

# Sanctuary on the Green

APPEAL HEARING  
10/15/2024



# City Council's Role—Review on the Record

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According to the City's appeal procedures:

- **City Council's role is not to make a new decision.**
- City Council's role is to review the hearing officer's decision and evaluate whether the hearing officer:
  - (1) did not conduct a fair hearing, and
  - (2) did not properly apply the specified provisions of the Land Use Code in his decision.
- To make that determination, Council is limited to a review of the Record and arguments presented at this appeal hearing.

# The Record for the Appeal

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This presentation provides the Applicant's arguments in opposition to the notice of appeal ("**Appeal**") filed by the Sanctuary Field Neighborhood Network ("**Appellant**") appealing the approval of the Sanctuary on the Green Project Development Plan application ("**Application**") by the hearing officer dated July 24, 2024, *as supplemented and confirmed in all respects* on July 28, 2024 ("**Approval**").

The "Record" for the Appeal consists of:

- Hearing Officer Approval
- Attachment A (July 15, 2024 Staff Report)
- Attachment B (Additional Findings and Analysis-NSP)
- Documents #1 through #53

# The Appeal – Appellant Claims

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## A. Hearing Officer Failed to Interpret and Apply the Land Use Code (LUC) and Northwest Subarea Plan (NSP)

- Section 1.2.2 – *NSP*
- Section 2.2.11 – *Procedural (Lapse)*
- Section 3.5.1 – *Compatibility*
- Section 4.5(E) – *Administrative Interpretation of height standard*

## B. Hearing Officer Failed to Conduct a Fair Hearing

1. Substantially ignored its previously established rules of procedure
  - *Procedural (Lapse)*
2. Considered evidence relevant to its findings which was substantially false or grossly misleading
  - *Density reduction for neighbors*
  - *3-story locations*
  - *Height of 3-story*
  - *Location of comparable properties*
3. Failed to receive all relevant evidence offered by the appellant
  - *Written public comment*

# Outline of Applicant's Presentation Demonstrating Claims are Without Merit

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## **Part 1 of the Presentation**

1. Address claim of a lapse
2. Address claim that hearing officer failed to receive all relevant evidence
3. Address claim administrative interpretation of height standard

## **Part 2 of the Presentation**

1. Address claim of false and misleading statements
2. Demonstrate compliance with the Northwest Subarea Plan
3. Discuss project compatibility as a whole
4. Demonstrate the compatibility of 3-story buildings

# Part 1 – Claim of Application Lapse

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## Appellant Claim:

The Application automatically lapsed on April 16, 2024, therefore the hearing officer failed to:

Interpret and apply relevant provisions of Section 2.2.11 of the LUC, and  
conduct a fair hearing in that previously established rules of procedure were ignored.

## Applicant Response:

**The Record provides evidence that the Application did not lapse under Section 2.2.11 of the LUC and that established rules of procedure were followed.**

# Lapse Applicability

## Section 2.2.11 of the LUC

**(A) *Application Submittals.*** An application submitted to the City for the review and approval of a development plan must be diligently pursued and processed by the applicant. Accordingly, the applicant, within one hundred eighty (180) days of receipt of written comments and notice to respond from the City on any submittal (or subsequent revision to a submittal) of an application for approval of a development plan, shall file such additional or revised submittal documents as are necessary to address such comments from the City.

- The new hearing on July 15, 2024 was held in response to a court directed remand order (See Document #36) for the primary purpose of reviewing the Application's consistency with the NSP.
- However, no new or revised PDP plans were submitted.
- The underlined language of Section 2.2.11 referencing the submittal of a land use application or revision thereto indicates that it was not intended to apply to this situation.

# Evidence from the Record

- Document #36 (*Applicant's Extension Request Summary of Evidence*)
- Document #42 (*Emails Related to Mercer Ditch*)
- Document #50 (*Email dated July 18, 2024 after Hearing*)
- Document #53 (*Public Comment – 342 Pages*)

Nonetheless, if Section 2.2.11 of the LUC does apply, there are several emails in the Record that show that when the City requested a document, the Applicant provided it, consistent with the language of Section 2.2.11 (Documents #36, #42 #50 and #53).

- November 27, 2023
  - Clay Frickey requested the Applicant to provide "something on the ditch company's letterhead that was signed."
  - On the same day, the Applicant provided an email with the requested information.
- November 29, 2023
  - Clay Frickey acknowledged receipt of the more formal letter requested.
- April 18, 2024
  - Clay Frickey confirmed that correspondence occurring on November 29, 2023 demonstrated that the Application did not lapse, creating a new lapse deadline of May 27, 2024.
- April 22, 2024
  - Applicant requested an extension, which was approved by the City on April 24, 2024, creating a deadline of September 24, 2024.



# Part 1 - Claim that Hearing Officer Failed to Receive Evidence

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Appellant Claim:

Public comment from the appellant was not received by the hearing officer, therefore:

The hearing officer failed to receive all relevant evidence offered by the Appellant.

**Applicant Response:**

The hearing officer received and accepted Document #53 (*Public Comment – 342 Pages*) as part of the Record.

# Evidence from the Record

Document #53 (*Public  
Comment – 342 Pages*)

The Type 1 Administrative Hearing Supplemental Findings and Decision, dated July 28, 2024, states:

"The Hearing Officer hereby accepts the Written Comments as part of the record of this proceeding and confirms that the Written Comments have been reviewed. "

"Accordingly, the Evidence section of the July 24th Decision is hereby amended to add the following:" Document #53

- There is no doubt Document #53 was included in the record.
- Receipt of all evidence is the requirement of the applicable code provision.
- Many of the comments were repetitive or raised previously.
- Allegations that the decision was pre-determined or that the hearing officer failed to analyze and incorporate the comments are not supported by the Record.
- In fact, the hearing officer accepted evidence that was submitted after the close of public testimony in the Record. See Document #50 dated July 18, 2024.

# Part 1 - Administrative Interpretation of Standard

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Appellant Claim: "Despite the applicant removing multifamily housing from the proposal, the City cites to the multifamily housing section of the LUC in their interpretation of permissive building heights." "This proposal should have required a Type 2 hearing to accommodate multifamily housing or must fail because it does not meet the LUC requirements for single family attached housing and was not granted a variance."

## Applicant Response:

An official administrative interpretation was requested by the Applicant to clarify whether the max. building height standards in 4.5(E)(3) or (E)(4) would apply to buildings containing 4 or more single-family attached units.

- The interpretation was issued (Document #26 in the Record) and concluded that:
  - Section 4.5(E)(3) specifically references only 1, 2, and 3 family dwellings and is ***not applicable*** to buildings that contain 4 or more dwelling units.
  - Section 4.5(E)(4) ***is applicable*** to buildings containing 4 or more single-family attached units. The maximum building height, per Section 4.5(E)(4)(d) is **3 stories**.
  - *Building height* does not determine the development review process, the *land use* determines it.

# Administrative Interpretation of Standard

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## **Applicant Response:**

Section 2.11.1(B)(2) of the LUC requires that an administrative interpretation must be appealed to the Zoning Board of Appeals, not City Council.

Section 2.11.2(H) of the LUC also mandates, “Any appeal that is taken pursuant to this Division must be taken not later than fourteen (14) days from the date that the administrative decision was made.”

The administrative interpretation was made on July 26, 2018. Therefore, this interpretation **cannot be appealed as the deadline to do so has lapsed.**

# Part 2

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# Claim of False Statements

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## Appellant Claims:

False or grossly misleading statements were made surrounding:

- *NSP was “cherry-picked”*
- *Open space*
- *Site Plan Alterations – Density and Use*
- *3-story buildings:*
  - *Locations*
  - *Height*
  - *Location of comparable developments*

## Applicant Response:

**Evidence in the Record indicates that no substantially false or grossly misleading evidence was considered.**

# Evidence from the Record

Attachment A

Document #38 (*Applicant  
NSP Analysis*)

Document #44 (*City  
PowerPoint Presentation*)

Document #45 (*Applicant  
PowerPoint Presentation*)

## Northwest Subarea Plan

Appellant claim:

NSP was “cherry-picked”

### **Applicant Response:**

**The PowerPoint presentation from Applicant gave a comprehensive overview, chapter by chapter, through the NSP to demonstrate compliance with the entire document, as well as to outline areas of the document that are not applicable to the project.**

# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)

## Open Space

Appellant claim:

The majority of open space being provided is on unbuildable land. Open space is not being provided in response to neighbor request or the NSP as the applicant has claimed.



