

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 18, 2016 AGENDA**

Subject:	Type:	Submitted By:
APPLICATION FOR REZONING LOT 8, VAL VISTA REPLAT FOUR (NE OF CHANDLER RD. & CHANDLER CIR.)	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and an ordinance prepared to consider the rezoning of approximately 3.68 acres located northeast of the intersection of Chandler Road and Chandler Circle.

FISCAL IMPACT

None.

RECOMMENDATION

Denial.

BACKGROUND

A public hearing has been scheduled to consider a rezoning application by the property owner, Torco Enterprises LLC, for approximately 3.68 acres platted as Lot 8, Val Vista Replat Four. The property is located northeast of the intersection of Chandler Road and Chandler Circle.

The property is currently zoned "I-1" Light Industrial District. The applicant has requested the rezoning of the lot to "I-2" Heavy Industrial District due an enforcement notice that the current use is in non-compliance with permitted uses in "I-1". The current use of the property is as a "*Facilities for heavy construction contractors*" which is only permitted in "I-2".

A detailed staff report is attached.

The Planning Commission held a public hearing on September 15, 2016, and unanimously recommended denial of the rezoning as the request is not consistent with the City of La Vista Comprehensive Plan and may be consistent with the definition of illegal spot zoning.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

Section 1. Approval of Rezoning. On September 15, 2016, the La Vista Planning Commission conducted a public hearing on the matter of rezoning the tract of land set forth in Section 2 of this ordinance and reported to the City Council that it recommended denial of the zoning of said tract be changed from "I-1" Light Industrial District" to "I-2" Heavy Industrial District. On October 18, 2016, the City Council held a public hearing on said proposed change in zoning and found and determined that said proposed changes in zoning are advisable and in the best interests of the City. The City Council further found and determined that public hearings were duly held and notices, including published notice, written notice to adjacent property owners and notice posted at the properties, were duly given pursuant to Section 9.01 of the Zoning Ordinance. The City Council hereby approves said proposed changes in zoning as set forth in Section 2 of this ordinance.

Section 2. Amendment of the Official Zoning Map. Pursuant to Article 3 of the Zoning Ordinance, the following described tract of land is hereby rezoned from "I-1" Light Industrial District to "I-2" Heavy Industrial District, and the Official Zoning Map of the City of La Vista is hereby amended to reflect the changes in zoning of the following described tracts of land from "I-1" Light Industrial District to "I-2" Heavy Industrial District:

Lot 8, Val Vista Replat Four, Southwest ¼ of Section 16, Township 14 North, Range 12 East of the 6th P.M., in Sarpy County, Nebraska.

The amended version of the official zoning map of the City of La Vista is hereby adopted and shall be signed by the Mayor, attested to by the City Clerk and shall bear the seal of the City under the following words:

"This is to certify that this is the official zoning map referred to in Article 3 Section 3.02 of Ordinance No. 848 of the City of La Vista, Nebraska"

and shall show the date of the adoption of that ordinance and this amendment.

Section 3. Effective Date. This ordinance shall be in full force and effect upon the date passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 18TH DAY OF OCTOBER 2016.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

CASE NUMBER: 2016-ZMA-04

For Hearing of: October 18, 2016
Report Prepared on: October 5, 2016

I. GENERAL INFORMATION

A. APPLICANT:

Torco Enterprises, Inc.
10305 Chandler Circle
La Vista, NE 68128

B. PROPERTY OWNER:

Torco Enterprises, Inc.
10305 Chandler Circle
La Vista, NE 68128

C. LOCATION: Northeast of the intersection of Chandler Road and Chandler Circle.

D. LEGAL DESCRIPTION: Lot 8, Val Vista Replat Four

E. REQUESTED ACTION(S): Rezoning of Lot 8, Val Vista Replat Four from I-1 Light Industrial to I-2 Heavy Industrial

F. EXISTING ZONING AND LAND USE:

I-1 Light Industrial, Facilities for Heavy Construction Contractors (non-conforming use)

G. PURPOSE OF REQUEST: Rezoning of Lot 8, Val Vista Replat Four from I-1 Light Industrial to I-2 Heavy Industrial to allow for the current non-conforming use as a Facilities for Heavy Construction Contractors.

H. SIZE OF SITE: 3.68 Acres

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE: The property has one building with associated parking. The land is relatively flat with an increasing downward slope towards the eastern lot line.

B. GENERAL NEIGHBORHOOD/AREA ZONING AND LAND USES:

1. **North:** Cimarron Woods, R-1 Single-Family Residential; Single-family houses
2. **East:** Outlot E, Val Vista Industrial Park; I-1 Light Industrial; Vacant (outlot)
3. **South:** Val Vista Industrial Park; I-1 Light Industrial; Various light industrial uses.

4. **West:** Val Vista Industrial Park; I-1 Light Industrial;
Various light industrial uses.

C. RELEVANT CASE HISTORY:

1. On May 20, 2016 the Chief Building Official supplied the applicant with a letter informing the owner of the property's non-conformance with the Zoning Regulations. A copy of this letter is attached to the report.

