

**SUBJECT:****RECOMMENDATION REPORT**

Jack Moll c/o Fontur International Inc.

Application for Site Plan Approval for a proposed 50.0 metre high monopole style telecommunications tower within a 100 square metre equipment compound at 9775 9th Line

File No. SC 14 122111

**PREPARED BY:**Stephen Corr, ext 2624  
Planner II, East District**REVIEWED BY:**Sally Campbell, MCIP, RPP, ext 2645  
Acting Manager, East District

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**RECOMMENDATION:**

- 1) That the report dated March 24, 2015, entitled "RECOMMENDATION REPORT, Jack Moll c/o Fontur International Inc., Application for Site Plan Approval for a 50.0 metre high monopole style telecommunications tower within a 100 square metre equipment compound at 9775 9<sup>th</sup> Line, File No: SC 14 122111", be received;
- 2) That the presentation by Shehyar Khan, with Fontur International Inc., regarding the proposed telecommunications tower, be received;
- 3) That the application for site plan approval be approved, subject to conditions of Site Plan Approval as identified in Appendix 'A' to this report;
- 4) That Industry Canada be advised in writing, of this approval (concurrence), and that this approval is with respect to this location only;
- 5) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

This report presents an overview and evaluation of the site plan application submitted by Jack Moll c/o Fontur International Inc. This report recommends approval (concurrence) of the site plan application, subject to conditions.

**BACKGROUND:****Property and Area Context**

The subject property is irregular in shape and has a lot area of approximately 0.14 hectares (0.36 acres). The site is located on the east side of 9<sup>th</sup> Line, north of Donald Cousens Parkway and south of Major Mackenzie Drive East, as shown on Figures 1 and 2. The site is developed with an existing one storey single detached dwelling, a detached

garage and a shed. The remainder of the site consists of mature vegetation and grass covered fields. The proposed site plan is shown in Figure 3.

Surrounding land uses include:

- i) Rouge Park to the north and east;
- ii) A contractors yard and a place of worship (Cornerstone Church) that is currently under construction, both on the west side of 9<sup>th</sup> Line; and
- iii) Residential dwellings to the south, within the communities of Upper Cornell (across Donald Cousens Parkway) and Greensborough (across 9<sup>th</sup> Line and Donald Cousens Parkway).

### **Description of Proposed Telecommunications Tower**

On September 19, 2014, Fontur International Inc, acting on behalf of the property owner, (Jack Moll) and telecommunication infrastructure provider, SBA Canada, submitted an application for site plan approval to permit a 50.0 metre high monopole style telecommunication tower on the subject property, within a 100 square metre equipment compound. The proposed telecommunication tower is anticipated to provide cellular service to Wind Mobile as an anchor tenant, and will provide opportunities for co-location of up to three other cellular providers on the same tower.

As shown in Figure 3, the proposed tower is located on the south portion of the site. Figures 4 and 5 show the elevation of the proposed 50.0 metre monopole style telecommunication tower. The tower is proposed to be set back approximately 9.5 m (31.2 ft) from 9<sup>th</sup> Line, which is a Region of York right-of-way. The tower and related mechanical equipment will be located within a compound, which will be enclosed by a chain link fence and screened with landscaping. This compound will be set back approximately 4.5 m (14.8 ft) from 9<sup>th</sup> Line.

### **DISCUSSION:**

#### **Jurisdiction**

The Federal Government has exclusive jurisdiction over telecommunication facilities. The Radiocommunication Act appoints Industry Canada as the approval authority for the location and operation of telecommunication facilities in Canada. Industry Canada does recognize the importance of municipal consultation as part of the approval process and as such, encourages proponents to consult with the local municipality to obtain their input and comments.

#### **Official Plan, Zoning and Greenbelt Plan**

The subject site is designated 'Hazard Lands' in the in-force City of Markham Official Plan (revised 1987) and 'Greenway' in the 2014 Official Plan (not yet in-force). The site is Zoned 'Agricultural (A1)' under By-law 304-87.

Federal regulations regarding telecommunication infrastructure supercede the policies and by-laws of local land use authorities. The proposed telecommunication tower and related infrastructure is not subject to conformity with the City's Official Plan and Zoning By-laws.

