

1. Land surrounding the project site is described as "vacant land" with no mention of Sombbrero Marsh, wetlands, surrounding Open Space or residential communities such as Columbine Mobile Home Park.
The City disagrees with this comment. Page 3 of the EA: The site is currently vacant and provides paved parking for District vehicles. The BVSD area is surrounded by some vacant land to the north, east and west of the site with several commercial buildings to the north and single-family residences to the east of the site.
2. Inadequate Army Corps of Engineers evaluation as they ONLY evaluated the project site (the factory footprint) as directed by the City and not the wider site including 63rd street, Sombbrero Marsh and wetlands.
The City disagrees with this comment. ERO assessed the project area for potential wetlands and other waters of the US threatened and endangered species habitat and general wildlife use. Per the report from ERO, if any work is planned in the ditches, their associated wetlands or the isolated wetlands in the project area, a jurisdictional determination should be requested from the US Army Corps of Engineers. Although there is no work planned in the specified areas, the City did request a jurisdictional determination from the U.S. Army Corps of Engineers which is attached to the Environmental Assessment.
3. The statement that off-site wetlands will not be affected by the factory, even though they have no study that supports that position (only the Corps of Engineers saying the project site is dry)
The City disagrees with this comment. The City contracted with ERO to assess the project area for potential wetlands and other waters of the US threatened and endangered species habitat and general wildlife use.
4. The statement (repeated several times) that the proposed site is compatible with the location and surrounding land uses when they know this is untrue; the site is zoned P for Public, a zone where manufacturing is prohibited.
The City disagrees with this comment. City staff finds the application for initial zoning of Public (P) is consistent with the land use designation of Public/ Semi-Public (PUB) on the BVCP land use map and is compatible with surrounding properties. Per the Intergovernmental Annexation Agreement for the BVSD campus:
 8. **Modular Housing Factory an Allowed Use.** The Modular Housing Factory, which shall be considered a manufacturing use, shall be a use allowed by right on the Property despite any provision to the contrary in Title 9, "Land Use Code," B.R.C. 1981, and shall not be considered a nonconforming use.
 21. **Zoning.** The Property shall be annexed to the City with an initial zoning classification of Public; provided, however, because of the District's status as a state sovereign entity, the Property is not subject to all of the rights and restrictions associated with that zoning, so long as the District remains the owner of the Property. Any successor in interest or assignee to the District's interest in the Property shall be subject to all of the rights and restrictions associated with the zoning of the Property, except as may be modified by this Agreement or by the successor's or assignee's exemption under state or federal law.
5. The repeated statement that there are no social justice issues are associated with the project, even though using 63rd Street as the primary traffic route between 6 am and 6 pm places disproportionate impacts on the underserved Columbine Mobile Home Park residents, whose homes are within 6 feet of 63rd Street.

The City disagrees with this comment. The Intergovernmental Agreement Terms paragraph H: “The Parties will ensure that deliveries to and from the Factory, including materials and supply deliveries and deliveries of completed modular housing units off site, will only occur on 65th Street during times when traffic impacts on BVSD operations and related safety risks for students, employees, parents, and other members of the public using that access are low. Deliveries to and from the Factory via 63rd Street will be minimized to the greatest extent possible. The Parties will work together in good faith to establish a delivery schedule to and from the Factory via 65th Street that minimizes traffic impacts on other BVSD operations.”

It is the City’s opinion that updated hours of operation and utilizing 65th Street will mitigate the potential negative traffic impacts on residents of Columbine Mobile Home Park.

6. Failure to address the environmental impacts using 63rd Street as the primary traffic route from 6 am - 6 pm will have on Sombrero marsh

The City disagrees with this comment. Appendix A of the Environmental Assessment states that the Intergovernmental Agreement outlines the provisions (A-F below) to reduce the impact of the Modular Factory operations on the neighbors and the marsh.

- A. Factory Operating Hours: The Factory will operate no more than five days a week. The operating days will be Tuesday through Saturday, to accommodate volunteer schedules; and operating hours will be 8 am to 4 pm. The Factory will be closed for most federal holidays.
- B. Factory Construction Hours: Work will be done to construct the Factory up to five days a week (Monday through Friday) between the hours of 7 am and 6 pm.
- C. Quiet Hours: Quiet hours and noise levels will be observed at the Factory in consideration of neighbors and nearby open space in accordance with city/county regulations.
- D. Back Up Alarms: Forklifts operated in and around the Factory will not be equipped with back up alarms unless required by state or federal rules. Truck deliveries and the pickup of modules will be routed around the Factory to avoid the use of back up alarms.
- E. Trash and Recycling: Trash and recycling pickup will only occur during the Factory’s operating hours.
- F. Factory Staff and Volunteer Parking: All City and FHFH staff and volunteers will park in the paved parking area immediately north of the factory structure.
- G. Factory Doors and Windows: Doors and windows will remain closed year-round (when not actively receiving a delivery or a modular unit is exiting) to reduce noise.
- H. Deliveries: The Parties will ensure that deliveries to and from the Factory, including materials and supply deliveries and deliveries of completed modular housing units off site, will only occur on 65th Street during times when traffic impacts on BVSD operations and related safety risks for students, employees, parents, and other members of the public using that access are low. Deliveries to and from the Factory via 63rd Street will be minimized to the greatest extent possible. The Parties will work together in good faith to establish a delivery schedule to and from the Factory via 65th Street that minimizes traffic impacts on other BVSD operations.

