

Commission Member Larry Karjala  
Commission Member Sam Kicker  
Commission Member Larry Murphy  
Commission Member Liz Olson  
Commission Member Tim Ellingson, Council Representative

**City of Menahga**  
**Planning Commission Meeting**  
**5 pm Thursday, Sept. 6, 2018**  
City Council Chambers  
115 2<sup>nd</sup> Street NE  
[www.cityofmenahga.com](http://www.cityofmenahga.com)

## **Agenda**

### **A. Call to Order**

### **B. Roll Call**

### **C. Pledge of Allegiance**

### **D. Public Hearing**

Resolution No. 2018-001: A Resolution of the Menahga Planning Commission Recommending the Menahga City Council Approve a Conditional Use Request to Uniti Towers on a Property (1043 Aspen Avenue S) Located in the Agricultural District

### **E. Adjournment**

Comments from visitors must be informational in nature and not exceed five (5) minutes per issue. The Commission cannot engage in a discussion or debate in those five minutes but will take the information and find answers if that is appropriate. As part of the Commission protocol, it is unacceptable for any speaker to slander or engage in character assassination at a public meeting.



**City of Menahga**  
**115 2<sup>nd</sup> Street NE • PO Box C**  
**Menahga, MN 56464**  
**218-564-4557**  
[www.cityofmenahga.com](http://www.cityofmenahga.com)

RECEIVED JUL 31 2018

**Conditional Use Application**  
**(\$250.00 Application Fee)**

**Note:**

- This form is used to request a conditional use permit for a land use or development not currently permitted by the Menahga Municipal Code but may be allowed with appropriate restrictions as provided by the Planning Commission and City Council.
- In order for a conditional use permit to be granted, the conditional use must be compatible with the existing neighborhood.
- A public hearing will be conducted by the Planning Commission with their recommendation passed to the City Council for final action on the request.
- All property owners within 350 feet of your lot line will be notified by mail of the public hearing date and time.

Application date: 7/26/18

**Applicant name:** Scott Buell on behalf of Uniti Towers, LLC

**Mailing address:** 10802 Executive Center Drive, Benton Bldg, Suite 300

**City:** Little Rock **State:** AR **Zip:** 72211

**Phone numbers:** 612-716-1090

**Email address:** scottbuell@gmail.com

**Property address:** 1043 Aspen Ave. S.

**Parcel #:** 17-028-4010

**Property size:** 1300' Width 2600' Length 3.38 Million Total square feet

**What is the property's current use?:** Agriculture / Vacant

The property is currently zoned:

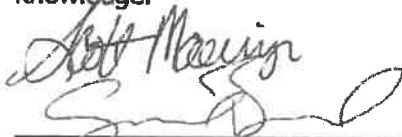
- |   |  |
|---|--|
| <input checked="" type="checkbox"/> A-R, agricultural residential | <input type="checkbox"/> R-1, one-to four-family residence |
| <input type="checkbox"/> R-2, multiple-family residence           | <input type="checkbox"/> C-B, central business             |
| <input type="checkbox"/> C-1, commercial                          | <input type="checkbox"/> C-2, highway commercial           |
| <input type="checkbox"/> I, industrial                            | <input type="checkbox"/> S-D, shoreland district           |
| <input type="checkbox"/> M-H, manufactured home residence         |  |

**Explain in detail the reason for your request:**

Unifi Towers is proposing to build a new wireless telecommunications facility in the form of a 300' tall guyed tower. This proposed use can only be approved via the City's Conditional Use Permit process, so we are applying for this Conditional Use Permit to seek permission to build the proposed 300' tall guyed tower and associated equipment. Additionally, the A-R district is the only zoning district in the City which would allow a tower via CUP. All other districts would not allow it at all.

Please provide a detailed site plan and all other pertinent information necessary to determine if the proposal meets the requirements and intent of the Menahga Municipal Code.

**Applicant statement.** I certify that I am the applicant named in this application and that I have familiarized myself with the zoning information with respect to preparing and filing this application. I further certify that the statements made in this application are true and accurate to the best of my knowledge.



