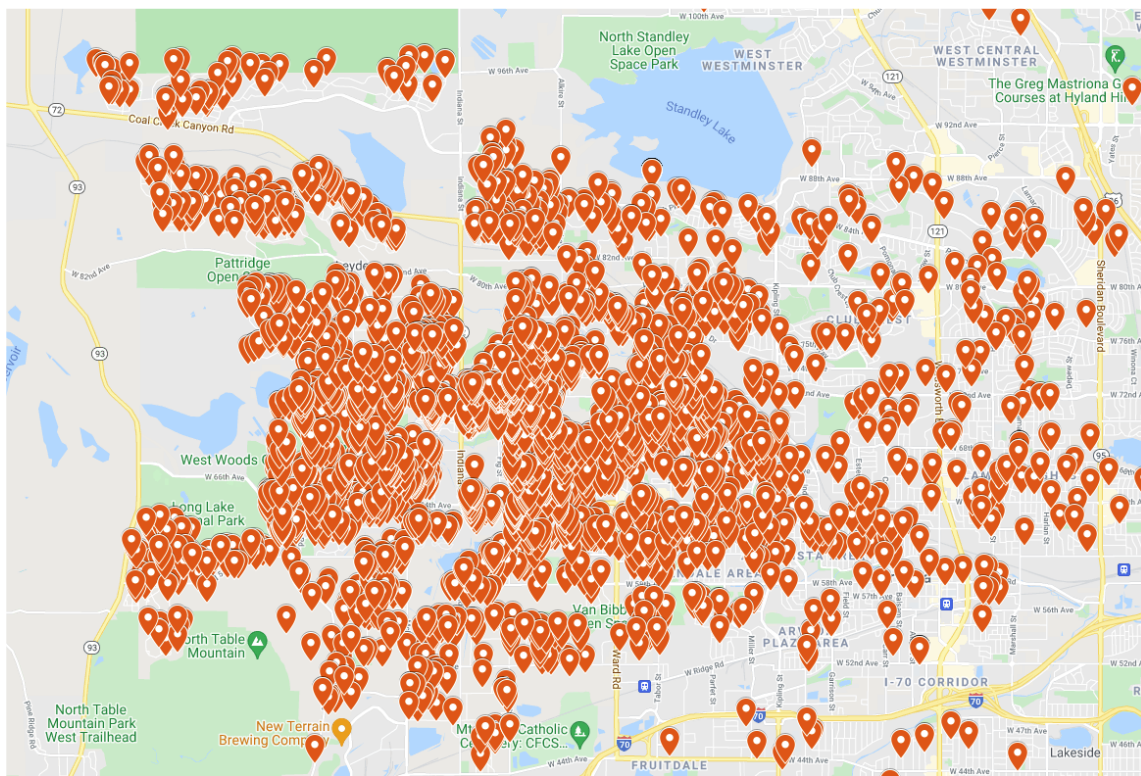


RVC Petition Group Map

8527 Adults representing 5619 households in opposition of Project Indiana



As of June 3, 2021

Z O N I N G

RESOLUTION

Originally adopted by the
Board of
County Commissioners
of Jefferson County, Colorado
on May 6, 1946



JEFFERSON
COUNTY COLORADO

This edition published on February 9, 2021

EXHIBIT
2

Section 33 - Agricultural District

(orig. 3-26-13)

A. Intent and Purpose

1. The Agricultural Zone Districts are intended to provide for limited farming, ranching and agriculturally related uses while protecting the surrounding land from any harmful effects. (orig.3-26-13)
2. Contained in this section are the allowed land uses, building and lot standards (including minimum setbacks) and other general requirements for each specific agricultural zone district. (orig.3-26-13)
3. The Agricultural Zone Districts are divided as follows: (orig.3-26-13)
 - a. Agricultural-One (A-1)
 - b. Agricultural-Two (A-2)
 - c. Agricultural-Thirty-Five (A-35)
4. A revision in March, 1972, increased the minimum land area for the Agricultural-One district to 5 acres. (orig.3-26-13)
5. A revision in March, 1972, increased the minimum land area for the Agricultural-Two district to 10 acres. (orig.3-26-13)

B. Permitted Uses (orig. 3-26-13; am. 7-17-18)

Uses	A-1	A-2	A-35
Single Family Dwelling, Barn, Stable, Silo, Corral, Pens, and Runs.	X	X	X
General Farming, including grains, fruit, vegetables, grasses, hay, livestock raising, and the keeping and boarding of horses. See general requirements below.	X	X	X
Poultry hatcheries and farms, fish hatcheries and dairy farms.	X	X	X
Greenhouse and nursery, including both wholesale and retail, provided products sold are raised on the premises.	X	X	X
Forestry farming, including the raising of trees for any purpose.	X	X	X
Fur farm and raising of rabbits, chinchillas and other similar animals.	X	X	X
Public Park, Class I public recreation facilities, Class II public recreation facilities are permitted only if the site is in compliance with the current minimum lot size requirement.	X	X	X
Veterinary hospital	X	X	X
Cemetery, mausoleum, mortuary and related uses.	X	X	X
Beekeeping operations	X	X	X
Oil and gas drilling and production subject to the Drilling and Production of Oil and Gas Section of this Zoning Resolution, except where located within a subdivision platted and recorded in the records of the Clerk and Recorder.	X	X	X
Telecommunications Land Uses shall comply with the provisions of the Telecommunications Uses Section of this Zoning Resolution.	X	X	X
Energy Conversion Systems (ECS) land uses shall comply with the provisions of the Alternative Energy Resources Section of the Zoning Resolution.	X	X	X
Water supply reservoir and irrigation canal	X	X	X

C. Accessory Uses (orig. 3-26-13; am. 7-17-18)

Uses	A-1	A-2	A-35
Accessory structures including private garage, and storage sheds	X	X	X
Roadside stand for operation during not more than 6 months in each year for the sale of farm products raised or produced on the premises, provided such stands are located no less than 30 feet distance from any street, highway, or right-of-way line.	X	X	X
Private building and kennels for housing dogs, cats or similar domestic pets. On legal non-conforming lots or parcels smaller than the minimum lot size, the maximum total number of dogs, cats and similar domesticated pets which may be kept shall be 3. Litters of puppies or kittens may be kept until weaned.	X	X	X
Temporary storage of defensible space equipment and debris associated fuel break and forest management thinning in accordance with defensible space, fuel break and forest management programs as specified in this Zoning Resolution and Land Development Regulation.	X	X	X
Home Occupations provided the requirements and conditions of the Board of Adjustment or the Home Occupations Section of this Zoning Resolution are met.	X	X	X
Accessory uses per the Accessory Use Section of the Zoning Resolution.	X	X	X

D. Special Uses (orig. 3-26-13; am. 7-17-18)

Uses	A-1	A-2	A-35
Sewage treatment plant	X	X	X
Religious Assemblies and related uses, rectory, parish house and schools.	X	X	X
Radio, television and microwave transmission and relay towers and equipment; meteorological data collection towers and equipment; low power, micro-cell and repeater telecommunications facilities, including antenna and towers.	X	X	X
Cable television reception station	X	X	X
A group living facility, other than homes for social rehabilitation, or a home where up to 6 unrelated individuals are living together, that is occupied by more than one registered sex offender.	X	X	X
Group, foster or communal home, residential treatment center, community residential home, home for social rehabilitation, assisted living residence, personal care boarding home, specialized group facility, receiving home for more than 4 foster home residents, residential child care facility or shelter from domestic violence, licensed or certified by state if applicable, in which 7 or more residents who are not legally related live and cook together as a single housekeeper unit not located within 750 ft of another similar type home or shelter.	X	X	X
State licensed daycare center or preschool or nursery.	X	X	X
Arborist or tree service	X	X	X
Natural resource transportation and conveyance systems	X	X	X
Public Kennel or cattery	X	X	X
Public riding academy or stable	X	X	X
Camps, campgrounds, picnic grounds, and lodges or other similar facilities. Specific conditions and limitations for use, including maximum periods of visitor occupancy and types or maximum numbers of occupied vehicles or sites, will be established as terms of the Special Use approval.	X	X	X
Oil and gas drilling and production, where located within a subdivision platted and recorded in the records of the Clerk and Recorder. Such operations shall conform to the standards contained in the Drilling and Production of Oil and Gas Section of the Zoning Resolution, except as modified in the resolution approving the Special Use.	X	X	X
Class I, II, III Commercial Recreational Facilities. Class II public recreational facilities on sites which do not meet the current minimum lot size requirement. Class III public recreational facilities.	X	X	X

Uses	A-1	A-2	A-35
Limited sawmill operation use in support of defensible space, associated, fuel break, forest insect and disease control, and forest management programs as required under the Zoning Resolution and Land Development Regulations.	X	X	X
Trap, skeet or rifle range		X	X
Recycling transfer station, Type I or Type II: the facility shall only accept trees and slash generated from local efforts associated with regulatory/ voluntary defensible space, fuel break and forest management plans, and Pine Beetle control programs.		X	X
Dangerous and wild animal ranching, training, sales and exhibition provided that the property is 10 acres or greater and such use is in compliance with the General Provisions and Regulations Section of this Zoning Resolution.		X	X

E. Lot and Building Standards (orig. 3-26-13; am. 7-17-18)

Districts	Front Setback	
	Primary Structure/All Garages	All Other Accessory Structures
A-1, A-2, A-35	50 ft.	Livestock – 75 ft. Pens/Runs/Structures ¹ – 100 ft. All Other Accessory Building – 50 ft.
Districts	Side Setback	
	Primary Structure/All Garages	All Other Accessory Structures
A-1, A-2, A-35	Side	Side to Street
	30 ft.	50 ft.
Districts <th colspan="2">Rear Setback</th>	Rear Setback	
	Primary Structure/All Garages	All Other Accessory Structures
A-1, A-2, A-35	50 ft.	50 ft.

¹ Applied to all pens, runs, and structures utilized for fur farms, poultry farms, kennels and catteries.

Districts	Building Height	Lot Size (see a & b below)
A-1	35 ft.	5 Acre (217,800 s.f.)
A-2	35 ft.	10 Acre (435,600 s.f.)
A-35	35 ft.	35 Acre (1,524,600 s.f.)

1. Lot Standards

- a. The minimum lot area for any use permitted in this district shall be the lot size stated above unless the lot falls within the provisions set forth in the Non-Conforming Lot Size provision below. (orig.3-26-13; am. 7-17-18)
- b. The minimum lot area for a lot developed through the rural cluster process shall be as set forth in the Land Development Regulation. (orig.3-26-13)

F. Fences

1. Maximum Fence Height: 7 feet. (orig.3-26-13)
2. Fences over 42 inches in height are allowed within the front setback. (orig. 7-17-18)

3. Electric fences are permitted provided the electrical fence device is in compliance with Colorado State Department of Agriculture specifications. No electric fence is allowed as boundary or perimeter fence on lot lines abutting residential zone districts. (orig.3-26-13)
4. On adjacent lots where allowed fence heights differ, the lower height restriction shall govern. (orig.3-26-13)

G. General Requirements

1. Corner lots must comply with the vision clearance triangle requirements as specified in the Definitions Section of this Zoning Resolution. (orig.3-26-13)
2. No structure may be erected placed upon or extend over any easement unless approved in writing by the agency or agencies having jurisdiction over such easement. (orig.3-26-13)

H. Animals

1. Manure shall not be allowed to accumulate so as to cause a hazard to the health, safety or welfare of humans and/or animals. The outside storage of manure in piles shall not be permitted within 100 feet of the front lot line and 50 feet of the side and rear lot lines. (orig.3-26-13)
2. Stallions shall be kept in a pen, corral or run area enclosed by a 6 foot chain link fence, or material equal or greater in strength, except when it is necessary to remove them for training, breeding or other similar purposes. (orig.3-26-13)
3. On legal non-conforming lots or parcels smaller than the minimum lot size, the following is the density per acre limitation for horses, mules, donkeys, sheep, cattle, goats, swine, buffalo, and other large domesticated animals: (orig.3-26-13; am. 7-17-18)
 - a. The minimum square footage of open lot area, available to animals, shall be 9,000 square feet for the first animal and 6,000 square feet for each additional animal. The total number of such animals that may be kept shall not exceed 4 per 1 acre. (orig.3-26-13; am. 7-17-18)
 - b. Offspring of animals on the property may be kept until weaned. (orig.3-26-13)