7. The statement that there will be no impacts to open space, when they have no document or study that supports that statement

The City disagrees with this comment. The proposed project is being constructed on a vacant parking lot. No construction will occur on open space. The letters from consulting parties and studies conducted as part of the Environmental Assessment are the basis for stating the project will have no impacts to open space.

Per the Intergovernmental Agreement, 63rd Street will not be the primary traffic route.

8. The failure to address construction traffic at all in the traffic discussion in Appendix A; they also imply 65th Street will be the primary traffic route during the day (which is untrue) and they equate the heavy truck traffic to car and school bus traffic

The City disagrees with this comment. The Intergovernmental Agreement Terms paragraph H: The Parties will ensure that deliveries to and from the Factory, including materials and supply deliveries and deliveries of completed modular housing units off site, will only occur on 65th Street during times when traffic impacts on BVSD operations and related safety risks for students, employees, parents, and other members of the public using that access are low. Deliveries to and from the Factory via 63rd Street will be minimized to the greatest extent possible. The Parties will work together in good faith to establish a delivery schedule to and from the Factory via 65th Street that minimizes traffic impacts on other BVSD operations.

After the adoption of the Intergovernmental Agreement, BVSD has agreed that all construction traffic will occur on 65th Street during the summer when BVSD is closed to students. In the fall, construction traffic will follow the same requirements as Factory deliveries.

9. Proposed Factory project is incompatible with current land use zoning.
- EA does not mention that the manufacturing use is explicitly prohibited under Public zoning. *The City disagrees with this comment. As stated earlier, the Intergovernmental Annexation Agreement allows manufacturing as an allowed use on the BVSD campus.*
 - Previous City determinations had considered a proposed modular home factory at 4990 Pearl Street to be “manufacturing use with potential off-site impacts”. The City has never explained why that use category does not apply to the proposed factory at 6500 Arapahoe Road. *The City does not understand and disagrees with this comment. Manufacturing is an allowed use at the site and “potential off-site impacts” is not a use category in the Boulder Revised Code.*
 - The EA does not mention that there is a current legal dispute about whether Public zoning of 6500 Arapahoe Rd. allows manufacturing use. Hence, the EA’s impact code of “2” is incorrect. *The City disagrees with this comment. The City does not consider the lawsuit filed by neighbors to be material to the EA.*
10. Alternatives – EA does not fully explain viable alternatives to the 6500 Rd property.
- On p. 12, the EA does not fully explain viable alternatives to the 6500 Arapahoe Rd. property. The EA mentions that there was a pre-application review of city-owned property at 4990 Pearl Street and neighboring parcels, but that the “sites were problematic due to the zoning restrictions imposed by the current Planned Unit Development regulations and need to amend the PUD.” The EA neglects the fact that the parcel at 4990 Pearl Street could allow a modular home factory in its existing Industrial – General zoning and is not subject to a PUD. *The City disagrees with this comment. The EA provides sufficient explanation.*
 - Even though the response mentions Public zoning prohibits manufacturing, the response also states that “the properties at 4944-4990 Pearl St. zoned Industrial - General (IG)” (p. 3). Industrial - General allows for manufacturing uses under special review. *The City disagrees with this comment. The EA provides sufficient explanation.*
 - The pre-application review response concludes that the modular home factory would be “manufacturing use with potential off-site impacts” (p. 1.). Senior Planner Walbert also states that “Manufacturing uses with potential off-site impacts are prohibited in the Public (P)

zoning district (Table 6-1: Use Table, B.R.C. 1981). A special ordinance would be necessary, with approval by City Council, to establish the proposed second principal use on the property” (p. 1). (Note that no such special ordinance was passed specifically to modify Public zoning to allow manufacturing use with the property at 6500 Arapahoe Rd.) Thus, according to the pre-application review, the property at 4990 Pearl Street is not subject to a PUD while being compatible with manufacturing use with potential off-site impacts. The 4990 Pearl Street is therefore a viable and superior alternative to 6500 Arapahoe Rd., which is zoned Public. The EA mischaracterizes the results of the pre-application review of an alternative site.

The City disagrees with this comment. The EA provides sufficient explanation of why the BVSD site was selected. Also, the Intergovernmental Annexation Agreement provides the Council approval to allow manufacturing uses on the site.

