

**AT&T's Response to Revised March 27, 2018 Staff Report
Submitted by AT&T March 27, 2018**

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<p>"As noted in the staff report presented to the ZLR Committee for its meeting on 11/28/17, a number of problematic issues have been identified with this tower proposal."</p>	<p>The 11/28/17 staff report identified 6 issues. On December 20, 2017, AT&T submitted a 15-page supplement to its application, including a detailed, point-by-point response to each of the 6 issues.</p>
<p>"The ZLR committee postponed action on the petition at its meeting on 11/28/17, agreeing to an extension of the timeframe for action and notifying the applicant that they should provide all information requested so that a detailed analysis and report could be performed by the county's 3rd party engineering consultant, CityScape Consultants."</p>	<p>AT&T provided all of the requested information on 12/20/17. When CityScape asked for additional information on 12/21/17, AT&T supplied the information the very same day. AT&T also volunteered to host a conference call between its engineering team and CityScape's engineers to discuss the technical aspects of the application. CityScape chose not to accept the invitation prior to preparing its supplemental report.</p>
<p>"CityScape has completed its review and report and has found that, <i>"The Applicant has failed to reasonably substantiate the need for a new mobile service support structure at the proposed location..."</i> The report further states that <i>"...CityScape ...does not support this proposal in its current form."</i></p>	<p>This conclusion surprised A&T, since representatives of CityScape reported to AT&T in December that "[w]e never oppose any qualified application, and this one is qualified."</p> <p>CityScape also reported to Dane County in September 2017 that "... no existing towers exist within the search area (CityScape has confirmed this). For this reason, AT&T has demonstrated the need for a new facility in the area and has justified an antenna height of 199 feet with the provided coverage maps depicting the improvement to be provided by the proposed site."</p> <p>There is no rational basis for the sudden reversal of CityScape's position.</p>
<p>"Prior to the March 13th ZLR work meeting, AT&T requested that a conference call be held between engineering staff from AT&T and CityScape to address issues identified in the CityScape report. That call was held on March 9, 2018. County staff participated in that call, along with AT&T representative Jim Jermain."</p>	<p>While it would have been better if this conversation had taken place prior to CityScape issuing a revised report, as AT&T had suggested back in December, AT&T nonetheless appreciated CityScape's willingness to participate.</p>

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<p>“AT&T requested that CityScape revise it’s report to address a number of issues AT&T had with the report. ... CityScape has not provided an updated report and has indicated to staff that it stands by its technical findings and recommendations.”</p>	<p>During the call, CityScape representatives acknowledged their earlier conclusion (that a new tower was indeed “necessary”) because there are no other towers in the vicinity capable of serving the demonstrated need for improved mobile coverage. AT&T is surprised that CityScape chose not to update its report following the phone conference.</p>
<p>“It is important to note that the county relies on a 3rd party consultant to provide an independent technical review so that county officials have an unbiased perspective to rely upon when considering requests for approval of a Conditional Use Permit for a new communication tower.”</p>	<p>AT&T acknowledges that good, objective advice is important. However, it appears to AT&T that the February 27, 2018 CityScape report strayed beyond a straightforward technical assessment. At multiple points, the report finds fault with the way the application process unfolded and inappropriately called AT&T’s credibility into question.</p>
<p>“The need to extend high speed broadband internet services to areas of rural Dane County that do not currently have service is clear and well documented ... However, to date, AT&T has provided no detailed information regarding its plans to provide the fixed wireless services within the target area.”</p>	<p>This is not accurate. Please refer to pages 2 through 4 of AT&T’s 12/20/17 supplemental materials for a detailed explanation of the fixed wireless service, including maps of the intended service area. Company representatives also discussed AT&T’s plans for fixed wireless in a face-to-face meeting with staff on February 5, 2018. Company representatives have also discussed the CAF II plans in multiple public forums, including the November 28, 2017 ZLR meeting and several recent meetings with the Town of Rutland plan commission.</p>
<p>“ ... basic information, such as the anticipated broadband service area, or number and location of dwelling units within the federally designated target area eligible for service, has not been provided.”</p>	<p>This is not accurate; AT&T has provided extensive information about the broadband service area. Please refer to pages 2 through 4 of AT&T’s 12/20/17 supplemental materials for a detailed explanation of the fixed wireless service, including maps of the intended service area. Please refer to Mr. Jermain’s February 19, 2018 letter¹⁰ for an explanation of the coverage area and an estimate of the number of homes within the CAF II area that will likely be able to receive service from the proposed Martinson Site.</p>

