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NOTE:

This list has been updated to include responses from Magnum Communications (received 4/10/11). These responses have been copied from the 48-page PDF file, using the fonts used in that document. In some instances, the responses have not been copied in but instead include by references to the page numbers of the 48 page PDF file.

Questions on the Application

1. Distance to the Closest Residence

Page 3 of 3 of the application states that nearest residence is 3000 feet away. There are residences and structures closer than 3000 feet. We have two houses under 2640 feet owned by Gary Kershaw (about 1800), Chuck Burch (about 2200) and three (Kevin Shea, Bert Carr and MarkWethal all at about 2640 feet). There are several houses on Old Stage just to the east of the Kershaw property that are very close to 3000 feet. One future house could be as close as 1000 feet (if the Polakowskis build on their land as originally planned). The Stoughton Farm shed is about 2200 feet away.

This should be corrected in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so the ZLR can be aware of this correction.

As of 3/22/2011, Dane Co Zoning has received a map from Edge Consulting with the distances. This has been posted on the town website.

2. Minimum Height of Tower

Question 3 on the unnumbered typewritten page attached to application states that towers of 200 feet or 300 feet would be too short. The answers given on the application state that this would bring the tower below the prescribed 100 meters above average terrain level for a Class A FM station.

a. Where is this required?

We assume the FCC requires this, but we will need to contact them or find a consultant to provide this answer.

Kevin Shea points out in on the top of page 3 of the attachment to his email of 2/27/11 that WORT-FM operated in Madison for years with a tower of less than 100 feet on Bedford Street in Madison. He also notes in the same section of that document that 492 feet is the maximum height for Class A FM.

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b. Could the station be changed to Class B (or some other such class) and then operate on a shorter tower or could it just operate at a lower height as Class A?

Page 5 of Evans report notes that 315 feet is the minimum for Class A FM license. Page 6 of Evans report notes that a reduction in height to 315 feet (35% reduction) has a minimal effect on the number of households served – from about 87,000 down to about 80,000 (less than a 10% drop). While a shorter tower would require more power, it would be less of a visual intrusion on neighboring properties.

Kevin Shea points out in his 2/27/11 email attachment that the minimum power cannot be less than 100 watts.

This should be referred to an independent tower consultant.

3. List of rejected alternate sites.

We have verbally heard of rejected potential sites, but the applicant should answer the question.

This should be corrected in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and the ZLR can be aware of this correction.

Response from Magnum 4/10/11:

There was one potential site that was eventually abandoned—the property now owned by Kevin Shea. After Don Benson sold his brother, David's, property to Mr. Shea, I then met with Dawn and Terry George, then Bert Carr, then David Soldwedel and Sue Wollin. A real estate agent also confirmed that the Koltz property (now owned Mrs. Polakowski) was for sale. In addition, I received a call from Terry Lund who said he had property that would potentially work for the project. Ultimately, we determined that the proposed Stoughton Farms (Soldwedel/Wollin) site near the gravel pit, situated far away from the road with trees on two sides would be most favorable. A list of potential candidates is provided below.



624 Water Street
Prairie du Sac, WI 53578

608.644.1449 phone
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SITE CANDIDATE SUMMARIES

<i>PROJECT FILE:</i>	<i>WBKY – Proposed Rutland Tower</i>
<i>BY:</i>	<i>David Lyshek</i>
<i>SUBJECT:</i>	<i>Site Candidate Summaries</i>

In order to avoid interfering with existing radio station operations a relatively narrow siting window was available for the proposed WBKY relocation. Siting options were even further reduced due to the associated property and setback requirements needed to accommodate the proposed tower. Many properties could not physically accommodate the extent of the guy tower anchors, meet a setback of ½ tower height, or would occupy the majority of the parcel.

