



**A CONDITIONAL USE PROPOSAL
REQUEST FOR THE
SILVER STAR COMMUNICATIONS
SOUTH CLEMENTSVILLE
TELECOMMUNICATIONS TOWER**

Planner: Curt Moore

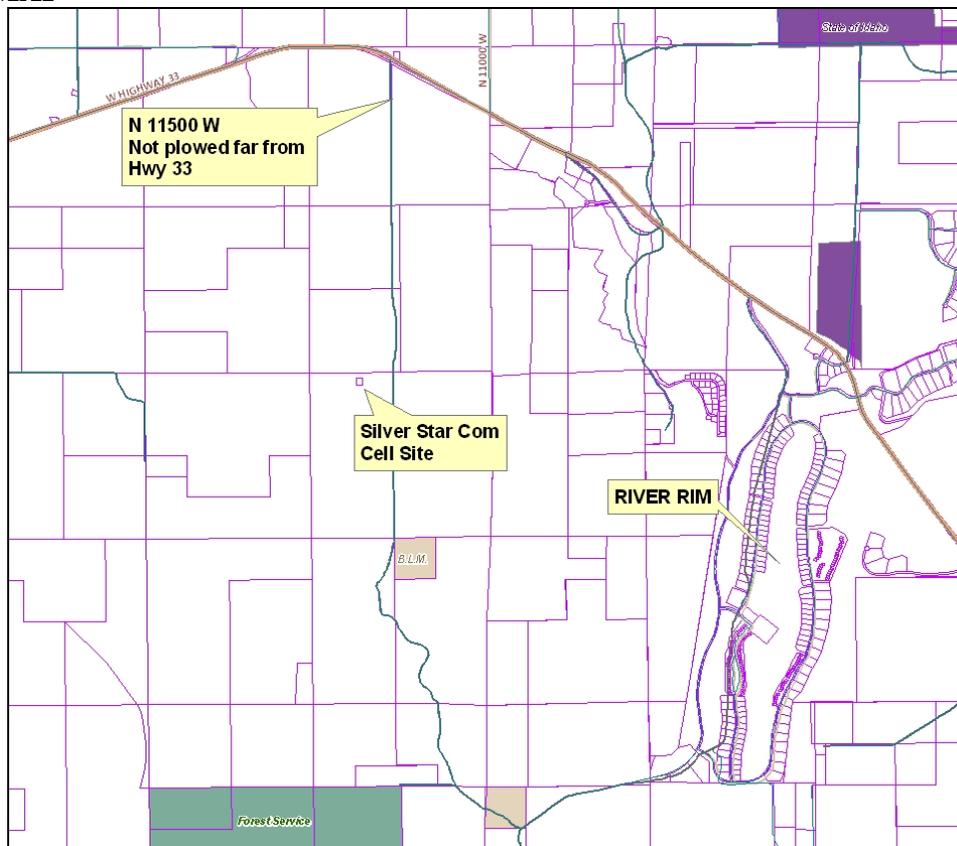
Prepared February 25th for the Board of County Commission
Public Hearing of March 17, 2011

APPLICANT: Silver Star Communications

REQUEST: The Conditional Use Permit application proposes to remove the existing reflector panels from the .92 acre site and install a 100-foot tall telecommunications tower plus four small buildings on skids to house electronics. New perimeter fencing will be installed. The new facilities, called the South Clementsville Tower, will improve cellular coverage in the north county and allow other carriers to co-locate on the structure.

APPLICABLE CODES: Teton County Zoning Ordinance Title 8, Section 8-6-1 Conditional Use Permit, Section 8-4-6 Outdoor Lighting; Idaho Code Title 67 Chapter 65 Sections 6509, 6511A, 6512; IDAPA 39 Title Chapter 2, International Building Code.