Applicant Signature

8/2/18  
7/26/18

Date



Zoning Administrator

9/5/18  
Date

**Office Use**

Date application received: 7/31/18  
Filing fee included?: yes  
Forwarded to the Planning Commission on: \_\_\_\_\_  
Planning Commission meeting date: \_\_\_\_\_  
Notices were mailed to the property owners on: \_\_\_\_\_  
Planning Commission decision was forwarded to the Council on: \_\_\_\_\_  
City Council meeting date: \_\_\_\_\_  
Resolution Number: \_\_\_\_\_  
Did the Council adopt the resolution?: \_\_\_\_\_  
Effective date: \_\_\_\_\_



Site Location & Surrounding Properties



Site Location



Easement

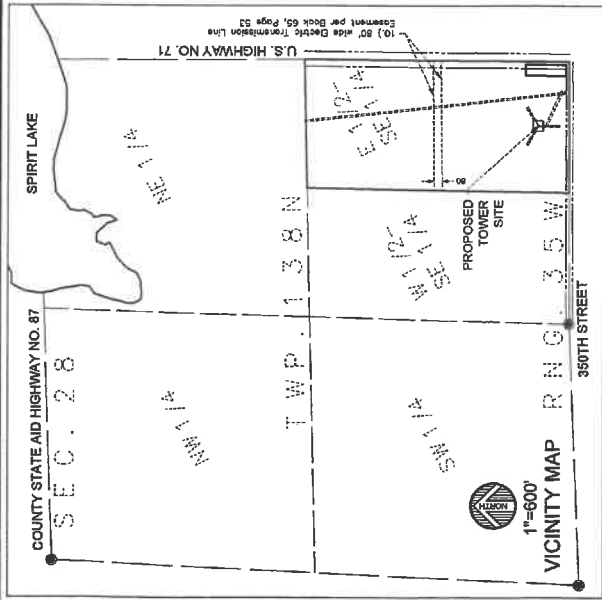
**Aerial Photographs**  
Uniti Towers, LLC - Menahga  
350<sup>th</sup> Street  
Menahga, MN 56464

Google Earth  
2013



# SITE SURVEY

SEC. 28



PARENT PARCEL DESCRIPTION: (per AMC Settlement Services Title Report Order No. 11721940, effective date May 11, 2016).

All land parcel in Wadena County, State of Minnesota, as more fully described as: Deed 04/16/1971, Wadena County Records. The E/2 of the SE 1/4 of Section 28, Township 138 North, Range 35 West of the 5th P.M., except that part of the SE 1/4 of the SE 1/4 of said Section 28, described as follows: Beginning at a point 53.11 feet West and 120.21 feet North of the southeast corner of said Section 28, thence North 40° 00' 00" West 120.21 feet to the center of a 16.5" wide Easement for communications purposes in the E/2 of said Section 28, thence South 49° 44' 00" East 162.50 feet to the East Point of a 300' Dugout Trench Center Ground Elevation +082.2 MVD88, Length 162.50' of 13,992' MAG93.

By the single deed from Heath E. Mountrich and Judith M. Mountrich, husband and wife as set forth in Document No. 11721940, dated 07/27/2004 and recorded 07/30/2004, Wadena County Records, State of Minnesota.