It became apparent that there were a handful of property owners who owned real estate to reasonably accommodate the proposed tower. A summary of the primary properties investigated with related comments follows:

Benson Property	Siting of the tower on this location was initiated. However due to its eventual sale prior to necessary tower siting approvals it needed to be abandoned.
George Farms	Was discussed with the landlord as a potential candidate. Was deemed ineligible as it was determined that available property was outside of the FM siting window.
Bert Carr Property	Was considered a potential candidate and was discussed with the land lord as a possible option.
Lund Property	Was considered a potential candidate and was discussed with the land lord as a possible option.
Former Kollitz Property	Was considered a potential candidate and was discussed between real estate agents as a possible option.
Stoughton Farms	Ultimately this was selected as the preferred location due to setbacks from the road, setbacks from neighbors, existing treelines for providing visual screening, and its adjacent location to the existing gravel pit.

Siting issue

Siting issue

1. The maps with search rings presented thus far only show a small portion of Rutland.

- a. Why not show a map with Stoughton in the center and show an area of say 10 miles N, S, E and W of the city?

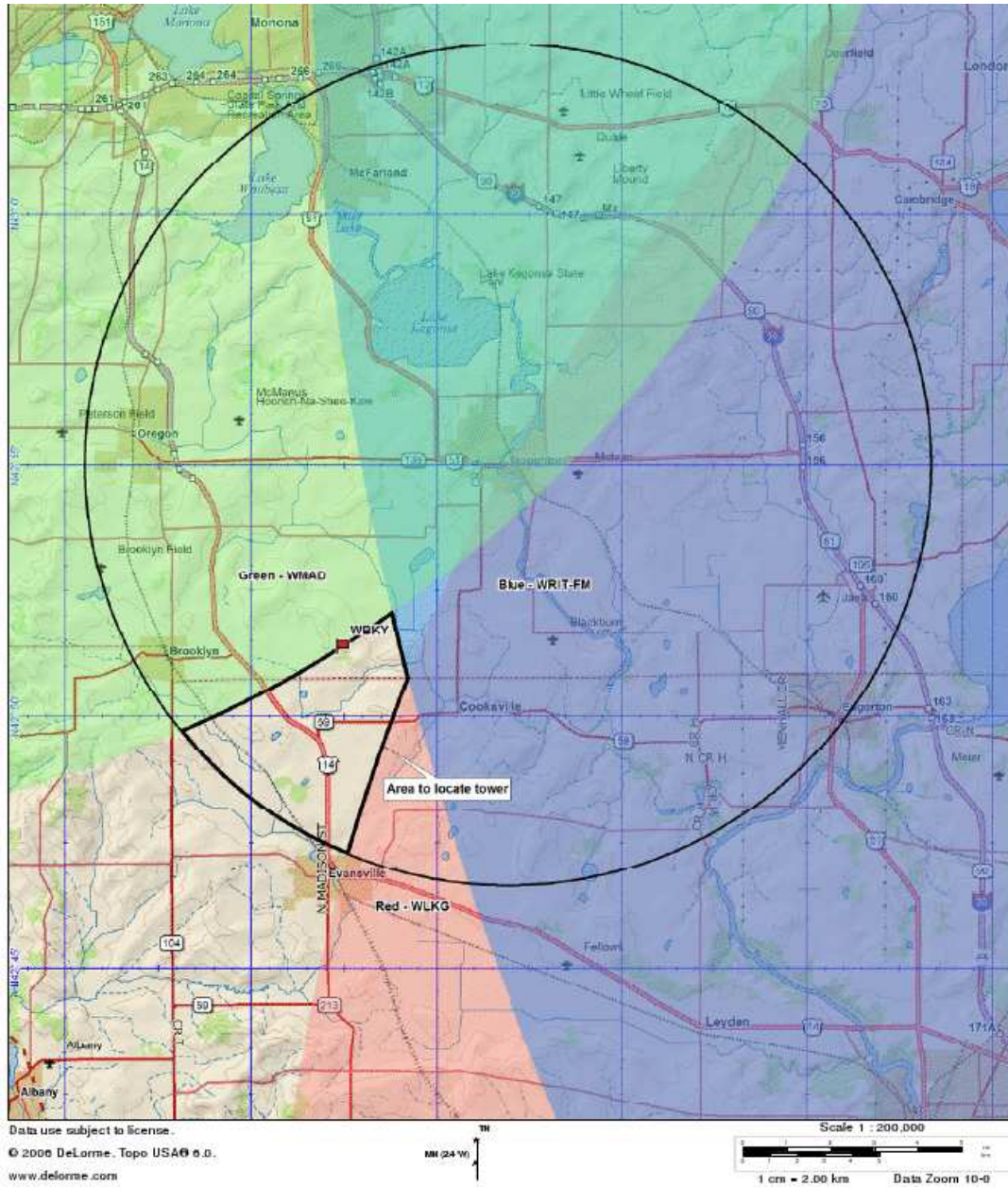
It would appear that circles would diverge again on the other side of Stoughton.

