

PROJECT PROPOSAL:

The application and supplemental materials propose the following:

- Construct a “meeting house” building that is characterized as having:
 - Approximately 21,800 square feet comprised of 19,402 square feet chapel and a “Stake Suite” addition of approximately 2,400 square feet.
 - A steeple measuring 70-feet from ground to pinnacle
 - Approximately 2,400 square foot Stake Suite addition planned for later construction
 - Ridgeline of the church building to be designed at 30-feet tall (revised plan)
- An outdoor open air pavilion of approximately 2000 square feet
- 249 Parking spaces, associated drive aisles, and handicap parking stalls
- Equipment shed and screened dumpster area
- Landscaping consisting of 66 trees, lawn plantings and an underground irrigation system
- Connection to City of Victor domestic water supply
- Connection to City of Victor sewage treatment infrastructure
- Outdoor Lighting Plan proposing fixtures, lamppost and wall mounted lights according to a revised photometrics plan designed to comply with dark skies regulations
- Create 3.15 acres of impervious surface
- Construct storm water detention system that includes grass swales, detention ponds and other BMP’s
- Upgrade the County Road 7000 South turn lanes to the driveway turnoffs into the property, as outlined in the AW Engineering Traffic Study and subsequent revisions
- Contribute to State Highway 33 turn lane improvements as recommended in the AW Engineering Traffic Study and as ultimately required by the Idaho Transportation Department

KEY ISSUES AND CONSIDERATIONS:

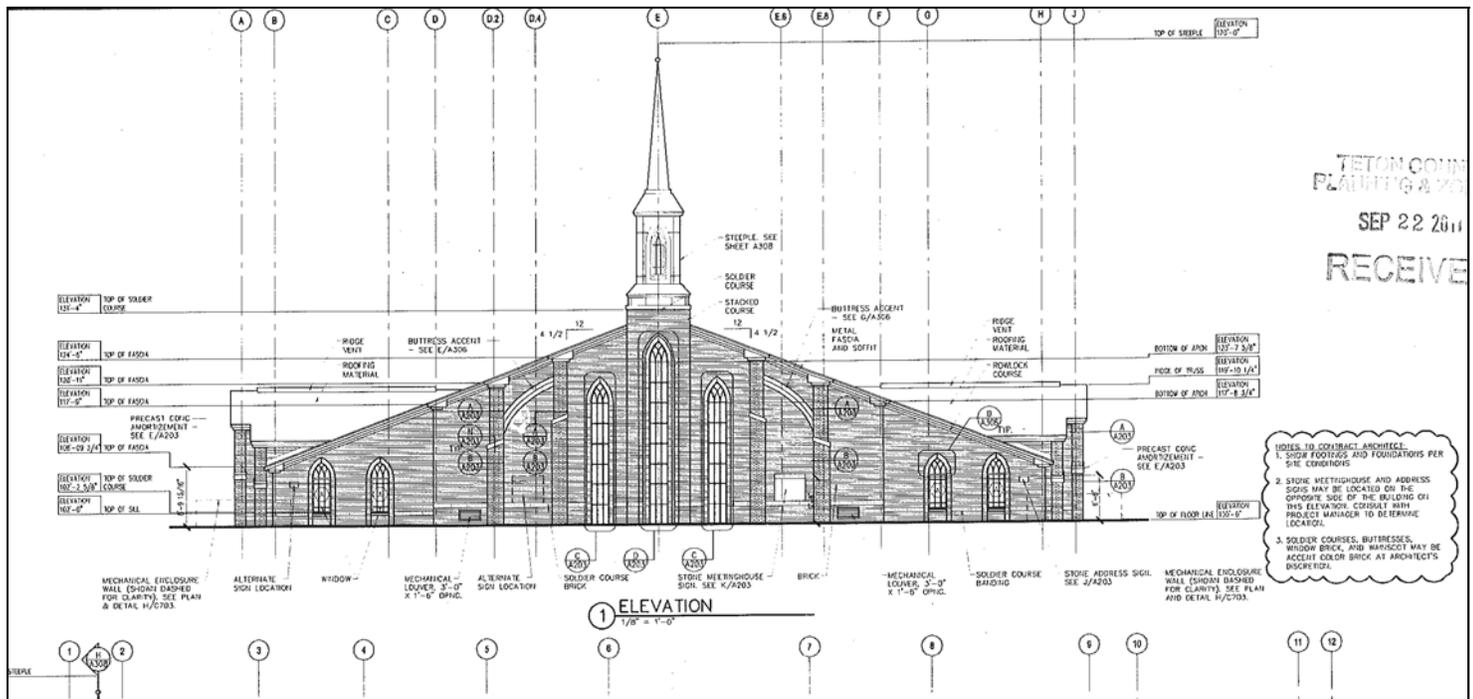
Traffic to and from the church, particularly during the peak use hours will generate the need for road improvements to Highway 33 and 7000 South. Many comment letters mentioned this element of the project. In general, there is agreement as to the type of road improvements that are warranted. How much the applicant will have to finance the state highway improvements is the primary substantive issue that remains unresolved. Cost for road improvements to 7000 South will be borne by the applicant.

