

March 2, 2018

VIA EMAIL

Supervisor Mary Kolar
Chair, Dane County Board Zoning and Land Regulation Committee
City-County Building, Room 354
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

Re: CUP Petition No. 02396 filed on behalf of AT&T by SAC Wireless
199' Communication Tower in the Town of Rutland

Chair Kolar and Members of the Committee:

Once again, on behalf of AT&T, I would like to thank the Committee for tabling consideration of this application at your November 27, 2017 meeting. Your decision has allowed us to continue working with Dane County Planning staff and the Town of Rutland. Representatives of AT&T have met with County staff and the Town officials a number of times since November and we believe a great deal of progress has been made. We are scheduled to return to the Town of Rutland this coming Monday, March 5th, and we are hopeful the Town board will recommend approval of the CUP. Ultimately, we look forward to returning to your Committee later in March for final consideration of the application.

In the meantime, please allow me the opportunity to respond to a report received from CityScape, the County's technical consultant, dated February 27, 2018. The report indicates that CityScape "does not support this proposal in its current form."¹ We were somewhat surprised to read this, since representatives of CityScape reported to us in December that "[w]e never oppose any qualified application, and this one is qualified."² Moreover, CityScape's conclusion is problematic to the extent that it directly contravenes Wisconsin's Mobile Service Siting Law (Wis. Stat. § 66.0404), which does not allow zoning decisions to be made based solely on consideration of a tower's height or made contingent upon collocation. Furthermore, we believe the premises on which CityScape bases its conclusion (*i.e.* that AT&T failed to examine certain issues) is factually inaccurate.

Perhaps what is most troubling about the CityScape report is that it strays improperly, and significantly, beyond a technical and/or engineering analysis of the application presented. For

¹ See 2/27/18, CityScape report, p. 8 ("To date, the Applicant has failed to examine the possibility of collocation for the WLL service objectives and furthermore the absolute need for a new 198-foot [sic] tower. For this reason, CityScape Consultants, as wireless expert for the County, does not support this proposal in its current form.")

² See 12/21/17 email correspondence enclosed at [Tab A](#).

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example, CityScape faults AT&T for submitting conflicting information (which AT&T has acknowledged and for which AT&T has already accepted responsibility) and calls into question AT&T's credibility without any factual basis. CityScape's engineers would have done the County a better service had they stuck to reviewing the engineering aspects of the proposal rather than raising issues that have already been addressed.

CityScape's excursions into such matters require us to respond to several statements in the CityScape report. Doing so now would perhaps be unnecessary if CityScape had accepted one of the multiple offers we made since the November ZLR meeting to have AT&T's entire engineering team available for a conference call with CityScape's engineers to answer any questions or provide any additional information that might be requested.³ In the end, CityScape chose not to talk with us.

Below are brief excerpts from the CityScape report in italics, followed by a response on behalf of AT&T.

p. 2 "For a new wireless communications facility to be justified, its need, location and height must be addressed"

Response: First, it is important for the Committee to understand that the County's zoning laws do not require AT&T to "justify" the need for the proposed tower. Rather, the zoning code classifies communication towers as a conditional use, meaning that they are *expressly permitted*, provided the applicable standards can be met.⁴ In total, the County's zoning code lists 17 specific standards that govern this application (six standards for communications towers under 10.194(2); six general standards for CUPs under 10.255(2)(h); and five standards for CUPs in the A1-Ex district under 10.123(5)) "*Justification of the need*" is simply not one of those standards – nor is it a standard under Wisconsin's Mobile Tower Siting Law.⁵ The volume of information that AT&T has now submitted along with its application supports conclusively that the application meets each of the 17 applicable standards.

Second, notwithstanding that "justification" is not a relevant criterion for decision-making, AT&T has most certainly explained the need for this tower. Indeed, CityScape acknowledged in September 2017 that AT&T had sufficiently demonstrated the need for the tower. In its preliminary report, CityScape wrote:

"... no existing towers exist within the search area (CityScape has confirmed this). For this reason, AT&T has demonstrated the need for a

³ See email correspondence enclosed at [Tab A](#).

⁴ See *State ex. rel. Skelly Oil Co., Inc. v. City of Delafield*, 58 Wis. 2d 695, 207 N.W.2d 585 (1973).

⁵ Enclosed at [Tab B](#) is a summary of the applicable CUP standards governing AT&T's application.

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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.”⁶

CityScape goes on to state:

“CityScape Consultants, as the wireless expert for the County, recommends this Application for a new 195-foot [sic] tower be approved with the following conditions ...”⁷

This conclusion should not come as a surprise to the County seeing as the County unanimously granted a CUP to AT&T for a tower in this same general area back in 2013. Nothing has changed since 2013 that would eliminate this need – and certainly nothing has changed since CityScape made its determination back in September.

To the contrary, following the November ZLR meeting, AT&T has provided to County staff significant additional information (including a thorough explanation as to why collocation on two SBA towers in the vicinity is not viable) further documenting the need for a tower. Notwithstanding this, the final CityScape report is a complete 180 degree flip from the preliminary report. There is no rational basis for this; we find absolutely nothing in the record to justify this dramatic shift in opinion.

p. 2 “AT&T has submitted various, incomplete documents to the County ... and has supplemented this information with changing supporting documentation ... The discrepancies in the search rings, inadequate technical information, and many other issues detailed in this report, have made it difficult to ascertain if the selected site is indeed justified from an engineering standpoint.”

Response: Once again, CityScape seizes on whether the “selected site is indeed justified” when justification is outside the scope of review. More troubling is that CityScape seeks with this statement to improperly impugn AT&T’s credibility. This is unfortunate. When representatives of AT&T met with the committee last November, Jim Jermain, Regional Vice President of External Affairs for AT&T, acknowledged that the company and its consultants could have and should have done a better job presenting the initial application materials. Thereafter, Mr. Jermain took a more active role in the application process to ensure that the information supplied to the County was as accurate as possible. After working for several weeks with his engineering team, Mr. Jermain personally prepared a

⁶ See CityScape Report dated September 19, 2017 at p. 3, enclosed at Tab C.

⁷ See *Id.* at p. 4.

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15-page supplement to the application, which was submitted to County staff on December 20, 2017. After several follow-up meetings with County staff, Mr. Jermain personally prepared a letter, dated February 19, 2018, responding to additional items that were raised in those meetings. To make sure that nothing was misunderstood, AT&T reached out to CityScape to offer it a chance to ask any questions and to clear up any sense of “discrepancies” or “inadequate technical information.” CityScape chose not to seize the opportunity.