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and the ZLR can be aware of this correction.

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Response From magnum 4/10/11:

Here is the attached map that Chairman Beske referred to:



During the 3/23/11 Rutland meeting it appeared that the Planning Commission was in concurrence that the window is indeed limited.

b. Also, it not clear how the circles should be interpreted, as one would expect the tower would generate a circle that would overlay those circles as well.

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This is a question for an independent tower consultant.

2. Since the target is Stoughton, why not a tower in Stoughton with a frequency that would work on a site there?

This would not necessarily be a move of the existing Class A FM station but the creation of a smaller station serving the stated intended market of Stoughton.

This is a question for an independent tower consultant.

3. Is this really a Stoughton station, or yet another Madison station?

The tower at 487 feet would reach a market of over 200,000 people. There are only about 12,500 people in Stoughton.

Is this really a Stoughton station, or yet another Madison station?

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and ZLR can be aware of this answer.

Magnum response 4/10/11:

The tower is specifically licensed to Stoughton, and as mandated by the FCC we are physically required to be within a certain geographic distance of the City of license and provide a certain level of population coverage to it. It is demonstrated in the Longley-Rice coverage maps presented in the Evans Report that we achieve this and that the heart of coverage includes Stoughton and the surrounding rural community. We were specifically asked what percentages of advertisements would be from Stoughton businesses and what percentage from Madison businesses. Attorney Steve Ritt conveyed that we can't know in advance what the percentages would turn out to be.

4. The antennas on the tower are listed as non-directional.

Would a directional antenna change the characteristics of the tower and the siting possibilities for the tower?

This is a question for an independent tower consultant.

Town Comp Plan Issues

1. Is there a split available?

The Town Comprehensive Plan requires that a split be present to site a communications tower (Goal 6 Ag Preservation District, Policies Point 7.b, on Page 2-6).

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This will require review of the records by the Plan Commission.

The last draft of the spreadsheet prepared by the PC in November shows there is a split available.

2. Typical deed restrictions.

The Town will typically require a side agreement prohibiting applications for other CUPs without Town board approval.

A deed restriction for no residential development would typically also be needed, which could be removed when and if the tower were removed or the CUP dropped.

3. The goals of the Comp Plan should also be considered as well.

Town Tower Ordinance Questions

1. Color of tower

The ordinance calls for galvanized/mottled gray/possibly blue on page 5, point 7(b) (iv).

This is in direct conflict with FAA intention to make the tower as conspicuous as possible. Since the initial hearings, Magnum has applied to the FAA to allow an unpainted tower. This was submitted 2/23/2011 as Notice of Proposed Construction or Alteration Case 2011-AGL-1761-OE and project Name MAGNU-000168192-11. The FAA accepted this request for change in a letter 2/28/11. It appears there is a tradeoff, though: The unpainted (galvanized surface) tower would require white blinking lights during the day and red blinking lights at night. The previously proposed alternating orange and white tower would require only the red lights at night.

This should be considered by the Plan Commission.

2. The ordinance has a preference for unlighted towers, except as required by FAA.

This tower would be lighted. See page 5, point 7 (b) (v).