11. The construction activity (trucks) will have a significant impact on the folks that live in the mobile home park at 63rd and Arapahoe. Most construction traffic will use that entrance vs. the BVSD entrance at 65th.

The City disagrees with this comment. The Intergovernmental Agreement paragraph H states: The Parties will ensure that deliveries to and from the Factory, including materials and supply deliveries and deliveries of completed modular housing units off site, will only occur on 65th Street during times when traffic impacts on BVSD operations and related safety risks for students, employees, parents, and other members of the public using that access are low. Deliveries to and from the Factory via 63rd Street will be minimized to the greatest extent possible. The Parties will work together in good faith to establish a delivery schedule to and from the Factory via 65th Street that minimizes traffic impacts on other BVSD operations.

As stated earlier, BVSD has agreed that all construction traffic will occur on 65th Street during the summer when BVSD is closed to students. In the fall, construction traffic will follow the same requirements as Factory deliveries.

12. That same activity will impact nature life at the Sombrero Marsh. The proposed site is located in a slight valley, but enough that the noise will be heard from construction and from factory operations post construction. For example, we can hear the kids outside at the Thorne Nature experience at Sombrero Marsh on a regular basis. We are located immediately across the Open Space, but probably 1/2 mile away as the crow flies. This is a sensitive wetland and riparian area, we should be treating it more respectfully.

The City disagrees with this comment. As discussed in the EA, a noise study was conducted at the request of the neighbors.

13. Letter from LEWIS ROCA dated May 26, 2023

I. Standards Applicable to EAs

The City disagrees with this comment. The EA does include discussion of alternatives and cumulative environmental impacts. The City has not committed any federal or non-federal funds and has not committed any choice limiting actions.

II. Failure to Meaningfully Consider Alternatives

The City disagrees with this comment. The EA provides sufficient explanation of alternatives that were considered.

III. Certain Environmental Impacts Were Not Properly Considered

The City disagrees with this comment. The updated EA includes additional consultation and analysis, and provides sufficient consideration of environmental impacts. The City published a new Combined Public Notice to invite the public to comment for a 30-day comment period.

IV. Improper Expenditure of Funds

The City disagrees with this comment. No contracts for construction have been executed for this project. The contract with Buildings By Design referenced is for the design of the metal building only. Also, the application to the City of Boulder for a fire hydrant and water service line to the Factory is for a permit that has not been issued, let alone constructed. Both the contract with Buildings By Design and a screenshot of the permit application status are available here (https://cityofboulder-my.sharepoint.com/:f:/g/personal/sugnjl_bouldercolorado_gov/EmPktIybuAlBlwmbfdTxCsIBpSFjK7qNtPnuBTnaw3liLg?e=CKWlG1Jay)

14. The public was not adequately informed about decisions concerning the modular production factory. The first EA was completed and a FONSI was requested prior to informing the surrounding area and the City of Boulder Open Space Board of Trustees (OSBT) about the selected site at 6500 Arapahoe Road. The OSBT and the public appear to have been purposely left in the dark concerning the factory until after major decisions and actions were taken. The City disagrees with this comment. In the original EA, a Combined Public Notice was published and invited the public to comment on the EA. The updated EA has been completed and a second Combined Public Notice has been published which invites the public to comment for a period of 30-days. The City did not purposely leave anyone in the dark concerning the proposed project.
15. No alternative sites were seriously considered and evaluated. The decision to locate the factory at the 6500 Arapahoe Road site appears to be for fulfilling a requirement for community benefit in order to be able to annex the land at 6500 Arapahoe Road. The City disagrees with this comment for the reasons discussed above.
16. The second EA purposely only evaluated the project site (the parking lot) and did not evaluate any effects on the surrounding area including wetlands very close by, underserved communities, and the surrounding natural and human environment. The second EA addresses a Natural Resources Assessment conducted by ERO Resources Corporation for the annexation of 6500 Arapahoe Road. However, the only part of the document (ERO Project #21_254) included in the second EA are maps and photos produced for that assessment. The complete assessment document is missing. This Natural Resources Assessment was done for the City of Boulder for annexation of the property at 6500 Arapahoe Road and was not an assessment for the building and production activities of a Modular Production Factory. The ERO Project #21_254 specifically states "The natural resources and associated regulations described in this report are valid as of the date of this report and may be relied upon for the specific use for which it was prepared by ERO under contract to the City. Because of their dynamic natures, site conditions and regulations should be reconfirmed by a qualified consultant before relying on this report for a use other than that for which ERO was contracted." This second EA does not mention, as stated in the ERO Project #21_254 document, that "During the 2021 site visit, ERO observed East Boulder Ditch and Enterprise Ditch in the project area. Both ditches are shown on the National Hydrography Dataset (NHD) and the U.S. Geological Survey topographic quadrangle map as occurring in the project area. Because of its connection to Leggett and Hillcrest Reservoir, and its potential connection to Boulder Creek, East Boulder Ditch, Enterprise ditch, and their adjacent wetlands, may be considered jurisdictional waters of the U.S." "Sombrero Marsh is located just south of the project area and is regulated under the City's wetland ordinance, which includes a 50-foot wetland buffer around the marsh." Under Title 24 CFR 55.2 (b) (11) (ii) it states: "As primary screening, HUD or the responsible entity shall verify whether the project area is located in proximity to wetlands identified on the National Wetlands Inventory (NWI). Sombrero Marsh, East Boulder Ditch, and Enterprise Ditch are all identified on the National Wetlands Inventory. However, when the City of Boulder requested a jurisdictional determination

