

Public Comment Response

General Comment. Many public comments are repetitive and deal with Ownership, Access to the Lane, Safety, and Maintenance of the Lane. Therefore, we have written one response to address each of those comments, and since the fundamental objective of our neighbors, beginning at our first meeting, has been to stop us from using the Lane, we have responded to that question also.

However, out of respect to those who took the time to write and submit comments and objections, we have thoughtfully answered their questions to assure them that their concerns were reviewed and not brushed aside. When they pose a question that aligns with one of the repetitive comments, we will refer our answer back to that specific response. For those comments that are not repetitive, we provide specific answers throughout this document. We have identified each individual and posted their comments and our response to allow easy reference throughout the document.

Response 1, Ownership.

1. We should not casually disregard that the Lane was named Christensen Lane for a reason. Joseph Bowles created the Lane before Charles Bowles transferred our property to Victor Christensen in 1912, the Lane was created for one reason: to provide access from our property to and from Platte Canyon. The deed associated with transferring our property in 1912 from Charles Bowles to Victor Christensen provides "right of way" from our property along a "private road running east," the Lane, to the public highway known as Platte Canyon. Then in 1932 is reaffirmed in a deed from Victor Christensen to his wife Amelie. For decades before any other property owner or subdivision who now enjoys access to the Lane existed, the Lane served our property as its point of access. Over time other homes and subdivisions were built that gained access to the Lane, but through all these changes, one thing remains true, the Lane was created to provide access from our property to Platte Canyon; it wasn't designed to provide access to those who now share that right with us. (See Exhibit 1).
 - a. Over a hundred years have passed since the Lane was created and access deeded to our property. Yet, to restrict our right of access to the Lane, those opposed to us using the Lane designed for us forced us to reaffirm our right of access through the courts, not once but twice. In both those cases, the courts found that we have "unrestricted and unlimited permanent rights of ingress and egress across and through West Christensen Lane." To ensure our right of access remained "unrestricted," the County required us to apply for a variance regarding the design of the western 1200 feet of the Lane in 2020, which the TRC approved.
 - b. It would be great if the other owners, who also enjoy "unrestricted, unlimited, permanent rights of ingress and egress across and through West Christensen Lane," would participate in the cost of the improvements and the long-term maintenance of the entire Lane, including the western section. We know this is impossible since our neighbors oppose our access to the Lane and have ignored significant issues, like drainage, on this section of the Lane for the past three decades. We all share the right to "permanent" access along the Lane; the County requires improvements on the Lane to ensure our access is "permanent." We have assumed the cost of those improvements and the long-term maintenance for this section of the Lane. Our improvements are like the front two-thirds of the Lane but will improve the safety and drainage on this section

of the Lane, and once completed, provide benefits to those now impacted by the current design and ensure our access to the Lane remains "unrestricted, unlimited, and permanent."

Response 2, Access.

1. Access to the Lane from our property has been adjudicated and settled.
2. In In 1993 Jefferson Bank and Trust and Laguna Builders brought legal action against owners who had access to Christensen Lane to establish egress to the property commonly known as Fox Hollow. Defendants of that case, which we were one, were found to be entitled to "unrestricted and unlimited permanent rights of ingress and egress across and through West Christensen Lane, a private road, to and from South Platte Canyon Drive," by the District Court of Arapahoe County. (Of public record).
3. When it became apparent that we would be developing our property, the other owner's party to the 1993 legal action, including the property owners in Fox Hollow who gained access to the Lane through that settlement, reneged on their agreement. They argued that we were not entitled to "unrestricted and unlimited permanent rights of ingress and egress across and through West Christensen Lane, a private road, to and from South Platte Canyon Drive." They forced another Court to affirm our rights.
4. In July 2020, the District Court of Arapahoe County, in Summary Judgement, reaffirmed our right of access to Christensen Lane. (Of public record).
 - a. In that case, "The Court FINDS that the following language is clear and not ambiguous: "Unrestricted and unlimited permanent rights of ingress and egress across and through West Christensen Lane, a private road, to and from South Platte Canyon Drive." The meaning of the word, unrestricted means "not having limits." The meaning of the word unlimited means "boundless, infinite." And permanent means "continuing or enduring without fundamental or marked change."... "Accordingly, the Court HOLDS that the Final Judgment in 92 CV 2564 is clear and unambiguous and must be enforced as written".
 - b. Regarding the issue that we would not have access to the Lane from the entirety of our property, the Court found "By the plain language of the Final Judgment, a successor, assign's... ingress and egress rights over the Lane are unlimited and unrestricted, meaning that once a successor, assign ... enters onto the portion of this Property that borders the Lane (here, the Arapahoe Parcel), the Final Judgment does not, and cannot serve as a basis for restricting any activity by the successor, assign (and this person's "family members, employees, agents, servants, independent contractors, guests, licensees, and invitees") may otherwise lawfully do thereon, including making entry upon the adjacent parcels of land of the successor, assign ... In conclusion, Plaintiffs' Motion for Summary Judgment is GRANTED as set forth above".
 - c. As a part of the 2020 Summary Judgement, the parties executed a Satisfaction of Judgement where "Christensen Lane Homeowners waived any and all rights to

appeal any issues, rulings, or orders in the above-captioned action." In other words, they understood that the ruling by the Court was final and that their rights to appeal any issues, rulings, or orders had been foreclosed. (Of public record).

Response 3, Safety and Traffic on the Lane.

1. Perception is not reality, and that is the case for the continued argument that vehicle trips to and from our community will be significantly greater than what our property has generated in the past. The perception being painted by those opposed to our community is that our property has lived in a vacuum, and only occasionally do vehicles travel along the Lane from our property. This idyllic vision of the Lane requires a rewrite of history regarding the type and quantity of vehicle traffic generated from our property over the past 2-3 decades. Any casual observation of the traffic coming from our property during that time would conclude that it was anything but residential. The representation that our community will radically increase the number of vehicle trips on the Lane does not align with the traffic study or the historical use of the Lane now being used to sensationalize the reality of our community's impact on the Lane.
2. Safety has been an essential argument of our opponents who use the Lane through the same access agreement we share. What they do not discuss or choose not to acknowledge is that over the past 2-3 decades, our property was home to a commercial sprinkler company, tree farms, a tree scape company, an event center for weddings and charitable events, host to young life organizations for three area high schools, host to Wyldlife, the middle school equivalent to Young Life, a church, and home to various tenants, many of these uses operated at the same time. Interestingly, during his 22 years of ownership, the previous owner was never approached by anyone regarding safety concerns along the Lane despite the type and quantity of vehicle traffic being generated from the property.
 - a. Those opposed to our community are fully aware of how our property was used during the last 2-3 decades, for there is written testimony specifically detailing this fact that was submitted by one of the residents of Fox Hollow to Jefferson County during our zoning hearings detailing the type of traffic generated, for example, the following uses were associated with our property. (See Exhibit 2).
 - i. The tree scape company operated for over a decade from the farm, with heavy commercial trucks utilizing the Lane daily.
 - ii. A second tree farm utilized the farm for two years, which they brought to the farm and then removed from the farm 1600 trees using large commercial tree spade vehicles.
 - iii. An event center operated out of the barn and hosted weddings, fundraisers, and numerous parties annually with guest lists that exceeded 150-200 people per event.
 - iv. Three area High Schools and Middle Schools used the Farm for Young Life and Wyldlife meetings for over a decade. During that time, over 460 meetings were conducted at the farm. The typical meeting size for each school, each meeting independently, was between 50-75 students. Students would drive themselves, or parents would drop off and pick up their children after each meeting.

- v. During Covid, a local church utilized the farm to worship outside. The typical attendance each Sunday was 100-150 per service, and during five months, they had over 2500 attend church at the farm.
 - vi. The previous owner and his family lived on the farm for over a decade, and after leaving the farm, we have had multiple tenants with their families living on the farm.
 - vii. Today, the United States Post Office, UPS, Fedex, Prime, Landscape Maintenance Company, Dry Cleaning, and Trash Collection all service our property or neighbors using the Lane as access.
 - viii. Daily the farm sees cut-through traffic from Christensen Lane to Leawood and vice versa.
 - b. Our Traffic study shows our neighborhood will generate 108 vehicle trips a day inclusive of all types of trips, with 70% of those using the Lane resulting in an additional 76 vehicle trips daily on the Lane. (Of public record). It's unreasonable to believe that when the various uses described above were using our property, vehicle trips along the Lane weren't similar in volume to what our community will generate. We recognize that the opponents claim our traffic study is inaccurate, but those studies are based on facts, not supposition.
3. We celebrate the Lane as a vibrant part of the community used daily by pedestrians and bikers. We aim to enhance this pedestrian corridor with improvements to the Lane and the expanded trail access through our community. As Christensen Lane Estates HOA pointed out when commenting on our Lane design, "It is much easier to do as we do now, and have done for decades, and that is just moving over when a vehicle comes." We agree, but we also felt that adding an extra layer of safety by adding bollards to separate vehicle drive lanes from the pedestrian/bike lane allows those using the Lane to move to a safe zone when a vehicle approaches if needed.
- a. Evidently, pedestrians, children, bikers, and vehicle traffic have learned to share all sections of the Lane effectively for decades. Safety on the Lane is not limited to the section of the Lane we will be improving; instead, it is a conscious effort by all who use the entirety of the Lane. To state that the Lane will now be less safe with the addition of our community is disingenuous and doesn't reflect the facts.
 - b. The same pedestrians and bikers that have dealt for decades with vehicle traffic from our property have had to contend with the traffic generated from Fox Hollow, Christensen Lane Estates, and other homes along the Lane. An analysis of trip generation from the entirety of the Lane would far exceed the projected vehicle trips our community will produce, but that is not the point. The point is that everybody has learned to share the Lane effectively, and that practice will continue moving forward upon the completion of our community.
 - c. The truth is that our community will now generate a different type of traffic on the Lane than what has been typical for the last two decades from our property. Upon completion, the vehicle trips from our community will be limited to residents, guests, and ancillary vehicles. The improvements to the Lane we are making are designed specifically for safety. The Lane has narrower drive lanes and speed bumps

to slow traffic. We are enhancing the drainage along the Lane (an issue for decades, see exhibit 4), which will help to minimize the impact weather events create along the Lane. Once completed, we will take over the maintenance of the improved storm drain system to ensure it functions as designed. As mentioned above, bollards are being added to separate drive lanes from the pedestrian walk, allowing pedestrians and bikers to enter and exit a safe zone as vehicles pass. Our community is gated to eliminate cut-through traffic between Christensen Lane and Leawood Drive, now a daily occurrence. We enhance emergency vehicle access in both directions. We will stop having snow plowed in front of the emergency access point at Christensen and Leawood, impeding emergency vehicle access. (See Exhibit 3). Any objective observer would evaluate the improvements to the Lane as being positive for the community. Our design achieves safety, improves emergency access, improves drainage, expands trail connectivity, eliminates east/west traffic, and limits new vehicle trips on the Lane to our community.

- d. The real question that needs to be asked is why, with all the different types of vehicle traffic coming to and from our property over the last 2-3 decades, is it only after we begin the development process of our property does safety on the Lane become this overwhelming concern by our neighbors? Safety has become a convenient argument to mask the real agenda of those opposed to our community. Their actions, correspondences, and testimony confirm their belief that they are entitled to prohibit our property rights associated with access to the Lane and dictate what we should build. Our opinion is not supposition, for they have made it clear from our first meeting that they would do everything they could to stop our development. (See Exhibit 2).

Response 4, Maintenance of the Lane.

1. For years the Lane was dirt, and not until the year 2000, when Mr. Good acquired the property, was any effort made to address the poor condition of the Lane. Mr. Good provided the following narrative regarding the Lane. "When I acquired the property, the Lane was a real old-school dirt road. Where the big trees were, there was always a big lake whenever there was a rainstorm. I brought nearly 200 truckloads of recycled asphalt from a redo-up on Wadsworth. I borrowed a bulldozer from a friend and grated the Lane up to the Fox Hollow entrance. In 2003 I cut the weeds down along the Lane and put rubber roof material down as a weed barrier. I mulched the whole Lane from Dettmer's house to the farmhouse. Each year I would re-mulch and fill any potholes, and one year I used a truck-mounted power washer and washed the Lane. I made the Lane look GREAT from 2000 to 2016. Never did anyone from Fox Hollow or the Lane ever help or offer to help maintain my section of the Lane from Dettmer's house to our house..." (See Exhibit 4).
 - a. Mr. Good's efforts to maintain the Lane were universally acknowledged. (See Exhibit 5)
 - b. During an effort to deal with the dysfunctional storm drain running along the north side of the Lane designed to capture runoff during storm events from Coventry, SEMSWA, in their correspondence with Fox Hollow, stated, "If no such maintenance is called out, then the responsibility falls on the private landowner that maintains the private Lane adjacent to Fox Hollow HOA." SEMSWA believed our responsibility was to maintain the

storm drainage system and understood that we were maintaining the Lane. (See Exhibit 6).

Response 5, The Intended Objective of our Neighbors

1. Those opposing our community have had one objective since our initial meeting with The Fox Hollow HOA: to stop us from having access to the Lane. Their actions can't support any pretense that other issues like maintenance, safety, Lane design, and vegetation concern them. They have had decades to address these underlying issues, yet they haven't. Why? Because no one wanted to incur the cost of the improvement or assume the maintenance responsibility once it was corrected. For example, the long-standing drainage issue from the Coventry neighborhood onto the Lane is well-known and documented. (See Exhibit 6). In those documents, Fox Hollow is trying to get anyone to fix the problem but themselves. They reached out to SEMSWA, the County, Coventry, and the City of Littleton to see who would help them pay for the improvement and who then would maintain the improvement. They did not step up and take on that responsibility, and it remains "dysfunctional" today. In addition, SEMSWA pointed to us as having the responsibility for maintenance, stating that "if no such maintenance is called out, then the responsibility falls on the private landowner that maintains the private Lane adjacent to Fox Hollow HOA." In the same correspondence, the County opined that "It sounds like maintenance may be an issue. With the addition of the new home at the end of the Lane, it may be an opportunity for all users to pool funds and make some improvements," and to date that hasn't happened either.
 - a. Now we are building Arcadia Creek, and as part of our offsite improvements, we will be addressing all the issues identified by the County, one of which is the long-standing drainage problem on the Lane. We are paying the costs for these improvements and assuming the long-term maintenance cost for those improvements. With these improvements on neighbors' benefit, just like they will from all the other offsite improvements we will be making. Isn't it disingenuous then for those who benefit from our efforts and the improvements to the Lane to argue that somehow our efforts are a detriment to the Lane? Of course, it is, and that's the point.
 - b. The only issue the opposition has ever cared about is keeping us off the Lane. All the other issues, maintenance, safety, and Lane design have been used to distract to cover up this sole objective. Even now, after the courts reaffirmed our rights, they continue to demand that the County find some means to prevent our development. None of this is a supposition on our behalf. Since our first meeting in December 2016, our neighbors have made it clear that they would oppose any efforts on our behalf to access the Lane. Over the last six and a half years, through their actions, testimonies, and numerous correspondences, they have pursued a position that it is their right to determine how our property will be developed and what property rights we can use. It would be impossible to count the times we have been told that if we abandon our property rights to the Lane, our neighbors will support us or that if we build big homes on oversized lots, we might let you use the Lane. Thankfully, we don't have to rely on our memory, hearsay, or rumors to understand their actions and intent, for they have provided plenty of examples of exactly how they feel about this issue. (See Exhibit 2).

- c. Our journey to bring this community to reality has been long and arduous, but most endeavors that are worth anything in the long run usually are. The journey has not been without issues, so a few points need clarification to understand what has been required of us to ensure we will meet the high expectations we have set for our community, the improvements to the Lane, and the positive impact the new culvert will have on the current flood plain impacting our neighbors.
 - i. We began by meeting with our neighbors to create a shared vision for the community. We were told in no uncertain terms that they would oppose us at every opportunity.
 - ii. Our representatives and I have tried multiple times to communicate with our neighbors in hopes of reaching a settlement regarding the Lane. Each of our attempts has resulted in delays in communication and no desire on behalf of our neighbors to discuss any settlement.
 - iii. During our zoning process in Jefferson County, written correspondence was submitted on behalf of Fox Hollow to Arapahoe and Jefferson Counties, calling into question our right of access to the Lane. The information presented to the counties was inaccurate, as later determined by the District Court; however, this delayed our zoning and forced us into a new quiet title action.
 - iv. We were forced to have the District Court reaffirm our right of access to the Lane a second time because the other participants of the original settlement reneged on their agreement.
 - v. Not all owners along the Lane have been opposed to our development. Upon the execution of the quiet title action, Christensen Lane Estates and Arcadia Creek reached a settlement that defines mutual participation in shared expenses for the upkeep of the Lane. During this time, Fox Hollow and other owners on the Lane refused to work with us to reach a similar agreement.
 - vi. During our zoning process, Arapahoe County indicated that we needed to apply for a variance for the Lane and our private drive designs. We apply for and receive those variance approvals from Arapahoe County TRC.
 - vii. We were also required to apply for and receive approval from SMDFR on our roadway designs which we did.
 - viii. The culvert on our private drive washed out in June of 2021, and we were required to gain the approval of SEMSWA and MHFD on the design of the new culvert. This has been achieved, and the new culvert will substantially improve the floodplain through this corridor.
 - ix. Based on the new culvert, we were asked to redesign our private drive to provide safe zones meeting AASHTO standards. We achieved this and were approved for the variance again by the TRC.

- x. Our improvements will allow emergency services to reach our neighbor outside a flood plain, something that does not exist today.
- d. As a part of the 2020 Summary Judgement, the parties executed a Satisfaction of Judgement where "Christensen Lane Homeowners waived any and all rights to appeal any issues, rulings, or orders in the above-captioned action." In other words, they understood that the ruling by the Court was final and that their rights to appeal any issues, rulings, or orders had been foreclosed. Yet our neighbors are still asking the county to step in and overrule the Court.
- e. Any objective observer evaluating our community would see the improvements we will create as being positive for the community. Our design achieves safety, improves emergency access and drainage, expands trail connectivity, eliminates east/west traffic, limits new vehicle trips on the Lane to our community, enhances the flood plain, and establishes a long-term maintenance plan for the upkeep of the Lane. Good development brings value to the community. It has been evident since the beginning that some residents along the Lane have been more concerned about stopping us from having access to the Lane than having a shared vision for the Lane's improvements which is unfortunate. We anticipate that our neighbors will eventually accept that we are building a high-quality community that will ultimately result in an asset for the community. During this time will continue to work on being good neighbors.

Developer Response to Public Comments.

1. Paul Schaffnit, comments on behalf of Christensen Lane Estate.

- a. **Comment.** [Having the pedestrian walk on the south side of the road.](#)
 - i. **Response.** We agree with this concern and moved the pedestrian walk to the north side.
- b. **Comment.** [The walkway being fenced in.](#)
 - i. **Response.** We had eliminated the fence before our submittal, and we have proposed bollards to separate the shoulder of the drive lane from the walkway. We agree that the Lane will continue to be used as it is today, with pedestrians moving out of the way of any traffic. Bollards give pedestrians an added level of safety away from the drive lanes.

