



MASTER PUBLIC HEARING APPLICATION

GEM COUNTY DEVELOPMENT SERVICES

109 SOUTH MCKINLEY, EMMETT, IDAHO 83617 WWW.GEMCOUNTY.ORG PHONE: (208) 365-5144

TYPE OF APPLICATION: (PLEASE CHECK ALL THAT APPLY.)

- | | | |
|--|--|---|
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> PLANNED COMMUNITY | <input type="checkbox"/> SUPPLEMENTAL AMENDMENT |
| <input type="checkbox"/> COMPREHENSIVE PLAN TEXT AMENDMENT | <input type="checkbox"/> REZONE | <input type="checkbox"/> VACATION |
| <input type="checkbox"/> COMPREHENSIVE PLAN MAP AMENDMENT | <input checked="" type="checkbox"/> SPECIAL USE PERMIT | <input type="checkbox"/> VARIANCE |
| <input type="checkbox"/> DESIGN REVIEW | <input type="checkbox"/> SPECIAL USE PERMIT (MINERAL EXTRACTION) | <input type="checkbox"/> ZONING TEXT AMENDMENT |
| <input type="checkbox"/> DEVELOPMENT AGREEMENT | <input type="checkbox"/> SUBDIVISION, PRELIMINARY | |
| <input type="checkbox"/> PLANNED UNIT DEVELOPMENT | <input type="checkbox"/> SUBDIVISION, MODIFICATION | |

PROJECT NAME: **Shadow Butte Industrial Park Tower**

SITE INFORMATION:

(This information can be found on the Assessor's property information assessment sheet.)

Quarter: _____ Section: **15** Township: **06N** Range: **02W** Total Acres: **.987**

Subdivision Name (if applicable): _____

Site Address: **2693 W Success Way**

Lot: _____ Block: _____

City: **Emmett**

Tax Parcel Number(s): **RPC95000020010**

Current Zoning: **M1**

Current Land Use: _____

PROPERTY OWNER:

Name: **Michael Graviet**

Address: **2330 Cherry Lane**

City: **Emmett**

State: **ID**

Zip: **83617**

APPLICANT:

Name: **Justin Vickery**

Address: **3810 W Idaho Blvd**

City: **Emmett**

State: **ID**

Zip: **83617**

Telephone: **208-365-5815**

Email: **michael@ladderking.com**

Telephone: **208-740-0498**

Email: **justin@vickeryit.com**

I consent to this application and allow Development Services staff to enter the property for site inspections related to this application.

I certify this information is correct to the best of my knowledge.

Michael Graviet
Signature: (Owner) Date: **8/23/22**

Justin Vickery
Signature: (Applicant) Date: **8-23-22**

File No.: **Sup22-007**

Received By: **MB**

OFFICE USE ONLY

Date: **8/23/22**

Fee: **325.00**

Receipt No: **22-377**

To: Gem County Zoning Commission

From: Justin Vickery

Date: August, 26th 2022

It is my intent to build a 60' tall mono-pole type tower on the property located at 2693 W Success Way which is located in the Shadow Butte Industrial Park. The purpose for the tower is to facilitate the delivery of wireless internet to the surrounding area. My business "Vickery Internet" is a local provider who works to sell the fastest speeds possible. This tower will allow us to better service not only the business located in the park, but also any residential homes located in the vicinity (less than 5 miles).

As stated in the Gem County Zoning matrix, the tower I wish to build could be considered a "Transmitting Tower" and since the zoning is M-1 Light Industrial, a special use permit is needed.