VICINITY MAP



LOCATION: Township 6 North, Range 43 East, Section 13
PARCEL NUMBER: RP06N43E132700
ZONING DISTRICT: A-20
OVERLAY: Wildlife Habitat Overlay (mapped because of big game and land birds)
PROPERTY SIZE: 0.92 acre

PLANNING & ZONING COMMISSION RECOMMENDATIONS:

Motion: Mr. Hensel moved to recommend the C.U.P. for Silver Star's communication tower be **approved with all conditions stated in the staff report** (Appendix A), plus that the C.U.P. expires in 10 years and that Silver Star come up with a decommissioning plan if the tower is not in commercial operation for a 12 month period, establishing removal of the tower or surety for removal by the county if not in use. The approval is for one tower and, regarding the MOU dated 1/6/11, the Commission agrees to the conditions as stated. Mr. Arnold seconded the motion.

Vote: The motion passed unanimously.

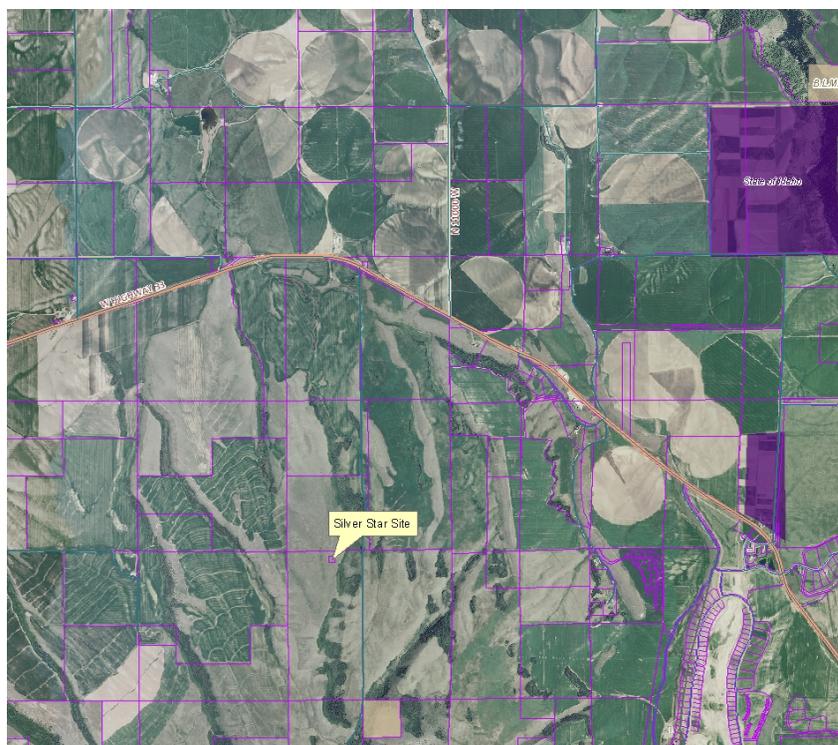
Motion: Mr. Hensel moved to grant the variance for a 100-foot tower to Silver Star Communications with the conditions listed in the staff report (Appendix B) without time limitation. Mr. Arnold seconded the motion.

BACKGROUND/ KEY ISSUES

Telecommunications Network Considerations: Other telecommunications towers have been approved in Teton County and some of the previous points of discussion about the cellular infrastructure network are worth revisiting. The following is from the July 14, 2009 Edge Wireless tower application in Tetonia.

“One of the issues the commission faced in 2001 was the number and height of towers that were necessary to support wireless communications in the county. At that time, they supported fewer towers at greater heights in order to reach the greatest number of citizens with the least number of tower sites.”

By allowing a few towers at key locations to be approved, and encouraging the co-location of antennae from various providers, the overall number of separate tower sites can be reduced and the costs for communications kept down. Co-locating is in the public interest because allowing multiple towers that duplicate service areas can result in unnecessary visual impacts, particularly because the sites are often located on high ground. The worst examples have been referred to as “pole farms”. The multiple towers around Victor, for example, have been brought to Staff’s attention regarding this. The consolidation of telecommunication service sites and the leasing of space on the towers enable a carrier to lease tower space and recoup investments. This practice promotes the establishment of an expanded service while minimizing the number of towers. Obviously it is in the public interest to have fewer no-service-“dead-zones” in the cellular network. The Highway 33 area near the Teton River and the hundreds of lots in the River Rim development are in that poor reception area and should receive better cell service after this Silver Star tower is operational.