RLUIPA and Idaho’s FERPA are special state & federal protections for religious institutions. The Teton County Attorney provided oral comments at the Planning & Zoning Commission Public Hearing in regard to this issue and the particulars about this situation; see the attached minutes. .

Compliance to Outdoor Lighting Ordinance. The information received indicates that the parking lot and building will have lighting that entirely complies with the new Teton County Ordinance. Similar lighting plans that are built for LDS meetinghouses in Idaho Falls are seen to not present off site or night sky-related light-trespass issues.

Location of the church away from the existing built environment of Victor. Some public comments stated that the church site should be closer to downtown Victor. Nevertheless, the site is within the Area of City Impact (AOCI), which some respondents may not have realized. They may not understand that the area is statutorily designated for future city growth and eventual annexation. While some feel this a poor location, very many respondents’ feel it is a good location for the use. This area of the AOCI is not currently densely developed, and it is also not zoned for viable agriculture because it is AR 2.5 with 2.5 acre lots. It is where the city would expect to locate automobile-oriented developments. Small town downtowns thrive with a mix of business, institutional, retail, and food establishments. Multi-acre parking lots and buildings that are not used but a few hours a week are not ideal for downtown commercial areas. Church sites are exempt from property taxation,

whereas private businesses do contribute taxes. The LDS church project would fund the extension of the community's water and sewer infrastructure to the site. The City of Victor has written a letter of support for the chosen location and has provided will-serve letters for city water and sewer service.



The entryway elevation, which faces south and towards County Road 7000 South

FINDINGS OF FACT REGARDING SOLICITATIONS FOR COMMENT FROM APPLICABLE REVIEWING AGENCIES AND DEPARTMENTS

Teton County Engineer:

- **Traffic.** The County Engineer has had a series of correspondences with AW Engineering on its Traffic Study and the later revisions to it; see attached letters. The AWE Traffic Study was contract-reviewed by Kittleson & Associates of Boise, see that attached letter. The Boise firm is comprised of professional engineers who specialize in traffic engineering. Below, are the general recommendations from the applicant's engineer for improvements recommended in the report.
- **County Road Improvements:**
The expectation by all parties is that the applicant will completely fund and construct the county road improvements, along with some details, such as culverts, that have been stipulated by the County Engineer.

This report shows the need to have the following turn lanes as Shown on Sheet in Appendix.

- 1- Turn lanes into the church parking areas.
- 2- Onto and off County road 7000 South at State Highway 333.
- 3- Right turn lane of from State Highway 33 onto County Road 7000 South.
- 4- Left turn lane of from State Highway 33 onto County Road 7000 South and this would necessitate having a Left turn lane for traffic from North.
- 5- Acceleration merging lane for South bound traffic.

