

February 11 2026

Victor City Council
123 North Main Street, Suite 201
PO BOX 122
Victor, Idaho 83455

RE: Request for reconsideration of Annexation and Rezone of 80-acres at 7000S.

Dear Council Members:

This firm has been retained to represent Ashley Coletti, Andrew Ringholz, Kirchner Farmhouse LLC (managed by Kevin Kirchner and Rachel Kircher), Carol and Stanley Nowakowski. Collectively, I will refer to these folks as the "Petitioners." These Petitioners have vigorously voiced their opposition and concern for the City of Victor's ("City") publicly acknowledged plan to annex, upzone, and utilize 40 acres of this site to install a wastewater treatment plant ("WWTP"). Through this Request for Reconsideration ("Petition"), Petitioners not only object to the Council's 3:1 decision to extend the city limits all the way into this rural agricultural area, but they also object to designating the western half of the property as CIV (Civic) zoning in preparation for the WWTP, and the eastern half of the property as RC for clustered urban style housing, including cottage courts.

Ashley Coletti and Andrew Ringholz own the house and property at 7153 Lakeside Road, which is one of the closest homes to the subject property. Kirchner Farmhouse LLC owns the home and property along 7000 South, located directly across the street from the annexed property. Kevin Kirchner is the founder and Manager of Kirchner Farmhouse LLC. He resides in this home with his wife, Rachel; they bought their home and property together and then later transferred it into the Kirchner Farmhouse LLC. With their home only 100 feet from the boundary it is the closest residence to the annexed property. The 100 foot setback imposed by the City's conditions of annexation *means a WWTP can be 200 feet from the Kirchners' living room.*

Both the Coletti/Ringholz and Kirchner households are serviced by domestic wells located in very close proximity to the annexed site intended for the WWTP. Prior to the Council's decision to annex and rezone this 80-acre parcel, these households were located in a quiet rural area, and the abutting properties to their homes were designated with Teton County's Rural Residential 20-Acre and 5-Acre Rural Neighborhood average density zoning districts.

Carol and Stanley Nowakowski own their home and property at 224 W Birch Street in Victor. They pay property taxes under the tax category "20" which is *Residential Lots in Cities*. They also pay water usage fees to the City.

Petitioners have timely submitted this Petition to appeal the Council's decision to Annex and Rezone this 80-acre parcel within 14 days of the City's final written decision on the matter, executed January 28, 2026. **We raise the following issues on reconsideration and reserve the right to amend these issues prior to the hearing on this matter.**

Part 1: Errors and objections pertaining to the Council's action to annex the 80-acre parcel of land into the city boundaries.

Issue 1: Victor's annexation ordinance, review, and process do not match state law.

The city cannot create a right of review or a process contrary to state law and case precedent. Annexation in Idaho is legislative. See, *Burt v. City of Idaho Falls*, 105 Idaho 65, 665 P.2d 1075 (1983), holding that annexations are legislative; *Crane Creek Country Club v. City of Boise*, 121 Idaho 485, 826 P.2d 446 (1992) holding that annexation of a single parcel "annexation a legislative act of city government accomplished by the amendment of an ordinance." The annexation process established in Victor Code 14.7.1. *et seq* Quasi Judicial Review and 14.7.14 *et seq* Annexation expressly deem the process to be quasi-judicial and impose a quasi judicial process and review to all annexations. Likewise, the quasi judicial annexation appeal process enumerated in 14.7.14.E. requires that a request for reconsideration be submitted *within 14 days of the written decision*. However, Idaho Code ("I.C.") § 50-202 identifies the triggering event that starts the clock for judicial review as *28 days after the publication of the annexation ordinance*.

Issue 2: Due process violations - misapplication of quasi judicial standard. Victor Code says that this annexation is a quasi judicial process, when it's black letter law that it is legislative. Victor has been using this misapplication of the law as a basis for disallowing Council members to engage with their constituents on this matter outside of the hearing (and discouraging the public from contacting the elected decision makers directly). At the same time, the City has indeed shown a predetermined outcome and extreme bias that this is already a "done deal." City Council agreed to enter into a contract with earnest money to purchase the property at below market value with the promise to grant the landowner annexation and a zone change. The City can't have it both ways, declaring quasi-judicial privilege to restrict the public from speaking to their elected officials, while at the same time, ignoring the main thrust of what the quasi-judicial process is all about: the applicant and all other affected parties have a due process right to an unbiased tribunal with no predetermined mindset.

