

Title: Rogers Communications Inc.

Date: September 14, 2020

STAFF REPORT

Proponent:

Rogers Communications Inc.

Agent:

Omar Lababidi (Rogers Communications Inc.)

Location:

PIN 73599-0128, Parcel 40991, Lot 124, Plan M-1025, Lot 12, Concession 2, Township of McKim (41 Veterans Road, Copper Cliff)

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 with respect to a proposed temporary ground-based "Cell-On-Wheels" antenna system.

Proposal:

The proposed temporary ground-based "Cell-On-Wheels" antenna system would have a maximum height of 40 m (131.23 ft) and would be located on a north-easterly portion of the subject lands. The "Cell-On-Wheels" antenna system would be accessed via the existing driveway entrance onto Veterans Road.

Jurisdiction and Roles:

Under the *Radiocommunication Act*, the Minister of Innovation, Science and Economic Development (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.

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 Veterans Road and to the north and to the east of Balsam Road and to the north of Municipal Road #55 in the community of Copper Cliff. The lands have a total lot area of approximately 2,265 m² (24,384 ft²) and approximately 18 m (59.06 ft) of lot frontage on Veterans Road. The rear of the lands face a large existing mining industrial use. The lands contain an existing office commercial building (ie. CUPE 4705) and a large gravel surfaced parking area. The proposed antenna system has been installed (see Appendix "F" to this report) and is permitted to be located on the lands for a period of three months on an emergency basis and is located to the north-east of the existing office commercial building and would be accessed from the existing driveway access onto Veterans Road.

Surrounding uses along Veterans Road are mixed with a public arena/community centre (ie. McClelland Community Centre & Arena) and curling club located to the north, a gas bar with car wash being situated to the south and an open space corridor being to the west of the subject lands. There are urban residential land uses with the predominant built-form being that of single-detached dwellings situated further to the west. There is a large mining industrial operation situated to the east of the lands.

Departmental/Agency Circulation:

The application for public consultation was circulated to all relevant agencies and departments. Staff has reviewed comments received and responses where necessary are included below. Comments received at the time of writing this report are as follows:

1. Building Services generally advises on antenna system applications 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 typically 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;

Response: Staff advises the proponent that they should satisfy themselves that no building permits are required for the temporary "Cell-On-Wheels" antenna system.

2. Development Engineering has advised that the subject lands are serviced with both municipal water or sanitary sewer infrastructure;

Response: Staff understands that the temporary "Cell-On-Wheels" antenna system will not require any connections to the existing municipal infrastructure that services the subject lands. Staff advises the proponent however that comments below from Site Plan Control are to be considered.

3. Fire Services has advised that they have no comments;
4. Site Plan Control has noted that the proposed temporary antenna system appears to be situated on or adjacent to a municipal sanitary sewer infrastructure easement which traverses an easterly portion of the lands. It is further noted that no site plan control agreement is applicable to the subject lands.

Response: Staff has confirmed with Development Engineering that the proponent is to be cautioned that should the City require access to the sanitary sewer infrastructure easement that the temporary "Cell-On-Wheels" antenna system may need to be re-located in order to afford staff access to the physical infrastructure underground.

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At the time of writing this report, Conservation Sudbury, Roads, Traffic and Transportation, and Transit Services have not provided comments on the application. 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 "Cell-On-Wheels" antenna system was commenced by Rogers Communications Inc. with City staff on July 21, 2020. Staff confirmed during pre-consultation that the proposed "Cell-On-Wheels" antenna system would normally be subject to Area "B" under City's Radio-communication and Broadcasting Antenna Systems Public Consultation Protocol as no exemptions are afforded under Section 4.1 e) to a temporary "Cell-On-Wheels" antenna system installation used to support a local emergency that would exceed a period of three months. The owner asserted during pre-consultation that the temporary "Cell-On-Wheels" antenna system amounted to a local emergency under Section 4.1 e) of the City's Protocol, as it would allow for continued cellular service while a nearby antenna system was decommissioned in favour of a new and nearby permanent antenna system that has already received a position of concurrence from the City. The proponent estimates that 45,000 customers would be affected should the temporary antenna system not be provided during the time period in which the former antenna system is decommissioned and the new and permanent antenna system is brought online. The proponent acknowledged however that the proposed "Cell-On-Wheels" antenna system would be needed for a period of more than three months and likely up to a period of six months. Staff confirmed to the proponent that under the described circumstances the temporary "Cell-On-Wheels" antenna system would be required to undertake all public consultation requirements, including the completion of public notification and the holding of a Public Information Session, unless an exemption was granted by the City's Designated Municipal Officer (DMO) under Section 4.3 of the City's Protocol. To conclude pre-consultation, the proponent requested an exemption from all possible Area "B" public consultation requirements.