- **Highway Improvements:** There will be continued dialogue between the applicant, the County, and the Idaho Transportation Department regarding the timing of installation of these improvements. The applicant will need to design or obtain engineered construction drawings for the preliminary turn lane diagrams that have already been generated. In addition to the design and timing of the county road improvements, the costs for Highway 33 improvements will need to be largely assigned to the prime generator of traffic at the Hwy 33- County Road 7000 South intersection. The Church may not have to fund 100% of the highway improvement costs because it does not generate 100% of the vehicle trips at the intersection. The County, ITD, and the applicant have discussed that there will be a need to allocate the costs of improvements after the basic questions about allowing a C.U.P. are answered. See the related Conditions of Approval listed at the end of this report.
- **Storm Water Management.** The County Engineer also examined the LDS Church Storm Water Management Plan for the site (revision date Feb. 6, 2012). The report listed typical Best Management Practices (BMP) and the finer details of the runoff detention and conveyance are being technically reviewed by the County Engineer. Final engineering and construction drawings for the storm water system will be required prior to the commencement of earth-disturbing activities anywhere on the property; see related Condition of Approval.
- **Bike Path:** The County Engineer requested that the applicant investigate the possibility of providing direct pedestrian and bicycle access from the Rails to Trails path parallel to Highway 33. The need for a bike path connector could be justified on the grounds that the church will hold scouting events and the children/teens may ride their bikes or walk from nearby housing developments. Given this, there is a “rational nexus” for requiring the dedication of a bike path because there will be a significant number of weekday events for youth and some will involve children and teens that live close enough to go on their own power. There may be a few bikers to church, but the primary reason for the trail relates to youth who travel to events under their own power. A separated trail would be ideal. The staff and County Engineer believe that a path with base course and surface gravel would be sufficient if it went from the church site to the existing bike trail.
- **Path Easement:** There is an associated application for a “one-time-only split” on the eastern Blackfoot Farms property. The parent parcel to this 5.5 acre parcel is owned by Blackfoot Farms and there is approximately 400 feet to the path from the church property. While the County Road 7000 South right-of-way would be the logical place to locate a bike path, it may not fit there. The new road design must have a turn lane added to it and there is insufficient space to accommodate two travel lanes, a turn lane, and a bike path in the county right-of-way (measured from centerline). The land split is for the purpose of creating the church site. Given this, Planning Staff believes that it is appropriate to add a condition that some bike/pedestrian accommodations are made between the Highway 33 bike path and the church. In particular, the County Engineer suggested a ten-foot easement should traverse across the entire southern boundary of the property parallel to 7000 South. There could be future connections to the west end of the easement when other homes are built on the vacant properties to the west.

City of Victor: The City agreed to provide water service from the community’s potable water supply and to provide treatment of waste water at the city facility. The City provided a letter indicating it had no problem with the proposed LDS church location at 7000 South.

Idaho Department of Transportation: The state highway department analyzed the traffic study and made the warrants for highway improvements on Highway 33 near the intersection with County Road 7000 South. If the

FINDINGS OF FACT REGARDING PROJECT'S CONSISTENCY WITH THE APPLICABLE GOALS & OBJECTIVES OF THE TETON COUNTY COMPREHENSIVE PLAN 2004-2010

The 2004 Comprehensive Plan proposed a vision and set of policies for the Valley. The policies and goals that are most clearly related to the project are discussed below. The Commission should examine these statements and consider how the proposal relates to them.

Chapter 2 Purpose of the Plan- Applicable goals and policies

- *To encourage the protection of prime agricultural, forestry, and mining lands for production of food, fiber, and minerals.*
- *To encourage urban and urban-type development within incorporated cities.*
- *To protect life and property in areas subject to natural hazards and disasters.*

Staff Analysis:

The introductory chapter's Purpose statement contains somewhat nebulous statements that can be interpreted and emphasized differently and are sometimes at odds with other policy statements. The "urban areas" of Teton County have community water and sewer treatment systems infrastructure. This is one key reason why higher intensity uses are directed to these locations. There is a more efficient delivery of services in an urbanizing area. The church is being proposed in the Area of City Impact for Victor and centralized water and sewer treatment is required and available for this type of proposed use. The Area of Impact is the area that a city expects to annex within the next 10 years. The city's letter stated, "The City of Victor supports the Black Foot Farms/ LDS Stake Center Conditional Use Permit application contingent upon successful compliance with all County and State performance standards." The letter goes on to state that it considers "the location compatible with that of a sub-regional religious center and feels its extensive use of land and automobile dependency affirms the proposed church site". More than half of a church property is typically used to park automobiles. The majority of spaces in the parking lot would only be used one day a week, with smaller attendance evening gatherings. Church parking lots must accommodate high parking use once a week and then are used dramatically less at other times. The City of Victor apparently does not view three acres of parking, in addition to the existing LDS church parking, as the best use of land in a small town. Given the dependence on automobile transportation to church-related activities (which includes many non-drivers such as children and the elderly), it is not surprising that the city does not consider it desirable to use 5.5 acres for a second LDS Church within city limits. Much of the ward for this LDS congregation already lives outside Victor to the north and west; the proposed site will require less driving.

Chapter 5 Property Rights

Policy 1: *The Teton County Comprehensive Plan acknowledges private property rights are protected under the 5th and 14th amendments of the United States Constitution and sections 13 & 14 of article 1 of the Constitution of the State of Idaho.*

Policy 2: *The Teton County Comprehensive Plan acknowledges the right and responsibility of Teton County to reasonably regulate land use.*

Policy 3: *The land use ordinances and actions of Teton County, including the policies, restrictions, conditions and fees, shall not violate private property rights, shall minimize adverse impact on property values and minimize technical limitation on the use of property consistent with state and federal constitution and statutory law. Implementation is implicit in and mandated by state and federal law.*

Staff Analysis:

Policies 1 and 2 relate to the U.S. Constitutional sections and statements regarding private property and the balance of the police powers of states. This issue has been the subject of dozens of Supreme Court cases. In fact, the Supreme Court has been handling land use takings and police power claims for at least 90 years and has interpreted how the Constitution and local land use laws apply or where they have become overextended in some complex situations.

Policy #3 states “shall minimize adverse impact on property values”. There are some studies that have focused on the effect of LDS churches on adjoining land and the findings indicate that the facilities enhance rather than diminish property values. The policy also directs us to “minimize technical limitation on use of property”. Policy 3 also supports the community value that land use regulation should be consistent with Federal and State constitutional laws. There are state and federal laws that somewhat restrict land use and zoning regulations where there would be a “substantial burden” placed on the exercise of religion, which is called out in the first amendment.

Chapter 7 School Facilities & Transportation:

Policy 1: *Planning decisions and efforts must emphasize providing infrastructure and services to the growing population and provide means for growth to pay its way.*

Staff Analysis:

The LDS Church facility will pay hookup fees for water and sewer to Victor. The traffic that will be redistributed to 7000 South will cause the need to have turn lanes and widening to the highway and county road. Blackfoot Farms is expected to bare these road improvement costs, especially the entire costs for the county road improvements.

Chapter 8 Economic Development

The policies and goals are among the less applicable ones to this particular land use proposal.

Chapter 9 Land Use:

Policy 1: *Protect open space throughout the county. Enhance the mechanisms available to incorporate the same in developments.*

Policy 3: *Accommodate new residential growth in the county using methods that preserve Teton Valley’s pristine qualities and foster efficient provision of services. Concentrate higher-density development in the cities or in their areas of impact. (See Implementation 10)*

Policy 4: *Higher density developments should be located within or near the cities or within or near their areas of impact. Developments in the unincorporated county may be based on the density based zoning concept which will provide significant open space.*

Staff Analysis:

An Area of City Impact in Idaho is called out as an area appropriate for future city annexation and as an area considered for the extension of city water and sewer service. Centralized sewer and water systems allow for the jump of density from “acres per house” to “houses per acre”. The City of Victor has already extended this infrastructure north of city limits and it provides sewer service to Teton Reserve, which is further north than the proposed church site.. The development of the 5.5 acres of land has obviously been selected because it can connect to the city infrastructure. The church location in the AOCI is closer to where many of the homes and un-built lots are in the so-called “Drictor” area between the two towns.