for the Modular Production Factory Project at 6500 Arapahoe Road they did not want the Army Corp of Engineers to evaluate any wetlands within the project area and vicinity but rather only the footprint of where the factory building would be built. From the jurisdictional determination document: "The review area is comprised entirely of dry land (i.e., there are no waters such as streams, rivers, wetlands, lakes, ponds, tidal waters, ditches, and the like in the entire review area). Rationale: Applicant confirmed review area was comprised of modular factory footprint only, which resides entirely in uplands (see map – Affordable Housing Modular Factory p. 12)." In an e-mail from Jay Sugnet to Shelly Conley dated February 14, 2023 concerning USFWS Informal consultation for the Modular Production Factory Project Jay states this about stormwater run off related to construction out of East Boulder Ditch: "I am concerned that we cannot keep all run-off out of the ditch since the entire site drains in to the ditch." In addition a Feasibility Study for the Modular Factory dated 4/21/20 showed various proposed storm sewers and an underground holding tank for filtering the storm water. The Feasibility Study was done on 6500 Arapahoe Road but not for any other site. And yet it appears as if the City of Boulder has purposely not included the East Boulder Ditch and the effects on this National Wetland and WOTUS from the modular production factory project. They purposely did not include it in their request for a jurisdictional determination from the Army Corp of Engineers. Also under Additional comments to support AJD it states: "The City of Boulder Housing and Human Services retained ERO Resources Corporation (ERO) to provide a natural resources assessment for the project. A report titled, Natural Resources Assessment Boulder Valley School District Annexation Southeast of Arapahoe Avenue and 63rd Street (Report) dated, October 15, 2021 contains multiple aquatic resources that are not assessed in this Approved Jurisdictional Determination." In the ERO Project #21_254 it states that "Preble's may occupy the project area or have potential to move into the site." It also states: "Because of the riparian vegetation along portions of East Boulder Ditch and Enterprise Ditch in the project area and the distance of the closest Preble's capture site, there is potential for Preble's to be present in the project area. Should the project involve habitat-disturbing activities in wetland or riparian habitat, consultation with the Service would be required. ERO recommends submitting a habitat assessment to the Service requesting confirmation that the project would have no adverse impacts on any federally threatened or endangered species." I did not see any documentation that the City of Boulder conducted a habitat assessment of the project area and they did not consider or assess wildlife, wetland, and habitat affects over various nesting, reproduction, migration, and seasonal changes. There only appears to be the one day Natural Resources Assessment from ERO Resources Corporation on October 6, 2021. There was an e-mail from Shelly Conley to Katherine Busch of the United States Fish and Wildlife Service dated July 14, 2021 in which was stated: "**Agency Opinion:** It is the city's opinion that there are no threatened or endangered species or wildlife on the project site. During the field observation I found no evidence of wildlife on the site. There is currently no regulatory review process in IPac for migratory birds." This is not an appropriate assessment of wildlife in the project area. The employee appears to have just walked around the parking lot area of the project site and at that one moment in time observed no wildlife. This is not the process for a true and thorough environmental assessment of the effects of the project on wildlife and wetlands of the project area. If this were the case, any company building any sort of factory or refinery could just say there was no wildlife or wetland on the footprint of the building and give no regard to the effects of noise, runoff, pollution to nearby waterways, pollution in the air, etc. from the construction and output of the factory or refinery. This manner of assessment is a mockery to the NEPA process and does not follow the policy of the law. Still, to this date, there has not been a thorough and scientifically valid environmental assessment completed for the 6500 Arapahoe Road site or any alternative sites for the Modular Production Factory. Also mentioned in ERO Project #21_254 is: "both the Denver Field Office of the Service (2009) and the Colorado Department of Transportation (2011) have identified the primary nesting season for migratory birds in eastern Colorado as occurring

