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Via Hand Delivery and Email: rstachelski@arvada.org

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

**Re: Project #DA2020-0117 – Development Application (Annexation and Zoning).
Related Applications: Project #DA2020-0132 – Site plan, Project #PA2020-0067 – Project
Pre-Application.**

Dear Mr. Stachelski:

This letter sets forth the concerns of certain citizens and property owners with respect to the above referenced Pending Applications before the City of Arvada (the “City”). Petitions signed by over 3500 individual citizens, which identify the specific citizens and property owners expressing the concerns are in process and continuing to be collected. Completed Petitions are being hand delivered with this Letter. The petitioners will be referred to herein as the “Petition Group”. The Petition Group will be supplemented at Planning Commission with further statements of opposition and concern from Homeowners Association, including but not limited to the Westwoods Master Association, Westwoods Mesa Homeowners Association and the Maple Valley Homeowners Association.

The purpose of this letter is to identify matters that are incomplete and that City Staff should require the Applicant to address prior to submittal to the Planning Commission and matters that Planning Commission should require the Applicant to address in order to fulfill the Applicant’s and the City’s obligations under the Arvada Land Development Code as set forth in the *Arvada, Colorado Code of Ordinances Sec. 1-1-1-1, et seq.*, (the “LDC”), and to identify specific additional matters raised by the Petition Group that have not been addressed to date. We are providing this information in advance of the April 20, 2021 Planning Commission session that is scheduled to consider the Annexation and Zoning for the Property that is the subject of the Applications, so that the Planning Commission can be fully informed on the incomplete status of the Applications. We are attempting to provide a full community perspective to the Planning Commission, particularly as it relates to the size and nature of the proposed use and as to Applicants non-response to the City’s initial concerns related to Zoning and other development approvals, so there will be a full record and the Planning Commission can make a decision early in the process, which might focus the issues for Staff in processing the Applications and for Council.

The information upon which this letter is based is the City of Arvada eTRAKIT files as they exist on the date of this letter and includes consideration of the most recent comments made by the City Staff in the 2nd Review Summary and Outside Ref. document found in the #DA2020-0132 files and the 3rd Staff Review Comments document found in the #DA2020-0117 files. We have not located public information in the Application files that respond to these two sets of comments as of the date of this Letter. We understand that the Development Applications are on a different schedule than the Annexation and Zoning decisions. If the Applicant has presented further information or modifications to any of the Applications referenced above, the positions taken herein will be re-evaluated as required. Where indicated below, the “Action Requested by Petition Group” should be completed in advance of the Planning Commission session.

A. Pre-Development items not addressed:

In the Pre-Application Summary date May 22, 2020, the assigned Planner, Jeremiah Bebo, identified items required to be submitted and addressed in connection with the Applications. Excerpts from this Summary appear below in quotes and italics, along with the current status of the items and identification of the Petition Groups Questions, Concerns and/or Action Request.

1. Truck Traffic in Excess of Light Industrial Zoning Limitations. *“The use can be defined as Light Industrial so long as daily truck trips are under 50.”* The Petition Group noted that a representative for Amazon, the end user for the developed site, stated at the Public Meeting held on March 11, 2021, that holiday flex traffic of incoming semi-trailer truck traffic could reach “42 Trucks in a 24-hour period during holiday or other peak times”. 42 Trucks would generate 84 Trips, which would violate the IL Zoning limitation. Other trip generation formulas based on the square footage of the facility and the number of vans to be operated from the facility indicate that the number of daily truck trips would be consistently in excess of the 50 trip maximum for the IL Zoning. Also, given the size of the Vans that will be used to deliver from the site, regulatory consistency would appear to require that they be counted as Trucks as well. Under the LDC, a “truck” is clearly different and distinguished from a semi-truck in that the definition of “heavy industry” references trips by “semi-trailer trucks.” As such a mere “truck” is something different from and less than a semi under the LDC. The statutory definition of a truck in CRS 42-1-102(108) and the Model Traffic Code includes a cargo van, such as the vans used by Amazon. The Arvada Municipal Code has adopted the definitions contained in the Model Traffic Code for Colorado. *See, Arvada, Colorado Code of Ordinances Sec. 54-31.* Action requested by Petition Group: Discontinue processing the Applications for Light Industrial Zoning.