# Evidence from the Record

Document #45  
(Applicant  
PowerPoint  
Presentation)

## Open Space



### **Applicant Response:**

**Nothing in the Record supports the Appellant's claims. The Applicant's PowerPoint presentation shows different types of open space, all of which contribute to achieving the Goals, Policies and Principles of the NSP.**

# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)

Document #39 (Applicant's  
Response to Neighborhood  
Comments)

## Site Plan Alterations – Density and Use

- Appellant claim:
  - Density and land use changes to the proposal were not the result of collaborative intent.
  
- **Response:**
  - **Nothing in the Record validates the Appellant's claims.**
  - **Document #39 shows changes made to the Application to address the neighbor concerns.**
    - Not a requirement to resolve every issue raised by members of the public.
    - The sole requirement is that the Application comply with the LUC and the City's regulations.

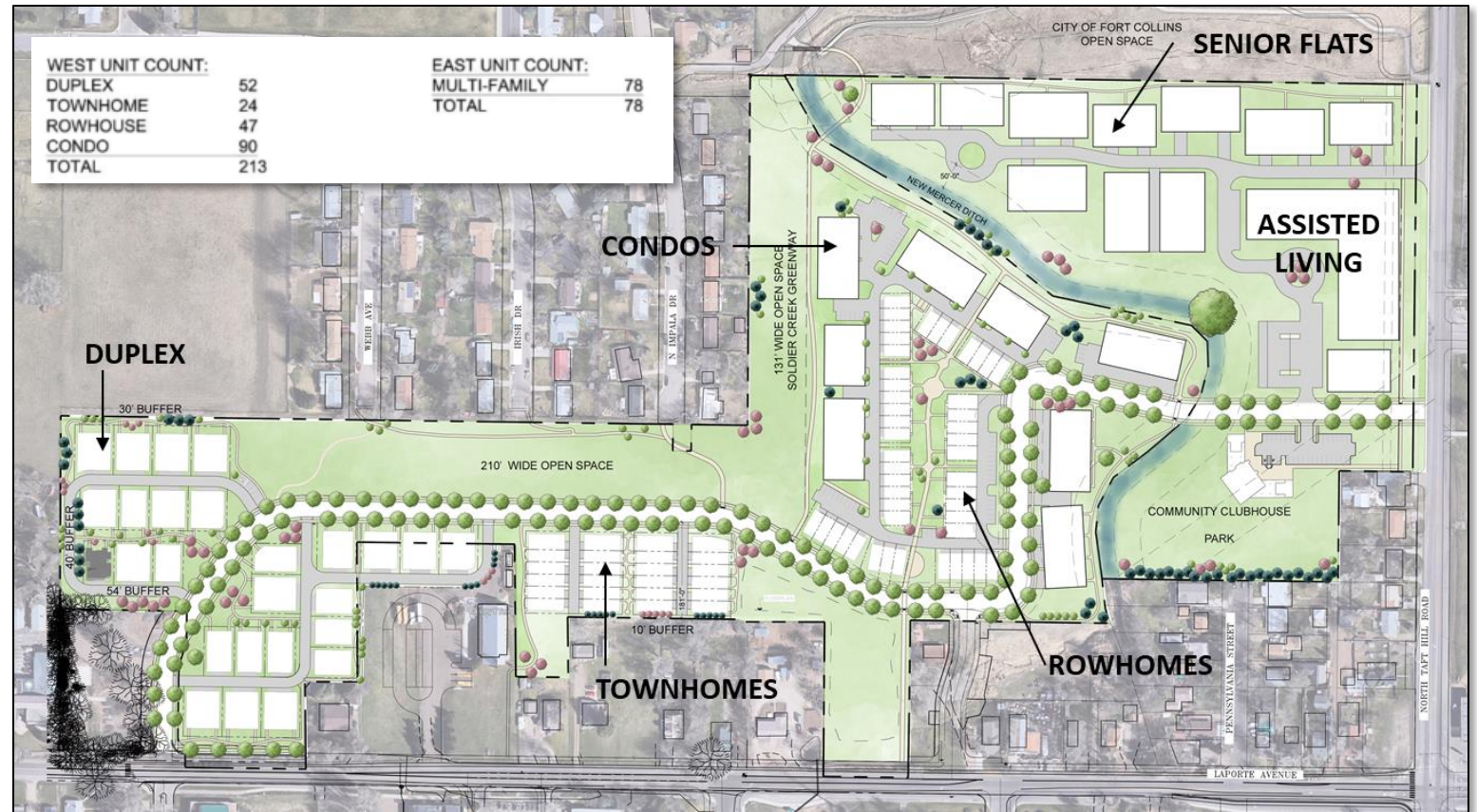
# Plan Alterations

First Proposal 2018

- The original design proposal in 2018 included 291 dwelling units comprised of multifamily condos, senior flats, assisted living, duplex, townhomes and row-homes.

Document #45 (*Applicant PowerPoint Presentation*)

Document #39 (*Applicant's Response to Neighborhood Comments*)



# Plan Alterations

Continued

- The original Project Development Plan application dated February 19, 2019 proposed **268** units with a mix of housing types including multifamily containing more than 7 units, single-family attached, two-family, and single-family detached with rear loaded garages.

Document #45 (*Applicant PowerPoint Presentation*)

Document #39 (*Applicant's Response to Neighborhood Comments*)



# Plan Alterations

Continued

Document #45 (*Applicant PowerPoint Presentation*)

Document #39 (*Applicant's Response to Neighborhood Comments*)

## Current Proposal

- The current Application proposes **212** dwelling units comprised of single family detached, duplex, and single family attached housing types.
  - Decreased the building height of 30 dwellings from 3-stories to 2-stories and 10 dwellings from 2-stories to 1-story from the original 2019 PDP application to the current Application.
  - Eliminated multifamily dwellings as a proposed housing type from the development



# Neighborhood Outreach

Document #45 (*Applicant PowerPoint Presentation*)



Laura M Larson

Admin · September 27, 2018

UPDATE: Hi all! On Monday, Kiri, Lloyd and I met with the developer, consultant and a few other folks from the area to talk about the new vision(s) for the site, now that the Assisted Living facility is off the table, and to reassert what we have asked them to do to modify their previous proposal (please see "proposal to developer 9-24" under "files" on this site).

While they are definitely adopting a lot of what we have requested in terms of creating buffer zones of native, xeric plants, and preserving more open spaces on the Northwest end (near wetlands, ditch), they have not agreed yet to our requests for a smaller footprint/fewer units, or to not build higher than 2 stories. Those were points of contention still. I reasserted that our membership will not agree to 3-story multiplexes, and that we want to see no more than 100 units on this property. They visibly balked at that, but I didn't back down. I think that these issues will be what we have to focus on pushing for in the near future.

The good news is that they are in conversation with Natural Areas and the Parks Dept. about constructing a park/natural area along Taft, in the SE corner of the property, and we reiterated that we would like to see them sell more than just that 3-4 acres to the NA Dept. I followed up with Mark Sears, the City's Program Manager for NA, and he indicated that the NA Dept. is indeed pursuing the possibility, and is interested, but that the developer has to be willing to sell to them at a reasonable price. I am hoping to hear more detail about what they want to do in the near future. As a reminder, SFNN requested a meeting between the developer, us, and the NA Dept. as a next step (see proposal). So we'll see what they say! Thanks all!

Laura M Larson



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10 Comments · Seen by 34

# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)

## 3-Story Building Locations

Appellant claim: 3-story buildings are not concentrated to interior of site.

### •Response:

- **The Applicant did not claim this. The slide below from Document #45 shows some 3-story units on the exterior of the site.**
- **The project was designed so that the 3-story buildings have the least visual impact to the surrounding properties.**

# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)



- **3-Story buildings are located:**
  - over 300 feet from neighboring homes to the north
  - over 120 feet from neighboring homes to the east
  - over 170 feet from neighboring homes to the south
  - over 320 feet from neighboring homes to the west



# Evidence from the Record

Document #4 (*Site Plan  
Pages*)

Document #52 (*Fort Collins  
Land Use Code*)

## 3-Story Building Height

Appellant claim: Buildings are higher than 39 feet 8 inches.

