

EXTRACT FROM COUNCIL MEETING MINUTES OF DECEMBER 15, 2015

**8 SITE DEVELOPMENT FILE DA.14.058
JOHN PAGNANI
WARD 1 - VICINITY OF WESTON ROAD AND TESTON ROAD**

- 1) That the recommendation contained in the following report of the Deputy City Manager, Planning and Growth Management, Director of Development Planning, and Senior Manager of Development Planning, dated December 1, 2015, be approved;
- 2) That Communication C2, from Mr. Nick Pasquino, dated November 26, 2015, be received; and
- 3) That the coloured elevation drawings submitted by the applicant be received.

1. THAT Site Development File DA.14.058 (John Pagnani) BE APPROVED, to permit the installation of a 40 m high monopole telecommunication tower and associated radio equipment cabinet for Bell Mobility Inc. (Attachments #3 to #6) on the subject lands shown on Attachments #1 and #2, subject to the following conditions:
 - a) that the Proponent upgrade the fence around the tower base and compound to a decorative wood (western red cedar) fence;
 - b) that the Proponent plant additional screening trees between the tower and the residence to the south; and,
 - c) the Owner shall satisfy all requirements of the Toronto and Region Conservation Authority.

The purpose of this report is to seek approval from the Committee of the Whole for Site Development File DA.14.058 on the subject lands shown on Attachments #1 and #2, to permit the

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installation of a 40 m high monopole telecommunication tower with external antennas and an associated radio equipment cabinet, as shown on Attachments #3 to #6. The proposed development implements Vaughan Official Plan 2010 (VOP 2010) and is appropriately located.

Background - Analysis and Options

Synopsis:

The Proponent is proposing to develop the subject lands with a 40 m high monopole telecommunications tower with external antennas and an associated radio equipment cabinet. The proposed development is appropriately designed and located. The Vaughan Development Planning Department supports the proposed telecommunications tower as it is compatible with the surrounding existing and planned land uses in the area. Additional wood fencing and landscape screening of the base of the cabinets will be provided.

Location

The subject lands, shown on Attachments #1 and #2 are located on the west side of Weston Road, and approximately 250 m north of Teston Road, municipally known as 10830 Weston Road, in the City of Vaughan.

City of Vaughan's Telecommunication Tower/Antenna Protocol

On June 23, 2003, Vaughan Council adopted a protocol for establishing telecommunication tower/antenna facilities. In accordance with the City's Protocol, all new tower/antenna systems (as superseded by Industry Canada's Protocol, June 2014) require consideration by Vaughan Council.

In accordance with the City's Protocol, the Proponent attended a Pre-Application Consultation meeting with the Vaughan Development Planning Department and submitted the subject application. The Proponent conducted a survey of the surrounding area and determined that there were no existing facilities suitable for co-location within the vicinity network coverage. The locations of existing telecommunication towers that required and were granted municipal concurrence within the vicinity of the subject lands are shown on Attachment #1.

On June 7, 2011, Vaughan Council resolved to appoint a Telecommunication Facility Task Force comprised of residents, industry representatives, and two Vaughan Council Members to review the City of Vaughan's existing Protocol for establishing Telecommunication Tower/Antenna Facilities.

On June 7, 2011, Vaughan Council also resolved:

"THAT Site Development Applications for new telecommunication facilities submitted prior to approval of a new City protocol to be reviewed under the current City of Vaughan Protocol for Establishing Telecommunication Tower/Antenna Facilities."

The subject Site Development Application is proceeding to the Committee of the Whole meeting on December 1, 2015, in accordance with the above resolution.

The Task Force developed a comprehensive work plan to formulate a Findings Report with assistance from City staff. The Task Force also consulted with and heard presentations from a variety of sources such as Industry Canada, Public Health Ontario, Bell Mobility, and telecommunications industry professionals. The Task Force approved the final Findings Report at its meeting on December 17, 2013, and forwarded the Findings Report and the following

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recommendation to the Committee of the Whole meeting on January 14, 2014, which Vaughan Council adopted on January 28, 2014:

“That the Findings Report be referred to staff for review, and that a report be provided to a future Committee of the Whole Meeting; and,

That the Findings Report form the basis for developing the City of Vaughan’s Telecommunication Facility Siting Protocol.”