The subject site is located within an area designated 'Protected Countryside' in the Provincial Greenbelt Plan (2005). Section 4.2 of the Greenbelt Plan permits infrastructure within areas designated 'Protected Countryside'.

**City's Telecommunication Policy 2012**

On January 24, 2012, Council adopted a policy regarding telecommunication infrastructure entitled "Policy for Establishing Telecommunication Facilities". Under the City's current telecommunication policy, the proposed tower is not exempt from the public consultation process.

On July 15, 2014, Industry Canada's *Radiocommunication and Broadcasting Antenna Systems, Client Procedures Circular* came into effect, which outlines the public consultation procedures to be followed by telecommunication providers proposing new telecommunication infrastructure. Accordingly, the City's telecommunication policy is in the process of being updated to reflect the new procedures recently published by Industry Canada. The updated City of Markham telecommunication procedures will be presented to Development Services Committee through a separate report. The public consultation process followed with respect to this application complies with the City's current telecommunication policy, and the new procedures published by Industry Canada.

**Public Consultation Meeting**

The City's telecommunication policy requires circulation of proposed towers exceeding a height of 15.0 metres to owners of all properties within a radius 120 metres or 3 times the height of the proposed telecommunication tower, measured from the base of the tower or the outside of a supporting structure, whichever is greater. In this instance, the required circulation boundary is 150 metres, measured from the perimeter of the 100 square metre equipment compound surrounding the telecommunication tower. Given the rural context of the site, the Ward Councillor requested an expanded circulation boundary to include properties within the communities of Greensborough and Upper Cornell, as shown in Figure 6. A notification package regarding the proposed telecommunication tower was mailed to residents within this boundary by the applicant, inviting 456 property owners to a public consultation meeting. Additionally, the notification package was mailed to the Greensborough and Cornell Ratepayers Associations by the applicant, and newspaper advertisements were placed in the *Markham Economist & Sun* and *Thornhill Liberal*, also inviting residents to attend the public consultation meeting.

The public consultation meeting was held on January 15, 2015, which was attended by the applicant, Ward Councilor and Staff. No members of the public attended the public consultation meeting. Written correspondence on the proposal has been received via email, including one email in support and three emails in objection. The emails objecting to the proposed telecommunication tower cited concerns with respect to its location in proximity to residential areas, visual impacts and health concerns.

**Municipal Concurrence**

As per City policy, Fontur International Inc. has made a request for Municipal Concurrence. The proponent is required to make a deputation to the Development

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Services Committee to seek approval of the site plan application. If the application is approved by the Development Services Committee, a copy of the resolution and the approved plan will then be forwarded to Industry Canada for final approval.

### **REGION OF YORK COMMENTS**

In a letter dated October 22, 2014, the Region of York indicated no objection to approval of this application.

### **TRCA COMMENTS**

In a letter dated February 5, 2015, the Toronto Region Conservation Authority (TRCA) requested additional landscaping to buffer the naturalized areas to the south and east. The applicant has since provided updated landscaping plans to address this comment.

In its letter, the TRCA deferred comments regarding impacts to the Rouge Park resulting from the telecommunication tower to Parks Canada, as they will eventually be acquiring the adjacent lands. Comments from Parks Canada are addressed in the following subsection. The TRCA also confirmed that given that the proposed development is federally regulated, it is exempt from a permit under the Conservation Authorities Act. The applicant may submit a permit application to the TRCA on a voluntary basis.

### **PARKS CANADA COMMENTS**

It is anticipated that the adjacent lands to the east, which are part of the Rouge Park, will be acquired by Parks Canada. These adjacent lands are currently under the ownership of the TRCA and the City of Markham. It should be noted that it is not City practice or a requirement of the City's Telecommunication Policy to circulate site plan control applications to Parks Canada. However, given the TRCA comments noted above, staff sought input from Parks Canada regarding the proposed telecommunication tower. In an email dated February 24, 2015, Parks Canada identified that although a location this close to the Rouge Park is not ideal, it is acknowledged that the proposed tower will improve cellular service to the surrounding area, and that opportunities for co-location of cellular providers would reduce the need for additional towers within the vicinity.

Parks Canada requested that if the tower is to be erected, that the City support Parks Canada's recommended conditions to include down shielded lighting within the equipment compound, and to provide upgraded black chain link fence materials and natural landscaping around the equipment compound. These conditions will be addressed as part of the City's review and implemented into the plans prior to site plan approval.

