



# Staff Report

Zoning and Land Regulation  
Committee

Public Hearing: **September 17, 2018**

Zoning Amendment:  
**TO CUP: 130' Communication  
Tower (extendable to 160')**

Acres: 0.23  
Survey Required: No

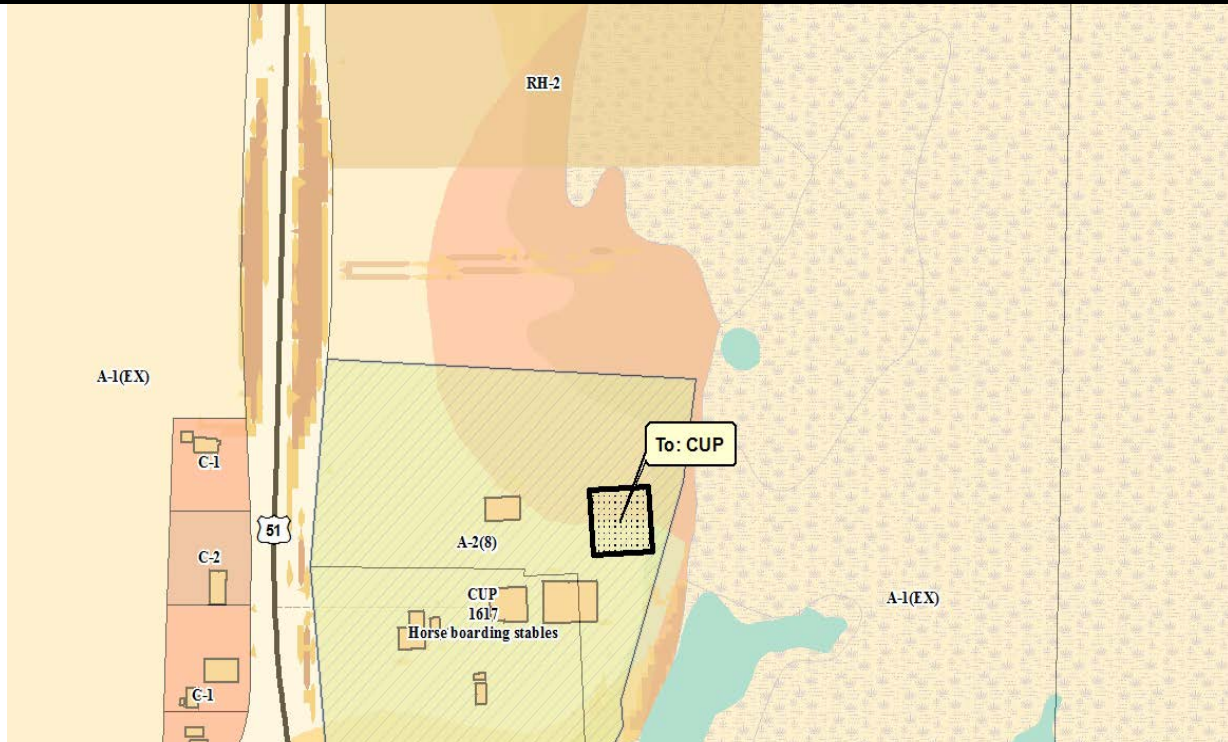
Reason:  
**130' Communication Tower  
(extendable to 160')**

Petition: **CUP 02437**

Town/Section:  
**Dunn, Section 10**

Applicant  
**Jane C. Liess**

Location:  
**2660 US Highway 51**



**DESCRIPTION:** The applicant, SBA Towers V / Verizon Wireless, proposes to construct a 130' tall monopole communication tower (138' total height with lighting rod) on the existing A-2(8) Agriculture zoned property located at 2660 US Highway 51 in section 10 of the town of Dunn. The tower would be engineered to be extendable up to 160' in the event a future collocating carrier required additional height for their network service needs (169' with lighting rod).

**OBSERVATIONS:** Surrounding land uses include the property owner's residence as well as commercially zoned property located on the west side of USH 51. A large wetland complex is located to the east. Note that the town has a 100' wetland setback requirement for structures, which is greater than the county's 75' wetland setback requirement.

