

Staff Presentation to Council

October 15, 2024

- Council will review the Hearing Officer decision of July 24 with July 28 supplement approving the Project.
- Review is based on the record before the Hearing Officer (rather than new evidence) and the arguments and responses presented at the appeal hearing.
- Only issues raised in the Notice of Appeal may be considered.
- The presiding officer (Mayor or Mayor Pro Tem) will resolve procedural issues and set the time for each “side” to present and rebut arguments.
- The Council will vote by motion at the end of the hearing.
- A Resolution will be presented at the next Council meeting to finalize outcome.

- Only parties-in-interest are allowed to participate in the appeal hearing and only at the specified time.
- The presiding officer will ask all those participating to identify themselves early in the hearing.
- The Appellant will control the time for speaking in support of the appeal.
- Parties-in-interest include:
 - The appellant(s);
 - The applicant;
 - Any party with a proprietary or possessory interest in the land that is the subject of the application;
 - Any person to whom the City mailed notice of the Hearing Officer hearing;
 - Any person or organization that provided written comments prior to or at the Hearing Officer hearing; or
 - Any person or organization that appeared at the decisionmaker hearing.

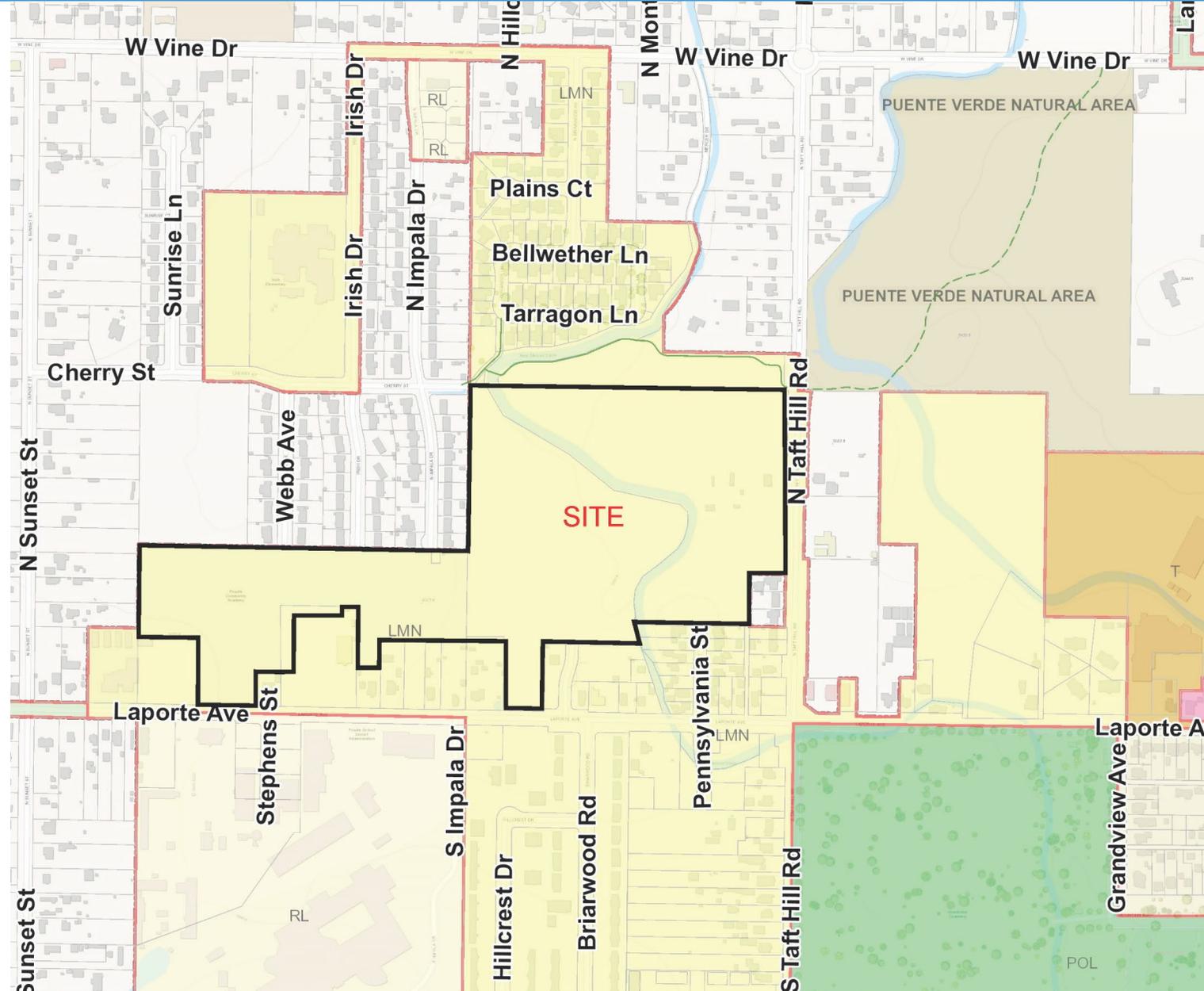


Sanctuary on the Green Project Development Plan Appeal

October 15, 2024

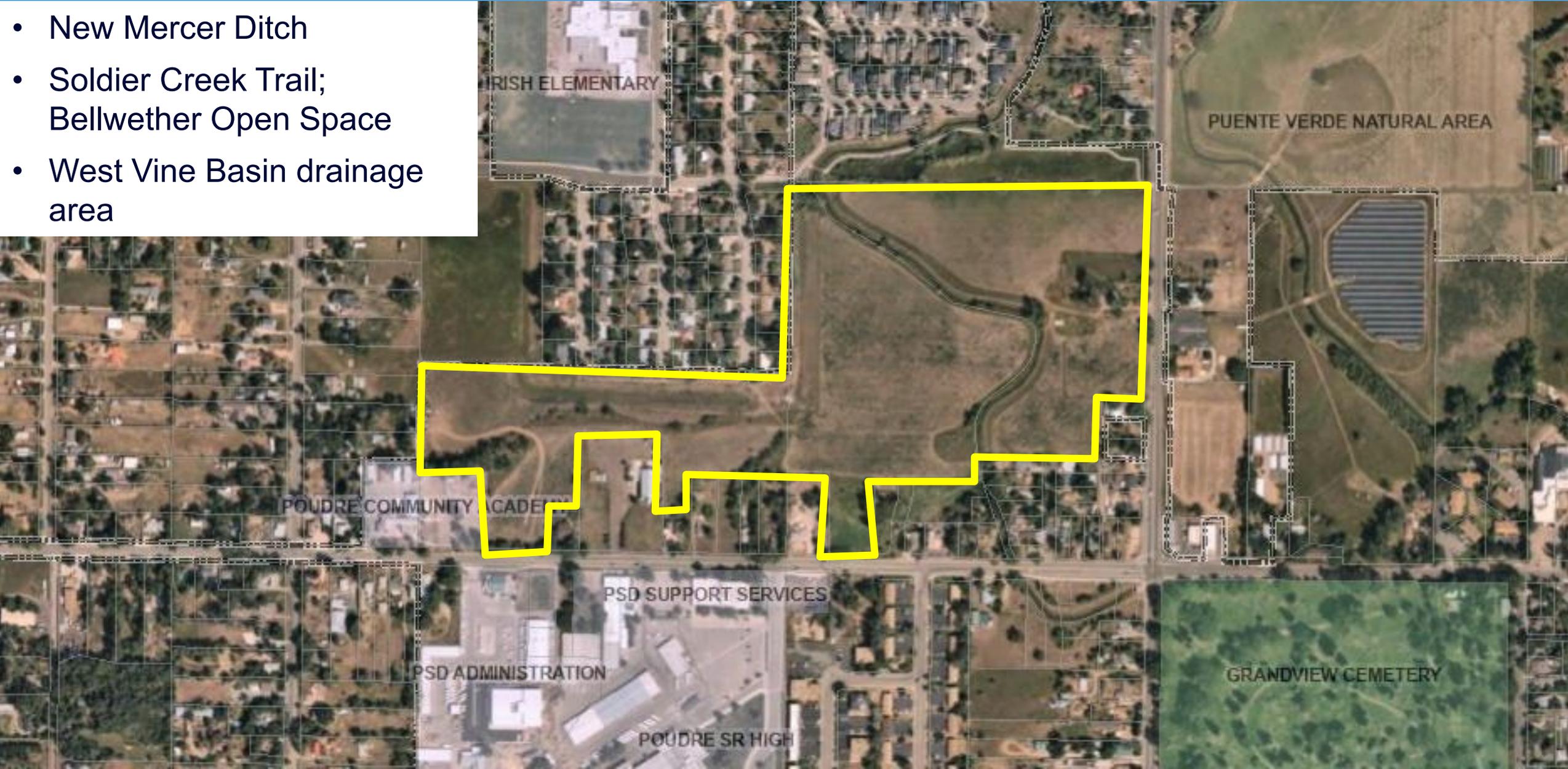
Project Overview

- 41.34 acres
- Zoning: L-M-N, Low Density Mixed-Use Neighborhood
- Northwest Subarea Plan