2. Comprehensive Plan Amendment. *“A Comprehensive Plan Amendment to Industrial/Office will be needed for the Commercial portions.”* No Comprehensive Plan Amendment can be located. Questions: Is this in process? When will a draft be circulated? 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”.

3. Floodplain Impingement. *“Water quality and detention should be located outside the 100-year floodplain.”* Sketches and contour overlays located by the Petition Group and including

information provided by the Applicant's engineers clearly show portions of the Detention Pond area overlaying the 100-year floodplain. Action requested by Petition Group: Require a modified Detention Pond located completely outside the Floodplain.

4. 68th Avenue Access. *"CDOT approval will be required"*. Applicant has stated that it is applying for an Access Permit, but no documents can be located, and to date the Access Permit has not been issued. 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.

5. Eldridge St and east on W 68th Ave. *"The City would like to limit access north on Eldridge St and east on W 68th Ave through the existing neighborhoods. The City is open to exploring installing a cul-de-sac with fire-only access to the intersection of Eldridge and W 68th in order to prevent cut-through traffic."* The plans submitted with the Application do not contain any mechanisms for limiting access to the referenced intersection and Staff has not followed up on the concern. There appears to be no limit on the traffic from the Applicant's property flowing through the intersection, except for relying on the "honor system" with the Applicant and Amazon, the identified end user of the developed property. It seems doubtful that over-scheduled Amazon van drivers will neglect a short cut if it is easily available. 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.

6. Traffic North on Fig Street. *"Routing trucks and van deliveries north on Fig will be problematic for neighbors. It is in the applicant's best interest to avoid this route for public support."* The plans submitted with the Application do not contain any mechanisms for limiting this traffic, and again it appears to have been ignored by the Applicant and Staff. 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.

7. Tree Planting. *"Tree mitigation on north portion of property may be planted on Maple Valley as well to aid in screening."* The Landscape Plan does not show any trees being planted in Maple Valley Park but does show extensive removal of existing trees on the Applicant's property. A lack of water for mechanical watering has been cited as the reason that no trees would be required to be planted along the Park boundary. Concern: Trees are currently growing and have been growing in the park area and along the boundary with the property to be developed without mechanical watering for decades. Most of the Park adjacent to the development was a hayfield where trees were previously removed at some point, so natural moisture conditions would support a variety of tree species. The Petition Group commissioned an Assessment completed by Colorado State University that advised reforesting Maple Valley Park to balance the loss of wildlife habitat from the removal 450+ trees from the Applicant's property. If the Applicant and the City want to honor the goals of the Comprehensive Plan to avoid "significant adverse impacts upon the natural environment." A plan for reforestation of the Park should be prepared for reforestation and if necessary to provide for the means to water

the trees planted. Planting Trees in Maple Valley Park, in addition to trees in the buffer area of the proposed Development Property would significantly reduce the impacts on the Park, Park users and the bird population in the area, and would go along way to showing the Applicants good faith towards its neighbors.

8. Screening. *“Site sits 10-20 feet higher than residences to the north. Attention should be made to provide as much screening from that neighborhood as possible.”* Applicant has proposed a four-foot-high fence. In addition to the quoted request set forth in the #PA2020-0067 Summary, Staff has requested in the 2nd Review Summary and Outside Ref. that the developer “Provide a masonry wall along the perimeter of the northern property line”. No wall height or specific functional purpose for the wall is specified. 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.

9. Excessive Parking. *“Please provide a detailed parking plan...demonstrating the need for over 1,300 parking spaces which is over the City requirements.”* Staff has again requested a Parking Plan in the 2nd Review Summary and Outside Ref. Question: Why are the Applications being allowed to proceed without the Parking Plan, that was initially requested in May of 2020? Concern #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.”** Concern #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. Concern #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. 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.