### Response:

- LUC Section 3.8.17(A)(1) dictates how building height is measured in feet. Using this standard, building heights are 39 feet 8 inches.
- There is no maximum building height measured in feet. Maximum height is measured in stories (3).

### 3.8.17 - Building Height

#### (A) *Measuring Building Height.*

- (1) Building Height *Measured in Feet.* When measured in feet, building height shall be measured from the average of the **finished ground level** at the center of all walls of a building or structure to the highest point of the roof surface or structure.

# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)

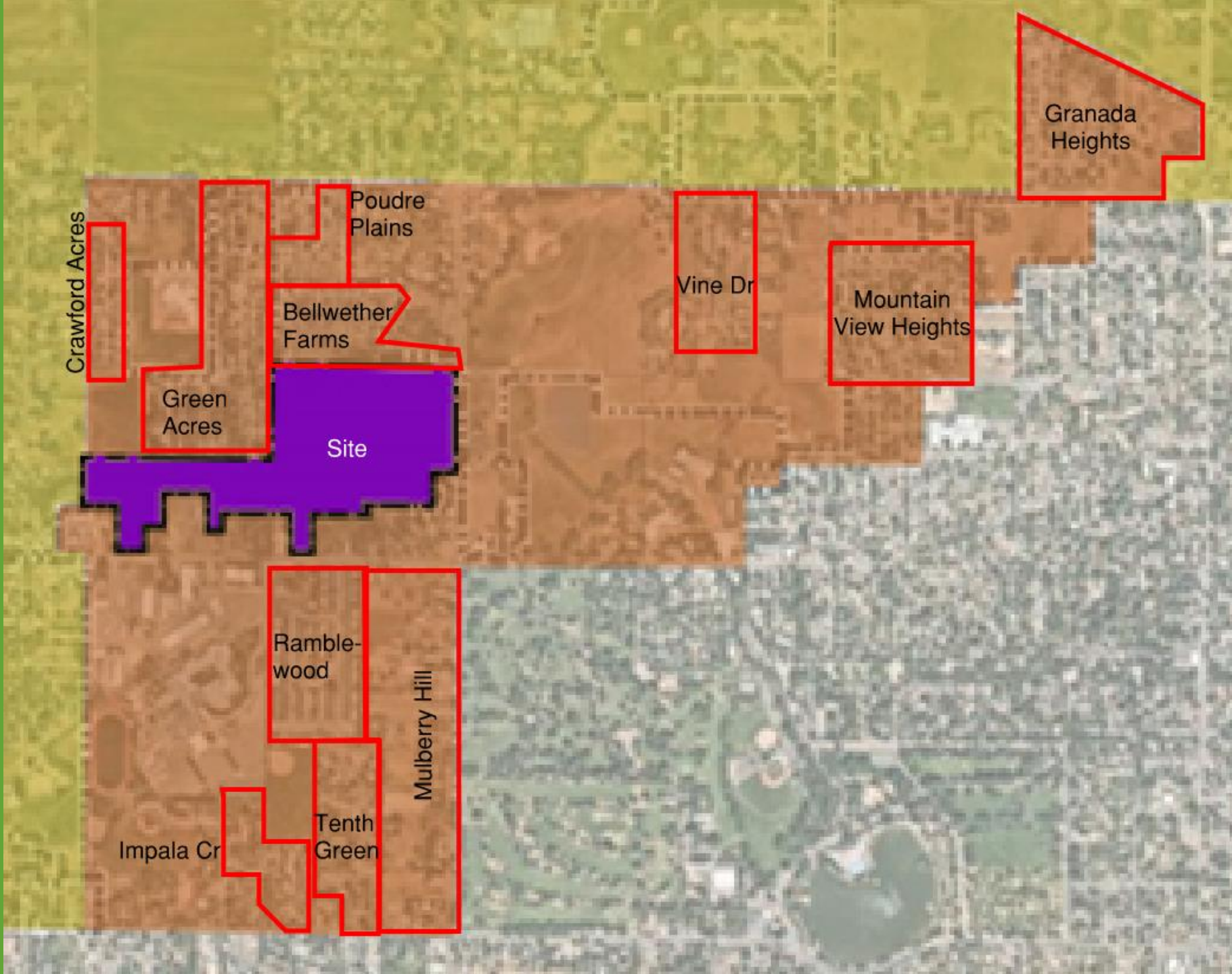
## Location of Comparable Developments

Appellant claim: Distant 3-story properties used as comparisons were used to misrepresent the development existing in the neighborhood and were described falsely as abutting the site.

### **Applicant Response:**

- **The Applicant described that the site should be compared to properties within its own NSP Framework Plan designation.**
- **The Applicant did not say that all the comparison properties abut the property. The slide below from Document #45 shows the evidence the Applicant provided to the hearing officer.**

	Gross Density	Max Height (stories)
Sanctuary	5.13	3
Crawford Acres	3.79	1
Green Acres	2.68	1
Poudre Plains	3.91	2
Bellwether Farms	3.05	2.5
Ramblewood	14.6	3
Mulberry Hill	1.16	2
Tenth Green	3.95	2
Impala Circle	11.94	3
Vine Drive	4.5	1
Mountain View Heights	3.9	2
Granada Heights	5.95	2



# Compliance with the NSP

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Appellant claim:

The application does not comply with the NSP, violating Section 1.2.2 of the LUC.

## **Applicant response:**

**Consistency with the NSP has been analyzed and findings have been used to approve the Application including, but not limited to:**

- Attachment A                      City Staff Report (pp 4, 7-13, 17-20, 52)
- Document #38                      Applicant NSP Analysis
- Document #44                      City PowerPoint Presentation (pp 16-21, 53-55)
- Document #45                      Applicant PowerPoint Presentation (pp 8-21)

**It is within the hearing officer's discretion to use any evidence in the Record to support his findings, including the Applicant's NSP analysis.**

# Chapter 1: Introduction

"An overarching theme of this Plan is to retain and enhance the area's existing character."

Document #45 (*Applicant PowerPoint Presentation*)

Document #52 (*NSP*)

Establish a focused "roadmap" for the area's future through clearly defined goals, policies, and strategies.

- Goals state what the neighborhoods hope to accomplish over the life of this Plan.
- Policies describe the specific course or direction to achieve the goals of this Plan.
- Strategies are the specific actions the City, County and others will take to implement this Plan and its Policies.

# Chapter 1: Introduction

Document #45 (*Applicant  
PowerPoint Presentation*)

Document #52 (*NSP*)

## Existing Conditions:

- “Subdivisions and neighborhoods have filled in over the years, resulting in an **eclectic mix of styles** and types of development intermixed with fields and farms.” (pg. 4)
- “This eclectic mix is a defining attribute of the area...” (pg. 4)
- “Neighborhoods **vary in type, density**, design and age of housing.” (pg. 4)
- “**Near or within City limits**, housing is on smaller lots and is **more urban**, whereas homes and subdivisions in the unincorporated area generally have a country feel...” (pg. 4)

# Ch. 2: Vision and Key Strategies

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- **Retain aspects of its semi-rural heritage** including historic structures, small farms and irrigation ditches, natural areas, foothills vistas and open fields
- **Safeguard natural features and protect wildlife habitats**
- Encompass permanently protected open lands and **connected trail corridors**
- **Restore Soldier Creek as a functional drainage system with natural areas and recreational trails**
- The agencies should continue to **respect rights of property owners**

Document #45 (*Applicant  
PowerPoint Presentation*)

Document #52 (*NSP*)