- Annexed in 1982 (west of ditch) and 2018 (east of ditch)



Project Overview

- New Mercer Ditch
- Soldier Creek Trail;
Bellwether Open Space
- West Vine Basin drainage
area



- Feb. 15, 2019 – Initial project submittal containing multi-unit dwellings
- July 28, 2021 – Applicant withdraws application
 - Continued by P&Z in June to allow applicant time to address P&Z’s concerns
- Nov. 5, 2021 – Applicant submits new PDP without multi-unit dwellings
- May 16, 2022 – Hearing Officer approves PDP
- May 31, 2022 – Sanctuary Field Neighborhood Network files appeal
- Aug. 16, 2022 – City Council upholds Hearing Officer’s decision
- Oct. 4, 2022 – Sanctuary Field Neighborhood Network file lawsuit challenging Council’s ruling
- July 24, 2023 – Judge Jouard orders remand to Hearing Officer and vacates Council’s decision
 - Must consider, evaluate criteria of Northwest Subarea Plan
- July 24, 2024 – Hearing Officer renders decision approving project
- July 28, 2024 – Hearing Officer renders amended decision after consider public comment approving project
- Aug. 8, 2024 – Sanctuary Field Neighborhood Network files appeal

The Notice of Appeal alleges the Hearing Officer committed the following errors:

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

4) Failed to properly interpret and apply relevant provisions of the Land Use Code:

- 1.2.2 – Purpose
- 2.2.11 – Lapse
- 3.5.1 – Building and Project Compatibility
- 4.5(E) – Low Density Mixed-Use Neighborhood Development Standards
- Northwest Subarea Plan

Did the Hearing Officer fail to conduct a fair hearing in that they substantially ignored its previously established rules of procedure?

