

Title: Rogers Communications Inc.

Date: November 20, 2019

STAFF REPORT

Proponent:

Rogers Communications Inc.

Agent:

Forbes Bros Ltd.

Location:

PIN 73478-1048, Parts 1 & 2, Plan 53R-17777, Part of Lot 4, Concession 6, Township of Broder (2345 Regent Street, Sudbury)

Application:

To engage in public consultation and obtain a position of concurrence or non-concurrence from the City of Greater Sudbury that is to be provided to Innovation, Science and Economic Development Canada (ISED) with respect to a proposed ground-based antenna system.

Proposal:

The proposed ground-based antenna system would take the design form of a flush mount mono-pole and have a maximum height of 40 m (131.23 ft) and would be located on a rear portion of the lands and to the south-west of the existing retail store building located on the subject lands. The antenna system would be accessed via the existing driveway entrance onto Regent Street.

Jurisdiction and Roles:

Under the [Radiocommunication Act](#), the Minister of ISED has sole jurisdiction over inter-provincial and international communication facilities. The final decision to approve and license the location of an antenna system is made only by ISED.

The role of the City of Greater Sudbury is to issue a statement of concurrence or non-concurrence to ISED. This statement is to consider only the land use compatibility of the proposed antenna system, the responses of affected residents and adherence by the proponent to public consultation protocol requirements. By-law 2017-5, as amended, referred to as the Delegation By-law for the City of Greater Sudbury has identified the Manager of Development Approvals as being the City's Designated Municipal Officer (DMO) for the purposes of implementing the City's [Radio-communication and Broadcasting Antenna Systems Public Consultation Protocol](#).

Proponents themselves are tasked with strategically locating antenna systems to satisfy technical criteria and operational requirements in response to public demand. Throughout the siting process, proponents are expected to adhere to the antenna siting guidelines set out by both ISED and the City of Greater Sudbury. It is also noted that a proponent must additionally comply with all related federal legislation and regulations such as Health Canada's [Safety Code 6](#), the [Canadian Environmental Assessment Act](#) and any [NAV Canada](#) and [Transport Canada](#) painting and lighting requirements for aeronautical safety.

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Site Description & Surrounding Uses:

The subject lands are located on the south side of Regent Street and to the south east of Loach's Road in the community of Sudbury. The lands have a total lot area of approximately 1 ha (2.47 acres) with approximately 145 m (475.72 ft) of lot frontage onto Regent Street. The lands at present contain a retail store. The proposed antenna system would be located on a rear portion of the lands and to the south west of the existing retail store building that is located on the subject lands.

Surrounding uses are mixed with commercial, business industrial and mixed light industrial/service commercial uses being located along Regent Street. There are also urban residential uses having a mix of densities and built forms located in the general area. There is a public secondary school located to the immediate north of the lands. There are also a number of large and vacant parcels to the south and to the east of the subject lands that are presently zoned to permit light and general industrial uses, urban residential uses and future development uses. The vacant lands are generally well vegetated.

Departmental/Agency Circulation:

The application for public consultation was circulated to all relevant agencies and departments. The local ward councillor was also provided with a copy of the circulation package.

Development Engineering and Water/Wastewater have each advised that they have no concerns from their respective areas of interest.

Building Services has advised that ground-based antenna systems are permitted in all zones as per Section 4.40.1 b) of the City's Zoning By-law and further that such antenna systems are not subject to [Ontario Building Code](#) requirements. It is however noted by Building Services that any accessory building having a floor area greater than 10.03 m² (108 ft²) are subject to the Ontario Building Code and would require a building permit.

The City's Site Plan Control Engineer has noted that there is an existing site plan control agreement that was registered on-title on May 17, 2019 and remains applicable to the subject lands. It is noted that Schedule "B" to the existing site plan control agreement depicts parking, loading, water and sanitary servicing, garbage enclosures and fire access routes in the rear yard and approximately in the location where the proposed antenna system would be located. The City's Site Plan Control Engineer is requesting that these matters be addressed and that more information be provided with respect to how the proposed antenna system can be accommodated on the lands without negatively impacting the existing site plan control agreement which addresses the above noted site planning matters.