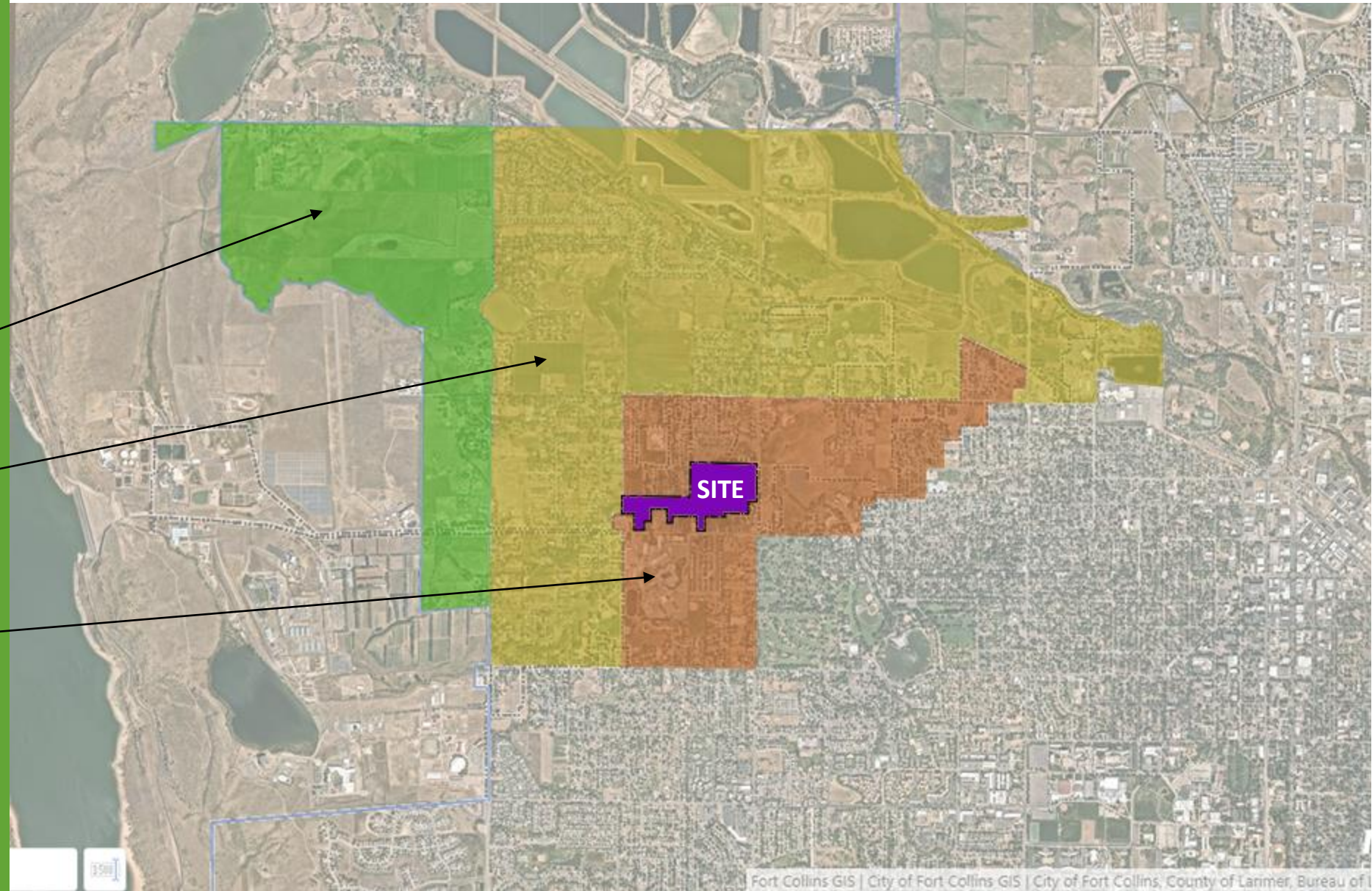
# Framework Plan

"Larger parcels will be zoned, upon annexation, as LMN allowing up to 8 units per acre"

**Residential Foothills**  
1 Dwelling Unit (DU) / Acre

**Urban Estate**  
2 DU / Acre

**Low Density Mixed-Use**  
up to 8 DU / Acre

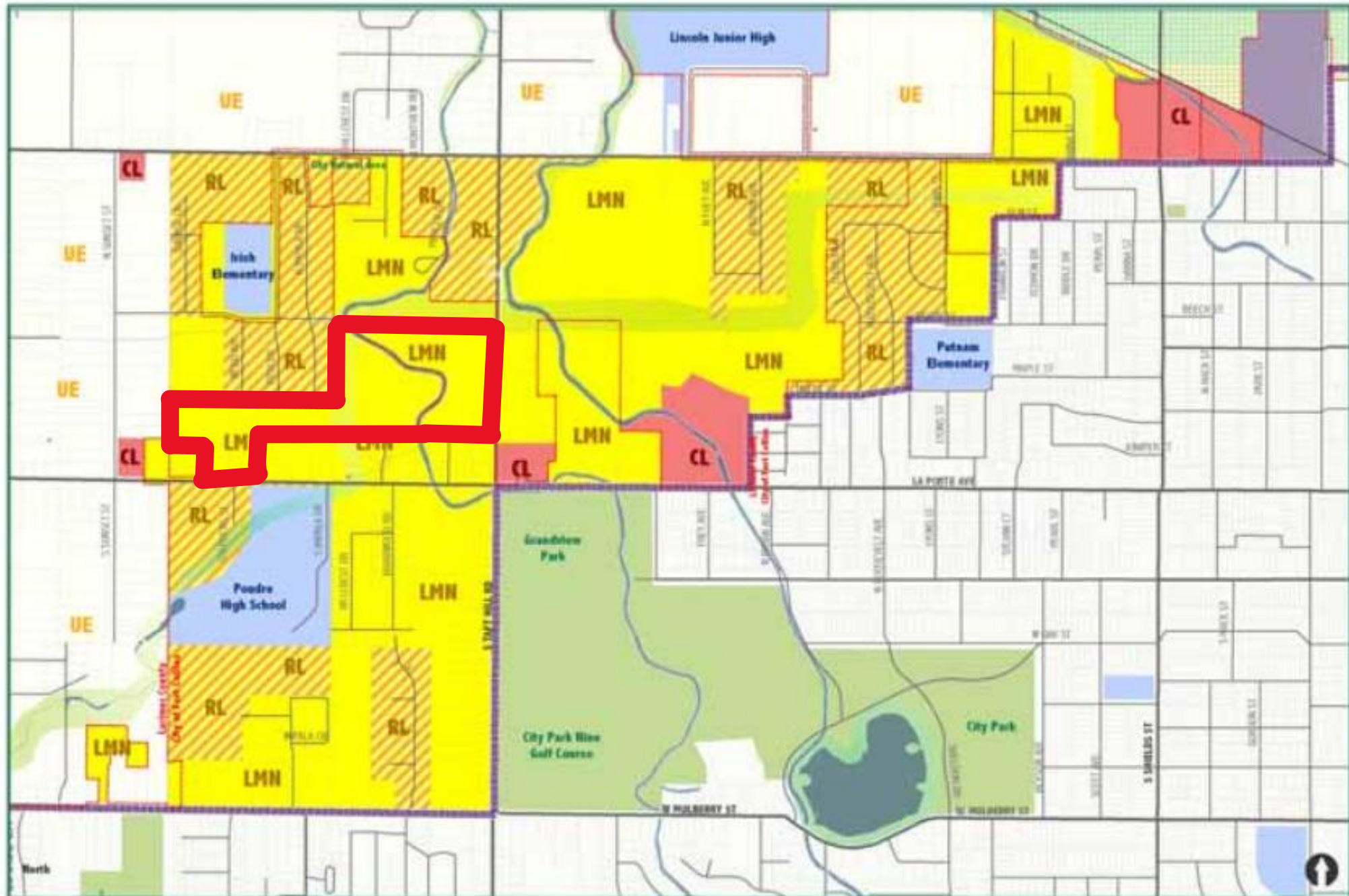


Document #45 (Applicant PowerPoint Presentation)

Document #52 (NSP)



Figure 9 - Recommended Locations for RL and LMN Zone Districts in the Low Density Mixed-Use Residential Area



# Chapter 4: Open Lands and Trails

“Retention of the open feel and environmental qualities of the area is an important element of this Plan.” (pg. 23)

## Soldier Creek Restoration:

- “This plan recommends **broadening the Soldier Creek drainage improvement** project to allow for natural areas restoration and a multipurpose trail.” (pg. 24)
- “The proposed naturalization and restoration of Soldier Creek would help stormwater drainage and flooding in the area while providing a trail amenity. **It is one of the ‘big ideas’ of this Plan.**” (pg. 25)