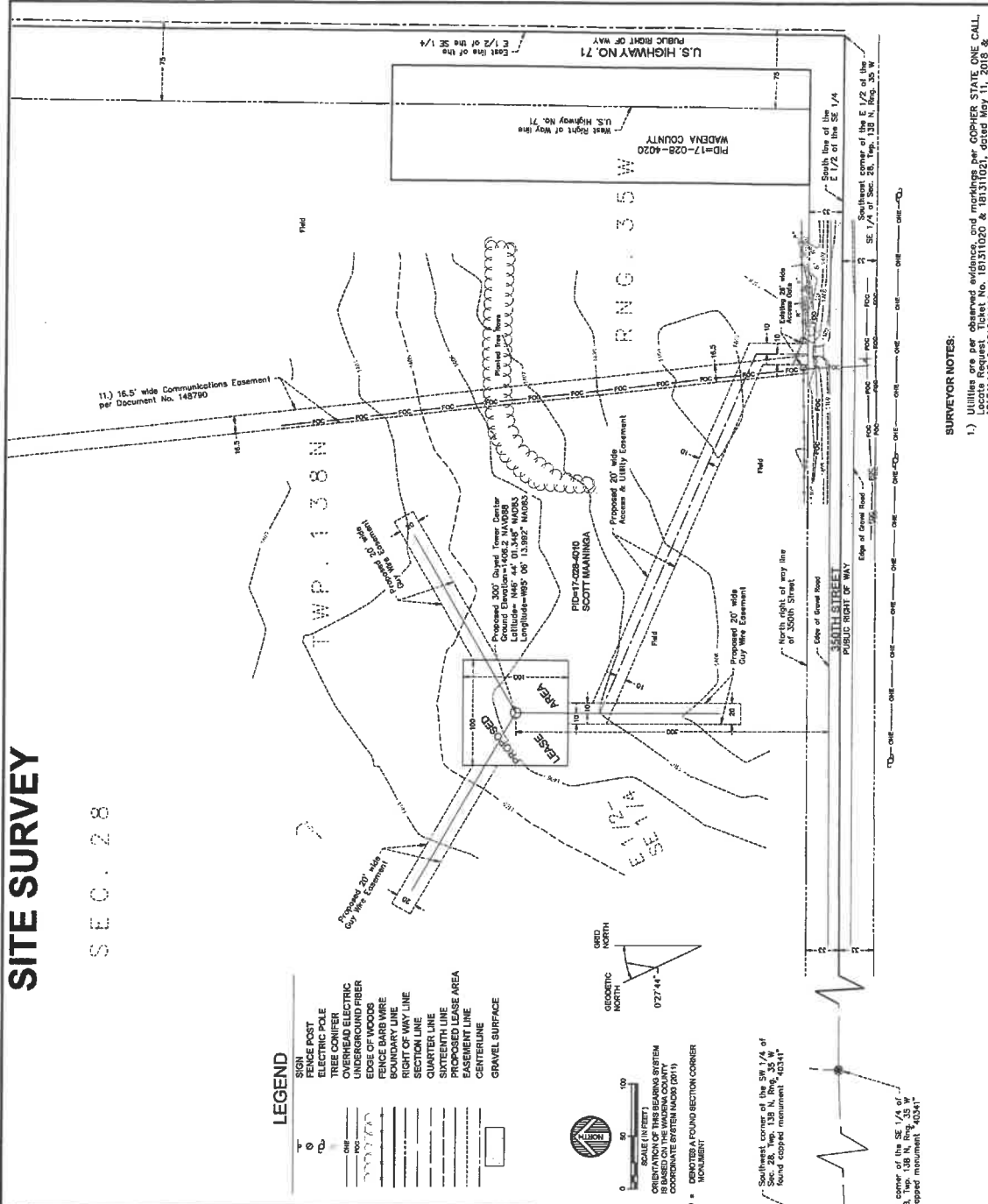
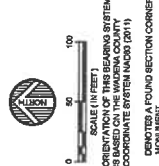
SCHEDULE "X" EXCEPTIONS: (per AMC Settlement Services Title Report Order No. 11721940, effective date May 11, 2016).

- 1-9) Not related to the survey.
- 10) Subject to Transmission Easement from Wadena Mountrich and Judy Mountrich, husband and wife to Cooperative Power Association as set forth in Book 653, Page 53, recorded 04/16/1971, Wadena County Records. This document describes an easement for electric transmission line purposes in the SE 1/4 of Section 28, Township 138 North, Range 35 West of the 5th P.M. that does not affect the surveyed area and is shown on this survey.
- 11) Subject to Right of Way Easement from Wadena E. Mountrich and Judy M. Mountrich, husband and wife, to Northwestern Bell Telephone Company as set forth in Document No. 148700, recorded 12/19/1984, Wadena County Records. This document describes a 16.5" wide Easement for communications purposes in the E/2 of the SE 1/4 of Section 28. Said Easement does affect the surveyed area and is shown on the survey.
- 12) Subject to Certificate of Location of Government Corner as set forth in Document No. 216354, recorded 07/03/2005, Wadena County Records. This Certificate is for the West Quarter corner of Section 28. This corner was not recovered at the time of the survey and is not shown on the survey.
- 13) Subject to Certificate of Location of Government Corner as set forth in Document No. 216460, recorded 10/20/2005, Wadena County Records. This Certificate is for the North Quarter corner of Section 28. This corner was not recovered at the time of the survey and is not shown on the survey.

14-15) Not related to the survey.

