

The Corporation of the City of Kawartha Lakes

Council Report

Report Number PLAN2020-020

Meeting Date: June 23, 2020

Title: Telecommunications Facility Application Re-Endorsement – Bell Mobility Inc. – Application D44-28-001

Description: A one (1) year extension of Council endorsement of a previously endorsed application for a proposed 50.0 metre tri-pole Telecommunication Facility by Fontur International Inc. on behalf of Bell Mobility Inc. at 193 Centreline Road, Emily (City of Kawartha Lakes)

Ward Number: Ward 6 – Emily

Author and Title: Ian Walker, Planning Officer – Large Developments
Sharri Dyer, Manager – Realty Services

Recommendations:

That Report PLAN2020-020, **Telecommunications Facility Application Re-Endorsement – Bell Mobility Inc. – Application D44-28-001**, be received;

That the previous April 22, 2014 Council endorsement of a 50.0 metre tri-pole telecommunication facility originally proposed by Fontur International Inc. on behalf of Bell Mobility Inc., to be sited on property at 193 Centreline Road and generally outlined in Appendices 'A' to 'D' to Report PLAN2020-020, be extended for a period of not more than one (1) year, conditional upon the applicant entering into an amended Telecommunication Facility Development Agreement with the City;

That Innovation, Science and Economic Development (ISED) Canada, the applicant, and all interested parties be advised of Council's decision; and

That the Mayor and Clerk be authorized to execute any documents and agreements required by the re-endorsement of this application.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

On January 31, 2014, Fontur International Inc. submitted an application on behalf of Bell Mobility Inc. (Bell) to permit a tri-pole telecommunication facility with a height of 50.0 metres (164 feet) on a rural City-owned property located at 193 Centreline Road, near Omemee and Downeyville. See Appendix 'A'. The proposal consists of a 232 square metre compound which will house all electrical components, and access to the compound consists of a 1,429 square metre driveway along the north edge of the property and entrance from Centreline Road. See Appendix 'B'. At the Council Meeting of April 22, 2014, Council adopted the following resolution:

10.3.12 Resolved That Report PLAN2014-025, Telecommunication Facility Application, Bell Mobility - C09-28-001, be received;

That the proposed 50.0 metre tri-pole telecommunication facility proposed by FONTUR International Inc., to be sited on lands fronting at 193 Centreline Road and as generally outlined in Appendices 'A' to 'E' to Report PLAN2014-025, be endorsed by Council, conditional upon the applicant entering into a telecommunication facility development agreement with the City;

That Industry Canada, the applicant and all interested parties be advised of Council's decision; and

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of this application.

CR2014-417

After receiving Council endorsement of the proposal in 2014, Bell entered into a Telecom Facility Development Agreement (Development Agreement) with the Corporation of the City of Kawartha Lakes (the City) on July 15, 2014, and entered into a Telecommunications Facility Lease Agreement (Lease Agreement) with the City for occupying space at 193 Centreline Road for the compound and access to the site. The Lease Agreement was for an initial five year term commencing on December 1, 2015 and expiring on November 30, 2020, with three options to renew each for five year terms. During the first five year term of the Lease Agreement, Bell has not erected the infrastructure, and are now proposing to proceed with construction of the tower. A copy of the Lease Agreement is attached as Appendix 'E'.

The telecommunications industry is regulated by the federal government through the Radiocommunication Act, which is primarily administered by Innovation, Science and Economic Development (ISED) Canada (formerly Industry Canada) and Health Canada. The federal approvals process follows publication CPC-2-0-03 – Radiocommunication and Broadcasting Antenna Systems (the Publication). Section 1.3 of the Publication provides a process overview containing 5 broad elements:

- 1) Investigating sharing or using existing infrastructure before proposing new antenna-supporting structures;
- 2) Contacting the land-use authority (LUA) to determine local requirements regarding antenna systems;
- 3) Undertaking public notification and addressing relevant concerns, whether by following local LUA requirements or ISED Canada's default process, as is required and appropriate;
- 4) Satisfying ISED Canada's general and technical requirements; and
- 5) Completing the construction.

It is ISED Canada's expectation that steps 2) to 4) will normally be completed within **120 days** (however, this is not a firm deadline). Some proposals may be excluded from certain elements of the process, as outlined in Section 6 of the Publication. ISED Canada also expects that all parties will carry out their roles and responsibilities in good faith and in a manner that respects the spirit of the Publication. If the requirements of the Publication are satisfied and the proposal proceeds then, under step 5), construction of the antenna system must be completed within three years of conclusion of the consultation.