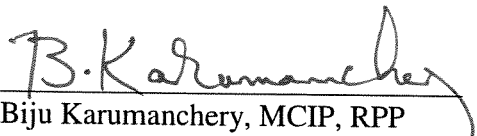
Parks Canada has also requested that they be provided additional information relating to erosion and sediment control measures prior to construction of the telecommunication tower and equipment compound. This information is standard City Engineering requirements which will be provided to Parks Canada for information. Finally, Parks Canada requested access to the site to monitor potential bird strikes. Given that tower will be required to be designed in accordance with the City's Bird Friendly Guidelines and therefore will be constructed using non-reflective materials with minimal artificial lighting, staff consider that the potential for bird strikes will be extremely limited.

However, if Parks Canada wish to monitor the situation, access agreements will need to be arranged between Parks Canada and the Owner of the subject lands, outside of the site plan approval process. Parks Canada could make this request of Industry Canada as part of the Federal Government licensing process for telecommunication towers.

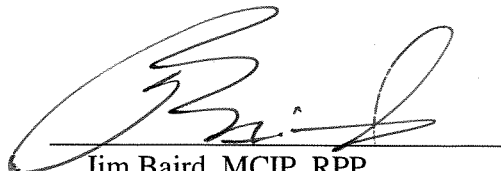
**CONCLUSION:**

The irregular shaped subject site (see Figure 4) presents unique constraints in siting the proposed telecommunication tower and related equipment compound. Staff are of the opinion that the proposed structure is located at a suitable location on the site, that maintains a sufficient setback from 9<sup>th</sup> Line to the west, natural heritage features to the east (extending into Rouge Park) and from existing buildings located on the north side of the property. Enhanced landscaping around the perimeter of the equipment compound will mitigate any potential visual impact of the tower at street level. While the proposed tower will be visible from the nearby communities of Greensborough and Upper Cornell, staff are of the opinion that given the distance separation of over 150 m (492 ft) together with the slender profile and sensitive colour treatment of the tower that it's visual appearance will not be obtrusive. Furthermore, given the rural context of the site the tower will be viewed against the backdrop of existing wooded areas. For these reasons staff consider that, while three letters of objection related to the visual impact were received, the proposed tower will not result in a demonstrable negative visual impact on nearby communities. Although located outside the established Urban Boundary, the tower will provide improved wireless service to the surrounding area, including urban areas of City to the south and southwest.

For the reasons identified in this report, Staff recommend approval of the 50.0 metre high monopole style telecommunications tower contained within a 100 square metre (1,076 square feet) fenced equipment compound at 9775 9<sup>th</sup> Line, subject to conditions attached in Appendix 'A'. Staff also recommend that Industry Canada be advised in writing, of this approval (concurrence), and that this approval is with respect to this location only.