D. APPLICABLE REGULATIONS:

1. Section 5.13 of the Zoning Regulations – I-1 Light Industrial District
2. Section 5.14 of the Zoning Regulations – I-2 Heavy Industrial District

III. ANALYSIS

- A. COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates the area for industrial uses.

The proposed rezoning does not comply with the following goals and priorities listed within the Comprehensive Plan:

1. Land Use and Physical Features – Policy #1: Establish and maintain land use development patterns and densities that conform with the desires and needs of the residents.
2. Land Use and Physical Features – Policy #6: Promote land uses which maintain and provide a safe and sanitary environment, free of air, water, and noise pollution.

- B. OTHER PLANS:** Not applicable.

C. TRAFFIC AND ACCESS:

1. One access point exists from Chandler Circle.

D. UTILITIES:

1. The property has access to water, sanitary sewer, gas, power and communication utilities.

IV. REVIEW COMMENTS:

1. The applicant commenced the current use of the property (Facilities for Heavy Construction Contractors) without first requesting zoning approval of the use from the Planning Department.
2. The property is directly adjacent to the Cimarron Woods neighborhood on the north. Activity associated with the use of the property as a facility for a heavy construction contractor has generated complaints from the neighborhood, resulting in an enforcement notice to the property owner.
3. In addition to the current zoning non-conformance, the applicant's property is also in non-compliance with Sections 5.13.06.03 (exterior lighting), 5.13.06.04 (nuisances) and 7.05.03 (unpaved parking) of the Zoning Ordinance. A letter was sent to the property

owner regarding these issues on May 20, 2016. A copy of this letter is attached to the report.

4. Considerations for rezoning of the property must include an analysis of all permitted uses of the I-2 Heavy Industrial District, and the potential impacts of these uses on the adjoining residential neighborhood to the north. Uses permitted in I-2 include assembly, fabrication, processing, manufacturing, millwork, transportation and trucking services.
5. The term "spot zoning" is a descriptive term applied to any rezoning that results in a small piece of land, such as a single lot, having a different zoning designation than surrounding parcels. A rezoning of this type can be challenged legally if it conveys benefits to one land owner without considering the general welfare of others, and if it is not consistent with the Comprehensive Plan.

V. STAFF RECOMMENDATION – Rezoning:

Staff recommends denial of the Zoning Map Amendment as the request is not consistent with the City of La Vista Comprehensive Plan and may be consistent with the definition of illegal spot zoning if approved.

VI. PLANNING COMMISSION RECOMMENDATION – Rezoning:

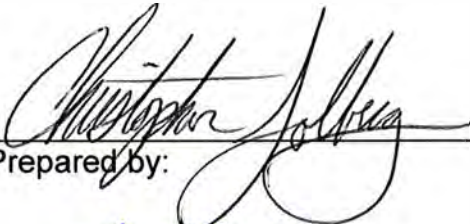
The Planning Commission held a public hearing on September 15, 2016 and unanimously recommended denial of the Zoning Map Amendment as the request is not consistent with the City of La Vista Comprehensive Plan and may be consistent with the definition of illegal spot zoning.

