Parks
- Planning and Economic Development, Development Planning Section
- Ward Councillor

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**ANALYSIS / RATIONALE FOR RECOMMENDATION**

With the lease recommendation being adopted, the City will have secured a long term revenue stream commitment at an escalating net rental rate above pre-2011 market levels.

It is anticipated that the proposed tower will blend with the existing hydro corridor at the east limit of the Olympic Sports Park. Bell Mobility Inc. has agreed to shield the compound area, including its base equipment shed, with landscaping.

The cell tower adheres to the guidelines set out in the Telecommunication Tower and Antenna Protocol. The finished tower will provide improved cell phone coverage in the Dundas area.

**ALTERNATIVES FOR CONSIDERATION**

If this easement and lease recommendation are not adopted, Bell Mobility Inc. will need to search for an alternate location in the area to support its local cell phone coverage.

**Pros:**

- The proposed tower will remove the necessity of an 85 metre tower that has been proposed nearby.

**Cons:**

- If a compliant application was declined, it would cause the Telecommunication Tower and Antenna Protocol to lose credibility thereby decreasing our ability to serve an expanding industry.
- The City will lose a reliable source of revenue.
- The carriers will remain in the neighbourhood nearby on towers proposed on an alternate private site.

**CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

***Skilled, Innovative & Respectful Organization***

- ◆ The cell tower will be designed to accommodate co-sharing with other carriers.

***Financial Sustainability***

- ◆ Net rental rate escalates annually over the proposed term. Lessee has a strong covenant.

***Intergovernmental Relationships***

- ◆ Industry Canada and several City Departments will each have had input on the location and design of the proposed tower.

***Growing Our Economy***

- ◆ Rent proceeds are will remain for use within the ward.

***Social Development***

- ◆ Sale of easement proceeds will be credited to Dundas Reserve Fund.

