



Report to the Plan Commission

November 22, 2010

Legistar I.D. #20589
125 Larkin Street
Conditional Use Alteration

Report Prepared By:
Timothy M. Parks, Planner
Planning Division

Requested Action: Approval of a major alteration to an existing conditional use to approve an existing generator and the addition of three additional cellular antennas on Larkin Tower at 125 Larkin Street.

Applicable Regulations & Standards: Section 28.08(3)(c) identifies public utility and public service uses such as microwave relay towers as conditional uses in the R2 Single-Family Residence District. Section 28.04 (23) provides the detailed requirements for telecommunication facilities throughout the City. Section 28.12(11) provides the guidelines and regulations for the approval of conditional uses.

Summary Recommendation: The Planning Division recommends that the Plan Commission find the standards met and **approve** an alteration to an existing conditional use to allow an existing generator to remain and 3 additional cellular antennas to be installed at Larkin Tower, 125 Larkin Street, subject to input at the public hearing and the conditions from reviewing agencies beginning on page 5 of this report.

Background Information

Applicant: Scott Steeno, Verizon Wireless; 3619 Flagstone Circle: Middleton.

Property Owner: City of Madison Water Utility, 119 E. Olin Avenue; Madison, c/o the Office of Real Estate Services; Heidi Fischer, representative.

Proposal: The applicant is requesting approval to allow an existing gas-fired generator located behind the Larkin Tower equipment building to remain, and for approval of three additional wireless/ cellular communications antennas on the tower.

Existing Conditions: Larkin Tower is a City-owned emergency radio communications tower located in an approximately 80-foot by 80-foot fenced enclosure on the west side of Reservoir Park, a 4.4-acre parcel owned by the Water Utility, which maintains a water reservoir on the north side of the greenspace. The Water Utility-owned land is primarily a passive greenspace with the exception of a basketball court located north of the tower compound. In addition to the radio tower, the compound is developed with 2 small brick one-story equipment buildings and a City tornado/ emergency alert siren.

Parcel Location: Reservoir Park extends between Larkin Street on the west and Glenway Street on the east (the situs address of the overall property is 126 Glenway Street), approximately 300 feet north of Hillcrest Drive; Aldermanic District 11 (Schmidt); Madison Metropolitan School District.

Surrounding Land Use and Zoning: Larkin Tower and Reservoir Park are generally surrounded by single-family residences in R2 (Single-Family Residence District) zoning.

Adopted Land Use Plan: The Comprehensive Plan identifies Larkin Tower, Reservoir Park and the surrounding residential neighborhood for low-density residential uses.

Environmental Corridor Status: The subject site is identified on corridor maps as public land but is not located within a mapped environmental corridor.

Public Utilities and Services: This property is served by a full range of urban services.

Zoning Summary: Existing R2 (Single-Family Residence District) zoning:

Requirements	Required	Proposed
Lot Area	6,000 sq. ft.	191,936 sq. ft./ 4.4 acres
Lot Width	50'	85' for tower enc./ 465.3' for park
Front Yard	30'	Approx. 11.5' – bldg./ 30' – tower
Side Yards	Minimum 6'/ total 14'	Adequate
Rear Yard	40'	Adequate
Floor Area Ratio	N/A	---
Building Height	2.5 stories & 35'	1 story for equip. bldg/ 280' tower
No. Parking Stalls	0	0
Accessible Stalls	0	0
Loading	N/A	---
No. Bike Parking Stalls	N/A	---
Other Critical Zoning Items		
Yes:	Barrier Free, Adjacent to Park	
No:	Utility Easements, Urban Design, Floodplain, Historic District, Landmark, Wellhead Protection	
Prepared by: Pat Anderson, Asst. Zoning Administrator		

Summarized History of Larkin Tower

City records indicate that Larkin Tower was first constructed on the subject site in 1945-1946. After initially serving primarily as a public safety communications facility for the City and Dane County until 1971, the City-owned tower now serves as a radio communications facility for a wide cross-section of City agencies, including the Police and Fire departments and Streets Division, and is operated by the Traffic Engineering Division. The City took full responsibility for the tower in 1971 after Dane County constructed its own communications tower in Verona, though some County antennas remain on the tower.