AT&T has voluntarily extended the review period on three separate occasions to ensure that the County and the Town had sufficient time to continue reviewing the materials provided. As noted above, on several occasions since the ZLR’s November meeting, representatives of AT&T have offered to make its entire engineering team available for a phone conference with CityScape in order to address any questions or concerns. CityScape declined to take advantage of these offers.

p. 4 “... the coverage maps are inconsistent with previous showings ... they appear to be a combination of the two services”

Response: This statement demonstrates that CityScape was either unable or unwilling to consider any of the supplemental application materials provided since the November ZLR meeting. Instead, CityScape chooses to focus on what it improperly refers to as the “inconsistencies” with AT&T’s application. AT&T has already acknowledged to the Committee that its original application could have and should have been better prepared. The inconsistencies in the initial application were explained and corrected for the record in Mr. Jermain’s December 20, 2017 submittal. What CityScape has failed to do is present any inconsistencies that exist when one fully considers the information in the December 20, 2017 submittal. We therefore respectfully request that the Committee consider the information presented in the December 20, 2017 submittal to be credible and accurate.

p. 4 “... the Applicant fails to demonstrate any specific service target and/or purpose [for the fixed wireless service].”

Response: This assertion by CityScape is simply false. 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. When CityScape staff indicated that the maps embedded in the 12/20/17 submittal were difficult to read, AT&T responded the very same day with computer files containing “larger and clearer copies of the maps.”⁸

⁸ See email correspondence enclosed at [Tab A](#).

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In addition, Mr. Jermain's letter to County Planning staff dated February 19, 2018, also specifically addresses the CAF II service area, noting that 35-40 customer service locations are expected to be served by this tower alone (the letter notes there are 4 other towers that AT&T has already equipped as part of its network design for serving the CAF II area). It is unclear to the applicant why the County's consultant would make a representation that is so clearly contrary to the record.

p. 5 "The proposed site is located outside of the Applicant's initial search ring by about 3/4 of a mile"

Response: It is unclear what CityScape means by this statement. If CityScape is attempting to say that the Martinson Site is outside of the search ring provided with the 2013 CUP application (for a tower that was approved by the County but never built), its statement is incorrect. As shown on page 1 of the 12/20/17 supplement filed by Mr. Jermain, the Martinson Site is within the very same search ring AT&T used when it received County approval for a new tower in 2013. If CityScape is simply repeating what AT&T has already acknowledged—that the original 2017 application contained an inaccurate search ring—then, yes, that is correct. Mr. Jermain acknowledged this mistake on behalf of the company at the ZLR meeting last November and he has supplied corrected information since then. As with so much of CityScape's presentation, CityScape seems fixated on the fact that there were some gaps in AT&T's initial application, and seems unable or unwilling to digest and consider the corrective information AT&T subsequently provided.

p. 5 "... at no point has the applicant submitted any information to demonstrate the need for a tower at the selected location in support of its wireless broadband objectives. In fact, those wireless broadband objectives have never been substantiated in any detail beyond references to the CAF II target area 'in the town of Dunn.'"

Response: Setting aside the fact that demonstrating a need for improved service is not a relevant criteria for this zoning decision (see above), this sweeping assertion by CityScape is also false. The supplemental materials provided to the County by AT&T since the November ZLR meeting contain detailed information explaining the company's objectives and the need for a tower at this location (see above). Again, it appears that CityScape is unable or unwilling to review the supplemental materials that AT&T provided in a detailed effort to resolve issues that CityScape seems unable to let go of.

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p. 5 [with regard to fixed wireless] “there is a better located existing tower which resides in the CAF II target area that the Applicant has not addressed.”

Response: This statement is incorrect; there is indeed an existing tower within the CAF II area AT&T proposes to serve. That tower, however, is not “better located” and AT&T has indeed addressed it. Based on earlier conversations with County Planning staff, we presume CityScape is referring to an existing SBA tower on Hwy 138 (site number of WI20202-A, with an address of 3950 STH 138, Stoughton, WI 53589.). Notwithstanding the fact that Wisconsin’s Mobile Tower Siting Law does not allow a local unit of government to suggest “better” locations (rather, the law requires the local government to review the site that has been presented) AT&T indeed discussed SBA’s STH 138 tower in meetings with Dane County Planning staff on January 12, 2018 and again on February 5, 2018.

AT&T explained to County staff that it was not feasible to collocate on this SBA tower (which is located within the middle of the CAF II area AT&T intends to serve) because AT&T already has other towers as part of its network that are providing coverage to this area and collocating on the SBA tower would interfere with service provided by those other sites. CityScape’s simplistic suggesting that “closer is better” fails to recognize that these installations must be planned as part of a *network* of sites.

Moreover, even if it was technically feasible to collocate on the SBA Hwy 138 tower as part of the network design for the CAF II area (which it is not), the SBA tower is not adequate for providing mobile service to the west. Therefore, a second tower would be needed. This defeats the County’s stated goal of issuing CUPs “to accommodate the expansion of wireless communication technology while minimizing the number of tower sites”⁹

p.6 “Significant insight provided in [AT&T’s 12/20/17 submittal] was the evolution of the search rings and explanation that the proposed tower is AT&T’s only viable option to meet its coverage goals. The [12/20/17 submittal] included a third search ring that encompassed the proposed site ... This third search ring’s validity is questionable.”

Response: Here again, CityScape chooses not to perform an engineering analysis of the information provided. Instead, it raises unsubstantiated questions about the applicant’s credibility. CityScape’s report argues that the information supplied by Mr. Jermain following the November ZLR meeting cannot be trusted because it provides a self-serving, after-the-fact explanation of events. We respectfully suggest to the Committee that this sort of speculation and

⁹ Ord. § 10.194 (1).

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commentary goes well beyond the scope of an engineering report. In essence, the County's consultant is seeking to justify its refusal to objectively analyze any of the information provided by the applicant since the November ZLR meeting. CityScape's failure to perform its role cannot be cured by raising questions about whether an applicant is being earnest in its provision of information, especially when, as is the case here, there is no basis for doing so.

p. 6 "The Applicant has been unable to demonstrate how many, if any, households within the CAF II target area will be eligible for WLL broadband service as a result of the proposed new tower."