from April 1 through August 31. However, a few species such as bald eagles, great horned owls, and red-tailed hawks can nest as early as December (eagles) or late February (owls and red-tailed hawks). Additional nest surveys during the nesting season may also be warranted to identify active nesting species that may present additional development timing restrictions (e.g. eagles or red-tailed hawks)." The Natural Resource Assessment was conducted on October 6, 2021 which does not cover any of these birds' nesting seasons. The letter from ERO Resources Corporation to Christin Shepherd and Jay Sugnet of the City of Boulder is dated December 8, 2021 two months after the October 15, 2021 report that was completed. The letter states that three wetland features were identified: a group of five small isolated wetlands in the northern portion of the project area, the East Boulder Ditch in the southwestern portion of the project area, and the Enterprise Ditch in the eastern portion of the project area." ERO completed a functional evaluation for each wetland and say they found that none of the functions or values rated high in any category for any of the three wetland features identified in the project area. However, even though they mentioned that a small portion of Sombrero Marsh overlaps the southwest boundary of the project area (and will be affected by road traffic on 63rd street to access the modular production factory), this wetland was not evaluated by them. Although, the map included in the ERO assessment shows that this is a high functioning wetland and that the buffer area will be affected by road traffic on 63rd street. Also, how did they determine that East Boulder Ditch and Enterprise Ditch are "low-functioning" wetlands. These are listed under the National Wetlands Inventory and are WOTUS. The full ERO Project #21_254 document states: "Portions of East Boulder Ditch and Enterprise Ditch in the project area support riparian vegetation communities, which are potential Preble's habitat.

The City disagrees with this comment for the reasons discussed above.

17. The proposed action does not provide any additional affordable housing. It replaces affordable mobile homes with more expensive modular homes that are fixed in place. The April 28, 2023 Request for the Release of Funds notice states: "The genesis of this project was the city's purchase of the Ponderosa Mobile Home Park in 2018. The Park has experienced infrastructure failure, and the existing manufactured homes are old and in need of replacement. The facility would be dedicated to the construction of up to 73 new homes for Ponderosa residents for the first 7-10 years. But the factory design has the capacity to build up to 50 homes each year to help achieve the city's and region's housing goals." They do not state where any of these additional homes will be placed in the city and do not take into account the cost of land in Boulder which is very high. The 10.9 million dollars is just the cost to build the factory and does not take into account the cost of materials and any labor for manufacturing the houses. The 73 houses they want to replace at Ponderosa Mobile Home Park could be built on site as some now are by Habitat for Humanity without having to build and pay for a factory. Colorado has many days of sunshine and weather is not as much a problem in building homes as in other places in the country. There has not been a good cost analysis for the spending of the over 10 million dollars to build the factory and how much additional affordable housing will be provided in the spending of these funds to build the factory. The alternative of not building a factory needs to be considered. Especially when these homes could be built on site (with help from the new owners in building their own home) and/or built in modular home factories that already exist. Also, these new modular homes will be priced too high for some of the residents of Ponderosa Mobile Home Park and therefore they will not be able to afford them and will remain in their present mobile homes. In addition, the school district is already looking at other uses for this building after the 10 year lease is up. This Modular Production Factory project appears to be more a carrot to Boulder Valley School District (BVSD) to agree to annexation of their land into the City of Boulder and a satisfaction of community benefit for that annexation than an actual need for producing affordable housing. In a letter dated October 19, 2021 from Glen Segreue, Senior Planner for BVSD To Shabnam Bista, Case Manager, City of Boulder, Planning and Development

Services is stated: "In considering all the various proposed conditions and requirements in the City's report, BVSD believes that it is important to point out that the annexation of the district's Education Center and related property consisting of 41.7 acres has not been initiated by the district but, rather, unilaterally by the City. Its stated basis is that 'the construction of a central kitchen triggered the process.' While the district has voiced its disagreement that there has been any material impact on City services or infrastructure based upon that, it is voluntarily proceeding with the negotiation of this annexation largely to cooperate with the City and Habitat for Humanity and to lease land on the Education Center (EDC) site for the construction and operation of an affordable housing Modular Factory." The affordable housing can be accomplished without the additional cost of building this factory. In addition, the factory building will most likely be repurposed in 5 or 10 years for a totally different purpose other than providing affordable housing. In an e-mail dated May 10, 2021 from Glen Segrue to Renee Williams (both from BVSD) it is stated: "Also, you may want to think about how this building could ultimately be used after the 10 year term is up. It will pretty much be a metal no frills "shop" building and we would likely use it for maintenance storage. However, if you can think of any uses that you could rent out (indoor soccer? tennis?), we may be able to add changes to the design to facilitate that. Enjoy!"

The City disagrees with this comment. The purpose of the Affordable Housing Module Factory is not only to produce affordable homes for Ponderosa but for the community as a whole. In addition, the 10-year lease is due to a state law restricting the length of district leases. There is a provision in the IGA to allow additional 10-year leases.