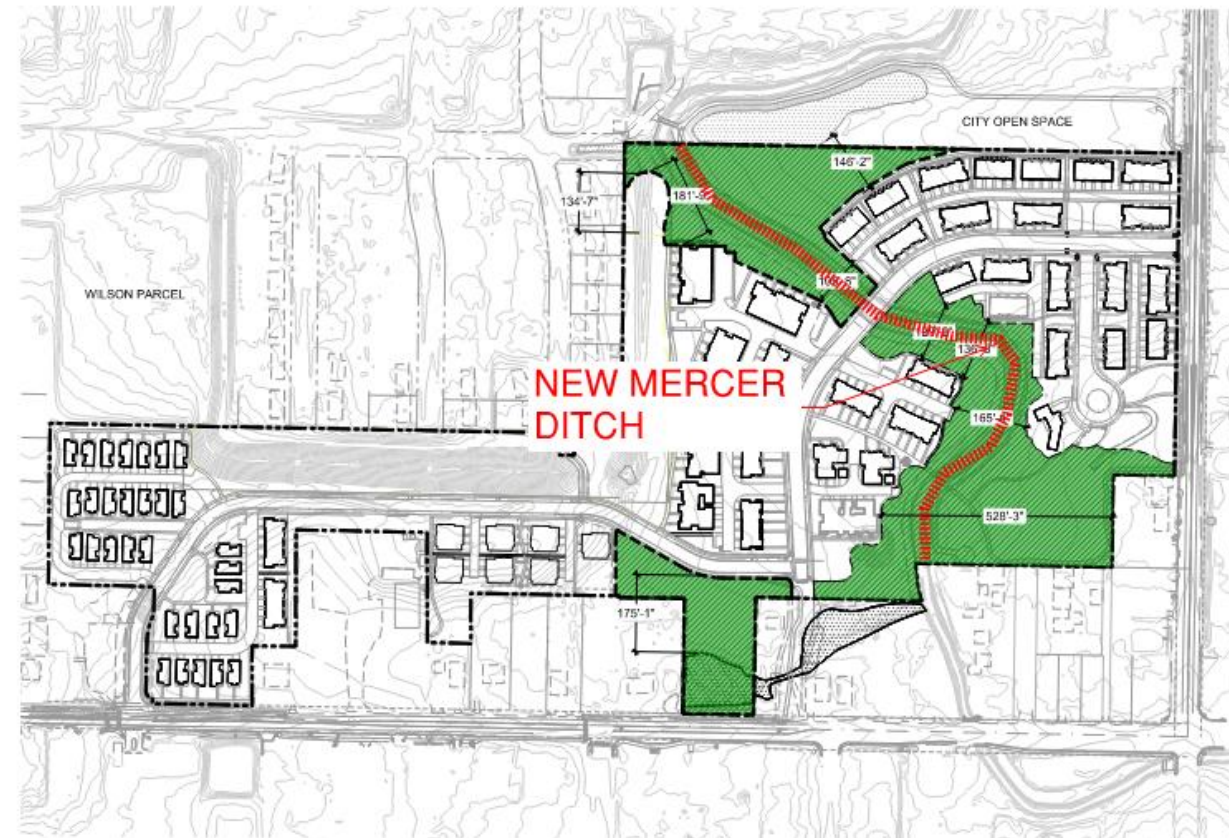
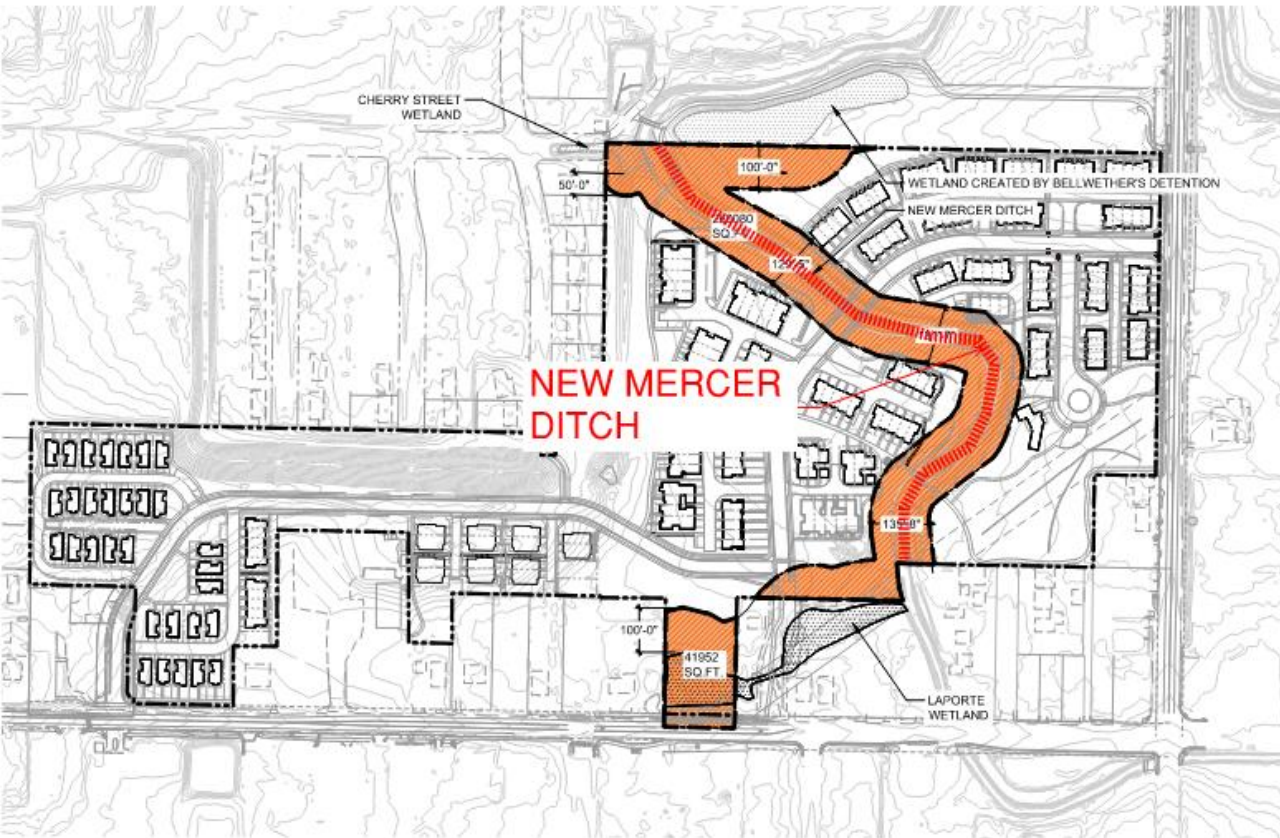
## Ditches and Canals:

- “...are important wildlife and open space connections...” (pg. 24)



# Chapter 4: Open Lands and Trails

“Retention of the open feel and environmental qualities of the area is an important element of this Plan.” (pg. 23)



Natural Habitat Buffer Zone  
Required: 6.91 acres (red)  
Proposed: 10.36 acres (green)

