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**Date:** November 2, 2021

**To:** Committee of the Whole

**Author:** Robert Brown, H. Ba, MCIP, RPP  
Manager, Planning Services

**RE:** Proposed Telecommunications Tower – 2804 Upcott Side Road,  
Part of Gore Lot A, Concession STR & Part 1, RP 12R 12215

**Report No.:** PS 2021-067

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## **RECOMMENDED ACTION**

1. That the Committee support a proposed telecommunication broadband tower and recommend that Council authorize Administration to provide the applicant with a Statement of Concurrence that sufficient public consultation has occurred and the Town's policy has been addressed.

## **BACKGROUND**

Forbes Bros. Ltd., on behalf of Xplornet Communications Inc. has submitted an application with the authorization of the registered owner of the subject lands, to construct a 45 m (148 ft.) lattice self-supporting broadband tower (See Appendix A – Location Map). Xplornet provides wireless internet services to primarily rural areas where physical infrastructure is costly to support.

In accordance with federal regulations and the Town's "Policy for the Development and/or Redevelopment of Communication and Broadcasting Facilities" Guidelines (See Appendix B), public consultation is required to be obtained for the construction of telecommunications towers. Public notice was given to registered property owners within 150 m of the proposed location by the applicant (See Appendix C). Included with this report is a copy of the site plan, specifications for the broadband tower and justification (Appendix D and D-1).

## DISCUSSION

The following was provided by the applicant in an information package submitted at the time of application, and provided in the public notice:

- i) **Description of Proposed Installation:** The design is a 45 m lattice self-supporting tower within a leased premise. Xplornet proposes to install an equipment shelter within the fenced portion of the premises. The shelter will house equipment necessary for the operation of the telecommunications facility.
- ii) **Location and Street Address:** The property is an irregular shaped 17.95 ha (44.36 ac.) farm with one outbuilding located in the southeast corner of Upcott Side Road and Highway 3. The total area of the tower and equipment is approximately 225 m<sup>2</sup> and shown on the Site Plan.

The tower will be situated on subject farm parcel in a fenced enclosure approximately 53 m southeast of the Upcott Side Road and approximately 80 m northeast of Highway 3. The nearest dwelling is to the north approximately 155 m. It will be accessed via the current access to the existing farm building on Upcott Side Road.

This property was determined by the Proponent to be located in the best area to accommodate the current service needs for broadband service infrastructure in the area. The applicant has also provided a review of its site selection.

The Town of Kingsville "Policy for the Development and/or Redevelopment of Communication and Broadcasting Facilities" is intended to "*facilitate cooperation between the proponent and the Town of Kingsville in effort to allow for the siting of facilities which balance demand for service and the impact on the community*".

In keeping with this goal, the Policy requires comment on the following four areas which need to be addressed as a requirement of a Statement of Concurrence:

1. guidance and direction for the appropriate siting of facilities to locations which meet the following criteria in order of priority of land use":

- a. sites co-located on existing structures in non-residential areas;

Comment: The proposed tower is new and is located on a non-residential property.

- b. sites outside of the sight lines of Lake Erie and Jack Miner Bird Sanctuary;

Comment: The proposed tower is not near Jack Miner and is not within the sight line of Lake Erie.

- c. sites outside of planned settlement areas;

Comment: The property is located outside of the settlement area.

- d. sites owned by the municipality;

Comment: This is located on private property through a lease agreement.

- e. sites co-located on existing structures in non-agricultural areas;

Comment: This is a new tower located on agricultural lands however it is sited on the property in a manner to minimize impact to the agricultural lands.

- f. sites co-located on existing structures in settlement and residential areas;

Comment: Refer to item 1.

- g. new structures on land owned by private land owners.

Comment: Refer to item 4.

- 2. To provide high design standards which recognize local considerations for natural heritage features and local aesthetics including:

- a. the placement, style and colour of all elements of the facility which blend with the surrounding environment;

Comment: The structure will be located on private property. The tower itself would generally be a galvanized or painted steel type surrounded by a fenced compound. Additional design elements that minimize the visual impact of the tower itself can be consider in consultation with the applicant, if applicable.

- b. the protection of the existing natural environment;

Comment: ERCA was circulated for comment and provided the following:

*“Telecommunication facilities are regulated by the Federal Government, under the Industry, Science and Economic Development or ISED. Radio Communication and Broadcasting Antenna Systems, antenna systems and towers, are also exempt from the Planning Act. However, ERCA acknowledges, that ISED requires that wireless telecommunication carriers consult with Local Land Use Authorities (Municipalities).*

*Development activities within regulated areas for radio communication and broadcasting antenna system providers, are also exempt from the regulatory approval process under Section 28 of the Conservation Authorities Act. Proposed Antenna Systems do not require permits from Conservation Authorities under the Conservation Authorities Act.*

*However, as technical advisors to Municipalities, ERCA recommends that consideration should be given to storm water management and the adequate setback of structures adjacent to natural hazard lands and the natural heritage system.”*

The proposed site is not within a regulated area or located in close proximity to a natural heritage feature.