The City's Development Approvals Section subsequently confirmed to the proponent by email on July 30, 2020, that the DMO was prepared to agree with the assertion put forward by the proponent that the installation of a "Cell-On-Wheels" is necessary from a local emergency perspective for a period of up to three months in length in order to continue providing cellular service to this particular area of the City. The DMO further agreed that the circumstances do amount to a local emergency given the current global pandemic and the increased number of people working from home and so on that might need cellular network access for emergency purposes (ie. fire, police, and/or ambulance). The email to the proponent concluded however that should the proponent require the "Cell-On-Wheels" to remain on-site for more than three months then a letter of concurrence/non-concurrence would be required to be obtained from the City's Planning Committee and Council. This position afforded the proponent an exemption from the typical requirements of Area "B" under the City's Protocol insofar as no mailed public notification notice and no Public Information Session would be required.

The proponent was informed by the City's DMO that their formal application was complete on September 9, 2020 following the submission of all required fees and submission requirements.

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"Area B" – Public Consultation Requirements

Those antenna systems which are subject to the City's Protocol and located within "Area B" as identified in Schedule "A" – Modified Review Process to Encourage Locations Away From Residential Areas do not meet any of the modified review process parameters set out in Section 4.2 of the City's Protocol and are required to hold a Public Information Session in the local community and report back to staff prior to proceeding to the City's Planning Committee and Council to obtain a position of concurrence or non-concurrence that is then forwarded to ISEDC. Staff also completes an internal review of the proposed antenna system from a land use perspective and circulates the application for public consultation to relevant agencies and departments for their review and comment. Antenna systems located within "Area B" are greater than 15 m (50 ft) in height and located between 0 m (0 ft) and 150 m (492.13 ft) from the closest Residential Area.

Further Exemption Provided

Staff notes that the DMO provided an exemption from the requirement to provide a mailed public notification letter to nearby properties and from having to hold a Public Information Session on July 30, 2020, as permitted 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 temporary "Cell-On-Wheels" antenna system was necessary from a local emergency perspective for a period of up to six months in order to continue providing cellular service at existing service levels to this particular area of the City. The DMO further agreed that the circumstances do amount to a local emergency given the current global pandemic and the increased number of people working from home and so on that might need cellular network access for emergency purposes (ie. fire, police, and/or ambulance). The DMO was satisfied with this approach given that the proponent also indicated to staff that the temporary "Cell-On-Wheels" was only necessary in order to allow for the decommissioning of an existing antenna system in favour of a new and nearby antenna system that had recently obtained a position of concurrence from the City (File # 705/19-3).

Internal Review

Staff has 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.

Land Use Planning Analysis:

Proposed Antenna System

The proposed temporary "Cell-On-Wheels" antenna system would have a maximum height of 40 m (131.23 ft) and would be located on a north-easterly portion of the subject lands. The proposed antenna system would be accessed via the existing driveway entrance onto Veterans Road. The proposed temporary antenna system is intended to maintain existing cellular service levels to the area while an existing antenna system is decommissioned in favour of a new antenna system that has received a position of concurrence from the City. The proposed temporary "Cell-On-Wheels" antenna system would be enclosed by a fence in order to prevent unwanted access the tower structure. The proposed temporary antenna system will also require no site alteration beyond the erection of the fence enclosure as an existing cleared and gravel surfaced parking area will be utilized.

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Staff also understands that the "Cell-On-Wheels" antenna system was installed on the lands on August 1, 2020. The installation is permitted under the City's Protocol for a period not exceeding three months. This application seeks to extend the time period for which the "Cell-On-Wheels" antenna system can remain on the subject lands.