Response: This assertion by CityScape is inaccurate. 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. 7 "The Applicant has not commented on whether collocation on the existing SBA-owned tower located on State Highway 138 (shown in Figure 3 as WIL05625) would meet the requirements and not require constructing this proposed new tower. The Applicant challenged this notion but erred in its report by referencing a different, shorter tower just east of the proposed site (not shown on map)."

Response: It is unclear what CityScape means with this statement. Figure 3 shows four towers: WIL00033, WIL02103, WIL02047, WIL00274. There is no reference to WIL05625 on Figure 3. That said, it is noteworthy that, since the November ZLR meeting, AT&T has addressed and responded to the feasibility of collocating on not one but *two* SBA towers. One SBA tower is described in Mr. Jermain's 12/20/17 submittal and the other SBA tower was discussed at length with county planning staff in meetings on January 12, 2018 and February 5, 2018. Notwithstanding 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 an explanation of why collocation on these SBA towers was not feasible.

In summary, after acknowledging to the Committee that AT&T had stumbled with its initial application materials, AT&T addressed all items that were raised by County staff, even when such issues were beyond the proper, legal scope of the Committee's review. AT&T has gone above and beyond what is required under the law in order to secure a permit from Dane County for the construction of a new tower.

¹⁰ Copy enclosed at Tab D.



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We understand that the Committee has already held a public hearing on this application. However, in the interest of due process and ensuring a clear record, we would like the opportunity to appear before the Committee in person to respond to the information presented in the CityScape report. We hope that your March meeting calendar will allow for this opportunity.

Respectfully submitted,

MICHAEL BEST & FRIEDRICH LLP

A handwritten signature in black ink that reads 'Dan O'Callaghan'. The signature is fluid and cursive, with the first name 'Dan' being more prominent than the last name.

Daniel A. O'Callaghan

cc: Mr. James F. Jermain, AT&T
Chairman Mark Porter, Town of Rutland
Atty. Jordan Hemaidan, Michael Best & Friedrich LLP

Enclosures

096140-0197\22877258.1

TAB A

From: O'Callaghan, Daniel A (20117) [<mailto:DAOCALLAGHAN@michaelbest.com>]
Sent: Tuesday, January 09, 2018 4:23 PM
To: Allan, Majid
Cc: Elizabeth Herington-Smith; Susan; 'Anthony Thomas Lepore'; Jon@CityScapeGov.com; 'Rick Edwards'
Subject: RE: AT&T Tower - Martinson Site, Town of Rutland

Majid,

Just a quick message to check in with you. If there are any questions or concerns as you continue to evaluate our supplemental application materials, please don't hesitate to call. As I mentioned to Rick a few weeks ago, I'm happy to facilitate a conference call with AT&T's engineers if there are any technical issues that need to be addressed.

Best,
Dan

From: Rick Edwards [<mailto:rick@cityscapegov.com>]
Sent: Thursday, December 21, 2017 11:17 AM
To: O'Callaghan, Daniel A (20117)
Cc: Lane, Roger; Elizabeth Herington-Smith; Susan; 'Anthony Thomas Lepore'; Allan, Majid; Jon@CityScapeGov.com; Mark Porter; Dawn George (Dgeo4177@aol.com); JERMAIN, JAMES F (jj8571@att.com); Hemaidan, Jordan J (24431)
Subject: Re: AT&T Tower - Martinson Site, Town of Rutland

Thanks,

Since I sent the comment this morning, I did get a powerpoint that is more legible. I have described the chronological process as we received it, describing the confusion, and at what points we learned of the different purposes (for lack of a better term). We do not believe in surprises that, we believe is best for everyone concerned, and will always be clear about what we know and the status of our opinion.

Rick

Richard Edwards
CITYSCAPE CONSULTANTS, INC.

From: "O'Callaghan, Daniel A (20117)" <DAOCALLAGHAN@michaelbest.com>
Date: Thursday, December 21, 2017 at 11:49 AM
To: Rick Edwards <rick@cityscapegov.com>
Cc: "Lane, Roger" <lane.roger@countyofdane.com>, Elizabeth Herington-Smith <elizabeth@cityscapegov.com>, Susan <susan@cityscapegov.com>, 'Anthony Thomas Lepore' <Anthony@cityscapeGov.com>, "Allan, Majid" <Allan@countyofdane.com>, Jon Edwards <Jon@CityScapeGov.com>, Mark Porter <mark.porter@att.net>, "Dawn George (Dgeo4177@aol.com)" <Dgeo4177@aol.com>, "JERMAIN, JAMES F (jj8571@att.com)" <jj8571@att.com>, "Hemaidan, Jordan J (24431)" <JJHemaidan@michaelbest.com>
Subject: RE: AT&T Tower - Martinson Site, Town of Rutland

Good morning Rick,

I am the attorney here in Madison who is assisting AT&T with the permitting process. On behalf of AT&T, thank you for responding so quickly to the updated application materials submitted yesterday. And, yes, you are absolutely correct, the updated submittal is intended to provide clarity about the two different coverage needs that will be met with the proposed tower at the Martinson Site. The updated materials also explain how the

current proposal traces back to the Reindahl Stone Site that was approved by Dane County in 2013 but was never constructed. Per your request, attached are larger and clearer copies of the maps that were included in our recent submittal.

We appreciate hearing your opinion that the two existing service needs might be better served with two shorter towers. However, Dane County's communications tower ordinance generally discourages this. The policy expressly stated in county ordinance is "to accommodate the expansion of wireless communication technology while minimizing the number of tower sites" Consistent with this goal, AT&T has submitted an application for a single tower on the Martinson Site, which will serve both coverage needs that have been identified. Moreover, Wisconsin's Mobile Tower Siting Law generally does not permit local governments to reject an application based on an assessment that another location would be better suited. The proposed tower must be evaluated on its own merits. Ultimately, AT&T's engineers determined that the best way to meet the two existing coverage needs is through the erection of a single new tower on the Martinson Site. This is what we are asking Dane County to evaluate and permit.

It is my understanding that you will be assisting the County in evaluating the technical aspects of the pending application. If you have any technical questions after you've had more time to review yesterday's submittal and the maps attached to this email, I would be happy to organize a conference call with AT&T's team within the next 10 days to answer those questions and address any other concerns you may have.

I look forward to working with you.