Chapter 10 Natural Resources:

Policy 4: Conserve and protect esthetic values including scenic open spaces, quiet neighborhoods, dark night skies, clean air, safe communities, and accessible public lands.

Staff Analysis:

The project is the first large non-residential project that has been proposed since passage of the county's Outdoor Lighting ordinance. Lighting experts have reviewed the photometric plan and believe that the lighting plan will comply and that it will not produce nuisance lighting to adjoining properties and will not add to loss of seeing star-filled skies due to urban light effects.

Although the project is not in the Scenic Corridor, there will be a considerable amount of screening vegetation installed and the night lighting will be the same as several LDS facilities that coexist adjacent to residences.

Chapter 11 Hazardous Areas:

The policies and goals are among the less applicable ones to this particular land use proposal.

Chapter 12 Public Services & Utilities:

Policy 5: Encourage continued study of the county domestic water systems in conjunction with the state departments and agencies that monitor them.

Staff Analysis:

The Church will hook up to the Victor water system and pay for the costs to extend the system to the site. Any large proposal beyond a water and sewer provider's infrastructure would be extremely difficult.

Chapter 13 Community Design:

Policy 1: Encourage the preservation of the scenic vistas, open space, mountains, forests, night skies and wetlands.

Policy 2: Encourage the preservation of the county's rural character.

IMPLEMENTATION:

An analysis and list of implementation objectives to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

Implementation 1: Encourage the preservation of the mountain, forest, rural, and small town atmosphere and appearance of the county by control of land use and structures.

Implementation 2: Revisit the approval of design for all commercial establishments adjacent to the highway in the scenic corridor.

Staff Analysis: The Planning and Zoning Commission made special deliberations on this chapter's goals during their February 14th public hearing. The planning 7 Zoning Commission's staff report did not suggest that the proposed church would be contrary to the two goals and the implementation plans in the chapter. Planning Staff has further considered the point raised and offers the considerations below regarding these two policies.

The Comprehensive Plan was written and developed as a conceptual framework that served for the development of a future land use map. The Comp -plan eventually lead to the Teton County Zoning Map designations and the writing of the Zoning and Subdivision Ordinances. The Zoning Map determined which areas of the county would

be designated for long-term agriculture land preservation and which areas were more marginal in soil and suited to rural housing development. The A-20 zone designates the preservation of rural agriculture and it has a minimum subdivide-able lot size of 20 acres. The eighty (80) acre Blackfoot Farms subject property is not zoned for the long-term preservation of viable, working agricultural landscapes or significant open space preservation. It was also not designated in the Scenic Corridor. The underlying zoning is A/RR 2.5, which theoretically allows the land to be divided into more than two dozen 2.5 acre lots. Two and ½ acre lots have not yet proven themselves to be sufficient in size to produce viable agricultural properties. Instead, this zoning district is comprised of thousands of rural residences and/ or lots of 2.5 acres and a few larger properties that have not yet been divided. It is difficult to argue that a zoning designation of A/RR-2.5 is going to preserve “*the mountain, forest, rural, and small town atmosphere and appearance of the county*”. A zoning of A/RR 2.5 will not preserve the type of rural landscape that is currently on the Blackfoot Farms property.

There is one further zoning designation on this property, which was agreed to by the City of Victor and Teton County. According to the city-county agreement (Section 7-3-1) that was recently amended in November, 2011, the Victor Area of City Impact designation is the result of identifying “an area of impact surrounding the City of Victor with due consideration being given to such factors as trade area, geographic factors, and areas that can reasonably be expected to be annexed to the City of Victor in the future.” . The Blackfoot Farms property would not likely be a strong candidate for rural preservation if it was designated for future annexation into the City of Victor. The nearest city limits are less than a ¼ mile or 1000 feet away. The northern edge of the Victor Area of City Impact is about 5000 feet, almost a mile, north of the church site. The city of Victor has extended sewer lines and service to the Teton Reserve, which is further north and further from downtown Victor than the proposed church site. In summary, there is an Area of City Impact designation on the property, there are existing sewer lines extending past the church site, and the county did not designate the subject property for special scenic considerations, and the A/RR 2.5 zoning is a zoning district that does not principally aim to facilitate the preservation of working agriculture at this location.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING SECTION 8-6-1-B-7,
CRITERIA FOR APPROVAL OF A CONDITIONAL USE**