2. Ann Reuter, comments on behalf of Coventry HOA.

- a. **Comment.** [Traffic Study.](#)
 - i. **Response.** The applicant has provided a copy of the traffic study with their application, which is available to the public. The Arcadia Creek community is restricted to residents over 55, as defined in the HOPA Act, which HUD regulates. Our CCRs address the age restriction for the community and the enforceability of that restriction. Our restriction on age is like those found in

other 55+ communities in the Metro Area. Our traffic study calculates trip generation correctly for our community, and we will not provide a new one.

1. Trip generation is not based on supposition but on facts. Nationwide studies determine trip generation for Senior Adult Housing Single Family residence. These studies, after being compiled, are then published by the Institute of Transportation Engineers (ITE). The ITE trip rates are established using those nationwide studies of similar land uses. Our trip generation is based on the ITE Trip Generation, 11th Edition (most current edition) average rate equations for Senior Adult Housing – Single-Family (ITE Code 251).

b. **Comment.** [Over Head Utilities.](#)

- i. **Response.** The applicant has been in contact with all the utility providers, and our development nor the improvements to Christensen Lane will impact the existing above-ground utilities along the Lane.

c. **Comment.** [Drainage.](#)

- i. **Response.** Coventry has indicated that there is an easement agreement regarding the current drainage found in Christensen Lane. To date, no record of that easement has been found by us, the title company, the city of Littleton, SEMSWA, or the County. (See Exhibit 6) If an easement exists, please have the Coventry HOA provide this document.

1. The long-standing drainage issue from the Coventry neighborhood onto the Lane is well-known and documented. The applicant and their civil engineer have looked extensively at the drainage situation along the Lane. In connection with our improvements to the Lane, we will be improving the existing storm drain facility, which has been neglected for decades and described as “dysfunctional at best.” (See Exhibit 6). Our improvements will help minimize weather events' impact on the Lane in the future. Once completed, Arcadia Creek HOA will take over the maintenance of the storm drain system to ensure it continues to function as designed. Coventry nor any other association will have future obligations of care to the storm sewer improvements but will receive the benefit from the changes.

- a. During an effort to deal with the dysfunctional storm drain running along the north side of the Lane designed to capture runoff during storm events from Coventry, SEMSWA, in their correspondence with Fox Hollow, stated, “If no such maintenance is called out, then the responsibility falls on the private landowner that maintains the private Lane adjacent to Fox Hollow HOA.” SEMSWA believed our responsibility was to maintain the storm drainage system and understood that we were maintaining the Lane. (See Exhibit 6).

2. The outfall of this storm sewer is located on the applicant's property, so any easement for this storm sewer would have required our signature and participation.

3. John Dettmer

a. **Comment.** [Ownership. Use of the Lane](#)

- i. **Response.** The issue of ownership is an issue that is brought up multiple times in public comments. (See Response 1, Ownership).

1. The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

b. **Comment.** [Impact on his Property.](#)

- i. **Response.** Over the course of the last two and a half decades, our property has been the home to the owner, a commercial sprinkler company, tree farms, a tree scape company, an event center for weddings and charitable events, host to young life organizations for three area high schools, host to Wyldlife the middle school equivalent to Young Life, a church, home to various tenants, and seen cut-through traffic from Leawood. Many of these uses operated simultaneously, and much of the traffic from or to our property was from commercial trucks. This level of traffic didn't deter Mr. Dettmer from accessing his property or his garage, nor will the minimal trip generation from our community. Our improvements do not encroach onto his property, and the Lane grading is minimal.

c. **Comment.** [Use of the Lane, the right to request a variance.](#)

- i. **Response.** The issue of ownership is an issue that is brought up multiple times in public comments. (See Response 1, Ownership).

d. **Comment.** [Maintenance of the Lane.](#)

- i. **Response.** The issue of maintenance is an issue that has been brought up multiple times in public comments. (See Response 4, Maintenance of the Lane).

e. **Comment.** [Our community being gated, that it will remain gated in the future, and access by others not living in the community.](#)

- i. **Response.** The County can ensure that our community remains gated in the future by requiring that our gates remain in place as a part of our subdivision improvement agreement which we accept. The gates ensure that only residents, guests, and routine delivery services would use the Lane and no cut-through

traffic from Leawood occurs. In anticipation of this requirement, our community CCRs specifically address our entry gates' long-term care and maintenance.

1. Advanced technology allows us to control access through our gates by providing single-use codes, in-house smart panels, and smartphones while providing universal access to emergency services.

f. **Comment.** [Safety on the Lane.](#)

- i. **Response.** The issue of safety and traffic is an issue that is brought up multiple times in public comments. Our response can be found in Key Point 3 of this document.

1. His comment about safety is somewhat hypocritical, considering that he operated his auto-mechanic business from his garage, on the Lane, during the '90s.

g. **Comment.** [Deny use of the Lane by homes in our community that are in Jefferson County.](#)

- i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

4. **Mike Dover.**

a. **Comment.** [Site Distance Triangle.](#)

- i. **Response.** Our private drive is a right out, left in traffic movement with no thru traffic coming from the Drivers left. The site distance standard is defined in Case B-2 for a right turn from a minor road, found in Chapter 9 of AASHTO (American Association of State Highway and Transportation Officials manual), which we comply with.

b. **Comment.** [Long-term maintenance of the Lane will fall to others.](#)

- i. **Response.** The comment that the future maintenance of the section of the Lane that we will be improving will fall to others is not true. We have always stipulated and never asked, nor do we expect any other property owner to share in the cost of the improvements or future maintenance of this portion of the Lane from Leawood Drive to the entrance of the Fox Hollow Community. We anticipate the county will make long-term maintenance of this section of the Lane a requirement in our subdivision improvement agreement.

c. **Comment.** [Existing width of the Lane doesn't meet standards and safety.](#)

- i. **Response.** The Court defined the term "unrestricted as "not having limits." To argue that somehow, we have limits to our access conflicts with the Court. The

County has a process to deal with situations that may not meet specific standards called a variance. In their referral comments to Jefferson County, Arapahoe County indicated that we would need to apply for a variance for the design of Christensen Lane. We applied for and received that variance in March 2020 from the Arapahoe County Technical Review Committee. In addition, that approval required us to seek consent for the design from SMDFR, which was submitted and approved also.

1. The issue of safety and traffic is an issue that is brought up multiple times in public comments. (See Response 3, Safety and Traffic on the Lane).

5. **Wilson Wheeler, Mike Dover, Tracy Murphy for Fox Hollow HOA.**

a. **Comment.** [Regarding Safety.](#)

- i. **Response.** The issue of safety and traffic is an issue that is brought up multiple times in public comments. (See Response 3, Safety and Traffic on the Lane).

b. **Comment.** [We don't meet the county standards for Roadway Design.](#)

- i. **Response.** The Court defined the term "unrestricted as "not having limits." To argue that somehow, we have limits to our access conflicts with the Court. The County has a process to deal with situations that may not meet specific standards called a variance. In their referral comments to Jefferson County, Arapahoe County indicated that we would need to apply for a variance for the design of Christensen Lane. We applied for and received that variance in March 2020 from the Arapahoe County Technical Review Committee. In addition, that approval required us to seek consent for the design from SMDFR, which was submitted and approved also.

1. The Lane is located between the property lines on the north and the property lines on the south, verified by the property pins' location and our survey.

c. **Comment.** [Dust, noise, and vehicle exhaust along the Lane.](#)

- i. **Response.** This comment is disingenuous and doesn't reflect the facts. The condition of the Lane before 2000 was a "real old-time dirt road," and the amount of traffic from, or going to, our property was significant. The previous owner of our property reminds us that "When I acquired the property, the Lane was a real old-school dirt road. Where the big trees were, there was always a big lake whenever there was a rainstorm. I brought nearly 200 truckloads of recycled asphalt from a redo-up on Wadsworth. I borrowed a bulldozer from a friend and graded the Lane up to the Fox Hollow entrance. In 2003 I cut the weeds down along the Lane and put rubber roof material down as a weed barrier. I mulched the whole Lane from Dettmer's house to the farmhouse. Each year I would re-mulch and fill any potholes, and one year I used a truck-

mounted power washer and washed the Lane. I made the Lane look GREAT from 2000 to 2016. Never did anyone from Fox Hollow or the Lane ever help or offer to help maintain my section of the Lane from Dettmer's house to our house..." (See Exhibit 4). Mr. Good's efforts to maintain the Lane were universally acknowledged. (See Exhibit 5).

1. The Lane from 2003 on has been repurposed with asphalt, and once the improvements to the Lane have been completed, this portion of the Lane will be asphalted entirely and like the front two-thirds of the Lane. Future traffic from our community will be limited to only residents, guests, and routine delivery services. Our traffic study indicates that approximately 76 vehicle trips will be generated on the Lane daily to or from our property. To imply that the amount of dust, noise, and vehicle exhaust our community will now produce is more significant than what was created by the extensive use of the Lane by commercial vehicles traveling to or from our property over the last two decades is preposterous.
2. In our recorded settlement agreement with Christensen Lane Estates, we agreed that construction traffic would use our western entrance in Jefferson County and not the Lane to access our project.
3. Unlike all the other homes along the Lane, our neighborhood is the only one providing two delivery service entries. It is not a given that UPS, Fedex, Prime, or any other service provider will use the Lane to access our neighborhood.
 - a. Today, the United States Post Office, UPS, Fedex, Prime, Landscape Maintenance Company, Dry Cleaning, and Trash Collection all service our property or neighbors using the Lane as access.

d. **Comment.** [Our design will encourage speeding.](#)

- i. **Response.** Our final Lane design incorporates speed bumps like those found in other locations along the Lane. In addition to speed bumps, we will have defined 8-foot drive lanes, posted speed limit signs, and bollards that provide a visual and physical barrier to deter speeding.
 1. According to the National Highway Traffic Safety Association, Drivers over the age of 64 are the safest drivers because they drive fewer miles, avoid night driving, take fewer risks, and are more apt to wear seat belts.
 - a. Older adults don't get enough credit for their safe driving habits, says Emmy Betz, M.D., M.P.H., an emergency room physician and associate professor at the University of Colorado School of Medicine who researches senior-driving safety. "Older

drivers are more likely to use seat belts and follow speed limits," Betz says. "They are less likely to drive at night or while intoxicated, or to text while they drive." Many seniors also regulate their driving behavior, limiting their trips at night, on highways, or during rush hour. Public suspicion of older drivers isn't based on facts or research but on a nonclinical factor: ageism. That's the assertion—and that's the word—put forward in a 300-page evidence-based handbook, "The Clinician's Guide to Assessing and Counseling Older Drivers," revised last year by the American Geriatrics Society and published by the National Highway Traffic Safety Administration.

e. **Comment.** No consideration for pedestrian safety in Winter months.

i. We have moved the pedestrian walk back to the north side of the Lane, just like all other sections of the Lane. Snow removal from this section of the Lane will become our responsibility under the maintenance requirements of our subdivision improvement agreement with the County. Currently, snow removal is piled up against the emergency gate at Leawood Dr. and Christensen Lane, making that access point unusable for its designed purpose of emergency access. (See Exhibit 3)

f. **Comment.** As the developer has stated many times, Arcadia Creek has legal (albeit circuitous) access to its 23 proposed lots in Jeffco via Christensen Lane but doesn't own the lane.

i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

1. The issue of ownership is an issue that is brought up multiple times in public comments. (See Response 1, Ownership).

6. **Ann Koets.**

a. **Comment.** Other than an approximate two-acre piece of land in Arapahoe County, the substantial bulk of the development (currently propose to be 23 single family detached home units) will be contained within approximately 7.5 acres in Jefferson County.

i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

b. **Comment.** We understand that it is the goal of Arcadia Creek to direct much of the traffic from the proposed development onto West Christensen Lane.

i. **Response.** Incorrect; we have no goal to direct traffic down Christensen Lane. If that were the case, we would close access to our property from Leawood Drive.

1. Unlike all the other homes situated along the Lane, our neighborhood is the only one that provides two entries, allowing residents an option on how they leave the community and is optimal for emergency services.
- c. **Comment.** Presently, the Lane is only accessible from Arapahoe County.
- i. **Response.** Not currently, daily people cut through our property from both directions. Our community eliminates this practice by placing gates at both entrances. In the future, only residents, guests, and routine delivery services will have access to the east entrance of our community in Arapahoe County.
- d. **Comment.** The ability of these recreational users to safely utilize the lane will be severely hindered should Arcadia Creek's proposed changes to the Lane be approved and if all traffic from the proposed development is allowed to funnel through Christensen Lane.
- i. **Response.** The issue of safety and traffic is an issue that is brought up multiple times in public comments. (See Response 3, Safety and Traffic on the Lane).
- e. **Comment.** In addition to the aforementioned recreational use of the Lane, it is also a significant passage for school children. Wilder Elementary School (Wilder) is located just north of the Lane at Platte Canyon Road. Numerous children walk or ride their bikes on the Lane coming from and going to Wilder. Additionally, school children from the Christensen Lane neighborhood, as well as surrounding neighborhoods, access their school buses on the Lane for transport to other surrounding Littleton schools.
- i. **Response.** We agree that children use the Lane, so unlike any other portion of the Lane, we are providing a safe zone separated from drive lanes by bollards. Regarding school bus access, the bus stop is not on the Lane but in Christensen Lane Estates, according to Littleton Public Schools. (See Exhibit 9).
- f. **Comment.** First, the vast majority of homes to be built by Arcadia Creek will be built in Jefferson County and have direct access to Leawood Drive in Jefferson County. The developer, who is essentially building a development in Jefferson County, is proposing changes to a private lane in Arapahoe County to which he has no ownership. This, on the very surface, defies logic.
- i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
 1. The issue of ownership is an issue that is brought up multiple times in public comments. (See Response 1, Ownership)
- g. **Comment.** Second, the proposed changes to the road, which are the subject of the variance request, have not been vetted or agreed upon by the current homeowners

who access the Lane. There has been no attempt on the part of the developer to create a common vision on joint usage of the Lane.

- i. **Response.** The issue of ownership is an issue that is brought up multiple times in public comments. (See Response 1, Ownership).
 - 1. To state that we have not attempted "to create a common vision on joint usage of the Lane" is invalid. When we were forced to initiate the quiet title action, we were contacted by Christensen Lane Homeowner Association to see if we could reach a settlement and remove them from the litigation. In one meeting, we reached a settlement that included paying our pro-rata share of maintenance for the front third of the Lane. In addition, we agreed to direct construction traffic to use the Leawood entrance to our property instead of the Lane. With that settlement agreement in place, we will be paying our pro-rata share of maintenance for the front third of the Lane and 100% of the maintenance costs for the western third of the Lane. (Of public record).
 - 2. So, what's missing is any maintenance agreement to maintain the middle section of the Lane, which is the responsibility of Fox Hollow. My first meeting for this project was with the Fox Hollow H.O.A. in December 2016. The purpose of that meeting was to find common ground for the Lane. Since that meeting, our attorneys and I have reached out to those owners that continued with the litigation to reach a similar settlement to the one we executed with Christensen Lane Estates. Each time we were told that they were uninterested in a settlement because those continuing to fight us in litigation believed they would prevail in Court. We continue to be open to reaching a similar agreement to one recorded with Christensen Lane Estates and to bring unity to the Lane and its long-term viability. (See exhibit 2).
- h. **Comment.** Third, the Settlement Agreement entered in 1993 provides that any improvements, including without limitation vegetation, located on Christensen Lane outside of the paved portion shall be permitted to remain in their present location. There are trees and bushes along the Lane that would have to be removed to enable Arcadia Creek to comply with the variance. This is absolutely precluded under the aforementioned agreement.
 - i. **Response.** If this policy were absolute, then we would assume that it should have applied to Fox Hollow, which in 2016 removed several old-growth Cottonwoods and other trees from the western portion of the Lane. Another old-growth tree was removed in March 2023. (See Exhibit 10). This argument can best be described as "do as I say, not as I do."
- i. **Comment.** Fourth, the south side of Christensen Lane is often icy during the winter months. As such, this inevitably forces all traffic (be it vehicular or pedestrian) toward the north side of the narrow lane. Consequently, any proposal for walkways on the south side of the lane will be inherent dangerous and will, almost certainly, go unused.

Response. We have moved the pedestrian walk back to the north side of the Lane, just like all other sections of the Lane. Snow removal from this section of the Lane will become our responsibility under the maintenance requirements of our subdivision improvement agreement with the County. Currently, snow removal is piled up against the emergency gate at Leawood Dr. and Christensen Lane, making that access point unusable for its designed purpose of emergency access. (See Exhibit 3).

j. **Comment.** Fifth, several homes along Christensen Lane have acreage on the south side of their properties which require irrigation. They utilize an irrigation ditch which runs under the Lane. These irrigation ditches could be adversely impacted by the proposed changes reflected in the variance request.

i. **Response.** We are unaware of any irrigation pipe under the Lane, nor has the title company found any recorded easement. However, like any other utility on the road, it would be identified and handled accordingly during construction.

k. **Comments.** The remaining portion of Mrs. Koets letter deals with the continued request to prevent access from our property to the Lane.

i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

7. Steve Koets.

a. **Comment.** This process also resulted in a Settlement Agreement (Book 7428 page 631) being entered into by the developer and residents of five of the properties along the lane. The Arcadia Creek property was owned at the time by one of the parties to the Settlement Agreement and, being a successor to the owner of the property, the applicant is also bound by this Settlement Agreement. Among other things, this agreement required:

i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

b. **Comment.** The Fox Hollow homeowner's association is responsible for the maintenance of Christensen Lane all the way to and including the emergency access gate at the west end.

i. **Response.** The issue of maintenance is an issue that has been brought up multiple times in public comments. (See Response 4, Maintenance of the Lane).

- c. **Comment.** That any access from West Leawood Drive to Christensen Lane be limited to emergency vehicles only.
 - i. **Response.** There will be no access between Christensen Lane and Leawood Drive, with that point remaining gated with only emergency service having access. All trips generated from our community will be either residents, guests, or routine delivery services. Both our entrances are gated, which will eliminate cut-through traffic, which is not the case currently.
- d. **Comment.** Those existing improvements, including vegetation along the sides of the Lane, were to remain.
 - i. **Response.** If this policy were absolute, then we would assume that it should have applied to Fox Hollow, which in 2016 removed several old-growth Cottonwoods and other trees from the western portion of the Lane. Another old-growth tree was removed in March 2023. (See Exhibit 10). This argument can best be described as "do as I say, not as I do."
- e. **Comment.** The agreement shall not be changed, altered, amended, or modified except in writing by all parties to the agreement.
 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
- f. **Comment.** We are a party to this agreement, and we believe that the Plan and the changes it proposes violate the requirements of the Settlement Agreement, which the applicant is also a party to as a successor in ownership.
 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
- g. **Comment.** There are various properties in the area, including our own that own water rights utilized for irrigation purposes and our water is delivered through a pipe that runs under Christensen Lane from the west end of the Lane eastward to the Fox Hollow entrance. Any potential changes or construction on this portion of the lane could adversely affect our ability to deliver our water.
 - i. **Response.** We are unaware of any irrigation pipe under the Lane, nor has the title company found any recorded easement. However, like any other utility on the road, it would be identified and handled accordingly during construction.
- h. **Comment.** I do not believe that the applicant can file for a variance for property that they do not own or have the responsibility to maintain.
 - i. **Response.** The issue of ownership is an issue that is brought up multiple times in public comments. (See Response 1, Ownership).

i. **Comment.** The applicant is proposing gates at both access points of this development. There is no assurance that these gates will remain in place after the developer has moved on. Any codes to these gates will become well known by non-residents as well as numerous commercial vehicles such as Amazon, Fed Ex, UPS, and others.

i. **Response.** The County can ensure that our community remains gated in the future by requiring that our gates remain in place as a part of our subdivision improvement agreement which we accept. The gates ensure that only residents, guests, and routine delivery services would use the Lane and no cut-through traffic from Leawood occurs. In anticipation of this requirement, our community CCRs specifically address our entry gates' long-term care and maintenance.