**RECOMMENDED BY:**

Biju Karumanchery, MCIP, RPP  
Acting Director, Planning and Urban Design



Jim Baird, MCIP, RPP  
Commissioner, Development Services

**ATTACHMENTS:**

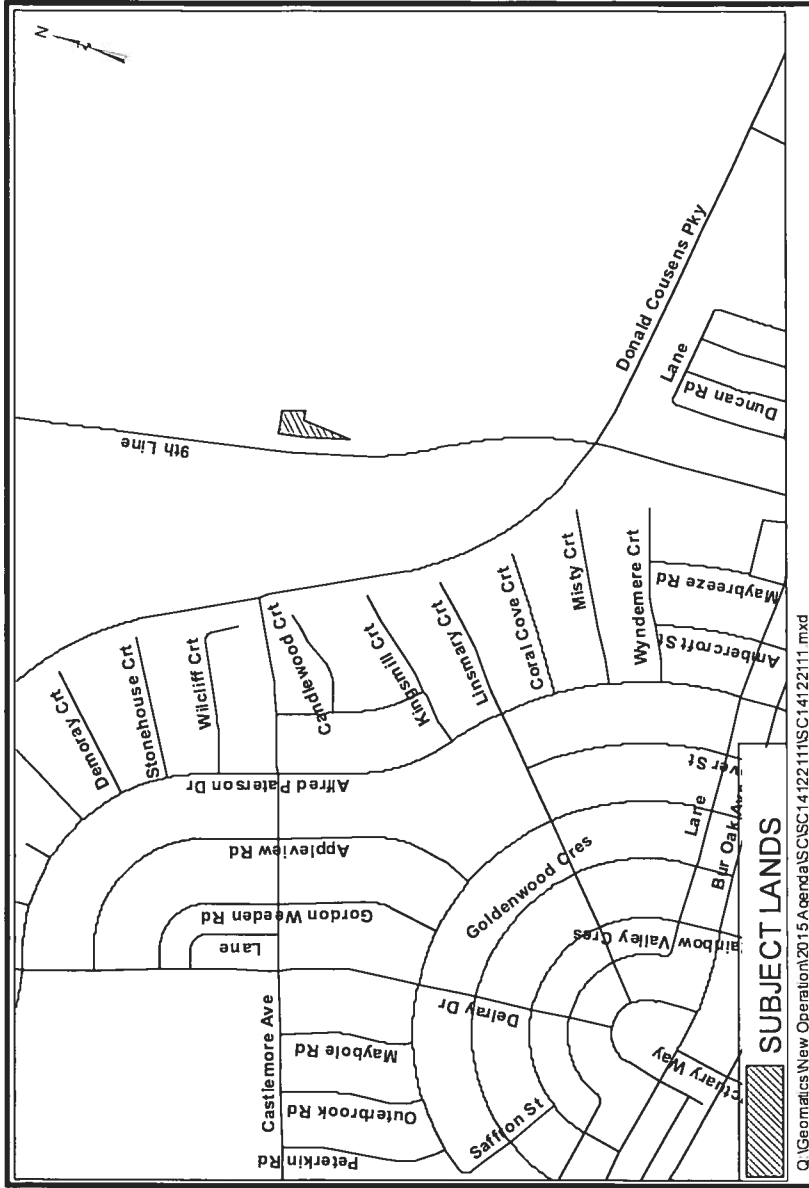
Figure 1	Location Map
Figure 2	Air Photo
Figure 3	Compound and Telecommunication Tower Site Plan
Figure 4	Tower Elevation
Figure 5	Photographic Elevation Rendering
Figure 6	Public Notification Circulation Boundary
Appendix 'A'	Conditions of Site Plan Approval