The consultation and subsequent endorsement of this application was considered by Council on April 22, 2014. Therefore, more than 3 years have passed since the original consultation. Through follow up with ISED Canada, they have confirmed to staff that in accordance with Section 4.4 of the Publication, after three years, consultations will no longer be deemed valid, **except in the case where a proponent secures the agreement of the relevant LUA to an extension for a specified time period in writing**. A copy of the agreement must be provided to the local ISED Canada office.

This report addresses that direction.

Owner:	City of Kawartha Lakes
Agent:	Bell Mobility Inc.
Legal Description:	Part of Lot 12, Concession 8, Geographic Township of Emily
Official Plan:	'Aggregate' in the City of Kawartha Lakes Official Plan
Zoning:	'Disposal Industrial Exception One (M4-1) Zone' in the Township of Emily Zoning By-law 1996-30
Site Size:	1,661 square metres consisting of a 232 square metre compound and a 1,429 square metre driveway
Site Servicing:	A dedicated electrical connection and driveway extension are required to service the telecommunication facility.
Existing Uses:	Portions of the property are used as a Public Works – Roads Depot; a closed landfill operation; and a spray irrigation and leachate sewage treatment system related to the landfill.

Adjacent Uses:	North:	Agricultural; Forest
	East:	Centreline Road; Aggregate Extraction; Agricultural
	South:	Shamrock Road; Aggregate; Agricultural
	West:	Agricultural; Forest

Rationale:

Telecommunications systems are regulated by the federal government, and are therefore not subject to the requirements of Planning Act documents such as official plans or zoning by-laws. However, ISED Canada encourages the development of protocols by Local LUAs (the municipality) to ensure that a clear process is established for the consideration of new telecommunications facilities within the community. Where a municipality has adopted a telecommunications policy, the applicant must receive confirmation from the municipality that the proposal complies with their policy, before ISED Canada will issue an approval for the facility.

In 2012, Council adopted a Telecommunications Policy for the installation of new telecommunication towers within the City of Kawartha Lakes. In 2018, the Telecommunications Policy (CP2018-014 Telecommunications and Antenna System Siting Policy) was updated in accordance with the current recommended ISED Canada standards, which were last updated in 2014. The policy provides a set of criteria to ensure that a clear process is established for the consideration of new telecommunications facilities within the community. All applications must be endorsed by Council and subject to any necessary conditions, for the applicant to receive an approval from ISED Canada.

Applicable Provincial Policies:

While telecommunication systems are a federally-led initiative, the Province also recognizes the importance of telecommunications infrastructure and encourages further systems development to meet current and projected service demands in its policy documents, including the Provincial Policy Statement, 2020 (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan). The proposed telecommunications facility fulfills the objectives of these policies.

Official Plan Conformity:

The property is designated 'Aggregate' in the City of Kawartha Lakes Official Plan. While telecommunication systems are not subject to the requirements of the Official Plan, Section 28.10 of the Official Plan supports the erection of new telecommunication towers, as long as they are located outside of natural features and their respective buffers, and provided that there is a demonstrated need. Since the applicant has demonstrated that there is a need for this facility, the

proposal fulfills the provisions of the land use policies, in accordance with the City's Telecommunications Policy.

Zoning By-law Compliance:

The subject land is zoned 'Extractive Industrial Exception One (M4-1) Zone' in the Township of Emily Zoning By-law 1996-30. Although the zone does not permit telecommunications towers, these facilities are regulated by the Federal Government under ISED Canada and thereby exempt from the regulatory provisions of the Zoning By-law.

Other Alternatives Considered:

No other alternatives have been taken into consideration.

Financial/Operation Impacts:

There may be financial considerations for the City if the endorsement is not extended. Currently, an annual rent of \$18,000.00 is collected through the Lease Agreement. This Lease Agreement would be terminated at the end of the current 5 year cycle, resulting in a loss of \$18,000.00 per annum rental income for up to 15 years.

Relationship of Recommendations to the 2020-2023 Strategic Plan:

The Council Adopted Strategic Plan identifies these Strategic Priorities:

- Priority 1 – A Vibrant and Growing Economy
- Priority 2 – An Exceptional Quality of Life
- Priority 3 – A Healthy Environment
- Priority 4 – Good Government

This application aligns with the Good Government priority by increasing internet and cellular services available throughout Kawartha Lakes. It may also align with the Exceptional Quality of Life priority by enhancing accessibility to a range of services provided within the City.