B. Missing Study. The LDC provides in Sec. 8-2-6-2 that a Heavy Truck routing plan is required.

*“A. Generally. A heavy truck routing plan is required for uses as specifically identified in this LDC and for uses that the Director determines will involve the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy vehicles at a frequency of more than **25 heavy truck trips per week**. The heavy truck routing plan shall be followed once approved.”* Arvada, Colorado Code of Ordinances Sec. 8-2-6-2

No such Plan has been located in the files. As indicated above in the section addressing light industrial zoning, the Applicant’s own filings and public statements put the heavy truck traffic well in excess of the 25 trips per week threshold. Actions requested by Petition Group:

Require this Study to be completed and provide to the public when it is available.

C. Unanswered questions from Public meetings. The Petition Group has expressed concerns that Questions submitted for response at the Public Meeting held on March 11, 2021 were not responded to by the Applicant's representatives. By this letter the Petition Group is requesting that you, as the Director, exercise your Authority under *Arvada, Colorado Code of Ordinances Sec. 8-2-4-1 D.* and require the Applicant to respond to these Questions on before April 9, 2021 and to Suspend processing of the Applications unless the responses are received by that date. The list of questions, are set forth on Exhibit A.

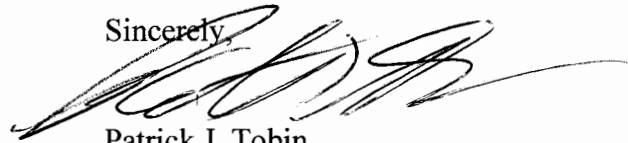
D. Communication problems, confusing information. The Petition Group has expressed concerns that information relating to the Applications has been difficult to obtain and the public communication process has not functioned to get the information to the public. The City's webpage about Project Indiana has had inaccurate info and links to meetings. We have had to notify City Staff to make corrections because the community has reached out to us to get the correct info. The eTRAKIT files linked on the webpage about Project Indiana did not initially work and it has been reported that the files were slow to load or quite often wouldn't download and showed an error message, so the community had trouble seeing the Applicant's information in order to provide comment. The notification process using social media was inconsistent and confusing, and in connection with the re-scheduled February Public Meeting was not posted in a timely manner. Members of the Petition Group have made a record of the Communication Problems and if you or Mr. Deven would like to have this documentation please let us know. The Communication Problems have the effect of removing the public from the process of consideration of the Applications and could form the basis of future legal challenges to the City's decisions, which is something we would hope to avoid.

Conclusion. The Project #DA2020-0117 – Development Application (Annexation and Zoning) is incomplete and should not be processed by the Planning Commission. The incompleteness and contradictions in the Applicants plans, lack of responsiveness and a disregard for the concerns of the public and the requirements of the Comprehensive Plan are already placing a burden on the City, City Staff and Citizens. The Petition Group seeks to have these burdens eliminated by consistent enforcement of the legal requirements set forth in the Land Development Code and we encourage a very careful and deliberate approach to the Applications and the future impacts the proposed use is likely to have.

March 30, 2021

Please ensure this letter with the Exhibit and the Petitions hand delivered herewith are included in the Planning Commissions information packet. Thank you for your attention to these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick J. Tobin', with a long horizontal flourish extending to the right.

Patrick J. Tobin
Attorney at Law

Enclosures:

Exhibit A – Unanswered Questions.