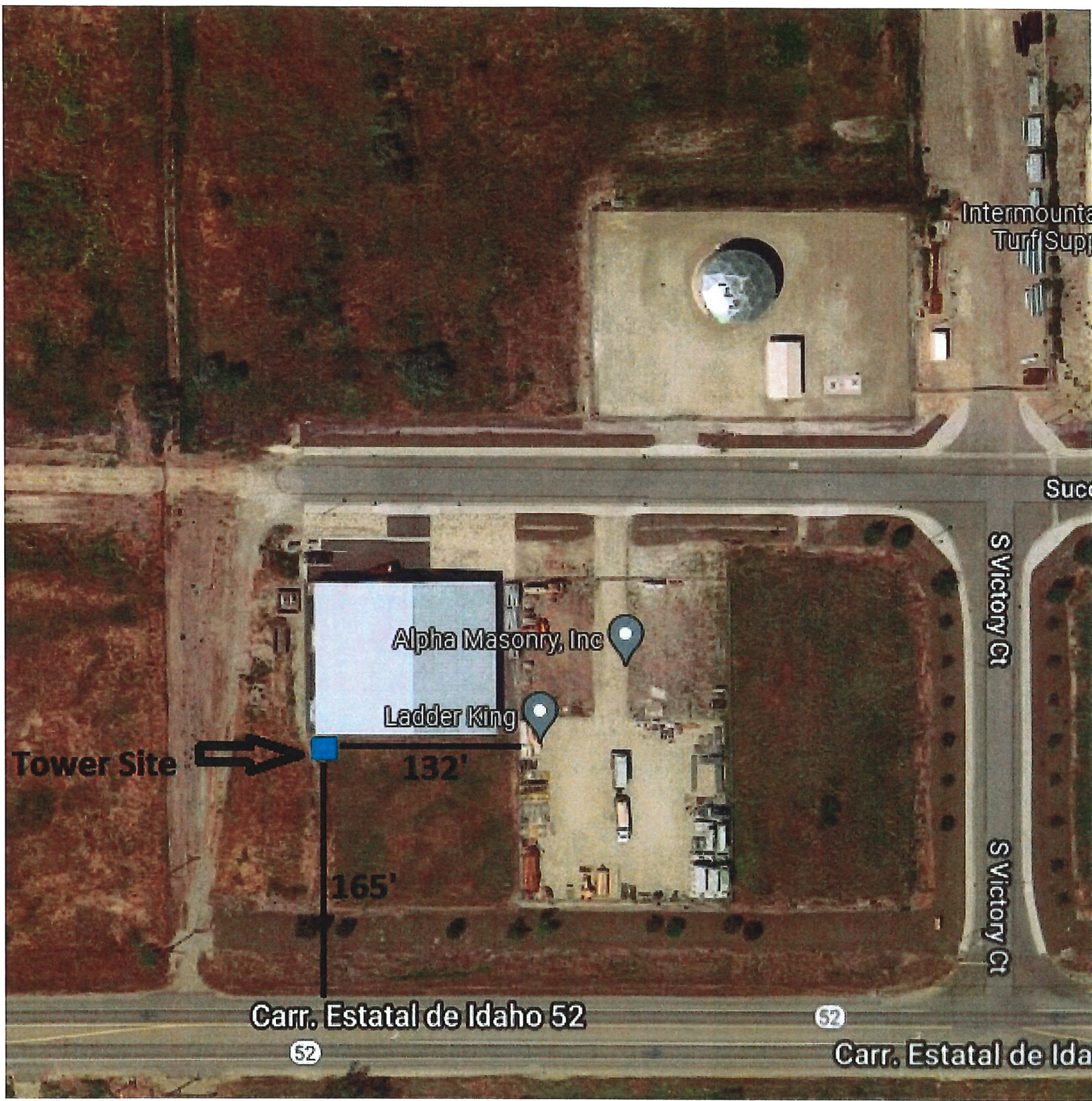
Tower will be located as far away as possible from Hwy 52, Success Way, and the property to the east. Thus mitigating fall risk. See aerial view for dimensions.

This tower shall have no effect on any public facilities, roads, water, septic, fire protection, refuse disposal, or schools.

Installation of the tower will be done to the manufacturer specifications. Rated for wind speeds of up to 110 MPH. Base of the tower is 9ft x 9ft, the mono-pole section starts at a diameter of 14" and tapers down to 8" at the top.


Justin Vickery

8-23-22
Date





GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

**OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING**

PHONE: (208) 365-5144

WEB PAGE: gemcounty.org

STAFF REPORT

DESCRIPTION: SPECIAL USE PERMIT APPLICATION – WIRELESS COMMUNICATIONS FACILITY

FILE NUMBER: SUP #22-007

PLANNING AND ZONING COMMISSION HEARING DATE: FEBRUARY 13, 2023

**APPLICANT: JUSTIN VICKERY
3810 WEST IDAHO BOULEVARD
EMMETT, ID 83617**

PROPERTY OWNER: MICHAEL DAVID AND TAKAKO GRAVIET

SUBJECT PROPERTY: 2693 WEST SUCCESS WAY IN T 06N, R 02W, SECTION 15

STAFF PLANNER: JENNIFER KHARRL

1. APPLICATION SUMMARY

The applicant, Justin Vickery, on property owned by Michael and Takako Graviet, is requesting approval of a Special Use Permit (SUP) to allow the placement of a 60' tall wireless telecommunications facility on their property with their business, Ladder King. The facility is proposed to be located on a small portion of the .98 acre parcel. The property is located at 2693 West Success Way in the M-1, Light Industrial zone within the Shadow Butte Industrial Park Zoning Overlay District. The property is within the Shadow Butte Industrial Park located off of West Highway 52.