## LEGEND

- SIGN
- FENCE POST
- ELECTRIC POLE
- TREE CENTER
- UNDERGROUND ELECTRIC
- UNDERGROUND FIBER
- EDGE OF WOODS
- FENCE BARS WIRE
- RIGHT OF WAY LINE
- BOUNDARY LINE
- SECTION LINE
- SUBTANTY LINE
- PROPOSED LEASE AREA
- EASEMENT LINE
- CENTERLINE
- GRAVEL SURFACE



## SURVEYOR NOTES:

- 1.) Utilities are per observed evidence, and markings per GOPHER STATE ONE CALL. Locate Request Ticket No. 18131020 & 18131021, dated May 11, 2018 & 18131446 & 18131446, dated May 11, 2018.

UNITI TOWERS HAS THE RIGHT TO CONDUCT THIS SURVEY AND THAT ANY DATA LICENSED AND PREPARED BY ME OR UNDER MY DIRECT SUPERVISION UNDER THE TERMS OF MY PROFESSIONAL CONTRACT.

**PRELIMINARY**

DATE: 7/19/18  
 SURVEYOR: STEPHEN W. KOPROD, L.S.  
 LICENSE # 49521

WIDSETH SMITH NOLTING  
 Engineering | Architecture | Surveying | Environmental

DATE: 7/19/18  
 CHECKED BY: SMK  
 DRAWN BY: JPR/JMB

SITE NAME: MENAHA  
 SITE NUMBER: MNALX2010  
 FA#10129242  
 350th Street  
 Menahga, MN 55644

Agenda Date: September 6, 2018

Action:

Vote:

Yes:

No:

CITY OF MENAHGA, MINNESOTA

**Planning Commission Resolution No. 2018-001**

**A Resolution of the Menahga Planning Commission Recommending the Menahga City Council Approve a Conditional Use Request to Uniti Towers on a Property (1043 Aspen Avenue S) Located in the Agricultural District**

The City of Menahga, Minnesota ordains:

WHEREAS, the City of Menahga received a complete conditional use permit request application from Uniti Towers; and

WHEREAS, the application requests a conditional use of the property allowing for a commercial wireless communications facility supporting the general welfare of the community;

WHEREAS, the property is zoned AR; and

WHEREAS, on August 15, 2018 14 public hearing notices were mailed to property owners within 350 feet of the property and published in the paper on August 15; and

WHEREAS, a conditional use permit request must be reviewed by the Planning Commission, with a recommendation to the City Council.

NOW, THEREFORE BE IT resolved by the Menahga Planning Commission that the Commission recommends City Council approval of the conditional use permit request and believes the conditional use permit suits the company's ability to operate a cell tower in Menahga.

Passed and approved this sixth day of September, 2018.

\_\_\_\_\_  
Liz Olson, Planning Commission Chair

\_\_\_\_\_  
Gina Ellingson, MCMC, Administrator

Does it meet conditional use permitted in 151.15?

Commercial Outdoor recreation areas

Organized group camps

Extraction of gravel and minerals

C) 4) Other rural residential uses determined by the PC to be of the same general character as the principal uses above AND found not to be detrimental to the general public health and welfare.

Is it one of the three conditional uses?

Is this a subdivision?

Definition of subdivision: Division of a tract by metes and bounds regardless of how it is to be used.

Take into consideration future possibility of someone leasing portions of a parcel for individual housing. Would the PC's stance be to allow this without subdivision?

Minimum lot size is 2.5 acres or 200' x200'. CUP application show site plan is 100' x100'.

Is this a public service use or private business use? (151.50)

151.50 B) Application

The PC shall make a report to the Council whatever action it deems advisable, but it shall not recommend the granting of a permit unless it finds that the establishment, maintenance or conducting of the use for which a use permit is sought will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood.

Where figures are shown on the zoning map between a street and a district boundary line runs parallel to the street at a distance there from equivalent to the number of feet stated, unless otherwise indicated. (Ord. passed 4-24-78)

### ZONING DISTRICTS

#### § 151.15 A-R, AGRICULTURAL RESIDENTIAL.

(A) *Purpose.* The purpose of the agricultural residential district is to establish and maintain a district that is rural in character.

(B) *Permitted uses.*

(1) Agriculture, including farm dwellings and agricultural buildings;

(2) Forest and production of woodland products including portable sawmills for cutting timber grown on the premises;

(3) One- and two-family dwellings; and

(4) Public and private parks.