The Notice of Appeal alleges:

- Applicant did not diligently pursue approval of their development application as required by Section 2.2.11:
 - Application should have lapsed on April 17, 2024.
 - Staff's changing interpretation of lapse date shows improper bias benefitting applicant.

Did the Hearing Officer fail to conduct a fair hearing in that they considered evidence relevant to its findings which was substantially false or grossly misleading?

The Notice of Appeal alleges:

- Evidence of compliance with the Northwest Sub-area Plan was “cherry-picked”.
- The applicant’s claim that the open space as part of this site was in response to neighborhood concerns. Appellants allege less than half of the site is developable due to, “...floodplain, wetlands, and other factors”.
- Applicant’s claims that decrease in density were in direct response to neighborhood requests. Appellants argue that some decrease in density was due its non-compliance with the Land Use Code and that removing multi-family units was to change the decision maker on the project. Appellants also argue that applicant has not met with neighborhood group since the fall of 2021.
- Hearing Officer stated that 3-story elements of the plan are largely on the interior of the site. Appellants allege 3-story elements of the project face, “...open pasture, an orchard, and a single 100-year-old one-story farmhouse...”.

Did the Hearing Officer fail to conduct a fair hearing in that they failed to receive all relevant evidence offered by the appellant?

The Notice of Appeal alleges:

- Hearing Officer did not consider 342-page packet of public comment.

Did the Hearing Officer fail to properly interpret and apply the following relevant provisions of the Land Use Code?

- 1.2.2 – Purpose
- 3.5.1 – Building and Project Compatibility
- 4.5(E) – Low Density Mixed-Use Neighborhood Development Standards
- Northwest Sub-area Plan

The Notice of Appeal alleges:

- Sanctuary on the Green is not compatible with the surrounding neighborhood.
- Sanctuary on the Green is not consistent with Northwest Subarea Plan.
- Building massing not compatible with surrounding neighborhood.
- Does not meet height requirements in Low Density Mixed-Use Neighborhood development standards.

RESOURCES

Section 1.2.2 - Purpose

Overarching, high-level purpose of Land Use Code
Implemented through Articles 1-5 of Land Use Code

