



City Council Staff Report

REPORT DATE: August 12, 2021

HEARING DATE: August 25, 2021

FILE NUMBER / NAME	LU2020-06 – Togwotee Center II – Rezoning		
APPLICATION TYPE	Rezoning from the CH: Commercial Heavy Zoning District to the CC: Commercial Corridor Zoning District		
PROJECT APPLICANT	Togwotee Center II, LLC (contact: Reg Ethington)	PROPERTY OWNER	Same as Applicant
PROJECT LOCATION	7168 S Hwy 33	PARCEL NUMBER	RPB3N45E020602
ZONING DISTRICT	CH : Commercial Heavy	LAND USE ACTIVITY	Multi-tenant commercial building

Re: Applicable Victor Values:

- | | | |
|--|--|---|
| <input type="checkbox"/> Culturally Historic | <input type="checkbox"/> Sustainable | <input type="checkbox"/> Connected to Nature |
| <input type="checkbox"/> Small Town Feel | <input type="checkbox"/> Family Friendly | <input checked="" type="checkbox"/> Administrative Need |

PROPOSAL & APPLICATION PROCESS

The applicants have applied for a Rezone Map Amendment to rezone the subject property from the CH: Commercial Heavy Zoning District to the CC: Commercial Corridor Zoning District. This application came about due to the discovery of a noncompliant use during a business license application review. The Pre-Application Conference meeting was held June 18, 2021. The application was submitted on June 15, 2021.

The Planning and Zoning Commission held a public hearing on July 27, 2021. The Commission was in support of the application and voted to recommend approval.

SITE CONDITIONS

The site is located on the far north side of town, fronting on Highway 33. The property consists of 0.6 acres and contains a 2-story multi-tenant commercial structure. The structure was permitted by BP2016-25 issued on October 6, 2016. The Certificate of Occupancy was issued on April 26, 2021, due to a permit extension and COVID leniency. During that time there was a large batch code amendment effective on December 25, 2019. Said code amendment included a change to the Use Table for Retail Establishments, which made them limited in the CH zoning district. The limitation states that “where retail sales is allowed as a limited use, it is limited to large items only, such as lumber, hardware, trailers, etc. or retail associated with and incidental to a service business.” Due to this change one or more of the tenant’s retail operations are not allowed.

The site also contains the frame for a free-standing sign. Said sign has not been permitted by the City and may not meet the size requirements allowed by the LDC.

Since the structure is already constructed staff does not feel a development agreement is needed at this time. Conditions of approval can still be added if the Commission deems them necessary to the operations within the existing structure or to the site. Staff has recommended a proposed condition of approval to address the sign.

PROCEDURE

This application is undergoing a Rezoning Map Amendment. [LDC Div. 14.] Approval of this procedure requires public hearing before the Planning & Zoning Commission and a public hearing before the City Council in order to be approved. The Planning and Zoning Commission may make a recommendation approval, approval with condition, or denial of the

application. The Planning and Zoning Commission may also continue the Public Hearing to a later date. The Rezoning process is also the step in which the City may engage in a development agreement with the applicant.

APPLICABLE CRITERIA

Listed below are governing standards that shall apply:

- Victor Land Use Development Code (LDC): Div. 14.7.12 Rezoning Map Amendment.
- City of Victor Comprehensive Plan

PROJECT LOCATION



STAFF ANALYSIS

Section Number	LDC Text or requirements	Application Proposal (Staff has prepared the majority of these comments as the applicant’s narrative was limited to describing the property and surrounding properties)	If the requirement has been met or not.
14.7.12.B.1	The Zoning Map Amendment substantially conforms to the Comprehensive Plan.	While it is not consistent with the future land use map designates of Surrounding Neighborhood, which should consist primarily of single-family homes at 4-10 units per acre, it conforms with the goal of supporting independently owned small businesses and the goal of creating community gateways.	The goals and actions of the Comprehensive Plan should hold more weight than the Future Land Use Map which should be used more as a guide. This criterion has been met.
14.7.12.B.2	The Zoning Map Amendment substantially conforms to the stated purpose	The application conforms with the purpose of the code “to encourage economically sound, orderly, and compatible and	This criterion has been met.