VII. ATTACHMENTS TO REPORT:

1. Vicinity Map Depicting Changes to City of La Vista Zoning Map
2. May 20, 2016 letter to Torco Enterprises, Inc.

VIII. COPIES OF REPORT SENT TO:

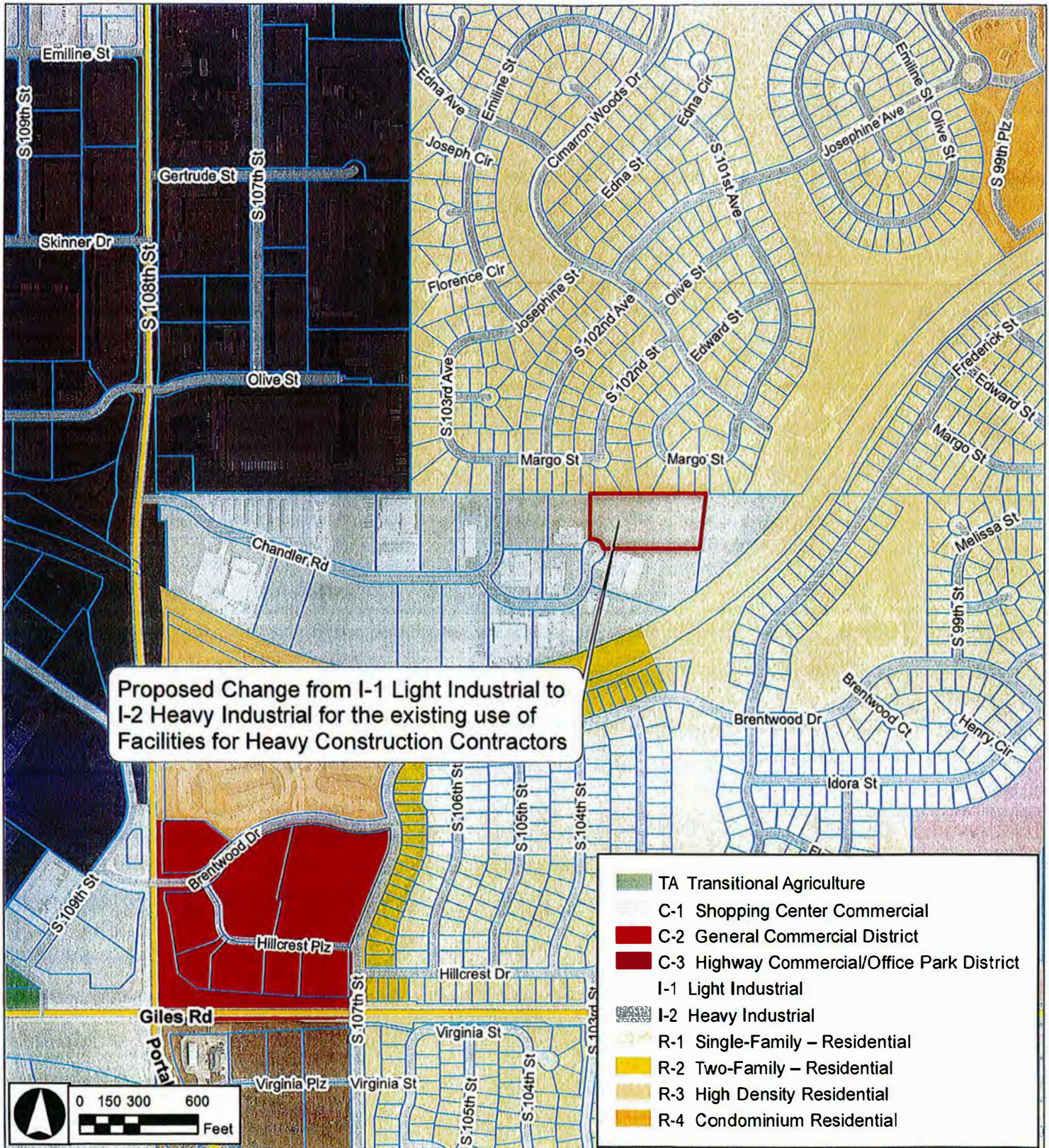
1. Brian Torczon, Torco Enterprises, Inc.
2. Doug Dressen, Thompson, Dreessen and Dorner
3. Public Upon Request


Prepared by:


Community Development Director

10-12-16

Date



Project Vicinity Map



Val Vista Industrial Park Zoning Map Amendment Proposed I-1 to I-2

9-7-2016

JMC



May 20, 2016

Mr. Brian Torczon
Torco Enterprises, Inc
10305 Chandler Circle
La Vista NE 68128

RE: Violation of Zoning Code-Lot 8 Val Vista Replat Four

Mr. Torczon

In response to two citizen complaints, the Community Development Director and I have visited 10305 Chandler Circle to inspect potential violations of the City of La Vista's Zoning Code.

We have found that Torco Enterprises, Inc. to be in violation of the following:

The use of the property as: *Facilities for heavy construction contractors*. This use is not permitted within the I-1 Light Industrial District.

Section 5.13.06.03 Use Limitations (in I-1 Zoning District)

No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.

Section 4.13.06.04

No use shall produce a nuisance or hazard from fire, explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noises or vibrations, flashes, objectionable effluent, or electrical interference which may affect or impair the normal use and peaceful enjoyment of any surrounding property, structure, or dwelling. (Ordinance No. 1053, 1-15-08)

Section 7.05.03

All parking spaces for residential, commercial, industrial, public, or quasi-public uses shall be paved with asphalt or concrete.

Failure of Torco Enterprises, Inc to comply with these regulations shall be subject to the enforcement remedies provided by law. If the violations have not been corrected

City Hall
8116 Park View Blvd.
La Vista, NE 68128-2198
p: 402-331-4343
f: 402-331-4375

Community Development
8116 Park View Blvd.
p: 402-331-4343
f: 402-331-4375

Fire
8110 Park View Blvd.
p: 402-331-4748
f: 402-331-0410

Golf Course
8305 Park View Blvd.
p: 402-339-9147

Library
9110 Giles Rd.
p: 402-537-3900
f: 402-537-3902

Police
7701 South 96th St.
p: 402-331-1582
f: 402-331-7210

Public Buildings & Grounds
8112 Park View Blvd.
p: 402-331-4343
f: 402-331-4375

Public Works
9900 Portal Rd.
p: 402-331-8927
f: 402-331-1051

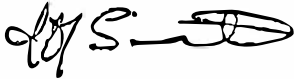
Recreation
8116 Park View Blvd.
p: 402-331-3455
f: 402-331-0299

www.cityoflavista.org
info@cityoflavista.org

within sixty (60) days from the date of this letter, the City shall take other lawful actions as is necessary to remedy the violation including removal of any such violations. This also may include a fine of \$100 per day for each and every day of non-compliance per violation.

If you have any questions regarding this matter, please contact myself or Chris Solberg at 402-331-4343.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Sinnett', with a stylized flourish at the end.

Jeff Sinnett
Chief Building Official

CC: Christopher Solberg-City Planner