In addition, while the public was prohibited from speaking to Council members, at least one Council member disclosed after approving the annexation and rezoning that she had done a tour of another WWTP facility with the "co-applicant" landowner selling the land to the City wherein they discussed the proposal. Again, this is a double standard that deprived the public of

equal access to the decision makers.

Issue 3: No Property Development Plan has been submitted and expressly defined in Victor Code 13.1.1 *et seq.* As a prerequisite to any annexation application, Victor Code 14.7.14.A.1 clearly requires a Property Development Plan as a core component of any annexation application:

Annexation Application Review Procedures. 14.7.14.A.1:

Upon determination of a complete Application/ Property Development Plan, the Administrator will promptly distribute the application for review by internal City departments and external agencies. (Emphasis added.)

Again, a complete Property Development Plan is also listed as a requirement for the rezone component of the application in Victor Code 14.7.12.A.2:

A. Rezone Map Amendment Review Procedure

1. Upon determination of a complete Application/Property Development Plan, the Administrator will promptly distribute the application for review by internal City departments and external agencies. (Emphasis added.)

To approve the annexation, the City must also sustain a finding that “*Additional development proposed for the property will not negatively impact natural resources as identified in the Property Development Plan.*” as established by the annexation criteria in 14.7.14.B.4. (Emphasis added.)

Please note how all of these code sections capitalize the term “Property Development Plan” to give the understanding that this is a pre-defined and special term. Indeed, the lengthy and detailed requirements for what must be within a Property Development Plan can be found in Victor Code 13.1.1 *et seq.* Property Development Plans are so important that the Victor code has devoted an entire chapter as to what they must entail. Clearly, these code requirements have not been satisfied. For example, there has been no grading plan (Victor Code 13.1.1) or traffic impact analysis (Victor Code 13.1.5) submitted. How could the submittals provided been deemed to be “complete” by the Administrator when there is really no formalized Property Development Plan as called specifically out by the code?

Issue 4: Insufficient Record. There are no facts in the record to support a finding that Victor Code sections 14.7.14.B.2-4 are satisfied. These refer to three sections of the City’s annexation approval criteria whereby the Council must make an affirmative finding that:

14.7.14.B.2: Additional development proposed for the property is within the capacity of the City and other service providers (police, fire, library, etc) to provide;

14.7.14.B.3: Traffic generated by additional development proposed for the property can be accommodated by existing streets serving the site, or the traffic generated can be mitigated;

14.7.14.B.4: Additional development proposed for the property will not negatively impact natural resources as identified in the Property Development Plan.

There is nothing in the record that would allow the City to conclude that there is any kind of factual basis to sustain a legal finding that this criterion has been met. No studies have been completed to date. Indeed, the City openly admits the analyses will come later as the City moves forward to develop the site for a WWTP. But in deciding to forgo any type of analysis, the City overlooks the plain fact that there IS “*additional development*” proposed for the property” and they are choosing to simply assess the impacts of this additional development later, in contravention of the criteria.

Part 2: Errors and objections to the Council’s action to rezone the 80-acre parcel after approving the annexation.

Issue 5: They City gave itself preferential treatment compared to other concurrent rezone applications. As the City’s own annexation and rezone application proceeded through the City process, another rezone proposal LU2025-12 Peak Property Ventures (“Peak Property Rezone”) proceeded through the process at the exact same pace. Incredibly, the City did not treat the Peak Property Rezone equally to its own. The Peak Property Rezone applicants were required to submit a full and detailed property development plan as contemplated by Chapter 13 of the Victor Code. They were likewise required to produce a traffic study in order to properly determine impacts to services as required by the rezone approval criteria in Chapter 14.7.12.B. *et seq.*¹ Meanwhile, the City consciously chose to not hold itself to the same standard of thoroughness and diligent review. Although ultimately approved by Council, the Peak Property Rezone applicants were required to jump through far more hoops and expend far more money on engineering and studies than what the City asked of itself with their own proposal.