I. Non-conforming Lot Size

1. Planning and Zoning shall only permit the use of any unplatted Agricultural-One, Agricultural-Two, or Agricultural-Thirty-Five zoned tract or parcel that is less than 5 acres, 10 acres, or 35 acres respectively, provided that all of the following provisions are met. (orig. 9-6-77; am. 11-6-79; am. 6-16-80; am. 7-2-97; am. 12-17-02; am. 3-3-15; reloc. & am. 7-17-18)
 - a. The parcel, tract or lot existed in its current configuration prior to March 6, 1972. (orig. 9-6-77; am. 6-16-80; reloc. & am. 7-17-18)
 - b. The property is 1 acre in size or greater. (orig. 6-16-80; reloc. 7-17-18)
 - c. Use of the property shall conform with current use regulations in effect for the respective Agricultural-One, Agricultural-Two, and Agricultural-Thirty-Five Zone Districts. (orig. 9-6-77; am. 7-2-97; reloc. & am. 7-17-18)
 - d. Any new construction or structural alteration shall conform with current setback and height regulations in effect for the respective Agricultural-One, Agricultural-Two, and Agricultural-Thirty-Five Zone Districts. (orig. 9-6-77; am. 7-2-97; reloc. 7-17-18)
 - e. Requirements of Public Health for water and sanitation shall be complied with prior to the Building Permit being issued. (orig. 9-6-77; am. 12-17-02; am. 4-20-10; reloc. 7-17-18)

2. Planning and Zoning shall only permit the use of any Agricultural-One, Agricultural-Two, or Agricultural-Thirty-Five zoned lot which was platted without County approval provided that the provisions of paragraphs I.1.a through I.1.e above, are complied with. (orig. 6-16-80; am. 7-2-97; am. 12-17-02; am. 3-26-13; am. 3-3-15; reloc. & am. 7-17-18)
3. Planning and Zoning shall only permit the use of any Agricultural-One, Agricultural-Two, or Agricultural-Thirty-Five zoned lot which was platted with County approval prior to time said lot was zoned, provided that the provisions of paragraphs I.1.b. through I.1.e. above, are complied with. (orig. 6-16-80; am. 7-2-97; am. 12-17-02; am 3-26-13; am. 3-3-15; reloc. & am. 7-17-18)
4. Planning and Zoning shall only permit the use of any zoned lot which was platted with County approval subsequent to the date it was zoned provided that the provisions of paragraphs I.1.c. through I.1.e. above, are complied with. (orig. 6-16-80; am. 7-2-97; am. 12-17-02; am 3-26-13; am. 3-3-15; reloc. & am. 7-17-18)

April 19, 2021

Carolynne C. White
Attorney at Law

City of Arvada
Community and Economic Development
Attn: Ryan Stachelski, Director
8101 Ralston Road
Arvada, CO 80002

Re: Response to Mr. Patrick J. Tobin's Letter dated March 30, 2021 concerning Project #DA2020-0117 – Development Application (Annexation and Zoning) and Related Applications: Project #DA2020-0132 – Site plan, Project #PA2020-0067 – Project Pre-Application (the "Petition Group Letter")

Dear Mr. Stachelski:

We represent Scannell Properties, LLC (the "Developer") with respect to its annexation, zoning, and rezoning application (collectively, the "Application") for the proposed development of an Amazon last mile delivery station ("Project Indiana") to be constructed in the City of Arvada (the "City"). The Application will be considered at a public hearing before the Planning Commission on April 20, 2021 (the "Public Hearing"). We understand that Mr. Patrick J. Tobin has submitted the Petition Group Letter to document his clients' questions, concerns and requests for action with respect to the Application in advance of the Public Hearing, and on behalf of the Developer, we appreciate the opportunity to submit this letter in response to the Petition Group Letter for the record and to assist the Planning Commission in its deliberations.

As you are aware, the Application concerns the development of approximately 34 acres of land located at 6700 Indiana Street (the "6700 Property"), 6702 Indiana Street (the "6702 Property"), 6710 Indiana Street (the "6710 Property"), a portion of 6720 Indiana Street (the "6720 Property"), 6730 Indiana Street (the "6730 Property"), 14725 West 66th Place (the "14725 Property"), and 14785 West 66th Place (the "14785 Property") (collectively, the "Property"). It also concerns the annexation of Maple Valley Park (the "Park Property") into the City. The 6700 Property, the 6702 Property, the 6710 Property, and the 6720 Property are located in unincorporated Jefferson County, Colorado (the "County") (collectively, the "County Property"), and the 6730 Property, the 14725 Property, and the 14785 Property are located in the City (collectively, the "City Property"). The Developer owns the 6700 Property and is the contract purchaser of the other properties. The Developer desires to annex the County Property into the City and zone such property as Industrial, Light ("IL"), and to rezone the City Property from its current Commercial, General designation to IL.

As a preliminary matter, we would like to clarify that the purpose of the Public Hearing is for the Planning Commission to consider the Application, not the application for a site plan/minor subdivision for the Property (the "Site Plan Application"), which is under review by City Staff. Most of the issues raised by the Petition Group Letter deal with specific components of how the Project might be laid out on the site, and therefore are related to the Site Plan Application, rather than the Application.

EXHIBIT
3

410 Seventeenth Street, Suite 2200
Denver, CO 80202
main 303.223.1100

To the Developer's knowledge, the public information in the City's eTRAKiT files with respect to the Application and related applications is complete and up-to-date. No responses from Developer are missing.

Despite the Petition Group Letter's assertion that the Application is incomplete, the Developer has submitted a complete application, as demonstrated in the responses below to the specific concerns raised in the Petition Group Letter. The Land Development Code (the "**LDC**") contains a list of required submittal items that an applicant must provide in order for an application to be accepted for review by City Staff. The Application has met those requirements and the Developer has completed the rigorous review process required by Section 8-2-3-11 of the LDC and has made numerous revisions to address comments and issues raised by Staff during that process. Only applications that appropriately respond to issues raised during the review process are deemed complete and forwarded by the Planning Director to the Planning Commission for review. *LDC § 8-2-3-11.H.*

The Developer appreciates the Petition Group Letter's commitment to a full community perspective, which is consistent with its own commitment to a full community perspective, as evidenced by the amount of community outreach in which the Developer has engaged. The Developer has exceeded the amount of community outreach required by the LDC by hosting two virtual neighborhood meetings, including a five-hour meeting during which the Developer answered more than 500 questions posed by attendees. Moreover, members of the public will have the opportunity to present their perspective at the Public Hearing and the subsequent City Council meeting.

The materials that accompany the Application provide a complete record demonstrating fulfillment of the criteria for an annexation, zoning and rezoning as well as the Developer's commitment to community outreach. In this letter, we address the other specific questions, concerns and requests for action raised in the Petition Group Letter.

A. Pre-Development Items

1. Truck Traffic

The Petition Group Letter states that the truck traffic anticipated to be generated by Project Indiana is in excess of what is permitted by the LDC. We address this comment and the requested action below.

i. Truck Traffic in Excess of Light Industrial Zoning Limitations.

The Petition Group Letter states that because the statutory definition of a "truck" in C.R.S. § 41-1-102(108) and the Model Traffic Code is applied to the cargo vans intended to serve Project Indiana, the number of estimated truck trips will regularly exceed the limit of 50 daily truck trips allowed in the IL zoning. However, while cargo vans may qualify as a "truck" under those authorities, the City has adopted those authorities for the limited purposes of the City's traffic enforcement ordinance, not for land use decisions such as the decisions at issue in the Application. For land use decisions, the City instead properly relies on the traffic engineering-specific definitions and methodologies promulgated by the Institute of Transportation Engineers (ITE). One of those references is the ITE Trip General Manual, which does not include cargo vans within the definition of a "truck" for purposes of analyzing traffic generation associated with various use types. Therefore, using the definition of what constitutes a "truck" for land use decisions such as those at issue in the Application, the number of daily truck trips will not typically exceed the 50 daily truck trip limit for IL zoning. The Developer acknowledges that on infrequent occasions, such as holidays, there may be up to 42 trucks—84 trips—per day. However, the proposed development satisfies the requirements for IL zoning because the typical number of daily truck trips will not exceed 50. *LDC § 11-3-3.* Land use decisions are not properly made on the basis of rare occurrences which might occur sometimes; rather, the impact of uses is determined based on their average, or typical, characteristics.

- ii. Action requested by Petition Group: *Discontinue processing the Applications for Light Industrial Zoning.*

The City should not discontinue processing the Application. First, as described above, the Developer has demonstrated that the projected number of daily truck trips is compatible with the requested IL zoning. Second, even if the Developer had proposed a level of truck traffic inconsistent with zoning district standards, the proper process pursuant to Section 8-2-2-2 of the LDC is for Planning Commission to make this determination after a public hearing and not for City Staff or Planning Commission to preemptively discontinue the application before any of the relevant decision makers have reviewed it. It would be improper to discontinue processing an application for a rezoning based on a finding that has not yet been made or based upon the opponents' opinion of what the Planning Commission may find.

2. Comprehensive Plan Amendment

The Petition Group Letter noted that the City initially stated that an amendment to the 2014 Comprehensive Plan (the "**Comp Plan**") would be needed for the portions of the Property designated as Neighborhood/Community Commercial. The Petition Group Letter further noted that no proposed amendment to the Comp Plan can be located and set forth some questions and requested actions with respect to the same. We address these questions and the requested action below.

- i. Questions: *Is this in process? When will a draft be circulated?*

City Staff review has subsequently concluded that the Application is consistent with the existing Comp Plan and therefore not required the Developer to amend the Comp Plan. Therefore, to the Developer's knowledge, an amendment to the Comp Plan with respect to the Property is not in process and there is no draft of such amendment to circulate.

- ii. Actions requested by Petition Group: *Enforce the existing Comprehensive Plan, particularly the requirements that the development "minimally affect surrounding properties" and will not have "significant adverse impacts upon the natural environment"*

As described in detail in the Developer's two letters to the City accompanying the Application dated December 11, 2020 (the "**Developer's Letters**"), the Developer has submitted the Application in which it demonstrates that the proposed annexation, zoning, and rezoning is consistent with the Comp Plan. The Comp Plan designates a majority of the Property as "Industrial/Office/Retail," with a small portion designated as "Neighborhood/Community Commercial." The Property also is designated as a future employment center. As discussed in the Developer's Letters, the proposed uses for Project Indiana are compatible with this designation. Similarly, the Comp Plan designates the Park Property as "Open Space," which is compatible with the proposed uses for the Park Property.

As further described in the Developer's Letters, the Application also complies with the Comp Plan provisions that require development to "minimally affect surrounding properties" by proposing a design for Project Indiana that includes ample buffers between the proposed development and the surrounding uses. The buffers between Project Indiana and residential development will be further enhanced by the Park Property.

The LDC requires that a proposed zoning or rezoning shall not result in a land use with "significant adverse impacts on the natural environment", LDC § 8-3-4-2.A.4, and the Comp Plan sets a goal to "minimize the impact of new development on natural areas to allow continued co-habitation of people and wildlife," *Comp Plan, Goal R-1*. Project Indiana will not have "significant adverse impacts upon the natural environment" because, as detailed in the Developer's Letters, the Developer intends to construct large retention ponds

and work with the City to address any additional mitigation measures deemed necessary during review of the Site Plan Application. Therefore, the Application is in compliance with the LDC and consistent with the Comp Plan.

As an aside, it should be noted that, unlike zoning, the Comprehensive Plan is not a document which can be “enforced.” Rather, the Comprehensive Plan is an advisory document, which sets forth guiding principles for making certain decisions pursuant to the LDC. The Application demonstrates numerous ways in which it is consistent with and in furtherance of the Comprehensive Plan. If the Petition Group has a different opinion, the Public Hearing is one of several fora provided by the LDC for them to express that opinion.