In 1995, an alteration to the existing conditional use for Larkin Tower was approved to allow a new tower to be constructed adjacent to the original tower, which was subsequently deconstructed. The existing tower is a three-sided, 280-foot tall metal lattice tower, which replaced the original four-sided, 285-foot tower. The conditional use alteration included private wireless/ cellular communications equipment on the new tower and in the approximately 80-foot by 80-foot fenced compound located at the base of the tower.

In 1998, a lawsuit was filed by the neighborhood objecting to an earlier cellular provider – PrimeCo's – desire to install antennas and equipment at Larkin Tower. The lawsuit was based on an argument that such use violated a deed restriction put in place when the land was originally deeded to the City in 1924 for a water reservoir. The deed restriction stated that "...no part of said premises shall ever be occupied or used for the purpose of a livery stable, saloon, warehouse, dancing hall or store for the purpose of carrying on any trade, manufacturing or business thereon injurious or offensive to dwelling houses or their occupants..." That suit was eventually dropped by the plaintiffs.

The City Attorney previously issued an opinion to the Plan Commission in 1997 (attached) that noted that Larkin Tower had hosted other commercial users over its history and that none of the antenna systems – public or private – that have previously been located on the tower were found to be “injurious or offensive to dwelling houses or their occupants.” The City Attorney concluded that there was nothing in the 1924 deed restriction that would prevent the City from leasing space to a private entity.

Project Review, Analysis & Conclusion

The applicant is requesting approval of a major alteration to an existing conditional use to allow an existing gas-fired generator to remain and to allow installation of 3 additional cellular antennas on the City’s Larkin Tower. Larkin Tower is located on the west side of Reservoir Park, a 4.4-acre greenspace owned by the City’s Water Utility, which maintains a below-grade reservoir on the northern portion of the subject site. Reservoir Park is bounded on the west by Larkin Street and on the east by Glenway Street and is located approximately 300 feet north of Hillcrest Drive. The park and the single-family residences that surround the property are zoned R2 Single-Family Residence zoning.

The first request seeks approval of an alteration to the conditional use plans for the Larkin Tower compound to allow a gas-fired emergency generator installed without the necessary zoning approvals to remain. The generator was installed by the applicant in 2008 adjacent to the eastern, rear wall of the larger of 2 one-story brick equipment buildings located between the base of the tower and Larkin Street. The applicant requested approval of the generator by a staff-approved minor alteration to the conditional use in October 2008. The minor alteration was denied by Planning and Zoning staff on November 4, 2008 due to concerns about a lack of screening for the generator and potential noise impacts as a result of its testing and operation, and the applicant was instructed to file an application for a major alteration to the conditional use to be considered by the Plan Commission at a duly noticed public hearing.

The installation of the generator without the necessary zoning approvals was also determined to be a violation of the cellular telephone provider’s lease with the City, which stipulates that the lessee promptly comply with all applicable ordinances and regulations of the City, including zoning. On May 15, 2009, the City’s Office of Real Estate Services sent a certified letter of default (attached) to the applicant requiring them to seek approval of the generator as a major alteration to the conditional use within 30 days or the lease would be terminated and the cellular telecommunications equipment would be ordered removed. The applicant submitted the subject conditional use application on October 8, 2010.

As noted in the preceding section, the tower compound measures approximately 80 feet by 80 feet in area. The compound is enclosed by a 10-foot tall decorative metal fence and is partially screened on three sides by mature deciduous vegetation. A staff visit to the site found visibility of the generator limited from the Larkin Street sidewalk by the larger brick equipment building. However, the generator is openly visible upon leaving the sidewalk and entering Reservoir Park. The applicant proposes to enclose the generator in an 8-foot tall board on board fence enclosure that will extend 13 feet by 19.25 feet off the easternmost wall of the brick equipment building. An elevation drawing in the submittal suggests that the proposed fence will extend just above the top of the generator. In addition to the opaque screening proposed, the applicant also indicates that the generator will be programmed to be tested at fewer revolutions per minute, which the applicant indicates will further lessen noise impacts on surrounding properties.