18. Under HUD Housing Environmental Standards (Environmental Justice) the EA states: "The proposed project/activity is suitable for its proposed location and use." This is not true as the proposed project is a factory that will be built on school district land zoned public (not industrial or even commercial) and the site at 6500 Arapahoe Road borders Open Space with important wetlands and neighboring homes. It is not an industrial area. Also stated is: "There are no disproportionately high and adverse impacts to low-income or minority populations from the proposed project." This is also untrue because the proposed truck route for bringing supplies in and delivering modules is on 63rd street which is very close to the Columbine Mobile Home Park where children play in the street and residents park on the side of that road. Also, they will be impacted by traffic, noise, dust, odors, and fumes from the factory. The project is not in compliance with Executive Order 12898. Under Access-Modular Factory it states: "There are two roads that can be used to access the proposed project site. These access roads are highlighted in blue in the screenshot below. The 63rd St access road runs in close proximity to a wetland. At the time of completing the environmental assessment, traffic was expected to occur on 65th St which is the closest access road to the proposed project site. During the annexation process, the School District raised concerns with deliveries to and from the Factory interfering with vehicular, pedestrian, and bicycle safety and access, particularly on weekdays during peak school hours. In December 2022, the District and the City entered into an Intergovernmental Agreement outlining specific roles and responsibilities related to the Factory. The language specific to access is below and memorialized in the Agreement: Deliveries: The Parties will ensure that deliveries to and from the Factory, including materials and supply deliveries and deliveries of completed modular housing units off site, will only occur on 65th Street during times when traffic impacts on BVSD operations and related safety risks for students, employees, parents, and other members of the public using that access are low. **Deliveries to and from the Factory via 63rd Street will be minimized to the greatest extent possible.** The Parties will work together in good faith to establish a delivery schedule to and from the Factory via 65th Street that minimizes traffic impacts on other BVSD operations." The City and BVSD do not provide the same consideration for safety and other impacts of truck traffic from the factory for residents of the Columbine Mobile Home Park as they do for students and employees of BVSD. Site Safety and Site

Generated Noise will definitely affect minority and low-income populations at Columbine Mobile Home Park on 63rd Street.

The City disagrees with this comment for the reasons discussed above.

19. Under Wetlands Protection the EA states: "Based on a review of available documentation, we have determined that the delineated project area for the modular production factory is comprised entirely of dry land." and "The project will not impact on- or off-site wetland." This is untrue as explained in number 3. above and due to the fact that the City purposely narrowed the project area for the EA to only the footprint of the modular production factory on the parking lot and not how the effects of construction and production of the factory will affect the important surrounding wetlands that are very near. The truck traffic associated with the modular production factory traveling along 63rd street traverses over the Sombrero Marsh Wetland buffer and therefore the 8-step decision making process outlined in Title 24 CFR 55.20 applies and needs to be completed.

The City disagrees with this comment for the reasons discussed above.

20. Under Impact Evaluation for the EA it states: "The proposed project is compatible with surrounding land uses, which consist of public, commercial, and residential housing." How is a factory (industrial) project compatible with public and residential housing uses? Even commercial uses are not an industrial factory! Zoning laws are in place to protect public and residential areas from the adverse effects of industrial factories and refineries. The modular production factory does not conform with plans and compatible land use and zoning. The EA also states: "The building design and landscape would be compatible with the existing structures surrounding the proposed project site." However, the height of the building will be greater than the present buildings in the area as it needs to be to accommodate the building and moving of the modular units. The building height could affect birds migrating through the area and frequenting Sombrero Marsh. None of this has been studied or assessed.

The City disagrees with this comment for the reasons discussed above.

21. Under Drainage and Storm Water Runoff the city failed to mention that the site's storm water drains into East Boulder Ditch which is listed on the National Wetland Inventory.

The City disagrees with this comment and was not trying to hide this fact. But it is clear that one mitigation measure as described in the EA is to minimize impacts to East Boulder Ditch and potentially the Preble's mouse habitat that included: 1. While construction will begin during the Preble's mouse active period (May 1 - Oct 31), no construction will occur at night 2. The City of Boulder will follow regional storm water management guidelines and design best management practices to control contamination, erosion, and sedimentation using such measures as silt fences, silt basins, gravel bags, biodegradable and wildlife friendly netting and blankets, and other controls needed to stabilize soils in denuded or grades areas, during and after construction.

22. Under Educational and Cultural Facilities the EA states: "No impacts to educational facilities are expected." However, the factory will be 614 feet from the Thorne Nature Center and thus will definitely have an impact on that Educational Facility. Traffic, noise, odors, dust, fumes, etc. from the factory will have an affect on the surrounding wildlife and their habitats as well as the students attending the Thorne Nature Center.

The City disagrees with this comment. The Affordable Housing Modular Factory will be an educational facility and no impacts are anticipated as discussed in the EA and above.