1. Advanced technology allows us to control access through our gates by providing single-use codes, in-house smart panels, and smartphones while providing universal access to emergency services.

2. Unlike all the other homes along the Lane, our neighborhood is the only one providing two delivery service entries. It is not a given that UPS, Fedex, Prime, or any other service provider will use the Lane to access our neighborhood.

a. Today, the United States Post Office, UPS, Fedex, Prime, Landscape Maintenance Company, Dry Cleaning, and Trash Collection all service our property or neighbors using the Lane as access.

j. **Comment.** The remaining portion of Mr. Koets letter deals with the continued request to prevent access from our property to the Lane.

i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

8. Nathan and Carissa Koran.

a. **Comment.** We have two children who walk and bike to school on Christensen Lane, and the increase in traffic due to the homeowners, caregivers, and delivery drivers is very concerning to us. This development is of great concern to our neighborhood and specifically to the safety of all of the kids who walk, bike, and scooter to school along Christensen Lane. The additional traffic from a potential 25 homes would create an unsafe route for our families to travel to and from school along Christensen Lane.

i. **Response.** The issue of safety and traffic is an issue that is brought up multiple times in public comments. (See Response 3, Safety and Traffic on the Lane).

b. **Comment.** Our understanding is that 23 of the homes in the proposed development are in Jefferson County, while only two are in Arapahoe County. If all homes in the

development, or no homes in the development, must have access to private Christensen Lane, the entire development should be required to use the preexisting and suitable public roadways of West Leawood Drive and South Sheridan Boulevard.

- i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
- c. **Comment.** It is our belief that the developer only wants access to this road to market access to Columbine Country Club. If the residents of the development were allowed golf cart access only to Christensen Lane, there would not be any of the previously stated traffic concerns.
 - i. **Response.** We have done no marketing of the community to date, but had we done any marketing our target demographic would be people over the age of 55, not golfers.
 - 1. “If the residents of the development were allowed golf cart access only to Christensen Lane” is another example of how the opponents of our community would like to restrict our access to the Lane. Over the last six and a half years, through their actions, testimonies, and numerous correspondences, they have pursued a position that it is their right to determine how our property will be developed and what property rights we can use. It would be impossible to count the times we have been told that if we abandon our property rights to the Lane, our neighbors will support us or that if we build big homes on oversized lots, we might let you use the Lane. The court defined the word, unrestricted to mean “not having limits” which is how we intend to use it. (See Exhibit 2).
 - 2. We should not casually disregard that the Lane was named Christensen Lane for a reason. Joseph Bowles created the Lane before Charles Bowles transferred our property to Victor Christensen in 1912, the Lane was created for one reason: to provide access from our property to and from Platte Canyon. The deed associated with transferring our property in 1912 from Charles Bowles to Victor Christensen provides "right of way" from our property along a "private road running east," the Lane, to the public highway known as Platte Canyon. Then in 1932 is reaffirmed in a deed from Victor Christensen to his wife Amelie. For decades before any other property owner or subdivision who now enjoys access to the Lane existed, the Lane served our property as its point of access. Over time other homes and subdivisions were built that gained access to the Lane, but through all these changes, one thing remains true, the Lane was created to provide access from our property to Platte Canyon; it wasn't designed to provide access to those who now share that right with us. (See Exhibit 1).
- d. **Comment.** While the developer has stated that this will be a 55+ community with reduced traffic, our own family would qualify for this development in ten years and have

four drivers living in the home. The developer has also proposed widening Christensen Lane, which would only invite more traffic and infringe on existing homeowners' fences and property lines. Christensen Lane is a lovely, quiet lane and the reason many of us moved here. We appreciate the trees lining the roadway, the freedom of our children to walk safely, and the limited traffic due to the nature of the private drive. To allow a new development to bridge two counties, opening Christensen Lane as a throughway between Leawood Drive traffic and South Platte Canyon traffic would be a detriment to Arapahoe County.

- i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
 - 1. The issue of safety and traffic is an issue that is brought up multiple times in public comments. (See Response 3, Safety and Traffic on the Lane).
 - 2. There will be no access between Christensen Lane and Leawood Drive, with that point remaining gated with only emergency service having access. All trips generated from our community will be either residents, guests, or routine delivery services. Both our entrances are gated, which will eliminate cut-through traffic, which is not the case currently.

9. **Anne and Andy Larsen.**

- a. **Comment.** We are opposed to the Jefferson County development using Christensen Lane as their means of access. As the Fox Hollow Development was negotiated an agreement was made that a yellow fire/crash gate would be installed on the west end of Christensen Lane to prevent Arapahoe County traffic from access to Leawood and preventing Jefferson Co traffic from accessing Christensen Lane. This development is simply a way to circumvent that agreement between the two counties.
 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

The following comments from the Larsens are about our construction plans, and our engineers have addressed the County's comments regarding our construction plans. Those revisions can be found in our second submittal of our application. If we can answer general remarks from the Larsens, we will.

- b. **Comment.** Stormwater Utility Contacts shows as Jeffco Planning and Zoning.
 - i. **Response.** The stormwater and drainage plan for the community is designed to operate as one community, and stormwater detention for the community is in Jefferson County. The drainage plan for the community includes input from both counties.

- c. **Comment.** Landscape maintenance. "The adjacent property owner's...is responsible for maintenance and upkeep". As the adjacent property owners, we do not agree to this.
 - i. **Response.** The comment refers to the following Landscape note on page 2 of the construction plans. "The owners of this plan or plat, their successors and/or assigns in interest, the adjacent property owner(s), Homeowner's Association, or other entity other than Arapahoe County is responsible for the maintenance and upkeep of perimeter fencing, landscaped areas, and sidewalks between the fence line/property line and any paved roadways. The owner of the subdivision, their successors and/or assigns in interest, or some other entity other than Arapahoe County, agree to the responsibility of maintaining all other open space areas associated with this development." To clarify, there are two plats, one in Jefferson County, one in Arapahoe County, when combined represent the entire Arcadia Creek community. The term "adjacent property owner(s)," is a reference to the portion of the community in Jefferson County. Our neighbors are not part of either plat, and the referenced construction notes do not apply to them.

- d. **Comment.** Shows two 10' lanes with 2'8" mountable curb on each side and a 5' walk on one side. The next section shows two 10' lanes and no mountable curbs. These two conditions meet just south of the new culvert. What does the transition look like when a 25' road meets a 20' road? Water will be flowing north along. The mountable curb and then "free flow" onto unimproved ground. This water will flow onto my property and toward the creek causing erosion and silt entering the creek.
 - i. **Response.** These revisions have been made in accordance with the County's comments.

- e. **Comment.** Site distance triangles are shown on the drawings. The eastern site triangle as shown cuts through two existing fences that are currently on a different landowner's property. Has this landowner approved this?
 - i. **Response.** Our private drive is a right out, left in traffic movement with no thru traffic coming from the Drivers left. The site distance standard is defined in Case B-2 for a right turn from a minor road, found in Chapter 9 of AASHTO (American Association of State Highway and Transportation Officials manual), which we comply with.

- f. **Comment.** What stops access around the gate?
 - i. **Response.** The existing trees and our final landscape plan

- g. **Comment.** C2.1-C2.6.
 - i. **Response.** Addressed in our construction plans.

- h. **Comment.** The culvert as it is shown is 64' long and 21' wide. It serves a 20' wide road. Increasing the width of the culvert does nothing to protect walkers, bikers, or children

from standing on the edge and falling off. The east end of the culvert extends past the Owner's property line. No one has approached me as to an easement to allow both construction and a permanent structure to be placed on my property. I do not feel compelled to grant an easement for several reasons. Although the private drive is gated, there is no fence to prevent pedestrians, children, or bikers from going around the gate.

- i. **Response.** The private drive is gated and for vehicle traffic only. From day one, we have insisted that our property be open to the public to provide a safe link between Christensen Lane and the Dutch Creek Regional Trail system. Regardless of the direction of travel, pedestrians are guided through our neighborhood to reach either the Dutch Creek Regional Trail Head or Christensen Lane, which will lead to the Platte Canyon Trail System. By providing pedestrians with a defined route through our neighborhood, pedestrians do not need to access our private drive. Having no pedestrian access to our private drive was supported and approved by the TRC in October of 2022. (Of public record).
 1. Nothing prevents walkers, bikers, or children from standing on the edge and falling off the culvert today. However, with our improvements, the addition of a gated entrance and the directed effort to move people through the community to the trail system instead of using our private drive produces a safer situation than what exists today. Because the culvert is situated on both properties, we both benefit from this directed effort to eliminate future pedestrian traffic down the drive.
- ii. **Response.** We are glad our neighbors acknowledge that the culvert is on both properties.
 1. We will meet with our neighbors to discuss the culvert and the replacement of the temporary culvert structure. We needed a final design acceptable to SEMSWA, MHFD, and the County to know the extent of the construction that would be needed before that meeting.
 2. Our private Driveway is a driveway with a culvert, not a driveway and a culvert. One cannot exist without the other, and any culvert repair or replacement will require work on both properties.
- iii. **Response.** Our neighbors have only an ingress and egress easement to use our private Driveway to reach Christensen Lane from their property. Our Driveway is their only point of access to their property. The terms of their use are defined in the settlement agreement recorded on April 6, 1995. (Of public record).
 1. In June 2021, during a storm event, the culvert washed out, and because of that event, it eliminated any access from Christensen Lane to our neighbor's home. We notified SEMSWA, who then met us with our engineers on-site to investigate the situation. SEMSWA told us that the culvert would need to be replaced. Jeff Good notified Mr. Larsen of the status and that this would not be a quick fix, and we agreed to allow our

neighbor unlimited access to their home through our property to Leawood Dr. until the culvert replacement could occur. (See Exhibit 9).

2. Mr. Larsen was told that we would not agree to any temporary fix to the culvert and that the replacement of the culvert would need to be engineered, approved, and permitted. Without permission or authorization, Mr. Larsen entered our property and had a contractor, with no permit or engineering, fill in the culvert with concrete.
3. Upon learning that Mr. Larsen had filled in the culvert with concrete, we notified SEMSWA, who met us again on-site and then informed us in writing that "the concrete that was placed can only be temporary. Additionally, the concrete was not engineered and could potentially cause other short/long term issues," and, after a closer inspection of the culvert they determined that "the culvert is in disrepair." SEMSWA indicated they would remove debris from the channel and were "going to shotcrete the inside of the culvert as a significant area of the culvert is no longer there and is just bare ground." (See Exhibit 10).
4. To date, there has not been a need to pursue any action regarding Mr. Larsen's blatant disregard for our instructions regarding the culvert. His actions remain a trespass on our property; he continues to be in violation of our easement agreement and is in conflict with his agreement with the County. We knew that the design and approval for the new culvert would take time and that, in the short run, it was in our neighbor's best interest to allow the temporary structure to remain in place, provided SEMSWA agreed. We have achieved a design to replace the culvert acceptable to MHFD and SEMSWA, completed the No-Rise Hydraulic Modeling related to the culvert design, and obtained emergency service approval for the culvert. We submitted a revised variance request to TRC regarding the private drive, which has been approved.
5. Maintenance of the private Driveway is defined in the settlement agreement as follows, "Wieders shall have the right, but not the duty (except where necessary to permit ingress and egress), to perform any and all maintenance of the Driveway and repairs thereto. The Wieders retain the right to make any changes to the Driveway which do not unreasonably interfere with the ingress and egress easement. The parties agree to share equally all reasonable and necessary expenses incurred in maintaining or repairing the Driveway, including but not limited to costs associated with snow removal, costs resulting from regrading of the Driveway, including costs incurred in repairing damage to the Driveway caused by either an act of God or by Some person or entity not a party to this Agreement, not a successor to a party to this Agreement, or not an agent, invite, employee, family member or guest to the parties to this agreement." (Of public record).

6. It would be impossible for anyone to look at the washed-out culvert and not acknowledge that Larsen's access to their property from Christensen Lane down the private drive was no longer viable. Under the terms of the private driveway settlement, agree, "Wieders shall have the right, but not the duty (except where necessary to permit ingress and egress), to perform any and all maintenance of the Driveway and repairs thereto." SEMSWA has stated that "the concrete" placed by Larsen can only be temporary. Additionally, "the concrete was not engineered and could potentially cause other short/long term issues." After a closer inspection of the culvert, they determined that "the culvert is in disrepair." (See Exhibit 10). The Culvert must be replaced and approved and permitted by the proper authorities. Larsen's will not have access from their property across the private Driveway to Christensen Lane without the replacement. Meeting our obligation requires working on both properties to construct the culvert design that MHFD, SEMSWA, and SMDFR have approved. The language of the settlement agreement is clear and not ambiguous, "Wieders shall have the right, but not the duty (except where necessary to permit ingress and egress), to perform any and all maintenance of the Driveway and repairs thereto," and the right to "make changes." Larsen's access was eliminated when the culvert washed out due to an "Act of God," and we have a "duty" to restore access for the Larsens; the culvert resides on both properties; therefore, we have an implied easement to enter Larsen's property to achieve the restoration of their access.

i. **Comment.** Has the developer provided evidence that the concrete box culverts will support the 80,000 loads that the Fire Department is requiring?

i. **Response.** Yes.

j. **Comment.** It appears the private drive lane to Christensen has moved about 5' to the west which is a negative impact to the flood plain. MHFD and SEMSWA had previously committed that they would not allow any more of an impact to the flood plain that is existing.

i. **Response.** We provided a No-Rise Hydraulic Modeling report with our submission that concluded, "No rise occurs due to the placement of the proposed culvert; the slight drop in both natural run and floodway run occurs due to the proposed improvement of flow conditions and conveyance with the enlarged box culvert crossing."

k. **Comment.** Although the section cuts across Christensen Lane show varying widths the stop just west of the Fox Hollow entrance. During the approval of the Fox Hollow development, it became apparent that Christensen Lane was less than 20' wide just west of the Christensen Lane Estates entrance. The Fox Hollow developer was forced to purchase easements from the first 5 Christensen Lane lot owners to add 10 feet in width to Christensen Lane in order to meet County requirements. Access to these easements has not been granted to the Arcadia Creek developers. Therefore, Christensen Lane

does not meet any of the widths required by Arapahoe County in terms of the Arcadia Creek development.

- i. **Response.** The issue of Access to the Lane from our property is an issue that has been brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
 - 1. We should not casually disregard that the Lane was named Christensen Lane for a reason. Joseph Bowles created the Lane before Charles Bowles transferred our property to Victor Christensen in 1912, the Lane was created for one reason: to provide access from our property to and from Platte Canyon. The deed associated with transferring our property in 1912 from Charles Bowles to Victor Christensen provides "right of way" from our property along a "private road running east," the Lane, to the public highway known as Platte Canyon. Then in 1932 is reaffirmed in a deed from Victor Christensen to his wife Amelie. For decades before any other property owner or subdivision who now enjoys access to the Lane existed, the Lane served our property as its point of access. Over time other homes and subdivisions were built that gained access to the Lane, but through all these changes, one thing remains true, the Lane was created to provide access from our property to Platte Canyon; it wasn't designed to provide access to those who now share that right with us. (See **Exhibit 1**).

- l. **Comment.** The third line of the Easement chart shows an Access Easement granted to Larsen Property with surface/improvement maintenance by Property Owner. Can we ensure that this is the responsibility of the Arcadia HOA and not the Larsen's?
 - i. **Response.** Your responsibilities are limited to the settlement agreement.

- m. **Comment.** DRIVES, PARKING AREAS, AND UTILITY EASEMENT MAINTENANCE AND LANDSCAPE MAINTENANCE both make "the adjacent property owners" responsible for maintenance and upkeep. How can the developer commit us "the adjacent property owners" to this expense?
 - i. **Response.** There are two plats, one in Jefferson County and one in Arapahoe County, representing the entire Arcadia Creek community. The term "adjacent property owner(s)" refers to the portion of the community in Jefferson County. Our neighbors are not part of either plat, and the referenced construction notes do not apply to them.

- n. **Comment.** We need further explanation how the pavement on Tract H matches up with the pavement on Tract G and where the water that flows from the curb and gutter on Tract G goes when it is discharged.
 - i. **Response.** These revisions have been made in accordance with the County's comments.

- o. **Comment.** C5.0 The southeast corner of the existing drainage map shows this corner to be relatively flat. C2.1 indicates the site has been raised by at least 2' and shows water draining to the south. This water is going to drain onto my property before it reaches the Dutch Creek flood plain. This is an increase to the existing flows.

 - i. **Response.** Our drainage creates no adverse condition in this location.

- p. **Comment.** Page 5 Drainage Basins and Sub Basins descriptions and calculations are discussed individually. Subbasin CC-2 is not identified. The Arcadia Creek Basin Summary Table (Proposed) (page 8) identifies it as "off-site". That works for a drainage report in favor of Jeffco but for an application in Arapahoe County, this sub-basin is being modified and should be represented in the study. This basin is shown to be .57 acres (24,829 SF) and 2% imperviousness. However, this basin will now include a paved drive that is approx. 10,592 SF of impervious surface which is 42% and not the indicated 2%.

 - i. **Response.** The proposed drainage map has been revised per county comments.

- q. **Comment.** ECO.I Shows utility contact to be Jeffco Planning and Zoning. I believe that SEMSWA should be the reviewing agency for Arapahoe County.

 - i. **Response.** Stormwater management for the entire site is being directed through Jefferson County with SEMSWA acknowledgment and agreement. SEMSWA is reviewing, but the contact remains Jefferson County, for they will be the ones with oversight after construction.

- r. **Comment.** EC02 The private drive clearly shows that the west side of this drive is 24' west of the east property line. This conflicts with the construction drawings, page C1.0 that shows the west side of the private lane to be 28' west of the east property line. Once again, this private drive is moving further into the floodplain. Has Arapahoe County, SEMSWA, and Mile High Flood District been made aware of this encroachment? As shown, the existing culvert does not encroach onto my property. EC03 clearly shows the new culvert encroaching onto our property. Who approved this?

 - i. **Response.** The design of our private drive and culvert, which we have the right to change, has been reviewed by Arapahoe County, SEMSWA, MHFD, and SMDFR.