Tower site south of Hwy 33

Tower “build-out”: The Planning & Zoning Commission discussed, and the Board might likewise consider the valley’s future telecommunications infrastructure network and how it might visually appear and function when it is more built-out. For example, is the County prepared to approve multiple towers in this high-ground area for other cell providers that apply? These future providers might include Verizon, AT & T and other local and national carriers.

Emergency Radio Site Co-location. The County is in need of filling in “dead spots” or no-service areas where emergency responders’ radios cannot function due to a lack of antennae. The area in the north county is such a dead spot for both emergency radio and cellular phone operations. In response to this CUP request, the Teton County Emergency Management Coordinator requested some space at the South Clementsville Tower to help eliminate this communication dead zone. Silver Star and the Emergency Management Coordinator negotiated an agreement that tower space would be made available for public agency antennae, some electronics space inside their buildings and shared monthly costs for the power supply. A Memorandum of Understanding was drafted between Teton County Emergency Management and Silver Star and it was reviewed by the County Attorney, who made further suggestions. The MOU awaits the approval of this Conditional Use Permit; it memorializes the details agreed to for adding the County antenna and equipment to the site.

Visual Impact Analysis: The applicant provided simulations of the proposed tower, at the proper height scale as it is depicted on the hillside site. These pictures give a fair representation of what will be seen from various vantage points and from various distances. Any assessments about these visual simulations should factor in the distance from Highway 33 and also consider that the two existing reflector panels, which are solid structures, not lattice, will be removed.



Circled dots on the ridge are existing reflector panels, as seen from Highway 33

INTER-AGENCY AND DEPARTMENTAL REVIEW COMMENTS

Teton County Building & Planning Department- Building Official: See the attached letter from Tom Davis. Mr. Davis outlined that a building permit must be submitted, and it should include the engineering specifications. A condition of approval has been formulated to require a building permit for the tower and associated buildings.

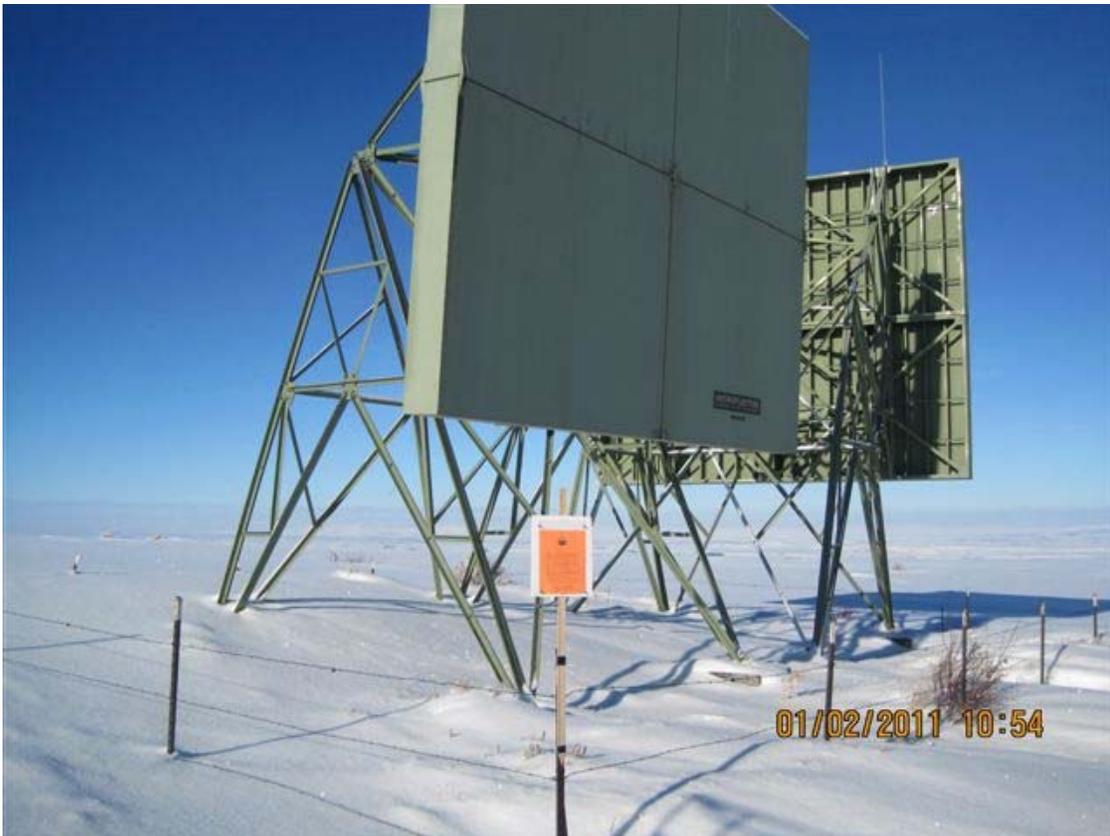
Teton County Engineer: The County Engineer exchanged emails with the Silver Star project engineer regarding the “Importance Factor” rating. In short, critical community facilities such as power plants, wastewater treatment facilities, some communication towers, hospitals, etc. may sometimes have their structural specifications increased to handle more snow, wind, seismic loads. Structures that provide a critical function to a community in the event of a disaster or storm are therefore less prone to failure given the increased strength. A factor of 1.15 is about 15% stronger than a 1.0 –“code-prescribed minimum” structure. See the attached Technical Bulletin. The County Engineer agreed with the Building Official that a set of engineer-stamped structural plans for the tower would need to be submitted with the building permit application.