(C) *Conditional uses.*

(1) Commercial outdoor recreation areas;

(2) Organized group camps;

(3) Extraction of gravel and minerals; and

(4) Other rural residential uses determined by the Planning Commission to be of the same general character as the principal uses above and found not to be detrimental to the general public health and welfare.

(D) *Accessory uses.* Uses incidental to the principal uses are allowed.

(E) *Minimum lot area, lot width and yard requirements.*

(1) Lot width and depth is 200 feet.



- (2) Lot area is 2½ acres.
- (3) There are no yard requirements.

(F) *Height requirements.* There are no height requirements.  
(Ord. passed 4-24-78) Penalty, see § 10.99

**§ 151.16 R-1, ONE- TO FOUR-FAMILY RESIDENCE.**

(A) *Purpose.* The R-1 district is intended for low density residential development in those areas where development fits the land use plan and policies.

(B) *Permitted uses.*

- (1) One- to four-family unit dwellings;
- (2) Parks and recreational areas owned or operated by governmental agencies;
- (3) Public elementary or high schools or private schools with an equivalent curriculum;
- (4) Churches, parish houses, convents, children's nurseries and schools;
- (5) Crop farming, other than livestock on unplatted land not involving a sales structure;
- (6) Home occupations and offices of professional persons when the use does not exceed one-third of the floor space of a dwelling or accessory building and does not employ more than one person not residing on the premises;
- (7) Public golf courses, public swimming pools, private recreational clubs, tennis courts, except those operated for commercial purposes; and
- (8) Manufactured homes built in conformance with M.S. §§ 327.31 to 357.35 (the Manufactured Home Building Code) that comply with all other zoning provisions promulgated by the city.

(C) *Accessory buildings and accessory uses.*

- (1) Private garage, carport, boathouse, one of each depth designation;
- (2) Private swimming pools when completely enclosed by a fence five or more feet high;
- (3) Boarding or rental of rooms shall be subject to providing off-street parking, as regulated in §§ 151.35 through 151.38;



31 August 2018

RE: Tower Development Project — Menagha, MN

To Whom It May Concern:

My name is Micah Hawthorne and I am a Principal Sales Engineer at American Tower with an RF Engineering background designing service area coverage for wireless carrier networks. My resume has been provided in support of this statement.

American Tower Corporation has an existing tower structure (Site #273422) on 350<sup>th</sup> St, Menagha, MN. Today, the ATC tower has AT&T installed at Antenna Center Line (ACL) 296ft.

Uniti Tower has a 300ft. tower proposed with AT&T as the anchor tenant at ACL 296ft. This location is approximately 0.4mi (2,080ft.) from AT&T existing installation on ATC's 273422 tower.

With 0.4mi proximity between the two tower locations (Exhibit 1), similar equipment configuration, and similar antenna center line installation heights (existing 296ft. versus proposed 296ft.), the attached plots suggest the 700MHz LTE coverage produced by the new tower location (Exhibit 2) would be substantially similar to the 700 MHz LTE coverage (Exhibit 3) opportunity from their current installation.

In addition, ATC has an additional tower (Site #416466) which is approximately 0.3mi from AT&T's proposed tower. This tower also has space available at 296ft, matching the application. This coverage is shown in Exhibit 4.

Micah T Hawthorne,

Principal Sales Engineer



**RINKE NOONAN**  
*attorneys at law*

Direct Dial: 320-257-3868  
Aripple@RinkeNoonan.com

City of Menahga Planning Commission  
c/o Janette Bower, City Administrator  
115 Second Street NE  
P.O. Box C  
Menahga, MN 56464

**HAND DELIVERED AND SENT VIA EMAIL TO: cmenahga@wcta.net**

**Re: CUP Objection Letter  
Our File No. 28209-0001**

Dear Menahga Planning Commission and Ms. Bower:

Our office represents American Towers LLC and submits this letter and associated documents related to the conditional use permit request for a cell tower from Uniti Towers. **American Towers LLC objects to the granting of the requested conditional use permit because it is unnecessary and will be detrimental to the community.** Please enter this letter and enclosures into the record for conditional use permit.