 - 1. **Response.** You have acknowledged that the current culvert is located on both properties. The new culvert will also be located on both properties.

- s. **Comment.** What we are opposed to is this Jefferson County development is planning on accessing through Arapahoe County.

 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

- t. **Comment.** There have never been more than four residences that have access to the Lane since the Lane was developed.
- i. **Response.** We should not casually disregard that the Lane was named Christensen Lane for a reason. Joseph Bowles created the Lane before Charles Bowles transferred our property to Victor Christensen in 1912, the Lane was created for one reason: to provide access from our property to and from Platte Canyon. The deed associated with transferring our property in 1912 from Charles Bowles to Victor Christensen provides "right of way" from our property along a "private road running east," the Lane, to the public highway known as Platte Canyon. Then in 1932 is reaffirmed in a deed from Victor Christensen to his wife Amelie. For decades before any other property owner or subdivision who now enjoys access to the Lane existed, the Lane served our property as its point of access. Over time other homes and subdivisions were built that gained access to the Lane, but through all these changes, one thing remains true, the Lane was created to provide access from our property to Platte Canyon; it wasn't designed to provide access to those who now share that right with us. (See Exhibit 1).
1. The fact is that there have been three properties that utilize this section of the Lane to access their properties, the most recent being your property constructed in 2016-2017, over a century after the Lane was established for our use. We use the word properties instead of residences because of how the properties have been used. The term residence would imply that the only traffic on the Lane was generated by those residents who own homes on the Lane which is not the case.
 2. Our property has not lived in a vacuum, nor has the traffic from our property been isolated to the resident living on our property. Significant commercial and general vehicle trip generation has been associated with our property for decades. The type of traffic generated from our property is defined in Key Point 3 of this document.
 3. We agree that the ambiance will change. Instead of a mix of commercial and residential traffic from our property, it will be limited to residents, guests, and ancillary vehicles of the community.
- u. **Comment.** The developer will state that residents of this community will be age restricted meaning that there will be less traffic. We talked previously about how narrow the Lane will be with two 10' lanes. This will only be more challenging when most of the traffic is controlled by senior drivers.
- i. **Response.** According to the National Highway Traffic Safety Association, Drivers over the age of 64 are the safest drivers because they drive fewer miles, avoid night driving, take fewer risks, and are more apt to wear seat belts.
1. Older adults don't get enough credit for their safe driving habits, says Emmy Betz, MD, MPH, an emergency room physician and associate

professor at the University of Colorado School of Medicine who researches senior-driving safety. "Older drivers are more likely to use seat belts and follow speed limits," Betz says. "They are less likely to drive at night or while intoxicated, or to text while they drive." Many seniors also regulate their driving behavior, limiting their trips at night, on highways, or during rush hour. Public suspicion of older drivers isn't based on facts or research but on a nonclinical factor: ageism. That's the assertion—and that's the word—put forward in a 300-page evidence-based handbook, "The Clinician's Guide to Assessing and Counseling Older Drivers," revised last year by the American Geriatrics Society and published by the National Highway Traffic Safety Administration. (See Exhibit 8).

- v. **Comment.** We have managed and maintained Christensen Lane since the Fox Hollow development and have asked for little or no help from Arapahoe County services.
 - i. **Response.** We have a different perspective on how this section of the Lane has been maintained for the last 23 years. Your efforts to maintain the Lane began during the construction of your home in 2016-2017. Before that time, the maintenance of the Lane was done by Jeff Good after he acquired our property in 2000. Mr. Good has provided the following narrative regarding the Lane. "When I acquired the property, the Lane was a real old-school dirt road. Where the big trees were, there was always a big lake whenever there was a rainstorm. I brought nearly 200 truckloads of recycled asphalt from a redo-up on Wadsworth. I borrowed a bulldozer from a friend and grated the Lane up to the Fox Hollow entrance. In 2003 I cut the weeds down along the Lane and put rubber roof material down as a weed barrier. I mulched the whole Lane from Dettmer's house to the farmhouse. Each year I would re-mulch and fill any potholes, and one year I used a truck-mounted power washer and washed the Lane. I made the Lane look GREAT from 2000 to 2016. Never did anyone from Fox Hollow or the Lane ever help or offer to help maintain my section of the Lane from Dettmer's house to our house..." (See Exhibit 4).
 - ii. Mr. Good's efforts to maintain the Lane were universally acknowledged. (See Exhibit 5).
 - iii. During an effort to deal with the dysfunctional storm drain running along the north side of the Lane designed to capture runoff during storm events from Coventry, SEMSWA, in their correspondence with Fox Hollow, stated, "If no such maintenance is called out, then the responsibility falls on the private landowner that maintains the private Lane adjacent to Fox Hollow HOA." SEMSWA believed our responsibility was to maintain the storm drainage system and understood that we were maintaining the Lane. (See Exhibit 6).
 - iv. We have always stipulated, and have never asked, and we do not expect any other property owner to share in the cost of improvement or future maintenance of this portion of the Lane. We anticipate the county will make this a requirement in our subdivision improvement agreement.

10. Mace Pemberton, P.E. Mapping and Civil Engineering

- a. **General Comment.** Mr. Pemberton was hired to review our construction documents for Mr. Larsen as a consultant. Our engineers are focused on responding to the redline comments of our construction plans provided by Arapahoe County, not those made by outside consultants. Mr. Pemberton's comments have been reviewed, and we have addressed them in our revised construction plans if they align with the comments provided to us by the County. However, I will respond to three specific comments presented by Mr. Pemberton in his summary.
- b. **Comment.** The Coon Creek crossing improvements consisting of a 6 foot by 21-foot box culvert was not analyzed sufficiently in the Drainage Report to address the 10-year flowrate and 10- year overtopping condition. Additional analysis including scour, riprap revetment, no-rise certification should be included.
 - i. **Response.** Mr. Pemberton apparently was not provided the No-Rise Hydraulic Modeling report we submitted with our application that concluded, “No rise occurs due to the placement of the proposed culvert; the slight drop in both natural run and floodway run occurs due to the proposed improvement of flow conditions and conveyance with the enlarged box culvert crossing.” Our improvements will result in an improvement to the flood plain. The design of the culvert and the private driveway is known to Arapahoe County, SEMSWA, and MHFD.
- c. **Comment.** The Drainage Report stated on page 9 that no detention is provided on the Arapahoe County parcel. Since two (2) residential lots are proposed, a single statement without justification should not be made. Also on page 9, the Coon Creek 10-year flowrate identified as “approximately 1500 cfs” does not identify the flowrate established in the Flood Hazard Area Delineation for Coon Creek.
 - i. **Response.** Mr. Pemberton has not been a part of the multiple discussion with SEMSWA and Jefferson County or in the design phase of our storm management and detention for our community. Had he been, he would be aware that SEMSWA agreed that it made sense for us to capture the flows from the Arapahoe County lots in the Jefferson County detention facility, which is why “no detention is provided on the Arapahoe County parcel.”
- d. **Comment.** As stated in the Mile High Flood District letter dated March 29, 2022, emergency access overrules MHFD acceptability of a 10- year design. The South Metro Fire Rescue review to allow no guardrails at the private drive crossing over Coon Creek does not address the depth of overtopping and velocity of the flow preventing the fire apparatus, emergency responders and local residents the ability for egress. Since the Drainage Report did not provide the analysis, these issues cannot be resolved.
 - i. **Response.** Mr. Pemberton would not be aware of the following factors that allowed Arapahoe County’s Technical Review Committee to approve our design for the private driveway and box culvert in September 2022.

1. The 10-year box culvert design that MHFD and SEMSWA have approved will pass the 10-year storm event with no overtopping and provides a no-rise in a 100-year storm event. The current culvert passes 230 cfs and will not handle a 2-year storm event without significant overtopping or a complete culvert washout, which occurred in June of 2021, prohibiting his client access down the private driveway to their home.
2. South Metro Denver Fire Rescue approved the design without guard rails because the entire private drive would be paved; at their request, safe zones were added to the culvert design that meets AASHTO standards, the culvert can handle the weight of their equipment, and unlike today SMDFR has full access to your clients home outside a flood plain through our neighborhood. So, in the future, if an emergency at 5090 W. Christensen Lane occurs at the same time a 100-year storm event occurs, emergency service can reach your client's home without having to travel down the private driveway and cross the culvert as it is overtopping.
3. We provided a No-Rise Hydraulic Modeling report with our initial submission.

11. Marilyn McGee and John La Breche.

- a. **Comment.** My name is Marilyn McGee, and my husband is Jon La Breche. We have lived at 4420 W. Christensen Lane for just over 30 years. We are writing in response to the Arcadia Creek Subdivision plan PM22-006 to express our objections to the plan primarily because it provides access to the Jefferson County portion of the project thru the Arapahoe County portion. If this is approved, it would nearly double the current traffic on the lane.
 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
 1. Currently, 78 single-family residences use the Lane for access, and according to the ITE, Institute of Transportation Engineers, the typical single-family home generates 9.43 vehicle trips per day. Likewise, the ITE states that Senior Adult Housing results in 4.32 vehicle trips per day. Vehicle trips are inclusive of all traffic, including deliveries. With the addition of Arcadia's twenty-five Senior Adult Homes, the number of vehicle trips on the Lane would increase from 736 to 844 daily, an increase of 13%, a far cry from doubling. However, the real impact is less than 13% because our property does not live in a vacuum, and traffic comes from our property daily now.
 - a. Trip generation is not based on a supposition but on facts. Nationwide studies determine trip generation for Senior Adult

Housing Single Family residence. These studies, after being compiled, are then published by the Institute of Transportation Engineers (ITE). The ITE trip rates are established using those nationwide studies of similar land uses. Our trip generation is based on the ITE Trip Generation, 11th Edition (most current edition) average rate equations for Senior Adult Housing – Single-Family (ITE Code 251).

- b. **Comment.** Christensen Lane was originally designed as a little "country lane" providing access to the farmhouse at the end of the lane.
 - i. **Response.** We should not casually disregard that the Lane was named Christensen Lane for a reason. Joseph Bowles created the Lane before Charles Bowles transferred our property to Victor Christensen in 1912, the Lane was created for one reason: to provide access from our property to and from Platte Canyon. The deed associated with transferring our property in 1912 from Charles Bowles to Victor Christensen provides "right of way" from our property along a "private road running east," the Lane, to the public highway known as Platte Canyon. Then in 1932 is reaffirmed in a deed from Victor Christensen to his wife Amelie. For decades before any other property owner or subdivision who now enjoys access to the Lane existed, the Lane served our property as its point of access. Over time other homes and subdivisions were built that gained access to the Lane, but through all these changes, one thing remains true, the Lane was created to provide access from our property to Platte Canyon; it wasn't designed to provide access to those who now share that right with us. (See Exhibit 1).
- c. **Comment.** If Arcadia Creek is allowed to provide access to Jefferson County residents in this project, we urge Arapahoe County to be consistent in their requirements for improvements to the west end of the lane from the entrance to Fox Hollow west to the end of the lane so that we don't have two different lanes. For instance, the developer plans to put the pedestrian path on the opposite side of the lane from the current one forcing pedestrians to cross over from the south side of the lane to the north side close to the entrance to Fox Hollow. This makes absolutely no sense at all.
 - i. **Response.** We agree with this concern, and we moved the pedestrian walk to the north side.
- d. **Comment.** There are substantial safety concerns for those of us who live on the lane as we pull out of our driveways into oncoming traffic or walk our dogs, ride our bikes or upon occasion ride our horses down the lane. At the very least the west end of the lane should be made as wide as the east end of the lane with the same width requirements for the pedestrian path. There are a number of other very serious concerns regarding proposed improvements to the west end of the lane which some of our other neighbors are expressing in their responses to this plan and with which we agree entirely.

1. **Response.** The issue of safety and traffic is an issue that is brought up multiple times in public comments. (See Response 3, Safety and Traffic on the Lane).
- e. **Comment.** [First and foremost, we urge Arapahoe County not to allow access from the Jefferson County portion of the Arcadia Creek project to Christensen Lane.](#)
 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).

12. **David M. “Merc” Pittinos, attorney for Anne and Andy Larsen.**

- a. **General Comment.** Mr. Pittinos represents the Larsen’s as their attorney, and as such, we would expect him to represent them as their advocate in their opposition to our project. Mr. Pittinos also represented the defendants in the 2020 Quiet Title action, where his clients lost in Summary Judgement regarding our right of access to the Lane. Mr. Pittinos is fully aware that the Court determined our right of access as being “unrestricted, unlimited, permanent rights of ingress and egress across and through West Christensen Lane. To argue that somehow this is not the case conflicts with the Court. We do have some general comments regarding his remarks.
- b. **Comment.** [The Christensen Lane Access Easement does not meet Arapahoe County requirements.](#)
 - i. **Response.** The court defined the term “unrestricted “to mean “not having limits.” To argue that we have limits to our access conflicts with the court. The County has a process to deal with situations that may not meet specific standards called a variance. In their referral comments to Jefferson County, Arapahoe County indicated that we would need to apply for a variance for the design of Christensen Lane. We applied for and received that variance in March 2020 from the Arapahoe County Technical Review Committee. In addition, that approval required us to seek consent for the design from SMDFR, which was submitted and approved also. (Of public record).
- c. **Comment.** [Settlement Agreement Limitations.](#)
 - i. **Response.** The issue of Access to the Lane from our property is an issue that is brought up multiple times in public comments. This issue has been adjudicated and settled. (See Response 2, Access).
- d. **Comment.** [Vegetation.](#)
 - i. **Response.** If this policy were absolute, then we would assume that it should have applied to Fox Hollow, which in 2016 removed several old-growth Cottonwoods and other trees from the western portion of the Lane. Another old-growth tree was removed in March 2023. (See Exhibit 8). This argument can best be described as "do as I say, not as I do."

e. **Comment.** [Emergency Access.](#)

- i. **Response.** Where Christensen and Leawood meet will remain gated, with only emergency service having access. All trips generated from our community will be either residents, guests, or routine delivery services. Both our entrances are gated, which will eliminate cut-through traffic, which is not the case currently.

f. **Comment.** [Cut-through Traffic.](#)

- i. **Response.** Nothing prohibits cut-through traffic, including his client's family, on a routine basis. Gates and landscaping will be used to eliminate this situation.

g. **Comment.** [Site-triangles.](#)

- i. **Response.** Our private drive is a right out, left in traffic movement with no thru traffic coming from the Drivers left. The site distance standard is defined in Case B-2 for a right turn from a minor road, found in Chapter 9 of AASHTO (American Association of State Highway and Transportation Officials manual), which we comply with.

h. **Comment.** [Access to 5090 West Christensen Lane over 5100 West Christensen Lane, and locked gates and costs associated with the driveway.](#)

- i. **Response.** We retain the right to make changes to our driveway, and his clients will have full utilization of the private gate access point protecting their right of ingress and egress. (Of public record).

- ii. **Response.** Costs associated with the Driveway.

1. The driveway agreement defines the terms of his client's use of our driveway. It states, "Wieders shall have the right, but not the duty (except where necessary to permit ingress and egress), to perform any and all maintenance of the Driveway and repairs thereto. The Wieders retain the right to make any changes to the Driveway which do not unreasonably interfere with the ingress and egress easement. The parties agree to share equally all reasonable and necessary expenses incurred in maintaining or repairing the Driveway, including but not limited to costs associated with snow removal, costs resulting from regrading of the Driveway, including costs incurred in repairing damage to the Driveway caused by either an act of God or by Some person or entity not a party to this Agreement, not a successor to a party to this Agreement, or not an agent, invite, employee, family member or guest to the parties to this agreement." (Of public record).
2. The culvert washed out in June of 2021, and access to both properties was not viable without replacement. His client was told that the culvert would need to be replaced and that it would take time to achieve the

necessary approvals to make access viable using the driveway. His client was given unlimited access across our property to our Leawood entrance for the duration it would take to replace the culvert. Apparently, this arrangement was not satisfactory to his client, who, without permission, hired a contractor, entered our property, and filled the culvert with cement. His actions represent trespassing, violate his easement agreement, and conflict with his access agreement with the county, which requires any changes to his access to be approved and permitted. We doubt that filling in the culvert, without engineering, approvals, and permitting, meets the spirit of cooperation the County had in mind when they executed their agreement.

3. When it became clear that access across the driveway would not be viable, it became “Our Duty” to restore his client’s access. Replacing the culvert will achieve a permanent solution approved by the proper authorities. SEMSWA has stated that “the concrete” placed by Larsen can only be temporary. Additionally, “the concrete was not engineered and could potentially cause other short/long term issues.” After a closer inspection of the culvert, they determined that “the culvert is in disrepair.” Without replacing the culvert his client will not have access from their property across the private driveway to Christensen Lane. (See Exhibit 10).
4. “Our duty” does not relieve his client of his obligations under the easement agreement where “the parties agree to share equally all reasonable and necessary expenses incurred in maintaining or repairing the Driveway.”

iii. **Comment.** [Coon Creek Culvert.](#)

1. **Response.** The driveway his client has an access easement for is not a driveway and a culvert; it is a driveway with a culvert. One cannot exist without the other. Significant portions of the culvert are located on both properties, as confirmed by a survey and his client's acknowledgment. The culvert washed out; we have “a duty” to restore his client's access; therefore, we have an implied easement to work on both properties. The floodplain authorities have stated that “the concrete” placed by Larsen can only be temporary. Additionally, “the concrete was not engineered and could potentially cause other short/long term issues.” After a closer inspection of the culvert, they determined that “the culvert is in disrepair.” Without the replacement, his client will not have access.
2. **Response.** Safety. With the culvert being on both properties, his clients have liability today. Nothing prevents walkers, bikers, or children from standing on the edge and falling off the culvert today. However, with our improvements, the addition of a gated entrance and the directed effort to move people through the community to the trail system

instead of using our private drive produces a safer situation than what exists today. Because the culvert is situated on both properties, we both benefit from this directed effort to eliminate future pedestrian traffic down the drive.

3. **Response.** Drainage has been revised per county comments, and no neighboring properties are adversely impacted by drainage.
4. **Response.** We have addressed Mr. Pemberton's remarks earlier in our response.

13. Patricia Peppard, manager Dutch Creek Properties, LLC.

- a. **Comment.** [Concern about Arcadia Creek's Alternative Standard Request, ASR, in Jefferson County.](#)

- i. **Response.** At the direction of Jefferson County Engineering, we submitted an ASR, alternative standard request to Jefferson County regarding the early release of detained water during a storm event commonly known as "beat the peak" and is considered an acceptable practice by jurisdictions, and is used commonly, provided the guidance of MHFD is followed. Our design included EURV, excess urban runoff volume, so our detention pond with or without the ASR, would have had no changes to the discharge to Dutch Creek for any event producing EURV. During a peak storm event in Dutch Creek, the ASR would not have caused an increase in runoff into the Creek (0.4CFS vs. 0.4CFS). When the Creek carries roughly ½ of its 100-year event flow rate, our site would be discharging 1.7 CFS more with this ASR than without. This difference was approximately 0.04% of the total flow rate of the Creek during a storm event, and we believed this to be negligible.