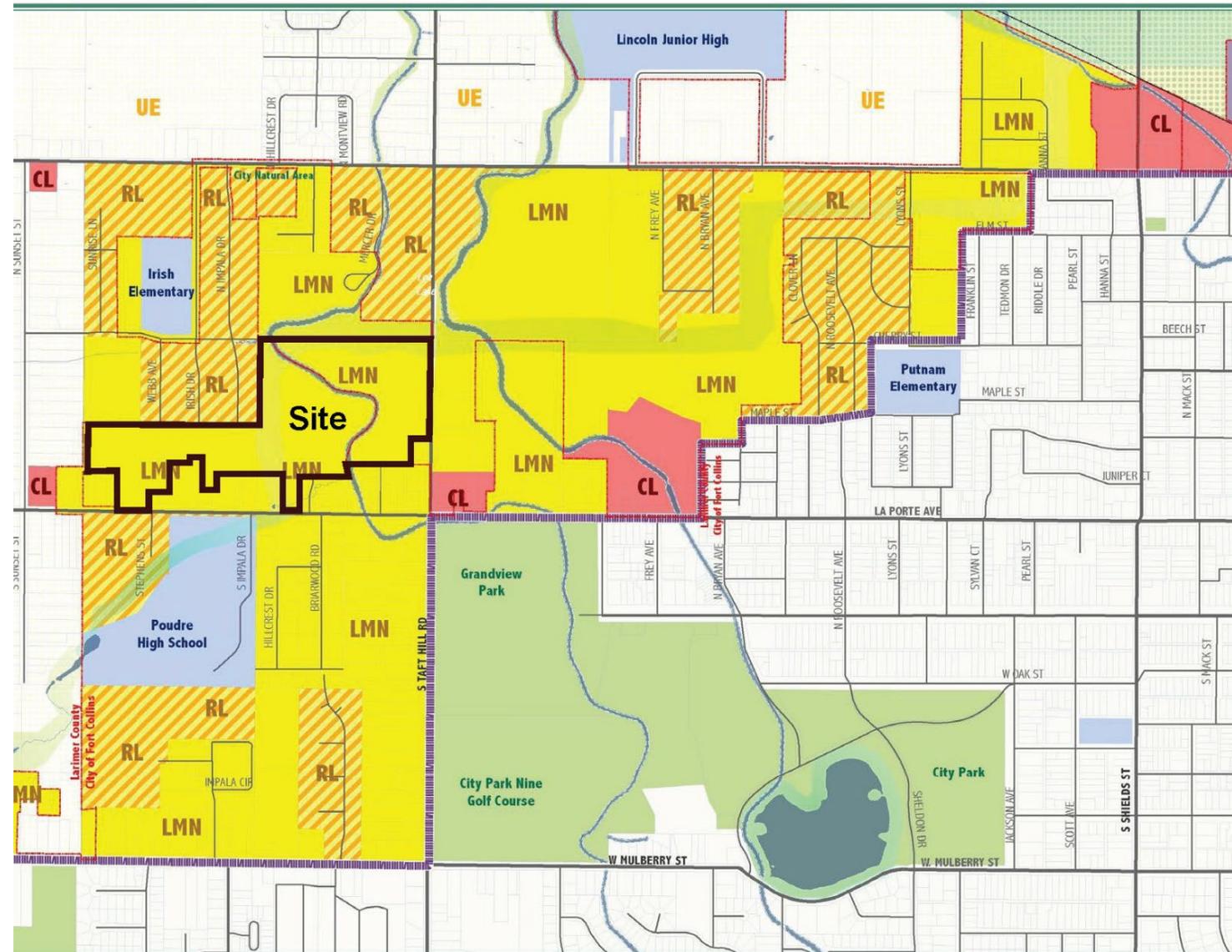
- a) **Ensuring that all growth and development which occurs is consistent with this Code, City Plan and its adopted components, including, but not limited to, the Structure Plan, Principles and Policies and associated sub-area plans.**
- b) *Encouraging innovations in land development and renewal.*
- c) *Fostering the safe, efficient and economic use of the land, the city's transportation infrastructure, and other public facilities and services.*
- d) *Facilitating and ensuring the provision of adequate public facilities and services such as transportation (streets, bicycle routes, sidewalks and mass transit), water, wastewater, storm drainage, fire and emergency services, police, electricity, open space, recreation, and public parks.*
- e) *Avoiding the inappropriate development of lands and providing for adequate drainage and reduction of flood damage.*
- f) *Encouraging patterns of land use which decrease trip length of automobile travel and encourage trip consolidation.*
- g) *Increasing public access to mass transit, sidewalks, trails, bicycle routes and other alternative modes of transportation.*
- h) *Reducing energy consumption and demand.*
- i) *Minimizing the adverse environmental impacts of development.*
- j) *Improving the design, quality and character of new development.*
- k) *Fostering a more rational pattern of relationship among residential, business and industrial uses for the mutual benefit of all.*
- l) *Encouraging the development of vacant properties within established areas.*
- m) **Ensuring that development proposals are sensitive to the character of existing neighborhoods.**
- n) *Ensuring that development proposals are sensitive to natural areas and features.*
- o) *Encouraging a wide variety of housing opportunities at various densities that are well-served by public transportation for people of all ages and abilities.*

Appearance and Design Overview (page 44):

“New development should fit the pattern and character of the area in terms of scale, use, lot sizes, setbacks, and landscaping, and should provide connected open space and avoid natural areas.”

As Part of L-M-N Purpose and Intent:

“New neighborhoods should entail creative master planning to lead to visually attractive, pedestrian-friendly neighborhoods that have nearby services, parks, and other amenities.”