City Staff reviewed the Findings Report and provided recommendations through a report from the Commissioner of Planning for consideration by the Committee of the Whole on June 17, 2014. On June 24, 2014, Vaughan Council adopted the following resolution:

“THAT the Vaughan Planning Department be directed to prepare a new City of Vaughan Telecommunication Siting Protocol (“Protocol”), for consideration at a future Committee of the Whole (Working Session) meeting, in early 2015.”

The City’s in-effect Protocol states that applications for telecommunication towers located within the urban area require the Proponent to provide notice of a Community Information Meeting by regular mail to all landowners within a radius of 120 m from the tower base, or within a distance of three times the height of the proposed tower, whichever is greater, and to the local ratepayers’ association. At the City’s request, the Proponent also notified the residents on the east side of Weston Road, directly across from the subject lands, and residents who had contacted the Proponent prior to the formal public notification, as shown on Attachment #2. The Proponent also notified the Kleinburg and Area Ratepayers’ Association and the Rimwood Estates Homeowners’ Association.

Four comments were emailed directly to the Proponent prior to the public consultation period formally beginning, and four comments were emailed during the formal public consultation period, with a total of seven residents commenting.

On June 30, 2015, the Proponent held a Community Information Meeting at the Maple Community Centre from 6:00pm - 8:00pm. Two residents attended the meeting and offered comments.

The concerns raised by the residents, and the responses from the Proponent and the Vaughan Development Planning Department responses are summarized as follows:

Proximity of tower to residents adjacent to the south, and across Weston Road

The tower is located at the rear of a deep property, approximately 212 m setback from Weston Road, and approximately 50 m setback from the property adjacent to the south. The Vaughan Development Planning Department is satisfied that the setback from residential areas is sufficient. To further mitigate the aesthetic impact of the proposed tower on the residential property to the south, the compound fence, as shown on Attachment #4, should be upgraded from chainlink to a decorative wood (western red cedar) fence, and trees should be planted on the south edge of the compound to provide additional screening between the tower base and the property to the south. The Proponent has agreed to these conditions, and conditions to this effect are included in the recommendation of this report.

Amount of information distributed

This comment was received prior to the beginning of the formal Public Notification period, before the Proponent circulated the information packages to the residents. Additional information

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regarding the application was included in the public consultation brochure that was circulated to the public by the Proponent. The information package was sent to residents and ratepayer's associations, as discussed above by regular mail that arrived on or before June 9, 2014. The commenting period ended July 9, 2014.

Amount of time given to comment

Concern was expressed regarding the amount of time given to review the proposal.

This concern related to the time given to comment based on the Vaughan Development Planning Department's "Request for Comments" for the application, which was circulated by the Department to commenting departments, agencies, and ratepayers' associations when the application was first submitted. The Request for Comments had a "Comment By" deadline for those reviewing agencies, which is distinct from the commenting process and deadlines for the public. As part of the Telecommunication Tower/Antenna Protocol, the Proponent advised all residents who contacted the Proponent at that time that the Public Notification period had yet to begin, and that the residents would have the appropriate time available for commenting.

Radiation and harmful effects of the tower

Industry Canada has adopted Health Canada's guidelines for safe human exposure to RF energy, commonly known as Safety Code 6. Compliance with these guidelines is mandatory at all times and is a condition of a carrier's spectrum license. Bell Mobility Inc. attests that the proposed radio antenna system described will comply with Health Canada's Safety Code 6 limits, as may be amended from time to time, for the protection of the general public including any combined effects of additional carrier co-locations and nearby installations within the local radio environments.

Aesthetics during the day and night

The tower maintains flush mounted external antennas, and is located at the rear of a deep property. The Proponent further advises that Transport Canada confirmed that lighting will not be required for the tower, minimizing night time aesthetic concerns. The Vaughan Development Planning Department is satisfied with the location and design of the tower.

By-law infractions on subject lands

Comments were received that by-law infractions had occurred on the subject lands. The Vaughan Development Planning Department in consultation with the By-law and Compliance Department, advise that no complaints had been received by the City from the public against the subject property. The Building Standards Department advised that the open storage shown on Attachment #3 is not permitted in the "A" Agricultural Zone. The Development Planning Department has forwarded this information to the By-law and Compliance Department for review.