**TOWN PLAN:** The property is located in the Agricultural Preservation Area and Environmental with a portion also within the Cultural Resources Protection Area of the adopted Town of Dunn/Dane County Comprehensive Plan.

**RESOURCE PROTECTION:** An area of resource protection corridor associated with the wetlands and 75' wetland buffer is located immediately to the east of the proposed CUP area. Based on a review of the site plans submitted with the petition, the tower and associated ground equipment will meet both the town and county wetland setback requirements.

**STAFF:** The proposed tower is being sought to fill a coverage gap in Verizon's cellular network. The tower would utilize a monopole design with a galvanized finish. The tower would not require lighting. The tower is being designed to support the potential future collocation of two additional carriers. The proposal appears reasonably consistent with town/county plan policies. The proposal has been reviewed by the county's third-party Radio Frequency Engineer, CityScape Consultants. CityScape finds that the proposed tower complies with the county's communication tower ordinance as well as applicable state and federal laws. Please see below for recommended conditions of approval.

**September 17<sup>th</sup> ZLR:** The CUP application was postponed due to no town action and public opposition.

**TOWN:** Approved with 7 conditions. Town conditions have been incorporated into recommended conditions, below.

## Staff Report for Conditional Use Permit 2437

In order for an applicant to obtain a Conditional Use Permit, the Zoning and Land Regulation Committee must find that all of the following standards are met for the proposed land use:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
2. The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
3. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; and
5. That adequate measures have been or will be being taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

Staff has prepared a list of conditions that may be used in order to meet the six standards as listed above to allow the conditional use on the property. Please note that the conditions may need to be changed or additional conditions added to address potential nuisances that may come to light during the public hearing.

1. The primary use of the communication tower permitted under Conditional Use Permit No. 2437 shall be for the transmission and reception of cellular/PCS wireless voice / data communications, and related telecommunications equipment.
2. The communication tower placed, constructed or modified under Conditional Use Permit No. 2437 shall accommodate the collocation of telecommunications equipment for at least two (2) additional telecommunications providers. The initial height of the tower shall be 130' above ground level (138' including lighting rod). However, the tower shall be engineered to be extendable to a maximum height of 169 feet above ground level (including lighting rod). Extension beyond the maximum permitted height of 169 feet above ground level shall require amendment and approval of a new Conditional Use Permit.
3. The minimum of two (2) collocation sites required hereunder need not be available on the tower as initially placed, constructed, or modified, provided that the tower will support the later addition of the collocation sites as specified in condition #2, above.
4. Collocation sites required hereunder shall, upon request, be made available by the holder of Conditional Use Permit No. 2437 for the mounting of technologically compatible antenna arrays and equipment at the prevailing market rate in the region and upon contractual provisions which are standard in the industry.
5. The holder of Conditional Use Permit No. 2437 is permitted, if needed, to construct a building of no more than 14 feet in height (as defined in section 10.01 (8) of the Dane County Zoning Ordinance in effect in March 1997) and 314 square feet in floor area for use directly incidental and necessary to the use of the tower. Any other user collocating on the tower permitted herein is permitted to construct a building of no more than 14 feet in height (as defined in section 10.01 (8) of the Dane County Zoning Ordinance in effect in March 1997) and 314 square feet in floor area for use directly incidental and necessary to the use of the tower. Two or more users of the tower may build a single building with a floor area of no more than 314 square feet per user sharing the building. Buildings constructed or used by tower collocators shall be subject to all conditions established for Conditional Use Permit No.2437, including locational requirements contained in the site plan.