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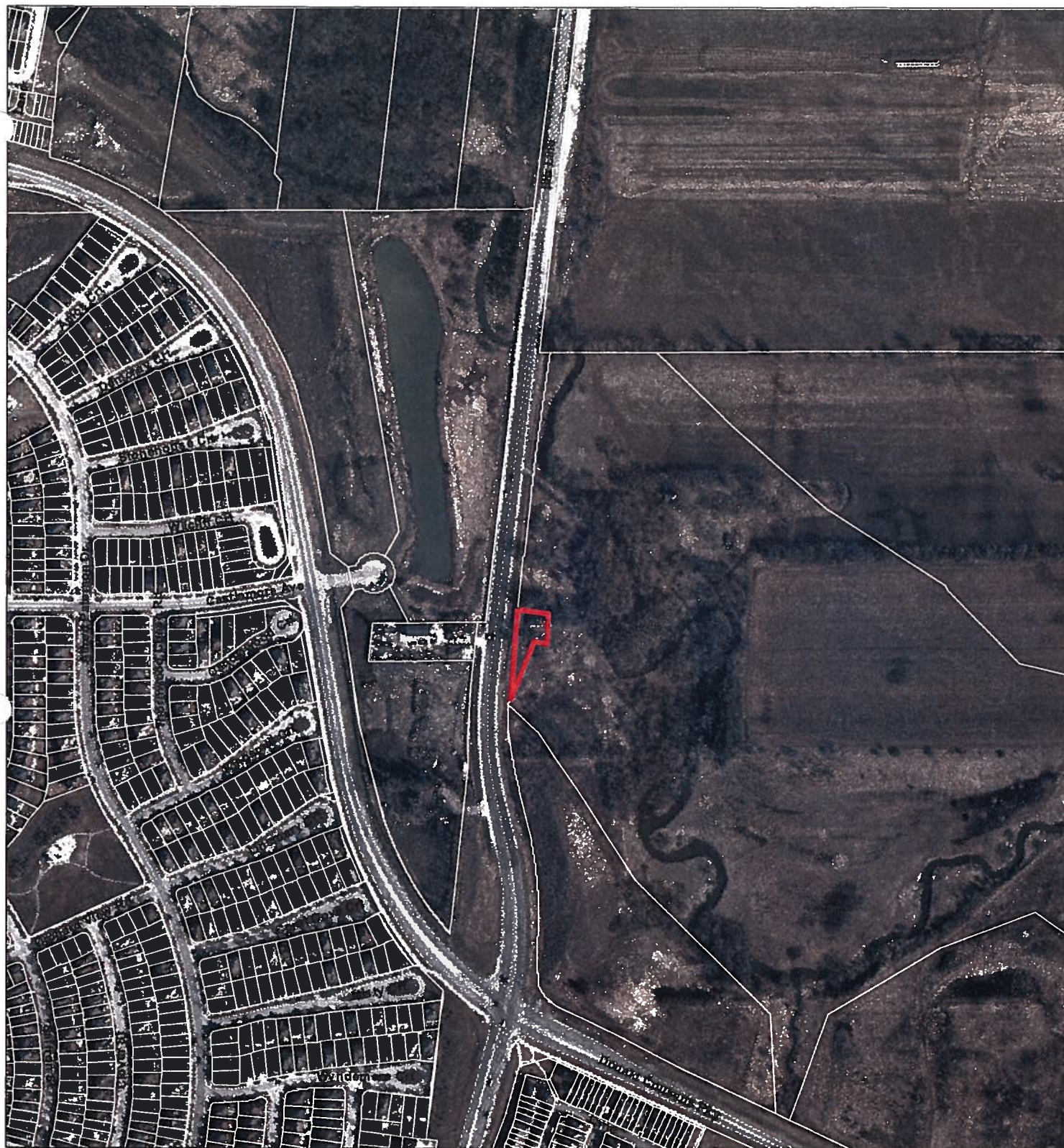
## **Appendix 'A'**

### **Conditions of Site Plan Approval**

1. The owner shall submit final drawings, and comply with all requirements of the City and authorized public agencies, to the satisfaction of the Commissioner of Development Services;
2. That the telecommunication tower be designed in a manner that provides for co-location opportunities for other cellular providers on the same tower;
3. That a building permit be obtained from the City for the associated mechanical equipment compound; and,
4. That site plan approval shall lapse after a period of three years commencing March 24, 2018, should the development not proceed in a timely manner.







# AIR PHOTO

APPLICANT: JACK MOLL  
c/o FONTUR INTERNATIONAL INC.  
9775 9TH LINE

FILE No. SC. 14122111 (SC)