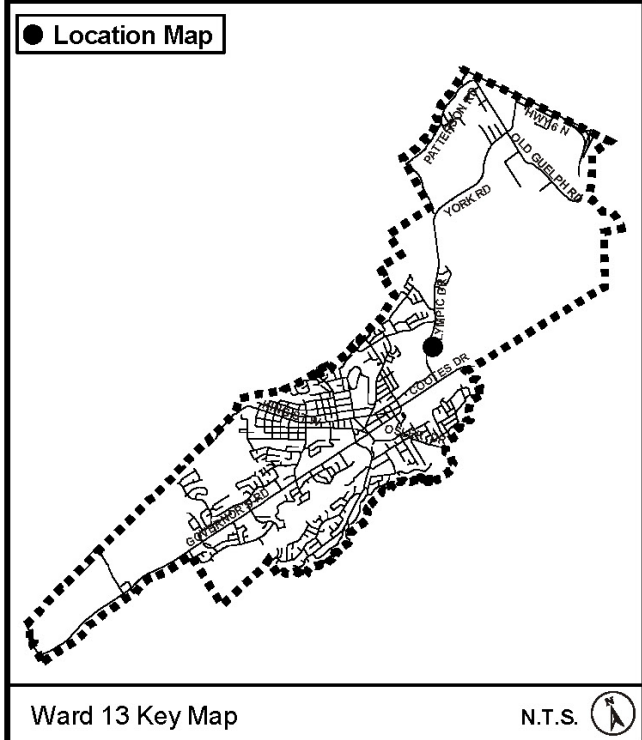
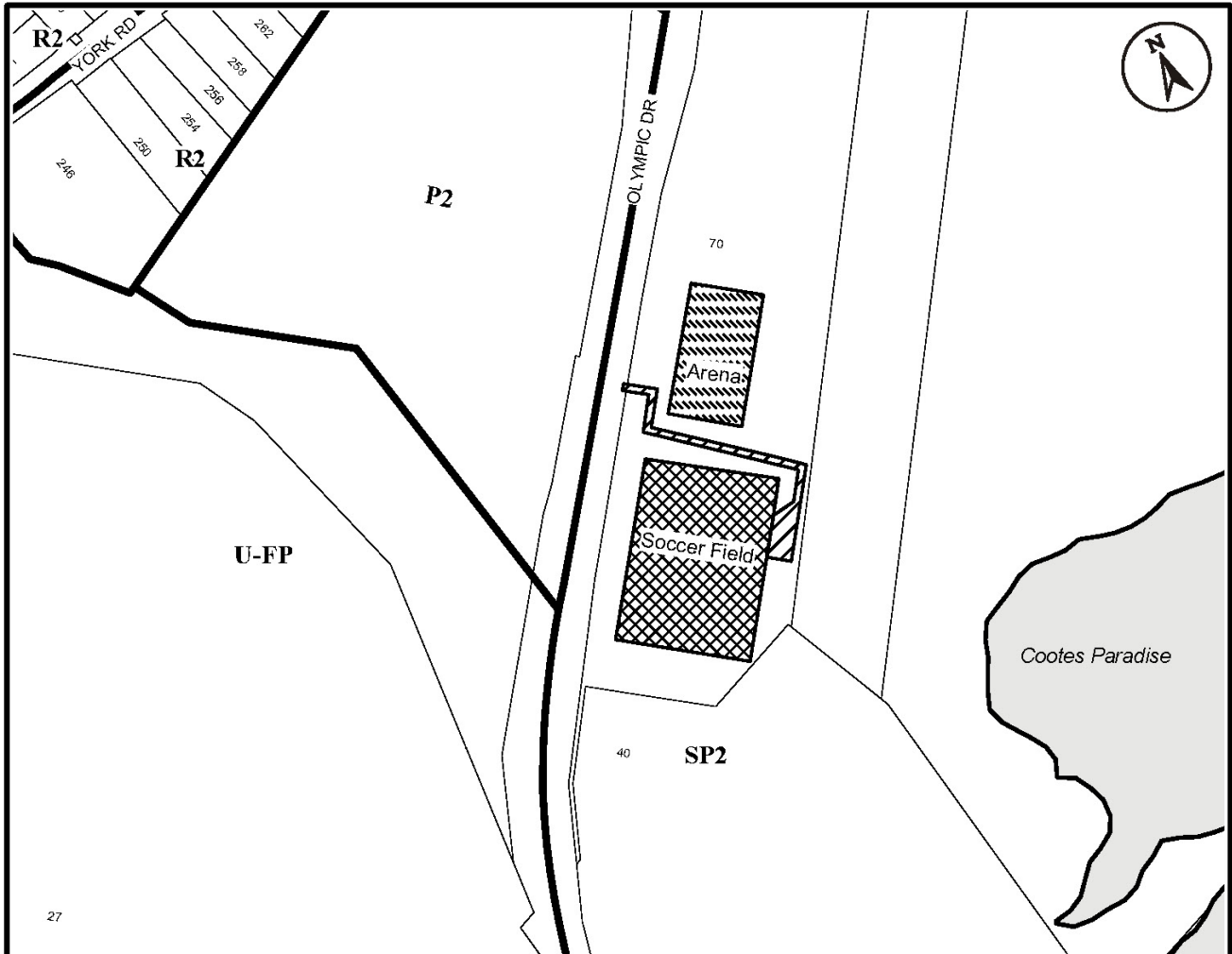
***Environmental Stewardship***

- ◆ All efforts will be made to allow the antenna tower to blend with the surrounding parkland and arena aesthetics, i.e. landscaping, building materials.

**APPENDICES / SCHEDULES**

Appendix "A" to Report PED12040 - Location Map  
Appendix "B" to Report PED12040 - Survey C4053

JH/sd



<h1>Location Map</h1>		 <b>Hamilton</b>
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: 2009-027	Date: Jan. 17, 2011	
Appendix "A"	Scale: N.T.S.	Planner/Technician: JH/AL
<p><b>Subject Property</b></p> <ul style="list-style-type: none"> <li> Dundas Olympic Sports Park Arena</li> <li> Soccer Field</li> <li> Dundas Olympic Sports Park 70 Olympic Drive, Dundas Parts 1-4 incl., Bell Survey W4053 Part of PIN 17470-0485</li> </ul> <p>Proposed Cell Tower location Compound at Part 1, Bell Survey W4053</p>		

# Survey W4053

