

Title: Rogers Communications Inc.

Date: January 27, 2020

STAFF REPORT

Proponent:

Rogers Communications Inc.

Agent:

Forbes Bros Ltd.

Location:

Blocks F to H, Plan 4S, Lot 7, Concession 3, Township of McKim (365 Arnley 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 self-support ground-based antenna system would have a maximum height of 40 m (131.23 ft) and would be located on a northerly portion of the lands at the end of Arnley Street and to the north of the existing building located on the subject lands. The antenna system would be accessed via the existing driveway entrance at the end of Arnley 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 at the easterly end of Arnley Street and to east of Whittaker Street in the community of Sudbury. The lands have a total lot area of approximately 2,834 m² (30,504.92 ft²) with approximately 18.6 m (61.02 ft) of frontage at the end of Arnley Street where the proposed antenna system would be located. The lands also have approximately 37.85 m (124.18 ft) of frontage onto Haig Street. The lands presently accommodate a legal non-conforming use in the form of an ore bag repair business and a construction/storage/warehousing use all within an existing building situated on the southerly portion of the lands. The northerly portion of the lands intended to accommodate the proposed antenna system encompass an area of approximately 120 m² (1,291.67 ft²) at the end of Arnley Street.

Surrounding uses are predominantly urban residential in nature with having a mix of residential built-forms and densities. The Eyre Cemetery abut to the east of the subject lands and is accessed from Regent Street. There is also a private club to the south of the lands having frontage onto Haig Street. Additional commercial and business industrial uses also exist further to the east along the Regent Street corridor.

Departmental/Agency Circulation:

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

Active Transportation, Conservation Sudbury, the City's Drainage Section, Roads, Traffic and Transportation, and Operations 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.

Development Engineering advises that the subject lands are presently serviced with municipal water or sanitary sewer infrastructure.

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 June 10, 2019. The City's Development Approvals Section confirmed to the proponent on June 12, 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 June 12, 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.

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Public Consultation Requirements

Those applications for public consultation which propose a ground-based antenna system that exceeds 15 m (50 ft) in height measured from the base and located between 0 m (0 ft) and 150 m (492.13 ft) from the closest residential area are identified as being located within "Area B" on Schedule "A" to the City's Protocol and are therefore required to fully adhere to all public consultation requirements described in Section 8.0 of the City's Protocol.

The proponent is in these instances required to provide a mailed notification of the proposed antenna system, undertake and engage appropriately in written consultation with area residents and businesses, the hosting of a Public Information Session (PIS), and concludes this process by providing the City with a Public Consultation Report (PCR) outlining the results of the public consultation process that was led by the proponent after making the public consultation application to the City.

Staff notes that this particular application for public consultation was not granted any exemptions from Section 5.0 or Section 8.0 of the City's Protocol as may be permitted by the DMO under Section 4.3 of the City's Protocol on a case-by-case basis.

Comments Received

As noted above, the proponent was required to provide notice to those properties located within the prescribed distance of the proposed antenna system and provide for a minimum period of commenting on the proposed antenna system and a minimum period of time that the proponent would have to respond to any concerns before approaching the City for a position of concurrence or non-concurrence. Staff understands that the proponent also held the required PIS on October 22, 2019 at the Main Library on Mackenzie Street between the hours of 5:00PM to 6:45PM.

The proponent did submit a Public Consultation Report (PCR) to the City on January 9, 2020, outlining the public consultation process that was completed as per the requirements of the City's Protocol. The PCR states that no phone calls, emails or letters were received during the period of time allocated for public comment on the proposed antenna system. The PIS was attended by one area resident that inquired about possible health and property value impacts. The resident did file a public comment with the proponent and they were provided with appropriate information as it related to their concerns. Staff notes that a copy of the public comment provided in the PCR also concluded that their questions had been answered by the proponent at the PIS.

Staff also did not receive any phone calls, emails or letters related to the proposed antenna system installation. The PCR also states that the local Ward Councilor was provided with a copy of the public notification package and no concerns have been raised with respect to the proposed antenna system.

The PCR concludes with a request to the City for a position of concurrence or non-concurrence that will then be forwarded to ISEDC.

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. Staff has provided a land use planning analysis of the proposed shrouded mono-pole and ground-based antenna system in the following section of this report.