Petitions – (Hand delivered)

cc: Jeremiah Bebo, Planner via Email jbebo@arvada.org
Mark Deven, City Manager via Email mdeven@arvada.org
City Council
Denver Post

EXHIBIT A

Unanswered Questions from Amazon Neighborhood Meeting Submitted by Protect Maple Valley Park, 3/9/2021

1. When are your comments going to be available for the questions and recommendations posed by the Jefferson County Planning staff in their comments dated January 26, 2021 and February 5, 2021 (attached). Can you please respond to Jeffco's comments?
2. There should be comparable developments as proposed by the developer in the Denver Metro area and the front range.
Please list and provide the following information on similar operations in other Colorado cities:
 - i. Date put into operation
 - ii. Number of employees
 - iii. Van parking spaces on-site and off-site
 - iv. Zoning of each location
3. How do you reconcile your proposed Project with the values for the Maple Valley Park Open Space as stated by the City of Arvada in their numerous documents recommending how Open Space should be preserved, protected, and improved?
4. What is the status of other project permits?
 - a. State Highway Access Permits
 - b. Stormwater Discharge Permit
 - c. Air Emissions
5. The applicant has stated since the 1st public meeting last November that the van parking is critical and cannot be altered.
Please explain why.
6. What is the projected daily amounts of wastes estimated from the Site, and the Van and Truck Traffic broken down as follows:
 - a. Human waste from Truck and Van Drivers?
 - b. Solid Waste – paper, packaging, cafeteria, pallets, containers?
 - c. Any Hazardous wastes?
 - d. Any liquid wastes such as oils, lubricant, flammables?
7. Are the truck and van drivers utilizing the restroom facilities inside the building and are the facilities sized for 1,000+ drivers over and above the 300+ associates working in the building?
8. Will Truck and Van drivers be subjected to scheduling that precludes using the restroom facilities inside the building.
9. Please provide a overlay map showing the development, including the Detention Pond and its embankments and contours overlying the floodplains, wetlands and Ralston Creek?
10. The Kimley-Horn site plan drawing 096441010_CSP_SP sheet 4 shows a location, just north of the proposed building, for a parking space for an "Emergency Mobile Generator".
 - a. Will there be a generator parked and connected to the building electrical system in the noted space on a permanent basis?

- b. What is the intended use of the generator? Full operation of the plant? Emergency lighting or utilities such as air compressors?
 - c. What will be the size of the generator, both engine size and generator electrical capacity?
 - d. What fuel will the unit use and what is the capacity of the fuel tank for the unit?
 - e. Why must a generator be placed on the north side of the building which will cause increased noise and emissions for the area residents north of the project site?
11. Will there be other utility equipment, such as air compressors and boilers installed in center and if so, please provide a list and size of equipment and where the exhausts or venting of the equipment will be located?
12. Where and when is trash from Vans collected before and after return to the center?
13. Why was traffic count data taken in the middle of summer 2020 and during the pandemic which had no school traffic component and lower work traffic levels due to the pandemic used for the study and why was it adjusted with 2017 data which did not reflect current traffic volumes generated from the Westwoods Mesa, GEOS, Candelas, Leyden Rock neighborhoods, and others which increased significantly after 2017?
14. Vehicle Fleet Fueling and Servicing Questions:
- a. How is the van fleet to be fueled?
 - b. If off-site, how many van trips for fueling and at what location?
 - c. If onsite either via a fueling station or a contractor using fueling service vehicles, how many heavy tanker fuel trucks would be required for an onsite fueling?
 - d. How is the fleet to be serviced for oil changes and fluid and where?
 - e. How are fleet vehicles to be washed and where?
 - f. Where will vehicle maintenance be performed?
15. The Traffic Impact Study mentions inadequate turn lanes on 64th and Indiana and 64th and McIntyre and essentially says that the city should address these issues. Since the proposed project will exacerbate the turn lane issues why is it not the projects responsibility to address the noted problems?
16. Why has mass transit not been discussed or investigated since there appears there could over a thousand associates and drivers commuting to the proposed project every day?
17. How will the Developer address (during the predevelopment phase) the impacts to the park from construction and from anthropogenic sources of light, noise, and air pollution generated by the Development?
18. What is the Developers light mitigation plan to allay light pollution on Maple Valley Park, its wildlife, and nearby homes?
19. What impact studies have been done at any other similar Amazon "Last Mile" Distribution Centers to document the noise decibel levels during both daytime and night time operations?