Staff advises the proponent of the above comments and would encourage that communication where necessary take place between the proponent and the agencies and departments that have provided comment. Staff would further note that at this time none of the comments received have direct impact or raise concern with respect to the proposed antenna system from a land use planning perspective.

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Public Consultation:

Pre-Consultation

Pre-consultation for the proposed antenna system was commenced by Forbes Bros Ltd. on behalf of Rogers Communications Inc. with City staff on April 15, 2019. The City's Development Approvals Section confirmed to the proponent on May 6, 2019, that the proposed antenna system was subject to "Area D" under the City's *Radio-communication and Broadcasting Antenna Systems Public Consultation Protocol*. Those antenna systems located within "Area D" require an internal staff review and circulation for comment to all relevant agencies and departments, as well as a statement of concurrence or non-concurrence from Council.

The letter of confirmation dated May 6, 2019, to the proponent also included an information package confirming the City's preferences and requirements for an application for public consultation should the proponent choose to proceed. The owner of the subject lands was also copied on this correspondence for information purposes.

"Area D" – Public Consultation Requirements

Those antenna systems which are subject to the City's Protocol and located within "Area D" as identified in Schedule "A" – Modified Review Process to Encourage Locations Away From Residential Areas are required to proceed through an internal department and agency review and must also proceed to Planning Committee and Council to obtain a position of concurrence or non-concurrence that is then forwarded to ISEDC. Antenna systems located within "Area D" are exempt from Section 8.0 of the City's Protocol given their increased distance from the nearest Residential Area. "Area D" includes proposed antenna systems that are greater than 30 m (100 ft) in height and located between 150 m (492.13 ft) and 300 m (984.25 ft) from the closest Residential Area.

Internal Review

Staff has since completed an internal circulation and review of the application for public consultation from a land use planning perspective and is now bringing forward this report for Planning Committee's consideration. The City's Protocol in this instance also requires that Planning Committee and Council provide a position of concurrence or non-concurrence with respect to the proposed antenna system to ISEDC.

Land Use Planning Analysis:

Proposed Antenna System

The proposed ground-based antenna system would take the design form of a flush mount mono-pole and have a maximum height of 40 m (131.23 ft) and would be located on a rear portion and to the south-west of the existing commercial retail building located on the subject lands. The antenna system would be accessed via the existing driveway entrance onto Regent Street. The proponent advises that an approximate 4.45 m² (47.90 ft²) pre-fabricated, walk-in equipment shelter will be located at the base of the proposed antenna system. The proposed antenna system and equipment shelter will be enclosed by a 2.4 m (7.87 ft) chain-link fence that is intended to prevent public access. Staff notes that the proposed antenna system is to be located on existing cleared land and further clearing of the land will be minimal.

The proponent has submitted a site plan sketch along with aerial photography, digital renderings, which together depict the location and design of the proposed ground-based antenna system that would take the design form of a flush mount mono-pole. The site plan, aerial photography, and digital renderings are attached to this report for reference purposes.

Closest Residential Area

The City's Protocol defines a Residential Area as, "... the location on a lot occupied by an existing residential dwelling or lands within a Residential Zone or lands designated Living Area 1 or 2 in the Official Plan for the City of Greater Sudbury." The proponent has indicated that the closest Residential Area is approximately 244 m (800.52 ft) to the north of the subject lands. Staff has reviewed this calculation and would agree that the closest Residential Area is an existing multiple dwelling development accessed from Loach's Road. This calculation was utilized by the City's DMO to determine the extent of public consultation necessary for the proposed antenna system installation, but is also important in terms of assessing the proposed antenna system from a development guidelines perspective as reviewed in the next section of this report.

Development Guidelines

Section 6.0 of the City's Protocol outlines development guidelines for proponents to consider with respect to location and design preferences for a proposed antenna system. Section 6.0 is intended to encourage designs that integrate with surrounding land uses and the public realm. Through public consultation on a proposed antenna system, it is acknowledged by ISEDC that a local municipality is well situated to contribute local knowledge to a proponent that is helpful in terms of influencing the appropriateness of a siting-location, as well as the development and design (including aesthetics) of a proposed antenna system.