3. Floodplain and Detention Pond Area

The Petition Group Letter states that the Petition Group has located sketches and contour overlays demonstrating that portions of the Developer’s proposed detention pond area overlay the 100-year floodplain. The Petition Group Letter sets forth the following requested action with respect to the proposed detention pond area, which we will address below:

- i. Action requested by Petition Group: *Require a modified Detention Pond located completely outside the Floodplain.*

This comment is not relevant to the Application or the Public Hearing because approval of the requested annexation, zoning, and rezoning does not include approval of the placement of detention ponds within a proposed development. To the extent that any modified detention ponds are required for approval of the Site Plan Application, the Developer will address such requirements in conjunction with City staff at the appropriate time in the review process.

4. 68th Avenue Access

The Petition Group Letter states that the City has commented that approval from the Colorado Department of Transportation (“**CDOT**”) will be required for approval of Project Indiana. The Petition Group Letter further states that no documents with respect to an access permit have been located and an access permit has not been issued. The Petition Group Letter sets forth the following requested actions, which we will address below:

- i. Actions requested by Petition Group: *(1) Obtain a copy of the Access Permit application and make it available to the Planning Commission and the Public. (2) Require an issued State Highway Access Permit in advance of any action by the Planning Commission.*

This comment is not relevant to the Application at issue because, pursuant to Divisions 8-3-3 and 8-3-4 of the LDC, none of the criteria for approval of a requested annexation or zoning address the approval of access permits by CDOT. No requirement exists that access permits must be obtained, or even submitted, prior to submittal of other applications, such as the Application at issue here. In fact, an applicant could apply for annexation, zoning, and site plan review and not apply for an access permit for a year or more after such applications are approved. Additionally, the Developer has completed and submitted to CDOT its access permit applications.

5. Eldritch Street and East on W 68th Ave.

The Petition Group Letter sets forth a concern and the following requested action with respect to access and traffic at the intersection of Eldritch Street and W 68th Avenue:

- i. Action requested by Petition Group: Applicant's plans should strictly comply with § Sec. 4-4-2-3 of the LDC, which would require a permanent mechanism, using either physical barriers or using regulatory signaling and signage to specifically prohibit Van and Truck access from the Applicants developed property through the intersection.

Although it should be noted that this is really a Site Plan issue and is not related to the Application, the Developer is committed to complying strictly with Section 4-4-2-3 of the LDC in any manner the City directs. The Developer does not anticipate traffic, including delivery van traffic, at the intersection of Eldritch Street and W 68th Avenue to be an issue, but if traffic becomes an issue after the last mile delivery station opens, the City will evaluate and implement measures as necessary, which may or may not include a physical barrier.

6. Traffic North on Fig Street.

Similar to Item 5 above, the Petition Group Letter sets forth a concern with respect to traffic on Fig Street along with the following requested action:

- i. Action requested by Petition Group: Applicant's plans should strictly comply with § Sec. 4-4-2-3 of the LDC. Require a permanent mechanism, using either physical barriers or using regulatory signaling and signage to prohibit Van and Truck Traffic traveling north on Fig into the Eldridge and W 68th Avenue intersection.

The Developer's response is the same as to Item 5 immediately above. While this is a Site Plan issue, and not related to the Application, to the extent that the City wishes to restrict the use of Fig Street or require some other type of mechanism to restrict traffic, the Developer has no objection.

7. Tree Planting

The Petition Group Letter raised multiple concerns with respect to tree planting for the Property and the Park Property. Again, this issue relates principally to the Site Plan, rather than the Application. However, the Developer's plans for tree planting fully comply with the City's requirements and avoid adverse impacts upon the natural environment in compliance with the LDC.

The Developer will plant approximately 830 trees on the Property and is dedicating 1.1 acres of land to the City where the City may plant additional trees. Additionally, the Developer is also making an additional cash payment to the City for the purposes of tree mitigation, which the City can use to plant additional trees within the Park, or anywhere else in the City that it sees fit.

It is also the Developer's understanding that the City does not currently wish the Developer to plant additional trees in Maple Valley Park based on the City's evaluation. The Developer will continue to follow the City's direction with respect to this issue. Additionally, although the Assessment completed by Colorado State University suggests that planting trees would reduce the impacts on Maple Valley Park, the Developer is not permitted to plant trees in the floodplain that is adjacent to the Park Property. To the extent that the City desires trees in Maple Valley Park and the planting of trees does not violate the prohibition on planting trees in the floodplain, the Developer is willing and happy to cooperate in planting trees.

8. Screening

The Petition Group Letter states that, because the Property is approximately 10-20 feet higher than the residences to the north, the Developer should provide as much screening of Project Indiana from the neighborhood as possible. The Petition Group Letter sets forth the following requested actions, which we will address below:

- i. Actions requested by Petition Group: *Require a visibly solid fence high enough to fully block direct view of the Parking Lot Lighting from the residences to the north. The Wall needs to be across the entire north property line. Also, a wall should be required on the Fig street side to block vehicle lights from Ralston Valley and Hill Crest neighborhood residences.*

Once again, it must be noted that this issue pertains to the Site Plan not the Application. However, in the Site Plan, the Developer has designed screening for the Property using a variety of techniques, including a screening wall, additional buffer area, and landscaping in different areas along the northern boundary of the Property. According to the Developer's analysis, a screening wall across the entire northern border of the Property would not be as effective as the variety of techniques the Developer has proposed. The Developer has proposed a screening wall for portions of the northern border of the Property where a screening wall would most effectively screen Project Indiana from surrounding properties and where there was no room for other buffering techniques that would provide more effective screening than a wall. Overall, the Developer has designed Project Indiana to minimize any impacts vehicle lights may have on the Ralston Valley and Hill Crest neighborhood residences to the east of the Property. To the extent that the Petition Group Letter presents concerns about the screening of parking lot lighting, the Developer has designed the parking lot lighting specifically to minimize impact on nearby properties, including the use of shorter light poles and cut-off lights. The photometric plan submitted as part of the Site Plan approval will demonstrate that it meets all the applicable criteria as it relates to lighting.

9. Excessive Parking

The Petition Group Letter raised multiple concerns with respect to parking on the Property. The Petition Group Letter sets forth the following requested questions, concerns, and actions, which we will address in turn below:

- i. Question: *Why are the Applications being allowed to proceed without the Parking Plan that was initially requested in May of 2020?*

A parking plan is not required for an application for an annexation, zoning or rezoning and is appropriately considered as part of a site plan. Therefore, the requested parking for Project Indiana is not at issue in the Application to be considered at the Public Hearing.

However, even if parking were at issue in the Application, the Petition Group Letter misinterprets the City's May 2020 request. City Staff was not requesting that the Developer produce a formal parking plan. Rather, City Staff was merely seeking detailed information clarifying why the requested amount of parking was being sought for Project Indiana. During the rigorous review process, the Developer provided this information to the City, which the City accepted as part of the complete Application.

Even if the City were ultimately to determine that a formal parking plan were required for approval of the Application, the proper process pursuant to Section 8-2-2-2 of the LDC is for Planning Commission to make this determination after a public hearing and not for City Staff or Planning Commission to preemptively halt the processing of an application. As noted above, it would be improper to discontinue processing an application for an annexation or rezoning based on a finding that has not yet been made or based upon the opponents' prediction of what the Planning Commission may find.

- ii. Concern No. 1: Jefferson County in its review of DA2020-0132, dated February 22, 2021, specifically noted “The parking for the site seems excessive. We request that the applicant provide a parking study to justify why so much parking is needed.”

The Developer’s response to this concern is the same as to the Petition Group Letter’s question about parking above. The City’s question about the amount of parking for Project Indiana was addressed during the Application review, and the City determined no parking study was necessary. More importantly, a parking study is not required for an annexation, zoning or rezoning and is appropriately considered as part of a site plan.

- iii. Concern No. 2: The excessive parking area adds unnecessary impervious surfaces that will adversely affect Ralston Creek which is already very close to being an impaired waterway.

The Petition Group Letter’s concern about impervious surfaces is irrelevant to the Planning Commission’s review of the Application. The impact of parking areas on impervious surfaces and potential mitigation measures will be analyzed during review of the Site Plan Application and is not at issue for the Public Hearing.

- iv. Concern No. 3: The excessive parking will add artificial light at night too close to Maple Valley Park impacting the wildlife, particularly the nesting birds and nocturnal animals that populate the Park and surrounding areas.

The Petition Group Letter’s concern about artificial lighting is irrelevant to the Planning Commission’s review of the Application. Lighting will be analyzed during review of the Site Plan Application. However, the Developer is committed to using cut-off lights and shorter light poles in the parking areas, which will alleviate potential lighting impacts.

- v. Actions requested by Petition Group: (1) Require the Applicant to strictly justify the parking based upon the representations made about the number of on-site employees and Van Drivers that it has asserted will be parking at the facility when developed and remove all unjustified parking areas on the north side of the building and minimize impervious area impacting Ralston Creek. (2) Limit Parking to encourage use of Mass Transit and Car Pooling. (3) Require applicant to strictly enforce prohibitions on litter and human waste from Van and Van Drivers being left in the parking area or dumped into the Park or Ralston Creek.

As discussed above, the Developer has adequately justified the amount of parking for Project Indiana as part of the Application review process. Similarly, the site design incorporates the Developer’s parking needs. Although Amazon strongly encourages its employees to use mass transit, carpooling and other measures, this is not an appropriate reason to reduce parking to a level that could negatively impact operation of the last mile delivery station. In response to the rather provocative claim regarding “litter and human waste,” the City already has all the authority it needs to enforce its existing code provisions regarding such matters, whether on public or private property.

B. Heavy Truck Routing Plan

The Petition Group Letter states that a heavy truck routing plan is required for the use of certain vehicles at a frequency of more than 25 heavy truck trips per week but has not yet been provided. LDC § 8-2-6-2. The Petition Group Letter sets forth the following requested action, which we will address below:

1. Actions requested by Petition Group: *Require this Study to be completed and provide to the public when it is available.*

The Petition Group Letter's concern about the heavy truck routing plan is irrelevant to the Application because, when required, the heavy truck routing plan is part of the Site Plan Application. Moreover, heavy trucks will not be routed through residential neighborhoods.

The Developer has provided all information that will comprise the heavy truck routing plan within the traffic study and other components of its application. The Developer would be happy to compile this information into a single document entitled "Heavy Truck Routing Plan. However, it is important to note that this routing plan would become part of the Site Plan Application and is not a prerequisite to or condition of the Public Hearing.

C. **Communication Problems, Confusing Information**

The Petition Group Letter expressed its belief that the public has been "removed" from the Application consideration process as a result of communication problems and confusing information available to the public. Nothing could be further from the truth. Rather, the Developer has undertaken significant efforts above and beyond what is required by the LDC to ensure that the public can be actively involved in the review process. The Developer not only conducted the required neighborhood meeting required by the LDC in November of 2020 but responded to additional citizen interest in Project Indiana by coordinating an additional virtual neighborhood meeting (the "**Supplemental Meeting**") in an effort to hear and respond to public comment. The Developer also provided the neighborhood opposition group with an official time on the Supplemental Meeting agenda of to express its concerns.

The Developer acknowledges that shortly before the Supplemental Meeting, the Developer modified the meeting platform, leading to some confusion. However, this change in meeting platform was in an effort to accommodate the large number of participants, all of whom would not have been able to join the original meeting platform due to the platform's limit in the number of allowed participants. As soon as the Developer determined that there was some confusion about the change in meeting platform, and in an effort to ensure that all who wished to join had the opportunity and information to do so, the Developer rescheduled the Supplemental Meeting for two weeks after it had initially been scheduled. Despite this change and any confusion caused by the communication, more than 370 citizens ultimately attended the Supplemental Meeting, indicating that notice of this Supplemental Meeting was adequate. Additionally, in an effort to be responsive to citizen concerns, the Developer has offered to meet with members of Project Maple Valley Park. Thus far, no group members or representatives have accepted the invitation, although the invitation stands. Therefore, as this letter demonstrates, the Developer has not only fully complied with, but has exceeded the public outreach requirements of the LDC.

