

Title: Rogers Communications Inc.

Date: August 19, 2019

STAFF REPORT

Proponent:

Rogers Communications Inc.

Agent:

Forbes Bros Ltd.

Location:

PIN 02123-0002, Parcel 16869, Lot 4, Concession 5, Township of McKim (960 Notre Dame Avenue, 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 mono-pole antenna system would have a maximum height of 50 m (164 ft) and would be located on a north-easterly portion of the subject lands. The antenna system would be accessed via the existing driveway entrance onto Notre Dame Avenue.

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 east side of Notre Dame Avenue and to the south of Lasalle Boulevard in the community of Sudbury. The lands have a total lot area of approximately 9.55 ha (23.60 acres) and have approximately 330 m (1,082.68 ft) of lot frontage on Notre Dame Avenue. The lands are owned by the City of Greater Sudbury and contain an existing long term care facility (ie. Pioneer Manor). The proposed antenna system would be located in the north-east corner of the lands and to the east of an existing parking area.

Surrounding uses are generally mixed with urban residential, commercial and lighter industrial uses being located on the west side of Notre Dame Avenue and a large commercial office to the immediate north at the intersection of Notre Dame Avenue and Lasalle Boulevard. The proposed antenna system would immediately abut parking areas on the subject lands, as well as parking areas associated with the large commercial office use to the north. There is an established urban residential neighbourhood further to the east which is accessed from Lasalle Boulevard and well buffered from the lands by mature vegetation. There are also a number of large, open space and vacant lots to the east and to the south of the lands.

Departmental/Agency Circulation:

The application for public consultation was circulated to all relevant agencies and departments.

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.

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.

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 B" under the City's *Radio-communication and Broadcasting Antenna Systems Public Consultation Protocol*. 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. The City of Greater Sudbury owns the subject lands in this particular instance and the City's Real Estate Section was therefore provided with a copy of said correspondence.

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Further Exemption Provided

Staff notes that the DMO provided an exemption at this time following the completion of pre-consultation under Section 4.3 of the City's Protocol and determined that only an internal staff review and a position of concurrence or non-concurrence being provided by Council to ISEDC would be required. The exemption was provided for on the basis that the proposed antenna system would be located in the rear of the subject lands and well buffered by a large commercial office development and parking area to the north and to the east and by mature vegetation to the closest residential area located to the east across a watercourse. Staff also noted during pre-consultation that if the proposed antenna system was shifted approximately 10 m (32.81 ft) to the west the proponent would only be required to proceed by way of an internal staff review and through obtaining a position of concurrence or non-concurrence from Council. The exemption provided for by the DMO is largely technical in nature and it was deemed undesirable to shift the antenna system location to the west as it would result in the elimination of parking spaces from an already high demand parking area in the City. The DMO also noted that the closest residential area to the east is well buffered by mature vegetation and a watercourse. The residential area to the east is accessed from Lasalle Boulevard to the north and not from Notre Dame Avenue.

Comments Received

The proponent was not required to hold a Public Information Session under the City's Protocol. Staff understands however that the proponent first approached the City's Real Estate Section in December 2018. The proposed antenna system location was reviewed with staff at Pioneer Manor on several occasions and a shrouded mono-pole ground-based antenna design was deemed to be preferable. The proponent then undertook location design work before filing the public consultation application as required in the City's Protocol. Staff understands that the wooden fence enclosure, access road, location and design of the proposed antenna system is to the satisfaction of those in the most immediate vicinity of the installation.

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 requires that Planning Committee and Council provide a position of concurrence or non-concurrence with respect to the proposed antenna system to ISEDC. Staff further advises the proponent that under Section 4.4 of the City's Protocol, they are required to satisfy all policies and requirements of the City of Greater Sudbury as it relates to the locating of the proposed antenna system on municipally owned lands.

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Land Use Planning Analysis:

Proposed Antenna System

The proposed mono-pole antenna system would have a maximum height of 50 m (164 ft) and would be located to the east of an existing parking area on a north-easterly portion of the subject lands. The antenna system would be accessed via the existing driveway entrance onto Notre Dame Avenue. The proponent has advised that nine antennae would be installed internally within the mono-pole antenna system and it will be painted white. The mono-pole antenna system would also have an equipment shelter on the ground and a wooden fence is to be constructed around said equipment shelter in order to prevent unauthorized access. The proposed location of the mono-pole antenna system requires minimal removal of vegetation as it will be located on the existing asphalt surface in the rear of the subject lands. There are two existing accessory buildings located in the general area which are utilized by the long term care facility use that exists on the subject lands.

The proponent has submitted a concept plan along with aerial photography and digital renderings which together depict the location and design of the mono-pole antenna system. The concept plan, aerial photography and the 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 in their application that the closest residential area is located approximately 140 m (459.32 ft) from the proposed antenna system. Staff has reviewed this measurement and would agree that the abutting lands to the south-east are in closest vicinity to the proposed antenna system and are satisfied that the measurement is correct.

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 locations (ie. ground or roof top) within 500 m (1,640.42 ft) are available that could accommodate additional physical antennas needed to provide the coverage improvements being sought. The proponent has indicated in their application that it may be possible in the future to provide for co-location opportunities on the proposed antenna system and that they will consider any request to do so and they have further acknowledged that in doing so it may be possible to limit the number of ground-based antenna systems in the immediate area;
2. Staff is satisfied that the proposed antenna system has maximized the distance from the nearest residential area, while at the same time achieving the coverage and signal strength goals stated by the proponent in their application and as shown on their coverage mapping;

3. The proposed antenna system is viewed as being appropriate given the institutional use present on the lands and further immediately abutting uses are predominantly commercial office or light industrial in nature. The scale of the proposed antenna system in relation to surrounding uses is not excessive and would not appear out of place or negatively impact the character of the area;
4. The proposed antenna system abuts open green space to the east providing a naturalized buffer area to the residential neighbourhood located to the east. Public views and vistas are not anticipated to be negatively impacted;
5. 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,
6. 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.

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 areas of concern have been identified with respect to the development guidelines set out in the City's Protocol. The application was also circulated to relevant agencies and departments and no concerns were identified. It is recommended that the DMO be directed to provide ISEDC with a position of concurrence on the proposed antenna system.

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 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 also notes that this report has focused on the land use planning merits of the chosen site from a public consultation perspective and not on the real estate matters that are related to the locating of an antenna system on lands owned by the City. 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.