1. Jefferson County denied our request, so all our detention is designed to be captured and released during storm events at historical flows.

14. Deborah L. Bayles attorney for Angela and Karlan Tucker

- a. **General Comment.** Ms. Bayles Tucker represents Angela and Karlan Tucker as their attorney, and as such, we would expect her to represent them as their advocate in their opposition to our project.
- b. **Comment.** [The improvements proposed for Christensen Lane, as described in the Application, would involve the narrowing of the current roadway by the installation of a pedestrian pathway which is guarded by a split rail fence that appears to run along the south side of Christensen Lane. This additional barrier will make it difficult, if not impossible, for the Tuckers to access their property with their large trailers and equipment.](#)

- i. **Response.** The work we will be doing on Christensen Lane ends approximately 554 feet from the closes point of her client’s driveway and does not call for the narrowing of the Lane. Our Lane design has no fence; we separate the pedestrian walkway with bollards. Her client’s access to their driveway is not impacted by our improvements located 554 feet west of their property.

- c. **Comment.** Rainwater Runoff and Flooding. The Application does not address the potential for additional runoff and flooding as a result of the proposed improvements to Christensen Lane. When previous developments have obtained development approval, the County has consistently required that the developers study the potential for additional runoff and flooding and make improvements to mitigate against the same. If fences and/or concrete culverts are added along Christensen Lane, the flooding potential could increase to the detriment of the properties located south of Christensen Lane (which includes the Tuckers property). Prior to allowing these improvements, we request that the County require the Developer to further study the potential flooding impact of the Development to confirm that the proposed improvements to Christensen Lane will not increase the flooding risk to the property owners located to the south.
 - i. **Response.** We were required to submit a complete drainage plan with our application which was available for review for those interested parties. We have developed a drainage plan for the Lane and are currently working with the County on revisions to that plan. As stated, our design does not have fences, and our modifications remove the concrete culvert. A simple review of the topography of the Lane shows that the Lane crests just west of the Fox Hollow entrance and runs downhill to our property. Any water that runs east along the Lane towards her client’s property already exists, and our improvements deal with drainage to the west, which will not impact her client’s property.

- d. **Comment.** Maintenance and Ownership. Currently, Christensen Lane is a private roadway. The Settlement Agreement recorded February 25, 1994, in Book 7428 at Page 631 requires that the owner of what was then known as the “Jefferson Bank Parcel maintain and repair Christensen Lane. This obligation was subsequently transferred to the Fox Hollow Homeowners Association for that portion of the road west of the entrance to Christensen Lane Estates and the Platte Canyon Christensen Lane Estates Homeowners Association for that portion of the road east of said entrance (collectively, the HOA’s). The addition of access for 25 homes via Christensen Lane will dramatically increase the wear and tear on the roadway without any formal legal obligation to pay for its maintenance and upkeep. At a minimum, the County should require that the Developer (and any subsequent association governing the Development) share the burden of maintaining the roadway and enter into an agreement with the HOAs to do so. We understand you have received comments directly from the HOAs on this issue. Please note that we are supportive of their position on this issue as well.
 - i. **Response.** The issue of maintenance is an issue that has been brought up multiple times in public comments. (See Response 4, Maintenance of the Lane).
 1. The comment that “at a minimum, the County should require that the Developer (and any subsequent association governing the

Development) share the burden of maintaining the roadway and enter into an agreement with the HOAs to do so” is not needed because we have voluntarily done so. When we were forced to initiate the quiet title action, we were contacted by Christensen Lane Homeowner Association to see if we could reach a settlement and remove them from the litigation. In one meeting, we reached a settlement that included paying our pro-rata share of maintenance for the front third of the Lane. In addition, we agreed to direct construction traffic to use the Leawood entrance to our property instead of the Lane. With that settlement agreement in place, we will be paying our pro-rata share of maintenance for the front third of the Lane and 100% of the maintenance costs for the western third of the Lane. So, what's missing is any maintenance agreement to maintain the middle section of the Lane, which is the responsibility of Fox Hollow. My first meeting for this project was with the Fox Hollow H.O.A. in December 2016. The purpose of that meeting was to find common ground for the Lane. Since that meeting, our attorneys and we have reached out to those owners that continued with the litigation to reach a similar settlement to the one we executed with Christensen Lane Estates. Each time we were told that you were uninterested in a settlement because those continuing to fight us in litigation believed they would prevail in Court. We continue to be open to reaching a similar agreement to one recorded with Christensen Lane Estates and to bring unity to the Lane and its long-term viability. (See Exhibit 2).

- e. **Comment.** Access to Fairway Lane and Columbine Country Club. The Arcadia Creek development is being marketed to potential homeowners, in part, as a way to easily access Columbine Country Club (the Club”).
 - i. **Response.** No marketing of the project has been done. If we had, our target demographic would be people over 55, not those interested in golf, so this statement is invalid.

- f. **Comment.** The County should require the Developer perform a traffic study to confirm that the current cross walks, traffic signals and the like are adequate to handle the additional traffic coming from the Development, in particular as it relates to their ability to directly access the Club entrance from Christensen Lane.
 - i. **Response.** We have provided a traffic study and the response from CDOT, who has reviewed our project and has no concerns.

5-6

(50)

William Clarke
to
Sarah Clarke

SW corner of NW 1/4 of SW 1/4 of Sec. 19-5-68 thence East on South line of above described tract 1856 1/2 ft thence North 683 ft along line of land heretofore deeded to Clark Cozens thence West 1840 ft to point 71 ft East of County line thence South parallel to said County line 683 1/2 ft to place of beginning, containing 29 Acres and full water rights. Except encumbrance of \$1982.50 of record.

Warranty Deed. \$1.00
Dated & Ack'd Dec. 20, 1902.
Rec'd Dec. 28, 1902.
Conveys commencing 71 ft East of

27267

So. 61

(51)

Nellie Ann Bowles
Plaintiff
vs
Edward V. Bowles
Defendant

Dismissal #384.
In District court Arapahoe County, Colorado.
Dated Nov. 1, 1912.
Rec'd Nov. 7, 1912.
Clerk of Court certifies that above cause was dismissed at Plaintiffs cost on July 13, 1910.
Cert. Nov. 1, 1912.

27368

74-240

(52)

Charles W. Bowles
Chas. W. Bowles
to
Victor Christensen

71 ft thence North 683 ft thence West 71 ft thence South 683 ft to beginning and all water rights and right of way to and from said land along a private road running East from said tract to public highway. Except taxes for 1912.

Warranty Deed. \$100.&c.
Dated & Ack'd Nov. 4, 1912.
Rec'd Nov. 7, 1912.

Conveys commencing at SW corner of NW 1/4 of SW 1/4 Sec. 19-5-68W thence East

328-92

Victor Christensen

WARRANTY DEED

\$10.00 &c.

77

to

Amelie Christensen

Dated: Apr. 14, 1932
Ack'd: Apr. 14, 1932
Rec'd: Apr. 14, 1932

In Arapahoe County, Colorado.

An undivided 1/2 interest in and to the following described property:

COMMENCING at the SW corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 19, Township 5 South, Range 68 West of the 6th P.M., thence East 125 ft., thence North 683 ft., thence West 125 ft. to the West side of said Section 19, thence South along said Section line 683 ft., to the place of beginning.

TOGETHER with all water, water rights, ditches and ditch rights belonging, appertaining to or used in connection with the irrigation of said land.

ALSO a right of way for road purposes to use for ingress to and egress from said land, over and along a certain private road or a strip of land running East from the land above described to the public highway, which said private road or strip of land was heretofore reserved for road purposes by Joseph W. Bowles.

Lillie Weingart, N. P., Arapahoe County, Colorado
Exp. Com. 6-12-34 (Seal)



THE ARAPAHOE COUNTY ABSTRACT AND TITLE COMPANY.

Exhibit 2 Opposition

From: Ric Bechter (rbechter@comcast.net)
Subject: Fox Hollow HOA Post on Proposed Development
Date: January 23, 2017 at 9:19 PM
To: David Tschetter [REDACTED]
Cc: Chip Brunk [REDACTED], Mike Heermahe [REDACTED], Mo y Me nert [REDACTED]

Mr. David Tschetter, CEO
QWIZZLE REAL ESTATE
9 WHITE FIR CT
LITTLETON CO 80127-2600

Re: Proposed Good Family Property Development

David:

During our meeting with you on December 20, 2016, the Fox Hollow HOA Board of Directors agreed to share your development proposal for the Good property with our HOA. The Fox Hollow HOA annual meeting was held on January 22nd.

The outcome of the meeting is that the Fox Hollow homeowners are overwhelmingly opposed to your proposed development's scope, ingress plan, and egress plan.

The HOA requested that our Board of Directors act on their behalf going forward in a manner consistent with this opinion.

Best regards,

Ric

Ric Bechter, President
Fox Hollow Homeowners Association



cc: Fox Hollow Board of Directors

From: Schaffnit, Paul D (US)
Sent: Tuesday, June 11, 2019 8:27 AM

Subject: Arcadia Creek Quiet Title Action Update 6/11/19 AM
Importance: High

Good morning, all,

With the deadline to respond approaching, the Board met briefly again last night; as I mentioned yesterday, another Board member (Gary Self) was able to make contact with the developer yesterday, and received a text message that indicated a willingness to talk. We expect that conversation to happen sometime today.

The goal of that conversation today is to hopefully convince him to agree to an extension of our response deadline, to allow more time for us to negotiate with him on the idea of a shared responsibility for maintenance of our portion of Christensen Lane, during construction and hopefully in perpetuity after the development is completed, in exchange for our agreement to not contest his access. Of course, even though we won't be formally participating in the Fox Hollow, et al. battle, any of us would be free to contribute to their war chest, if we felt so inclined.

In the meantime, since our recommended response (regardless of the deadline), will be to sign/notarize the disclaimer form, we encourage you to go ahead and prepare that form for submittal as early as Friday, in the event that the extension negotiation is unsuccessful. Carl Unrein has graciously offered to collect forms from neighbors and personally deliver them to the court on Thursday, so if you want to take advantage of Carl's offer, we encourage you to deliver your forms to him at your earliest convenience, but no later than tomorrow afternoon; you can contact Carl directly if you want to discuss any particulars/timing in that regard.

We do have a notary in the neighborhood, so I'm checking with him on the possibility that he might be able to offer notary services as early as this evening and/or tomorrow if needed.

If an extension is granted, Carl will retain the forms for delivery on/before the negotiated deadline. I'll send another update later today or tomorrow, after hearing from Gary on the outcome of his conversation today.

Thanks,

Paul

From: Rod Bonner [REDACTED]
Subject: EXTERNAL: RE: Urgent Arcadia Update for CLE HOA Board Members
Date: June 18, 2019 at 1:19 PM

To: Ric Bechter [REDACTED]
Cc: Carl Unrein [REDACTED], Schaffnit, Paul D [REDACTED], Gary Self [REDACTED]
[REDACTED]

Ric,

Thank you for your email to keep us informed on the status of your JDA plan of action. To your question on our meeting, the CLE Membership voted not to continue funding the JDA as an HOA but left the door open to any resident who would like to contribute as an individual. I have asked our HOA Secretary to distribute your last email to all of our resident so those who choose to contribute would have the means to communicate with you directly.

I remain hopeful an acceptable solution may be found.

Best regards,

Rod Bonner
President
CLE HOA

From: Ric Bechter [REDACTED]
Sent: Sunday, June 16, 2019 9:39 PM
To: Carl Unrein [REDACTED], Gary Self [REDACTED], Paul Schaffnit [REDACTED], Rod Bonner [REDACTED], Tim Perry [REDACTED]
[REDACTED]
Cc: Chip Brunk [REDACTED]; [REDACTED]
[REDACTED]
Subject: Urgent Arcadia Update for CLE HOA Board Members
Importance: High

TO: CLE Board Members

Greetings,

Lots of progress to report on Arcadia.

- Our law firm negotiated with the Arcadia group for an extension for everyone to reply to the Quiet Title Action (QTA) until July 8.

But, we need our Joint Defense Agreement (JDA) set up this coming week so it can be funded, and properly filed with the court. The JDA is for those who, via individual homeowner emails to the Fox Hollow HOA mailbox (above), are committed to helping fund the first phase of the fight. We will soon request checks made out to the law firm from JDA members to form the retainer (up to \$20K) for our law firm to get us through the next several months. We have worked very hard to line up the

commitments and have good news to report. (We're shooting for 70 homeowners to join the JDA that live along the lane, and in CLE and Fox Hollow to fund <\$300 each for phase 1. (\$20,000/70=\$286))

- 100% of Christensen Lane residents (12) have replied and are committed.
- All 12 homes in Coventry who back up to the lane are committed. (The did not receive summons.)
- 80% of Fox Hollow residents have replied so far and 100% of those are committed. We expect a 90% commitment final number soon. (~28)
- We'll try and contact the two homes that back up to the lane on South Ponds Way.

We're curious how your meeting went and anxious to help individual homeowners join the JDA for at least the first phase. They'll know the exact amount required for Phase 1 when we get the final home count of all out neighborhoods together. Please refer back to the June 10th email, and others. Please share this update appropriately.

P.S. Any email from "Fox Hollow HOA mailbox" was sent by me, unless otherwise stated. I alone get the replies and share them appropriately.

Best regards,

Ric Bechter
Fox Hollow; Southside Arcadia Team Lead

[REDACTED]

[REDACTED]



Virus-free. www.avast.com

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Privileged

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Begin forwarded message:

From: "Chip Brunk" [REDACTED]
Date: July 4, 2019 at 11:57:20 AM MDT
To: "'Jeffrey Good'" [REDACTED]
Subject: Update

Hey Jeff,
I just wanted you to know that Bob's friend Tom was interested in offering something substantially less than \$3M given the Lane access uncertainty, new floodplain increases and comments Urban Drainage has made to some on our side (which I unfortunately

need to say, conflict with what David Tschetter said to some on our side). So I told them not to bother. However, if anything changes let me know or reach out to Bob directly.

For what it's worth I think our attorney is super sharp and specializes in just QTA's. If he doesn't win it, he's likely going to drag it out for about two to four years... his estimate, not mine... no idea if he's right. He also has a lot of wealthy folks supporting him financially. I really hate writing that type of thing because it may come off wrong. I wish I had said it when we were together. Nonetheless, I only say that because I honestly feel for you and want you to at least have the best information possible.

I'm not saying that selling to someone else is the best option for you, but as I said before, I still think there is a bigger premium for bigger lots, especially where you are located, than you realize. Of course, that would make the project more economically viable with fewer homes. And with fewer homes, it think many of us might advocate to give you access with a few conditions. However, my experience as a residential single family home developer is zero, and I certainly can't promise you I can convince emotionally charged folks of anything. As I mentioned, I completely struck out pitching the exploratory negotiation stance.... like zero of my neighbors who say they like and respect me 😊

I'd offer to talk more about this if you want, but that would at least need to wait. Our house caught fire Sunday night and we lost a ton... every car, a ton of other stuff, even our wallets, and use of our home for about a year.

<https://www.southmetro.photography/2019-Images/Christensen-Drive-House-Fire/?fbclid=IwAR23EubmwZNgm6xooDJ2LC32cdbV4VY6goaxowgDdWqHQU5DYbvUSuN5Vas> So, needless to say, I'm beyond crushed timewise. I was too busy before this happened! God is good though. He saved us from any physical harm and has started a good new work in each of us.

Blessings,

Chip

From: [REDACTED]
To: [Mick Manning](#); [Kim Manning](#); [Justin Montgomery](#); [Justin Montgomery](#)
Subject: Re: Jefferson County - Notice of Public Hearing - Arcadia Creek ODP - 5234 W Leawood Drive
Date: Monday, August 17, 2020 5:05:40 PM

Thanks Justin, please share with whoever the following for official record from us!
Both my husband Mick Manning and I (Kim Manning) want to attend zoom and speak!
We hope you have represented your Jeffco residents who overwhelmingly appose this development let alone any zone change ! I hope your remind them of the 500 plus letters you received before and the many many who spoke at prior round! Nothing has change and In fact rezone to PD is even more the reason To deny it that than when it was denied to zone 2 .
You are probably also aware a new petition with at least 275 signatures is coming in opposition, plus we have spent thousands to protect Christensen Lane as a private road and we vote unanimously against the rezoning and any use of Christensen lane! Arapahoe Country commissioners all have said they stand with Fox Hollow and Christensen Lane owners who have liability for this private road!

Thanks for doing the right thing! We don't enjoy quality of life and enjoyment because this emotional toil of fighting it everyone few years ! Enough! Make the right suggestion to not recommend it and oppose it for all the reasons Jeffco board said no before and now even worse scenario with PD!

There are in fact 2 unrelated families living there under one address and church each week and weddings !!the noise is so loud carrying across the creek ! I have recording and it sounds like it is inside

Our house ! I cannot imagine more than houses and we are also so concerned that all new house building seems to have higher foundations and even taller homes ! The noise would ruin our lives ! We cannot have walk out basements and nothing higher than 30 feet up from current grade levels ! We don't trust Accardia and you know no one trusts them!

This is a very complicated situation with two countries and we have to work together not a silo with this request ! Far more complex and we will keep fighting in Arapahoe county so regardless no approval of anything related to exit to Christensen lane should be made! Just like last time , no traffic rout approved from Jeffco homes to Arapahoe County! No misleading statements from Arcadia and no false statements ! They have tried to lie and mislead every round!!!

Biblically - I learned - love

Thy neighbor and do onto others as you want others to do onto you!

We do not want rezoning and we do not want the noise , safety issues , nuances, loss of wildlife , changed neighborhood and lower home value and quality of living! Please! And you know how angry and upset Fox Hollow , Coventry , Lea wood and Christiansen lane and others are ! Life is short ! Arcadia is not right here ! Say no and vote no! You all serve the majority and public!

Sincerely ,
Kim Manning

Sent from my iPhone

On Aug 17, 2020, at 4:37 PM, [REDACTED] wrote:

Can you please respond today that we want our voices heard and register with Them below! Can you please rewrite a letter to them to day too and sign petition

From: [Kim Manning](#)
To: [Justin Montgomery](#); [Mick Manning](#); mjm5026@msn.com
Subject: --{EXTERNAL}--Opposition of Arcadia rezone
Date: Monday, August 17, 2020 9:46:16 PM

CAUTION: This email originated from outside Jefferson County Government. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To the Jefferson Country Board of Commissioners and general public,
Our world has so much hate and anger and division right now and I appeal to all of you to support the great opposition to DENY this 4th try to rezone this property in the middle of a very special and rural sanctuary community that would negatively impact our property values , create significant dangers of more traffic that cannot handle two way cars or pediatrics and personal liability that I am liable for the road and anyone in the creek on my property , rid of animal and bird habitat , and change our living and quality of life !!
This is a very complicated and complex and emotionally charged decision that should be DENIED simply because the first round two years ago over 500 people wrote letters against it, hundreds attended county meetings and many spoke out in over 2 days and 2 sessions of appeal to stop rezone and especially to be sure “ on record” **that access to Christensen Lane is not part of the reZoning then or now!**

Misleading Chetter - Arcadia will try to mislead you all - that he has authority legally to change the arapahoe county land access, changes to flood plan In Arapahoe Country or evening access to a state highway through CDOT!