Teton County Emergency Management: Teton County Emergency Management Coordinator Greg Adams reviewed the application and requested that the tower reserve some space so that a government entity may attach, at some future time, up to two antennas for use in “expanding the public safety communications infrastructure in that area”. The two antennae are required to complete back and forth communications. Mr. Adams also requested internal building space and a shared agreement to pay for the use of onsite power/electricity. In response to the request, Silver Star worked with the Emergency Management Coordinator and agreed to provide some space on the Clementsville tower and in the small electronics shed. As a consequence of this, emergency responders and the Sheriff’s Department are not likely to experience as much of a radio dead zone around River Rim and the north county area. A Memorandum of Understanding regarding this tower arrangement was drafted and reviewed by the County Attorney, see the attached MOU. A number of details about this MOU were discussed by the Planning & Zoning Commission and Mr. Ron McCue, Chief Operating Officer for Silver Star Communications responded about the cost associated with letting the County use tower space that might be leasable.

City of Driggs- Airport: Information about the tower location and finished height elevation was forwarded to Lillian Bowen, who advises the Airport Board on technical matters. After the Planning & Zoning Commission hearing, Ms. Bowen has told Planning Staff that the tower is not an issue for the aviation associated with the airport.

PLANNING & ZONING COMMISSION PUBLIC HEARING

The meeting minutes for the Planning & Zoning Commission meeting are attached. The primary point of discussion was in regards to County Attorney Kathy Spitzer's January 7th, email-response letter, which was read into the public record. There was discussion about her suggestion that Silver Star be required to provide Tower space for free and the lost revenue associated with not renting the tower space and for the "rack space" inside the electronics shed. The 40-foot height level on the tower was not considered commercially viable and that area was made available by Silver Star for 10 years to the County's Emergency Management equipment. After year five, the "rack space" (\$37.42/ RU/year) within the electronics shed will be charged to the County and the electrical power bill will be paid by the County from the beginning of use at year one. The MOU reflects the details. The Planning & Zoning Commission conditioned the CUP to be re-evaluated in 10 years. The CUP re-evaluation in 10-years will coincide with the time when the tower space is no longer guaranteed to be provided at no cost.



The existing reflector panels that will be removed.