The wireless telecommunication facility will consist of a self-support 60-foot high tower. The tower will be designed for a 110 mph wind gusts in accordance with International Building Code and FCC requirements. If an equipment shelter will be located near the base of the tower within the compound, it will need to be surrounded by a 6-foot tall chain link fence.

"Transmitting Tower" is listed as a special use in Gem County Code (GCC) 11-5-5, Zoning Matrix. The property lies within the "Industrial" land designation of the Comprehensive Plan Future Land Use Map.

2. APPLICATION & PROPERTY FACTS

A. Site Address/Location:

The property is located 2693 West Success Way in Section 15, T 06N, R 02W.

B. Current Owner(s): Michael David and Takako Graviet
2693 West Success Way
Emmett, ID 83617

C. Applicant(s): Justin Vickery
3810 West Idaho Boulevard
Emmett, ID 83617

D. Present Zoning: SBIP Zoning Overlay District (M-1, Light Industrial)

E. Present Comprehensive Plan Designation: Industrial

F. Property Size: .987 acres

3. APPLICATION PROCESS FACTS

A. Application Submittal:

The application for this item was received and deemed complete by the Development Services Department on August 25, 2023.

B. Notice of Public Hearing:

Notice of Public Hearing on the application for the Gem County Planning and Zoning Commission was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5 on January 25, 2023. Notice of this public hearing was mailed to property owners within 300 feet of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on January 20, 2023. The physical property was posted for the public hearing on January 25, 2023.

C. Relevant Ordinances and Required Actions:

The subject application constitutes a Special Use as determined by Gem County Code (GCC). By reason of the provisions of the GCC Title 11, Chapter 7, a public hearing is required before the Planning and Zoning Commission on this matter.

D. History of Previous Actions on Property: Building permit #9331 was issued in 2015 for the Ladder King business.

E. Companion Applications: None.

4. LAND USE

A. Existing Land Use(s): Existing business.

B. Description of Character of Surrounding Area: Industrial and commercial uses with some rural residential.

C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	Industrial	Shadow Butte Industrial Park Overlay (M-1 Light Industrial)	Bare land
South of site	Mixed Planned Development	MX, Mixed Use and A-2, Rural Transitional Agriculture	Agriculture with irrigated pastureland and a single-family residential dwelling with outbuildings.
East of site	Industrial	Shadow Butte Industrial Park Overlay (M-1 Light Industrial)	Alpha Masonry business
West of site	Industrial	M-1 Light Industrial	Bare land

D. Existing Site Characteristics:

There is a commercial business on the property. The property has approximately 142 feet of frontage along West Success Way and 142 feet of frontage along West Highway 52.

E. Physical Constraints and Opportunities:

1. Floodplain: FEMA Mapping – Zone X: areas of moderate flood risk.
2. Hazards: There are no known hazards on the property. The applicant should disclose any known hazards on the property at the public hearing.

F. Special Use Information: A Special Use Permit application is required for a new transmitting tower in the M-1 zone within the SBIP Zoning Overlay District.

G. Building Setback Information: Any new structures over 120 square feet in size would have to receive a building permit and comply with setbacks in effect at the time.

H. Streets and/or Access Information: The vehicular access to the property is taken directly off of West Success Way via an existing private driveway that serves the property.

5. COMPREHENSIVE PLAN POLICIES & GOALS [Staff comments and analysis are shown in *italics*.]
The Comprehensive Plan **Future Land Use Map** identifies the subject property as Industrial.

The 2007 Comprehensive Plan defines the “Industrial” category (in **Chapter 12,**) as follows:

The Industrial area is defined as warehousing, general manufacturing, railroad and industrial businesses as the majority of uses in this area. When setting aside areas for industrial uses, easy access to railroads, airport or highway systems must be taken into consideration. Land in the community that is contiguous to land zoned as industrial should be transitioned with buffers and compatible uses.