 SUBJECT LANDS

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DATE: 09/02/2015



DEVELOPMENT SERVICES COMMISSION

Drawn By: CPW

Checked By: SC

FIGURE No.2

NINTH LINE

DWELLING

GARAGE

SHED

PROPOSED TELECOMMUNICATION  
TOWER AND EQUIPMENT COMPOUND

# SITE PLAN

APPLICANT: JACK MOLL  
c/o FONTUR INTERNATIONAL INC.  
9775 9TH LINE

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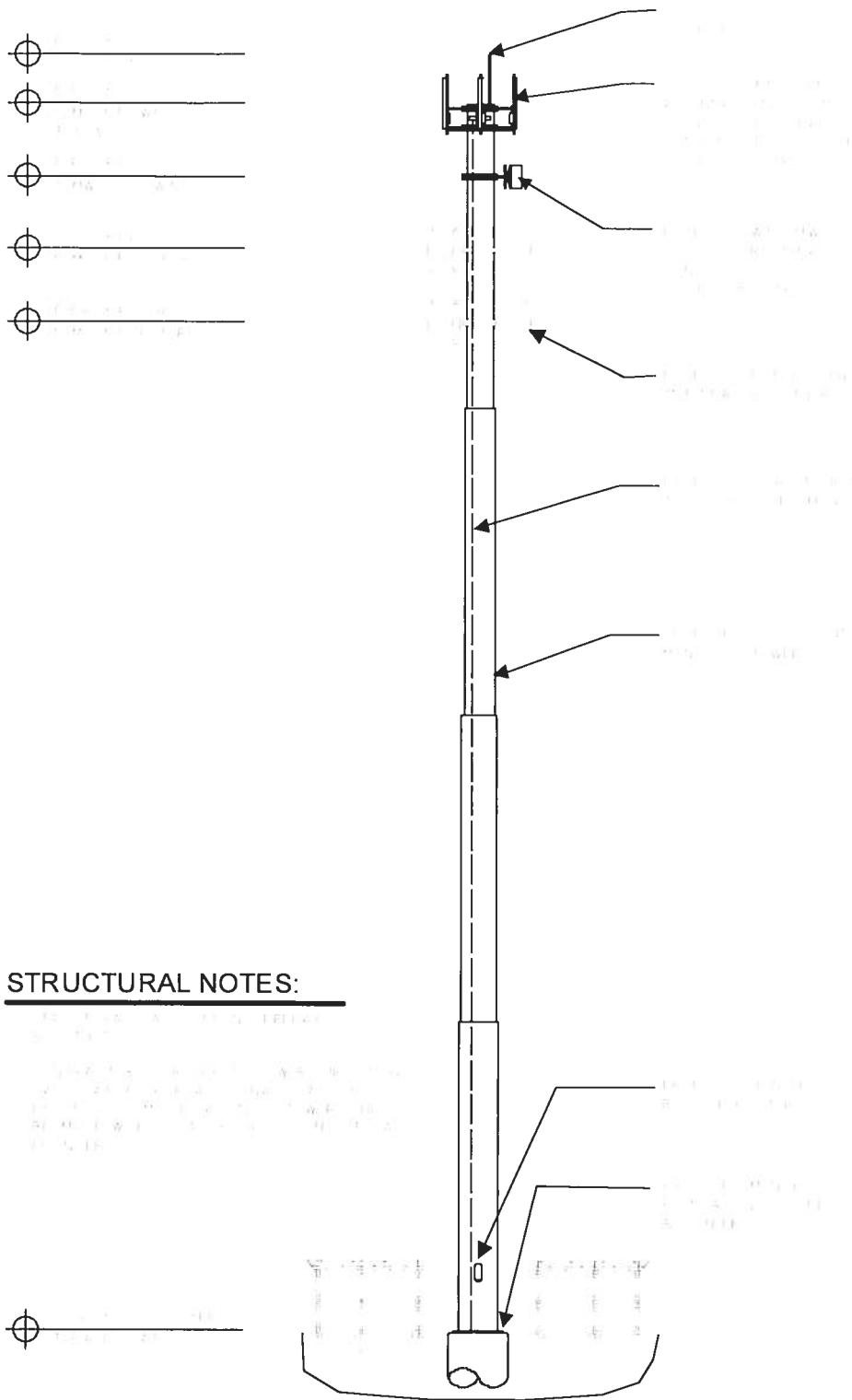
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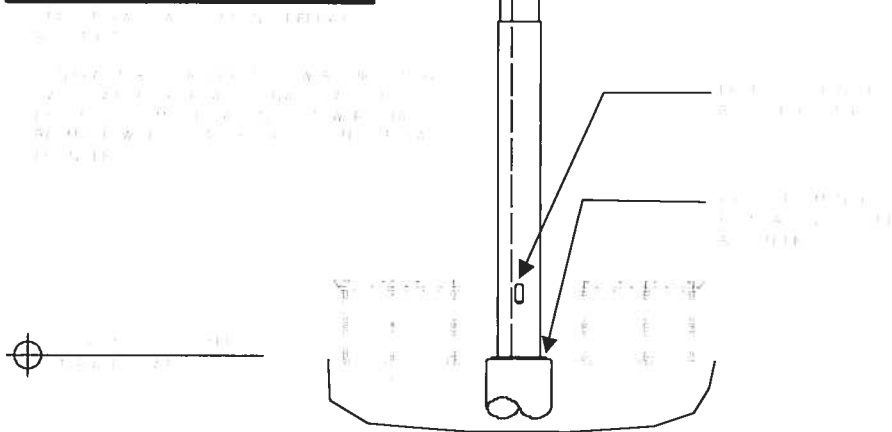
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FIGURE No. 3