The Proponent advised that "broadcasting and telecommunications fall under federal jurisdiction through Industry Canada and that the City of Vaughan can only provide comments. Furthermore, the provisions of the Ontario Planning Act and other municipal by-laws and regulations do not apply to federal undertakings. As a result of the Federal Government's jurisdiction, this proposed wireless facility does not require permitting analogous to those of other development proposals. Similarly, zoning by-laws and site plan approvals and/or provincial policies, in the standard sense, are not applicable to these facilities."

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Alternative Location

A resident proposed an alternative location for the tower at Weston Road and Kirby Road, however, the location proposed was the subject of another application for concurrence that was refused by Vaughan Council (Site Development File DA.14.042). The Proponent advises that other alternative tower locations considered in the area are approximately 2.2 km away from the subject lands, and will not be sufficient for coverage in the subject area.

Property values

Industry Canada deems concerns about the effects of a proposed antenna system on property values as “not relevant” in CPC-2-0-03 (Radiocommunication and Broadcasting Antenna Systems Protocol).

Official Plan and Zoning

The subject lands are designated “Natural Areas,” “Agricultural,” and “Community Areas” by Vaughan Official Plan 2010 (VOP 2010). VOP 2010 encourages the development of comprehensive high-speed telecommunications and data networks throughout Vaughan to contribute to economic competitiveness and support widespread access to such services. The telecommunications and data policies of VOP 2010 do not apply until such time as Vaughan Council has adopted a new telecommunications tower protocol, to ensure consistency in the documents. The rear portion of the site is also designated “Natural Heritage System within the Protected Countryside” in the Greenbelt Plan, and conformity with the Greenbelt Plan is discussed later in this report.

The subject lands are zoned “A” Agricultural Zone, subject to site-specific Exception 9(219), by Zoning By-law 1-88. The Agricultural Zone does not permit open storage, as is shown on the site plan (Attachment #3).

The *Radiocommunication Act* designates Industry Canada as the approval authority for all matters respecting telecommunication towers and antenna facilities. Federal regulations are not subject to Provincial policies, including the *Planning Act* and *Building Code Act*. As such, telecommunication towers and antenna facilities are exempt from municipal zoning by-law requirements and site plan control (i.e. no implementing Site Plan Agreement or Letter of Undertaking).

New Community Areas

Schedule 1 – Urban Structure of VOP 2010 identifies that the subject lands are within a “New Community Area.” VOP 2010 policies prohibit approving development applications in areas designated “New Community Areas” prior to the completion and approval of a Secondary Plan. However, the Proponent is unable to delay the current proposal to provide enhanced coverage in the area, and as telecommunication facilities are regulated by the Canadian Radio and Telecommunication Commission (CRTC), the Vaughan Development Planning Department has no objection to the review of the subject proposal. Representatives of the Block 41 Landowners Group have been notified of the proposal and to date have not raised any comment or concerns.

The Vaughan Policy Planning and Environmental Sustainability Department has requested that any future tower locations be determined through participation in the Secondary Plan process and/or Block Plan process for the subject lands. This will ensure the location of the future telecommunications equipment is optimal in relation to future developments in the New Community Area.

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Planning Considerations

The proposed 83.5 m² equipment compound is enclosed by a 2.4 m high chain link security fence topped with barbed wire. The compound includes a 40 m high monopole with external antennas and one radio equipment cabinet, as shown on Attachments #3 to #6. The accessory radio cabinet is constructed of galvanized steel, as shown on Attachments #5 and #6. All hydro requirements to service the equipment cabinets for the telecommunications tower must be to the satisfaction of PowerStream Inc. As indicated earlier, additional wood fencing and landscape screening of the base of the cabinets will be provided.

The Proponent is proposing construction and servicing via the existing driveway from Weston Road, as shown on Attachment #3.

Bell Mobility's purpose for the telecommunication tower is to provide coverage along Weston Road to the existing residential area to the east and service areas to the residential subdivision southeast of Weston Road and Teston Road. Bell's Radio Frequency Engineering team chose a general location in the vicinity of Weston Road and Teston Road that would be ideal to site a telecommunications tower to provide excellent coverage for the area. A review of the 500 metre search area revealed an absence of existing telecommunication facilities. There are no suitable pre-existing towers on which to co-locate.

The Proponent has advised that the 40 m high monopole telecommunications tower will facilitate future co-location by other licensed carriers, which is consistent with the City's in-effect telecommunication tower/antenna facilities protocol that encourages the use of existing structures.