D. **Unanswered Questions from Public Meetings**

The Developer understands that a small number of the more than 500 questions presented during the recent five-hour long neighborhood meeting may not have been answered. The Petition Group Letter's request that the Director suspend the processing of the Application pursuant to Section 8-2-4-1.D of the LDC is outside of the Director's purview because Section 8-2-4-1.D of the LDC addresses instances where applicants fail to provide notice or where the notice is defective and is therefore not relevant to an instance such as this in which the Developer provided proper notice of the November 2020 neighborhood meeting required by the LDC and of the Public Hearing. Because the Supplemental Meeting was not required by the LDC, the notice requirements of the LDC did not apply. Nevertheless, the Developer made every effort to comply with the notice requirements of the LDC for the Supplemental Meeting as though those requirements did apply.

City of Arvada
April 19, 2021
Page 9

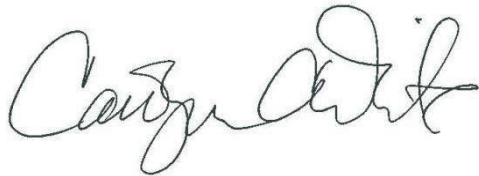
Additionally, in an effort to continue to be responsive to citizen concerns, the Developer has provided answers to all questions in Exhibit A to the Petition Group Letter in an Exhibit A to this letter.

No other matters with respect to the Application are identified as incomplete in the Petition Group Letter. The Application is complete and is properly scheduled for the Public Hearing. No basis exists for discontinuing processing of the Application or any other such preemptive action.

We understand that the Petition Group opposes the Project. They will have the opportunity to continue to express their opposition and concerns at the Public Hearing, and we look forward to hearing this information so that we may respond.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolynne C. White". The signature is written in a cursive style with a large initial 'C' and a prominent 'W'.

Carolynne C. White



CITY OF
ARVADA



POLICE DEPARTMENT

FACSIMILE: 720-898-6661 ▲ TDD: 720-898-7869

ADMINISTRATION: 720-898-6650 ▲ PATROL: 720-898-6800

TIGER grant review team
United States Department of Transportation

Dear TIGER grant review team,

I am writing to support the City of Arvada's TIGER grant application for the proposed roadway widening project along Indiana Street between 82nd Avenue and 86th Parkway located in Arvada, Colorado.

In years past, Indiana Street between 82nd Avenue and 86th Parkway was a roadway that saw moderate levels of traffic. For years, Indiana as it is currently configured was capable of handling the traffic volume. However, several years ago, major development began all around the area of Indiana Street between 82nd Avenue and 86th Parkway and points north and west of 86th Parkway that have now placed significant volume demands on Indiana. The main issue with Indiana in this area is the fact that the roadway is a narrow, two lane roadway. Additionally, there is a railroad bridge that is old, narrow, and dangerous for the current volume of traffic traveling through this area.

The Arvada Police Department receives frequent complaints from residents and commuters about the traffic volume and the lack of capacity for Indiana to handle the traffic volume, and they seek solutions from the police department to address the traffic volume issues. In addition to these complaints, Arvada Police officers use Indiana to traverse the area north and south as Indiana is one of a few roadways that allow travel through the west portion of the city to points north and south. Due to the heavy volume of traffic and the narrow travel lanes, emergency response is impacted because officers cannot pass on the left of traffic due to oncoming traffic. Additionally, there is so little shoulder that drivers cannot move to the right to clear the roadway for emergency vehicles. This creates a situation where officers cannot use emergency equipment to get through this area because doing so creates a greater hazard for motorists. Emergency response suffers as a result.

This project will allow Indiana to be widened to a four lane roadway separated by a median, as well as, reconstruct the railroad bridge which is narrow, old, and dangerous to motorists. This project will create the opportunity for motorists, public transportation, and public safety to more easily and safely drive this area of the city, and will provide space for motorists to safely yield to public safety emergency vehicles. In addition, the 4 lane roadway will improve the volume capacity of the roadway making Indiana a much safer route for motorists who drive and live in this area.

I am fully supportive of this project, and strongly recommend to the grant review committee that they approve the funding for this project and fix this problematic and dangerous roadway. Should you have any questions for me about this project, please do not hesitate to contact me.

Sincerely,

Don A. Wick
Chief of Police
Arvada, CO Police Department
8101 Ralston Road
Arvada, CO 80002
720-898-6665
don@arvada.org

EXHIBIT

4



October 13, 2017

Secretary of Transportation Elaine Chao
US Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

RE: City of Arvada TIGER Grant Application – Highway 72 (Indiana Street) improvements

Dear Secretary Chao,

I support for the City of Arvada's TIGER grant application for \$20 million to improve Indiana Street (State Highway 72). The project will eliminate a crucial constriction by rebuilding the Union Pacific railroad underpass allowing for widening the road for a 3/4mile stretch between West 80th Avenue to West 86th Avenue. The City in partnership with the private sector and the Colorado Department of Transportation brings \$5 million in matching funds. Of this amount, \$2 million is from developer impact fees, an estimated \$500,000 is from right-of-way and developer improvements, and CDOT has pledged a \$750,000 contribution.

The City has long supported improvements in the area in projects ranging from the Jefferson Parkway to intersection improvements at Indiana Street and West 72nd Avenue. This area in Arvada and Jefferson County is growing rapidly; daily traffic on Indiana Street has increased nearly 400% since the year 2000. Removing the bottleneck caused by the railroad underpass will significantly improve capacity and materially improve safety along this stretch of the Indiana Street Corridor. This project has the support of area residents and Jefferson County. Thank you for your consideration of Arvada's request for funds.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Stachelski", with a long horizontal flourish extending to the right.

Ryan Stachelski
Executive Director
Arvada Economic Development Association

EXHIBIT
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Indiana Street at UPRR Widening Project

June 2020 Update

The City of Arvada is pursuing a Federal grant for the SH-72 (Indiana St) at Union Pacific Railroad (UPRR) Widening Project. The grant opportunity known as [Consolidated Rail Infrastructure and Safety Improvements \(CRISI\)](#) was advertised by the Federal Railroad Administration. Similar to previous efforts, City of Arvada is submitting the application with interest from partnering agencies and commitment to a 20% local match towards the \$39M project. The City of Arvada is appreciative of the community and partners that have provided support throughout the application process. An update will be posted when the City is informed about the grant selection from the Federal government.

March 2018 Update

The following "project webpage" was developed in response to the Transportation Improvements Generating Economic Recovery (TIGER) 2017 grant solicitation. The City of Arvada completed the application process with the support of the Arvada community, Jefferson County, and the Colorado State Department of Transportation. Unfortunately, the project was not selected for funding by the Federal Highway Administration. The City of Arvada thanks the community and partners that provided support throughout the process. The project is a priority for the City and will be submitted for future grant opportunities.

Overview

The City of Arvada in partnership with the Colorado Department of Transportation (CDOT) is in the process of applying for a grant program known as Transportation Improvements Generating Economic Recovery (TIGER). The purpose of the grant is to provide one-time discretionary funds to transportation projects that benefit the national, regional, and local economy. The City of Arvada is excited to participate in this collaborative opportunity and is applying for a \$20,000,000.00 project to widen the State Highway 72 (Indiana St) between W. 80th Ave. and W. 86th Pkwy. The project involves reconstruction of a Union Pacific Railroad (UPRR) bridge that then allows widening of SH-72 (Indiana St.) from a narrow 2-lane highway to a 4-lane median separated roadway with bike lanes and sidepath trails.

Project Purpose

The project is intended to reconstruct an antiquated railroad bridge and address congestion on SH-72 (Indiana Street) from W. 80th Ave. to W. 86th Pkwy. by adding travel lanes (capacity). While reconstructing the roadway, the project will also add bicycle lanes for cyclists and trails for pedestrians and novice cyclists traveling along the corridor.

The project is coordinated with multiple planning documents:

- [City of Arvada Comprehensive \(Transportation\) Plan \(PDF\)](#)
- [2017 Arvada Bicycle Master - Draft \(PDF\)](#)
- [Arvada 10-year Unfunded Capital Improvement Projects Plan \(Appendix E\) \(PDF\)](#)
- [Jefferson County Transportation Plan](#)
- [Denver Regional Council of Governments Regional Transportation Plan](#)

Benefits and Impacts

The SH-72 (Indiana St.) at UPRR Multimodal Widening Project is intended to benefit the freight rail transportation system as well as the regional highway and local street network. By reconstructing an antiquated railroad bridge, the project keeps over 20 freight rail trips on-track and ensures reliability of goods and raw materials that impact our nation's economy. The reconstruction of the bridge provides an opportunity to widen the bridge span, which would then allow widening of the SH-72 (Indiana St.) from a narrow 2-lane road with small shoulder areas to the planned 4-lane highway with bike lanes, landscaping, and sidepaths.

EXHIBIT
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The 4-lane median separated roadway will accommodate the existing traffic volume (23,000 Average Daily Trips) as well as anticipated future growth and development. By keeping regional traffic on regional roadways,

Jefferson County and Arvada resident concerns about cut-through traffic through Local Streets will also be addressed. The project will also widen the SH-72 (Indiana St.) intersections at W. 80th Ave. and W. 86th Pkwy., which will reduce congestion and delays on the City streets.

Community Support

Although the current congestion affects emergency response and operational safety, the efficient movement of people and goods on the regional transportation networks is ultimately in the best interest of our businesses, residents, and visitors.

The following are public survey statements regarding the current traffic conditions on SH-72 (Indiana St.) at the vicinity of the proposed project site:

- "Indiana is backed up at almost all times of the day, being only one lane each direction; traffic from new housing developments is causing congestion which is getting worse each day."
- "I am an Arvada native. Around 5 p.m., a drive that used to take 15-20 minutes can now take 30-45 minutes."
- "Indiana is a disaster. Last Tuesday at 5:40 pm I had to sit through five red light cycles on Indiana at 72nd going north."
- "We live off of Indiana and W. 77th Drive and it is very dangerous turning into or out of our street. Widening that portion of the road, or even adding turn lanes will help tremendously. Also, there is no sidewalk on Indiana, making it very dangerous to bike or walk."

The project application is being submitted with the support of public representatives, governmental organizations, and advocacy groups. The following are letters of support:

- [City of Arvada Mayor and City Council \(PDF\)](#)
- [Colorado Department of Transportation \(PDF\)](#)
- [Jefferson County Commissioners \(PDF\)](#)
- [Colorado State Senator Michael Bennet \(PDF\)](#)
- [Colorado State Senator Cory Gardner \(PDF\)](#)
- [Colorado State Representative Ed Perlmutter \(PDF\)](#)
- [Arvada Chamber of Commerce \(PDF\)](#)
- [City of Arvada Police Chief \(PDF\)](#)
- [Jefferson County Sheriff \(PDF\)](#)
- [Jefferson County Economic Development Corporation \(PDF\)](#)
- [Arvada Economic Development Association \(PDF\)](#)
- [City of Arvada Director of Finance \(PDF\)](#)
- [City of Arvada Citizen Transportation Committee \(PDF\)](#)
- [Charlie McKay - Developer \(PDF\)](#)

- [Bicycle Friendly Arvada Advocacy Group \(PDF\)](#)
- [Bike JeffCo Advocacy Group \(PDF\)](#)
- [Chris Elliot -](#)



- [Developer/Property Owner \(PDF\)](#)
- [Walter Raub - Property Owner \(PDF\)](#)
- [Gregg Bradbury - Developer \(PDF\)](#)
- [Bill Fortune - Property Owner \(PDF\)](#)

Supporting Documents

Engineering Documents

- [Crash Data \(PDF\)](#)
- [SH-72 \(Indiana\) Cross Sections \(PDF\)](#)
- [Village of Five Parks Project Indiana Alignment \(PDF\)](#)
- [Sim Traffic Analysis \(PDF\)](#)
- [Conceptual Engineering Drawing \(PDF\)](#)
- [Conceptual Engineering Cost Estimate \(PDF\)](#)