Comments from Notified Property Owners & Public

Two citizens spoke at the Planning Commissioner and no written or verbal comments were received. The summarized comments from the meeting minutes are excerpted below:

Speaking in a neutral position, Ms. Anna Trentadue on behalf of VARD, provided a brief history of the last several towers built in the county. She felt with the new Comp Plan rewrite, this was a good opportunity to establish a communications overlay plan. She felt the county should plan where the towers should be located for the most efficient placement of towers and distribution of services. She thought it could be discussed by the transportation committee as the "transportation of messages". She felt emergency services were worth bargaining away view corridors in order to provide a community with a high threshold for public safety, providing it has been determined what future costs would be. She discussed the conditions placed on the tower built in Felt, and suggested adding additional conditions for the sake of consistency. Her concern was that construction should be limited to the build out of the proposed tower, and that a demolition and abatement plan be provided. She also felt a review of the C.U.P. in 5 years was appropriate based on constant changes in technology. She agreed with Ms. Spitzer regarding the uncertainty of future costs, and did not want that condition to be placed on future generations or Commissioners.

Mr. Richard Grundler questioned the obsolescence of the towers and felt there should be a delineation of responsibility for dismantling, possibly some bonding for that purpose. He felt the county should consider the potential cost of obsolescence and dismantling.

SECTION 8-6-1-B-7 CRITERIA FOR APPROVAL OF A CONDITIONAL USE

The Planning & Zoning Commission (acting as the Board of Adjustment) granted a variance for the tower to be 100' feet tall. They considered the following standards regarding the Conditional Use Permit. The Commission approved the CUP and referred to the Staff's findings (below) as justification for their approval.

1. Location is compatible to other uses in the general neighborhood.

The application and this staff report provide the information and analysis to support the finding that no significant negative impacts or disturbances to adjoining properties will result from the granting of this permit. The location is at a site of an existing telecommunications facility and the improved service will benefit the public.



2. Use will not place undue burden on existing public services and facilities in the vicinity.

This use will not place undue burden on existing public services and facilities in the vicinity. This project will increase public services by providing space and infrastructure for public use. Emergency public responders require radio communications in order to effectively provide emergency help and to enforce the state and local laws. Silver Star has offered to provide tower space for public agency use and this should make this north county radio dead-space become an area where public agency radio frequencies can be accessed and used in emergency and law enforcement scenarios.

3. Site is large enough to accommodate the proposed use and other features of this ordinance.

The Silver Star application contains the detailed analysis that this .92 acre site is large enough to accommodate the proposed uses so long as the height variance is granted.

4. Proposed use is in compliance with and supports the goals, policies and objectives of the Comprehensive Plan.

Chapter 12 Public Services & Utilities: This chapter in the County Comprehensive Plan enumerates a policy goal and implementation statement that is narrow enough in focus to be applicable to this application. Policy Goal #2 states:

Ensure that public utility expansion does not have a significant negative impact on the county's scenic views or individual property rights.

Implementation #15 states:

Communication towers should be placed to minimize visual impacts.

Staff Analysis: An existing set of reflector panels was placed on the site prior to the community's policy goals in the present Comprehensive Plan. The visual concerns of the new tower may not be paramount at this outlying location. The Clementsville tower is capable of having other carriers use some of the leasable portions of the tower and therefore lessen the need for separate towers for separate carriers. The co-location of several antennae on a single tower decreases the visual impacts to the County.

STANDARD CONDITIONS

1. Unless specifically provided otherwise herein or by law, each condition of these Conditions of Approval shall be completed to the Satisfaction of the County. Failure to comply with this provision may be used as grounds for revocation of this permit.
2. The Conditional Use Permit approval shall be effectuated within a period of twelve (12) months from the approval date. Prior to said expiration date, the applicant may apply for an extension of time, provided, however, this approval shall be extended for no more than ninety days.
3. The project is approved as shown in Attachments and as conditioned or modified below. This conditional use permit authorizes a 100-foot cell phone tower that is depicted to provide space for four antennae, two dishes, four small buildings, a propane tank, generator, and chain-link perimeter fencing. No other expansion of uses are authorized or permitted
4. As a condition of approval, the Owner (Silver Star) or an agent of Owner acceptable to the County shall defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action, or proceeding, against the County or its agents, officers, and employees; including all costs, attorneys' fees, expenses, and liabilities incurred in the defense of such claim, action, or proceeding to attack, set aside, void or annul an approval by the County, the Planning and Building Department, or other County advisory agency, appeal board, or legislative body concerning the conditional use permit. County shall promptly notify Owner of any such claim, action, or proceeding and shall cooperate fully in the defense of said claim, action, or proceeding.
5. Owner(s), Owner's agent(s) or Applicant shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including the requirements of Title 8 of the Teton County Zoning Ordinance, as amended September 16, 2010.