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Land Use Planning Analysis:

Proposed Antenna System

The proposed shrouded mono-pole and ground-based antenna system would have a maximum height of 40 m (131.23 ft) and would be located on a northerly portion of the lands and to the north of the existing non-residential building located on the subject lands. The antenna system would be accessed via the existing driveway entrance at the easterly end of Arnley Avenue. There would also be an equipment shelter placed on a concrete slab. The antenna system and equipment shelter is to be surrounded by a barbed-wire, chain-linked fence having a height of 2.4 m (7.87 ft) for security and safety purposes. The proposed shrouded mono-pole antenna system does not require the removal of any existing vegetation as it will be accessed directly from Arnley Avenue and is to be located in an already cleared gravel area to the north of the existing building located on the subject lands.

The proponent has submitted a site plan sketch along with aerial photography and digital renderings, which together depict the location and design of the proposed self-support ground-based antenna system. 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 subject lands are designated Living Area 1 in the City's Official Plan and immediately abut residentially zoned properties both to the north and to the west of the subject lands. There is an institutionally zoned property containing a cemetery to the immediate east of the subject lands. The proponent there did not indicate in their application for public consultation that any buffer to a closest residential area exists in this particular set of circumstances. The proponent did however provide a draft mailing notification area that was reviewed by staff.

Staff has reviewed the above and would agree that the proposed shrouded mono-pole and ground-based antenna system would be located within a residential area as defined in the City's Protocol. As indicated previously in this report, "Area B" was deemed to be applicable and full public consultation was required to be completed (ie. mailing notification, appropriate commenting/response periods, and the holding of a PIS) by the proponent prior to bringing this matter for to the Planning Committee and Council to seek a position of concurrence or non-concurrence.

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 there are no existing antenna systems within 500 m (1,640.42 ft) of the search radius that would meet coverage objectives that the proponent is attempting to respond to by proposing a new shrouded mono-pole and ground-based antenna system. 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 accordingly. Staff is satisfied that co-location has been properly considered and notes that the shrouded mono-pole design itself is a trade-off as it can limit co-location opportunities, while at the same time these designs are generally considered to be more aesthetically pleasing and therefore appropriate to use in urban areas where there is close proximity to a residential area;
2. Staff notes that there is a legal non-conforming and non-residential building/land uses operating on the subject lands in a commercial or light commercial-industrial capacity. Properties having these land uses present are identified in the City's Protocol as being a preferred location for antenna systems. Staff also notes that no public views or vistas of important natural and/or man-made features would be negatively impacted should the City provide a position of concurrence on this particular antenna system. It is further noted that the antenna system would abut an institutional, low-intensity and non-residential use being that of a cemetery;
3. Staff notes that the proposed shrouded mono-pole antenna system would immediately abut a cemetery to the east and there is mature vegetation providing screening and buffering to both the cemetery itself and to the residential area located to the north and north-west of the subject lands. There is also mature vegetation located in the rear yards of the houses to the north-west that have frontage onto Whittaker Street. Staff has also estimated that the proposed antenna system would maintain a distance of approximately 45 m (148 ft) from the intersection of Arnley Street and Whittaker Street to the west;
4. Staff is satisfied that the proposed shrouded mono-pole and ground-based antenna system is an appropriate choice of design given the site context being that of an urban area adjacent to a residential area. The City's Protocol acknowledges that mono-pole designs are considered to be generally unobtrusive and of low impact and are therefore considered to be acceptable near living areas. Staff are also of the opinion that the design choice in this instance accomplishes the Protocol's stated goal of making best efforts to blend with nearby surroundings and minimize visual aesthetic impacts of a proposed antenna system on a community. It is further noted that no guy-wires or cables are required in order to steady and support the shrouded mono-pole design;
5. With respect to yards, parking and access, staff is satisfied that the yard setbacks to be provided are appropriate given the site being located at the easterly end of Arnley Street and on a lot which already contains a non-residential building to the south of the proposed location. No development potential is being negatively impacted should the proposed antenna system receive a position of concurrence from the City. Adequate parking is available and traffic to and from the site would be minimal and no new driveways or accesses to the lands are required in order to gain access to the proposed antenna system;
6. The proponent has indicated that 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;
7. 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,

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Staff is therefore satisfied that in general the proposed shrouded mono-pole and ground-based antenna system meets the City's location and 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 location, development and design preferences that are identified in the City's Protocol. Staff also advise that the proponent has completed all public consultation requirements set out under Section 8.0 of 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.