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

The Victor LDS has not been shown to create negative neighborhood impacts that cannot be largely mitigated by applying conditions to address those potential offsite impacts. The adjoining property is vacant and in limited agricultural production. This land is not prime farmland capable of growing high value commodities. However, the area has been an urbanizing area and it is feasible to connect to an urban sewer and water infrastructure system. The site will not violate the county lighting restrictions, nor will there be significant off site impacts to air or water courses, wildlife, or wetlands. The proposed church is not within a protected Scenic Corridor, but there were extra coniferous trees and landscaping planned for the east side that is toward the highway. With outdoor lighting, storm water provisions, and roadway mitigation measures put in place, the location can found to be compatible to other uses in the general neighborhood.

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

The City of Victor would not allow connection to the water and sewer system if the use would overload and “burden” that infrastructure. The traffic effects of the Ward’s congregation driving to 7000 South rather than to the older Victor LDS facility will redistribute the traffic patterns, but it is not expected to over burden the public road facilities. The Highway 33 intersection will have turn lanes added and 7000 South will be widened and improved. Given these required improvements, the use will not place undue burdens on existing public services or facilities.

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

This LDS facility is almost identical to many similarly sized sites in eastern Idaho. This same site plan is used often and with apparent success on parcels of the same approximate size. The applicant has applied to have the 5.5 acre parcel split off from the 80 acre parent parcel in order to accommodate the church use and it is large enough for the proposed use.

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

This staff report supplied an analysis on how the application compared to the applicable goals, policies and objectives enumerated in the existing comprehensive plan. In general, this project is proposed within the Area of City Impact for Victor and the City did not object to the project where it is proposed. The City wrote that it would offer city water and sewer service and there are existing sewer lines extending past the church site already. The county did not designate the subject property for special scenic considerations, and the zoning district that was evolved from the Comp-Plan goals does not principally aim to facilitate the preservation of working agriculture at this location. Given this, the building of this LDS meetinghouse was found by Planning Staff to be in general accordance with the goals, policies, and objectives of the existing Comprehensive Plan.

The Comprehensive Plan in development during 2011-2012 may offer further insight into the locations that are appropriate for new development. The Staff evaluated the proposal with the existing Comp-plan and did not conjecture on the look of a Future Land Use Map for Victor or the County.

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

The conditions that are shaded in yellow were modified from the Planning Staff's original conditions.

Outdoor Lighting

OL-1. In order to demonstrate compliance with the standards in Section 9-4-1(K) Outdoor Lighting, the applicant shall supply, at the time of building permit application, the actual brand, model and luminance specifications for all the parking lot lights and all other exterior lights on or associated with the building.

OL-2. The steeple shall not be directly lighted.

~~OL-3. (REMOVED BY P & Z) A timer system shall be installed for the parking lot lights on the perimeter of the property and the lights shall be shut off in accordance with the times specified by the Planning and Zoning Commission during the February 14 public hearing.~~

OL-3. The following six specifications that were enumerated in lighting expert Carl Jordon's email of February 14, 2012 shall be added as conditions of approval in order to comply with the outdoor lighting ordinance:

1. Apply correct Light Loss Factor (LLF is 1.0, not 0.85) and adjust foot-candles-contour plots accordingly.
2. Specify fixture height above base grade, not to exceed 20 feet.
3. Require a lighting curfew on outside illumination applicable no later than 1 hour after the end of scheduled events, and at all other times when events are not scheduled.
4. Deny architectural illumination of any structure, including the steeple.
5. Revise lighting plan to reduce illumination of unplowed snow areas to no greater than 0.1 foot candles via shielding, fixture placement, and choice of fixture-illumination pattern-type.
6. Revise lighting plan, including its pole locations and pattern types, to reduce max-min ratio (currently 27-1) to the maximum extent practical.