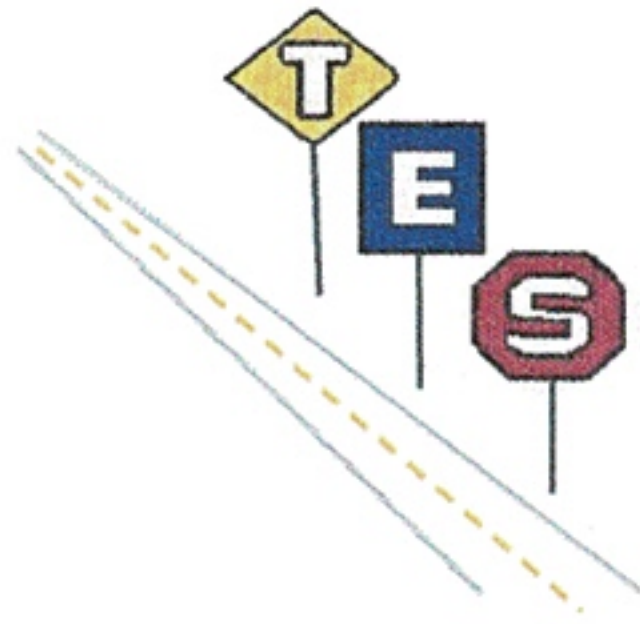
Adjacent Plats, Assessor Maps and Construction Drawing

- [Village of Five Parks Construction \(PDF\)](#)
- [CDOT Plans Indiana at 86th Pkwy \(PDF\)](#)
- [Plat Pearce Acres \(PDF\)](#)
- [Plat Village of Five Parks Filing NO 4 \(PDF\)](#)
- [Plat Village of Five Parks Filing NO 5 \(PDF\)](#)
- [Plat Westminster Gardens \(PDF\)](#)
- [Map 20-251, 254 \(PDF\)](#)
- [Map 29-302 \(PDF\)](#)
- [Map 29-303 \(PDF\)](#)
- [Map 29-303B \(PDF\)](#)

Application and Results

TIGER applications were due to the United State Department of Transportation (USDOT) on October 16, 2017. USDOT evaluated all applications received and compare the merit of the project to the intent of the TIGER grant program. In March 2018, the TIGER 2017 program announced the results of the TIGER grant solicitation. Unfortunately, the City of Arvada was not selected as a recipient of the grant. The City of Arvada will continue to pursue funding efforts to support the

Indiana Street (SH-72) Widening, including local efforts to eliminate bottlenecks at signalized intersections as well as development projects that can contribute right-of- way and infrastructure improvements.



Transportation Engineering Solutions, Inc.

Robert L. Kenny, PE (FL)
9043 Shipman Lane
Colorado Springs, CO 80919
Office 719-278-8458 • Cell 719-351-1775
rk_tes@msn.com

TO: Ralston Valley Coalition Organization

RE: Amazon Proposal – Project Indiana

May 24, 2021


Dear Gina:

My brief analysis of the TIS by Kimley Horn & Associates has resulted in a few questions / clarifications that should be addressed prior to the final approval. Since the impact to the surrounding neighborhood is really dependent upon the traffic generated by the full development of the site, the assumptions made for the TIS must have a solid basis. The following are items that should be clarified:

1. The consultant correctly used data for Land Use Code 156 in the ITE Trip Generation Manual. However, the manual does not have a lot of studies of peak hour of use, or variations by time of year. Data should be generated using similar facilities within Colorado, where existing use can be used to establish trip generation factors for this study.
2. ITE has published data in August of 2018 that reviews hourly data for High-Cube Parcel Hub Warehouse for entering and exiting during the peak traffic generated by the use, not necessarily related to the peak hour of the adjacent street. This data shows that the peak hours of usage are typically from 8 – 9AM with 10.6% of the ADT inbound and 12.1% outbound, and 9 – 10AM when the inbound is low at just 2.3%, but the volume exiting is 13.9% of the ADT. The PM peaks of the generator occur from 5 – 6PM with 13.5% entering and 6.8% exiting, and 6 – 7PM with 9.2% entering and 10.0% exiting the site. The assumed peak hours shown in the TIS should be adjusted to reflect these peak percentages.
3. Since Amazon orders, and therefore deliveries will be much higher during approximately 5 – 6 weeks per year, that use should be the basis for any peak traffic studies. “Peak traffic” is not defined as the absolute highest day of the year, but with a known higher seasonal use that makes up of at least 10% of the year, the holiday operations should be used for identifying the impact to the area.
4. The site plan shows parking for 655 delivery vans in one lot, 105 in another, and additional van parking in other areas. Amazon also uses private parties in both vans and cars for their deliveries, plus the U S Post Office. One chart in the TIS shows 404 vans delivering materials apparently delivered to the site by 21 large trucks (42 large truck trips). This implies that one truck, which is apparently a semi-trailer as shown on the site plan, brings packages that require 9.62 vans to deliver. With that ratio, the 760 van spaces are needed for 79 large truck trips per day. If the private vehicles, vans, and postal deliveries are also counted, it appears truck trips will exceed 79. Since the zoning only allows 50 truck trips / day, justification for the 42 trucks/day and the delivery vehicle parking is needed.

I have not had time to review many of the items that should be further discussed – such as volumes for a proposed signal vs trip generation data in the report. I hope the items I have noted will be a basis for further discussion with the Arroyo staff.

Sincerely,


Robert L. Kenny, P.E.



EXHIBIT

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April 16, 2021

Jeremiah Bebo
City of Arvada
Community and Economic Development
8101 Ralston Rd.
Arvada, CO 80002

**RE: Project Indiana Site Plan/Minor Subdivision
DA2020-0132**

Dear Mr Bebo,

Thank you for the comments on March 4, 2021 for the above-mentioned project. In an effort to address your comments concisely and simplify your review of these plans, we have summarized your comments and our responses below.

COMMENT RESPONSE LETTER

PLANNING DEPARTMENT JEREMIAH BEBO / 720-898-7438

1. The next review will be a four week long 3rd Review. Please ensure that all documents required with the first submittal are resubmitted even if changes/corrections/etc. were not needed. Please also ensure that all designers provide responses. Various sheets and plans were missing responses from the previous review.

Please ensure that the site plan sheets are consistent between the Site Plan set and CD set.

As the Site Plan continues to evolve, as will the Annexation & Development Agreement.

- *Response: Acknowledged. We have tried to address all comments as redlines.*

2. In order to provide additional screening and protection to the park and neighborhood to the north, provide a masonry wall along the perimeter of the northern property line. The wall should be set into the property with large trees in front of it nearest the park. Coordinate with Shane Greenberg (Landscaping) with the species and size of these trees.

Provide an illustration, rendering or detail of this buffer and show it on the landscape plan. Show the wall on the site plan sheets as well.

- *Response: A 6' high masonry wall has been provided along the northern boundary, and has been coordinate with the City.*

3. There are still concerns that there will be roof mounted mechanical equipment or air conditioning compressors, etc. Please provide a roof plan or other form of illustration demonstrating that the parapet provided will provide the screening necessary to adhere to this requirement in LDC 5-1-2-

3-C-10. The responses indicated a Site Line Study, but I was unable to find it. Please include as a sheet in the Site Plan set with the architectural plans.

- *Response: A Site Section / Roof Plan has been included with this set.*

4. In order to better understand the parking, please provide us a parking study with a detailed description and definition of each classification of parking types (van, personal van, auto, etc.) and how operations of the site and business dictate the use of each vehicle type.

- *Response: A parking memo has been provided, describing the purpose of the various parking zones around the site, and their purpose for the facility.*

5. How is fueling the fleet of vans and trucks being managed since no on-site fueling station is proposed? How and where is the maintenance, repair and washing of vans being done?

- *Response: Fueling, maintenance, etc occur off-site. The vans are leased by the contractor who is working for the end tenant; therefore, maintenance would be conducted at the contractors preferred mechanic and not on-site.*

6. Private access easement for the Hathaway Property will need to be recorded prior to recording the plat.

- *Response: Acknowledged, separate legal exhibits are being prepared to submit ahead of the plat.*

7. Per the Amended Parkway Center Subdivider's Agreement, the roadway impact fees collected (for the eventual build out of Eldridge Street and W. 67th Avenue) for Lots 1-4, Block 5 which total \$157,037.79 will be required to be paid prior to the approval of a building permit..

- *Response: Acknowledged.*

8. Per the response to the previous comment on Sheet 6 of the site plan in the last review, it was noted that the hatching representing the 4-foot concrete pads for EV charging station would be used as such. This needs to be called out more specifically. In addition, we will need cut sheets showing the EV charging equipment and all transformers. These need to be located internal to the site and away from public streets including Indiana, Hollman, W. 67th, etc.

- *Response: EV charging pads have been removed on parking stalls that front public right-of-way.*

Additional Items to Include with Next Submittal:

1. To better understand the fencing plan for the project, please provide separate sheets showing the proposed fencing and include details of the proposed fences. please also ensure to include existing and proposed easements. Yard perimeter and chain link seem to be used in different areas of the site. Please differentiate. These can be sheets included in the Site Plan set after the landscape plan.

- *Response: These have been included within the Site Plan (Sheet 6 – Site Details)*

2. Parking study as described above.

- *Response: This has been included.*

LANDSCAPE REVIEW

SHANE GREENBURG / 720-898-7441 / SGREENBURG@ARVADA.ORG

Additional Comments Not Identified by Mark-up:

1. Reference the Arvada Plant List for recommended and prohibited plant species. <https://arvada.org/city-hall/city-code/plant-list>.
 - *Response: Acknowledged.*
2. Final landscape plans must be stamped, signed and dated by a State of Colorado Registered Landscape Architect.
 - *Response: This will be provided at signature set review.*

FLOODPLAIN

ANDY STEWART / 720-898-7644 / ASTEWART@ARVADA.ORG

Comments on No Rise Analysis:

1. 2004 Ralston Creek FHAD model is the effective model and should be used to create the duplicate effective. The Merrick Model could be used as the starting point point for the corrective effective/existing condition model. Then you can put together your proposed model and no rise certification.
 - *Response: The no-rise analysis has been updated to account for various conversations that have occurred between Kimley-Horn, Arvada, and MHFD.*
2. Set up a meeting between the MHFD, Jefferson County, and Arvada (Andy Stewart) to discuss the whether a LOMR would be necessary. I would like to understand why there is
 - *Response: Two meetings occurred. Jefferson County floodplain engineer declined to attend the event; therefore, it was between MHFD, Arvada, and Kimley-Horn.*

LAND DIVISION

KARI AYERS / 720-898-7657 / KAYERS@ARVADA.ORG

Additional Comments Not Identified by a Mark-up:

1. It appears that some boundary information has changed since the 1st Review (namely curve information in the SW corner of the parcel). Please provide the most recent CAD file so that all information can be compared and verified.
 - *Response: This will be provided.*
2. If possible, please consider vacating easements by this Plat rather than by separate document
 - *Response: Acknowledged.*

ARVADA FIRE PROTECTION DISTRICT

STEVEN PARKER / 303-403-0477 / STEVEN.PARKER@ARVADAFIRE.COM

1. Unless otherwise specified, all comments apply to both the construction documents and the development plans. Provide the minimum required fire flow prior to commencing vertical construction.
 - *Response: Acknowledged.*

DEVELOPMENT ENGINEERING/TRAFFIC

EMILEY YOSHIHARA / 720-898-7676 / EYOSHIHARA@ARVADA.ORG

Additional Comments Not Specifically Identified by a Mark-up:

1. Comments on signal plans and the traffic study will be emailed to the applicant and attached to the DA case.
 - *Response: Thank you, these have been received.*
2. No comments were addressed on the Cost Estimate – please ensure all items and quantities match the Materials Quantities table on the cover page of the CDs.
 - *Response: This should now be updated.*
3. The utility profiles indicate several conflicts. Please see sheets for comments. The minimum vertical clearance is 18".
 - *Response: Conflicts should now be removed.*

Additional Items to Include with Next Submittal:

1. Profile and cross sections for Holman St
 - *Response: This has now been included. We note that the Microspaces construction on the opposite side of Holman St includes some overlapping construction on Holman St as well; however, we have kept it in our Construction Documentation in the event the Microspaces construction is not completed ahead of this project.*
2. Mill & Overlay plan for W 67th Ave
 - *Response: This has now been included.*

General Conditions of Approval:

1. The developer is required to provide either a LOC or escrow check in the amount of 100% of the estimated cost of the public improvements. When the project is accepted into initial warranty, the City will retain 20% of the actual public improvement costs to ensure that the public improvements meet the City standards through the two-year warranty period. Following final acceptance of the public improvements, the City will return the remaining 20% of the surety back to the developer.
 - *Response: Acknowledged.*
2. The contractor must obtain a State of Colorado Stormwater Discharge Permit for construction sites of 1.0 acre or larger. Prior to issuing a permit for public improvements on this project, the developer must supply the City of Arvada a copy of the approved Stormwater Construction Permit. A City of Arvada Site Development Permit (grading permit) is also required by Article III, Chapter 50 of the Municipal Code for disturbance of any area 10,000 square feet or greater. Permit requirements include a permit fee and cash escrow or letter of credit (amounts vary with the size of project) and submission of a Stormwater Management Plan.
 - *Response: Acknowledged.*
3. The City of Arvada Engineering Division reserves the right to provide additional comments for subsequent submittals.
 - *Response: Acknowledged.*

We appreciate your review and approval of these plans. Please contact me at 720-647-6231 or Stephen.Litsas@kimley-horn.com should you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "S. Litsas", with a stylized flourish at the end.