	and intent of this Code.	development practices in accordance with the Comprehensive Plan.”	
14.7.12.B.3	The Zoning Map Amendment will reinforce the existing or planned character of the area.	The subject property is located within a quasi-business subdivision at the gateway to town. The proposed zoning is compatible with the other uses within the development.	This criterion has been met.
14.7.12.B.4	The subject property is appropriate for development allowed in the proposed district.	The subject property is already developed with a multi-tenant commercial building. No new development is proposed at this time.	This criterion has been met.
14.7.12.B.5	There are substantial reasons why the property cannot be used according to the existing zoning.	The applicant addressed this at the hearing stating the structure was built with the intention of small retail and service uses. If that would not be allowed the tenant spaces are design too small for most uses allowed in the CH zoning district.	This criterion has been met.
14.7.12.B.6	There is a need for the proposed use at the proposed location.	The applicant addressed this at the hearing stating that the location on the highway outside of downtown provide a unique opportunity for business that are a destination and do not require or need walk by traffic.	This criterion has been met.
14.7.12.B.7	The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.	None of the service providers commented with concerns about the application or the existing development.	This criterion has been met.
14.7.12.B.8	The Zoning Map Amendment will not significantly impact the natural environment, including air, water, noise, stormwater	The property is already development. The rezoning would not impact the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.	This criterion has been met.

	management, wildlife, and vegetation.		
14.7.12.B.9	The Zoning Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.	The biggest effect the proposed change would make is to the Home to the South. Having smaller businesses, quiet businesses, Few Trucks, No Tractors, will have a much smaller impact with noise, Vibration, odor. There will be NO Big Trucks pulling behind the building to disturb the residential area. The other businesses in the area are excited to have us there. We will bring other Customers and recognition to their Businesses.	This criterion has been met.

STAFF REPORT ATTACHMENTS

Application materials and public comments are provided by using the links on the City Website under the “more” section for the meeting date.

STAFF RECOMMENDATION

Staff believes that, as presented, the proposal meets the required approval criteria for the application.

SUGGESTED MOTIONS

Approve:

Having concluded that the Criteria for Approval of a Rezone Map Amendment found in Title 10, Article 14.7.12.B have been met, I move to approve Ordinance O585 for the Rezoning Map Amendment from the CH: Commercial Heavy Zoning District to the CC: Commercial Corridor Zoning District for Togwotee Center II, LLC as described in the application materials submitted on June 15, 2021, and subject to the Conditions of Approval in the staff report for the public meeting date of August 25, 2021.

Continue:

Having found that further information is required, I move to continue the application to the _____ Planning and Zoning Commission meeting to allow the applicant to address the following concerns raised (specify concerns to be addressed).

Deny:

Having concluded that the Criteria for Approval of a Rezone Map Amendment found in Title 10, Article 14.7.12.B of Land Development Code have not been met, I move to denial Ordinance O585 of the Rezoning Map Amendment from the CH: Commercial Heavy Zoning District to the CC: Commercial Corridor Zoning District for Togwotee Center II, LLC as described in the application materials submitted on July 27, 2021

CONDITIONS OF APPROVAL

1. The Owner shall be solely responsible for compliance with these conditions of approval, all applicable development requirements, and all previous and future land use decisions rendered for the Project.
2. Any and all signage for the property shall be in compliance with 11.3 of the Land Development Code and obtain the applicable sign permits.

THE CITY OF VICTOR, IDAHO
ORDINANCE NO. 0585

AN ORDINANCE OF THE CITY OF VICTOR AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF VICTOR, WHICH IS PART OF TITLE 10 OF THE CITY'S MUNICIPAL CODE, TO ASSIGN COMMERCIAL CORRIDOR (CC) TO THE 0.6-ACRE PARCEL OF LAND IDENTIFIED AS RPB3N45E020602.

WHEREAS, The purpose of this ordinance shall be to promote the health, safety, and general welfare of the people of the city and the area of city impact by fulfilling the purposes and requirements of the Local Planning Act of 1975 and implementing the comprehensive plan for the city and its area of city impact. Specific statements of purpose accompany selected provisions of this ordinance, but the comprehensive plan provides the full statement of the city's purpose and intent in planning and zoning activities.

WHEREAS, This title is adopted pursuant to the authority granted by the Local Planning Act of 1975 and the City's constitutional police powers. It fulfills the requirements of the Local Planning Act.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VICTOR, TETON COUNTY, IDAHO:

Section 1. That City of Victor official zoning map, dated 8/28/19, be amended to assign the Commercial Corridor (CC) District to the 0.6-acre parcel located 7168 S. Highway 33. and described as:

RPB3N45E020602: COMMENCING AT THE NORTHEAST CORNER OF SECTION 2, TOWNSHIP 3 NORTH, RANGE 45 EAST OF THE BOISE MERIDIAN, TETON COUNTY, IDAHO, INSTRUMENT NO. 99470; THENCE S66°26'22"W, 1719.35 FEET TO A 5/8 INCH REBAR WITH ALUMINUM CAP BEARING THE INSCRIPTION "PLS 9369"; THENCE S00°06'08"W, 255.71 FEET TO A HALF INCH REBAR AND THE NORTHERLY BOUNDARY OF THE WAPITI ESTATES SUBDIVISION AS FILED IN THE TETON COUNTY CLERK'S OFFICE, INSTRUMENT NO. 122276; THENCE N89°46'47"W, 640.54 FEET ALONG THE NORTHERLY BOUNDARY OF SAID WAPITI ESTATES SUBDIVISION TO A 5/8 INCH REBAR ALUMINUM CAP BEARING THE INSCRIPTION "NELSON ENG. PLS 11543" AND THE POINT OF BEGINNING FOR THIS DESCRIPTION:

THENCE CONTINUING N89°46'47"W, 208.71 FEET ALONG THE NORTHERLY BOUNDARY OF SAID WAPITI ESTATES SUBDIVISION TO A 5/8 INCH REBAR WITH ALUMINUM CAP BEARING THE INSCRIPTION "NELSON ENG. 1688" AND THE EASTERLY RIGHT-OF-WAY OF STATES HIGHWAY 33; THENCE N00°18'47"E, 127.53 FEET ALONG THE EASTERLY RIGHT-OF-WAY OF SAID HIGHWAY 33 TO A 5/8 INCH REBAR WITH ALUMINUM CAP BEARING THE INSCRIPTION "NELSON ENGR. PLS 11543"; THENCE S89°48'05"E, 208.71 FEET TO A 5/8 INCH REBAR WITH ALUMINUM CAP BEARING THE INSCRIPTION "NELSON ENGR. PLS 11543"; THENCE S00°18'47"W, 127.61 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH SUBJECT TO A 60-FOOT ROAD AND UTILITY EASEMENT AS DISCLOSED ON RECORD OF SURVEY LOT SPLIT AND LOT LINE ADJUSTMENT RECORDED OCTOBER 24, 2005 AS INSTRUMENT NO. 172096, RECORDS OF TETON COUNTY, IDAHO.

Section 2. That all ordinances, resolutions, orders, or parts thereof or in conflict with this ordinance are hereby voided.

Section 3. That this Ordinance shall be in full force and effect upon its passage, approval and publication.

First Reading by Title Only on August 25, 2021.

This Ordinance was adopted after the first reading and by suspension of the Rule as allowed pursuant to Idaho Code § 50-902.

PASSED by the City Council of the City of Victor, Idaho this 25th day of August 2021

APPROVED by the Mayor of the City of Victor, Idaho this 25th day of August 2021

APPROVED:

ATTEST

MAYOR

CITY CLERK



City of Victor, Idaho

Rezone Application

Permit #: ZX _____

Date Received: _____

Unit 101, 10 South Main St. | PO Box 122 Victor, ID 83455 | Ph: 208-787-2940 | Fax: 208-787-2357 | www.victorcityidaho.com

OWNER: Togwotee Center II Reg Ethington **PHONE:** [REDACTED]

***APPLICANT:** Togwotee Center II Reg Ethington **PHONE:** [REDACTED]

* If the applicant is someone other than the owner, a notarized statement authorizing applicant to act as an agent for the owner must accompany this application.

APPLICANT MAILING ADDRESS: [REDACTED]

APPLICANT EMAIL ADDRESS: [REDACTED]

PROPERTY ADDRESS: 7168 S HWY 33 VICTOR, IDAHO 83455

PARCEL NUMBER(S): _____ **ACRES:** .65

CURRENT ZONING: CH Commercial Heavy **REQUESTED ZONING:** CC Commercial Corridor

APPLICATION SUBMITTAL REQUIREMENTS

PLEASE NOTE: in order for an application to be deemed complete a digital copy must also be submitted via Email, USB, or CD