The **Public Facilities** chapter (9) lists the following policies that are relevant to this application:

9.6.12 Encourage providers to submit their long-range service coverage grid for the entire Gem Community

9.6.13 Ensure proposed sites comply with FCC and other regulatory requirements and guidelines

9.6.14 Encourage the use of monopoles rather than lattice towers

6. ZONING ORDINANCE [Staff comments and analysis are shown in *italics*.]

- A. Zone Purpose: Gem County Code (GCC) 11-4-13, SBIP Zoning Overlay District, describes the purpose of the zone as follows: "Implement land use and design objectives for the SBIP. Specifically, the purpose of the SBIP Zoning is to specify allowed, prohibited and special land uses within the SBIP, promote and encourage a growing economy, protect the natural and existing environment within the SBIP, provide clean industry and employment for Gem County and its residents, and develop, maintain and enhance existing commercial and industrial uses and the aesthetic feature of the SBIP."

The proposed use, will help maintain and enhance existing commercial and industrial uses.

- B. Schedule of Zoning Regulations: GCC 11-4-13.C.4., Uses Permitted with Special Use Permit, proposed uses not listed in Section 2 or 3 of GCC 11-4-13 that serve to meet the industrial employment objectives of the SBIP and are compatible with the Permitted uses in Section 2 may be allowed as special uses.

GCC 11-5-5, Zoning Matrix, permits Transmitting Towers with a Special Use Permit in the M-1 zone.

- C. Provisions for Commercial and Industrial Uses, GCC 11-6-4:

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises without a special use permit, except that any use permitted by this title may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the following performance requirements:

- A. Fire Hazards: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved, as specified in the uniform fire code and the national safety foundation publications;

Staff is not aware of any flammable or explosive materials that will be stored within the concrete shelter or upon the leased property; however the Applicant should address this requirement at the public hearing.

- B. Radioactivity Or Electrical Disturbance: No activity shall emit harmful radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance;

Staff is not aware that the proposed use will emit such activity; however the Applicant should address this requirement in detail at the public hearing.

- C. Noise: Objectionable noise, which is due to volume, frequency or beat shall be muffled or otherwise controlled.

Staff is not aware that the proposed use will emit objectionable noise to the subject or adjoining properties; however the applicant should address this requirement in detail at the public hearing.

- D. Vibration: No vibration shall be permitted which is discernible without instruments on any adjoining lot or property;

Staff is not aware that the proposed use will emit any vibration to the subject or adjoining properties; however the applicant should address this requirement in detail at the public hearing.

D. General Standards for Commercial Tower Structures and Associated Equipment: GCC 11-6-7.D. lists several different standards associated with wireless telecommunication facilities. Staff has included the applicable standards:

1. The facility shall comply with FCC standards regarding radio frequency (RF) emissions.

Staff finds that Applicant is responsible to comply with the Federal Communications standards regarding radio frequency emissions.

2. The facility shall have approval from the Federal Aviation Administration and the Chief of the Idaho Bureau of Aeronautics prior to operation.

Staff finds that Applicant is responsible to obtain approval to locate and construct the proposed communications facility from the FAA (Federal Aviation Administration) and the Idaho Bureau of Aeronautics, in accordance with this standard. Proof of approval shall be provided to the Gem County Planning Director upon receipt, and prior to construction of the facility.

3. The applicant or owner shall be required to obtain all necessary permits, as may be required under federal, state or local statutes, regulations or ordinances including, but not limited to, building permits.

Applicant shall comply with standards outlined above as required under Federal, State or local statutes, regulations or ordinances to construct the proposed wireless communications facility. A building permit will be required for any structure over 120 square feet.

4. The facility shall be maintained in compliance with all federal, state and local regulations and the construction standards set forth in this subsection.

Applicant shall comply with standards outlined above as required under Federal, State or local statutes, regulations or ordinances to maintain the proposed wireless telecommunications facility.

5. The owners, or owner's agent, of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.

Applicant must address this requirement at public hearing. Staff recommends the Commission establish acceptable maintenance and upkeep criteria as a condition of approval of the proposed action.

6. For any facility requiring special use approval, the administrator shall notify all property owners within a minimum of three hundred feet (300') of any property boundary (or lease boundary lines, if applicable) of the proposed site.

Property owners within 300 feet were notified of the subject application on January 20, 2023. No written testimony has been submitted.

7. The tower and associated facilities shall be removed within sixty (60) days of cessation of use.

This is proposed as a condition of approval.

8. Tower construction, setback, and fall zone standards:

- a. The tower shall be constructed to the telecommunications industry association/electronic industries association (TIA/EIA) 222 revisions F standard entitled "Structural Standards for Steel Antenna Supporting Structures", or as hereinafter may be amended.

Applicant shall be required to construct the tower to the standard provided above.

- b. Towers over twenty feet (20') in height must be designed to allow for future placement of additional antennas upon the tower. Such towers must also be designed to accept antennas mounted at varying heights.