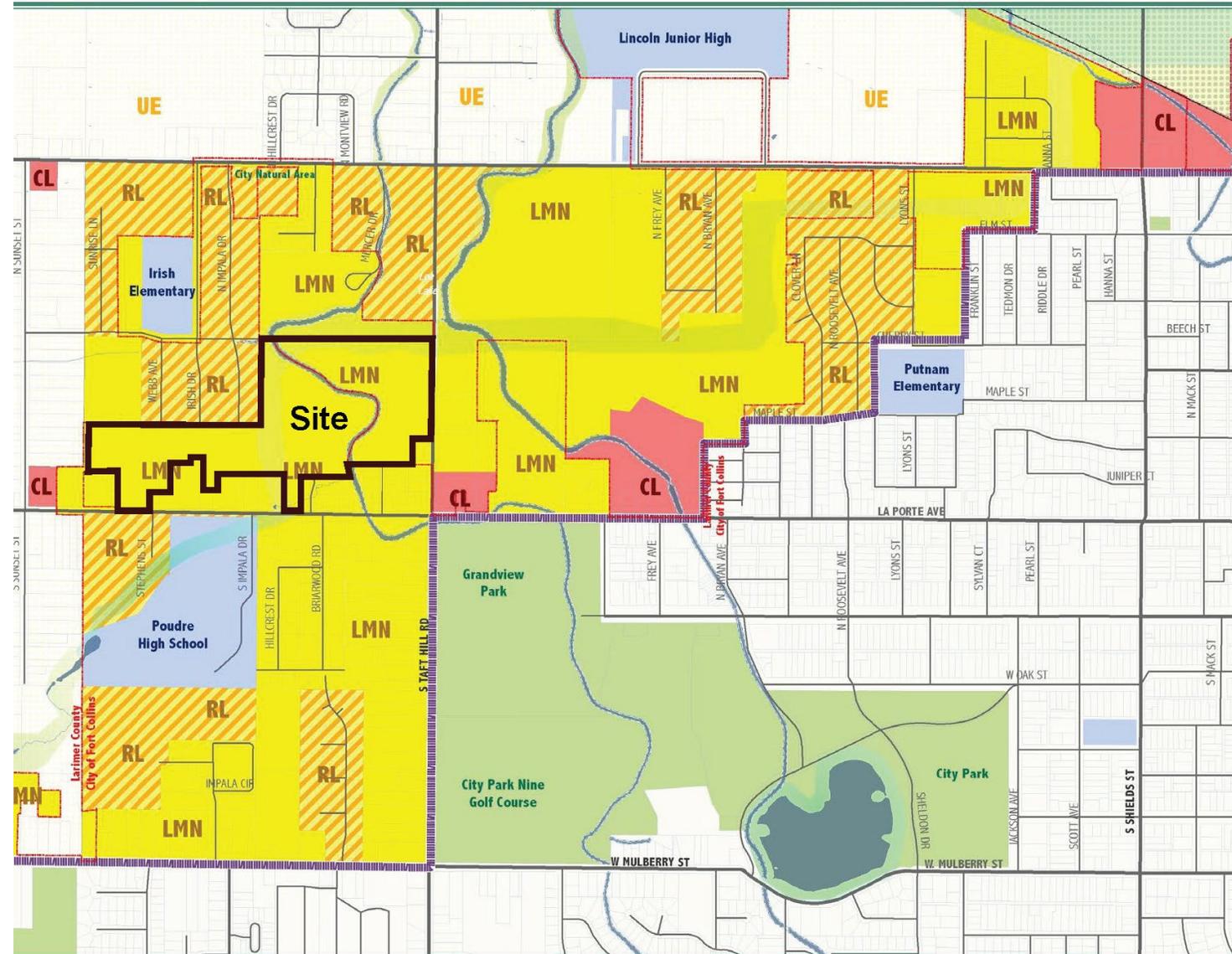


Goal AD-1: Unique Image and Identity

The Northwest Subarea will continue to have a unique image and identity, with a wide variety of compatible styles and activities.

Policy AD-1.1: Compatibility - Residential Guidelines

Encourage site-specific and contextual design and planning to promote new development that is compatible with the area.



1.2.2(M) – Character of Development



	Subdivision Size (acres)	Average Lot Size (acres)	Number of Lots	Developed area (acres)	Gross Density (dwelling units/acre)	Net Density (dwelling units/acre minus streets and open space)	Average Building Footprint (square feet)	Proportion of Lot Size to Building Footprint	Amount of Common Open Space (acres)	% Common Open Space	Average Setback from Local Street Edge (feet)	Average Setback from Arterial Street Edge (feet)	Variation in setback from local (feet)	Variation in setback from arterial (feet)	Typical lot width (feet)
Stagecoach	35.56	0.19	142	28	5.07	3.99	1,500	5.5	0	0%	31	81	14	53	60-70
Lin Mar Acres	41.37	0.96	35	33.8	1.04	0.85	2,700	15.5	0	0%	54	62.5	27	40	130-200
Dean Acres	27	0.408	52	21.25	2.45	1.93	2,490	7.1	0	0%	39	84.5	31	40	85
Rostek	62.37	0.74	80	59.79	1.34	1.28	1,400	23	0	0%	45	35	150	5	100
Greyrock Commons	16.2	0.076	30	4.8	6.3	6.9	3,000	0.7	11.8	72%	36.2	n/a	20	n/a	36
Bonnaview	8.95	0.28	22	6.74	3.26	2.46	2,710	4.5	0	0%	45	66	10	45	80
Solar Ridge	34.71	0.35	72	25.79	2.79	2.07	2,840	5.4	2.85	8%	55	n/a	96	n/a	90
Delehoy MLD	14.69	3.67	4	14.69	0.27	0.27	1,000	159.9	0	0%		n/a		n/a	90
Poudre Overlook		0.2	0.2	0.4					0	0%					
Bellwether	14.41	0.13	44	7.18	3.05	3.2			5.63	0%		n/a		n/a	50
SANCTUARY ON THE GREEN	41.35	0.059	212	29.73	5.13	7.13	3,422	14.61	24.1	58%	21	23	56	21	22-72
Impala	7.2	3.6	2	4.58	11.94	11.94	6,708	24.54	2.61	36%	13.2	23.3	-	-	-

