

|                              |               |
|------------------------------|---------------|
| C                            | <u>19</u>     |
| Item #                       | <u>2</u>      |
| Report No.                   | <u>17(cw)</u> |
| Council - <u>April 21/15</u> |               |

DATE: APRIL 21, 2015

TO: HONOURABLE MAYOR & MEMBERS OF COUNCIL

FROM: JOHN MACKENZIE, COMMISSIONER OF PLANNING

RE: COMMUNICATION - COUNCIL MEETING, APRIL 21, 2015  
ITEM #2 - COMMITTEE OF THE WHOLE - APRIL 14, 2015

SITE DEVELOPMENT FILE DA.14.042  
LUCIA CORNO AND MICHAEL CORNO  
WARD 1 - VICINITY OF WESTON ROAD AND KIRBY ROAD

---

### Recommendation

The Commissioner of Planning recommends:

1. THAT Recommendation #1 as contained in Item #2 of the Committee of the Whole Agenda dated April 14, 2015, be deleted and replaced with the following:
  - "1. THAT Site Development File DA.14.042 (Lucia Corno and Michael Corno) BE APPROVED, to permit the installation of a 45 m high flagpole 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:
    - a) The Owner and the Proponent agreeing that this lease shall terminate in ten years of the commencement date of the lease;
    - b) The Proponent agreeing to remove the cell tower from the subject lands, unless prior to that date the following terms have been complied with:
      - i) The Owner and the Proponent acknowledge and agree that the municipal approval for the erection and operation of the Tower shall lapse on the termination date;
      - ii) The Proponent shall be free to reapply to the City of Vaughan and other appropriate authorities for the continued use of the cell tower, provided that in no case shall:
        - the fact of the prior municipal concurrence, and
        - the use of the subject lands for the cell tower prior to the termination date of the lease shall not be raised in support of such fresh application, nor may the Proponent claim a prior non-conforming use arising from such prior use.
    - c) Any party who objects to such fresh application shall not be prejudiced by the prior municipal concurrence for the cell tower's erection or use, so that for all purpose such fresh application shall proceed as if the prior use and any municipal approvals had never been granted."

## **Background**

On April 14, 2015, the Committee of the Whole adopted the following recommendation (in part) regarding Site Development File DA.14.042:

"That consideration of this matter be deferred to the Council meeting of April 21, 2015, and that staff provide a Communication to the Council meeting of April 21, 2015, with respect to the inclusion of a condition of site approval to permit the termination of the lease agreement or relocation of the tower to accommodate future development."

Since the Committee of the Whole Meeting of April 14, 2015, the Proponent (Bell Mobility) met with representatives from Trinistar Corporation, M.A.M. Group Inc. who submitted Communications C20 and C30 regarding this Site Development Application to discuss potential conditions to address the matters identified in the Communications. The Vaughan Planning Department has been advised that the parties have agreed to additional conditions regarding the proposal, including:

- a) The Owner and the Proponent agreeing that this lease shall terminate in ten years of the commencement date of the lease;
- b) The Proponent agreeing to remove the cell tower from the subject lands, unless prior to that date the following terms have been complied with:
  - i) The Owner and the Proponent acknowledge and agree that the municipal approval for the erection and operation of the Tower shall lapse on the Termination Date;
  - ii) The Proponent shall be free to reapply to the City of Vaughan and other appropriate authorities for the continued use of the cell tower, provided that in no case shall:
    - the fact of the prior municipal concurrence, and
    - the use of the subject lands for the cell tower prior to the termination date of the lease shall not be raised in support of such fresh application, nor may the Proponent claim a prior non-conforming use arising from such prior use.
- c) Any party who objects to such fresh application shall not be prejudiced by the prior use or prior zoning status permitting the cell tower's erection or use, so that for all purpose such fresh application shall proceed as if the prior use and any municipal approvals had never been granted.

The Vaughan Planning Department is satisfied that the proposed conditions agreed to by both parties will address Vaughan Council's recommendation to include a condition of approval to permit the termination of the lease agreement or relocation of the tower to accommodate future development. It is noted, that the City of Vaughan does not enter into an agreement with a landowner for the erection of a cell tower and that these conditions will be included in the lease agreement and the Vaughan Council resolution should the application be approved.

In addition, Condition c) above references the prior zoning status of the lands permitting the cell tower's erection or use. Zoning By-law 1-88 does not regulate the use of telecommunication towers, and therefore the Vaughan Planning Department recommends that this condition be modified to reference the City's original municipal concurrence for this cell tower, as identified in the recommendation of this Communication.

### Conclusion

The Vaughan Planning Department is satisfied with the conditions agreed to by the Proponent and Trinistar Corporation, M.A.M. Group Inc. regarding the proposed cell tower on the subject lands (11511 Weston Road.

Should the Committee concur, the revised recommendation can be approved to permit the proposed cell tower, subject to the conditions of approval identified in the recommendation section of this memorandum.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'John Mackenzie', with a large, stylized initial 'J' and a horizontal line extending to the right.

JOHN MACKENZIE  
Commissioner of Planning

MP/Ig

Copy to: Barbara Cribbett, Interim City Manager  
Jeffrey A. Abrams, City Clerk  
Grant Uyeyama, Director of Development Planning