American Towers currently has two cell towers in very close proximity to the site proposed by Uniti. American Towers is a global wireless tower company that values its assets and the communities it operates in; operating in a safe and compliant manner with respect for natural resources is a stated top priority. American Towers does not object to Uniti's request because it is a competitor, rather it objects based on Uniti's unscrupulous practice of taking advantage of jurisdictions such as Menahga, that do not have robust zoning regulations in place in order to unfairly compete. Uniti's tactic is to site new towers right next to existing towers, which leaves local residents to suffer with an unnecessarily high density of cell towers. Tillman Infrastructure is another company that uses the same scheme to overburden communities with cell towers. Menahga is the latest jurisdiction Uniti has singled out because the City's ordinances contain some regulatory gaps; tomorrow Menahga could find itself dealing with an application from Tillman Infrastructure try to take advantage of those gaps too. Pictures from similar situations in other jurisdictions are enclosed.

#### **PERFORMANCE STANDARDS**

The Menahga zoning code contains no definitions for "tower" or "public utility," and there are no specific performance standards, such as height limitations or setbacks, that apply to towers or

Suite 300 US Bank Plaza  
1015 W. St. Germain St.  
P.O. Box 1497  
St. Cloud, MN 56302  
320.251.6700

www.rinkenoonan.com

Letter Menahga Planning Commission (objection letter) 9-5-18.docx  
9/4/2018 11:54 AM

## City of Menahga Planning Commission

public utilities. Within the Ag zoning district, the only performance standards relate to lot width and depth. Generally, cities throughout Minnesota distinguish cell towers from public utilities such as municipal services, cable, or gas and electric because the towers are typically owned by private business and leased to the carrier.

Further, nearly all cities in Minnesota impose significant performance standards on cell towers. Height limitations are required to prevent nuisance shadows on neighboring property and to protect the aesthetics of the community; height restrictions often vary among the various zoning districts in consideration of the various uses that might be allowed in each district. Setbacks from property lines are imposed for safety in the event of a failure and to protect public right of way. A common lot line setback requirement is 1.5 times the height of the tower. The guy line anchor points should also have appropriate setbacks. Cities also regulate interference with public safety communications, lighting, signage, accessory buildings associated with towers, and abandoned or unused towers. In applying these standards, cities typically require applicants to submit a site plan and have a professional engineer submit design information that identifies all potential antenna mounting locations, tower capacity, documentation showing that tower will not interfere with public safety communications, proof of FAA compliance, and compliance with state and federal structural and electrical standards.

The Menahga zoning code does not establish any meaningful performance standards for towers and exposes neighboring property owners and the City to potential harm.

### CO-LOCATION

Most cities wish to encourage the thoughtful placement of as few cell towers as necessary to serve the area. This has resulted in many communities establishing co-location requirements, which is a way to ensure that antenna space on existing towers is properly utilized. This often results in restrictions for new towers within a mile of an existing tower unless an applicant can show: (1) a lack of capacity on an existing tower, (2) interference with existing equipment of existing towers, or (3) some other situation that prevents co-location.

Both of American Towers' existing towers are less than ½ mile from the site proposed by Uniti. Further, American Towers' existing towers are closer to the City and provide better coverage and have capacity for co-location at the same RAD height being proposed by Uniti. Enclosed are two coverage maps that show the existing coverage in the area for AT&T, which currently has an antenna on the American Towers structure. These maps show that AT&T currently has strong voice and data coverage in the area, so a new tower is not necessary for coverage (<https://www.att.com/maps/wireless-coverage.html>). Also enclosed is a letter and additional information from Micah Hawthorne, an engineer for American Towers that substantiates this.

### CUP STANDARD

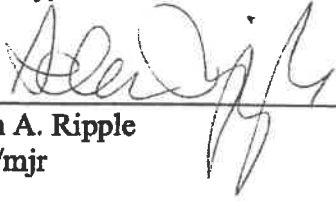
It appears that Menahga treats cell towers as public utilities, but that is unclear by the text of the zoning code. The Agricultural zoning district does not explicitly provide for towers, or even public utilities, as permitted or conditional uses within the Ag zoning district. Section 151.50(A)(2) looks like it provides the only authority to allow public utilities – assuming cell

City of Menahga Planning Commission

towers fall within that term – in the Ag district by conditional use permit. That section only allows utilities “when found to be necessary for public health, safety, convenience or welfare.” Uniti’s requested tower is unnecessary and does not meet the standard for granting a CUP under Section 151.50(A)(2) of the zoning code.