SECTION 8-6-1-B-8-D ADDITIONAL CONDITIONS (For Conditional Uses)

“Upon granting of conditional use permit, conditions may be attached including, but not limited to:
(in-applicable bullet points omitted)

- *Requiring the provision for on-site or off-site public facilities or services;*
- *Requiring more restrictive standards than those generally required in this ordinance:*

The following conditions are recommended:

1. In order to demonstrate that the height variance of 100-feet is complied to, the applicant shall provide a set of building plans with the Building Permit application that will show the finished tower height as measured from the existing grade elevation, i.e. grade that has not been mounded higher than what currently exists. If further raising up of the grade is needed and elevates the structure's base higher than the existing grade, then the applicant shall specify the grading height changes in the building permit.
2. In order to comply with the International Building Code and the related Teton County Code Resolution, a Building Permit is required, as described in the Building Official's comment letter. Certification shall be provided from a professional, licensed State of Idaho Engineer that the structure complies with the IBC Section 3108 Telecommunication and Broadcast Towers, and the TIA-222 standards.
3. In order to comply with the Purpose statement in Section 8-4-6 Outdoor Lighting, and to reduce undesirable visual impacts in this rural part of the county, no exterior lighting shall be placed on the tower without administratively amending this CUP.
4. In order to comply with the Section 8-4-6-H Operation of Lighting, and to reduce undesirable visual impacts in this rural part of the County, any onsite work lighting shall be turned off when no employees are working at the site. A written onsite notice about “turning off the lights” shall be posted onsite to remind various service workers of this requirement.
5. In order to be consistent with the Comprehensive Plan's policy and implementation statement discussed in this report, and to reduce undesirable visual impacts in this rural part of the County, a) non-reflective surfaces and b) neutral colors shall be used on the buildings and tower.

6. The Clementsville Tower CUP shall be reevaluated 10 years from the date of approval. (*The exact wording of this condition is not available until the Official meeting minutes become available.*)
7. *The C.U.P. expires in 10 years and will be re-evaluated for renewal at that time. Silver Star shall present a decommissioning plan if the tower is not in commercial operation for a 12 month period, establishing removal of the tower or surety for removal by the county if not in use.

*This Condition was added by the Planning Commission at their Public Hearing.

(Note- This condition will be explained at the March 17 BOCC Hearing, as it did not get enumerated in the "Additional Conditions" section of the report sent to the Commissioners March 9th. The Condition is found on the first page of the report and is enumerated here as Condition # 7.

BOARD ACTIONS:

- A. Approve the CUP application with the Planning & Zoning Commissions' recommendations and agreeing that the findings of fact and reasons and justifications for the approval are valid.
- B. Approve the CUP with modifications to Planning & Zoning Commissions' recommendations, either by adding or removing conditions of approval and providing the reasons and justifications for any modifications to the conditions.
- C. Deny the CUP application request and provide the reasons and justifications for the denial.
- D. Continue to a future Public Hearing with reasons given as to the continuation or need for additional information.

PLANNING STAFF & PLANNING & ZONING COMMISSION RECOMMENDATIONS:

Alternative A with a motion that incorporates the recommended conditions of approval listed in this staff report. Here is a suggested motion that could be used to approve the CUP:

Having determined that all the Criteria for Approval of a Conditional Use found in Title 8-6-1-B (7) can be satisfied with the inclusion of the recommended conditions of approval listed in this report, we recommend the APPROVAL of the Silver Star Communications South Clementsville Telecommunications Tower Conditional Use application, as described and depicted in the application materials received November 3, 2010.

Attachments:

- Silver Star Application with narrative
- Site plan attachments labeled 1 and 2
- Visual analysis and site pictures (illustrations-simulations)
- IDT letter
- Emergency Management letter
- Building Official Letter
- County Engineer email regarding Importance Factor
- "Importance Factor" Technical Bulletin
- County Attorney letter
- Meeting Minutes of PZC

End of report