

SUGAR CITY PLANNING & ZONING PUBLIC HEARING - SHERIFF'S COMMUNICATION TOWER

At Sugar City Hall

Thursday, December 1st, 2023, 7:00 P.M.

ATTENDANCE

- Chairwoman Lines
- Commissioners Fluckiger, Miller, Taylor, Williams
- Public: Andy Oliverson, Cameron Stanford, Daniel and Michelle Byington (Zoom), Stephanie Madsen, Kim Summers, Paul Jeppson and Dave Thompson
- Others: P&Z Administrator Hibbert, Building Inspector Owens and City Attorney Chase Hendricks and P&Z Secretary Brosius (Zoom)

Opening

This public hearing is for a Special Use Permit to allow public wireless service equipment on the County's communication tower. Madison County has requested a modification to the original approved Special Use Permit on the communications tower at the Sheriff's Office Sugar City Substation to be used for additional communication. We have a letter from Lt. Ryan Kaufman dated August 10, 2022, requesting a modification to the approved Special Use Permit dated December 2020 for the communications tower at the Sugar City Sheriff's Substation located at 240 Sugar Avenue, Sugar City Idaho.

Chairman Lines stated that the commission received an affidavit from Deputy Clerk Jones stating that this hearing has been properly noticed. She also asked if there was any ex parte or conflict of interest on this hearing and all commissioners stated there were none.

Staff Report by Administrator Hibbert

This application is to build additional capacity on to their existing Sheriff's Tower. The commissioners have the staff report from Mr. Hibbert of the code that is required to meet some of the issues with the application.

Application Presented by Madison County Sheriff Cameron Stanford

We submitted the letter from Lt. Kaufman that had talked about the Special Use Permit that we did in December 2020. At the time we filed for that permit, it was specific to communications for emergencies only. At the time it was brought up that if we ever wanted to add anything or change anything that we should come back to the Commission and ask for that change. A few months ago, Fibercom put in a request with Planning and Zoning and didn't hear back. We decided to put in a request, and we applied

as the Sheriff's office because it was our tower. This request is for a modification of condition #5 of the approved letter that the City sent us about the specifics. We would be happy if we could put Fibercom on there as a trade with the Cress Creek antenna system that we are going to be putting up. When we put this up originally here in Sugar City the whole idea was for safety. Our radio did not work here in Sugar City, so we needed a new antenna. Fibercom has an antenna up on the hill so they will do a trade with us, and we are asking for a request on that modification to allow them to put a couple of antennas on the tower.

Mr. Stanford was asked about the placement of the antennas and current height of the tower and stated the antennas would not add to the height. Mr. Stanford stated that they are asking for just one modification for Fibercom when asked if they would put another provider on the tower.

Public Written Testimonies

There were no written testimonies.

Public Verbal Testimonies

In Favor: No verbal testimonies were given by the public in favor of the application.

Neutral: No verbal testimonies were given by the public neutral to the application.

Against: Paul Jeppson, Kim Summers and Dave Thompson.

Those against stated: In City Code 8-3-2 this antenna qualifies as a governmental antenna, so it was questioned if it is legal to have any use that is not governmental. The antenna that currently exists is not the antenna that was specified in 2020. In 2020 sections of the FCC Telecommunications Act of 1996 set guidelines that the city deemed to be important and that is why it was a condition of approval that it would be used for emergency communications only. If the city is not meeting that condition, it could be revoked according to City Code 8-3-6. There was great concern that the city could be liable for lawsuits.

It is felt that our city code needs to be revised so that it is clear and understandable. It would be good to help the Sheriff's Department but not if it violates city or federal code. Federal law states that a public entity is not allowed to put a private entity on the tower. The current tower is owned and licensed by the county. If this is allowed, it will set a precedent whereby we will not be able to not allow other things in the future. There will be no way to turn it around if approved.

Comment by City Attorney Chase Hendricks

Legalities are always a consideration for cities, and we try our best to follow all the federal, state and local laws. When this tower went up, we had a need for emergency communications. There was a real imperative to try to work within our system to allow the Sheriff to put the tower up. There may be better or more efficient ways but we're somewhat beholden to our infrastructure, our budgets and everything else. There are certain things that we can do to protect the city and try to make informed decisions that won't cause ramifications later.

Comment by Administrator Hibbert

Mr. Hibbert stated that code requires that we have an engineering analysis on the new equipment to be mounted on the tower with a picture and with an engineering stamp that says that that is safe to construct. We need this before a recommendation can be made.

Response from Mr. Stanford

We had Teton Communications do this tower. Following the guidance originally given, we have not heard one word about anything we have done wrong. We're here to follow the rules, that is what we do, we enforce the law. We have no idea what we haven't done or what we need to do to make things right and we are willing to work with the city. We did turn in plans originally with that first antenna and they were stamped so it seems we need to take that same plan and put those few items on it and get it stamped. We will work on getting that. It was stated that the antenna we have is different and I have no idea about that. We are here to work with the city. We contract with the city. We're here to help each other; we're not here to be a problem.

Public Hearing Ended