58% Landscape and Open Space

# Chapter 4: Open Lands and Trails

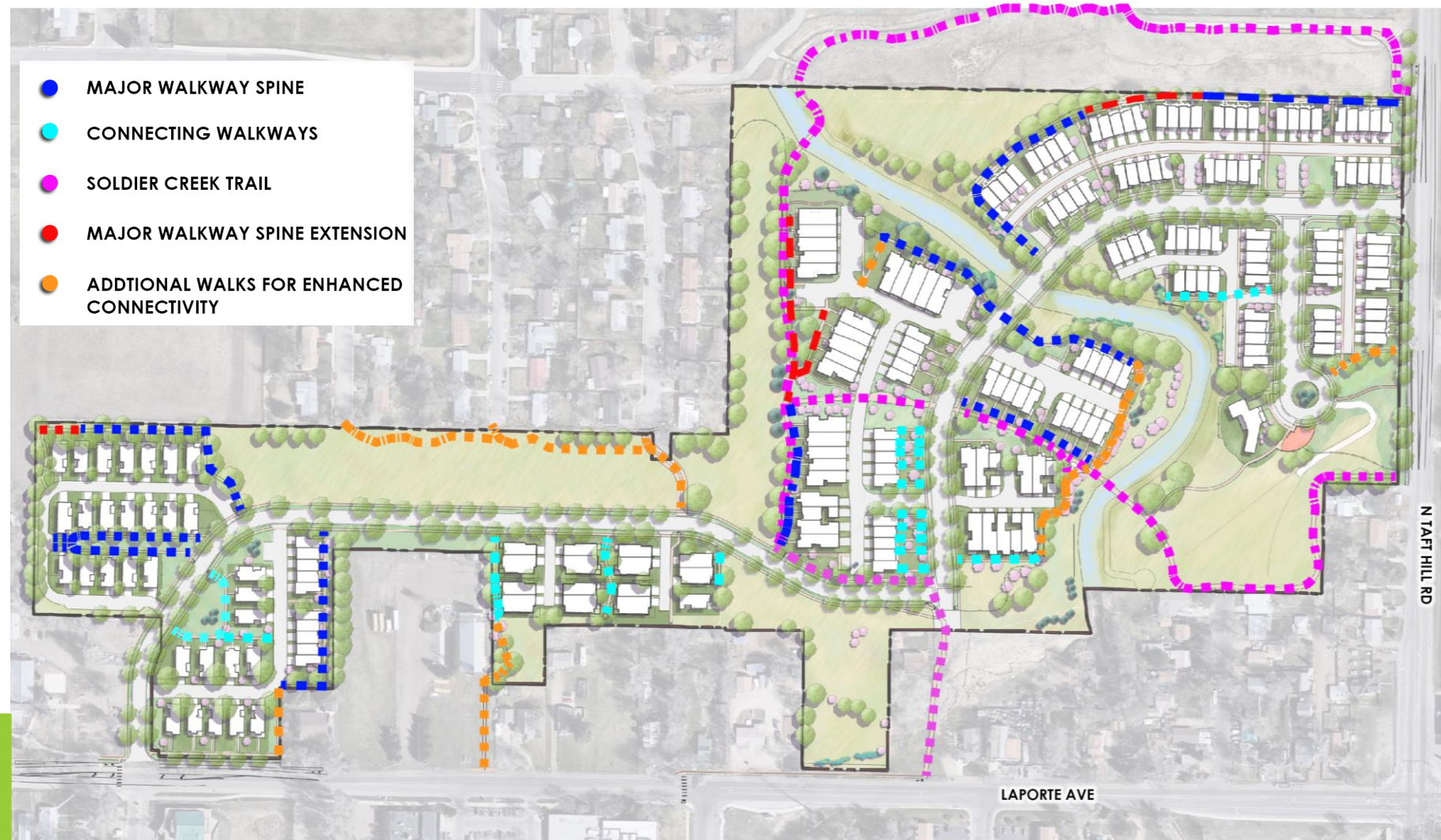
## Soldier Creek Restoration:

- “This plan recommends broadening the Soldier Creek drainage improvement project to allow for natural areas restoration and a **multipurpose trail.**” (pg. 24)

## Two Types of Trails:

- Multi-Purpose Trails (Soldier Creek Trail)
- Local Neighborhood Connections

4,000 LF of trails



# Chapter 5: Transportation

## Street Improvements:

- North Taft Hill Road is a ... 4-lane arterial south of Vine Drive.” (pg. 29)
- “Laporte Avenue is proposed as a 2-lane arterial west of Taft Hill Road...” (pg. 29)

## Bicycle Routes:

- “...bike lanes and sidewalks should be provided on other arterial and collector streets, and sidewalks should be provided on local streets.” (pg. 29)
- Soldier Creek Trail

## Transit:

- “The plan does not propose new transit routes...” (pg. 29)



# Ch. 6: Goals Policies and Strategies

Document #38 (*Applicant's NWSAP Analysis*)

Document #52 (*NSP*)

The application furthers the Goals, achieves the Policies and implements the Strategies outlined in the NSP

## Goal LU-1

- Policy LU-1.2
- Policy LU-1.4
- Policy LU1.5

## Goal LU-2

- Policy LU-2.1
- Policy LU-2.5

## Goal OL-1

- Policy OL-1.1:
- Policy OL-1.2:
  - Strategy OL-1.2A
- Policy OL-1.4:

## Goal P-1

## Goal P-2

- Policy P-2.1
- Policy P-2.2
- Policy P-2.3
  - Strategy P-2.3B
- Policy P-2.5
- Policy P-2.6

## Goal T-1:

- Policy T-1.1
- Policy T-1.3

## Goal U-1:

- Policy U-1.2

## Goal U-2:

- Policy U-2.2
- Policy U-2.3

## Goal AD-1:

- Policy AD-1.1
  - Strategy AD-1.1A
- Policy AD-1.3

# CHAPTER 7: GUIDELINES FOR THE URBAN/RURAL EDGE

“As new development occurs, subdivisions may be larger in scale than past developments and could be very different in character from existing neighborhoods. Developers can, however, take measures to retain certain valued traits (such as natural features and scenic views), and design neighborhoods in a way that shows variety, preserves foothills vistas, and retains and conforms with many of the ‘semi-rural’ characteristics of the area.” (pg. 43)

## WHERE DO THE GUIDELINES APPLY?

### **Residential Foothills (RF): West of Overland**

#### **Trail**

The lands west of Overland Trail are characterized by large undeveloped or agricultural properties, natural areas (such as wetlands and areas with rare plant species), scenic views of the foothills, and access to nearby trails and open spaces. There are a few scattered residences. The area is designated as Residential Foothills (RF), with mandatory clustered development.

### **Urban Estate District (UE): East of Overland**

#### **Trail, Outside City Limits**

The area outside of City limits and generally east of Overland Trail is characterized by scattered smaller undeveloped or agricultural properties that are surrounded by subdivisions. The existing neighborhoods contain a variety of lot sizes, home styles and sizes, setbacks, densities, and other characteristics. This area contains fewer natural features than west of Overland Trail, but residents value the “elbow room” that the undeveloped parcels currently provide. Much of the area will continue to be classified as Urban Estate (UE). Clustered development is optional - not mandatory - for new development.

# CHAPTER 8: Action Plan

STRATEGY	ACTION	LEAD RESPONSIBILITY (AGENCY OR OTHER)	START TIME IN YEARS				RESOURCES OR CAPITAL COSTS	POSSIBLE FUNDING SOURCES
			ON-GOING	0-2	3-5	5+		
<b>OL-1.1c</b>	Work with developers west of Overland Trail to provide open space that conserves natural areas and foothills views.	City, County, Developers	✓				staff	n/a
<b>OL-1.2a</b>	Soldier Creek: Coordinate agencies and developers to pursue the flood control projects, stream restoration, natural areas, and construction of neighborhood trails.	City, County, Developers			✗			Great Outdoors Colorado Grant
<b>P-2.3b</b>	Provide a trail along Soldier Creek. (see OL 1.2b)	City, Developers, Residents, Community Groups			✗			



# Compatibility and Land Use Code

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## *LUC Section 5.1 – Definition of Compatibility*

Characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony.