- c. the enhancement of the natural landscape with plantings and visual screens;

Comment: The proposed location is next to a farm building and not near to residential properties that would require additional screening.

- d. maintaining appropriate setbacks from property lines and adjacent public uses (schools, community centres, day cares, etc.)

Comment: There are no issues with the proposed location in this regard.

- e. maintaining safe vehicular access and site lines onto public roads.

Comment: The location proposes to use the existing farm access. Traffic volume to and from the site are not significant enough to create an impact.

- 3. To provide an opportunity for public consultation and input through the approved procedure for the review and consideration of telecommunication and broadcasting facilities within the Town of Kingsville.

Comment: The applicant has provided information to the surrounding public based on the prescribed requirements. No public comment had been received at the time of writing of this report.

Telecommunication facilities are exempt from approval under the Planning Act as they are a required service. From a purely land use standpoint the provision of all infrastructure is supported in Provincial Policy and the Town's Official Plan. The location of this infrastructure is not always ideal as it is difficult to provide a service to an area of need without actually being in that area. Broadband service helps to provide service to more rural locations where more traditional infrastructure is not feasible.

4. To recognize the final approval authority of Industry Canada for the consideration of radio-communication, telecommunication and broadcasting facilities.

Comment: The approval authority for telecommunication towers is Innovation, Science and Economic Development Canada (ISED) formerly Industry Canada. In past consultation with (ISED) staff it was clarified that they do place a high level of consideration on public feedback and consultation with the local land use authority in establishing a co-operative approach to the siting of proposed towers. Requirements of either the Town or public which are considered reasonable requests are typically supported and incorporated into a proposed development. In cases where a statement of non-concurrence is issued the applicant can look at alternatives to a given proposal or request (ISED) to participate in dispute resolution.

Upon Council's direction, a letter would be provided to the applicant which will include a Statement of Concurrence provided Council is satisfied that adequate public consultation was conducted and that land use impacts and public comments have been addressed.

## **LINK TO STRATEGIC PLAN**

To become a leader in sustainable infrastructure renewal and development.

### **Link to Council 2021-2022 Priorities**

- ☐ COVID-19 and the health and safety of the community
- ☐ Customer Service: Training, Technology, Staff, Review Standards/Level of service
- ☐ Housing: Affordability (lot sizes, developer incentives, second dwellings, density, etc.)
- ☐ Greenhouse: lights & dark sky, odours (site plan compliance, bylaws, other tools)
- ☐ Programming Increase: Youth and Seniors
- ☐ A development plan for Downtown Kingsville / Main Street
- ☐ Financial savings: Schools closings, Migration Hall
- ☐ Economic Development: strengthen tourism/hospitality
- ☐ COVID - economic recovery
- ☐ Communications: Strategy – Policy (social media), Website refresh and other tools, Public engagement
- ☐ Housing: Migrant Worker Housing – Inspections (Building/Fire), regulate, reduce, or increase
- ☐ Committees / Boards: Review and Report
- ☐ Policy Update: Procedural Bylaw
- ☒ Economic Development: diversify the economy, create local jobs, industrial, Cottam
- ☐ Infrastructure (non-Municipal): Union Water expansion & governance
- ☐ Infrastructure (Municipal): Asset Management Plan update, the infrastructure funding deficit

- ☐ No direct link to Council priorities

## **FINANCIAL CONSIDERATIONS**

There are no significant financial implications resulting from the proposed broadband tower.

## **CONSULTATIONS**

Notice of the Committee of The Whole on November 15<sup>th</sup> (COTW) was given by the applicant on October 13, 2021 by first class mail to all land owners within 150 m (492 ft.) of the proposed location of the cell tower.

In accordance with standard practice for review of telecommunication tower requests applicable external agencies and internal departments have been circulated. The following comment has been provided.

### **1) Essex Region Conservation Authority (ERCA)**

ERCA comment was noted in the report.

### **2) Technical Advisory Committee**

Building Services will require a building permit to be submitted.

The Technical Advisory Committee has no technical objections to the proposed tower.

### **3) County of Essex**

The County was circulated however they indicated that they had no comment at the tower was not within the County Road 34 corridor.

### **4) Ministry of Transportation (MTO)**

The original submission by Forbes Bros Ltd. showed the tower closer to the MTO corridor. After consultation with MTO the current location east of the existing farm building versus west of it is acceptable.

*Robert Brown*

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