Planning Division staff believes that the proposed screening should reduce the noise impacts created by the generator, which staff would describe as ambient during its site visit. The proposed fence enclosure should also address concerns about the visibility of the generator from most vantage points around the tower compound and park. To ensure that the proposed fence meshes with the existing aesthetic elements of the compound, staff recommends that the conditional use plans clarify that the new fence enclosure will be painted to match the other painted elements within the compound. In the event that the enclosure and modifications to the generator fail to adequately address concerns about noise impacts on surrounding properties, the approval of the cellular telecommunication facilities could be revisited under the Plan Commission's continuing jurisdiction of this conditional use, at which time it may be appropriate for the Commission to consider alternative means for providing emergency power to the cellular facilities such as a battery back-up system, instead of the gas-fired generator.

The second request before the Plan Commission calls for the addition of 3 additional cellular antennas on Larkin Tower. Currently, the City maintains radio transmission antennas near the top of the 280-foot tall tower and 3 microwave relay dishes located between approximately 70 and 90 feet above grade as shown on the attached elevations. Verizon is currently the only private entity on the tower, maintaining 6 antennas at 100 feet above grade. Verizon is requesting approval to add 3 additional antennas at 100 feet to provide a total of 9 antennas on the tower. Verizon indicates the additional antennas are necessitated by a technology upgrade within their cellular network.

In reviewing the second request to add the additional antennas, staff believes the Plan Commission can find the conditional use standards met. In 1998, the Zoning Ordinance was amended to provide specific requirements for telecommunications facilities and antennas, including a requirement that telecommunication towers be designed to accommodate at least three separate antenna arrays on the tower and in the base compound unless evidence is presented with the application that the required construction is economically and technologically infeasible. The goals of the telecommunications facilities provisions in the Zoning Ordinance include the protection of residential areas and land uses from the potential adverse impacts of telecommunication towers and antennas, and limiting the overall number of towers in an effort to reduce their visual impact on the landscape by encouraging the shared use of tower sites. While the reconstructed Larkin Tower and placement of private telecommunications facilities thereupon predates the enactment of these provisions in the Zoning Ordinance, staff believes that the installation of the additional antennas on the existing tower meets the spirit of the co-location requirements of the code by obviating the need for those antennas to potentially be installed on a new tower or structure elsewhere. Because the additional antennas will be installed at the same height above grade as existing antennas, staff believes their visual impact will be limited.

Staff Recommendations, Conditions of Approval & General Ordinance Requirements

Major/Non-Standard Conditions are shaded

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission find the standards met and **approve** an alteration to an existing conditional use to allow an existing generator to remain and 3 additional cellular antennas to be installed at Larkin Tower, 125 Larkin Street, subject to input at the public hearing, the following Planning Division conditions, and the conditions from reviewing agencies:

1. Revise the plans prior to final approval of the conditional use as follows:
 - 1a. specify the height above grade of the other antennas located on the tower, including the City's facilities;
 - 1b. provide a close-up elevation/section of the generator and enclosure;
 - 1c. include a note on Sheet C-2 stating that the proposed enclosure will be painted to match other painted elements within the compound, including the front door of the main tower equipment building.

The following conditions have been submitted by reviewing agencies:

City Engineering Division (Contact Janet Dailey, 261-9688)

This agency submitted a response with no conditions of approval for this request.

Traffic Engineering Division (Contact John Leach, 267-8755)

This agency did not submit comments for this request.

Zoning Administrator (Contact Pat Anderson, 266-5978)

2. Lighting is not required. However, if lighting is provided, it shall comply with City of Madison outdoor lighting standards, section 10.085. Lighting will be limited to .10 watts per square foot. (See City of Madison Lighting Ordinance).

Parks Division (Contact Ray Rutledge, 266-4714)

This agency did not submit comments for this request.

Fire Department (Contact Bill Sullivan, 261-9658)

This agency submitted a response with no conditions of approval for this request.

Water Utility (Contact Dennis Cawley, 261-9243)

This agency submitted a response with no conditions of approval for this request.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not submit comments for this request.

Police Department (Contact Frank Chandler, 266-4238)

This agency did not submit comments for this request.