This is also an observation, but should be considered by the Plan Commission.

It appears that the tower lighting requirement is one of the major sources of concern for the neighbors.

3. Visibility from 3 wildlife areas (2 in the Town, one just across the Town border in Rock County must be considered).

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See page 4, point 7 (a) (viii). This should be considered by the Plan Commission. The ordinance requires that the PC take into consideration the effect the tower will have on the aesthetics of natural area and the effect on the view from F&WS and DNR lands.

The FW&S has provided a map that shows the area from which the tower would be visible, assuming bare ground (not otherwise obstructed by trees or buildings). This map shows the tower would be visible from all of the F&WS and DNR lands in the southern half of the Town, and probably 75%-80% of the Town overall.

Magnum has provided additional photo simulations which are being posted on the Town website.

Dane County CUP Standards

1. Dane County Ordinance Section 10.255 (2) (h) (1-6) should be reviewed.

Chapter 10 is the Zoning Ordinance, and this particular section deals with the issuance of Conditional Use Permits. This is where the health, safety and welfare of the neighbors comes into play. This is also where the question of full use and enjoyment of nearby properties comes into play as well. Each of these should be voted on individually by the Plan Commission and Board.

See pages 10-47 through 10-50 of Dane County Ordinances Chapter 10.

Other Concerns

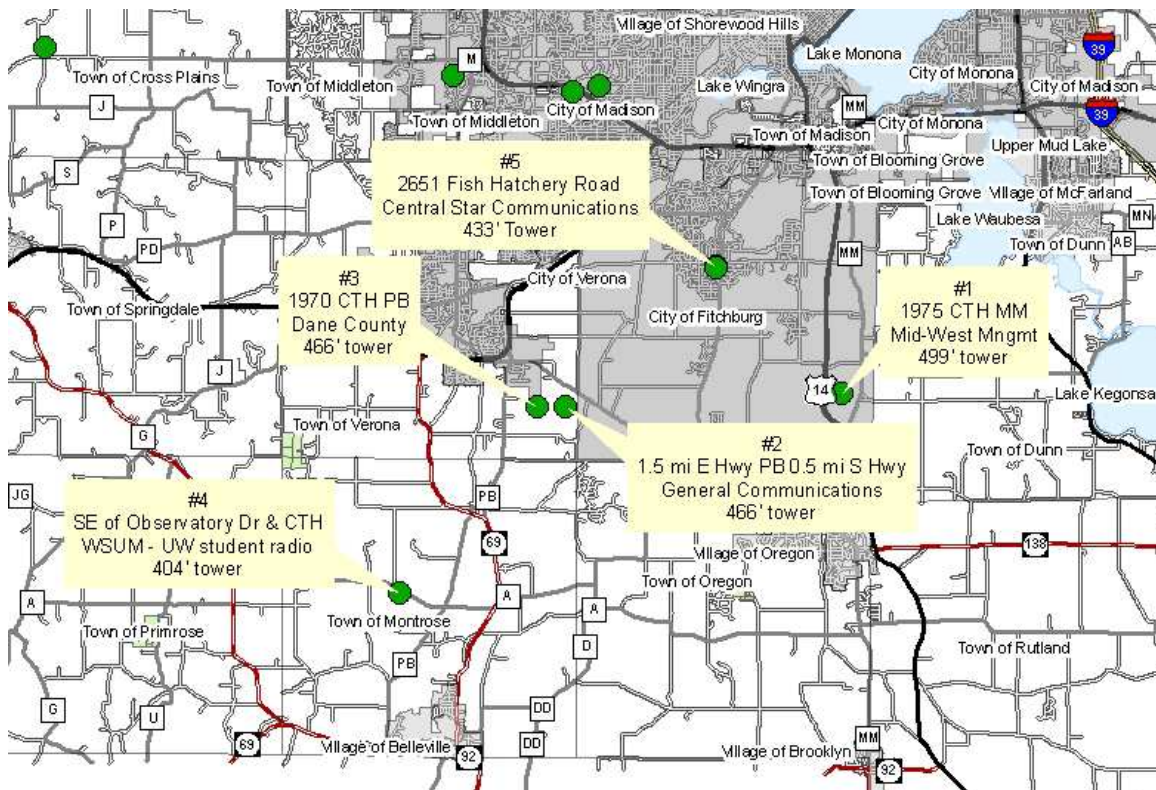
1. Similar Structures

We have asked for, but not received, a list of similar height towers in Dane County, or the area in general. It would be helpful to all to see what a 487 foot tower actually looks like. The required lights would not be small, and seeing an actual, similar-sized tower might help us judge how intrusive the tower and the lights on it would be.

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and ZLR can be aware of this answer.

It turns out that the ZLR committee had asked the same question of the planning department. An 8-page document was sent out. This cover page identifies several towers of approximately the same height in southern Dane County:

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I have also learned that the tower near Hwy 51 and Dyreson Road, just north or northwest of Lake Kegonsa, in the Town of Dunn, is 299 feet tall.

2. What is the previous abandoned application in Oregon #1276118?

This was referred to in the FCC permit, but I cannot locate it presently. Dale Beske will contact the FCC.

Magnum has reported that this is the project number for this proposed tower.

3. Is this tower needed for Dane Com?

It was mentioned at the Town Public Hearing that Stoughton Fire Chief Marty Lamers had stated that this tower was needed for Dane Com. He has not stated that this tower is needed by Dane Com. While it is true that any tower of this height would be useful for a County wide system, this specific tower has not been identified as critical to the system. The vendor for Dane Com has just been chosen, and the final design will occur once that vendor is on board and up to speed. That is a decision for the vendor to make while doing the final design, which has not yet started.

