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SENT VIA EMAIL

City Counsel, City of Arvada
c/o Kristen Rush, City Clerk
Arvada City Hall
8101 Ralston Rd.
Arvada, Colorado 80002
kristen@arvada.org

***Re: Ralston Valley Coalition's Proposed Amendments to Draft Ordinance
No. CB22-063***

Dear Honorable Mayor and City Councilors:

This law firm represents Ralston Valley Coalition (“RVC”) in connection with its work to ensure that Arvada continues to develop in a manner that fosters smart, harmonious growth without unduly burdening existing users or otherwise overtaxing existing infrastructure, especially in the Ralston Valley and in the immediate vicinity of Maple Valley Park. Last year, we represented RVC as the organized opposition to the proposed Amazon Heavy Logistics Center adjacent to Maple Valley Park. We again thank those of you who carefully considered and ultimately denied Amazon’s incompatible proposal and we appreciate all of the Council’s efforts to engage with RVC’s members regarding our shared vision for the future of Arvada.

The purpose of this letter is to: (1) express RVC’s support for many of the proposed amendments to the City’s Land Development Code included within draft Ordinance No. CB22-063 (the “Draft Ordinance”¹); and (2) propose some additional amendments to the Draft Ordinance which are critical to ensuring that the Land Development Code continues to appropriately demarcate between light industrial uses and Heavy Logistics Centers which are not allowed by right within the IL Zone.

¹ To our knowledge, the most recent version of the Draft Ordinance is the version that was presented on first reading before the City Council at the meeting held on August 1, 2022. Accordingly, all of the comments and references in this letter to the Draft Ordinance refer to that version of the Draft Ordinance.

First, RVC enthusiastically supports Section 2 of the Draft Ordinance, which places new limitations on the quantity of Fleet Vehicle Parking that may be included within certain zones, and Section 4 of the Draft Amendment, which allows for certain presumptively administrative approvals to be brought before the Council and expands and clarifies the City’s notice and posting rules for land use proposals. RVC agrees with each of these proposals and believes that they improve upon the City’s land use processes as it continues to grow and change.

Second, while RVC is generally supportive of the proposed changes to certain land use definitions in Section 5 of the Proposed Ordinance,² we believe that these proposed changes must be further revised to ensure that the City is not unintentionally expanding the intensity of warehouse and distribution uses that are allowed by right within the IL Zone. More specifically, while the current version of the Draft Ordinance clarifies that “truck traffic” must be measured in terms of one-way heavy truck trips, the Draft Ordinance also proposes to expand the amount of “heavy truck traffic” that may be associated with uses that are defined as light industry—i.e., uses that are not classified as “Heavy Logistics Centers”—and thus allowed by right within the IL Zone. Based upon numerous discussions with Staff and members of the City Council, RVC does not believe that the City is actually intending to expand the intensity of allowed uses within the IL Zone. Accordingly, the Draft Ordinance must be resolved to fix what appears to be an unintended change.

The good news is that the City does not need to scrape the Draft Ordinance to resolve this unintended consequence. Rather, RVC believes that this issue can be resolved through a narrow set of further changes to the language set forth in Section 5 of the Draft Ordinance. RVC’s proposed markup to Section 5 of the Draft Ordinance is attached as **Exhibit A**, and a “clean” version is attached as **Exhibit B**.

By way of further explanation, RVC is specifically requesting that the City make the following changes to Section 5 before voting on the Draft Ordinance:

- **Change 1** – in order to prevent land users from trying to skirt the new limitation on fleet vehicle parking, the definition of “Fleet Vehicles” should also include any vehicles that are contracted by the business. Without this change, a land user could argue that its use is not covered by the fleet parking rule if it contracts to use vehicles that are owned by a third-party or simply titles all of the fleet vehicles that it uses through other, related companies.
- **Change 2** – the existing definition of “Heavy Logistics Center” covers wholesaling, warehousing, and distribution uses that “are expected to generate at least **50** truck trips per day.” L.D.C. § 11-3-3-1. The proposed change in Section 5 of the Draft

² Among other things, RVC fully supports the proposed definition of “trip” in Section 5 of the Draft Ordinance, which confirms what RVC has always known and long maintained—a “trip” is a one-way movement of a vehicle and not a “roundtrip.” RVC applauds the City and Staff for including this clarification in the Draft Ordinance.