6. The holder of Conditional Use Permit No. 2437 shall, through ownership, lease, option or other means, at all times have the right to use the land associated with the permitted tower for uses related to the use of the collocation sites required hereunder, including the construction and use of buildings as permitted under paragraph 5 herein.
7. All facilities and improvements shall be constructed and installed as detailed in the site plan dated July 9, 2018.
8. Final site plan(s) and design drawings for the proposed tower are subject to review and approval by the Town of Dunn prior to installation of the tower. The final site plan(s) and design drawings reviewed and approved by the Town of Dunn are fully incorporated herein and continued effectiveness of Conditional Use Permit No. 2437 is expressly conditioned upon compliance with those plans.
9. Upon written inquiry by the committee, the holder of Conditional Use Permit No. 2437 shall have the burden of presenting to the committee credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the conditional use permit. Failure to establish compliance with all conditions placed upon the conditional use permit shall be grounds for revocation of the permit. In the event the committee determines that it is necessary to consult with a third party to ascertain compliance with conditions on Conditional Use Permit No. 2437, all reasonable costs and expenses associated with such consultation shall be borne by the holder of said conditional use permit. Failure to pay such costs and expenses or provide information requested by the committee shall be grounds for revocation of the conditional use permit.
10. The holder of Conditional Use Permit No. 2437 shall within 30 days of any collocation on the permitted tower provide the committee with written notification of the identity of the collocator and the nature of the equipment installed. Within 30 days of the date on which any collocated use ceases, the permit holder shall provide the committee with written notice of the cessation of such use. Any changes due to collocation or otherwise shall be reviewed by the Zoning Administrator prior to implementation to determine if permits are needed and to determine that such changes are in compliance with terms of the CUP and does not significantly alter the appearance or structural integrity of the tower approved and permitted under this CUP.
11. If at any time the communication tower permitted under Conditional Use Permit No. 2437 ceases to be used for the primary use, as identified in paragraph 1 above, for a continuous period of 12 months the permit holder shall, upon notification by the committee, dismantle and remove the tower. If the tower is not removed within 30 days of such notification, Dane County may enter upon the premises and remove the tower at the expense of the holder of the conditional use permit.
12. Prior to issuance of the requested conditional use permit, and as a condition of its continued validity, applicant shall provide Dane County with a bond, or evidence of an existing bond, in the amount of \$20,000 ensuring performance of applicant's obligation to remove any communication tower, array or any other equipment or structure placed or erected pursuant to the conditional use permit, including payment for such removal by Dane County or its agent, in the event the permit is revoked or the use permitted thereunder ceases for a continuous period of 12 months. Said bond shall expressly state that it will remain in full force and effect for a period of at least six months after the surety provides Dane County written notification of expiration or termination of the surety's obligation under the bond. Applicant shall remove any communication tower, array or any other equipment or structure placed or erected pursuant to the conditional use permit no less than 30 days prior to the termination or expiration of the bond required hereunder.
13. If not already completed, the applicant shall file a Notice of Proposed Construction on Form 7460-1 to the FAA to assure that the tower will not impact air traffic.
14. Contact with Wisconsin DOT Bureau of Aeronautics should be made prior to construction, if it has not already been done, to determine whether notification to that agency is required.

15. All tower components, appurtenances and transmission lines should be securely bonded and grounded to prevent RF interference caused by stray signals.
16. A Wisconsin-licensed Structural Engineer will approve and stamp the tower design, and certify that the tower can support up to three additional cellular/PCS voice / data antenna arrays.
17. All feed lines shall be installed within the support structure and antenna ports shall be sealed in a manner to prevent access by birds and any other wildlife
18. The tower shall be galvanized and not painted any other color without approval of the Town of Dunn. The use of mottling as a camouflage is encouraged.
19. Applicant shall not begin construction until Federal SHPO/NEPA requirements are met.
20. Prior to permitting, Applicant shall provide (on Verizon or SBA letterhead) a statement of compliance with the FCC's rules on RF exposure and interference to other sources.
21. The communication tower and any antennas shall not be lighted except as required by the Federal Aviation Administration or other lawful authority.
22. The tower lease area shall be surrounded by a locked security fence to secure the site. No barbed wire or razor wire fencing is permitted. No trespassing signs shall be posted on any security fencing.
23. If so required by the town of Dunn, any landscaped screening shall consist of a planted evergreen screen at least six (6) feet in width and initially landscaped with four (4) foot tall evergreen shrubs to ultimately form a continuous hedge not less than five (5) feet in height and maintained with healthy shrubs.
24. Any graphic messages or advertising must comply with Dane County Ordinances.
25. Applicant shall address install a grassy swale or other facility to prevent erosion and runoff from the site. Applicant shall obtain an erosion control permit from the Dane County Land and Water Resources Department prior to construction.
26. Failure to comply with any of the aforesaid conditions shall be grounds for the committee to initiate revocation proceedings for Conditional Use Permit No. 2437.