

Council Report

Report Number:	PLAN2021-024
Meeting Date:	May 18, 2021
Title:	Telecommunications Facility Concurrence Application – Xplornet Communications
Description:	An application to issue a concurrence for a proposed 45.0 metre self-supported Telecommunications Facility by FB Connect on behalf of Xplornet Communications at 64 Highway 7A, Manvers (Maltheb Farms 2000 Ltd.)
Author and Title:	Ian Walker, Planning Officer – Large Developments

Recommendations:

That Report PLAN2021-024, **Part of Lots 1 & 2, Concession 8, Geographic Township of Manvers, Maltheb Farms 2000 Ltd. – Application D44-2021-003**, be received;

That the 45.0 metre self-supported telecommunication facility proposed by FB Connect on behalf of Xplornet Communications, to be sited on property at 64 Highway 7A and generally outlined in Appendices A to D to Report PLAN2021-024, be supported by Council, conditional upon the applicant entering into a Telecommunication Facility Development Agreement with the City;

That upon completion of the public consultation by the proponent, the Public Consultation Summary Report is submitted to the City for review, and that Council support is contingent upon successful completion of the review of this Report;

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 concurrence of this application.

(Acting) Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

FB Connect has submitted an application on behalf of Xplornet Communications to permit a self-supported telecommunication facility with a height of 45.0 metres (148 feet) on a rural property located at 64 Highway 7A, west of Yelverton. See Appendix 'A'. A site compound with an area of 225 square metres (15 metres by 15 metres) will house all electrical components. For access to the compound, Xplornet Communications will utilize the existing driveway and farm laneway. See Appendix 'B'.

Owner:	Maltheb Farms 2000 Ltd.
Agent:	FB Connect on behalf of Xplornet Communications
Legal Description:	Part of Lots 1 & 2, Concession 8, Geographic Township of Manvers
Official Plan:	'Prime Agricultural' and 'Environmental Protection' on Schedule 'A-1' of the City of Kawartha Lakes Official Plan
Zoning:	'Rural General (A1) Zone' and 'Open Space (O1) Zone' on Schedule 'A' of the Township of Manvers Zoning By-law 87-06
Site Size:	225.0 square metres consisting of a 15.0 metre by 15.0 metre compound, and an existing site access lane
Site Servicing:	A dedicated electrical connection is required to service the telecommunication facility
Existing Uses:	Portions of the property are used for agriculture, and a portion includes environmental (natural) features
Adjacent Uses:	North: Highway 7A; Agricultural East: Agricultural; Yelverton Road South: Agricultural West: Wetlands/Woodlands; Region of Durham/Township of Scugog

Rationale:

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. As telecommunications systems are regulated by the federal government, they are therefore not subject to the requirements of Planning Act documents such as official plans or zoning by-laws. ISED Canada considers the local 'Land Use Authorities' (LUAs) to have the best knowledge of land uses in an area. Therefore, ISED Canada

encourages the development of protocols by the local municipalities (LUAs) 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 a concurrence from the municipality that the proposal complies with their policy, before ISED Canada will issue an approval for the facility.

In 2012, Council adopted the first Telecommunications Policy relating to the installation of new telecommunication towers within the City of Kawartha Lakes. On July 15, 2014, the current ISED Canada document 'Client Procedures Circular CPC-2-0-03, Issue 5' came into effect. This document outlines the requirements that apply to anyone (considered a 'proponent') who is planning to install or modify an antenna installation of any type (typically, a tower). In 2018, Council adopted an updated Telecommunications Policy (CP2018-014 Telecommunications and Antenna System Siting Policy) in accordance with these 2014 ISED Canada standards.

The intent of the Council policy is to establish a process and provide a clear set of criteria for the consideration of new telecommunications facilities within the community. In accordance with CP2018-014, before a proponent can seek an approval from ISED Canada, all applications must first receive a concurrence from Council, subject to any necessary conditions. One of the conditions of the concurrence is that the proponent and the landowner enter into a Telecommunication Facility Development Agreement with the City, to ensure that once the tower is no longer in use, it is properly decommissioned and removed from the property.

