

Lane, Roger

From: Cothren, Joshua W - DOT <joshua.cothren@dot.wi.gov>
Sent: Tuesday, February 28, 2023 2:57 PM
To: Allan, Majid; Jake Remington; derek@cellusite.net; 'John Matson'
Cc: Lane, Roger; Violante, Todd; Holloway, Rachel; 'Ben Evans'; chairman@townofdunkirk.com; Schroeckenthaler, Scott; Hetland, Justin (FAA)
Subject: RE: Summary of airport concerns with cell tower at 1576 Spring Rd (CUP 2578)

This Message Is From an External Sender

This message came from outside your organization.

Hello Everyone,

I spoke with Majid with Dane County and John Matson the airport owner today. We discussed a few topics which are relevant here. First is the difference between public-use and private-use airports. Mr. Matson's airport is designated as a private-use airport. When the FAA is reviewing proposals such as the cell tower in question here, there is more weight given to the impacts the proposal would have on public-use facilities due to the nature of their use. The FAA does not provide the same level of attention to private-use airports, and this is most likely the reason Matson Airport was not mentioned in the FAA's determination letter or review. The FAA's jurisdiction is limited to the utilization of the national airspace and does not extend to underlying land uses in most cases. Since Matson Airport is not available to the public, the FAA avoids placing the private interests of one entity over the private interests of another.

The State of Wisconsin has a statute that requires permitting for tall structures meeting certain criteria. I have evaluated this proposal and found that **state permitting requirements DO NOT apply in this case**. The tower does meet the first two criteria, located in an area not governed by a local height limitation zoning ordinance and the structure exceeds 150ft tall. However, a structure must also meet one of the two following criteria; 1) the top of the structure is more than 500 feet above the surface of the ground or water within a one mile radius; OR 2) exceed a slope of 40feet horizontal to 1 foot vertical to the nearest public use runway end. This proposal does not meet either of the secondary permitting criteria.

We agree with both parties that aviation safety is of utmost importance and any steps that can be taken to promote safety are worth exploring. Mr. Matson has indicated that the airport is used for nighttime operations. Unlighted objects of this type are incredibly hard for pilots to recognize even during daylight as they blend easily into the background of the ground surface when viewed from the air and may only be visible to pilots at a similar altitude and close range. In darkness or inclement weather tower structures can be nearly invisible. In this case, as Mr. Matson has pointed out, pilots are in a high workload phase of flight in preparing to land or having just departed from the runway. Add into this a structure which may be difficult to see and avoid in clear daylight conditions, and nearly invisible in other conditions seems to present a hazard to aeronautical activity and to persons or property on the ground. One acceptable and common mitigation of this hazard is for structures to be marked or lighted in accordance with FAA guidance on marking and lighting objects, which can be found in FAA Advisory Circular 70/7460-1 (version "M" is the current version).

I must also note that a state permitting decision nor the FAA determination, obligate, supersede, or otherwise waive any requirements under local ordinances or regulations from any other body having an interest.

Please let me know if you have any questions or how I can be of further assistance.

Joshua Cothren, C.M. | Airport Operations and Airspace Safety Program Manager

Wisconsin Department of Transportation | Bureau of Aeronautics

joshua.cothren@dot.wi.gov | 608-266-6812

From: Allan, Majid <Allan@countyofdane.com>

Sent: Monday, February 27, 2023 6:59 PM

To: Jake Remington <Jake.Remington@huschblackwell.com>; derek@cellusite.net

Cc: Lane, Roger <lane.roger@countyofdane.com>; Violante, Todd <Violante@countyofdane.com>; Holloway, Rachel <Holloway.Rachel@countyofdane.com>; 'John Matson' <johnm@griphclip.com>; 'Ben Evans' <ben@cityscapegov.com>; chairman@townofdunkirk.com; Schroeckenthaler, Scott <Schroeckenthaler@countyofdane.com>; Hetland, Justin (FAA) <Justin.Hetland@faa.gov>; Cothren, Joshua W - DOT <joshua.cothren@dot.wi.gov>

Subject: Summary of airport concerns with cell tower at 1576 Spring Rd (CUP 2578)

**CAUTION: This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hi Jake,

As I had previously reported, concerns have been raised about the 199' Iron Mountain/Dish Wireless cell tower proposed under [CUP 2578](#) (approved 12-13-22) at 1576 Spring Rd. The concerns have been raised by the private airport owner and several pilots who utilize "Matson Airport" located approximately one mile south of the tower site.

I've reached out but not heard back from FAA in light of their "[no hazard](#)" determination. I passed along the third-party analysis that you had provided, but it did not alleviate the concerns about the tower posing a safety risk to users of the airport. My understanding is that, while lighting the tower would help improve visibility, the main problem is the height and location being directly in the flight path within a mile of the airport. There are additional concerns based on the varied types of planes using the facility and weather impacts, as well as periodic nighttime helicopter training by WI air national guard. As you know, lighting was specifically prohibited per condition #16 of the [permit](#).

This unfortunate situation has arisen in part because the FAA determination may not have factored in the nearby Matson airport, and the airport owner was not directly notified and given an opportunity to express these concerns prior to action being taken on the conditional use permit application.

I believe the airport owner, John Matson, will be speaking during the public comment section of the county zoning committee agenda tomorrow evening to bring the issue to the committee's attention. Given the seriousness of the concerns, I anticipate the committee will likely place the issue on their next agenda (3/14) for discussion. I've attached a recent communication from Mr. Matson that explains and depicts the concerns. I've also attached the commissioned study. I will also continue to try and connect with FAA and WI Bureau of Aeronautics staff (cc'd here).

Thanks,
Majid

Majid Allan
Senior Planner, [Dane County Planning & Development](#)
210 Martin Luther King Jr. Blvd, room 116
Madison, WI 53703
allan@countyofdane.com
Office: 608-267-2536 Cell: 608-720-0167

