



# Staff Report

Zoning and Land Regulation  
Committee

Public Hearing: **August 28, 2018**

Zoning Amendment:  
**CUP for a 60' broadband  
communications tower**

Acres: 3.8  
Survey Req. No

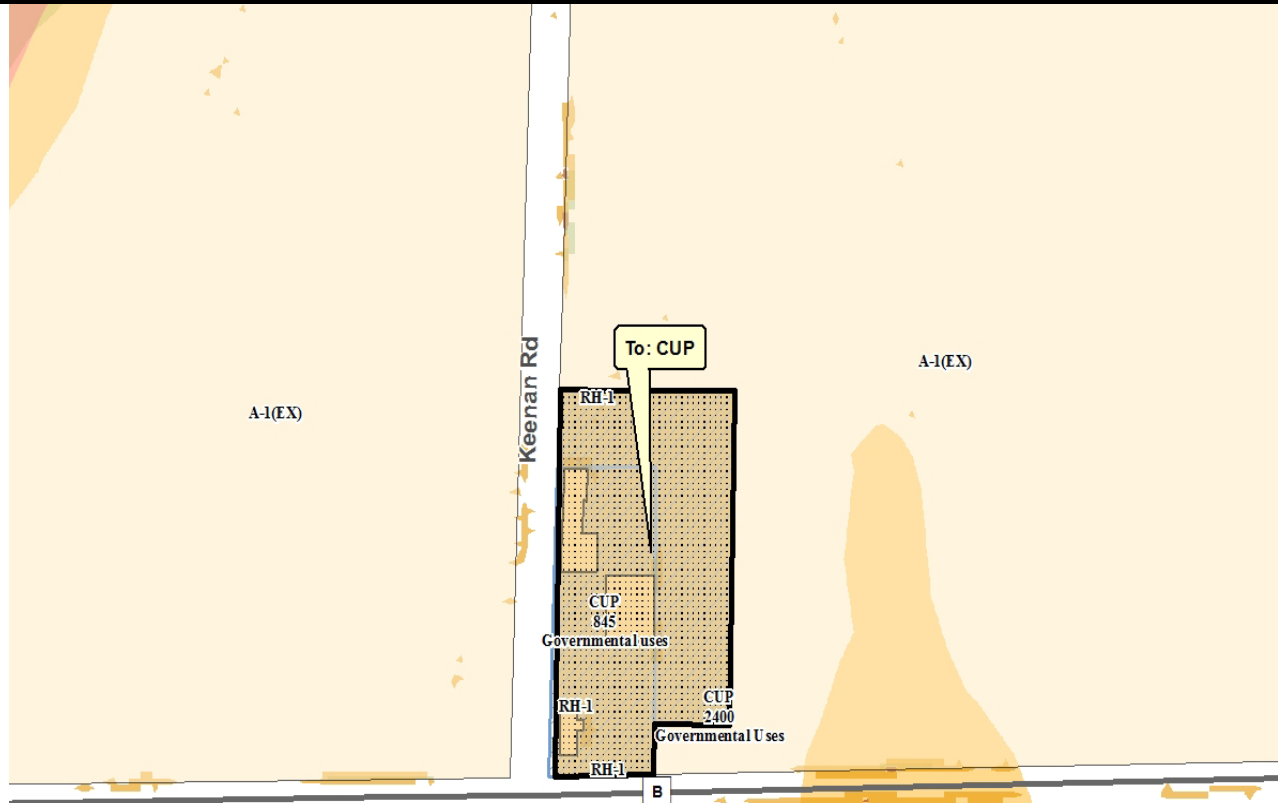
Reason:  
**60' broadband communications  
tower**

Petition: **CUP 02434**

Town/sect:  
**Dunn, Section 21**

Applicant  
**Dunn, Town of**

Location:  
**4156 County Highway B**



**DESCRIPTION:** The Town of Dunn is requesting approval of a Conditional Use Permit to allow construction of a 60' broadband communications tower on the town hall property at 4156 County Highway B. The town, in coordination with Hoyos Consulting of McFarland, applied for and received grant funding from the Public Service Commission for the broadband tower project. The tower will provide broadband internet services to currently underserved households in the town as part of a broader network operated by Hoyos.

**OBSERVATIONS:** Surrounding land uses include agriculture / open space and a few scattered rural residences. The closest residence is located roughly 650' away, southwest of the town hall property. No sensitive environmental features are observed.

**TOWN PLAN:** The property is located in the town's Agricultural Preservation Area.

**RESOURCE PROTECTION:** No areas of resource protection corridor located on the property.

**STAFF:** The town of Dunn is seeking to expand broadband internet access for currently underserved town residents. The proposed tower is planned to be built initially to 60', but may be expanded to 100'. The tower would be part of a larger broadband network operated by Hoyos Consulting based in McFarland. The tower would utilize a "lattice" design and galvanized finish. The proposal appears consistent with town plan policies.