The applicant has submitted the following reports and information in support of the application, which have been circulated to various City Departments and commenting agencies for review:

1. Planning Justification Report, prepared by FB Connect, dated March 9, 2021. The report discusses and assesses the proposed telecommunication tower in context of the federal legislation and the City's Telecommunications Policy;
2. Site Plan Showing Proposed Xplornet Compound Location, prepared by Xplornet;
3. Site Plan, prepared by Alex Marton Limited Ontario Land Surveyors, dated February 24, 2021;
4. Site Grading and Stormwater Management Plan, prepared by Alex Marton Limited Ontario Land Surveyors, dated February 24, 2021;
5. 45.72m (150') Tower Profile, prepared by Trylon, dated July 31, 2020;
6. Public Consultation Mailout Information Package dated April 7, 2021.

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, 2020 (Growth Plan). The proposed telecommunications facility fulfills the objectives of these policies.

Official Plan Conformity:

The property is designated 'Prime Agricultural' and 'Environmental Protection' 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. The proposed tower and all associated works are located in the 'Prime Agricultural' designation; are outside of all natural features and their respective buffers; and the applicant has demonstrated that there is a need for this facility.

On this basis, 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 'Rural General (A1) Zone' and 'Open Space (O1) Zone' in the Township of Manvers Zoning By-law 87-06. The proposed tower and all associated works are located in the 'A1' zone, and outside of the 'O1' zone. While telecommunication systems are not subject to the requirements of the Zoning By-law, the 'A1' zone provides that this use is permitted.

On this basis, the proposal does not conflict with the Zoning By-law, in accordance with the City's Telecommunications Policy.

Other Alternatives Considered:

No other alternatives have been taken into consideration.

Alignment to Strategic Priorities

The Council Adopted Strategic Plan identifies these Strategic Priorities:

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

This application aligns with the Good Government priority by increasing internet 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.

Financial/Operation Impacts:

There are no financial 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 ISED Canada standards require notification through a local newspaper (when the tower is 30.0 metres or greater in height), and a mail-out 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 (135 metres).

Based on the above, the mail-out radius is 135 metres from the base of the proposed tower. A notice was also placed in the local newspapers as follows: Kawartha Lakes This Week and The Kawartha Promoter on April 8, 2021, with commenting up to May 10, 2021.

Upon completion of the public consultation, the applicant will provide a letter for the City's review, noting if any public comments are received, and if there are any issues. At this point in time, Council's position on this application is contingent on the applicant being able to resolve any public concerns that may arise from the consultation process. Should the consultation report note a public concern that has not been satisfactorily resolved by the proponent, Staff will prepare a subsequent report on this matter for Council's consideration of its position. A copy of the public circulation notice has been included. See Appendix 'C'.

Agency Review Comments

The proposal was first assessed and circulated to all relevant agencies and City Departments through the City's Preconsultation process, to identify a full list of submission requirements and initial comments for consideration. As a result, the application was circulated to only the relevant agencies and City Departments which may have an interest in the application. The following comments have been received to date:

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|----------------|--|
| April 27, 2021 | The Building and Septic Division advised that as the equipment house is less than 10 square metres, they have no concerns. |
| April 27, 2021 | The Engineering and Corporate Assets Department advised they have no comments. |

May 4, 2021

The Ministry of Transportation Ontario (MTO) advised they have no objection to the proposal, but note that three MTO permits will be required for the proposed works. A full copy of the comments has been circulated to the proponent.

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 45 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 few towers in the area, and no other towers within a 0.5 kilometre radius, co-location is not an option and a new tower is necessary for technical reasons. The proposed tower structure has been designed to allow other carriers to co-locate in the future, should the need arise. Staff is 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.
- While the tower will be visible in the skyline, the self-supported design should not make the tower obtrusive to the view of the area. Appendix 'B' contains a proposed tower and compound plan. The views of the tower are expected to be similar to those contained in the Planning Justification Report. 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 may require painted striping or lighting. Final details of the lighting requirements are not available at this time however Xplornet Communications have indicated that they do not anticipate any painting or lighting will be required. Any painting and/or lighting requirements will be provided by Transport Canada, for navigation and/or safety purposes. Staff advise that any night lighting should not include white flashing strobe lights.

Site Development Agreement

Staff would require that this telecommunications facility be subject to a limited Telecommunications Facility Development Agreement with the City. This 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 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



PLAN2021-024
Appendix A.pdf

Appendix B – Proposed Site Plan and Tower Drawings



PLAN2021-024
Appendix B.pdf

Appendix C – Public Consultation Notice



PLAN2021-024
Appendix C.pdf

Appendix D – Planning Justification Report



PLAN2021-024
Appendix D.pdf

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(Acting) Department Head: Richard Holy

Department File: D44-2021-003