A report by an Arapahoe country Engineer does is not approval but the board of commissioners and in fact **Commissioner Conti and her political oppent said they would support us in this fight!**

When we built 26 years ago - this was a tree farm! Then we worked with owner Bill Weider to rezone to 1 with agreement upon 12 houses to fit the character and surrounding homes !

Welders mom even bought the Jeffco property separately and we have always viewed it as one AC address and one home in AC and then the Jeffco part was separate!

The next owner , Jeff Good let a tree company stay on the property which was illegal and causeD us great safety concerns with heavy traffic and a business ! He let social events like youth groups And weddings and other very noisy gathering which led us to call and report noise problems. Now he has left and allows at least two unrelated families to live in the house and barn and have over 100 people attend outdoor church and weddings and other gatherings. While I love all faith related gatherings - this is a neighborhood and my neighbors have to close their windows , go inside , leave because of the noise ! I have recordings from by back patio where the music and sound is so loud that you would think I was inside my home with a concert going on!
Fact, sound travels through a creek bed between their property and ours! Fact, new development is putting foundations higher so it will get louder still with higher homes. Land already higher than our property variances. Fact, when Fox Hollow was developed we worked with Columbine Estates to limit roof heights to 30 feet and no walk out basements! Fact, Fox Hollow describes our development is rural and we gave up county road maintenance to not have side walks or fences and keep this character !

There is always concern and confusion with even police and emergency response and we don't need to have a neighborhood built in Jeffco but accesses Arapahoe County! More lives are at risk in emergency!

We annexed the property that the Larsons now own to second filing with Fox Hollow so that any house would be consistent inside and character to our neighborhood !

Fox Hollow owns the maintenance and liability of the Lane and the Flood Plain in Arapahoe Country and we would vote unanimously against any other HOA to change it ! We would vote Against Arcadia thinking they could allow two cars to pass with in 16 feet of each other - which is two trucks touching - let alone the children, strollers ,

walkers , runners, bicycles , horses , et al!

We do not want 176 more cars a day threatening our safety and other nuances like dust and Speeding cars or the chance that 9,600 cars from Leawood could access our private road!

Come visit us and you will see that more houses means more traffic means more noise means more of all the reasons we chose to live here ! We have battled this 5 times over decades and it is time for our elected officials to say NO - build for zone 1 - **and no Jeffco traffic on our Private road !**

I am afraid of all the new people coming into the stream which goes through my property ! I am afraid of the flooding magnified by more homes and their yard water flowing into my stream and chemical! We have major flooding issues !! I am afraid to remodel and update my house as I will have to move
And loose property value with the higher density homes that don't fit . Don't rule for one - rule for the existing surrounding area and the over 300 signed petitions or hundreds who fought this before!

This time around we have over 51 who have spent thousands individually to fight for our rights and the intent of this community and access to the lane !

Please make any consideration or ruling on roads and access for Jeffco through Jeffco and the changes to flood plane and Christiansen lane are Arapahoe County jurisdiction! We have all owners in Coventry , Fox Hollow , Christensen Lane, the town of Columbine Valley, columbine United church , Wilder Elementary PTO standing in opposition to rezoning to PD and access or changes in arapahoe country **and our commissioners saying they will fight with Us!**

Vote with the people ! Please do the right thing and not get caught up on misleading issues! We do not want rezoning and leave ARapahoe county and our HOA authority to the Lane!

I greatly thank you and appreciate your wisdom and courage to do the right thing and DENY rezoning , block the barn For communal purposes , keep housing under 12, block all access for Jeffco land use and traffic through Arapahoe county ! Let Jeff Good and Acadia come to Arapahoe country for the arapahoe county houses In a zone 1. Look at what Wild Plum neighborhood off Platte Canyon did ! They only allow a few homes through Columbine Country club and the rest -
Low density homes go out from Platte Canyon!

The problem with PD is that Arcadia and Jeff Good is they can change their proposed design and density after your approval and you won't be involved !

Make the right decision now and have the courage to shut down this greed and fight with surrounding communities ! They do not want to work with us or mediate ! They are BULLIES and every day is an emotional challenge to have to fight this Bully and have our lives and neighborhood and homes and character we have loved for over 26 years !

I am a Denver Community Leader , political activist , professional as a director of the largest healthcare provider , mother , PTO President , Christian and I cannot believe what a bully Arcadia is and how anyone especially elected would go against such a HUGE public outcry and opposition to any rezoning or consideration to such a complex issue.

I formally request all considerations for rezoning to NOT include arapahoe county issues or the Fox Hollow HOA which votes against any changes to Christensen lane!

Thank you very much! I hope we can sleep better with your decision! **It is awful to have to spend so much money , energy , emotion to fight this every year !!** We should be talking as neighbors about happy things where we all get along !

Vote NO rezone , no public barn , no access discussion **or approval out to Christensen lane!**
Thank you very much and I pray you see the truth here and what is at stake to hundreds!

Sincerely,
Kim Manning

would go against such a HUGE public outcry and opposition to any rezoning or consideration to such a complex issue.

>

> I formally request all considerations for rezoning to NOT include arapahoe county issues or the Fox Hollow HOA which votes against any changes to Christensen lane!

>

> Thank you very much! I hope we can sleep better with your decision! It is awful to have to spend so much money , energy , emotion to fight this every year !! We should be talking as neighbors about happy things where we all get along !

>

> Vote NO rezone , no public barn , no access discussion or approval out to Christensen lane!

> Thank you very much and I pray you see the truth here and what is at stake to hundreds!

>

> Sincerely,

> Kim Manning

>

> [Redacted signature]

>

>

> Sent from my iPhone

From: [REDACTED]
To: [Kim Manning](#)
Cc: [Justin Montgomery](#); [Mick Manning](#)
Subject: Re: Opposition of Arcadia rezone
Date: Monday, August 17, 2020 10:58:22 PM

Justin - I ask you how many cases come up that have over 400 signed petition signatures against rezoning ? I appreciate knowing this before I speak? And of those - how did Jeffco vote ?

Also, this battle is just beginning in Arapahoe County! Please let the committee know that incumbent Commissioner Conti vows to fight this with us to not allow access ! She walked the project for 2 hours ! We have rights and Jeffco cannot change the flood plain or private road In Arapahoe County!

Jeffco denied rezoning 2 - this rezone to PD is even worse for the community !! Why do we have to keep fighting this emotionally and financially ! Stop the madness and vote against and stand with the people and remind the committee and board of the history and passion !

Thank you !
Kim Manning

Sent from my iPhone

> On Aug 17, 2020, at 9:46 PM, Kim Manning [REDACTED] wrote:

>

> To the Jefferson Country Board of Commissioners and general public,

> Our world has so much hate and anger and division right now and I appeal to all of you to support the great opposition to DENY this 4th try to rezone this property in the middle of a very special and rural sanctuary community that would negatively impact our property values , create significant dangers of more traffic that cannot handle two way cars or pediatrics and personal liability that I am liable for the road and anyone in the creek on my property , rid of animal and bird habitat , and change our living and quality of life !!

> This is a very complicated and complex and emotionally charged decision that should be DENIED simply because the first round two years ago over 500 people wrote letters against it, hundreds attended county meetings and many spoke out in over 2 days and 2 sessions of appeal to stop rezone and especially to be sure “ on record” that access to Christensen Lane is not part of the reZoning then or now!

>

> Misleading Chetter - Arcadia will try to mislead you all - that he has authority legally to change the arapahoe county land access, changes to flood plan In Arapahoe Country or evening access to a state highway through CDOT!

>

> A report by an Arapahoe country Engineer does is not approval but the board of commissioners and in fact Commissioner Conti and her political oppent said they would support us in this fight!

>

> When we built 26 years ago - this was a tree farm! Then we worked with owner Bill Weider to rezone to 1 with agreement upon 12 houses to fit the character and surrounding homes !

>

> Welders mom even bought the Jeffco property separately and we have always viewed it as one AC address and one home in AC and then the Jeffco part was separate!

>

> The next owner , Jeff Good let a tree company stay on the property which was illegal and causeD us great safety concerns with heavy traffic and a business ! He let social events like youth groups And weddings and other very noisy gathering which led us to call and report noise problems. Now he has left and allows at least two unrelated families to live in the house and barn and have over 100 people attend outdoor church and weddings and other gatherings. While I love all faith related gatherings - this is a neighborhood and my neighbors have to close their windows , go inside , leave because of the noise ! I have recordings from by back patio where the music and sound is so loud that you would think I was inside my home with a concert going on!

> Fact, sound travels through a creek bed between their property and ours! Fact, new development is putting foundations higher so it will get louder still with higher homes. Land already higher than our property variances. Fact, when Fox Hollow was developed we worked with Columbine Estates to limit roof heights to 30 feet and no walk out basements! Fact, Fox Hollow describes our development is rural and we gave up county road maintenance to not have side walks or fences and keep this character !

>

> There is always concern and confusion with even police and emergency response and we don't need to have a neighborhood built in Jeffco but accesses Arapahoe County! More lives are at risk in emergency!

>

> We annexed the property that the Larsons now own to second filing with Fox Hollow so that any house would be consistent inside and character to our neighborhood !

>

> Fox Hollow owns the maintenance and liability of the Lane and the Flood Plain in Arapahoe Country and we would vote unanimously against any other HOA to change it ! We would vote Against Arcadia thinking they could allow two cars to pass with in 16 feet of each other - which is two trucks touching - let alone the children, strollers , walkers , runners, bicycles , horses , et al!

> We do not want 176 more cars a day threatening our safety and other nuances like dust and Speeding cars or the chance that 9,600 cars from Leawood could access our private road!

>

> Come visit us and you will see that more houses means more traffic means more noise means more of all the reasons we chose to live here ! We have battled this 5 times over decades and it is time for our elected officials to say NO - build for zone 1 - and no Jeffco traffic on our Private road !

>

> I am afraid of all the new people coming into the stream which goes through my property ! I am afraid of the flooding magnified by more homes and their yard water flowing into my stream and chemical! We have major flooding issues !! I am afraid to remodel and update my house as I will have to move

> And loose property value with the higher density homes that don't fit . Don't rule for one - rule for the existing surrounding area and the over 300 signed petitions or hundreds who fought this before!

>

> This time around we have over 51 who have spent thousands individually to fight for our rights and the intent of this community and access to the lane !

>

> Please make any consideration or ruling on roads and access for Jeffco through Jeffco and the changes to flood plane and Christiansen lane are Arapahoe County jurisdiction! We have all owners in Coventry , Fox Hollow , Christensen Lane, the town of Columbine Valley, columbine United church , Wilder Elementary PTO standing in opposition to rezoning to PD and access or changes in arapahoe country and our commissioners saying they will fight with Us!

>

> Vote with the people ! Please do the right thing and not get caught up on misleading issues! We do not want rezoning and leave ARapahoe county and our HOA authority to the Lane!

>

> I greatly thank you and appreciate your wisdom and courage to do the right thing and DENY rezoning , block the barn For communal purposes , keep housing under 12, block all access for Jeffco land use and traffic through Arapahoe county ! Let Jeff Good and Acadia come to Arapahoe country for the arapahoe county houses In a zone 1. Look at what Wild Plum neighborhood off Platte Canyon did ! They only allow a few homes through Columbine Country club and the rest -

> Low density homes go out from Platte Canyon!

>

> The problem with PD is that Arcadia and Jeff Good is they can change their proposed design and density after your approval and you won't be involved !

>

> Make the right decision now and have the courage to shut down this greed and fight with surrounding communities ! They do not want to work with us or mediate ! They are BULLIES and every day is an emotional challenge to have to fight this Bully and have our lives and neighborhood and homes and character we have loved for over 26 years !

> I am a Denver Community Leader , political activist , professional as a director of the largest healthcare provider , mother , PTO President , Christian and I cannot believe what a bully Arcadia is and how anyone especially elected

March 1, 2019

Via Email (jreutzl@fwlaw.com) and U.S. Mail

Jack Reutzl
Fairfield and Woods, P.C.
1801 California St., Suite 2600
Denver, CO 80202

Re: Arcadia Creek LLC - Access to and Use of West Christensen Lane

Dear Mr. Reutzl,

We represent Arcadia Creek, LLC (“Arcadia Creek”) and Jeffrey B. Good (“Good”). Good is the owner of that property located at 5100 Christensen Lane, Littleton, Colorado 80123 (the “Property”). Arcadia Creek has contracted with Good to acquire the Property upon successful completion of the entitlement process. In February 2018, you wrote a letter objecting to use of West Christensen Lane (“Christensen Lane” or the “Lane”) as a means of access for proposed development of the Property. Our firm drafted a responsive letter dated March 13, 2018 addressing those issues you raised and explaining the lawful basis for Arcadia Creek’s proposed use of the Lane.

As I’m sure you’re aware, the allegations in your February 2018 have adversely impacted the entitlement process for the Property. As such, we have been retained to dispose of any objection to the use of the Lane to access the Property. There are two ways of doing that: (1) a quiet title action; or, (2) a negotiated resolution.

A copy of Good and Arcadia Creek’s draft quiet title Complaint is enclosed. Before we file and serve the same, we wanted to make one final effort to amicably resolve the matter. Arcadia Creek and Good are not willing to compromise the quality or character of the access granted to the Property in the Order for Final Judgment from Arapahoe County District Court Case No. 92 CV 2564 (discussed in detail in our prior correspondence and the attached Complaint). They are, however, willing to discuss an equitable allocation of improvement and maintenance costs relating to the Lane. If your clients whomever they may be wish to discuss a resolution within this framework, please contact us on or before March 15, 2019 to discuss the same. Absent such discussions or if your clients are insistent upon attempting to limit the quality and character of access over the Lane to the Property we’ll proceed to file and serve the enclosed draft Complaint.

We look forward to your prompt response.

Arcadia Creek – Lane Access
March 1, 2019
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott W. Wilkinson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Scott W. Wilkinson
Nicholas J. Leone

SWW/NJL
Enclosures
fc: client

From: Scott Wilkinson [REDACTED]
Subject: FW: Arcadia Creek LLC - Access to and use of West Christensen Lane
Date: March 5, 2019 at 12:46 PM
To: David Tschetter [REDACTED]
Cc: Nicholas J. Leone [REDACTED]

David:

See below. I assume you would like us to meet with Reutzel. Please confirm. Also, we need to define what our offer is in terms of improvement/maintenance of the lane. Any guidance you can give me re what you're thinking in that regard would be appreciated.

Thanks,

Scott

Scott Wilkinson, Esq.
Davis & Ceriani, P.C.



THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY DELETE IT FROM YOUR SYSTEM AND NOTIFY ME BY E-MAIL AT swilkinson@davisandceriani.com.

From: Jack E. Reutzel [REDACTED]
Sent: Tuesday, March 5, 2019 12:43 PM
To: Jennifer Kaercher
Cc: Scott Wilkinson; Nicholas J. Leone
Subject: RE: Arcadia Creek LLC - Access to and use of West Christensen Lane

All- I have had the opportunity to meet with the Board of Directors for the Fox Hollow Homeowners Association to discuss your March 1 correspondence. Please be advised that at this time they are the only client I represent, although should you file the quiet title action they will likely find other counsel as I am named as a defendant. After discussing all available options, the Board has authorized me to offer to meet with you to investigate your offer and report back to them. If this is of interest to your client please let me know and we can find a mutually agreeable time to meet.

Regards,

Jack Reutzel

From: Jennifer Kaercher [REDACTED]
Sent: Friday, March 01, 2019 12:14 PM
To: Jack E. Reutzel [REDACTED]

For Jack E. Kaercher: jkaercher@davisandceriani.com

Cc: Scott Wilkinson [REDACTED]; Nicholas J. Leone
[REDACTED]

Subject: Arcadia Creek LLC - Access to and use of West Christensen Lane

Please see attached correspondence from Scott W. Wilkinson and Nicholas J. Leone.

Regards,

Jennifer Kaercher
Legal Assistant/Paralegal
Davis & Ceriani, P.C.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY DELETE IT FROM YOUR SYSTEM AND NOTIFY ME BY E-MAIL AT jkaercher@davisandceriani.com.

From: Scott Wilkinson [REDACTED]
Subject: FW: Meeting with Jack Reutze
Date: May 1, 2019 at 4:59 PM
To: David Tschetter [REDACTED]

FYI. Plan doesn't change.

Scott Wilkinson, Esq.
Davis & Ceran, P.C.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY DELETE IT FROM YOUR SYSTEM AND NOTIFY ME BY E-MAIL AT sw_knson@davisandceran.com.

-----Original Message-----

From: Jack E. Reutze [REDACTED]
Sent: Wednesday, May 1, 2019 4:46 PM
To: Scott Wilkinson
Cc: Nicholas J. Leone
Subject: Re: Meeting with Jack Reutze

H Scott- Sorry I have been in meetings a day. Just heard the results of the survey. Please advise your client that the Association intends to continue to oppose efforts to access the Lane for any development in Jefferson County.

Thanks

Sent from Jack's iPhone

On May 1, 2019, at 4:10 PM, Scott Wilkinson <SW_knson@davisandceran.com> wrote:

Jack:

Association meeting night. Having heard nothing, our instructions are to file. If you have a reason we shouldn't, let me know.

Thanks,

Scott

Scott Wilkinson, Esq.
Davis & Ceran, P.C.
1600 Stout Street, Suite 1710
Denver, CO 80202
Phone: (303) 534-9000
Fax: (303) 534-4618
sw_knson@davisandceran.com

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY DELETE IT FROM YOUR SYSTEM AND NOTIFY ME BY E-MAIL AT sw_knson@davisandceran.com.

-----Original Message-----

From: Jack E. Reutze [mailto:jreutze@fwaw.com]
Sent: Monday, Apr 29, 2019 8:06 AM
To: Scott Wilkinson
Cc: Nicholas J. Leone
Subject: RE: Meeting with Jack Reutze

Scott- I have been advised that the Board of Directors will provide me with direction on Tuesday evening after a neighborhood meeting and the results of a survey sent to association members. I will get back with you as soon as I have something to share.

8:10



Kyle >

Greetings neighbors,

As the stewards of the lane, we respectfully request that you instruct church service attendees, and any other groups, to access your parking area exclusively from W. Leawood Drive—not Christensen Lane—due to concerns about safety, liability, wear & tear, dust, and disruption.

Respectfully,

Fox Hollow HOA and Christensen Lane Homeowners

Hey Jeff, just wanted to keep you apprised of a situation. Just received the following document in our mailbox today. We definitely don't want to create any problems with your neighbors.