Happy holidays,
Dan

Daniel A. O'Callaghan

Partner

E daocallaghan@michaelbest.com

T 608.283.0117 | **M** 608.628.2177 | **F** 608.283.2275



From: Rick Edwards [<mailto:rick@cityscapegov.com>]

Sent: Thursday, December 21, 2017 9:13 AM

To: Allan, Majid; Jon@CityScapeGov.com; Mark Porter; Dawn George (Dgeo4177@aol.com)

Cc: Lane, Roger; O'Callaghan, Daniel A (20117); Elizabeth Herington-Smith; Susan; 'Anthony Thomas Lepore'

Subject: Re: AT&T Tower - Martinson Site, Town of Rutland

We will get it done, but there may be questions that could require extension, it depends on AT&T. So that all will understand the process, these questions center around the distance between the two different wireless objectives, which are; 1) a coverage gap in the western direction and 2) an AWS high-speed wireless broadband service to the east. To clearly follow AT&T's recent submittal, it is hard to understand based on the submitted maps being fuzzy and not clear. CityScape in every way promotes the advancements of wireless services for many reasons, primarily because the public wants it, and many times the wants conflict with those not wanting facilities in their back yard. In every community there is a balance between the desired service area of immediate concern, that, in time, will be insufficient for growth. That has already been shown from the early stages of wireless deployment, when subscriber base was low, and as subscribers grew and the wireless service has advanced further from basic telephone calls to streaming data.

Unknown to CityScape until very recently, the Applicant had submitted and was approved a new 150 foot facility within that particular ring. Following this approval from the County to construct that 150 foot facility, AT&T informed the County the ground was insufficient and an alternative site was needed. That is when CityScape became involved and was not informed of the history, but saw an application for a location east and outside of

the ring, proposed to remedy a service gap to the west. This 1st information submitted to CityScape only described a coverage gap west of the search ring. Also submitted were proposed signal levels substantially higher than standard and acceptable signal levels; in lay terms the actual proposed signal level was greater than 3 times the standard in-building, in-vehicle and pedestrian level of service. That raised two red flags. Why was AT&T moving a facility, and I emphasize from submitted information, a distance ~ double the distance to the east outside the ring, and in the wrong direction, from the submitted purpose, which was to remedy a coverage gap to the west. It was only following a comment from the County staff after a hearing/meeting that AT&T discussed the CAF II concerns. That changed all that we had prepared. Our report was based on the coverage gaps to the west.

It is understood there is community concerns over the proposal, and as the County's expert, we are obligated to understand and support the request to the level of recommending approval for a facility that is opposed by the citizens. They have the right to be heard and we must provide the necessary documentation that then places the County staff and officials in opposition to their taxpayers.

The submission of maps is important because CityScape must confirm the proposed 190 foot proposal would provide AWS service using 2,100MHz the distance projected. Again being the submitted maps are fuzzy we can't confirm, but in a perfect world at 190 feet at the 2,100MHz frequency that service area is less than 2 miles. But the service area at LTE frequencies generally at 700MHz would cover more than twice the distance; thus depending on AT&T's proposed and desired type of service to the west, 700MHz or 2,100MHZ or in-between those frequencies, is it fair to assume that a single 190 foot facility at that location would meet the immediate and future services in both locations? Then there is the consideration of increased need for bandwidth and subscriber capacity even into the near future, and of equal important is the bandwidth speed at that distance and capacity for the same immediate and future needs. Candidly, right now, it is our opinion this situation can be better resolved with two facilities of shorter elevation.

That is what we have in front of us, and whatever you have to assist us would be greatly appreciated. We never oppose any qualified application, and this one is qualified. We have described as clearly as we can our issues, which we have previously indicated. Work with us and let's get it resolved.
Thanks

Rick

Richard Edwards
CITYSCAPE CONSULTANTS, INC.

From: "Allan, Majid" <Allan@countyofdane.com>
Date: Wednesday, December 20, 2017 at 6:22 PM
To: Rick Edwards <rick@cityscapegov.com>, Jon Edwards <Jon@CityScapeGov.com>, Mark Porter <mark.porter@att.net>, "Dawn George (Dgeo4177@aol.com)" <Dgeo4177@aol.com>
Cc: "Lane, Roger" <lane.roger@countyofdane.com>, "O'Callaghan, Daniel A (20117)" <DAOCALLAGHAN@michaelbest.com>
Subject: FW: AT&T Tower - Martinson Site, Town of Rutland

Hi,
Please see the attached information submitted on behalf of the AT&T proposed tower on the Martinson property under CUP #2396. County staff will be reviewing the information and will share any observations/questions with CityScape, town officials, and the applicant in the coming days.

For CityScape staff... The town of Rutland has meetings scheduled for January 3rd. I realize there is a very good chance that the 6 business days between now and then will not be enough time to thoroughly review the information and produce your report. Would appreciate if you could at least provide a cursory analysis and identify any questions you may have or additional information you may need to conduct your review.

Pending the response from CityScape staff, county staff can work with AT&T's counsel on a possible time extension so that the town is not again asked to consider holding a special meeting prior to the county ZLR Committee meeting on January 23, 2018.

Thanks in advance for everyone's understanding and patience as we work to address the various issues surrounding this proposal.

Majid

Majid Allan
Senior Planner
Dane County Planning & Development
210 Martin Luther King Jr., Blvd - Room 116
Madison, WI 53703
608-267-2536
allan@countyofdane.com

From: O'Callaghan, Daniel A (20117) [<mailto:DAOCALLAGHAN@michaelbest.com>]
Sent: Wednesday, December 20, 2017 3:02 PM
To: Allan, Majid
Cc: JERMAIN, JAMES F (jj8571@att.com)
Subject: AT&T Tower - Martinson Site, Town of Rutland

Majid,

Thanks for your time this morning. Attached is a PDF copy of the supplemental application materials that AT&T has prepared for your review. After you have a chance to look at this information more closely, please let me know if you have any questions or concerns or if you would like to see any additional information.

Finally, I would appreciate it if you would please forward these materials to the officials at the Town of Rutland for their consideration as well. We are looking forward to the opportunity to visit with the town board in January after the town has had a chance to review everything, including a full report from CityScape.

Best,
Dan

Daniel A. O'Callaghan

Partner

E daocallaghan@michaelbest.com

T 608.283.0117 | **M** 608.628.2177 | **F** 608.283.2275

 **Michael Best**
Michael Best & Friedrich LLP

TAB B

10.194 Procedure and Standards for the Placement, Construction or Modification of Communication Towers. This section provides the procedures and standards for issuance of conditional use permits for the placement, construction or modification of communication towers as defined in section 10.01(78m).