Issue 6: The City’s dual role deprived citizens and similarly situated applicants of due process and equal application of the law. The rezone is further invalid because it is tainted by impermissible self-dealing. Idaho law requires land-use decisions to be made through fair, impartial procedures that provide due process to affected property owners and similarly situated applicants. When a municipality acts simultaneously as both the applicant seeking a rezone and the decision-making authority approving that rezone, the process is inherently conflicted and undermines procedural fairness. Such conduct violates LLUPA’s requirement that

¹ See ATTACHMENT A: Staff report and packet from LU2025-12 from December 9, 2025 hearing where this Council approved this rezone application by Peak Property Ventures.

land-use decisions be made objectively and based on substantial evidence in the record, not institutional self-interest. The City's dual role deprived affected residents of a neutral decision-maker and renders the approval arbitrary, capricious, and unlawful. This was further underscored by the City's misapplication of a quasi-judicial standard in the proceeding, whereby citizens were prohibited from even contacting the decision makers despite the fact that the process is legislative and the public should be free to raise these issues with their elected representatives.

The City's dual role likewise deprived similarly-situated applicants of equal treatment under the law as they were required to do studies and engineering that the City did not require from itself. This dual role clearly hurts the public interest as a whole. The City favored itself.

Issue 7: The City changed the stated purpose and need for the annexation and rezoning between hearings. At the October 16, 2025, Victor Planning & Zoning Commission (“P&Z”) hearing, the P&Z voted 3:2 to issue a recommendation to annex and rezone the 80-acre parcel in order to support the stated purpose of a WWTP. Then, at the November Council hearing, the stated purpose and intent of the annexation and rezone had been changed to a general “civic purpose.” The P&Z never evaluated the proposal in light of this changed purpose, which is far more vague and unspecific than the originally stated purpose of a WWTP.

Issue 8: The City has failed to adhere to Idaho Code § 67-6525. The P&Z did not consider, evaluate, or issue any formalized recommendation on any amendments to the Victor Comprehensive Plan (“Plan”) as required by § 67-6525 of the Idaho Local Land Use Act (“LLUPA”)² which states that:

A city council shall request and receive a recommendation from the planning and zoning commission, or the planning commission and the zoning commission, **on the proposed plan** and zoning ordinance changes for the unincorporated area. (Emphasis added.)

Likewise, the Council did not take any action to amend the Plan despite the same code Section's mandate that:

Concurrently or immediately following the adoption of an ordinance of annexation, **the city council shall amend the plan** and zoning ordinance. (Emphasis added.)

There is no uncertainty as to what this means. The term “plan” is specifically defined in LLUPA's § 67-6508 as the Comprehensive Plan:

It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process

² Idaho Code § 67-6501 *et seq.*

designed to prepare, implement, review, and update a **comprehensive plan, hereafter referred to as the plan.**
(Emphasis added)

This is a statutorily required step that has been completely overlooked throughout this entire process. Indeed it is also a needed step; as put forth below, the City's Comprehensive Plan does not reflect the City boundary or the zoning designations and the accompanying land uses that have now been placed on this 80-acre parcel. The Plan should have been reviewed, considered, and updated concurrently with the zoning ordinance - and it was simply not done.

Issue 9: The record is factually insufficient to support a finding that all of the enumerated criteria for a rezone have been met. In order to adopt conditional rezoning via a Development Agreement, I.C. 67-6511(a) requires that, in zone change applications:

Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction. (Emphasis added.)

The City will not be able to sustain a finding that this criterion is factually supported. No analysis of the impacts on any services has been conducted at this time; the City has expressly chosen to postpone this analysis to a later date.

Issue 10: The record is factually insufficient to support a finding that all of the City's rezone criteria Victor Code 14.7.12.B have been met. More specifically, the following criteria are not satisfied by the facts and information provided regarding this rezone.