### **Elements and characteristics affecting Compatibility**

- Height, scale, mass, and bulk of structures
- Pedestrian or vehicular traffic circulation, access and parking impacts
- Landscaping, lighting, noise, odor
- Architecture

*As highlighted by the Court Order dated July 24, 2023, “[f]urther, the LUC makes it clear that ‘Compatibility’ does not mean ‘the same as.’”*

# Compatibility and Land Use Code

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## **LUC Section 3.5.1(B) – Building and Project Compatibility**

Compatibility shall be achieved through techniques such as:

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Similar relationships to the street
- Similar window and door pattern

And/or

- Use of building materials

# Building and Project Compatibility

## LUC Section 3.5.1(B)

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Similar window and door pattern
- Use of building materials



Existing



Proposed

# Building and Project Compatibility

LUC Section 3.5.1(B)

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces



Proposed



Existing



# Building and Project Compatibility

## LUC Section 3.5.1(B)

- Similar relationships to the street
- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Use of building materials



Existing



Proposed



# Building and Project Compatibility

## LUC Section 3.5.1(B)

- Similar relationships to the street
- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Use of building materials



# Building and Project Compatibility

LUC Section 3.5.1(B)

- Similar relationships to the street



# Building and Project Compatibility

## LUC Section 3.5.1(B)

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Use of building materials





# Building and Project Compatibility

LUC Section 3.5.1(B)

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces



Existing



Proposed



# Building and Project Compatibility

## LUC Section 3.5.1(B)

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Use of building materials



1 MODERN FARMHOUSE ELEVATION - BUILDING TYPE A  
1/8"=1'-0" SCALE



4 CONTEMPORARY FARMHOUSE ELEVATION - BUILDING TYPE C-2  
1/8"=1'-0" SCALE



2 MID-CENTURY MODERN ELEVATION - BUILDING TYPE B  
1/8"=1'-0" SCALE

# Building and Project Compatibility

## LUC Section 3.5.1(B)

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Use of building materials

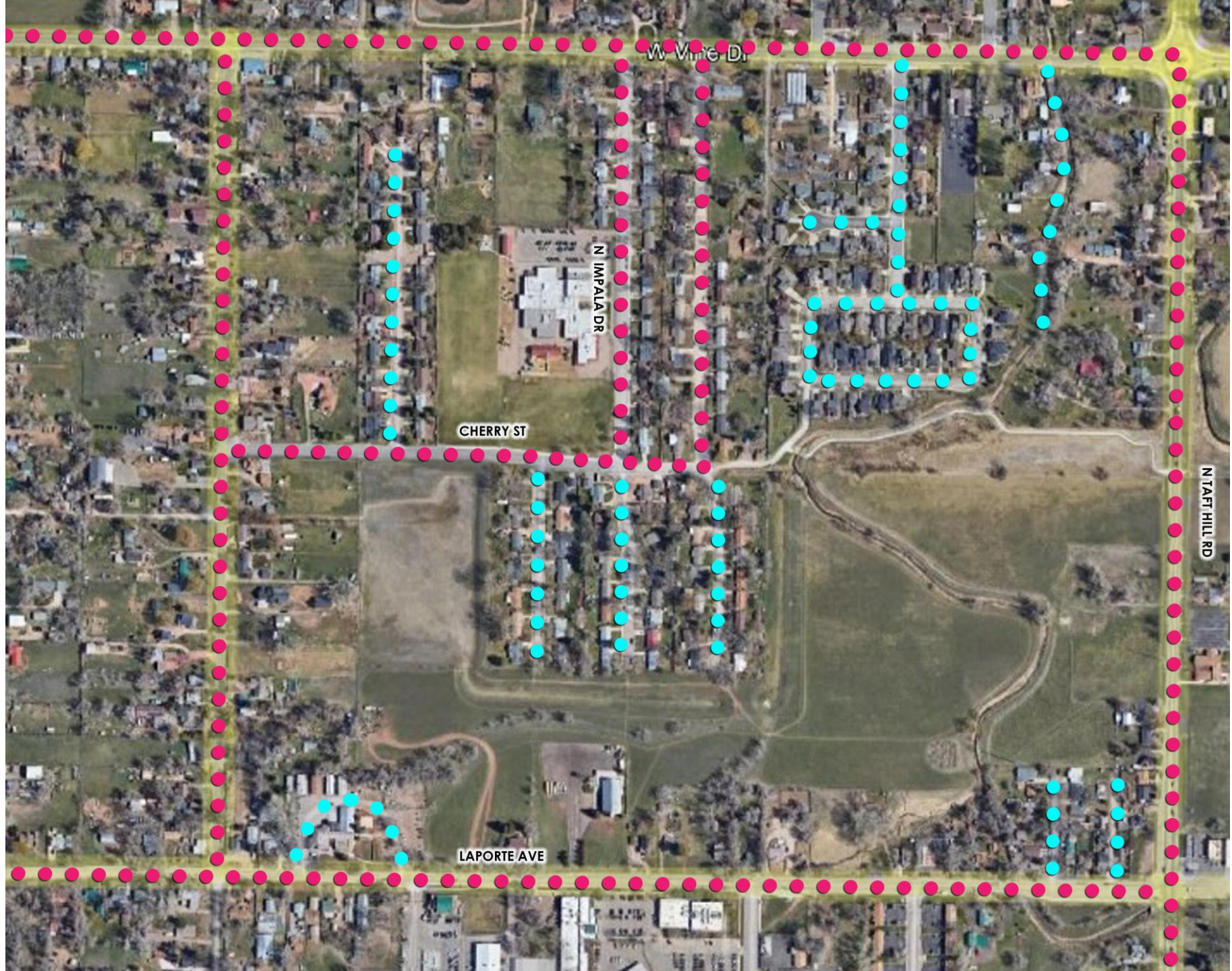


Existing



Proposed







Vehicular Access, Circulation & Parking Impacts

# Land Use Transition

## LUC Section 3.5.1(H)

### Land Use Transition

- When land uses with **significantly different visual character** are **proposed abutting each other** and where gradual transitions are not possible or not in the best interest of the community, the development plan shall, to the maximum extent feasible, **achieve compatibility through the provision of buffer yards and passive open space** in order to enhance the separation between uses.

## LUC Section 3.2.1(E)(1)

- Separation and screening w/ plants
- Integration with plantings
- Establishing privacy
- Integration of fences or walls
- Landform shaping



# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)

## Compatibility of Smaller Lots

### LUC Section 5.1 – Definition of Compatibility

Characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony.

#### Elements and characteristics affecting Compatibility

- Height, scale, mass, and bulk of structures
- Pedestrian or vehicular traffic circulation, access and parking impacts
- Landscaping, lighting, noise, odor
- Architecture

### LUC Section 3.5.1(B) – Building and Project Compatibility


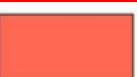






Compatibility shall be achieved through techniques such as:

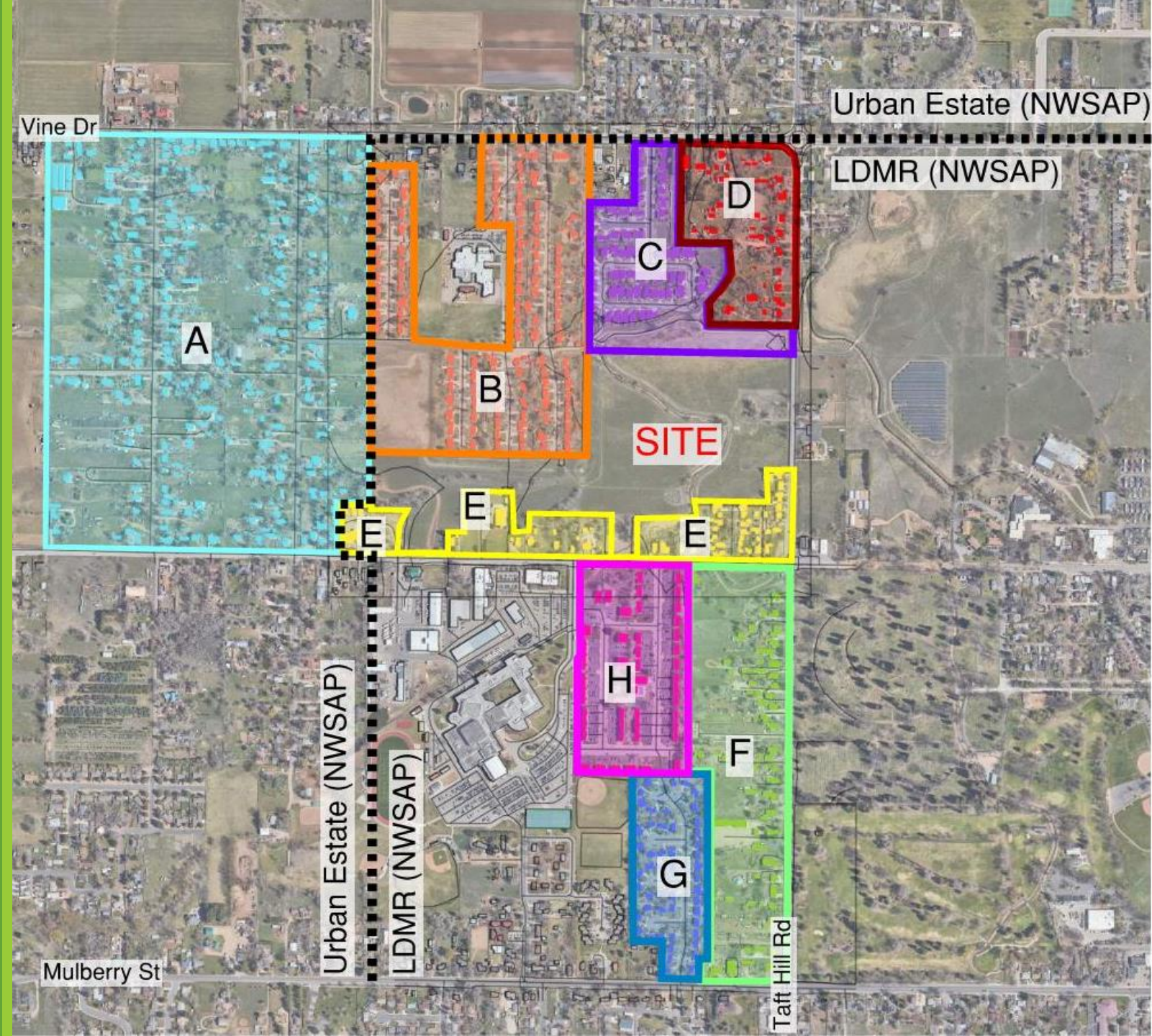
- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Similar relationships to the street
- Similar window and door pattern