- (1) It is intended that conditional use permits shall be issued under this section to accommodate the expansion of wireless communication technology while minimizing the number of tower sites through the requirement that permitted towers be placed or constructed so that they may be utilized for the collocation of antenna arrays to the extent technologically and economically feasible.
- (2) No conditional use permit for the placement or construction of a tower shall be issued unless the applicant presents to the committee credible evidence establishing to a reasonable degree of certainty the following:
 - (a) No existing communication tower is located within the area in which the applicant's equipment must be located; or
 - (b) No existing communication tower within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost; or
 - (c) No existing communication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment and the deficiency in structural strength cannot be remedied at a reasonable cost; or
 - (d) The applicant's equipment would cause electromagnetic interference with equipment on the existing communication tower(s) within the area in which the applicant's equipment must be located, or the equipment on the existing communication tower(s) would cause interference with the applicant's equipment and the interference, from whatever source, cannot be eliminated at a reasonable cost; or
 - (e) The fees, costs or contractual provisions required by the owner in order to collocate on an existing communication tower are unreasonable relative to industry norms; or
 - (f) The applicant demonstrates that there are other factors that render existing communication towers unsuitable or unavailable and establishes that the public interest is best served by the placement or construction of a new communication tower.

10.255 (2) (h) [General CUP] Standards. No application for a conditional use shall be granted by the town board or zoning committee unless such body shall find that all of the following conditions are present:

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
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, maintenance or operation of the conditional use;
3. That 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. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;
5. That adequate measures have been or will be 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.

10.123 (5) Standards for conditional uses in the A-1 Exclusive Agriculture zoning district. In addition to the requirements of s. 10.255(2)(h), the zoning committee must find that the following standards are met before approving any conditional use permit in the A-1(exclusive agriculture) zoning district.

- (a) The use and its location in the A-1 Exclusive Agriculture zoning district are consistent with the purposes of the district.
- (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.
- (c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

TAB C

Dane County, Wisconsin
Telecommunications Site Review
New Support Structure

CityScape

C O N S U L T A N T S , I N C .

7050 W. Palmetto Park Road #15-652

Boca Raton, FL 33433-3483

Tel: 877.438.2851 Fax: 877.220.4593

September 19, 2017

Mr. Majid Allen
Senior Planner
Dane County Planning & Development
210 Martin Luther King Jr., Blvd
Madison, WI 53703

RE: Dane County
AT&T Mobility / Martinson

Dear Mr. Allen,

At your request, on behalf of Dane County, Wisconsin (“County”), CityScape Consultants, Inc. (“CityScape”) in its capacity as telecommunications consultant for the County, has considered the merits of the above referenced application submitted by SAC Wireless on behalf of AT&T Mobility (“Applicant”), to construct a new wireless telecommunications support structure and associated ground compound at 4614 County Highway A, Oregon, Wisconsin, *see Figure 1*. The proposed structure is less than 200 feet and does not require FAA approval or tower lighting.

This application is proposed to provide improved service in the general area where mostly residential areas exist. The existing service along county Highway MM is weak and only reliable outdoors. The proposal has been evaluated from the following perspectives:

- The proposed facility, as specified, is justified due to technological reasons and is essential for the Applicant to provide its telecommunications service; and,
 - The proposed facility will follow the guidelines of the Telecommunications Act of 1996, the Dane County Ordinance and all other pertinent rules and regulations.
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Dane County Ordinance Requirements

§10.194(1): CUP required

§10.194(2) CUP requirements:

- a. No existing towers exist within search area: none exist
- b. Any existing towers are of sufficient height: none exist
- c. Any existing towers are of sufficient structural strength: none exist
- d. No electromagnetic interference will occur: not provided
- e. Collocation fees are unreasonable: not applicable
- f. Other factors deem existing tower(s) unsuitable: not applicable

§10.194(3): Term *reasonable* defined as 25% cost of new tower – not applicable

§10.194(4): Third party review – CityScape

§10.194(5): If less than 150 feet is proposed, tower must be capable of future increase to 150 feet and 2 collocations – not applicable since tower is 195 feet in height

§10.194(6): CUP required for substantial modification: not applicable

§10.194(7): CUP condition requirements can be checked at later date – *defer to County*

§10.194(8): CUP not required for collocations that are non-substantial

§10.194(9): Equipment building limits of no more than 314 square feet in floor area: complies

§10.194(10): Unused equipment shall be removed – not applicable

§10.194(11): Future buildout plans may be required – not applicable

Additional CUP requirements for communication towers

- A. Legal Statement: provided in CDs
 - B. Tax Parcel number(s): provided on CTIF
 - C. Completed Zoning Application Form: provided
 - D. Completed Communication Tower Information Form (CTIF): provided
 - E. Written Statement: Limited – Short statement from RF engineer
 - F. Site Plan, Design Elevations, Site Photos and Photo Simulations: provided
 - G. CUP filing fee: *defer to County*
 - H. RF Engineering Analysis: statement from RF engineer and coverage maps provided
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Site Justification and Coverage

For a new wireless communications facility to be justified, its need, location and height must be addressed. The application proposes to construct a new one hundred ninety-nine (199) foot *monopole* tower, *see Appendix, Exhibit A*. The proposed site east and outside of the Applicant's search ring.

There are various short statements from the tower owner (see E above) regarding the need for the new tower. They state that there are no useable towers in the area and that this new tower needed to provide AT&T service to these portions of Dane County. There are also coverage maps and a short statement provided by the AT&T radio frequency (RF) engineer that no other tower candidates existing within the search ring.

The most significant statement from the above is 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.

Landscaping/Screening:

The Ordinance does not require any landscaping or screening, just that the Applicant indicate if they volunteer to provide landscaping. In general, CityScape believes some level of landscaping or screening should be required by the County, unless the Applicant can demonstrate that existing, dense, foliage surrounding the site exists and will remain after construction. For purposes of this Application, CityScape recommends the County require landscaping on the southern side of the compound to screen the view from County Road A.

Tower Height Considerations:

The Ordinance requires new towers be able to accommodate at least two (2) collocations (three (3) total arrays). The Applicant is not proposing any future collocations, *see Appendix Exhibit A*.

With AT&T already having a strong signal in the area, CityScape recommends the tower should have the capacity to support at least two (2) additional co-locations, in agreement with the Ordinance.