Text Message




Exhibit 3





Exhibit 4

From: [REDACTED]
Subject: Work on the Lane
Date: August 9, 2022 at 9:14 PM
To: David Tschetter [REDACTED]

 Migrated_07-01-2023 01-38/inbox

"When I acquired the property, the Lane was a real old-school dirt road. Where the big trees were, there was always a big lake whenever there was a rainstorm. I brought nearly 200 truckloads of recycled asphalt from a redo-up on Wadsworth. I borrowed a bulldozer from a friend and grated the Lane up to the Fox Hollow entrance. In 2003 I cut the weeds down along the Lane and put rubber roof material down as a weed barrier. I mulched the whole Lane from Dettmer's house to the farmhouse. Each year I would re-mulch and fill any potholes, and one year I used a truck-mounted power washer and washed the Lane. I made the Lane look GREAT from 2000 to 2016. Never did anyone from Fox Hollow or the Lane ever help or offer to help maintain my section of the Lane from Dettmer's house to our house..."

You shared that Larsen moved there in 2016-2017 time frame. It took a while to build his house and he may have started bringing in recycled asphalt before he moved in. He never asked me to participate with any of his



expensesexcept the culvert challenges.

Jeffrey B. Good
[REDACTED]
[REDACTED]

Exhibit 5

Redactions were made to eliminate personal contact information.

From: Jeff Good [REDACTED]
Subject: FW: Christensen Lane Trees
Date: October 10, 2016 at 1:01 PM
To: [REDACTED]
[REDACTED]

 Christensen Farm


From: Ric Bechter [REDACTED]
Sent: Tuesday, March 15, 2016 5:15 PM
To: 'Griff Gehring'
Cc: Frank Dixon
Subject: RE: Christensen Lane Trees

Griff,

I do know that...but point well taken. Thanks Griff.

Crushed asphalt is being put in place in the potholes today, as a start, I saw.

Back to the trees: As part of our required process, we'll have three quotes for the tree work by the end of this week, including yours. These generally include: two or so of the four Russian Olives (the dead trunks) removed from the east end of the dirt lane, all four eastern Cottonwoods removed (cut low), ground cover bushes wacked that would interfere with the excavation of a 4-6' wide "ditch," 14 ft. clearance for trucks along the lane, and all 2" dead branches cleared within reason, and finally, cutting and moving of the logs in the way of the drainpipe outflow. (These could be cut and placed wherever Jeff wants them—like alongside the willow stumps laying nearby.) No stump grinding is needed until the lane wins an award for aesthetics from the county...

Ric

From: Griff Gehring [REDACTED]
Sent: Monday, March 14, 2016 3:38 PM
To: Ric Bechter
Subject: Re: Christensen Lane Trees

Ric,

I'm very pleased that the new owner has taken action to take care of the road. It's nice to have someone else helping with the road, as you know Jeff and I have done all of the upkeep for the past 12+ years.

Thank you,

Griff Gehring
President
ISA Certified Arborist

Exhibit 6

Redactions were made to eliminate personal contact information.



From: Ric Bechter [REDACTED]
Sent: Thursday, March 03, 2016 12:16 PM
To: Jeff Good
Subject: FW: Fox Hollow Drainage & Stormwater Challenge

Hi Jeff,

I hope you're doing well.

Here is an update on Fox Hollow's new, proactive efforts to understand and deal with the drainage and related issues on Christensen Lane. Since all of this is important to you, and since the stormwater system outflow is on your property, I know you'll want to review this information. Plus, we want and need you involved of course.

The discussion I plan to have with an Excavator tomorrow, on site, is pertinent too. If you happen to be available for that meeting on the west end of the Lane, great. Let me know and I'll text you the timing.

Otherwise, I'm available to discuss this with you at any time. I hope you'll be able to participate in much of this, needless to say.

For now, you've got most everything the Fox Hollow Committee members have.

Best regards,

Ric

Ric Bechter
[REDACTED]

From: Ric Bechter [REDACTED]
Sent: Thursday, March 03, 2016 11:52 AM
To: Brad Melton; Frank Dixon; Jack Reutzel; Ric Bechter
Cc: Brenda Staab; Chip Brunk; Jackie Scherer; Ryan Barker
Subject: FW: Fox Hollow Littleton Drainage & Stormwater Challenge

Now is as good a time as ever for the Fox Hollow Drainage Committee to begin working on finding the best, and most practical solution to our “Drain & Lane” concerns. Thank you for stepping up to be a member of this most challenging issue. (I used the term “Drain & Lane” because after visiting the Lane again yesterday, there are related issues there that need attention too, perhaps.)

Attached is a pretty good summary of where we find ourselves today on the drainage/stormwater issue. I find you have to read these emails a few times to really appreciate the scope of the finger-pointing going on here. The most recent email in this chain is from me to an Excavator (Rob Johns) whom I met recently. I will meet with him tomorrow (Friday) about 10am on the Lane to get his initial thoughts. Again, just being opportunistic at this point. I’ll text the committee members more about that in case you’re around and wish to join us.

I’ve attached two new photos of the clogged outflow of the infamous storm drain. This outlet is located straight west of the Burrows’ property, just east of Coon Creek.

We face many action items, but I’ve started a list of six of them just below.

Best regards,

Ric

Ric Bechter
[REDACTED]

From: Ric Bechter [REDACTED]
Sent: Friday, February 26, 2016 11:48 AM
To: Rob Johns
Subject: Fox Hollow Littleton Drainage & Stormwater Challenge

Rob,

It was nice to play golf with you last week at Deer Creek. That was it so far for Lori and me, but today is pristine for golf, as well as this weekend.

Concerning our drainage challenge I mentioned to you. Dive in here if you want, but it's pretty complex!

The 200-home private (city of Littleton) neighborhood to the north (Coventry) drains their water south over a dirt lane just to the north of our 33-home private Arapahoe county land neighborhood (Fox Hollow). Last year, minor flooding of Coventry's water over saturated land and the dirt lane (Christensen Lane) caused fence damage and landscape erosion in Fox Hollow, not to mention the amount of water we had to channel for them that should have gone into the storm inlets installed on this "private lane" that were installed when Coventry was built in the 70's.

There is a storm sewer line in place along the north side of this dirt lane, but it's dysfunctional, at best, so a lot of the water stays on the surface and heads south towards Fox Hollow, instead of being channeled west into Coon Creek.

Look at the map at the bottom of this email chain to see the west end of Christensen Lane, and the "00" rectangle of land on the west end where all this excitement takes place. As you can read below, the email from Jeremiah Unger at SEMSWA is very telling in regards to the challenge we face in getting any organization to do anything to help remedy or improve this situation.

Here are some of the questions we face and the action items we have:

- 1) Can we get a final development plan and plat for Coventry that might spell out their responsibility to maintain the storm sewer to their south?
- 2) What and who should improve the grading of the Lane back to specification?
- 3) What and who should insure a new plan to channel water to the several

- 3) What and who should insure a new plan to channel water to the several storm grates along West Christensen Lane, north side?
- 4) Who will keep these grates clear from the onslaught of every storm and fall leaf occurrence?
- 5) What can individual homeowners do to their northerly fences to insure the best drainage plan? (Stop the flow restriction there from years of buildup of debris?)
- 6) Why do Littleton and Arapahoe County and Coventry care so little?

I've attached a couple photos of the clogged outflow of the storm drain. These lay on private property just to the west of Fox Hollow. The outflow is supposed to flow the last 20 feet to Coon Creek that runs across this 10 acre private parcel.

I'm happy to hear any thoughts or advice you may have on any of this Rob.

All the best,

Ric
[REDACTED]

From: Jeremiah Unger [REDACTED]
Sent: Wednesday, November 25, 2015 10:21 AM
To: Ric Bechter
Cc: Richard Smith
Subject: RE: WOM-07-2015-046608

Ric, per our phone conversation this morning please find attached the Fox Hollow Final Development Plan also; please see below for the reference numbers and formal reply from SEMSWA

Please reference WOM-07-2015-046608 and WRM 06-2015-00076 for all future correspondence.

Below is Southeast Metro Stormwater Authority determination.

Per meeting with SEMSWA staff and directors here is SEMSWA determination regarding Fox Hollow drainage concerns. That Fox hollow will need to find plats from City of Littleton if the City or Coventry is to perform maintenance on this system. If no such maintenance is called out, then the responsibility falls on the private land owner that maintains the private lane adjacent to Fox Hollow HOA. The County nor SEMSWA can find any easements that would allow for maintenance of this system. SEMSWA has exhausted all possible avenues to locate such easements. If the property owner wishes to grant SEMSWA easement they would first need to obtain street maintenance eligibility from Arapahoe County for the Private drive to ensure proper grading toward existing drainage areas. Furthermore it was discovered that fencing in the Fox Hollow Final development plat was to be constructed in a manner not to obstruct drainage. It is mutually understood that flows of a significant flow should travel through the drainage easement called out on the plans down the roadside ditches to Dutch Creek.

Below is the response from Arapahoe County.

“The lane is “private” and is owned by the properties that utilize the lane for access. The lane existed before the subdivision along it were created. These subdivisions had to confirm their legal right to use the lane and improve the lane to a standard acceptable to the fire district (the subdivision pre-dated our private road standards). It sounds like maintenance may be an issue. With the addition of the new home at the end of the lane it may be an opportunity for all users to pool funds and make some improvements.”

“Regarding Littleton annexation – I checked the County’s Zoning maps, and that area was annexed by Littleton in 1974. It looks like the majority of the homes in Coventry (along the southernmost cul-de-sacs) were built in 1979 or 1980. I would assume that the subdivision and development of Coventry was processed by the City of Littleton. The residents of Fox Hollow should contact the City for any records, drainage studies, and/or construction plans for Coventry. Records may be limited due to the age of the development.”

“I think the FDP for Fox Hollow might be the most useful, but didn’t want to eliminate anything you might need. It looks like the westernmost section – the emergency access section – of Christensen Lane (as shown on the Fox Hollow FDP) doesn’t have a crown and is sloped towards Fox Hollow. I would guess that the emergency access section begins west of the intersection with Christensen Drive.”

Fox Hollow project file is on film (P91-019 & R95-014).

All services provided to Fox Hollow thus far have been a courtesy to the HOA in an attempt to help with maintenance establishment. The pipe inspections performed thus far indicate that a build up of sediment at the outfall inhibits a good survey of the pipe system. It is concrete pipe that has a service life of 50-100 years. This service life will be diminished if maintenance of the system is not performed. This would primarily consist of excavating the outfall end of the pipe to allow proper flow and jetting the pipe to capture all sediment. Keep in mind that permits would need to be obtained consisting of a possible Army corps of engineers permit for working in waters of the U.S. and a Grading Erosion and Sediment Control permit from SEMSWA.

As always Ric please feel free to call or e-mail me. Have a happy holiday Sir.

-Jeremiah Unger

Maintenance Technical Coordinator | Southeast Metro Stormwater Authority
(SEMSWA)

[REDACTED]

<http://www.semswa.org>

39°34'54.08721"N 104°48'50.73079"W

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Ric Bechter [REDACTED]
Sent: Thursday, November 12, 2015 10:52 AM
To: Jeremiah Unger
Subject: RE: WOM-07-2015-046608

Hi Jeremiah,

Left you a VM moments ago, but not sure you will receive it since I got an error message at the end of the recording.

Anyway, hoping to speak with you to hear a summary of your findings from reviewing the pipe video footage, and your discussions with the county and your staff concerning the Coventry neighborhood's drainage onto Christensen Lane and into Fox Hollow, so that we as an HOA can decide on our next moves.

Your expectation, as you stated below was, "... to find and determine responsibility once and for all to have the area graded to the grated lids along Christensen Ln." That pretty much sums it up for us, too. I'm sure the discussion of this topic in your staff meeting was colorful. Either way, SEMSWA's recommendations for us going forward would be much appreciated!

Would like to speak with you about this at your convenience.

Ric Bechter
Fox Hollow

[REDACTED]

From: Jeremiah Unger [REDACTED]
Sent: Thursday, October 08, 2015 7:54 AM
To: Ric Bechter
Cc: 'Brenda Staab'

Subject: RE: WRM-06-2015-000076 & WOM-07-2015-046608

Ric, I did receive a reply back from the County. The crews did obtain what footage they could. I need to sit down and have a meeting about all this and confer with my colleagues. I will tell you preliminarily it doesn't look good and I probably have over stepped my bounds in helping Fox Hollow. I have the meeting set for Wednesday next week I should have definite answers after that.

-Jeremiah Unger

Maintenance Technical Coordinator | Southeast Metro Stormwater Authority
(SEMSWA)

[REDACTED]

<http://www.semswa.org>

39°34'54.08721"N 104°48'50.73079"W

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Ric Bechter [REDACTED]
Sent: Tuesday, July 21, 2015 5:02 PM
To: Jeremiah Unger
Cc: Brenda Staab
Subject: RE: WRM-06-2015-000076 & WOM-07-2015-046608

Hi Jeremiah,

I wanted to touch base with you to check on any further developments concerning any developments with this drainage issue. Any update on WOM-07-2015-046608 and the effort to put a camera through the pipe system? Do we know yet that this pipe is limited to the surface drain water from Coventry?

I surmised that Coventry was not part of Littleton when it was built, and that the county might have overseen the drainage strategy and plan that placed the underground pipe. Curious what the county says about ROW ownership and history now. In a conversation with a long term resident, he doubts that there has been an explicit owner of the Lane in the last 80 years or more.

Best regards,

Ric Bechter
Fox Hollow
303-808-6823 cell

From: Jeremiah Unger [REDACTED]
Sent: Wednesday, July 01, 2015 8:55 AM
To: Ric Bechter; 'Brenda Staab'; 'Ryan Barker'; 'Chip Brunk'; 'David Novinger'; 'Ken Hootnick'; 'Jackie Scherer'
Cc: Richard Smith
Subject: RE: WRM-06-2015-000076 Drains are clear thanks to SEMSWA. Photos morning after the 6-24-2015 1" rainstorm

Ric, you were right. Please see pasted picture below. Christensen Lane is private through that area. It is the property owners responsibility to get drainage to the grated lids that we looked at and get clogged so easily due to the landscaping materials used. If the property owner wishes to grant easement to the stormwater outfall at the end of Christensen Lane, please have them contact me with a formal request for maintenance/easement. At this point for anyone to take maintenance of Christensen Lane you would have to request it be taken over by the County (I don't see them taking on this type of liability but, that is just my opinion). The work order number WOM-07-2015-046608 is your reference number for the pipe camera and system investigation. We did talk about this issue on Monday afternoon at our staff meeting. We are going to see what the County has to say about ROW (right-of-way) ownership and the history of the area. My expectation is to find and determine responsibility once and for all to have the area graded to the grated lids along Christensen Ln. Hope all this helps.



-Jeremiah Unger

Maintenance Technical Coordinator | Southeast Metro Stormwater Authority (SEMSWA)

[REDACTED]

[REDACTED]
<http://www.semswa.org>

39°34'54.08721"N 104°48'50.73079"W

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: Ric Bechter [REDACTED]
Sent: Sunday, June 28, 2015 11:31 PM
To: 'Brenda Staab'; 'Ryan Barker'; 'Chip Brunk'; Jeremiah Unger; 'David Novinger'; 'Ken Hootnick'; 'Jackie Scherer'
Cc: 'Ric Bechter'
Subject: WRM-06-2015-000076 Drains are clear thanks to SEMSWA. Photos morning after the 6-24-2015 1" rainstorm

Poetically, on the very same day as our onsite meeting was held with Coventry and SEMSWA* this past week, 1" of rain caused "Lake Christensen Lane" to form again and the stormwater manhole grates to clog. For the record, here are some photos of the "lake," the grates, one Coventry exit point, and its impact on the fresh new mulch that was replaced last week at the west end of Christensen Dr. (Obviously, Fox Hollow has mulch where rock is needed in any scenario. But, be that as it may...)

SEMSWA came out and cleared them as Jeremiah said they would. Thank you!

I share these for the record as we embark on this journey to better our mutual stormwater management design.

David, could you please research when Coventry was annexed by Littleton, relative to it being developed? It might well have been after the drainage plan was implemented. Perhaps the development was done all in unincorporated Arapahoe County, by county standards and control only. Perhaps there are still some original homeowners around who would know.

I spoke with the owner of the property to the west. He would be happy to grant a permanent easement for clearing of the stormwater pipe exit that Jeremiah located with the help of his map. In the early 2000's, he placed tons of recycled asphalt on the Lane. Some is still visible.

He and a property owner who lived on the Lane long before Fox Hollow was developed could not remember there being a channel along the Lane to direct the water to the manhole grates.

Best regards,

Ric Bechter, Fox Hollow



* Southeast Metro Stormwater Authority.











ISA Certified Arborist
Colorado TreeScapes, Inc.

On Mon, Mar 14, 2016 at 2:41 PM, Ric Bechter [REDACTED] wrote:
Terrific. Thanks Griff.

BTW, you may see that crushed asphalt begin to be spread on the center line of Christensen Lane this week. This is being done by the owner of the new home under construction, who has also obviously also moved a lot of heavy equipment up and down the lane recently. That will be a big help and a good start.

Of course, all parties who use the lane are expected to contribute to its upkeep. Jeff has done a very good job with that in the past.

Ric

From: Griff Gehring [mailto:[REDACTED]]
Sent: Monday, March 14, 2016 2:05 PM
To: Ric Bechter
Subject: Re: Ric Bechter in Fox Hollow RE: Christensen Lane Trees

Ric,

I'll have something to you by the end of this week.
Thank you,

Griff Gehring
President
ISA Certified Arborist
Colorado TreeScapes, Inc.

On Thu, Mar 10, 2016 at 11:47 AM, Ric Bechter [REDACTED] wrote:
Hi Griff,
Thanks for meeting with us today. Very interesting challenge we face.
Here's my contact information. I'm on the Board for the Fox Hollow HOA and head up the Christensen Lane Project.
Best regards,
Ric
Ric Bechter

[REDACTED]

[REDACTED]

Exhibit 7

Littleton Public Schools
Bulletin



Search

5100 Christensen Ln

All Grades and Schools

Results for 5100 Christensen Ln, 80123

- Goddard Middle School
3800 West Berry Ave, Littleton, CO 80123
- + W CHRISTENSEN CIR & W CHRISTENSEN CIR**
GMS L04 AM 8:06 AM
- + W CHRISTENSEN CIR & W CHRISTENSEN CIR**
GMS L04 PM 4:02 PM
- + W Ponds Cir & W Ponds Dr**
GMS L18 LR 5:32 PM
- Heritage High School
1401 West Geddes Ave, Littleton, CO 80120
- + 4417 Christensen Cir**
HHS L37 AM 7:39 AM
- + 4417 Christensen Cir**
HHS L07 PM 4:13 PM
- Wilder Elementary
4300 W Ponds Cir, Littleton, CO 80123
- + NOT ELIGIBLE FOR BUS SERVICE**
Designated Walk Boundary 7:40 AM
- + NOT ELIGIBLE FOR BUS SERVICE**
Designated Walk Boundary 2:40 PM

Exhibit 8

Redactions made to eliminate personal contact information.

Colorado TreeScapes, Inc.