And/or

- Use of building materials

# Compatibility Metrics: Building Coverage

NEIGHBORHOOD		PERCENT BUILDING COVERAGE
	A	8.4%
	B	13%
	C	16%
	D	8.7%
	E	12%
	F	7.8%
	G	13%
	H	14%
<b>PROPOSED SITE</b>		<b>15%</b>





# Evidence from the Record

Document #45 (*Applicant  
PowerPoint Presentation*)

## Compatibility of 3-Story Buildings

### LUC Section 5.1 – Definition of Compatibility

Characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony.

#### Elements and characteristics affecting Compatibility

- Height, scale, mass, and bulk of structures
- Pedestrian or vehicular traffic circulation, access and parking impacts
- Landscaping, lighting, noise, odor
- Architecture

### LUC Section 3.5.1(B) – Building and Project Compatibility

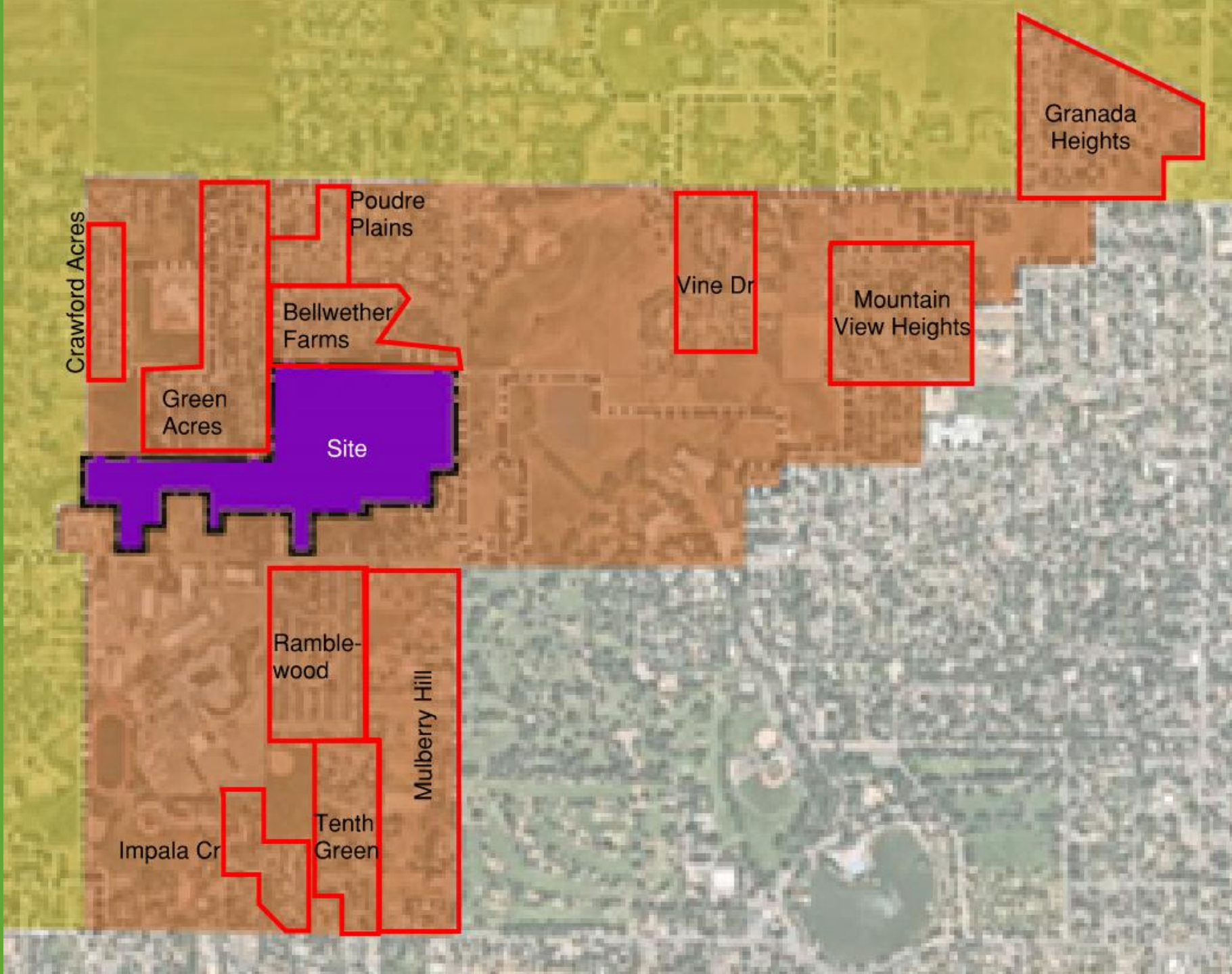
Compatibility shall be achieved through techniques such as:

- Repetition of roof lines
- Use of similar proportions in building mass and outdoor spaces
- Similar relationships to the street
- Similar window and door pattern

And/or

- Use of building materials

	Gross Density	Max Height (stories)
Sanctuary	5.13	3
Crawford Acres	3.79	1
Green Acres	2.68	1
Poudre Plains	3.91	2
Bellwether Farms	3.05	2.5
Ramblewood	14.6	3
Mulberry Hill	1.16	2
Tenth Green	3.95	2
Impala Circle	11.94	3
Vine Drive	4.5	1
Mountain View Heights	3.9	2
Granada Heights	5.95	2



# Summary of Claims

## Appeal

### **A. Interpretation and Application of the LUC and NSP**

1. Section 1.2.2
2. Section 2.2.11
3. Section 3.5.1
4. Section 4.5(E)(3) & 4.5(E)(4)

### **B. Failure to conduct a fair hearing in that The Board, Commission, or other Decision Maker:**

1. Substantially ignored its previously established rules of procedure
2. Considered evidence relevant to its findings which was substantially false or grossly misleading
3. Failed to receive all relevant evidence offered by the appellant

## Response

### **A. Interpretation and Application of the LUC and NSP**

1. FALSE – Project complies with NSP.
2. FALSE – There was no lapse (if applicable).
3. FALSE – Project is compatible.
4. FALSE – Interpretation cannot be appealed.

### **B. Failure to conduct a fair hearing in that Hearing Officer:**

1. Substantially ignored its previously established rules of procedure
  - FALSE – There was no lapse (if applicable).
2. Considered evidence relevant to its findings which was substantially false or grossly misleading
  - FALSE – No evidence offered to support the Appellant's claim.
3. Failed to receive all relevant evidence offered by the appellant
  - FALSE – All evidence was received and accepted.

# Request to Uphold the Hearing Officer's Approval

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For the reasons discussed, we respectfully request that City Council **uphold** the Approval of the hearing officer.

Thank you for your consideration.



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THANK YOU

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