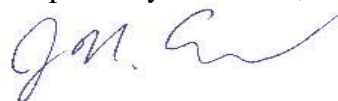
Conclusion:

For purposes of this Application herein, the Applicant has only demonstrated the need for a new 195-foot tower, as indicated by the AT&T engineer's statement and coverage maps. CityScape Consultants, as the wireless expert for the County, recommends this Application for a new 195-foot tower be approved with the following conditions:

1. Tower should be approved only if designed to accommodate at least two additional co-locations. Prior to construction, the tower manufacturer letter should be revised to indicate the tower will be designed to accommodate three (3) total antenna arrays (of like design to the Applicant's).
2. 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; and,
3. Proposed tower shall be galvanized and not painted any other color without approval of the County; and,
4. Applicant shall not begin construction until SHPO/NEPA requirements are met; and,
5. Applicant shall place landscaping on the south side of the compound to screen view from County Road A; and,
6. Prior to permitting, Applicant shall provide a statement from AT&T that it will comply with all Federal Communications Commission (FCC) guidelines regarding RF energy and exposure limits and RF interference

I certify that to the best of my knowledge all the information included herein is accurate at the time of this report. CityScape only consults for public entities and has unbiased opinions. All recommendations are based on technical merits without prejudice per prevailing laws and codes.

Respectfully submitted,



Jonathan N. Edwards, P.E.
CityScape Consultants, Inc.