The Town Chair sent an email to John DeJung and Rich McVicar of Dane County Emergency Management asking if the tower would have any positive or negative impacts on the Dane Com system. His response, dated 3/8:

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Chairman Beske,

Thank you for your email. We are aware of the proposed WBKY tower, having been advised by the county's planning department and also having been contacted by Dave Magnum.

Harris Corporation proposed and contracted to deploy all six system sites at existing towers. The County's agreement with Harris provides for final design work to occur between now and June, with build out happening in time for a fall 2012 conversion. System changes could occur due to action by the governing board (established by resolution 88), local funding of enhancements, and/or other changes agreed to between the County and Harris. Although we expect the signal coverage in Stoughton to meet contracted levels, there is some interest to look into ways of achieving even higher levels of coverage. We have asked Harris to comment on any potential usefulness of the proposed WBKY tower as well as other existing sites around Stoughton. We will also ask Harris to explain if there's any way the proposed tower might interfere with DaneCom. The Harris program management and engineering teams are just coming together now, so days or even weeks will likely pass before we learn what Harris thinks about the proposed Rutland site.

We can remain in touch and share information as we receive it. Please feel free to contact us anytime.

Rich McVicar, ENP
Technical Services Manager
Dane County Public Safety Communications
210 Martin Luther King Jr Blvd Rm 109
Madison, WI 53703-3342

County Supervisor Denise Duranczyk provided this information regarding DaneCom tower sites:

You can go to <http://countyofdane.com/committees/contracts.asp> to find the Harris contract with the county. In attachment A-1 on page 9 is the list of recommended placements for the towers. The governance committee will be reviewing the placements over the next month.

Bottom line, need or lack of need for the proposed tower by DaneCom is not yet known, but apparently the initial design does not assume the tower is needed.

4. Many concerns have been raised about declining property values.

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Magnum presented several examples where urban development has surrounded previously rural towers. Multiple neighbors stated that they would not have bought nor would they build near the rural tower.

The Town will pose this question to the Town Assessor.

Here is the email exchange:

Hi Dale,

There are very few sales that show towers have a great affect on the market for real estate. I generally give a negative locational adjustment to properties within a half a mile of a tower, usually -5 to -15 percent. Towers and other commercial structures affect homes greater than \$300,000 in value more than they do less expensive homes. This is based on my experience and educational courses I've attend over the years.