Review of Accessibility Implications of Any Development or Policy:

There are no accessibility considerations for the City.

Servicing Implications:

There are no servicing considerations for the City.

Consultations:

Public Comments

The City's Telecommunications Policy requires that the applicant conduct the public consultation and information process as prescribed by ISED Canada. The City's policy requires notification through a local newspaper, and a mailout to all landowners within a minimum notification radius which is the greater of:

- a) 120 metres; or
- b) three times the height of the tower (150 metres).

Based on the above, the mailout radius is 150 metres from the base of the proposed tower. A mailout was sent to three properties within 150 metres of the base of the proposed tower with commenting timeframe from January 30, 2014 until March 3, 2014. A notice was placed in the local Kawartha Lakes This Week and Peterborough This Week newspapers on February 6, 2014 with a commenting timeframe until March 3, 2014. No comments were received from the public on the proposal. A copy of the consultation summary is contained in Appendix 'C' to this report. City staff have also confirmed that the properties within 150 metres of the base of the tower have not changed ownership since this original consultation.

Agency Review Comments

The proposal was originally circulated to all relevant agencies and City Departments for review and comment. The following comments were received:

The Engineering Department had no objections to the lot grading and drainage plan submitted for review.

The Fire, Public Works, and Building Departments all had no objections to the proposal. The Public Works Department advised that although the telecommunications tower is located within a licensed gravel pit, the pit has been rehabilitated and the license was intended to be relinquished later in 2014.

February 20, 2020 The Public Works – Environmental Services advised that the Ministry of the Environment, Conservation and Parks (MECP) has issued a revised Environmental Compliance Approval (ECA) for the closed landfill, which includes approval of the telecommunications tower on the property.

Development Services – Planning Division Comments:

Compliance with Telecommunication Tower Siting Criteria

Staff has reviewed the telecommunication facility application and concludes that the proposal complies with the siting criteria in following manner:

- ISED Canada has mandated that communications providers cannot have any dropped calls, given that the system is now being used for 911 or other emergency purposes in addition to personal communications. Given

the topography of the area, Xplornet Communications requires a tower height of 50 metres in order to provide its services in accordance with the ISED Canada standards. The addition of this tower should provide improved service in this area.

- The applicant has investigated the possibility of co-locating other existing telecommunication towers. Since there are no other towers within a 500 metre radius, co-location is not an option and a new tower is necessary for technical reasons. The proposed tower structure has been designed to accommodate one other carrier. Staff are satisfied that an additional tower is necessary to provide service for the area.
- The proposed tower fulfills all of the necessary setbacks from local roads, property lines, residential areas, and environmentally sensitive areas. Bell will be landscaping the enclosure with 1.8 metre tall coniferous trees to screen the base from view.
- While the tower will be visible in the skyline, the tri-pole design should not make the tower obtrusive to the view of the area, given that the topography of the site partially screens the tower from view. Appendix 'B' contains a proposed tower and compound plan. The views of the tower are expected to be similar to those contained in the photo renderings. See Appendix 'D'.

From Staff's perspective, the proposed telecommunication facility fulfills the locational requirements of the City's Telecommunications Policy.

Tower Lighting

With regard to the lighting, this tower will not require any painted striping or lighting.

Site Development Agreement

Staff would require that this telecommunications facility be subject to a limited Amending Telecommunications Facility Development Agreement with the City. This Amending Development Agreement would secure an approved site plan, lot grading and drainage plan, securities for entrance works and landscaping (when necessary), and landscaping details as required. The Amending Development Agreement would also include provisions for the removal of the telecommunication facility once it is no longer being used. Staff views this agreement as serving more of an administrative function and therefore would not recommend that this agreement be registered against title.

Attachments:

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Ian Walker, Planning Officer – Large Developments, (705) 324-9411 extension 1368.

Appendix A – Location Map



PLAN2020-020
Appendix A.pdf

Appendix B – Proposed Site Plan and Tower Drawings



PLAN2020-020
Appendix B.pdf

Appendix C – Public Consultation/Justification Report



PLAN2020-020
Appendix C.pdf

Appendix D – Photo Rendering



PLAN2020-020
Appendix D.pdf

Appendix E – Telecommunications Facility Lease Agreement



Appendix E -
Telecommunications

Department Head E-Mail: cmarshall@kawarthalakes.ca

Department Head: Chris Marshall, Director, Development Services

Department File: D44-28-001