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<p>“AT&T has not designed a system based on meeting the CAF II objectives of providing services in the target area. Rather, the design is based on using existing AT&T mobile service towers and, in this instance, identified mobile service needs.”</p>	<p>AT&T disagrees that its network design for the CAF II service area did not take the target area service needs into consideration. To the contrary, this is precisely what AT&T’s engineer did. Consistent with the County’s stated policy goal of limiting the overall number of mobile service towers by utilizing existing towers when possible, AT&T indeed took its existing infrastructure into consideration when planning the network design for the CAF II service area. This is not only good public policy, it is commonsense.</p>
<p>“When staff has asked for an explanation of why existing tower(s) located closer to and within the CAF II target area were not evaluated for collocation possibilities for the broadband service, the response has been that collocation would be ‘economically burdensome’”</p>	<p>Wisconsin’s Mobile Tower Siting Law requires applicants to consider whether collocation on an existing tower is feasible, or whether it would be economically burdensome. AT&T indeed addressed the “economically burdensome” criteria in its discussions with staff. However, and more to the point, AT&T also explained that, from a network engineering standpoint, collocation on two existing towers in the vicinity was not feasible from a technical perspective. In other words, AT&T explained multiple reasons why collocation was not possible. The staff report focuses only on the “economic” rationale and ignores the rest. Please refer to AT&T’s other written materials for a more in-depth analysis of collocation.</p>
<p>“...[the company also stated] that AT&T’s CAF II obligations are statewide and therefore they have no responsibility to maximize the provision of service within any specific target area.”</p>	<p>This is not an accurate (nor a fair) characterization of the conversation that representatives of AT&T had with county staff. AT&T representatives indeed explained that the company has a federally-mandated stated service goals that it must meet. AT&T also indicated that the system it is in the process of deploying is simply not capable of reaching every household within the CAF II target area and acknowledged that some households located in the portion of the CAF II area in the Town of Dunn would likely not be served.</p>

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<p>Staff have asked that AT&T engineers confirm whether or not the initial ¼ mile search ring provided with the application is valid for the dual objectives of the proposed tower. No such confirmation has been provided.</p>	<p>Since November 28, 2017, AT&T has repeated apologized for submitting incorrect information with the original application. These mistakes were corrected in the December 20th supplemental submittal to the County. Notwithstanding this, County Staff has continued to press AT&T on whether it might be possible to find another location for the proposed tower. During the recent conference call between CityScape, AT&T and County Staff, AT&T was specifically asked whether there was another location on the Reindahl stone quarry that could accommodate the proposed tower for the dual purposes stated in the application. AT&T responded in writing on March 19th indicating that its engineers indeed examined the feasibility of using a site on the Reindahl property for meeting both the mobile service and broadband service objectives – and that it was not possible, from a technical perspective, to do so.</p>
<p>It's worth noting that AT&T has not provided any map showing coverage need for the broadband target area. This raises a number of concerns, including the basic validity of information AT&T provided in support of its application.</p>	<p>This is not correct; AT&T has provided extensive information about the broadband service area. Please refer to pages 2 through 4 of AT&T's 12/20/17 supplemental materials for a detailed explanation of the fixed wireless service, including maps of the intended service area.</p>
<p>Staff recommends denial of the petition based on the following findings of fact:</p> <ol style="list-style-type: none"> 1. As detailed in the attached engineering report, the applicant has failed to substantiate the need for a new communication tower at the proposed location based on the objectives stated in the application materials. 	<p>Notwithstanding that "justification" is not a relevant criterion for the ZLR's decision on a CUP, AT&T has most certainly explained the need for this tower. Indeed, the County's consultant acknowledged the need in September 2017, before reversing itself inexplicably. Additionally, the County recognized the need for a new tower in this vicinity when it approved a permit for a tower on the Reindahl property in 2013, a tower that was never built due to unsuitable soils.</p>
<ol style="list-style-type: none"> 2. The proposed site is located outside of the search ring submitted with the application. The applicant has provided conflicting and contradictory information regarding the identification of search rings. 	<p>The applicant has corrected this mistake and apologized. Moreover, the proposed location for this tower happens to fall within the very same search ring that was the basis for the 2013 CUP approval.</p>