The Vaughan Development Planning Department has no objection to the proposed layout, design, and location of the compound and telecommunications tower, subject to the conditions included in the recommendation of this report.

Greenbelt Plan Conformity

The proposed tower is located in the "Natural Heritage System within the Protected Countryside Area" in the Greenbelt Plan, and therefore, the Proponent submitted a Greenbelt Conformity letter in support of the application. The Proponent advises that the tower, compound, and access road are all located outside of the forested section of the natural feature, and will not impact any existing trees. Similarly the tower, compound, and access road are outside of the Toronto and Region Conservation Authority's (TRCA) regulated area, and will have no impact on the water feature that crosses the subject property. The facility will not cross the Natural Heritage System or intrude into or result in the loss of a key natural heritage or the key hydrological feature, including the related landform features on the subject property. Nevertheless, the planning, design, and construction practices of this proposed telecommunication facility is designed to minimize any negative impacts and disturbance of the natural features and related functions on the subject property. The construction of the tower, compound, and access road are all outside of the farmed area of the subject parcel of land. The Vaughan Policy Planning and Environmental Sustainability Department reviewed the conformity letter provided by the Proponent and is satisfied it is appropriate to the type and scale of the proposal.

Ministry of Natural Resources and Forestry

The Ministry of Natural Resources and Forestry (MNRF) reviewed the information provided by the Proponent in the Information Gathering Form. As appropriate sedimentation and erosion controls will be implemented throughout the whole works and no suitable habitat for Bobolink and Eastern Meadowlark (both threatened species under Ontario's *Endangered Species Act*) is located on site, the MNRF has no further concerns with the proposed communication tower construction.

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Toronto and Region Conservation Authority

The Toronto and Region Conservation Authority (TRCA) commented that the location of the proposed tower is outside of its regulation limit. However, the TRCA offered the following recommendations for consideration by the Proponent:

As the proposed works appear to be within the estimated floodplain, a contingency plan should be included that speaks to the monitoring of weather several days in advance, as well as the evacuation of personnel and all unfixed items (that have the potential to spill, become entrained, or become obstructions to flow) from the floodplain.

The worksite should be isolated from the watercourse transecting the property, either through the use of non-woven 270-R (or better) silt fencing or a site-appropriate equivalent.

The functionality of the existing stormwater management regime should be maintained to the greatest extent feasible.

All grades within the floodplain should be maintained and disturbed soils stabilized.

The Owner shall satisfy the requirements of the TRCA. A condition of approval in this regard is included in the recommendation of this report.

Vaughan Development Engineering and Infrastructure Planning Department (DEIPS)

The Vaughan DEIPS Department reviewed the subject proposal and had no comments.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the following initiative set forth in the Vaughan Vision 2020 Strategic Plan:

i) Plan and Manage Growth & Economic Well-Being

The proposal will support the development of a high-speed telecommunications and data network throughout the City of Vaughan to contribute to economic competitiveness and support widespread access to such services.

Regional Implications

On April 23, 2009, York Region adopted Industry Canada's Protocol (CPC-2-0-03) to reduce redundancies and permit a more efficient and consistent approach for regulating telecommunication facilities, while providing an opportunity for local municipalities to determine individual procedures and protocols. The proposed compound area and telecommunication tower conforms to York Region's adopted Protocol.

The York Region Transportation and Community Planning Department has reviewed the proposed tower and has no comments.

Conclusion

The Vaughan Development Planning Department has reviewed the proposal for a 40 m high monopole telecommunication tower and associated radio equipment cabinet in accordance with the Official Plan, Zoning By-law 1-88, the City of Vaughan's Protocol for Establishing Telecommunication Tower/Antenna Facilities, and Industry Canada's Protocol for

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Radiocommunication and Broadcasting Antenna Systems. The installation of the proposed tower and accessory radio equipment is considered acceptable, and accordingly, the Vaughan Development Planning Department can support the approval of Site Development File DA.14.058, subject to the conditions in the recommendation of this report.

Attachments

1. Context Location Map
2. Location Map
3. Site Plan
4. Compound Layout & Tower Details
5. Cabinet Details - South and West Elevations
6. Cabinet Details - North and East Elevations

Report prepared by:

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(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)