23. Under Parks, Open Space and Recreation the EA states: "The proposed project site is located within close proximity to parks, open space and recreational activities. No impacts to parks, open space or recreational facilities are anticipated as the proposed project is located in an established

suburban area with existing services." How can the city state that the proposed modular production factory will have no impacts to parks, open space or recreational facilities when it has not completed a thorough environmental assessment of the proposed site at 6500 Arapahoe Road or any other alternative sites. I am sure a factory will have impacts in a suburban area and the bordering open space and wetlands. It is a factory with industrial effects.

The City disagrees with this comment for the reasons discussed above.

24. In the Natural Features section of the EA the city again limits the location considered to only the paved parking lot and not the surrounding project area. This is not a correct evaluation for NEPA.

The City disagrees with this comment for the reasons discussed above.

25. Under Cumulative Impact Analysis for the EA it states: "The proposed project would have short-term cumulative impacts related to noise during construction in the immediate area but would not add any significant cumulative impacts to existing conditions. A noise study was conducted and concluded that neighbors would not hear ongoing Factory operations with all the doors closed." The EA is suppose to assess any effects on wildlife also. The noise study conducted makes no mention of how noise from the factory will affect wildlife in the area especially considering that wildlife can hear at different frequencies than humans and studies have been done concerning the negative effects of noise pollution on wildlife. Also, the study concluded that neighbors would not hear ongoing Factory operations with all the doors closed. However, it is very unlikely that the factory doors will be closed at all times considering delivery of supplies and modules as well as the need to air out the factory especially on hot days.

The City disagrees with this comment for the reasons discussed above. The Factory will be air conditioned so that doors will remain closed year round.

26. Under Alternatives it states: "All three sites were problematic due to the zoning restrictions" but does not mention that the site selected at 6500 Arapahoe Road also has zoning restrictions which is being contested in a lawsuit against the city. It does not mention the BVSD owned property on 63rd street by Stazio Ballfields as a potential site and does not assess that site as a possibility.

The City disagrees with this comment for the reasons discussed above.

27. Under the No Action Alternative the EA states: "Under the no action alternative, the Section 108 loan would not be provided for the proposed project and the property would remain as a vacant parking lot. No affordable housing would be constructed to meet the needs of the community." The city does not mention that money would be saved by not building the factory and that the affordable housing would still be constructed - it would just be constructed on site at Ponderosa Mobile Home Park (and possibly other sites also). The money from any loans and grants to build the approximately 10.9 million dollar factory could instead be used for building supplies and labor to build the homes on site. More homes, rather than less, would be built as the 10.9 million dollars would not be used to just build a factory that would eventually be repurposed in 5-10 years.

The City disagrees with this comment. It is the opinion of the City that this proposed facility will produce much needed affordable housing at lower cost and higher quality and help to address the affordable housing challenges in our community..

28. Traffic - City staff is well aware of on-going traffic issues around the proposed factory site, which is why they have steadfastly refused to complete a traffic study documenting existing traffic conditions and patterns, anticipated heavy factory construction traffic or factory operations traffic.

The City disagrees with this comment for the reasons stated above.

29. Sombrero Marsh Not Considered - At the November 17th 2022 City Council meeting Open Space Director Dan Burke explains that impacts of factory construction on Sombrero Marsh were not considered at all by City staff. The conversation between council members and Dan Burke can be viewed [here](#) starting at ~3:36.

The City disagrees with this comment for the reasons stated above.

30. Factory Footprint vs. Surrounding Areas - On EA page 6 the City cites a recent Army Corps of Engineers report as justification that there will be no impact on wetlands. However, as stated in the Corps report, the City only allowed examination of the factory footprint which predominantly covers an existing BVSD parking lot. The Corps was expressly prohibited from evaluating aquatic resources including Sombrero Marsh and the associated wetlands, the East Boulder Ditch and the Enterprise Ditch. This report, which only evaluated an existing parking lot cannot conceivably justify the statement that surrounding wetlands will not be impacted.

The City disagrees with this comment for the reasons stated above.

31. Surrounding Areas - EA page 3 characterizes land surrounding the factory footprint as ‘some vacant land’ with no mention of Sombrero Marsh, wetlands, Open Space, Columbine Trailer Court or significant impacts of factory traffic on 63rd Street.

The City disagrees with this comment for the reasons stated above.

32. Social Justice - On EA page 7 the City states there will be no social justice issues. However the thousands of large trucks running on 63rd Street will certainly impact the underserved minority residents of Columbine Mobile Home Park, which is within 5 feet away from 63rd Street. Similar to wildlife at the Marsh, Columbine residents will be adversely impacted by heavy truck traffic as well as noise, dust, emissions, and fumes; there will also be potential safety issues, as children often play in street due to lack of space at Columbine.

The City disagrees with this comment for the reasons stated above.