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<p>3. The applicant failed to submit a search ring documenting the need for a tower at the proposed location to provide rural broadband internet services, failed to adequately document the area eligible to receive such services, and failed to adequately evaluate the feasibility of collocation on an existing tower within the federally designated broadband target area.</p>	<p>The applicant simply disagrees with county staff about the “adequacy” of its evaluation and explanation. Since November 28, 2017, the applicant has met with county staff on multiple occasions and has supplied pages of maps and narrative text describing its analysis.</p>
<p>4. The proposal is inconsistent with the town/county comprehensive plan. Town plan policies seek to prevent the establishment of new, incompatible non-residential land uses near residential subdivisions and seek to preserve farmland and rural character. In addition, the town counts communication towers as a “split” against the density policy. As indicated on the attached density study report, the available density units on the Martinson property have been exhausted.</p>	<p>The applicant does not believe that this fairly characterizes the recommendations contained within the town’s plan. On page 2-8 of the Town’s plan, under the heading “Land Use” the plan contains the following policy statement: “Ensure that development of new cellular towers is consistent with Dane County’s ordinance regarding the procedure and standards for the placement, construction, or modification of communication towers.” AT&T believes that its application materials demonstrate compliance with this policy statement.</p> <p>AT&T has acknowledged the policy goal regarding “splits” that is articulated in the Town’s comprehensive plan. However, as discussed in more detail in the applicant’s December 20, 2017 submittal, this policy goal does not carry the force of law. More importantly, this policy goal is at odds with Wisconsin’s Mobile Tower Siting Law.</p>
<p>Based on the findings of fact, the request fails to meet standards 2 and 6 found in section 10.255(2)(h):</p> <p>2. That 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,</p>	<p>AT&T acknowledges the concerns that have been expressed by residents along Mesa Drive. However, AT&T believes that the information the company has submitted for the record demonstrates that the proposed tower will not</p>

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<p>maintenance or operation of the conditional use. <i>There are 20 residences located within 300'-1,300' of the proposed tower. Property owners from the neighboring residential subdivision have expressed their concerns the proposed conditional use will result in a substantial diminishment in uses, values, and enjoyment of their property.</i></p>	<p>result in a substantial diminishment in the use value and enjoyment of those properties. Indeed, one recent letter from a resident on Mesa Drive suggests that the larger concern for those residents is the condition of the Martinson Property, which is the subject of recent code-enforcement efforts (“... constant traffic through this property, junk stored openly, open ground fires, unlicensed vehicles, excavating equipment, dump trucks and semitrucks. By far the worst part of this though, is the noise.”) The proposed tower, on the other hand, will have little traffic, no noise and all ground-level equipment will be appropriately screened.</p> <p>Additionally, Wisconsin’s Mobile Tower Siting Law prohibits a local unit of government from denying a new tower based solely on aesthetic concerns.</p>
<p>6. That the conditional use shall conform to all applicable regulations of the district in which it is located.</p> <p><i>The request does not conform to standard B for conditional uses in the certified farmland preservation zoning district (A-1EX). Also based on the findings of fact, the request fails to meet standard B under section 10.123(5) for conditional uses in the A-1EX zoning district:</i></p> <p>(b) The use and its location in the A-1 Exclusive Agriculture zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law. <i>The applicant has failed to consider alternative locations within the originally provided search ring, including the 20 acre Reindahl site of previously approved CUP 2253 at 783 CTH MM, and also refused to adequately consider collocation options for the proposed broadband service.</i></p>	<p>This is not accurate. standing the fact that Wisconsin’s Mobile Tower Siting Law does not allow a local unit of government to require an applicant to consider alternate locations, AT&T nonetheless provided extensive analysis of the various alternate locations suggested by Dane County staff, including the Reindahl Property. The applicant has also addressed each potential opportunity for collocation.</p>