Similar characteristics to surrounding development

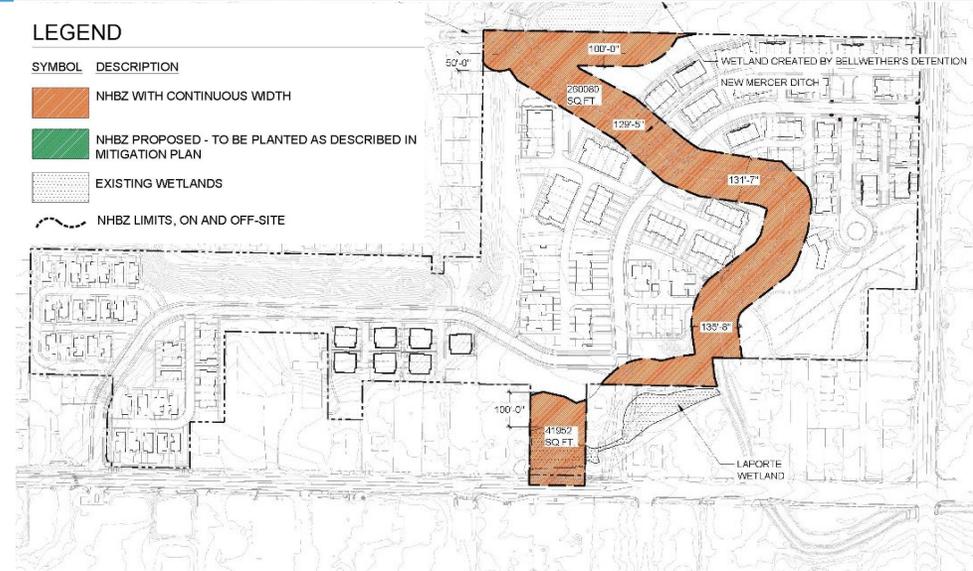
Three characteristics to highlight

- Lowest average lot size
- Most open space in aggregate
- Some buildings contain 3-story elements

Overall, Sanctuary on the Green is sensitive to the character of existing neighborhoods, consistent with this element of the purpose statement

Section 3.4.1 Natural Habitats and Features

- Habitat buffering: 10.36 acres
- 13.72 acres additional open space area, landscaping
- 24.08 acres landscaped area total
- Restoration includes: weed mitigation, enhancement plantings, wetland restoration, pollinator gardens,
- Berming and dense plantings –near more developed areas to mitigate impacts such as noise and lighting