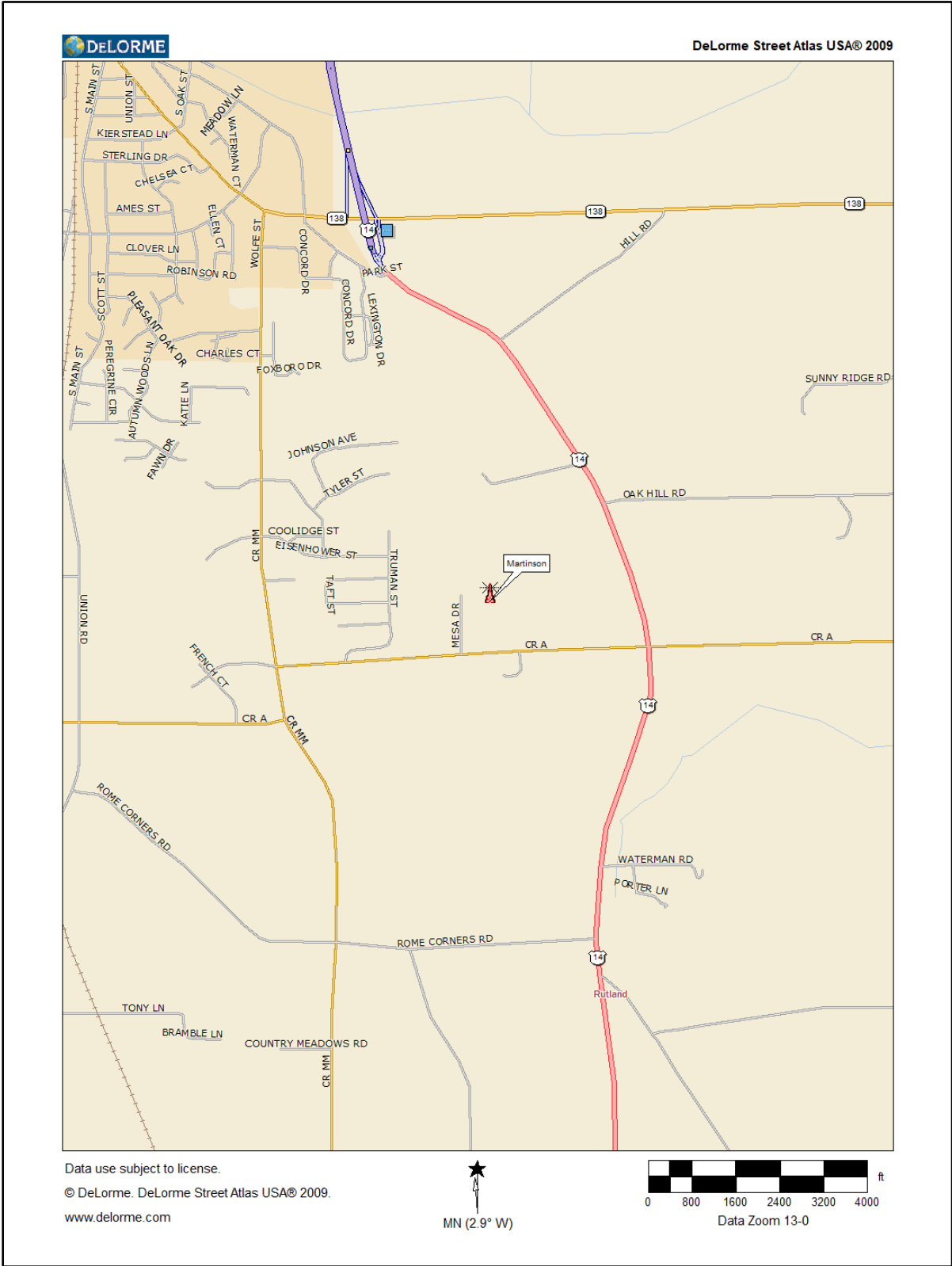


Figure 1 – Site Location



Figure 2 – Aerial Site View

Appendix

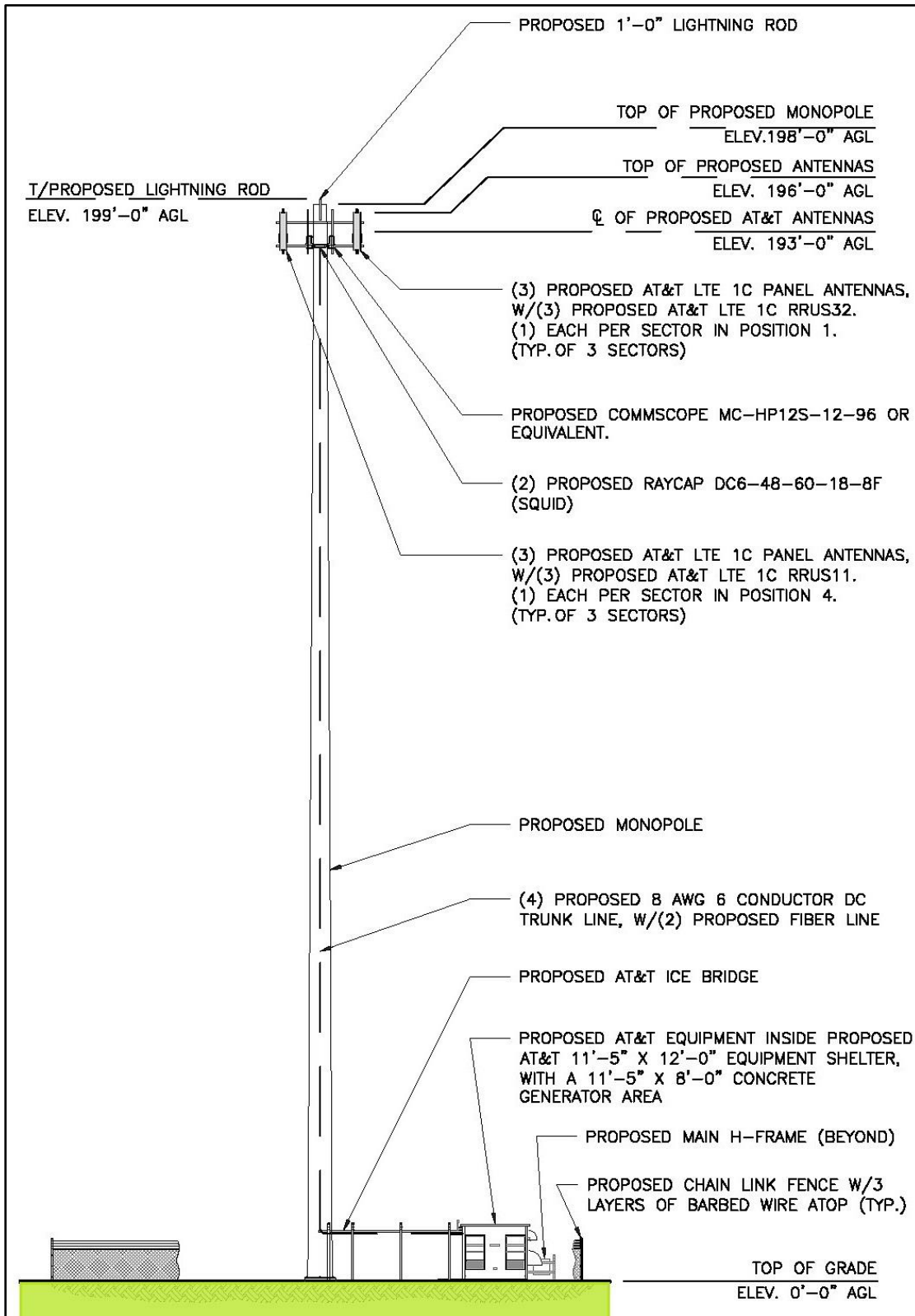


Exhibit A - Proposed Support Structure

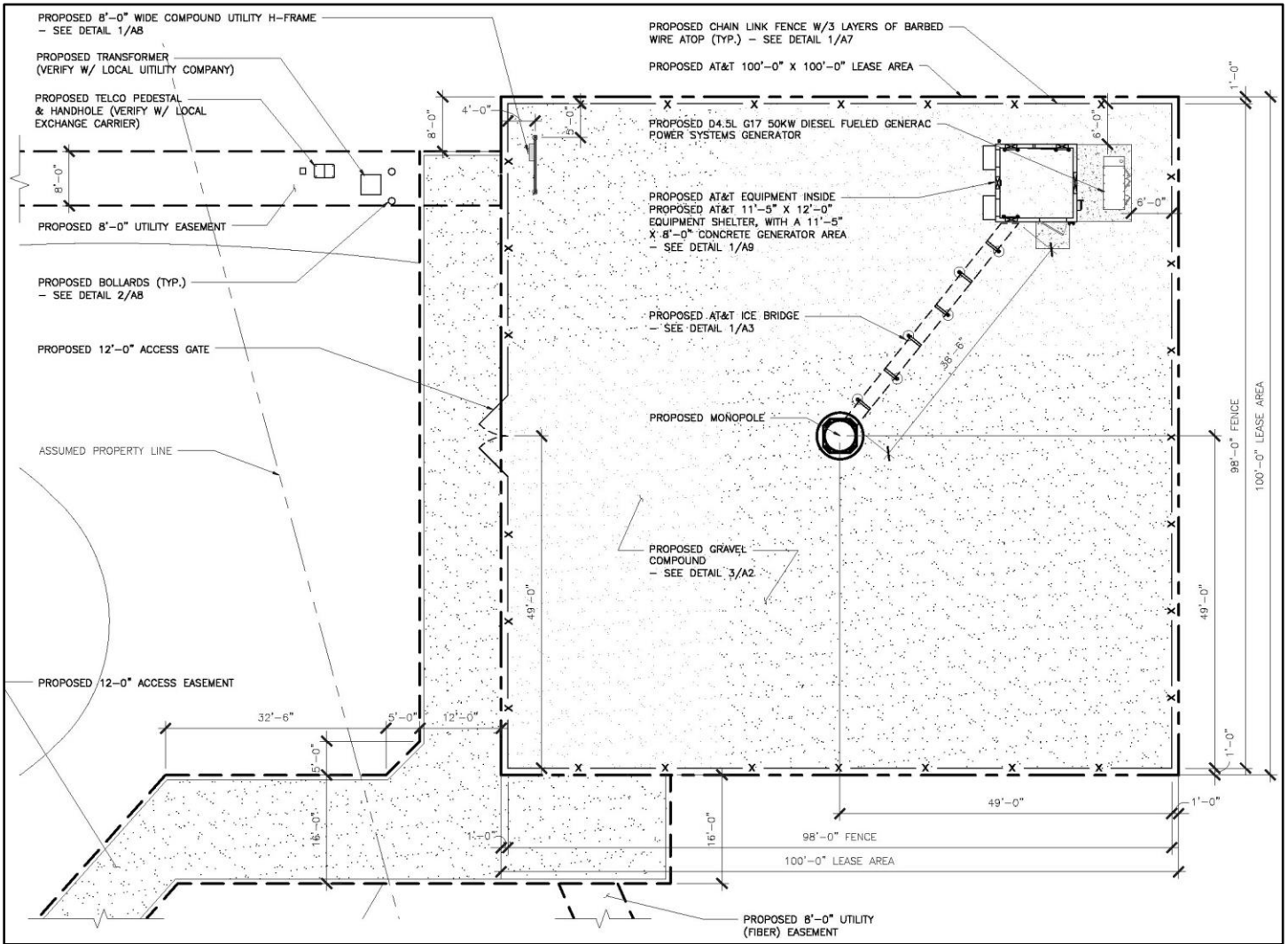


Exhibit B – Proposed Ground Compound

TAB D



Jim Jermain
316 W. Washington Ave, Room 506
Madison, WI 53703

Phone: 608.252.2359
Fax: 608.252.1295
Email: jj8571@att.com

February 19, 2018

VIA EMAIL (Allan@countyofdane.com)