The proposal was reviewed by the county's third-party Radio Frequency Engineer, CityScape Consultants which finds that the proposal is in compliance with the county's communication tower ordinance and other applicable state and federal laws. The report includes several recommended conditions of approval which have been incorporated with the staff recommendations, below. See below for additional staff comments, town action, and recommendations.

## Staff Report for Conditional Use Permit 2434

**STAFF, Continued:** The county's tower ordinance is geared toward limiting the proliferation of communication towers while also providing for a robust wireless communication infrastructure. A key concept in the ordinance is "collocation" – requiring wireless service providers to collocate their equipment on existing facilities when and where possible. In the interest of promoting collocation, the ordinance specifies that, "...the committee shall, unless it is shown to be unreasonable, condition the grant of the permit upon the applicant placing or constructing the communication tower so as to accommodate, at a minimum height of 150 feet, the collocation of two additional antenna arrays similar in size and function to that placed on the tower by the applicant."

The town is requesting a waiver from the minimum collocation requirement because complying with the requirement would make the project cost prohibitive and prevent the deployment of needed broadband service to underserved areas of the town. Based on the proposed design and height of the tower, it is apparent that it would be unreasonable from an engineering and cost perspective to apply the minimum collocation requirement of the ordinance. As recommended by the consulting RF Engineer, the requested waiver from the minimum collocation requirement should be granted by the ZLR Committee.

**TOWN:** The town has approved the CUP subject to the following conditions (the conditions are included in the staff recommendations, below):

- 1) A favorable review by Dane County Zoning's tower consultants.
- 2) The primary use of the communication tower permitted under Conditional Use Permit No. 2434 shall be for the provision of broadband internet services.
- 3) The Town of Dunn and Hoyos Consulting LLC signing a Memorandum of Understanding (MOU) detailing the operation and ownership of the tower.
- 4) The communication tower placed, constructed or modified under Conditional Use Permit No. 2434 may be built to an initial height of up to 100 feet above ground level. Extension beyond the maximum permitted height of 100 feet above ground level shall require amendment and approval of a new Conditional Use Permit.
- 5) 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.
- 6) No graphic message or advertising may be permitted on the tower. This would not prohibit the use of warning or equipment information signs.
- 7) Fencing and locks must be provided to secure the site. No barbed wire or razor wire fencing is permitted.
- 8) Landscaping must be provided and approved by the Town.
- 9) The proposed tower shall be light blue or gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage is encouraged.
- 10) The tower and any antennas shall not be lighted except as required by the Federal Aviation Administration or other lawful authority.
- 11) No trespassing signs shall be posted on any security fencing.

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 draft 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. 2434 shall be for the provision of broadband internet services.
2. The communication tower placed, constructed or modified under Conditional Use Permit No. 2434 shall not exceed a maximum height of 100 feet above ground level. Extension beyond the maximum permitted height of 100 feet above ground level shall require amendment and approval of a new Conditional Use Permit.
3. The minimum of two (2) collocation sites as required under section 10.194 of the Dane County Code is hereby waived.
4. The Town of Dunn and Hoyos Consulting LLC shall sign a Memorandum of Understanding (MOU) detailing the operation and ownership of the tower.
5. The holder of Conditional Use Permit No. 2434 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.2434, including locational requirements contained in the site plan.
5. The holder of Conditional Use Permit No. 2434 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 4 herein.
6. 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.
7. No graphic message or advertising may be permitted on the tower. This would not prohibit the use of warning or equipment information signs.
8. Upon written inquiry by the committee, the holder of Conditional Use Permit No. 2434 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. 2434, 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.
9. The holder of Conditional Use Permit No. 2434 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.

10. If at any time the communication tower permitted under Conditional Use Permit No. 2434 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.
11. 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.
12. 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.
13. All tower components, appurtenances and transmission lines should be securely bonded and grounded to prevent RF interference caused by stray signals.
14. A structural report by a Wisconsin professional engineer shall certify that proposed tower will be structurally adequate at the proposed height.
15. If applicable, 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.
16. The tower shall be light blue or gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage is encouraged.
17. The tower and any antennas shall not be lighted except as required by the Federal Aviation Administration or other lawful authority.
18. Applicant shall not begin construction until Federal SHPO/NEPA requirements are met.
19. Applicant shall comply with any and all town of Dunn requirements for landscaping or security fencing around the base of the tower. Fencing and locks must be provided to secure the site. No barbed wire or razor wire fencing is permitted. No trespassing signs shall be posted on any security fencing.
20. Failure to comply with any of the aforesaid conditions may be grounds for the committee to initiate revocation proceedings for Conditional Use Permit No. 2434.