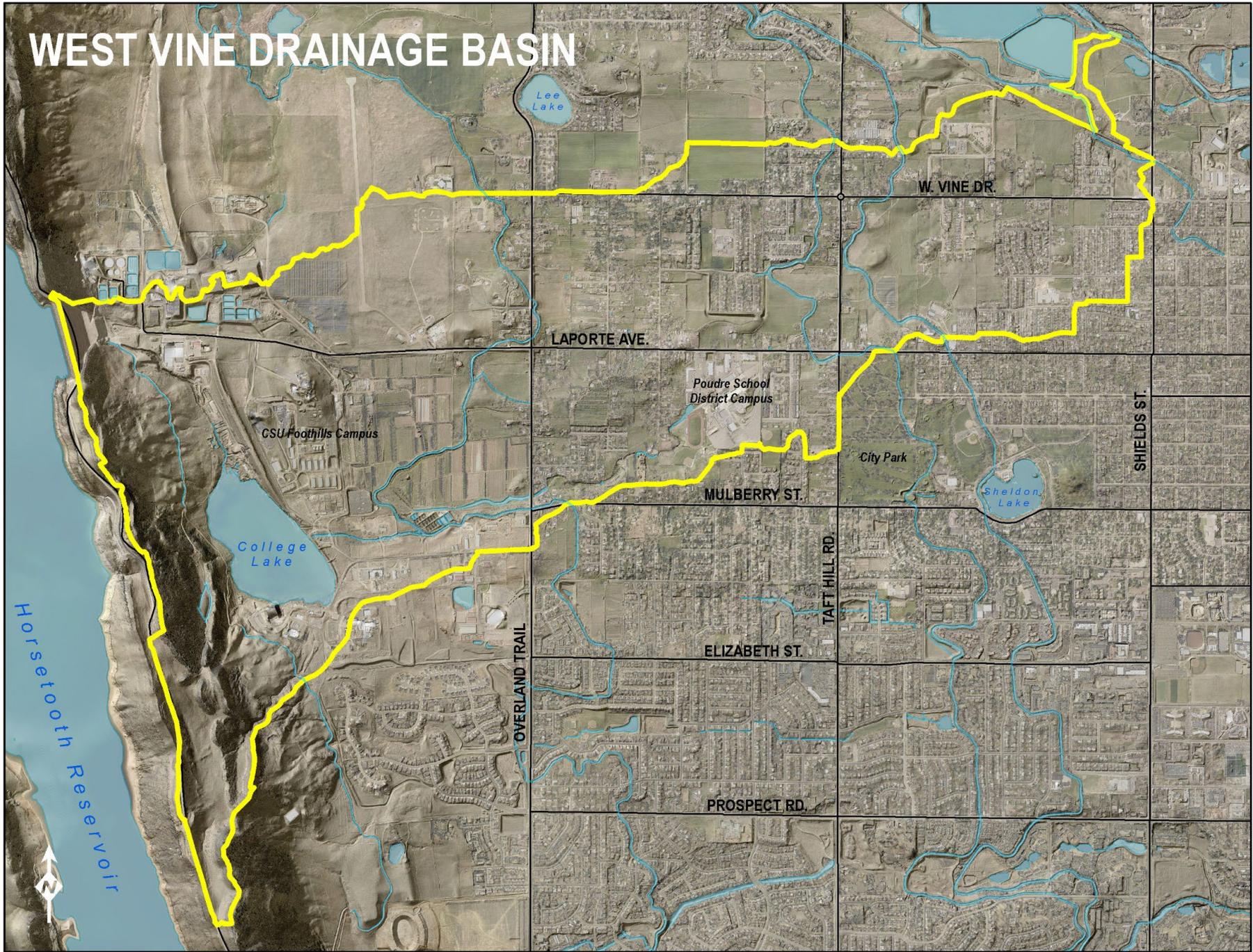
NATURAL HABITAT BUFFER ZONES (NHBZ) REQUIRED



NATURAL HABITAT BUFFER ZONES (NHBZ) PROPOSED

AREA ON SITE OF NHBZ: 451,129 SQ. FT. 10.36 ACRES

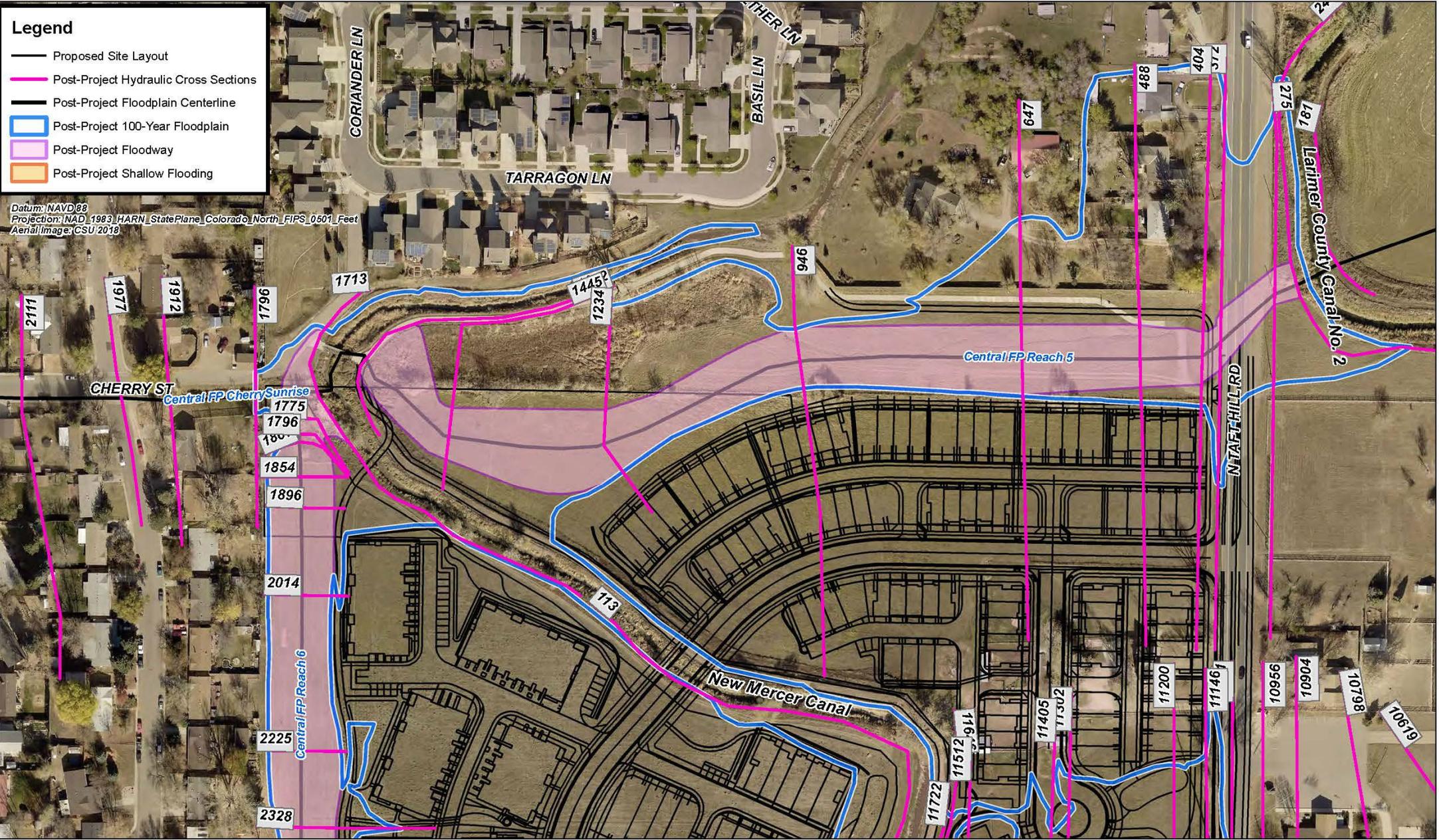
WEST VINE DRAINAGE BASIN

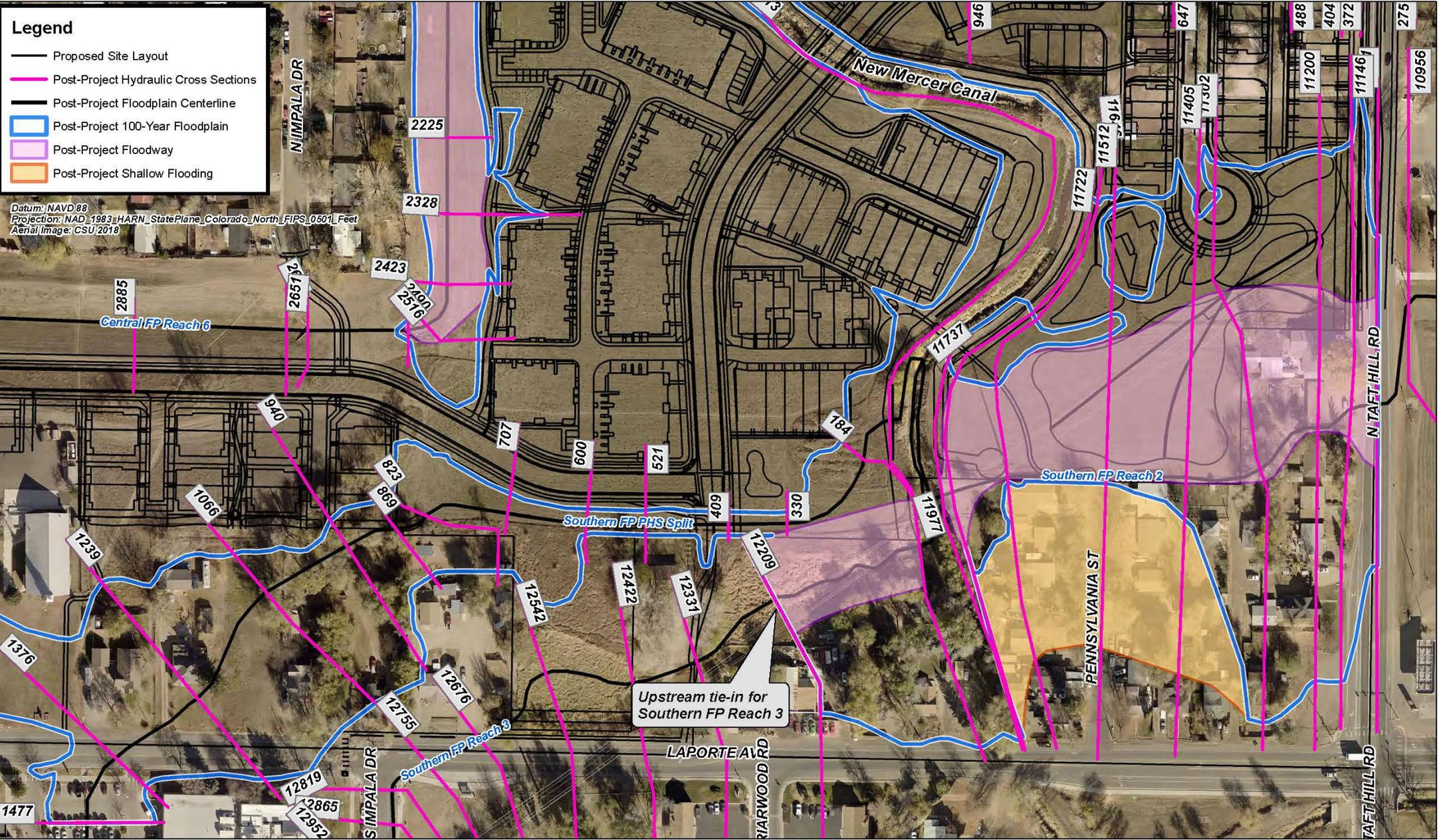


Legend

- Proposed Site Layout
- Post-Project Hydraulic Cross Sections
- Post-Project Floodplain Centerline
- Post-Project 100-Year Floodplain
- Post-Project Floodway
- Post-Project Shallow Flooding

Datum: NAVD88
 Projection: NAD_1983_HARN_StatePlane_Colorado_North_FIPS_0501_Feet
 Aerial Image: CSU 2018





New developments in or adjacent to existing developed areas shall be compatible with the established architectural character of such areas by using a design that is complementary. In areas where the existing architectural character is not definitively established or is not consistent with the purposes of this Code, the architecture of new development shall set an enhanced standard of quality for future projects or redevelopment in the area. Compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed infill development. Brick and stone masonry shall be considered compatible with wood framing and other materials. Architectural compatibility (including, without limitation, building height) shall be derived from the neighboring context.

- A request was received to clarify which building height standards in Land Use Code Section 4.5(E) would be applicable to a 4-unit or larger, single-family attached building.
- The specific question is whether the maximum building height standards in Section 4.5(E)(3) or Section 4.5(E)(4) would apply for a building with 4 units or more where all units are located on individual, separate lots.
- Section 4.5(E)(3) specifically references only one-, two- and three family dwellings and is not applicable to buildings that contain 4 or more dwelling units.
- Conclusion: Section 4.5(E)(4) would be applicable to buildings containing 4 or more single-family attached units. The maximum building height, per Section 4.5(E)(4)(d) is three stories.