COLORADO TREESCAPES



ESTIMATE

ADDRESS

Fox Hollow

ESTIMATE # 3581

DATE 03/18/2016

EXPIRATION DATE 04/18/2016

SALES REP

GGG

ACTIVITY	QTY	RATE	AMOUNT
Pruning Type:2" Deadwood Prune Cottonwood (3 on West end, South side of Christensen lane. Small \$225 Medium \$475.00 Large \$1075.00 Prune out dead wood 2" in diameter and larger. *Crown raise to 16' over road. *Includes pruning out dead 2" in diameter and larger on entire tree	1	1,775.00	1,775.00
Removal Cottonwood (4 stem) Elm (1) Russian olive (3) All North of 4910 Christensen Lane Remove, chip brush & haul logs away.	1	2,600.00	2,600.00
Prune Crown raise all trees not listed up to 16' over the dirt road portion of Christensen lane.	1	775.00	775.00
Removal All shrubs on the North side dirt road of Christensen lane. Remove, chip brush & haul logs away.	1	1,225.00	1,225.00
General Terms & Conditions Reply by email to accept this proposal. In doing so you accept our general terms and conditions. Details for Plant Health Care Programs, Pruning Programs and general tree care services can be found there.	1	0.00	0.00

Thank you for the opportunity to serve you and your tree care needs.

TOTAL

\$6,375.00

Please feel free to contact me with any questions.

Review the attached Terms & Conditions. Reply to this email to accept this proposal.

Thank you,

Griff G. Gehring
President
Colorado TreeScapes, Inc.

Accepted By

Accepted Date

March 23, 2023



EXHIBIT 9



Unauthorized work on Culvert



Exhibit 10

Redactions made to eliminate personal contact information.

Begin forwarded message:

From: Tiffany Clark [REDACTED]
Subject: RE: 5260 West Leawood - Culvert
Date: September 17, 2021 at 1:11:33 PM MDT
To: Charlie Keener [REDACTED] >
Cc: Jesse Donovan [REDACTED], Chuck Haskins [REDACTED], Jason Reynolds [REDACTED], Dan Olser [REDACTED], Cynthia Love [REDACTED]

Charlie,

Thank you for the conditions letter. As discussed last week I stated I would provide you with an outline of items and process.

1. As discussed SEMSWA will be removing a downed tree trunk near the culvert and some debris within the culvert. We completed a closer inspection of the culvert and the culvert is in disrepair. Along with the debris removal we are also going to shotcrete the inside of the culvert as a significant area of the culvert is no longer there and is just bare ground. This work will be completed today, Friday the 17th and Saturday the 18th. Please minimize the amount of traffic that drives over this culvert until replaced.
2. An unpermitted fence was installed along the culvert and within the floodplain. Fences are prohibited within the floodplain per the Arapahoe County Land Development Code (Chapter 2-4.10) and the Arapahoe County Stormwater Management Manual (Section 5.7.2). Please remove the fence as soon as possible as this is a zoning code violation

5.7.2). Please remove the fence as soon as possible as this is a zoning code violation with Arapahoe County.

3. Please submit a no fee Floodplain Development Permit (FPDP) application to accompany the previously sent letter (application can be found here: <https://www.arapahoegov.com/DocumentCenter/View/1870/Floodplain-Development-Permit-2017?bidId=>).
4. Due to the condition of the existing culvert it needs to be replaced as soon as possible. If possible, construction this winter during low flow would be ideal. The upstream channel is also in poor condition and improvement of the channel should also be considered. I have outlined the review and approval process for the culvert repair (and channel improvement if proposed) below:
 - a. As this project is within the Unincorporated Arapahoe County all documents will need to be submitted to Arapahoe County for review. SEMSWA will receive the documents from Arapahoe County. If the projects extends into Jefferson County review will need also need to review and approve. The following documents need to be submitted.
 - i. Floodplain Modification Study (assuming these improvements do not cause an impact to the floodplain)
 - ii. Construction Drawings
 - iii. Drainage Report
 - iv. Grading, Erosion and Sediment Control (GESC) Plan and Report
 - v. Easements (we would request that the channel and culvert be placed within floodplain and drainage easements)
 - vi. The County may request a SIA.
 - b. The first review is 3 weeks. Subsequent reviews will be reduced by 1 week each time to a minimum review time of 1 week. We will do our best to reduce those times if possible in hopes this project can be constructed this winter. Mile High Flood District will also be referred these documents for review and approval. We encourage a meeting prior to the initial submittal and after each review to go over comments to help reduce the number of submittals necessary.
 - c. Please refer to SEMSWA website for checklists and guidance for the required documents.
 - d. Review and permitting fees are based on disturbance area. Review Fees will be invoiced at the time of the initial submittal and due prior to the release of the first set of comments. Permitting fees will be assessed at the time of approval and due prior to permitting. Collateral will also be required.
 - e. The design should comply with the Coon Creek MDP and the Arapahoe County Stormwater Management Manual.
 - f. You will need to obtain a GESC and Floodplain Development Permit from SEMSWA and a Public Improvement Permit from Arapahoe County. You may also need a State Permit as well.
 - g. If work extends into Jefferson County you will need to comply with their permitting requirements. We may be able to coordinate permitting responsibilities.
 - h. Once the documents are approved we will provide a memo that states the items, including fees that need to be submitted to proceed with permitting.
 - i. This work shall be independent of the future proposed development project and

- .. This work shall be independent of the future proposed development project and this work does not guarantee approval of the development project.
4. I understand you have reached out to ICON Engineering as a consulting partner on this project. I have been contacted by ICON engineering to discuss this project.

There is a lot of information here, please let me know if you have any questions or need further detail.

*Thank You,
Tiffany Clark*

Tiffany A. Clark, PE, CFM
Land Development Manager
Southeast Metro Stormwater Authority

From: Charlie Keener [REDACTED]
Sent: Tuesday, September 14, 2021 9:48 AM
To: Tiffany Clark [REDACTED]
Subject: RE: 5260 West Leawood - Culvert

Tiffany,

Please see the attached letter for the existing conditions of the culvert, per our discussion last week. The owners are CC'd to this email and will provide authorization to access the property. Thanks,

Charles Keener Jr, P.E. | Principal
Brightlighter Engineering LLC [REDACTED]

From: Tiffany Clark [REDACTED]
Sent: Monday, September 13, 2021 2:55 PM
To: Charlie Keener [REDACTED]
Subject: RE: 5260 West Leawood - Culvert

Charlie,

I am still working on providing you with further instructions/information, but waiting on a call from the County in regards to the fence within the floodplain.

In the meantime, could you provide a letter or email from the owner allowing SEMSWA to access the property to remove the debris from the culvert as we do not have an easement.

Thank you.

*Thank You,
Tiffany Clark*

Tiffany A. Clark, PE, CFM
Land Development Manager
Southeast Metro Stormwater Authority

From: Charlie Keener [REDACTED]
Sent: Tuesday, September 7, 2021 9:39 AM
To: Tiffany Clark [REDACTED]
Cc: David Tschetter [REDACTED]; palisadehomes [REDACTED]; Jesse Donovan [REDACTED]; Chuck Haskins [REDACTED] Jason Reynolds [REDACTED]; Cynthia Love [REDACTED]
Subject: RE: 5260 West Leawood - Culvert

Thanks Tiffany,

Do you and your team have availability to meet on-site Thursday? Preferably in the morning but we can be flexible. Let me know, thanks.

Charles Keener Jr, P.E. | Principal
Brightlighter Engineering LLC [REDACTED]

From: Tiffany Clark <[REDACTED]>
Sent: Friday, September 3, 2021 2:03 PM
To: Charlie Keener [REDACTED]
Cc: David Tschetter [REDACTED]; palisadehomes [REDACTED]; Jesse Donovan [REDACTED]; Chuck Haskins [REDACTED]; Jason Reynolds [REDACTED]; Cynthia Love [REDACTED]
Subject: RE: 5260 West Leawood - Culvert

Charlie,

Thank you for reaching out. Please see responses below in red. Please let me know if you have any other questions.

*Thank You,
Tiffany Clark*

Tiffany A. Clark, PE, CFM
Land Development Manager
Southeast Metro Stormwater Authority

[REDACTED]

From: Charlie Keener [REDACTED] >
Sent: Tuesday, August 24, 2021 12:36 PM
To: Tiffany Clark [REDACTED]
Cc: David Tschetter [REDACTED]; palisadehomes [REDACTED]; Jesse Donovan [REDACTED]
Subject: RE: 5260 West Leawood - Culvert

Tiffany,

We wanted to bring a couple items to the attention of SEMSWA and discuss the path forward for repairs of the washed-out private culvert at the above address. I have attached a link to some photos of the wash-out and have also attached an old survey for reference.

To provide some history on this issue, the existing culvert is a 48-inch CMP and passes flow from Coon Creek under a private shared access drive. The access drive is owned by our client and used by the adjacent property owner and is the only means of ingress and egress from their home to Christensen Lane. This access is provided through an access easement that was established back in the earlier 90's. The property owner has also provided their neighbor access through their adjacent parcel (JeffCO side) to access Leawood Drive, ensuring their needs are met while the proper steps are being taken to correct the culvert. (Christensen Lane and Leawood Drive do not connect).

When Brightlighter went to observe the site last year, the culvert had sustained heavy erosion and was clearly undersized for the tributary. There is an existing 12ft x 6ft box culvert directly upstream which allows water to pass under Leawood Drive. The original installation of the 48inch CMP culvert did not provide adequate inlet / outlet protection, and it was clear the culvert was in danger of failing completely. We advised the property owner of this condition and planned to retrofit the existing culvert or completely replace when entitlement began for the development of the property.

Fast forward to last month, we got a call the access road had washed out during a rain event. (Shown in the attached photos).

Because the access drive is washed out it prevents the adjacent homeowner from accessing Christensen Lane. Last Friday, late afternoon the adjacent homeowner notified the property owner (our client) that without his permission, and without engineered plans or permits, he backfilled the entire washout with concrete (see attached photos). The property owner shared this information with Brightlighter yesterday so we could notify the jurisdiction of the situation. The property owner has advised any vehicles accessing his property to do so from Leawood Drive, avoiding any loading on the backfilled culvert.

From an engineering perspective, the concrete backfill does not really change the hydraulic condition and does not alter the fact the entire thing needs to be designed, permitted, and

replaced. We expect to have a survey completed this week with sections through the creek so we may properly analyze the hydraulic condition. A few questions for SEMSWA,

1. With the washed-out culvert being backfilled without proper engineering, does the owner need to take any corrective action while the design of this culvert is being prepared, reviewed, and permitted? **The concrete that was placed can only be temporary. Additionally, the concrete was not engineered and could potentially cause other short/long term issues.** What is the timing of the proposed repair? As this work was done without permitting we ask that you provide an Engineers Certification of No Impact letter, complete a Floodplain Development Permit (FPDP) application, and submit a review/permit fee of \$330.00. The FPDP application and template for the No Impact Letter can be found at the following link: <https://www.semswa.org/floodplain-management/floodplain-regulations-permitting/>.
2. Is a site visit with SEMSWA, Brightlighter, and the owner warranted to understand the existing condition and if corrective action is needed? **We think a site visit may be beneficial to see if any other temporary improvements need to be made and to discuss the proposed improvements. Please provide some dates and times to meet. As for the repair, it will need to meet the 100-yr storm event standards and those recommendations in the Major Drainageway Plan: Dutch Lilley Coon Three Lake Trib MDP PH B 2008 available on the MHFD website. It is my understanding that there is objection to the proposed development by the residents along Christensen Lane, please note, completing this work is to repair the damage and does guarantee approval of any future developments.**
3. Does SEMSWA have any existing reports related to the hydrological condition of Coon Creek? **We imagine, based on observation, this watershed is very large and existing reports are going to help refine a HEC-RAS model. SEMSWA does not have any reports for Coon Creek, however the MDP and FHAD can be found on the MHFD website and I believe a PMR was also processed in 2018. You may be able to get the models from MHFD.**

Appreciate your time,

Culvert Photos

Charles Keener Jr, P.E. | Principal
Brightlighter Engineering LLC [REDACTED]

From: Tiffany Clark [REDACTED]
Sent: Wednesday, July 14, 2021 7:18 PM
To: Charlie Keener [REDACTED]
Subject: 5260 West Leawood

Charlie,

When you can please send me the information that we discussed last week. In the meantime, I was able to discuss the floodplain permit process with staff. Based on our discussion I

believe we could process the repair/upsized culvert without a CLOMR if there is no-rise to the floodplain. We are assuming that there will be no rise if the culvert is enlarged.

You will need to create a HEC-RAS model for the proposed work. If the model shows no-rise to the floodplain, then a no impact or floodplain modification study will be required, reviewed and approved by Arapahoe County and SEMSWA, then possibly followed by a LOMR once construction is complete. This will get you to construction the fastest. If there is a rise, then it will need to go through the CLOMR/LOMR process and this will be timely. We will work with you as best we can to process the documents as quickly as possible.

There will also be Grading, Erosion and Sediment permitting requirements and I will provide all the requirements once we know the full extent of the plan.

Please let me know if you have any questions.

Thank You.

Tiffany Clark

Tiffany A. Clark, PE, CFM
Land Development Manager
Southeast Metro Stormwater Authority



August 11, 2023

Molly Orkild-Larson
Principal Planner
Arapahoe County
6924 S. Lima Street
Centennial, CO. 80112

Dear Ms. Orkild-Larson

The developer's response to our neighbors is in blue throughout the letter.

My wife and I live at 5090 Christensen Lane, Littleton, CO. We are located immediately east of the newly proposed Arcadia development. This development will impact us in several ways, so we have several questions/comments.

Coon Creek Culvert. As the property owner immediately east of the culvert we are concerned about the impacts that the construction of the new culvert and its tail wall will have on us and our property. I am wondering if the developer can provide a graphic overlay of where the new culvert and the proposed tail walls will be in relationship to the existing trees and landscaping. He indicates that only one tree will be removed, but I have my doubts. After studying the construction details, I noticed that some of the wall footings are 11' wide. That will require an excavation of about 14' wide. I am concerned how an excavation this wide could impact my trees and my property. Some of these walls are 10' above the surface of the creek. Will this be my new view (10' of concrete wall verses 60+ year old trees and an established creek line)? If these walls are allowed, how will they be backfilled and landscaped? I believe that detailed drawings of this proposed work will show the negative impacts that these walls will have on my property.

This letter was written without our neighbors having all the information on the final culvert design, and their comments are understandable.

We have provided detailed drawings of the culvert with each of our submittals, including our most current submittal. The culvert structure, including wing walls, is entirely built on Arcadia property. The construction of any culvert in this location requires proper grading for erosion control and stream integrity on the downflow side of the culvert. Currently, on Larsen property, there has been an attempt to provide erosion control in the existing F Zone drainage easement found on the Fox Hollow, Filing No. 2 plat, using a check dam and riprap. Upon the completion of the new culvert structure on Arcadia property, the downflow side of the culvert will require proper grading and riprap placement to ensure stream and culvert integrity. There is no evidence that past erosion control efforts such as placement of riprap, check dams, or grading have hurt the Larsen trees, and we would anticipate the same. Trees currently vulnerable to stream bank erosion will benefit from all the improvements in this drainage easement.

Some trees on our property will be removed during construction, but that is our decision, not theirs. Their rights to our property begin with and end with the language in the easement and settlement agreement.

We would like to be clear that we do not believe that the developer, Arapahoe County or SEMSWA has an easement that allows construction on our property. C5.0 labeled Existing Drainage Map clearly states that “No Drainage Easement in this area, SS and Access Esmt labeled”.

We have addressed this question in detail in our response letter to the county, response three.

There seems to be some confusion about the location of the existing culvert. We do not believe that it crosses the property line. We would like to see the developer produce a detailed drawing showing the exact location of the culvert in relation to the property line.

There is no confusion about the existing culvert's location on both properties. The culvert structure, stabilizing riprap, and check dam are located on the Larsen property and found in the existing F Zone drainage easement defined in the Fox Hollow, Filing No. 2 plat. A survey exhibit showing the culvert on both properties was provided to Arapahoe County Engineering in August 2022. Now that the culvert structure has been removed from their property, no further discussion is needed regarding this issue.

Landscape Drawings. Several of the replies to Arapahoe County’s comments refer to the landscape drawings. I was unable to find any landscape drawings, so those questions remain unresolved for us. We reserve the right to make comments on those drawings once they are produced.

We were not required to provide landscape plans in Arapahoe County.

Private Drive: The developer states he has the right to adjust the location of the private drive as it lies on his property. We are concerned that any adjustment of the private drive will cause some of the existing trees to be removed, destroying the ambiance of the drive.

Again, their rights to our property begin and end with the language of the easement and settlement agreement. However, over the last year, we have done extensive tree preservation on our property and will continue to act accordingly. It is in our best interest to preserve the ambiance of our property.

Use of Christensen Lane: The developer has stated that Christensen Lane was used for decades by commercial users with no complaints from the neighbors. These commercial uses were in violation of the property's zoning. The neighbors did, in fact, complain to Jefferson County, and those uses were stopped or forced to relocate.

This is partially correct; however, complaints to Jefferson County began in 2018 because of our rezoning application in Jefferson County. Jefferson County had never taken action to eliminate zoning violations on our property before this time. Before Jefferson County took any action on zoning violations, the previous owner, of his own accord in 2018, terminated commercial activity on the property and required the commercial business using the farm to vacate.

We are confused when it comes to pedestrian use of the Lane as described by the developer. His narrative speaks of a fence and then addresses bollards but only striping is shown on the drawings. What is the plan? It is difficult to address when the target continues to move.

This letter was written without our neighbors having all the information on the final design of Christensen Lane, and their comments are understandable.

Our current submittal shows Christensen Lane's final orientation, as approved by the TRC during our last meeting with them. The final design results from the current conditions of the Lane determined by the county, surveys, drainage analysis, input from SEMSWA and SMDFR, and our engineers. The current cross-section of the Lane shows a 4 to 5-foot-wide sidewalk/bike lane stripped with 2-foot shoulders. As a recommendation of the TRC, the walk will not have a fence or bollards.

Studying the profiles of Christensen Lane provided by the developer it becomes obvious that he is attempting to meet the minimum requirements of Arapahoe County. The proposed slopes on both edges of the lane, as well as the adjustments for drainage, do not appear to be safe for the end users. Are we not forcing things to work in Arapahoe County for the benefit of a Jefferson County development?

This letter was written without our neighbors having all the information on the final design of Christensen Lane, and their comments are understandable.

The design of Christensen Lane is safe, and we have met all the standards the county has required of us regarding the Lane in design and engineering. Our design significantly improves the condition of the Lane, specifically drainage, and can be reviewed within our construction plans. Our improvements to the drainage result from a detailed analysis of existing drainage patterns on the Lane and offsite drainage basins that have been emptying into the Lane from the Coventry subdivision north of the Lane. All our improvements are based on approvals from the Arapahoe County Technical Review Committee, South Metro Fire Rescue, and SEMSWA and are anything but a minimal requirement.

Our improvements make Christensen Lane cohesive from Platte Canyon to Leawood Dr., resulting in its long-term maintenance being fully defined. The upgrades also ensure our property interest in Christensen Lane, which has been previously litigated and where the court has unequivocally found that we have unlimited, unrestricted, permanent access.

Thank you for reviewing our concerns. Should have any questions we can reached at 303.973.7555.

Submitted by,

Anne and Andy Larsen
5090 Christensen Lane
Littleton, CO. 80123