33. No Impact Areas - On EA pages 12-13 in the Summary of Findings section the City lists multiple areas in which they state the project will have no impacts. However many of those items on the list will be impacted including wetlands, environmental justice, zoning, visual quality (Audubon Society and Open Space Board of Trustees raise the possibility of bird flight impacts due to the height and large size of the building) and Open Space. In the same paragraph the city states "The proposed project conforms to the City of Boulder's zoning code." and it "is compatible with surrounding land use."; as previously mentioned these are not accurate statements.

The City disagrees with this comment for the reasons stated above.

34. Alternative Sites – Alternative factory sites were only considered in passing long after the 6500 Arapahoe site had been selected.

The City disagrees with this comment for the reasons stated above.

35. Prohibited Spending of Funds – The City has already spent funds on factory design, engineering and installation of a new 12” water main.

The City disagrees with this comment. The City conducted an environmental review for pre-development type activities prior to the factory design and engineering. The application for the water main has not yet been approved therefore installation has not been initiated or completed.

36. No Noise Pollution Study – An acoustic study should be conducted documenting existing sound levels on 63rd Street adjacent to Sombrero Marsh and Columbine Mobile Home Park. Anticipated

increases noise pollution due to factory activities should be quantified. The Colorado Analytics Environmental Noise Analysis dated 2/13/23 (included in the EA) does not consider outdoor factory air handling equipment, the possibility of factory doors being left open during operation or the use of outdoor forklifts and similar equipment with back-up alarms.

The City disagrees with this comment for the reasons stated above.

37. No Air Quality Study – An air quality study should be conducted documenting existing pollution levels on 63rd Street adjacent to Sombrero Marsh and Columbine Mobile Home Park with anticipated increases in air pollution. The Pinyon Environmental Report included in the new EA dated 4/26/23 did not include a site visit, any baseline air quality testing or factory truck traffic.

The City disagrees with this comment for the reasons stated above.

38. Outdoor Lighting – The City plans to implement new outdoor lighting around the factory in accordance with their existing ‘dark skies’ ordinance. Unfortunately the ordinance is about 20 years old and doesn’t accommodate current best practices for outdoor LED lighting such as amber LEDs that are less disruptive to circadian rhythm of nocturnal critters including bats, owls and mammals.

The City disagrees with this comment. The change will be a significant improvement to the current situation.

39. No Water Quality Study – A water quality study should be completed to include baseline testing and a monitoring program implemented to track impacts of the factory and related activity on Sombrero Marsh, surrounding wetlands and East Boulder Ditch.

The City disagrees with this comment. There is currently no water quality treatment for the surface parking lot and the Modular Factory would detain and treat stormwater from the Factory and surrounding areas thereby improving water quality.

40. No Wildlife Evaluation – Open space surrounding the factory site is teeming with wildlife including birds, mammals and the endangered Prebble mouse. It’s irresponsible to suggest the factory project will not impact wildlife in the area but without a baseline evaluation it’s impossible to quantify existing conditions. **The City disagrees with this comment for the reasons discussed above.**

41. Public Outreach – The City of Boulder held only one ‘information only’ meeting to notify area residents of the project in late September 2022 - at that time factory planning had been underway for well over 2 years.

The City disagrees with this comment for the reasons discussed above.

42. Planning Board Comments - Boulder Planning Board reviewed the Factory project in fall of 2022 and recommended factory height be lowered and a Good Neighbor Agreement be implemented. Factory height was lowered marginally. City Staff and BVSD refused to consider a Good Neighbor Agreement with surrounding residents.

The City disagrees with this comment. This was a recommendation and Boulder City Council did not accept it.

43. Fish & Wildlife Section 7 - The original EA included a Fish & Wildlife Section 7 evaluation for a site located 20 miles away in Longmont, Colorado. It was learned City Staff asserted this was a simple error of working on two documents at the same time. If this is the case then Staff should easily be able to produce the correct Fish & Wildlife evaluation dated 2021 for HUD review. If no such document exists an investigation by HUD is merited.

The City disagrees with this comment, The update EA includes formal consultation with USFWS.

44. Comments by Boulder County Community Planning & Permitting – Boulder County project review comments attached – recommendations in this document such as formalization of a buffer zone around the factory and addressing nuisance factors never got included in the annexation process.

The City disagrees with this comment. This was a recommendation by County staff and Boulder City Council did not accept it.

45. Ownership of the Factory Building - It should be noted that the City of Boulder plans to use HUD funds for construction of a factory building that they will never own, to be located on Boulder Valley School District (BVSD) property the City also does not own. As we understand it on completion of construction the City will enter into a 10 year lease with BVSD and Habitat for Humanity will operate the facility through sub-lease. Per clip below it was learned that after 10 years BVSD plans to keep and repurpose the factory building. Even if this is an allowable use of HUD funds, our Federal tax dollars would be better spent on affordable housing and not on a free building for the Boulder Valley School District.

The City disagrees with this comment. It is the City's opinion that the factory will produce much needed affordable housing which results in substantial community benefit.