With respect to the City's location and design preferences, staff has the following comments:

1. Co-location was considered by the proponent and they have advised that no existing antenna system locations (ie. ground or roof top) are located within 500 m (1,640.42 ft) of the proposed new antenna system that can accommodate the physical infrastructure required to provide the intended signal coverage improvements. Staff is supportive of the flush mount mono-pole antenna system design given the urban location and context that is being proposed and would note that some future co-location opportunities would exist given the flush-mount design of the mono-pole. The proponent has also indicated in their information package that they are willing to consider all future co-location requests as it pertains to the proposed antenna system;
2. The subject lands are located within a mixed-use corridor along a primary arterial road identified as such in the City's Official Plan. Commercial and industrial areas are identified as being preferred locations for new antenna systems in the City's Protocol. Staff also note that no view corridors, public views or vistas of important natural and/or man-made features would be negatively impacted should the proposed antenna system be constructed in this location. Staff has also reviewed the streetscape and surrounding area and are satisfied that the scale of the proposed antenna system is appropriate;
3. The proposed antenna system would not be located in any discouraged locations as identified in Section 6.1 c) of the City's Protocol; and,
4. Staff is generally satisfied with the style and structure, colour, availability of adequate buffering and screening, appropriateness of proposed yards and access areas and equipment shelters that would be associated with the proposed antenna system. Signage and lighting on the proposed antenna system are to be provided only if required by Transport Canada and/or NAV Canada. The proponent has not indicated any security lighting is required however staff would advise that any such ground level lighting be kept to a minimum. Advertising signage has also not been proposed.

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Staff is satisfied that in general the proposed antenna system meets the City's development guidelines requirements and there are no areas of concern with respect to the proposed antenna system from a land use planning perspective.

Position of Concurrence or Non-Concurrence

Staff advises that no major areas of concern with respect to land use planning have been identified with respect to the development guidelines set out under Section 6.0 of the City's Protocol. The application was also circulated to relevant agencies, departments and the local ward councillor and no major concerns were identified.

The City's Site Plan Control Engineer has however requested that additional information be provided and that the existing site plan control agreement registered on-title be considered by the proponent in locating the antenna system appropriately on the lands. Section 9.1 of the City's Protocol allows the DMO to provide a position of concurrence with conditions that are related to land use planning matters. It is therefore recommended that the DMO be directed to provide ISEDC with a position of concurrence on the proposed antenna system that should include the following two conditions:

1. That the proponent address those concerns related to the existing site plan control agreement applicable to the subject land to the satisfaction of the Director of Planning Services; and,
2. That Innovation, Science and Economic Development Canada be advised by the Director of Planning Services if and once all concerns related to the existing site plan control agreement have been addressed, prior to the approval and installation of the antenna system on the subject lands.

Staff notes that a position of concurrence may be rescinded if following said issuance it is determined that a misrepresentation or a failure to disclose all pertinent information has occurred. It should be further noted that there are no recommended conditions of concurrence with respect to this particular antenna system that is being proposed. The duration of concurrence is a maximum of three years from the date that the City's DMO notifies ISEDC of said concurrence.

The City's Protocol allows for a one-time extension to a position of concurrence for a period not exceeding one year in length provided the proponent demonstrates to the DMO that no substantial change in land use planning circumstances within the vicinity of the proposed antenna system has occurred since initial concurrence was given.

Summary:

Staff advises that Forbes Bros Ltd. on-behalf of Rogers Communications Inc. has completed the public consultation requirements as set out in the City's *Radio-communication and Broadcasting Antenna Systems Public Consultation Protocol* to the satisfaction of the City's DMO. Staff has completed an internal review of the proposed antenna system from a land use planning perspective and has no major concerns. Staff is also satisfied that the proposed antenna system raises no areas of concern with respect to those development and design preferences that are identified in the City's Protocol. Staff would therefore recommend that ISEDC be advised by the DMO of a position of concurrence from the City as it pertains to the subject lands referenced in this report and specifically the antenna system that was considered during this particular public consultation process. Staff would further recommend that a position of concurrence be provided for this particular antenna system installation with a condition that those comments provided by the City's Site Plan Control Engineer be addressed prior to the construction or installation of the proposed antenna system as described in this report.