Thank you,
Greg Gardiner

On 3/13/2011 4:27 PM, Dale Beske wrote:
Hi Greg:

The Town of Rutland has received a zoning petition to change the zoning on 15 acres and issue a conditional use permit to allow the construction and operation of 487 foot FM radio tower. At that height, the tower would need to be painted in alternating strips of red and white and lit at night with steady and blinking lights, OR left a grey galvanized color with blinking lights both day and night. Given the height, the tower will be widely visible. The state capitol is under 300 feet tall, and the tower just north of the Village of Oregon (between 14 and MM) is about the same height. By comparison, there are towers on the west side of Madison that are over 1000 feet tall. This is in a very rural area along the south edge of the town.

Many residents in the Town have raised questions about the tower and it impact on the Town.

One of those questions has to do with property values. Several residents have stated that they would not have purchased their properties had there already been tower there. One person who bought an adjacent lot (~50 acres, half wooded) just before the application was filed has stated that they will not build and will need to sell their parcel (probably at a loss) if the tower is approved.

Are you aware of any studies, both pro and con, that have considered the impact of lighted towers on nearby residential property values?

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Are you aware of any cases where property values (either for assessment purposes or for mortgage appraisal valuations) have gone down as a result of a large tower being built nearby (within say a mile or less)?

Thanks for any information you may be able to offer.

Dale Beske
Chair, Town of Rutland

Magnum offers additional information on pages 17-18.

5. Many concerns have been raised about aesthetics.

While the tower has been set back from the road a considerable distance by the proposer, and while the base station would be concealed by trees, the tower itself, at 487 feet, could not be concealed by trees.

Light pollution for amateur astronomers was raised as a concern.

Tower lights, whether steady or blinking, would be visible every night for many residents.

Additional antennas collocated in the tower could make it more visible than the photo simulations.

The neighboring Town of Dunkirk has sent a letter noting that the tower will be visible for many of its residents, asking that we consider the impact on them as well when making this decision.

This is an issue to be reviewed by the Plan Commission.

Magnum response:

The Rutland Ordinance does not unreasonably forbid the construction of towers or require that they shall not be visible. A location has been selected that limits aesthetic related concerns. We do not dispute that a tree line will not block the view of the tower in its entirety from every location. However, many of the surrounding residential properties are developed on wooded lots and from the residence significant screening will be provided. The figure developed to display the adjacent property structures reveals that many of the residences back up to or are virtually surrounded by trees in the direction of the proposed tower.

6. Why not place the tower in an area already being used for other utilities?

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There have been suggestions that an area already in use for other utilities be used, such as the new ATC ROW instead of this site.

This is a general siting question that is more or less covered by prior questions.

Magnum response:

As previously demonstrated there is a limited siting window available for this Class A FM radio station. Within this siting window a location which capitalizes on several existing features was selected in an effort to limit aesthetic related concerns.

7. Existing towers

There have been suggestions that existing towers be used, such as the WMGM FM tower just north of Oregon at 1975 County Road MM (conflicting information found indicating 500 feet or 557 feet) and a tower near Evansville at 482 foot tower (WWHG-Fm).

Why not the Mandt Tower? This is a question for the independent tower consultant.

This is a general siting question that is more or less covered by prior questions.

Magnum response:

As previously demonstrated there is a limited siting window available for this Class A FM radio station. Page 5, paragraph 3 of the Evans Report states: "There are no known FCC registered towers within this area..."

8. Med Flight Flight Patterns

The question of interference with UW Hospital MedFlight flight patterns was raised. The FAA has approved this site.

9. Benefit to Rutland

It was pointed out that there would be no economic benefit to Rutland and its residents to offset the negative impacts. It appears any benefit would go to Stoughton or Portage.

