

From: [Cothren, Joshua W - DOT](#)
To: [John Matson](#)
Cc: [Allan, Majid](#); [Platts, Thomas S - DOT \(Max\)](#)
Subject: RE: Summary of airport concerns with cell tower at 1576 Spring Rd (CUP 2578)
Date: Thursday, March 30, 2023 3:27:50 PM
Attachments: [TRANS 56.pdf](#)
[Wis Stat 114_135.pdf](#)
[150-5300-13B-Airport-Design.pdf](#)
[TRANS 57.pdf](#)
[Wis Stat 114_134.pdf](#)

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Hi John,

I am glad you and your users will be able to have the opportunity to have your voice heard and considered. I know this is an important issue for you all.

While I understand the concerns this proposed tower may present if constructed, it must be noted that Matson Airport is a private use facility. By definition, a private use airport infers a conversation between the airport owner/operator with each aircraft owner/operator prior to each operation. This conversation is to obtain permission to the use the facility and for the airport to inform pilots of local conditions and hazards, and is a transaction taken between private entities. As you are probably aware, aircraft using a public use facility are not required to have this conversation with the airport operator. Because public use airports serve the general public, they are afforded more protections. In return for those protections public use facilities must meet more rigorous standards including regular inspections of approaches, verification of published airport data, requirements around the issuance of NOTAMS, FAA review of all construction and buildings located on the airport, and compliance with airport layout and design standards.

For these reasons, asking to apply the same airspace protections afforded to public use airports in this situation is not necessarily the right approach since Matson Airport is not a public use airport.

I was provided with some documents attempting to also make the case that Matson Airport approaches should be evaluated in a similar way to public use runways with additional navigational aids (navaids) such as visual glide slope indicators (PAPI, VASI). These navaid components have regulations surrounding their installation, use, adjustment, periodic calibration by qualified and trained airport personnel, and regular flight testing using special aircraft instrumentation by the FAA. These navaids are able to provide the safe and defined glide slope angles only because of these standards and testing. These navaids and runway enhancements are not present at Matson Airport, so using the same criteria as if they were present, it also not an accurate comparison.

Wisconsin does have a statute which regulates certain high structures, Wis Stat 114.135. This statute has a couple of criteria to set the floor for when a permit is needed. First, the structure must not be within an area governed by a local zoning ordinance which controls the height of structures, and the structure must be at least 150 feet tall. If both of those criteria are met, then the structure must meet one of the following criteria: 1) the top of the structure exceeds 500 feet above the ground or

water surface within one mile; or 2) exceed a 40:1 slope to the nearest PUBLIC USE runway. As I stated before, this structure does not meet the criteria requiring state permitting under this statute.

These criteria are just the floor for when a permit application should be filed, and a permit obtained. We evaluate several criteria, including the findings of the FAA, when determining the permitting issuance outcome. We have looked at the particulars of this proposal even though a permit application was not submitted and determined this proposal does not meet the statutory requirements to necessitate the filing of an application or obtaining a permit under the aforementioned statutes. The 40:1 slope to the nearest public use runway is not a criterion which would prevent a structure from being permitted. Rather it is the threshold at which we begin evaluation. Permits are regularly issued to structures exceeding these criteria. Details on how this statute is applied and the criteria evaluated can be found in TRANS 56. I have attached copies of both the statute and administrative code for your reference.

The last thing I should note is there are no runway endpoints on file with the FAA or BOA locating and defining the runway boundaries and orientation. Without that data any calculations related to the runway or associated airspace use (approach, departure, traffic patterns, etc.) at Matson Airport is not truly possible. The missing data is most likely due to how long Matson Airport has been active. The airport's age predates the state site approval laws, and the FAA may not have required that information at the time it was activated in 1948. However, without this information we cannot apply modern airport design standards and airspace modeling (i.e. defining the airport approach area and surface). It is not required by BOA for Matson Airport to provide this information as the airport is not public use and does not require site approval at the state level due to its age and continuous use. Information on current airport design standards can be found in FAA Advisory Circular 150/5300-13 Airport Design, which I have also attached for your reference. Additionally, I have included a copy of Wis. Stat. 114.134 and Administrative Code Trans 57 related to airport siting and approval.

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: John Matson <johnm@griphclip.com>

Sent: Thursday, March 30, 2023 8:34 AM

To: Cothren, Joshua W - DOT <joshua.cothren@dot.wi.gov>

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

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Joshua,

Dane county has opened up another public discussion at the end of April regarding the 199' tower proposal 1 mile directly north of our Matson 2W16 (Stoughton) airport runway 36/18.

Can you give me your opinion on the following? If we were a public airport (like Jana in Albion) would the State regulate the tower and would the state agree to the location and height? It looks to me like the state regulates structures that would be over a 1 to 40 height to distance from public airports. In our situation anything over 130' tall. That is any direction from the public airport not just on the flight paths.

I want to make sure I am being reasonable. This can give the county, and us, some guidance.

Thank you,

John Matson
Cell 608 712-2353

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

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)

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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
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