The proponent has submitted a site plan, aerial photograph, visual renderings, a photograph of a typical "Cell-On-Wheels" installation, which together depict the location and design of the proposed temporary antenna system on the subject lands (ie. Appendices "A" through "D"). The site plan, aerial photograph, visual renderings and the photograph of a typical "Cell-On-Wheels" installation are attached to this report for reference purposes.

Staff would note here that the proponent has also submitted a map depicting the location of the existing antenna system that is to be decommissioned, the proposed temporary "Cell-On-Wheels" antenna system on the subject lands, and the location of the new antenna system that previously received a position of concurrence from the City. The map is attached to this report for reference purposes (ie. Appendix "E").

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 in conversation with staff during pre-consultation has indicated that the temporary "Cell-On-Wheels" antenna system would immediately abut a Residential Area as defined in the City's Protocol. Staff has reviewed the information submitted by the proponent in the formal public consultation application and would agree that the proposed antenna system would immediately abut an existing Residential Area as defined in the City's Protocol.

This calculation was utilized by the DMO to determine the extent of public consultation necessary for the proposed temporary "Cell-On-Wheels" 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 not considered by the proponent due to the temporary nature of the proposed "Cell-On-Wheels" antenna system. Co-location is generally not a preferred approach to providing temporary radio-communication and broadcasting service to an area when an existing antenna system is being commissioned in favour of a new antenna system that has already received a position of concurrence from a local municipality. Staff is therefore satisfied that co-location has been sufficiently explored, but would advise the proponent that in the future other proponents may be advised to explore locating on the proposed antenna system that is being constructed as a replacement to the antenna system that is being decommissioned in order to avoid additional towers being constructed nearby this particular residential area in the future;

2. With respect to locating antenna systems at maximum distance from a residential area, staff acknowledge the targeted service area for the proposed temporary "Cell-On-Wheels" antenna system is the local community of Copper Cliff and therefore it is not reasonably possible to increase the distances to residences and businesses for which the proposed temporary antenna system is intended to service. Staff are satisfied that the temporary antenna system is not excessive in terms of its design and the visual impact on the surrounding area will be for a defined and limited period of time. It is further noted that the temporary antenna system would be situated behind the existing building on the subject lands, which will provide for some degree of visual buffering from the residential area located to the west. There is also an open space corridor to the west providing increased visual and spatial buffering;
3. The proposed temporary "Cell-On-Wheels" antenna system would be situated within the rear yard of the subject lands and would abut a large mining industrial operation. The lands are also situated within a small cluster of institutional uses (ie. arena, community centre and curling club). The subject lands are designated Institutional in the City's Official Plan. Staff would note that both industrial and institutional areas are identified in the City's Protocol as being a preferred location for antenna systems;
4. Staff advises that the proposed temporary "Cell-On-Wheels" antenna system would not be located in any discourage locations or areas that are identified under Section 6.1 c) of the City's Protocol; and,
5. 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 temporary "Cell-On-Wheels" antenna system. Signage and lighting on the proposed temporary antenna system are to be provided only if required by Transport Canada and/or NAV Canada. The proponent has indicated that it is their understanding that the proposed temporary antenna system will not require any aeronautical lighting. 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 temporary "Cell-On-Wheels" antenna system meets the City's development guidelines requirements and there are no areas of concern with respect to the proposed temporary 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 City's DMO be directed to provide ISED 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 temporary "Cell-On-Wheels" antenna system that is being proposed. The duration of concurrence is a maximum of six months from the date that the City's DMO notifies ISED 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 temporary "Cell-On-Wheels" antenna system has occurred since initial concurrence was given.

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Summary:

Staff advises that Spectrum Group 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.

The City's DMO provided an exemption from the requirement to provide a mailed public notification letter to nearby properties and from having to hold a Public Information Session on July 30, 2020, as permitted 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 DMO was satisfied with this approach given that the proponent also indicated to staff that the temporary "Cell-On-Wheels" was only necessary in order to allow for the decommissioning of an existing antenna system in favour of a new and nearby antenna system that had recently obtained a position of concurrence from the City (File # 705/19-3).

Staff has also 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 guidelines 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 temporary ground-based "Cell-On-Wheels" antenna system that was considered during this particular public consultation process.