One of the selling points has been emergency notifications such as Amber Alerts and storm warnings. It seems that this part of Dane County is already well covered in this area. Plus, there is now Reverse 911 Technology which helps provide the same function.

Marty Lamers pointed out there would be a better chance of local coverage from a local station. Magnum has made a commitment to make the station available to local officials during an emergency.

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The studio only has to be located within 25 miles of the tower.

Would there be any economic benefits to the Town or its residents?

See pages 20-28. of the Magnum response.

10. Inviting Additional Development of Towers in Town

Would there be a cascading effect – as more towers appear, it may be harder to fight any other similar development in the future. Could this make Rutland a blighted area as a result of the number of towers?

It is clear that the Town of Rutland has made it a focus and invested substantially in addressing tower siting concerns. There is a well detailed ordinance in place which is designed to guard against the proliferation of tower structures. Furthermore, in accordance with the Dane County Ordinance our proposed tower would be designed to accommodate co-location in an effort to avoid unnecessary tower structures.

11. Is radio obsolete?

The future of radio technology – will it all be wireless internet or satellite in the near future. Technology revolutions happen fast – see aol.com, Borders Bookstore, movie rental businesses, Polaroid cameras and film cameras in general, et c.

Probably more of a rhetorical question.

See pages 29-32 of Magnum response.

12. Removal of Lands from A1-EX

Does this meet the higher standard in County Ordinances 10.123 for CUPs in A1-EX district?

This would need to be considered by the Plan Commission.

See page 32 of the Magnum response.

13. Impact of this tower being visible for many miles?

There is a conflict between our ordinance (calling for towers to be as inconspicuous as possible) and the FAA wanting anything over 200 feet to be as conspicuous as possible.

See page 32 of the Magnum response, plus the updated photo simulations.

14. Impact on Birds and Other Wildlife

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Persons who have raised this issue have provided many studies. Magnum Communications should offer the basis for his statement that bird kills do not occur.

There does appear to be credible information on the occurrence of bird kills. See all the materials submitted by Jim Lutes of the F&WS in Portage.

See pages 32-34 of the Magnum response.

15. Minimum Coverage Required to Obtain FCC license

It has been stated that the charge of the FCC is to maximize the use of the spectrum. Does this requirement pass to Magnum Communications, meaning they must maximize the use of the spectrum? Or can the station go smaller and serve just the Stoughton area?

Also a tower consultant question.

15. Ice Falling

Jessica Polakowski raised the issue of the how far away from the tower ice may fall, expressing concern that part of their property may be unsafe during the winter months due to the risk of ice falls. The base of the guy lines are within 20-30 feet of the Polakowski property line.

Correction: The bases are within 23 feet of the Lund and Stoughton farms property lines. The distance to the Polakowski property line is about 70 feet (66 feet drive width plus an additional unstated distance). See sheet 3 of 3 of the Zoning Drawings dated April 2011.

The Evans reports suggested that the County should require “ice breakers” and “preform clips” to prevent ice from sliding down the guy wires (page 10, point 4). Magnum should provide details on these items, including whether or not these would be visible.

Several Town residents reported that both sides of the Beltline in Madison had to be closed for 2-3 hours on March 1, 2011, due to ice falling from the WMTV tower. That tower is 300 feet off the Beltline, but also it is taller than the proposed tower. This incident was reported on web site Channel3000.com as well as other local news websites plus the March 2, 2011 Wisconsin State Journal.

It was also pointed out that a tower (taller than the proposed) was removed from Elver Park in Madison at least partially due to falling ice concerns.

I have been told that the Army Corps of Engineers has done research into tower icing but I have not been able to locate the specific report dealing with distances from a structure within which ice can reasonably be expected to fall.

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See pages 35-36 of the Magnum response.

16. Stoughton Letters?

Helen Johnson has stated via email that the letters written in 2004 by Stoughton officials are still relevant.

See pages 37-38 of Magnum response.

17. Why was the tower decision made but not the studio location decision.

Dave Magnum indicated the tower is much harder to site than the studio, and, without the tower, the studio is not needed.