Stephen Litsas, PE
Project Manager



PROJECT INDIANA
ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT ("Agreement") between Scannell Properties #456, an Indiana limited liability company ("Annexor"), and the City of Arvada, Colorado, a Colorado municipal corporation ("City"), shall be effective upon execution by all applicable parties and immediately upon approval by the City of Arvada as evidence by the approval signature where indicated below.

RECITALS AND REPRESENTATIONS:

WHEREAS, the Annexor represents that it is the sole annexor of the following described property generally located at the Northeast Corner of Indiana St and W 66th Pl, to the Southeast Corner of Indiana St and W 68th Ave, to the Western side of the Fig St / W 68th Ave intersection, to the Northwest Corner of Fig St and W 67th Ave, to the Northeast Corner of Holman St and W 66th Pl. in the City of Arvada, County of Jefferson, State of Colorado ("Property"), more fully described as follows:

[See attached Legal Description as Exhibit A]

WHEREAS, the Annexor desires to annex the Property to the City, and to that end has filed a Petition for Annexation of the Property into the City, pursuant to the Colorado Municipal annexation Act, C.R.S. 31-12-101, et seq.; and

WHEREAS, the City wishes to control its growth in a planned and orderly fashion, maintaining the improvements and the quality of life and the City's ability to provide and enhance environmental amenities, services, and local opportunities for its citizens; and

WHEREAS, the Annexor is planning development of the Property as an approximately 112,000 square-foot warehouse and distribution center which is generally located at Northeast Corner of Indiana St and W 66th Pl, to the Southeast Corner of Indiana St and W 68th Ave, to the Western side of the Fig St / W 68th Ave intersection, to the Northwest Corner of Fig St and W 67th Ave, to the Northeast Corner of Holman St and W 66th Pl. The Annexor's development and construction plans include the installation of certain public infrastructure including, but not necessarily limited to, sanitary sewer facilities, water line facilities, storm drainage facilities, roadways and emergency access improvements, walks, and landscape improvements which will be addressed in a subsequent Development Agreement associated with the Site Plan.

WHEREAS, the Annexor has submitted or will submit to the City a proposed Site Plan and

construction plans for the Property, which include a final site plan, final landscape plan, final drainage plans, and other supporting documentation for the development thereof. The plat, construction plans, and other supporting documents are public records on file and available for review at the City of Arvada City Hall, 8101 Ralston Road, Arvada, Colorado. These approved plans and associated documents, will be deemed incorporated into this Agreement for all purposes including illustration and interpretation of the terms and conditions of this Agreement, and may herein be referred to collectively as the "Final Plans."

WHEREAS, the parties hereto understand and agree that the intent of this Agreement is to establish obligations and responsibilities with respect to the development of the Property in accordance with the Final Plans, said obligations and responsibilities being covenants that run with the Property, encumbering such and governing the development thereof. The Annexor shall be affirmatively bound to satisfy all of the obligations and responsibilities set forth herein (including the construction of Public Improvements).

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements of the parties, the approval by the City of Arvada of the Final Plans for the Property, the dedication of certain land and/or easements to the City and other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. PLAN AND AGREEMENT APPROVALS: The Annexor, upon approval of the Final Plans for the Property by the City, shall immediately submit three copies of the approved Site Plan to the Director of Community and Economic Development. No construction may occur on or associated with the Property and no building permits may be issued until construction documents for all required improvements are submitted and approved by the City Engineer. Upon approval, the Annexor shall provide the City Engineer the approved final construction plans for the construction of emergency access lanes, water lines, sanitary sewer services, storm drains and storm drainage structures and streets associated with development of the Property, as required by the City. Said Construction Plans shall meet the approval of the City and the proposed development shall be constructed according to the Final Plans. No approval of the Public Improvements as referenced in the Construction Plans is conferred by this Agreement and any approval shall be independently made by the City Engineer following the City Engineer's determination that the plans meet the applicable City engineering specifications, commonly accepted engineering practices, and all applicable codes, ordinances, and State, Federal and local laws.

2. CODE COMPLIANCE: The Annexor shall comply with all applicable codes, ordinances, and rules and regulations of the City. Development of the Property shall also be in conformance with all aspects of the Final Plans and shall be completed prior to issuance of the final certificate of occupancy within the Property. This shall include, but not be limited to, street and parking lot paving and striping, landscaping, trash enclosures, rooftop and wall mounted equipment, building elevations, and all other requirements of the Final Plans and applicable City codes, ordinances, and rules and regulations.

3. PAYMENT OF FEES: The Annexor shall pay all required fees and other charges in a timely manner as required by the City, including but not limited to building permits, inspection fees,

tap fees, drainage fees, park and school dedication and development fees, and departmental review fees imposed by the City by ordinance, rule, resolution, motion, or by the terms and conditions of this Agreement. Unless otherwise agreed to by the City, the Annexor's payment of fees and charges specified by this Agreement shall be made in the form of certified funds, cashier's check, or cash delivered to the City of Arvada, Municipal Building, 8101 Ralston Road, Arvada, Colorado 80002. The City shall not accept personal or business checks or drafts not certified by a financial institution as payable.

4. FIRE DISTRICT APPROVALS: The Annexor shall address all of the comments noted in the referral responses, including any requirements for fire hydrants, emergency access lanes, and fire lane signage, and shall obtain approval from the Fire Protection District having jurisdiction prior to issuance of each building permit and certificate of occupancy (as applicable) for the Property.

5. CONTRACTOR LICENSING: Before proceeding with work contemplated herein, the Annexor shall ensure that all contractors and/or subcontractors it employs be licensed by the City before the contractor and/or subcontractor may commence work on any improvements associated with development of the Property. The Annexor shall be responsible for ascertaining the status of any contractor or subcontractor to be utilized in the development of the Property, with respect to any uncorrected deficiencies in that entity's previous, unrelated work within the City or its outstanding omissions related to such work including, but not limited to, failure to: (i) submit as-built construction plans, (ii) complete the process of placing Public Improvements under warranty (iii) submit tax certifications, (iv) submit test records.

6. DEVELOPMENT IMPROVEMENTS: The Annexor shall, at its own expense, design, furnish, construct, and install the public and private improvements in accordance with Final Plans approved by the City. These improvements shall include, but not be limited to, construction of all public/private streets, alleys, driveways, parking areas, water lines and mains, sewer lines and mains, drainage facilities, and landscaping within and adjacent to the Property in accordance with the approved Final Plans for the Property and with the requirements of the Arvada Land Development Code ("the LDC"). "Private Improvements" includes any of the above listed infrastructure which will be constructed to support the Development but will not be dedicated to the City. "Private Improvements" does not include vertical construction of the warehouse structure or other privately owned vertical construction. "Public Improvements" includes any of the aforementioned infrastructure which will be constructed to support the Development but which will be dedicated to the City. Public Improvements must be completed prior to issuance of the final certificate of occupancy.

All Public Improvements constructed by the Annexor in public rights-of-way, easements, streets or alleys shall become the property of the City immediately upon acceptance of said improvements by the City and the Annexor shall warrant said improvements for 2 years from the date of acceptance by the City. The Annexor shall complete the process of placing completed Public Improvements under warranty promptly upon completion. Failure to place such improvements under warranty may, in the City's discretion, result in the withholding or denial of subsequent building permits or certificates of occupancy.

The City may request, and the Annexor shall provide at the Annexor's cost, documentary evidence in the form of an updated title commitment satisfactory to the City that any public right-of-way, easement, or other real property dedicated, conveyed, acquired, devised, or granted to the City are free and clear of encumbrances which, in the sole opinion of the City, defeat, limit, or impede the City's ability to use the relevant property as intended. The Annexor acknowledges that no construction may occur and no building permits may be issued until construction documents for all required improvements are submitted and approved by the City Engineer.

7. FUGITIVE DUST AND EROSION CONTROL: The Annexor shall meet all requirements and obligations imposed by the State of Colorado, County of Jefferson, and the City concerning management of stormwater runoff and fugitive dust, and shall comply with all Federal, State, County, and City requirements governing the stormwater conveyances, detention ponds, fugitive dust, and requirements associated with permits issued for erosion and sediment control on the Property. The Annexor shall provide a copy of all State and County permits acquired to Arvada's Stormwater Program prior to commencement of any earth disturbance work associated with the Property. Further, the Annexor shall fully comply with the applicable sections of the City's Site Development Permit Ordinance, Chapter 50, Sections 50-70 through and including 50-79 of the Arvada City Code, including the requirement to install and maintain best management practices to reduce soil erosion and control sediment generated by development of the Property. Compliance by the Annexor with such ordinance shall be a pre-condition of obtaining building permits or final certificates of occupancy. The City may deny or revoke any permit issued to the Annexor, in strict compliance with the applicable provisions of the LDC, in the event that the Annexor is non-compliant with City requirements.

8. RIGHTS-OF-WAY: The Annexor shall comply with all applicable provisions of Chapter 78, Article V of the Arvada City Code, entitled "Rights-of-Way." This article contains requirements including, but not limited to, Annexor escrow for improvements in public rights-of-way and street surface restoration for public streets.

9. SUBDIVISION MONUMENTATION: In accordance with the applicable Colorado Revised Statutes as amended, and in accordance with the LDC, the Annexor shall establish all subdivision monumentation and have the monumentation approved by the City prior to issuance of the final certificate of occupancy within the Property.

10. STREET IMPROVEMENTS AND MAINTENANCE: The Annexor shall maintain, in a reasonable, suitable and proper condition for travel, ingress and egress, all streets and access ways included within the Final Plans for the Property until they are completed and accepted for maintenance by the City. The Annexor shall take all steps necessary to limit and prevent the accumulation of, and to remove mud, sediment, dirt, trash, and other debris that is tracked, blown, or otherwise carried onto public property or off-site onto private property during development. Such obligation shall continue until all development associated with the Property is complete and the Public Improvements are accepted by the City for maintenance. The Annexor shall also replace any broken, damaged, or settled concrete that fronts any lot associated with this development as deemed necessary by the City, prior to the issuance of the final certificate of occupancy on the Property. The City may enforce these obligations pursuant to its enforcement powers and procedures as set forth in

the LDC.

11. W.68TH AVENUE AND INDIANA STREET SIGNAL: The Annexor shall design, furnish, and construct a traffic signal and related improvements at the intersection of W. 68th Avenue and Indiana Street and the same shall be included in the Final Plans. The Annexor shall pay for the cost of all activities associated with the design, installation, and construction of the signal. The signal shall be constructed, inspected, and placed under warranty prior to the issuance of a final certificate of occupancy for a building. Further details and specifications of the traffic signal will be included in the Site Plan application and accompanying Development Agreement.

12. INSTALLATION OF PARKING AND HARD SURFACE ACCESS: The Annexor shall install, sign and stripe all parking and hard surface areas within the Property, as illustrated on the Final Plans and in conformance with the LDC prior to the issuance of any final certificate of occupancy for the Property. The Annexor shall comply with "Interpretation of Hard Surface Areas," Arvada City Code, Chapter 94, Section 94-64 and with the LDC.

13. UNDERGROUNDING OVERHEAD UTILITIES: The Annexor shall be responsible for undergrounding existing overhead utilities in conformance with the LDC. Any required improvements must be completed prior to the issuance of any temporary certificate of occupancy within the Property and shall be completed at no cost to the City.

14. PUBLIC UTILITY FEES: The Annexor shall pay all installation charges for lighting, electric and gas required by Public Service Company/Xcel Energy for development of the Property.