- WARRANTY DEED**
- NOTARIZED AUTHORIZATION LETTER FROM PROPERTY OWNER** *(If applicable)*
- ALL PLANS/STUDIES IDENTIFIED DURING PRE-APPLICATION MEETING**
- SITE PLAN AS IDENTIFIED DURING PRE-APPLICATION MEETING**
- ELEVATION DRAWINGS FOR PROPOSED BUILDINGS AND EXISTING BUILDINGS**
- NARRATIVE STATEMENT CONTAINING THE FOLLOWING:**
 - Description of the existing use of property.
 - Identification of the surrounding land uses and discussion of the general compatibility of the proposed use of the new zone and the surrounding land uses.
 - Evaluation of the effects of element such as noise, glare, odor, fumes and vibration that the new zone and respective permitted uses may have on the surrounding properties.
 - Discussion of how the proposed rezone request complies with the Comprehensive Plan.
 - Discussion of how the proposed rezone request complies with the approval criteria, listed below.
- ANY OTHER INFORMATION REQUESTED BY THE ADMINISTRATOR TO DETERMINE IF THE PROPOSED APPLICATION MEET THE INTENT AND REQUIREMENTS OF THE VICTOR LAND DEVELOPMENT ORDINANCE.**

EVALUATION CRITERIA

The approval or denial of the Zoning Map Amendment Application shall be based upon the following standards and criteria, which can be found in the Land Development Code Art 14.7.12.B.

1. The Zoning Map Amendment substantially conforms to the Comprehensive Plan.
2. The Zoning Map Amendment substantially conforms to the stated purpose and intent of this Land Development Code.
3. The Zoning Map Amendment will reinforce the existing or planned character of the area.
4. The subject property is appropriate for development allowed in the proposed district.
5. There are substantial reasons why the property cannot be used according to the existing zoning.
6. There is a need for the proposed use at the proposed location.
7. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and storm water facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.
8. The Zoning Map Amendment will not significantly impact the natural environment, including air, water, noise, storm water management, wildlife and vegetation.
9. The Zoning Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.

REVIEW AND APPROVAL PROCESS

The process for a Zoning Map Amendment is outline in the Land Development Code Art. 14.7.12.

1. Upon determination of a complete application, the Administrator will schedule the Development Review Committee (DRC) meeting with internal and external agencies.
2. Following the DRC meeting the Administrator will certify the application as compliant and will schedule it for the next available Planning and Zoning Commission Public Hearing.
3. The Planning and Zoning Commission will conduct a public hearing and review the application in accordance with the required approval criteria, and will then forwarded a recommendation to the City Council.
4. The City Council will then hold a public hearing and review the application in accordance with the required approval criteria, and voting to approve, approve with modification, or deny the amendment.
5. If the Council approves the request, an Ordinance will be recorded, and the official Victor Zoning Map updated.

APPEAL

Decisions of the City Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision are delivered to request a reconsideration by the Council. If still not satisfied with a decision of the City Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

ACCEPTANCE

The Planning & Zoning Administrator reserves the right to decline to accept this application until all required information and the application fee have been submitted.

The Planning & Zoning Administrator reserve the right to take photographs and/or videos of the property under consideration as deemed necessary as an addendum to the file.

Under penalty of law I hereby certify that I have read and understand this application and state that the information herein is correct. I swear (affirm) that any information which may hereafter be given by me in hearings before the Victor Planning & Zoning Commission or the City Council shall be truthful and correct.

APPLICANT'S SIGNATURE: Reg Ethington DATE 6/14/21

OWNER'S SIGNATURE: Reg Ethington DATE 6/14/21

OFFICE USE ONLY

FEE - \$2,498.00 (Additional fees may be billed for direct charges, such as review by contracted specialist. Etc.)

RECEIPT #: _____ DATE RECEIVED: _____ RECEIVED BY: _____

TOGWOTEE CENTER 11

7168 S HWY 33 VICTOR, IDAHO 83455 [REDACTED]

A) Description of the Existing use Property

This is a New Building and has not had a use

B) Identification of the surrounding land Uses

To the South are Residential lots and have no commercial use.

The lot to the East is Viewpoint Windows. They sell Windows to new and remodeled Homes. The windows are sold through builders or walk in Customers. They also sell Hardware, window parts, Door parts, weatherstripping to walk in Customers.

To the North is Ray Howard . His Building is for His own personal use. No Commercial sales of any kind. He has been very active in helping one of the businesses get started in the Togwotee Center.

The 2nd lot to the North is Trail Creek Nursery. They do Commercial Landscaping and Retail sales of small Plants , fertilizer, Gardening Tools, Seeds, etc...

C) Evaluation of the effects of element such as noise, glare, odor, fumes, and vibration that the new zone and respective permitted uses may have on surrounding properties

The biggest effect the proposed change would make is to the Home to the South. Having smaller businesses, quiet businesses, Few Trucks , No Tractors, will have a much smaller impact with noise, Vibration, odor. There will be NO Big Trucks pulling behind the building to disturb the residential area.

The other businesses in the area are excited to have us there. We will bring other Customers and recognition to their Businesses.

Reg Ethington