See page 38 of Magnum response.

18. Jobs

Dave Magnum indicated that the radio station's market would need to be built up before jobs could be created.

See page 38 of Magnum response.

19. Utilities

Dave Magnum mentioned that a shorter tower, as a result of using more power, would require that three phase power would need to be brought in. The taller tower, as a result of using less power, would be powered by the currently available one phase power (meaning available at the Town roads in the area; power would still have to extended to the actual tower site).

Magnum Response

As stated in the text of the comments Dave Lyshek made to Dane County, the nearest Three Phase power is 2 ½ miles away from the proposed site. I spoke further with Steve Schuett of Alliant Energy. He said if Three Phase power would be required all related power poles would probably need to each be raised by five feet and that two wires would need to be added. In addition, there would need to be up to four additional cross arms. Plus, anchoring would have to be added on angles. That un-necessary waste would occur up front. Then, there would be unnecessary power consumption waste on an on-going basis coupled with a loss of significant co-location space which as stated in the ordinances is crucial to the goal of reducing the number of towers. Like the engineers Dave Lyshek referenced in his statement at the Dane County meeting, Steve Schuett believes the answer to avoiding all of this un-necessary waste is clear.

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20. Tower Failure due to Guy Wire Failure

An incident cited in South Milwaukee was caused by sabotage (someone cutting the guy wires).

The Army Corps of Engineers has a report on the Army Cold Regions Research and Engineering Lab website describing towers that have collapsed due to ice or ice and wind loading. See:

http://www.crrel.usace.army.mil/library/conferencepapers/Mulherin_Atmos_Icing.pdf

Magnum Response:

The proposed tower shall be designed and manufactured in accordance with State Code and EIA/TIA standards. These standards require consideration of ice and wind loading. In accordance with recommendations in the Evans Report, guy anchors and the base of the tower shall be cordoned off with chain-link fencing as security measures.

21. Siting issue

Siting by frequency is controlled by FCC, but actual tower siting is an issue left to local control.

Magnum Response:

The scope of this project is related to the re-location of a Class A FM station. During the 3/23/11 Rutland meeting it appeared that the Planning Commission was in concurrence that the siting window is indeed narrow in extent and therefore there were limited siting locations. Related to meeting specific local tower siting requirements we respect the Town of Rutland's jurisdiction. As appropriate we have sited a tower that meets the Town of Rutland ordinance.

21. What assumptions went into tower siting?

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so the Town and ZLR can be aware of this answer.

Magnum Response:

Before Dave Lyshek of Edge Consulting and I started the application process we first purchased a disc from Town Clerk Dawn George containing the Rutland ordinances so as to make sure we closely adhered to them. Our expectation was approval of this tower site due to our commitment to perform thorough, competent and respectful work. We entered the application process feeling strongly about several factors: 1. We chose and were able to make arrangements to obtain a site far off of the nearest road (Old Stage) next to an

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operating gravel pit in the corner or a field with trees on two sides. 2. All adjacent property owners were willing to discuss selling us land--one approached us unsolicited. 3. The process had been very open and transparent. My station van which is a moving billboard had traversed the territory on several occasions. 4. Chairman Beske drove out to the proposed site and over the trunk of a car went through the process and anticipated time-lines. Our understanding was that the key to approval would in large part be based on the findings of Dane County's Consulting Engineer, Evans & Associates. When the Evan's report came back confirming that we had indeed done thorough and competent work we felt that we would soon have the approvals necessary to begin construction.

22. Who initiated the decision to move to this area?

One addition question was asked at the end of the 3/23 meeting. This question was raised at the earlier public hearing but I neglected to include it on the list.

The question was whether the move of the station from Portage to Stoughton area was initially suggested by the FCC and then pursued by Magnum Communications, or whether the move was something that Magnum Communications requested of the FCC.

The short answer is that Magnum Communications decided to pursue this move. The long answer is on pages 40-42 in the Magnum response.