# **STRUCTURAL NOTES:**



## **TOWER ELEVATION**

APPLICANT: JACK MOLL  
c/o FONTUR INTERNATIONAL INC.  
9775 9TH LINE

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# PHOTO ILLUSTRATION

APPLICANT: JACK MOLL  
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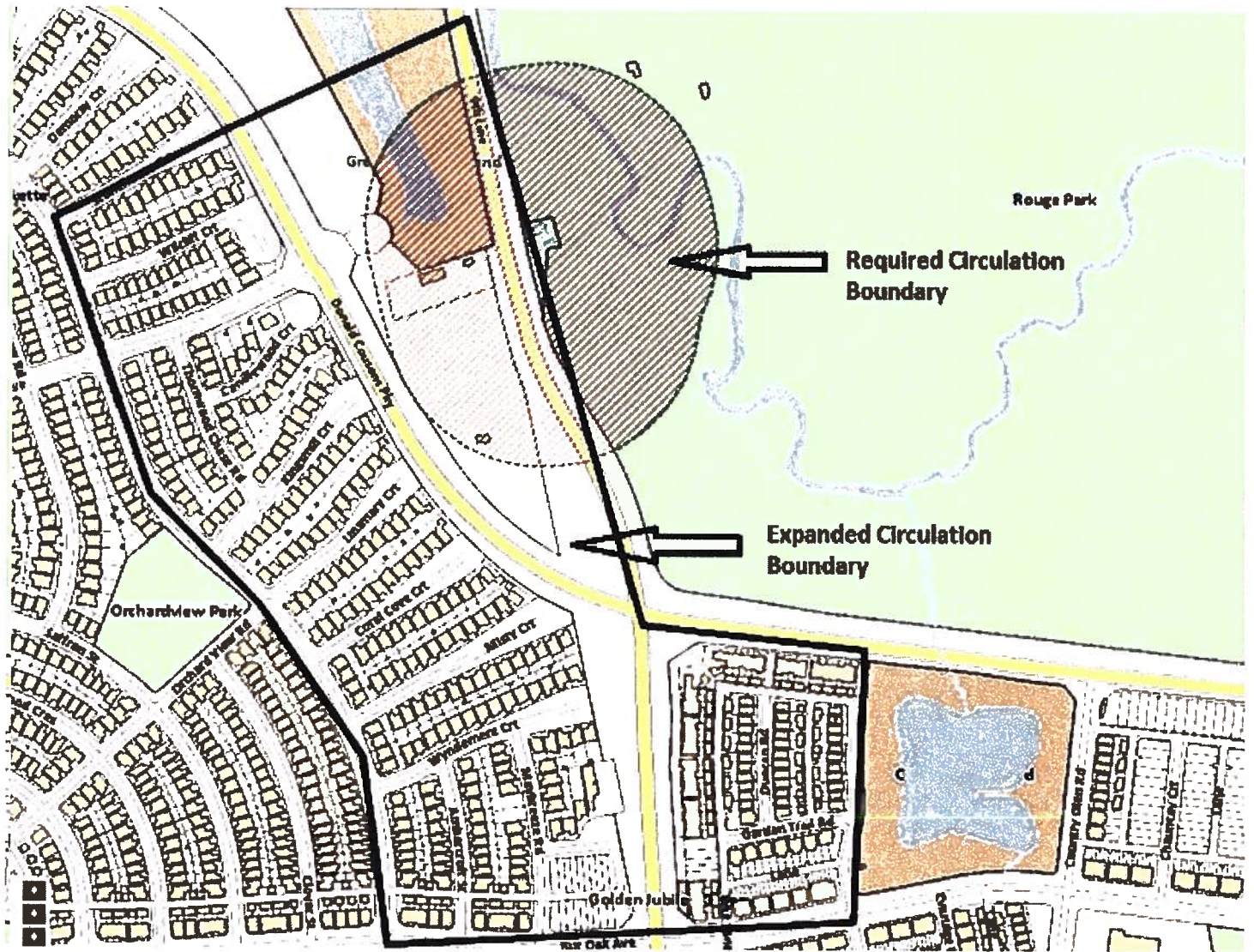


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FIGURE No. 5



# PUBLIC NOTIFICATION CIRCULATION BOUNDARY

APPLICANT: JACK MOLL  
 c/o FONTUR INTERNATIONAL INC.  
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FIGURE No. 6