15. LIGHTING RESTRICTIONS: Cut-off type fixtures with flush-mounted, flat lenses that cast light downward, and not out toward adjacent properties, must be used. All exterior lighting specifications must comply with the LDC. All exterior lighting plans must be approved by the Director of Community and Economic Development prior to issuance of the first building permit within the Property. Following construction, Annexor shall ensure that the operation of the lighting system complies with the plans as designed, and meets all applicable requirements of the LDC and the City's adopted Building Codes. Annexor acknowledges that failure to do so could result in enforcement action pursuant to the Arvada City Code.

16. STORMWATER APPURTENANCE CONSTRUCTION AND MAINTENANCE: The Annexor shall obtain approval from the City Engineer of the final drainage plan for this development prior to approval of the associated Construction Plans/Final Plans. The Annexor shall install stormwater conveyances, detention ponds, swales, infiltrations beds, underground best management practices, or any other stormwater feature as detailed on the approved construction drawings unless prior written approval is obtained from the City Engineer. The Annexor shall meet all requirements, obligations, and best engineering principles imposed by the State of Colorado, County of Jefferson, City, and Urban Drainage and Flood Control District governing the construction of stormwater conveyances, detention ponds, swales, infiltration beds, underground best management practices, or any other water quality feature, all as determined by approval from the City Engineer.

Drainage easements are required for all detention areas and drainage channels, which shall be

privately maintained by the Annexor, its successors or assigns. The Annexor shall include language to this effect in any covenants for the Property. Maintenance of stormwater appurtenances must be conducted on a routine basis and in response to the Annexor or its successors' or assigns' annual inspection and evaluation of the stormwater conveyances' condition. Should ownership of stormwater appurtenances or maintenance responsibilities change, the City of Arvada Stormwater Program must be notified in writing of all new contact information within 30 days of changes taking effect. The City will enforce stormwater installation and maintenance provisions throughout the construction of the Property and beyond as required by law. In no event shall the City be responsible for constructing or maintaining the drainage/detention facilities or maintaining the easements within the Property.

17. WATER RIGHTS: Chapter 102, Article II, of the Arvada City Code requires that all Property annexed into the City, must convey any tributary water rights appurtenant thereto to the City of Arvada. The Annexor of the Property has declared that no water rights are associated with the Property. Should it be determined otherwise, the Annexor shall be required to comply with the conveyance requirements of the Arvada City Code. In addition, the City, upon annexation, will not acquire, or require conveyance of, existing well water rights, but shall have a right of first refusal to have such rights conveyed to the City, pursuant to the LDC, in the event the Annexor, or its successors or assigns, desires to convey such rights to any party other than a subsequent purchaser of the landowner's lot(s) upon which the well is situated.

18. INSTALLATION OF LANDSCAPING AND RECREATIONAL AMENITIES: The Annexor acknowledges that the City has adopted in the past, and may in the future, adopt water restrictions which impact the viability of installing and maintaining the landscaping as illustrated on the approved landscape plans for the Property. Those watering restrictions may prohibit or qualify the installation of trees, shrubs, new seed, and/or sod for irrigated turf areas. In the event of such prohibition prior to the issuance of a final Certificate of Occupancy for the Property, the Annexor shall deposit funds with the City for escrow in an amount equal to 110% of the estimated cost of improvements not installed due to the prohibition, including, but not limited to irrigated turf areas, trees, shrubs, mulch, edger, and weed barrier. Upon expiration of water restrictions, the Annexor shall complete installation of the remaining improvements in accordance with the Final Plans for the Property, within 90 days, or such longer period of time as is reasonably necessary due to the completion of such installation being of a seasonal nature. During any restrictions, the City may encourage, but will not require, the installation of trees and shrubs, if they are drip irrigated or hand watered. However, the City may not have any water available for the irrigation of these landscape materials installed at that time. If the Annexor proceeds with the installation of any plantings at that time, it is done at the Annexor's sole risk.

Installation of irrigation systems and other hard surface areas (such as fencing, playground equipment, covered shelters, or other such amenities) shall be completed by the Annexor, at its sole expense, prior to the issuance of the final certificates of occupancy within the Property, unless the improvements have been delayed due to reasons beyond the Annexor's control, such as adverse weather conditions. The Annexor shall deposit funds with the City for escrow in an amount equal to 150% of the estimated cost of the remaining hard surface site elements (including irrigation systems, fencing and other elements as noted above) that are not installed prior to issuance of final certificates

of occupancy. During periods of time when no water restrictions are in effect, the Annexor shall deposit funds with the City for escrow in an amount equal to 150% for all improvements not completed prior to issuance of a final certificate of occupancy. A landscape contractor, acceptable to the City, shall make a determination of the estimated cost of improvements. The City, at its sole discretion and upon the City's rejection of an estimate provided by the Annexor, may obtain an estimate of the costs of landscaping. Such estimate shall be binding upon the Annexor in determining the amount of funds to be escrowed for purposes of this paragraph.

The City shall release its interest in the escrowed funds only upon completion of all landscaping obligations by the Annexor and approval of such by the City. In the event that the Annexor defaults upon its obligations as specified in this paragraph, following the escrow of funds, the City may apply all funds toward the completion of the Annexor's landscaping obligations. For the purpose of applying such funds toward the completion of the Annexor's landscaping obligations, "completion" shall mean and include the cost of labor, materials, contract management, and administration. The City shall refund the escrowed funds not applied to completion of landscaping required by the final landscape plan upon application and verification of entitlement. The method and manner in which the City elects to undertake and complete the landscaping obligations of the defaulting Annexor shall be within the sole discretion of the City; provided, however, that nothing herein shall obligate the City to install or complete the landscaping improvements and nothing herein shall prevent, prohibit, or limit the remedies available to the City to enforce the Annexor's obligations under this paragraph.

19. INSTALLATION OF BUFFER ALONG NORTHERN BOUNDARY: In order to mitigate visual impact of the Development along its northern boundary towards Maple Valley Park and beyond, the Annexor shall construct a landscaped buffer area on its Property where the Property borders the park. The design of the landscaped buffer area shall be proposed by the Annexor and approved by the City, but, at a minimum, shall include large deciduous, columnar or other tree species of the City's choosing, spaced at a distance at the discretion of the City, planted on the Property, all generally as approved by the City in accordance with the Landscape Plan submitted with the Site Plan. Additionally, Annexor shall construct , and include a six-foot-tall masonry wall along a portion of the northern boundary as depicted in the Site Plan. The Annexor shall work in good faith to ensure that the buffer is constructed at the earliest point possible in the phasing of construction. The entire landscaped buffer area shall be installed prior to the issuance of a final certificate of occupancy for the building, except that, if seasonal restrictions prevent the immediate installation of all or part of the landscaping in this area, a certificate of occupancy may nonetheless be issued in accordance with the provisions of Section 18.

20. INSTALLATION OF FENCING: The Annexor shall ensure that all fencing for the Property conforms to the Final Plans and the requirements of the LDC. Fencing shall require separate permits and approvals from the City prior to construction/installation. Installation of the fencing must be completed prior to the issuance of the final certificate of occupancy within the Property.

21. LANDSCAPING AND FENCING MAINTENANCE: The Annexor or its successors, or assigns, including any property owner's association, shall maintain in perpetuity (at its sole expense) all landscaping, fencing, and any other amenities (collectively referred to herein as "Landscaping")

installed within or associated with the Property pursuant to the Final Plans, regardless of whether the landscaping, as actually installed, fails to specifically conform to the requirements of the Final Plans and regardless of whether the Annexor or the City installs the landscaping. However, if the City adopts watering restrictions as referenced in Paragraph 18 which impair the ability of Annexor to replace or maintain installed landscaping, the Annexor shall be relieved of the obligations set forth in this paragraph for the duration of such restrictions.

22. SCREENING OF MECHANICAL EQUIPMENT: The Annexor shall screen all roof mounted and wall mounted equipment from view pursuant to the LDC to the satisfaction of the Director of Community and Economic Development prior to issuance of each certificate of occupancy within the Property.

23. TRASH ENCLOSURES: The Annexor shall construct all trash enclosures in conformance with the Final Plans and the requirements of the LDC, prior to issuance of a certificate of occupancy for the Property. The trash enclosures, including the gates, must be constructed of non-combustible materials, and have an architectural design compatible with the primary structure, using matching materials and colors. The Annexor or its successors or assigns shall keep the trash enclosure gates closed at all times, except for the periodic moments when access is needed to place trash within the containers, or empty or replace the trash receptacles themselves.

24. SIGNAGE: The Annexor shall ensure that all signage for the Property conforms to the Final Plans and the requirements of the LDC. No signage illustrated on the Final Plans is deemed approved by the City as part of the Final Plans approval. Signage shall require separate permits and approvals from the City prior to construction or installation.

25. AS-BUILT CONSTRUCTION PLANS: The Annexor shall file, or cause to be filed, with the City an original or reproducible copy of the as-built construction plans of all Public Improvements promptly upon the completion of the Public Improvements. Failure to do so will delay commencement of the two-year warranty for said Public Improvements, in which case the Annexor agrees to hold harmless and indemnify the City for any and all actions, claims, damages, injuries, and liabilities resulting from, or in any way related to, such Public Improvements or the failure to submit such as-built plans. The Annexor further understands and agrees that, as a result of its failure to promptly submit such as-built plans, the City may withhold or deny subsequent building permits or certificates of occupancy, either related to the Property or any subsequent development by the Annexor, until such failure is remedied. This section shall survive the expiration or earlier termination of this Agreement.

26. FORCE MAJEURE: Any delays in or failure of performance by any party of their respective obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, pandemics, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party, and which are agreed to by the parties as justifying delay.

27. WAIVER: A waiver by any party to this Agreement of the breach of any term or

provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

28. BINDING EFFECT: The parties hereto agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns thereof and shall constitute covenants running with the Property. In the event that all or part of the Property is sold, transferred, or otherwise conveyed to additional or multiple parties, all owners and developers shall be jointly and severally responsible for the obligations of the Annexor as set forth in this Agreement.

29. SEVERABILITY/AMENDMENT: Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement. This Agreement may be amended only by an instrument in writing signed by all parties.

30. NO THIRD PARTY BENEFICIARIES: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Annexor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement.

31. GOVERNING LAW AND ENFORCEMENT: The laws of the State of Colorado shall govern this Agreement. The parties agree and acknowledge that this Agreement may be enforced at law or in equity. In addition to any other available remedies, it is understood and agreed that, to the extent permitted by the LDC, the City may withhold or revoke any permits or certificates, including but not limited to building permits and certificates of occupancy, for the Property or for any structure or lot within this development in the event of a breach of this Agreement by the Annexor; in doing so, however, the City will act in strict compliance with the applicable provisions of the LDC.

32. ATTORNEYS' FEES: If the Annexor breach(es) this Agreement, then they shall pay the City's reasonable costs and attorneys' fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.

33. PARAGRAPH CAPTIONS: The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

34. RECORDATION FEES: The City of Arvada shall record this Agreement and any approved subdivision plat for the Property (as applicable) with the Clerk and Recorder's office of the appropriate county per the provisions of the LDC. Prior to recordation, the Annexor shall provide the City with an updated title commitment to ensure that all appropriate parties in interest sign this Agreement. Prior to recordation, the Annexor shall also pay all costs associated with recordation of these items with the County Clerk and Recorder.

35. INCORPORATION OF EXHIBITS: Unless otherwise stated in this Agreement, exhibits referenced in this Agreement shall be incorporated into this Agreement for all purposes. Reference to

"Job Numbers" or "Project Numbers" in this Agreement is a reference to Final Plans and documentation which is retained as a public record on file and available for public inspection and review upon request at the City of Arvada, Municipal Building, 8101 Ralston Road, Arvada, Colorado. Such Final Plans and documentation filed with the City, approved by the City and noted within this Agreement are hereby incorporated into this Agreement for all purposes.

36. REVIEW OF REFERENCED DOCUMENTS: The Annexor hereby understand and acknowledge that the public documents referenced in this Agreement, including but not limited to the Arvada City Code, LDC, Engineering Specifications, and Design Guidelines were, prior to the execution of this Agreement, and are presently, available for review and inspection at the Arvada Municipal Building, 8101 Ralston Road, Arvada, Colorado, from 8:00 a.m. through 5:00 p.m., Monday through Friday. Any capitalized defined terms used in this Agreement which are not defined here in shall be as defined in the Arvada City Code or LDC.