14.7.12.B.1. The Zoning Map Amendment substantially DOES NOT conform to the Victor Plan because it clearly conflicts with the Plan's goal to "prioritize infill and redevelopment over new greenfield development." The tools to achieve this include maintaining agricultural areas at the fringe of the city and as a form of open space, protecting major gateways, and promoting infill. On the Future Land Use Map, this area is designated as "Open Space."

14.7.12.B.3. The Zoning Map Amendment WILL NOT reinforce the existing or planned character of the area because it is introducing totally new uses (CIV and RC) in this area.

14.7.12.B.4. The city has not done the analysis to determine whether the subject property is appropriate for development allowed in the proposed district.

14.7.12.B.5. There are no demonstrated substantial reasons why the property cannot be used according to the existing zoning.

14.7.12.B.6. The City has chosen to pursue the WWTP in this location while the City of Driggs has clearly demonstrated an interest in continuing to work cooperatively on a single plant. There is no demonstrated need for the proposed use at this exact proposed

location.

4.7.12.B.7. The city has not done the analysis to determine whether 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.

14.7.12.B.8. The city has not done the analysis to determine whether the Zoning Map Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.

14.7.12.B.9. The City has not done the analysis to determine whether the Zoning Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.

Issue 11: The City has failed to produce an adequate "reasoned statement" in the final decision per I.C. § 67-6535. The reason statement does not meet the commonly accepted standards that have been carved out and continually defined by the Idaho courts.

Issue 12. The rezone constitutes unlawful quid pro quo Contract Zoning. Contract zoning is illegal because zoning decisions must be legislative, prospective, and based on generally applicable land-use standards adopted for the public health, safety, and general welfare—not negotiated exchanges of private benefit for governmental action. Idaho law prohibits zoning actions where a municipality conditions or grants a rezone based on promises, inducements, or reciprocal agreements that effectively bind the governing body's discretion. Here, the illegality is underscored by the fact that the owner of the subject parcel received, or was promised, an upzone of his retained land in connection with the sale of a separate forty-acre parcel to the City for the WWTP. This quid pro quo is expressly acknowledged in a promissory letter issued by the Mayor, evidencing that the rezone was not a neutral legislative act but part of a negotiated exchange.

Such an arrangement impermissibly trades zoning approval for a private land transaction, substituting contractual bargaining for comprehensive planning. Because the rezone was granted to fulfill a specific promise to a particular landowner rather than to advance uniform land-use policy, it constitutes unlawful contract zoning and is void as a matter of law. Furthermore, the rezoning to CIV was pursued to accommodate a specific wastewater treatment facility rather than as part of a broad, neutral land-use policy, rendering the decision unlawful and void.

Issue 13. Illegal Spot Zoning: Zoning actions are invalid when they confer a special benefit on a particular property, lack uniform application, or are unsupported by substantial evidence demonstrating consistency with comprehensive planning policies.

Spot zoning refers to a change in zoning of a particular parcel or parcels that is out of character with the surrounding area and the comprehensive plan and is done for the benefit of the particular landowner rather than for the benefit of the community as a whole.
Idaho Land Use Handbook, Page 78, January 2026.

There is no CIV or RC zoning anywhere in the immediate area. In fact, there is really no development anywhere around the site, except for across the highway. The subject rezoning singles out one parcel for a Civic designation to permit an intensive, industrial-type use within an Open Space area designated by the Comprehensive Plan, to the detriment of neighboring landowners and without a rational basis tied to the City's comprehensive plan. Additionally, the RC zoning has been given as part of a quid pro quo exchange in order to acquire the land for this spot zoning purpose. As such, the decision constitutes unlawful spot zoning and must be reversed.

For all the reasons set forth above, we ask the Victor City Council to please reconsider its approval of this Annexation and Rezone. We further reserve the right to amend our Petition and bring additional claims prior to hearing.

Very truly yours,



Anna R. Trentadue Esq.
Trentadue Law Office PLLC
Counsel for Petitioners

ATTACHMENT A: Staff report and packet for LU2025-12 rezone hearing December 9, 2025.