Mr. Majid Allan
Senior Planner
Dane County Planning & Development
210 Martin Luther King Jr., Blvd - Room 116
Madison, WI 53703

Re: CUP Petition No. 02396 filed on behalf of AT&T by SAC Wireless;
Application for a new communication tower to be located in the Town of Rutland

Dear Mr. Allan:

I am writing with an update on the items we discussed during our meeting on February 5, 2018. You asked if it is possible to move the proposed tower location on Mr. Martinson's property further to the east or southeast. You also asked if AT&T may provide some additional information about its CAF II project in the Town of Dunn. I'd like to share the following information regarding both requests.

Following our meeting, Andrew Flowers, (AT&T Real Estate) and Michael Iacopetti (SAC Wireless) spoke with Mr. Martinson about possibly moving the tower on his property. Mr. Martinson was not willing to relocate the tower further to the east along the northern property line because this will reduce the amount of available land for agriculture. Access to the tower would still occur along the west property line, but instead of having the compound tucked in the northwest corner near the equipment building, moving the compound further to the east would require an extension of the driveway into the existing land available for farming. Mr. Martinson did not want to lose this land.

Andrew and Michael then asked about locating the tower to the southeast corner of Mr. Martinson's property. He was willing to consider this location. Realizing the southeast corner was a possibility, Andrew and Michael investigated the implications of moving the tower approximately 0.32 miles to the southeast.

Based on their analysis which involved input from AT&T's radio frequency engineer, there is approximately a twenty to twenty-five-foot reduction in elevation between the proposed location and the southeast corner of Mr. Martinson's property depending on the specific location of the tower. This reduction in elevation will require some material changes in the tower design. In order to maintain the same level of coverage, AT&T would need to increase the tower's overall height from 199' to 225'. This change will dictate a shift in design from a monopole to a self-support lattice structure and will also require lighting on the tower.



Although moving the tower to the southeast corner of Mr. Martinson's property will yield a greater distance from the homes along Mesa Drive, placement on the southeast corner will move the tower closer to the homes located along Highway A. It will also make the tower and compound much more visible for people traveling along Highway A.

Moving the tower to the southeast corner may also negatively impact future collocation due to the fact that the tower would be approximately 0.32 miles closer to the SBA tower located to the east on Highway A.

For the reasons noted above, AT&T believes the proposed location tucked in the northwest corner of Mr. Martinson's property where visibility of the compound and a portion of the tower is restricted by the existing building is the best location.

With regard to AT&T's CAF II plans for the area around the Town of Dunn and the City of Stoughton, AT&T is very pleased to report that it has equipped four towers in the area for Fixed Wireless Internet (FWI) service. AT&T has started marketing the service in the area primarily through direct mail given the targeted nature of the CAF II designated areas. If a customer is interested in obtaining FWI service, AT&T will send an installation technician to the customer's location in order to confirm the availability of the service and ensure the signal strength is sufficient to support the service. Once confirmed, the technician will install an external antenna on the customer's location. The antenna is then connected to an internal residential gateway which provides both wi-fi and wired internet access within the customer's location. Although dedicated to FWI service, AT&T is using traditional cellular mobile data LTE technology to serve this CAF II area.

Despite the fact that AT&T has already equipped four towers with FWI equipment in 2017, in order to meet its design requirements for the CAF II area around Stoughton and the Town of Dunn, AT&T must equip additional towers, one of which is the Town of Rutland location. If AT&T's application is denied, there will be a negative impact on the level of broadband service AT&T is able to offer customers in this area. Although with wireless service it is difficult to determine the exact impact, AT&T believes failure to approve this tower in the proposed location will negatively impact 35-40 customer locations.

In closing I want to extend my appreciation and that of the AT&T team assigned to this tower implementation for your diligent review of AT&T's proposal. AT&T believes the Martinson property is indeed the best location to serve the documented coverage need in the Town of Oregon as well as the FWI needs to the east. Although the need to satisfy the FWI coverage requirements around Stoughton and the Town of Dunn has undoubtedly complicated this application, the Martinson location meets the statutory requirements set forth in Wis Stat § 66.0404. There is no question a coverage issue remains in this area. The County already concluded a tower was needed. Although AT&T initially provided a tighter target area to SAC Wireless, the Martinson location resides within the original search ring included with the tower application already approved by the County. Unfortunately due to unsuitable soil conditions at the Reindahl Stone location, AT&T was unable to construct a



tower at the original approved site, but the coverage need has not changed and nor should Dane County's approval of this application.

In order to provide the Town of Rutland and the County with confidence in its decision, AT&T performed an analysis of additional existing towers such as the one located on Highway 138 in order to confirm the proposed site is indeed the best available location. Wis Stat § 66.0404 provides guidance to political subdivisions regarding mobile tower siting approval. Wis Stat §66.0404(4) prohibits a political subdivision from denying an application based solely on aesthetics concerns or disapproving an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.

Recognizing the Town of Rutland was unable to act during its February 5th meeting and AT&T does not want to drive the need for special meetings to act upon this application, AT&T is willing to provide one final extension of the 90-day review period to March 30, 2018 in order to afford the Town of Rutland an opportunity to provide its input during its March 5th plan commission meeting as well as an opportunity for the County rule during its March meeting.

Again I want to thank you for taking the time to meet with Dan O'Callaghan and me on February 5th and for your thorough review of this application.

Sincerely,

/s/James F. Jermain

James F. Jermain
Regional Vice President – External Affairs
AT&T Wisconsin

cc: Ms. Mary Kolar, Chair - Dane County Zoning and Land Regulation Committee
Mr. Mark Porter, Chair - Town of Rutland