



# Staff Report

Zoning and Land Regulation Committee

Public Hearing: **January 27, 2015**

Zoning Amendment:  
**None**

Acres: 0.015  
Survey Req. No

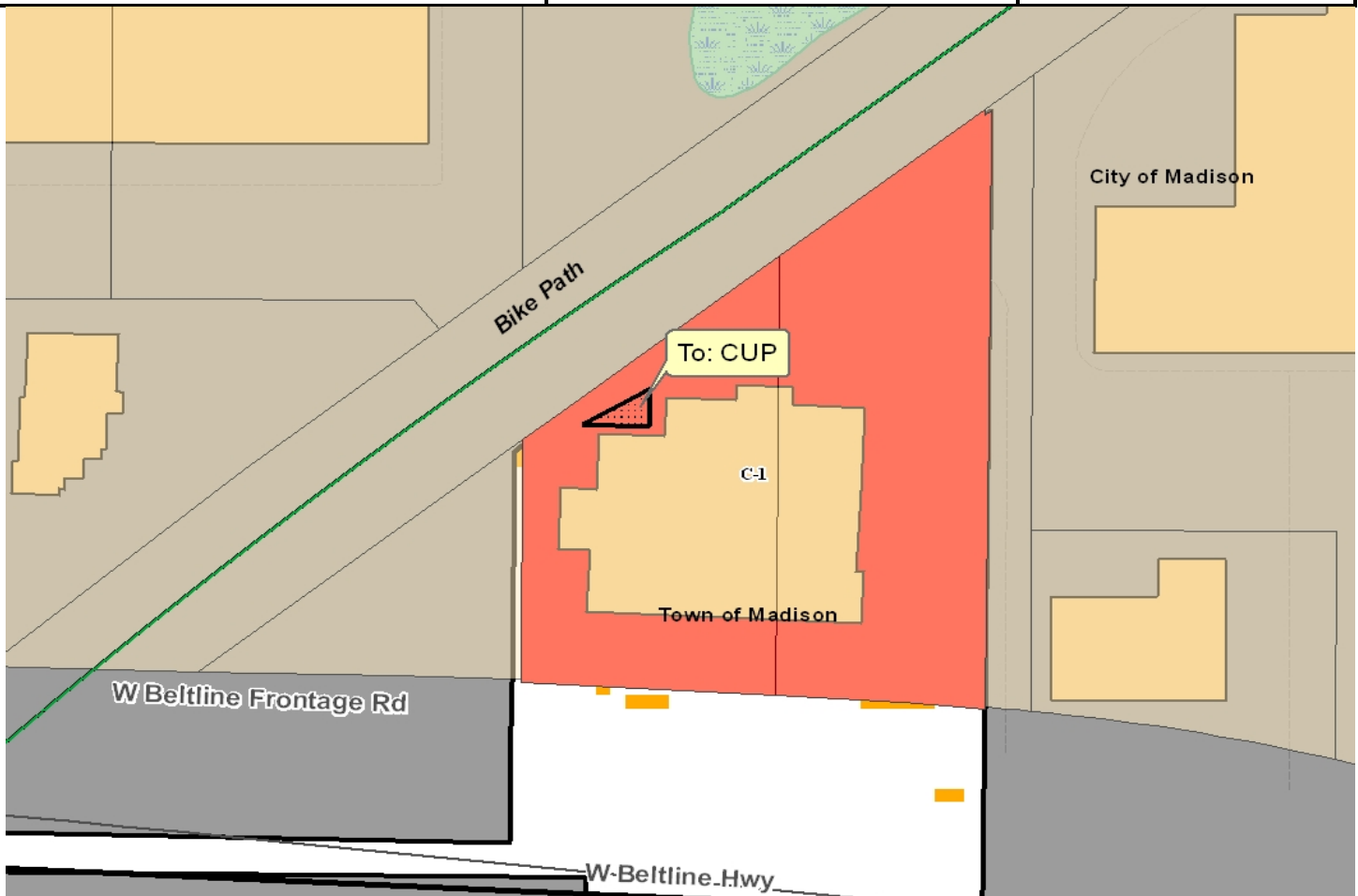
Reason:  
**Cell Tower**

Petition: **CUP 2297**

Town/sect:  
**Madison  
Section 34**

Applicant  
**St Joseph's Ventures  
LLC**

Location:  
**1906 W Beltline Hwy**



**DESCRIPTION:** Applicant proposes to replace an existing 150' US Cellular self-support lattice style communications tower on a neighboring property by erecting a new 150' monopole tower on the subject property. According to the applicant, US Cellular is losing its lease option at the present location (1762 W. Beltline Hwy), thus necessitating the replacement tower at this location. There are four businesses located in the building on the property, including 2 retail and 2 service establishments.

**OBSERVATIONS:** The proposed tower site is located behind the building on the property and adjacent to the city of Madison's "Cannonball" bike path.

**TOWN PLAN:** The property is in a commercial area. The city of Madison comprehensive plan shows this area as within the "general commercial" planning category. The proposal appears consistent with town and city plan policies.

**RESOURCE PROTECTION:** No resource protection corridors located on the property.

**STAFF:** See attached staff report for additional information. The county's radio frequency engineering consultant, Evans Associates, finds the proposal to be in compliance with the county's communication tower ordinance. See attached draft CUP for recommended conditions.

**TOWN:** Approved with no conditions.

## Proposed Conditional Use Permit # 2297

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. 2297 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. 2297 shall accommodate the collocation of telecommunications equipment for at least two (2) additional telecommunications providers. The maximum height of the tower shall not exceed 150 feet above ground level.
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. 2297 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. 2297 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.2297, including locational requirements contained in the site plan.

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6. The holder of Conditional Use Permit No. 2297 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. The final site plan(s) and design drawings dated 5/22/2014 and submitted with the CUP #2297 application materials, are fully incorporated herein and continued effectiveness of Conditional Use Permit No. 2297 is expressly conditioned upon compliance with those plans.
8. Upon written inquiry by the committee, the holder of Conditional Use Permit No. 2297 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. 2297, 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. 2297 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. 2297 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.
11. 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.
12. 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.
13. 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.
14. All tower components, appurtenances and transmission lines should be securely bonded and grounded to prevent RF interference caused by stray signals.

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16. A Wisconsin-licensed Structural Engineer should approve and stamp the tower design, and certify that the tower can support up to three additional cellular/PCS voice / data antenna arrays.
17. The applicant shall utilize a galvanized or painted finish on the tower to minimize visual impact, if permitted by the FAA.
18. The applicant shall paint steel appurtenances the same color as the tower to minimize visual impact.
19. The tower lease area shall be surrounded by a security fence with fabric privacy screening.
20. Failure to comply with any of the aforesaid conditions shall be grounds for the committee to immediately revoke Conditional Use Permit No. 2297.
21. The existing US Cellular self-support lattice tower located on property at 1762 W. Beltline Hwy shall be removed within 90 days of completing construction of the new monopole tower. Evidence of the tower removal shall be provided to the Dane County Zoning Administrator within the 90 day period.