Again, American Towers, LLC requests that the City of Menahga deny the Uniti conditional use permit because it is unnecessary and will be detrimental to the community.

Sincerely,



---

Adam A. Ripple  
AAR/mjr

Enclosures

cc: American Towers LLC (via email)

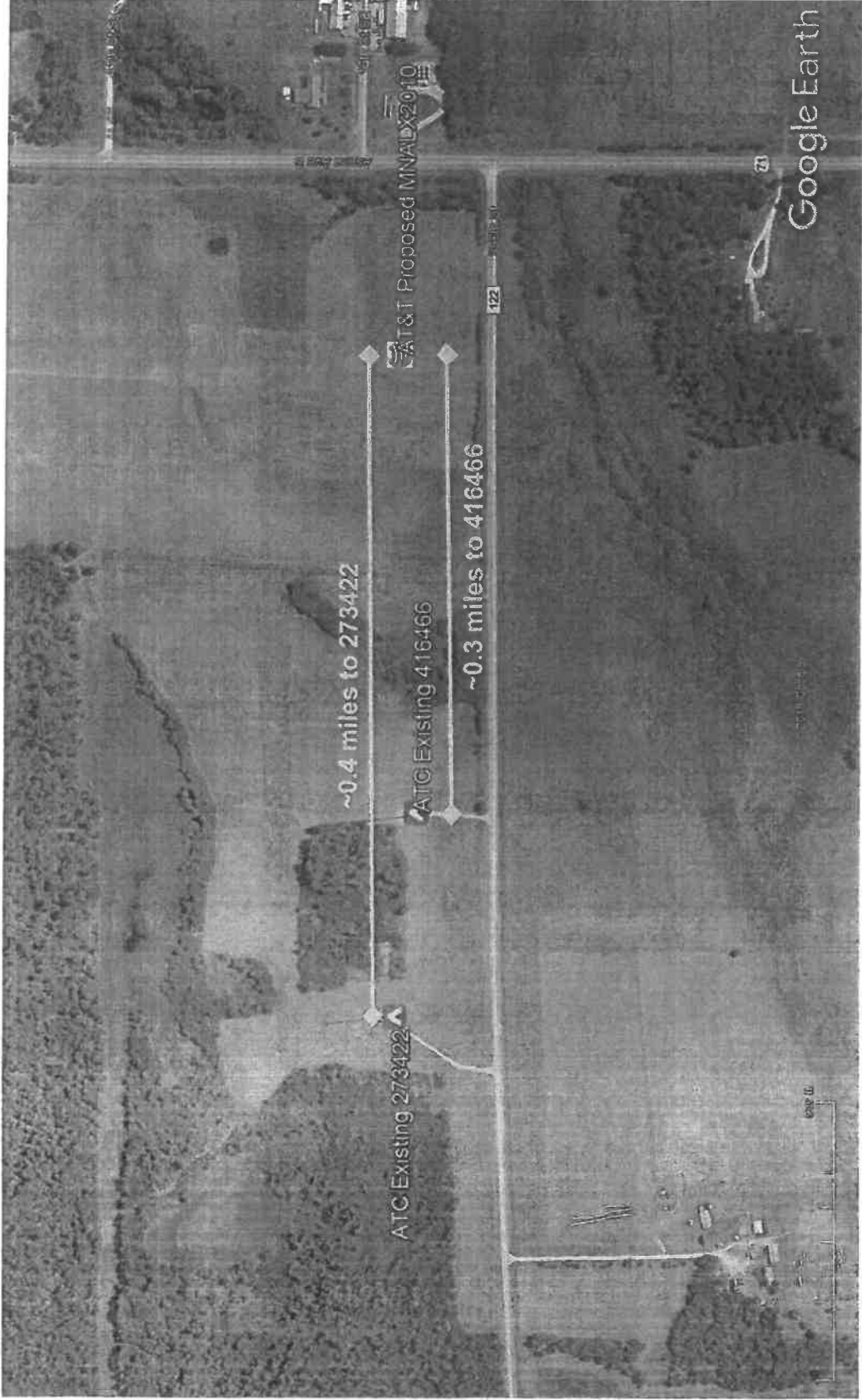


Exhibit 1: ATC towers approximately ~0.3mi (~1,600ft.) and ~0.4mi (~2,080ft.) from AT&T proposed tower on neighboring parcel.