Ordinance seeks to narrow the definition of “Heavy Logistics Center” (and thereby increase the intensity of uses that are allowed by right in the IL Zone) to only cover those uses that will generate **76** (or more) daily “heavy truck trips.”

While RVC believes that Staff may have viewed a new 76-vehicle threshold as a compromise in light of the formal clarification that a “trip” is only one direction of movement (and thus not a “round-trip”), RVC does not believe there is any reasonable basis to change the relevant metric from one which measures all “trucks” (under the current definition) to one that only measures “heavy trucks.” Accordingly, the definition of “Heavy Logistics Center” should continue to be measured in terms of all “truck” traffic:

Definition of “Heavy Logistics Center”		
<u>Current Definition</u>	<u>Draft Ordinance</u>	<u>RVC Proposal</u>
“at least 50 truck trips per day”	“at least 76 heavy truck trips per day”	“at least 76 truck trips per day”

The definition of “Heavy Logistics Center” should not be narrowed to allow for more heavy truck trips within the light industrial zone and should instead continue to be measured in light of total “truck trips” per day, which includes all different types of trucks.³

- **Change 3** – RVC proposes the addition of a generic definition of “trip” that applies to all vehicles types throughout the Land Development Code to clarify that all definitions and other rules that rely in any way on “trip” counts are to be measured based upon the one-way movement of any type of vehicle.
- **Change 4** – consistent with RVC’s proposed change to the definition of “Heavy Logistics Center,” RVC believes that all types of trucks must be accounted for in determining whether a use is a “Heavy Logistics Center” or a use by right that may be located within the IL Zone. Accordingly, the relevant definition of “truck” should include all motor vehicles that have a gross vehicle weight rating (GVWR) of more than 8,500 lbs., which the Federal Highway Administration has designated as those vehicles in Class 2b and above. 49 C.F.R. § 535.4. Vehicles in Class 2b include medium-duty trucks and most types of delivery vans.

³ If the City is committed to defining “Heavy Logistics Center” in terms of “**heavy** truck trips,” then the proposed daily threshold of 76 or more heavy trucks, should be reduced down to “30 semi-trailer truck trips per day” consistent with the existing definition of “Heavy Industry.” L.D.C. § 11-3-3-1.

- **Change 5** – consistent with the request to measure the intensity of industrial uses in terms of all “truck trips,” the Land Development Code should define a “truck trip” more broadly and not include a narrower definition of “heavy truck trip.”
- **Change 6** – this change is consistent with the proposed change to the definition of “Heavy Logistics Center” and confirms that whenever a use is expected to generate more than 76 daily trips involving any kind of truck, the use is not allowed by right within the IL Zone.

While RVC appreciates the time and effort that Staff has expended on the Draft Ordinance, **if these critical changes are not incorporated within the Draft Ordinance, RVC cannot support the Draft Ordinance.** As currently drafted, the Draft Ordinance would significantly raise the threshold for heavy truck traffic before an otherwise light industrial use would meet the definition of “Heavy Logistics Center” such that it is not allowed by right within the IL Zone. Accordingly, if the purpose of the Draft Ordinance is to clarify the existing limitations on “Heavy Logistics Centers”—and not to dramatically increase the intensity of uses by right with the IL Zone—the Draft Ordinance must be revised as requested.

On behalf of RVC, thank you for your time and careful consideration of these critical issues. I will be in attendance for the City Council’s public meeting regarding the Draft Ordinance on Monday, September 19, 2022, and look forward to addressing these issues in person. If any of you have any questions or if there is any additional information that RVC can provide in advance of Monday’s public meeting, please do not hesitate to contact me directly.

Sincerely,



James Silvestro

Enclosures (Exhibits A & B)

cc: Marc Williams, Mayor (mwilliams@arvada.org)
David Jones, Mayor Pro-Tem (djones@arvada.org)
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