37. FAILURE OR DELAY OF THE PROJECT: The parties agree that the Annexor's remedies in the event of an alleged or actual breach by the City are expressly limited to specific performance or injunctive relief. Notwithstanding anything to the contrary, neither City nor Annexor will be liable to the other for consequential damages, such as lost profits or interruption of either party's business. This section shall survive the expiration or earlier termination of this Agreement.

38. INDEMNIFICATION AND HOLD HARMLESS: The Annexor shall indemnify, hold harmless, release and discharge the City of Arvada and the City's officers, employees, agents, and contractors from all liability, claims, and demands, including reasonable attorneys' fees and court costs, which arise out of or are in any manner connected with or related to the approval of the Final Plans for the Property. This section shall survive the expiration or earlier termination of this Agreement.

39. NOTICES: Any notice or communication required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States Mail or mail service such as Federal Express, United Parcel Service, etc. Such notice or communications shall be given to the parties at their addresses set forth below:

City:
City of Arvada
8101 Ralston Road
Arvada, CO 80001-8101

Annexor
Scannell Properties #, LLC
c/o Scannell Properties
8801 River Crossing Blvd., Ste 300
Indianapolis, Indiana 46240

DATED THIS ___ DAY OF _____, 20__.

CITY OF ARVADA, a Colorado Municipal Corporation

Marc Williams, Mayor

ATTEST:

APPROVED AS TO FORM:

For Rachel Morris, Attorney

City Clerk

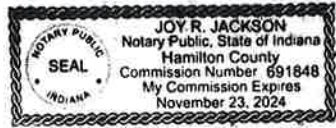
ANNEXOR
Scannell Properties #456, LLC
An Indiana limited liability company

By: *Marc D. Pfl*
Marc D. Pfl, Manager

STATE OF INDIANA)
COUNTY MARION) ss.

The foregoing was acknowledged before me this 13th day of May 2021, by Marc D. Pfl as Manager of Scannell Properties #456.

My Commission Expires:
11/23/24



Joy R. Jackson
Notary

EXHIBIT A

January 29, 2021

Ms. Jenny Wolfschlag
City of Arvada
Manager of Development Engineering
8101 Ralston Road
Arvada, CO 80002

Re: Project Indiana – NEC 66th Place and Indiana Street
Traffic Impact Study Comment Response Letter
Arvada, CO

Dear Ms. Wolfschlag:

We received comments from the City of Arvada to the Project Indiana Traffic Impact Study dated September 15, 2020. The purpose of this letter is to provide responses to the comments to assist with the review of the finalized traffic study. In addition, Colorado Department of Transportation comments have also been included for reference.

City of Arvada Comments:

Comment #1: Add additional project access discussion for W 67th Avenue, W 66th Place, and Holman Street.

Response: Project accesses along W 67th Avenue, W 66th Place, and Holman Street have been included in the project access descriptions in the revised traffic study.

CDOT Comments:

Comment #2: You state that "user specific" information was used to determine daily trips. What information is this, and why did you not use the ITE Trip Generation Manual? Show the ITE Trip Generation values for this development and provide explanation on why user-specified data was used instead. What other comparable developments by the developer are in the Denver area?

Response: As requested, we included trip generation based on the ITE Trip Manual for the most applicable use. User-specific trip generation is expected to generate more trips than ITE equations. As such, client data was utilized in this analysis due to the higher trips resulting in a more conservative analysis. Further, the user specific data traffic generation will align closer to what will actually occur on the external street network.

The end user is not being disclosed at this time but a high volume of these facilities currently exist nationwide and are being proposed and constructed in other locations. The user-specific trip generation data has been collected and used in their development traffic studies because they generate more trips than ITE equations. As such, the user wants to ensure the surrounding street infrastructure can adequately accommodate project traffic.

Comment #3:

Signalization at 68th Ave would preclude installing a signal at 69th Ave - look into modifying the 69th Ave intersection to 3/4 movement.

Response: It is understood that the intersection of 69th Avenue and Indiana Street will no longer be a candidate for signalization and that this intersection will likely be restricted to three-quarter movements upon signalization of the 68th Avenue and Indiana Street intersection.

Comment #4: Also restrict the 66th PI intersection to 3/4 movement. However, full movement must still be available to the fire station on the west side of Indiana (SH 72).

Response: It is understood that the intersection of 66th Place and Indiana Street will be restricted to three-quarter movements on the east leg while maintaining full turning movements on the west leg to serve the fire station. The updated traffic study has been modified to reflect this change.

Comment #5: Site circulation is inadequate because the "employee" lot south of the building is not connected to the north lot. Provide a connection.

Response: With these package delivery station facilities, it is not ideal to have associate and truck operations cross paths with the delivery station operations. Through coordination and site planning processes with the City of Arvada, it has been agreed upon that the north and south parking lots should not interconnect.

Comment #6: In the operations analysis, show the peak hour of the generator at the same time as the peak hour of SH 72/local streets. Delivery schedules may vary and therefore the generator's peak hour may vary as well.

Response: When this project was originally scoped with the City of Arvada, it was agreed upon to evaluate the peak hour of the generator as the project is expected to generate one (1) trip during the peak hour of the adjacent street. As many of these facilities exist today, the user specifically avoids staffing shifts and delivery vehicle operations during the morning peak hour of the adjacent street. This is to maximum efficiency with delivery of packages.

Comment #7: A projected peak hour signal warrant is insufficient for the construction of a new traffic signal at 68th Ave. The applicant should apply for an additional permit when this intersection meets either MUTCD Warrant 1 or 2 under existing conditions.

Response: It should be noted that the peak hour warrant was developed specifically for access parameters and volume projections similar to what is proposed and projected at the intersection of 68th Avenue and Indiana Street. This facility will generate large employee numbers that will trigger the need for a traffic signal during the afternoon peak hour.

Comment #8: Per the Traffic Study State Highway access permits are required for the proposed full movement access at 68th Ave. and Indiana St. and the proposed Right-in, Right-out access to Indiana St. If these are private drives, then the property owner will be the Permittee. If either of them are City Streets, then Arvada would be the Permittee. Contact for permitting is Steve Loeffler who can be reached at 303-757-9891 or steven.loeffler@state.co.us.

Response: Thank you for this information. Access permits will be prepared with the property owner as the Permittee at the east leg private access intersection with 68th Avenue and Indiana Street, as well as at the proposed right-in/right-out access along Indiana Street. In addition, as 66th Place will now be restricted to three-quarter movements on the east leg at Indiana Street, an access permit with City of Arvada as the Permittee will be prepared at this intersection.

Comment #9: Any signing for the development visible to the state highway must be on-premise and cannot be either partly or wholly in the state highway right-of-way. It must also comply with all other rules governing outdoor advertising in Colorado per the state rules, **2 CCR 601-3**.

Response: Understood, signage for the development will occur onsite and outside of the state highway right-of-way.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Jeffrey R. Planck, P.E.
Project Manager



Jeremiah Bebo <jbebo@arvada.org>

Project Indiana Wildlife Questions

Likes - DNR, Jordan <jordan.likes@state.co.us>
To: Jeremiah Bebo <jbebo@arvada.org>

EXHIBIT
11

Tue, Jan 5, 2021 at 8:56 PM

Hi Jeremiah,

Thank you for the opportunity to discuss the development of a distribution facility and associated parking on approximately 36-acres of agricultural property. The project site will be annexed by the City of Arvada from Jefferson County and currently consists of several parcels of private property. The project site is bounded on the north by Maple Valley Park, on the west by Indiana Street, on the south by private property and east by Fig Street.

The mission of Colorado Parks and Wildlife (CPW) is to perpetuate the wildlife resources of the state, to provide a quality state parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources. Our goal in responding to land use proposals such as this is to provide complete, consistent, and timely information to all entities who request comment on matters within our statutory authority. Current CPW policy directs our efforts towards proposals that will potentially have high impacts to wildlife and wildlife habitat. The emphasis of CPW's concerns is on large acreages, critical habitats, wildlife diversity, and impacts to species of special concern, or those that are state or federally endangered.

On a vast majority of the parcels, CPW would expect to find small ground dwelling mammals and passerine birds. Due to the low availability of undeveloped habitat surrounding those parcels, impacts of the development, as proposed, may be characterized as minimal. CPW recommends that the developer conduct a biological survey on the site and on the nearby parcels of land to determine the presence of prairie dogs dens, active raptor nests or other specific species of wildlife that would be impacted by the development. CPW also recommends that intrusion into Ralston Creek be minimized and that any equipment used in Ralston Creek be cleaned using the best management practices, which are outlined below.

If prairie dog towns are present on the sites or if prairie dogs establish themselves on the property prior to development, CPW recommends that a burrowing owl survey be conducted prior to earth moving. Burrowing owls live on flat, treeless land with short vegetation, and nest underground in burrows dug by prairie dogs, badgers, and foxes. These raptors are classified as a state threatened species and are protected by state and federal laws, including the Migratory Bird Treaty Act. These laws prohibit the killing of burrowing owls or disturbance of their nests. Therefore, if any earth-moving will occur between March 15th and October 31st, a burrowing owl survey should be performed. Guidelines for performing a burrowing owl survey are attached to this email.

If prairie dogs are present at the site or if prairie dogs establish themselves on the property prior to any development and the developer wants to relocate the prairie dogs, CPW requires the developer to obtain a relocation permit prior to starting any relocation efforts. CPW allows prairie dogs to be relocated to another suitable wild habitat, a license raptor rehabilitation center or to the United States Fish and Wildlife Service Black-footed Ferret Recovery Program. The developer is not allowed to relocate prairie dogs without obtaining a relocation permit. Relocation requirements and an application for a prairie dog relocation can be obtained from CPW.

CPW recommends that land within the project area be restored to native habitat if possible. To improve wildlife habitat after construction, CPW recommends using native plant species along the project area. CPW also recommends planting trees, shrubs, and grasses so that they are mixed within the landscape. A landscape that has a good mix of trees, grasses, and shrubs is more beneficial to wildlife than a landscape with all trees in one area and all grasses and shrubs in others.

If heavy equipment is used near any water source (that was used in another stream, river, lake, reservoir, pond, or wetland) one of the following disinfection practices is necessary prior to construction to prevent the spread of New Zealand mud snails, zebra mussels, quagga mussels, whirling disease, and any other aquatic invasive species into this drainage. These practices are also necessary after project completion, prior to this equipment being used in another stream, river, lake, reservoir, pond, or wetland:

- Remove all mud, plants, debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment in a 1:15 solution of Quat 4 or Super HDQ Neutral institutional cleaner and water. Keep equipment

moist for at least 10 minutes OR

- Remove all mud, plants and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with water greater than 140 degrees F for at least 10 minutes.
- Clean hand tools, boots, and any other equipment that will be used in the water with one of the above options as well. Do not move water from one water body to another. Be sure equipment is dry before use.

If there are any active raptor nests found within the project area or in the vicinity of the project area, CPW recommends that the developer adhere to the appropriate seasonal closures and minimize human encroachment of the active nests. Disturbance of active nests can result in nest failure. Some raptor species require larger buffer zones to minimize human encroachment than other raptor species. Seasonal closures also vary by raptor species. If the developer is unable to adhere to the appropriate seasonal closures or the development will unavoidable encroach on any active raptor nests, CPW recommends that the developer consult with the United States Fish and Wildlife Service to obtain the appropriate permit prior to beginning construction. USFWS can be reached at https://fwsepermits.servicenowservices.com/fws?id=fws_index or at (303) 236-8171.

Please do not hesitate to contact me if there are any questions or concerns.

Jordan Likes
District Wildlife Manager
Westminster - Area 5



LIVE LIFE
OUTSIDE

P 303.291.7135 | F 303.291.7114
6060 Broadway, Denver, CO 80216
jordan.likes@state.co.us | cpw.state.co.us

[Quoted text hidden]

2 attachments



RecommendedSurveyOwls (2).pdf
51K



Raptor-Buffer-Guidelines (1).pdf
602K