County Road- State Highway Improvements

R-1. In order to comply with the County Road Standards for Teton County, as amended through AMD 06-05, the applicant or applicant's contractor shall construct the road improvements as stipulated in the final traffic Study report, accepted by the County Engineer. Said work and surety includes all improvements done within the County and State Highway rights-of-way.

R-2. Financial surety shall be established for all road and utility work designed for improvements that lie within the county and State highway rights-of-way. The County Engineer shall review and approve the surety amount (and contingency, which add to 125%) based on a cost estimate created by a Professional Engineer licensed by Idaho.

R-3. Said road improvements are expected to be completed before a Certificate of Occupancy is issued. However a Conditional Certificate of Occupancy may be issued if said road improvements cannot be completed due to weather.

Fire

F-1. In order to comply with all Teton County Fire Protection District Fire Code requirements, the applicant shall install and have inspected all fire hydrants, sprinkler systems, and meet all building accessibility requirements prior to obtaining a Certificate of Occupancy. The Fire District's general requirements are outlined in the District's comment letter of February 7, 2012.

Storm Water Management

SW-1. Prior to earth-disturbing activities, the applicant shall supply the County with the same Storm Water Pollution Prevention Plan (SWPPP) that is registered with EPA. The SWPP shall be considered an element of the Building Permit, subject to inspection by the County.

Landscaping

L-1. In order to comply with Section 8-12-1-B, the applicant shall submit to the Planning Department a recorded landscape easement that depicts the required screening and stipulates how it shall be maintained.

L-2. The applicant shall provide a basic schematic plan for all underground irrigation and utility lines. The plans shall also show the proposed planting plan and demonstrate that there are no spatial conflicts between trees, roots, and buried utilities.

L-3 (P & Z Commission added this condition) A berm with at least 30% of more mature trees [shall] be constructed on three sides: the west, north, and east sides of the project. The use of a fence shall be eliminated as a screening method.

Bike/Pedestrian Connections

BP-1. In order to increase the safety and transportation options for the congregation, and particularly for youth attending various functions at the meetinghouse, the applicant shall designate a non-motorized easement from the right-of-way for County Road 500 West and traverse west to the church's west side of boundary, along the southern end of the property.

BP-2. A pathway shall be built within the easement at a minimum of a gravel surface pathway.

CONSIDERATIONS AND ACTIONS:

1. Approve the CUP as presented and with the findings and conditions recommended by the Planning 7 Zoning Commission and the Planning Staff.
2. Deny the CUP application and state the justifications for the denial.

3. Continue the review of the CUP to a future Public Hearing and provide the applicant with the questions and informational needs that the Commission requires in order to make a recommendation.

Suggested Motion to Approve:

Having made findings of fact 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, I recommend APPROVAL of the Victor LDS Meetinghouse Conditional Use Permit application as described and depicted in the application materials, and as revised and supplemented. The Planning and Zoning Commission's additions and modifications to the conditions of approval have been accepted [with the following changes?]

Attachments:

Application Materials:

- CUP Application with narratives
- Plan View Site plans
- NBW Architects building elevations
- Landscape Plan
- Outdoor lighting photometric plan
- AW Engineering Traffic Study, revised
- Kittleson & Associates Traffic Study comment report
- AW Engineering Storm Water Management Plan report
- AW Engineering correspondences
 - Aw Engineering Culvert Analysis
- Public Comment letters and emails
- Letter from P & Z Commissioners Eagens and Hill

Agency Reviews

- Teton County Fire Protection District letter- M Anderson
- County Engineer letters
- Idaho Department of Transportation correspondence
- City of Victor Will-Serve letter
- City of Victor attorney letter on Variance/ RLUIPA
- City of Victor letter of support for location
- Independent lighting expert review email
- Teton County Attorney commentary regarding RLUIPA
- TVTAP letter of Feb. 8, 2012

End of report- Planner- Curt Moore