This information was not submitted with the application but will be required prior to placement of the tower.

- c. If the tower does not exceed the height limitations of the applicable zone, the tower shall meet the setback requirements of the zone. If the tower exceeds the height limitation of the applicable zone, the tower shall meet the setback requirements of the zone or it shall be set back one foot (1') for every ten feet (10') of total tower height from all property lines, whichever is greater.

The proposed tower does not exceed the height limitation of the M-1, Light Industrial Zone. The tower shall be set back at least 8' feet from the western property line and 80' from the State Highway. The maximum height in the M-1 zone for structures is 125'. The proposed height is 60'.

- d. In addition to the setback requirement noted in subsection D8d of this section, a fall zone for each tower shall be delineated and permanently restricted from future development, as follows:

- 1) The fall zone shall consist of the land area centered beneath the tower and circumscribed by a circle with a radius equal to a length of one foot (1') for every ten feet (10') of tower height.

The tower is 60 feet in height. Therefore, the required fall zone is 6 feet. The 6 feet of required space will include existing structure on the property. No other future development is permitted in the fall zone.

- (2) If the fall zone does not lie completely within the subject property, the applicant must obtain an irrevocable easement from all owners of property within the fall zone that prohibits the construction or placement of new structures within the fall zone, except as may be specifically permitted through the special use process. If an easement is utilized, a copy of the fully executed easement agreement shall be submitted as part of the application.

The fall zone lies within the required 8' setback so it is completely within the subject property.

- e. Towers shall be architecturally and visually compatible with the existing structures, vegetation, and/or uses in the area or likely to exist in the area under the terms of the applicable zone and/or comprehensive plan. The decision making body shall consider, but shall not be limited to, the following factors: similar height, color, bulk, and/or shape, or camouflage techniques to disguise the facility. This shall not preclude towers requiring FAA painting and marking from meeting those standards.

The property for the proposed wireless communications facility is located in the SBIP Zoning Overlay zone (M-1, Light Industrial). Current land uses in the surrounding area are predominately industrial and commercial uses. The closest residence is approximately 400 feet to the southwest.

- E. GCC 11-6-7.F. lists additional application requirements for facilities that require special use approval. Staff has included the applicable standards:

1. Engineering data showing that the tower is designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of one additional user if the tower is over twenty feet (20') in height.

Current engineering data will be required prior to the placement of the tower if the Special Use Permit is approved.

2. A report from a qualified and licensed professional engineer that: a) describes the facility height and design (including a cross section and elevation); b) documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; c) describes the facility's capacity; and d) any other information necessary to evaluate the request. The report must include the engineer's stamp and registration number.

This report wasn't submitted with the application. The report will be required prior to the placement of the tower if the Special Use Permit is approved.

3. A letter of intent committing the facility owner and successors to allow the shared use of the facility, as required by this section, if additional users agree in writing to meet reasonable terms and conditions for shared use.

The letter of intent doesn't commit the facility to allow the shared use. A commitment will be required prior to the placement of the tower if the Special Use Permit is approved.

4. Written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within:

- d. A one-half (1/2) mile radius for towers with a height over one fifty feet (50'), but not more than eighty feet (80');

The applicant didn't demonstrate this. The analysis will be required prior to the placement of the tower if the Special Use Permit is approved.

7. REQUIRED FINDINGS & STAFF ANALYSIS [Staff comments and analysis are shown in *italics*.]

- A. Will in fact, constitute a special use as established on the Official Schedule of District Regulations for the zoning district involved;

Staff finds that the proposed wireless communications facility lies within the M-1, Light Industrial, zone within the SBIP Industrial Park Zoning Overlay District. Gem County Code 11-5, Zoning Matrix does allow transmitting towers within the M-1 zone as a special use and is, therefore, found to constitute a special use as established on the Official Schedule of District Regulations.

- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance;

The Comprehensive Plan analysis is provided in Section 5 and the Zoning Ordinance analysis in Section 6 of this report. Staff finds that, if operated according to the conditions in Exhibit A, the proposed use

could be operated in accordance with the objectives and policies of the "Industrial" designation on the Future Land Use Map of the Comprehensive Plan and the Zoning Ordinance.

- C. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

Staff finds the existing character of the area is Industrial and rural residential with some agricultural uses. The intended character of the area (as defined in Chapter 12 of the Comprehensive Plan) is defined as warehousing, general manufacturing, railroad and industrial businesses as the majority of uses in this area. The location of the proposed facility is not expected to change the essential character of the rural area.

- D. Will not be hazardous or disturbing to existing or future neighboring uses;

No written comments were submitted by neighbors in response to the public notice for this application – either in favor, neutral, or opposed. Staff finds that the proposed use should not be hazardous or disturbing to neighboring uses if operated in accordance with the site specific conditions attached hereto as exhibit A.

- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such services;

Staff finds that the proposed use could be adequately served by the Gem County Sheriff's Department and Gem Rural Fire District #1. The proposed facility will not create an impact on water, wastewater or schools. The Commission should refer to any comments submitted from impact agencies during the course of the open public hearing.

- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

The proposed use is not expected to create excessive costs on any public facility with the construction of a wireless communications facility and will benefit the residents of the area.

- G. Will not involve uses, activities, processes, materials, equipment and conditions or operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

Staff finds that the wireless communications facility will not involve activities, processes and equipment that could be detrimental to neighboring properties. Because the facility will be un-staffed there will not be any noticeable impacts to the neighbors from excessive traffic. The Commission should refer to any comments submitted from the public during the course of the open public hearing.

- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

There are no new approaches proposed with the application. The existing approach will be used. Staff finds that the proposed communications facility is an un-staffed facility that would not interfere with traffic on surrounding public thoroughfares.

- I. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

Staff finds that the application would not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

8. IMPACT AGENCIES NOTIFIED

Gem County Road Department
Gem County Mapper
Gem County Building Official
Southwest District Health
Gem Rural Fire District #1
Idaho Department of Transportation

EXHIBIT A
SITE SPECIFIC CONDITIONS OF APPROVAL
VICKERY
FILE #SUP-22-007

1. This permit is subject to an annual review by the Development Services Department to ensure compliance with all conditions of approval.
2. The permit is non-transferable to another property and is only valid at 2693 West Success Way.
3. The applicant shall obtain a Building Permit from the Development Services Department prior to the start of any site work or building of structures more than 120 square feet in size.
4. The applicant shall submit documentation from a qualified and licensed professional engineer stating the reasons that the tower cannot be shared with any future users or a letter of intent committing the facility to allow the shared use of the facility.
5. The applicant shall submit documentation from a qualified and licensed professional engineer showing that the tower is designed structurally, electrically, and in all other respects to accommodate the applicant's equipment.
6. A report from a qualified and licensed professional engineer shall be submitted that: a) describes the facility height and design (including a cross section and elevation); b) documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; c) describes the facility's capacity; and d) any other information necessary to evaluate the request. The report must be current and include the engineer's stamp and registration number.
7. The applicant shall submit a written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within: A one-half (1/2) mile radius for towers with a height over one fifty feet (50'), but not more than eighty feet (80').
8. The owner, or owner's agent of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent a public nuisance.
9. The applicant shall submit the relevant portion of the signed lease agreement what requires the applicant to remove the tower and/or associated facilities upon cessation of use.
10. The tower and associated facilities shall be removed within 60 days upon cessation of use.
11. No future development shall occur in the fall zone, except for equipment shelters that service the tower.

GCC 11-7-11: LAND USE TIME LIMITATIONS:

- (1) Commencement: When a special use permit is granted, the land use or construction of its facility proposed in the application must have commenced within one (1) year of the date of the final decision by the Commission, or the Board or a court of appropriate jurisdiction (if appealed) and completed within two (2) years of the same date. Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the Commission.
- (2) Expiration: After the one (1) year period has expired, if any person, including staff or member of the Commission, files a written notice presenting sufficient evidence, as determined by the Administrator, to

establish that the land use or construction of its facility provided for in the special use permit, has not commenced, or after the two (2) year period that said use has been abandoned or has ended, the Commission may find that the use has not been implemented or has been abandoned or has ended. If so, the Commission shall set aside the prior approval and order the property to revert to its prior status. An aggrieved person may appeal any Commission decision made under this section to the Board pursuant to Chapter 11-7-9 of this chapter.

GCC 11-7-12: REQUEST FOR EXTENSION:

- (1) Request: An applicant may request extension of the time period provided by this section by filing an application for extension with the Administrator. Such application must be filed at least sixty (60) calendar days prior to expiration of the one (1) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the two (2) year period for completion of the project. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of this chapter. If the application is not timely filed, it shall be denied. A renewal extension, if granted, may be limited to three hundred sixty five (365) calendar days, which shall commence at the expiration of either period.
- (2) Decision: The Commission or the Board may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the Commission or the Board.