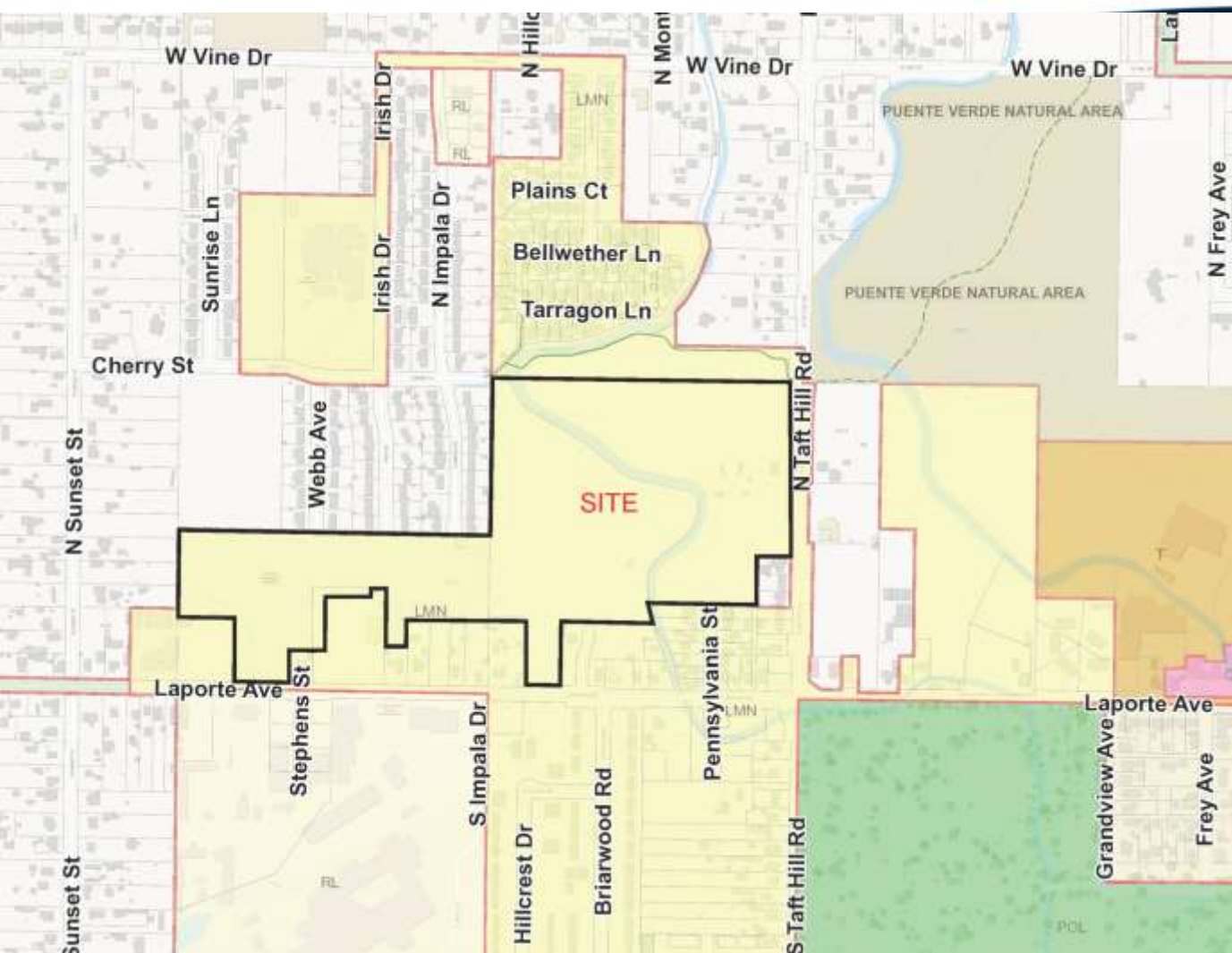
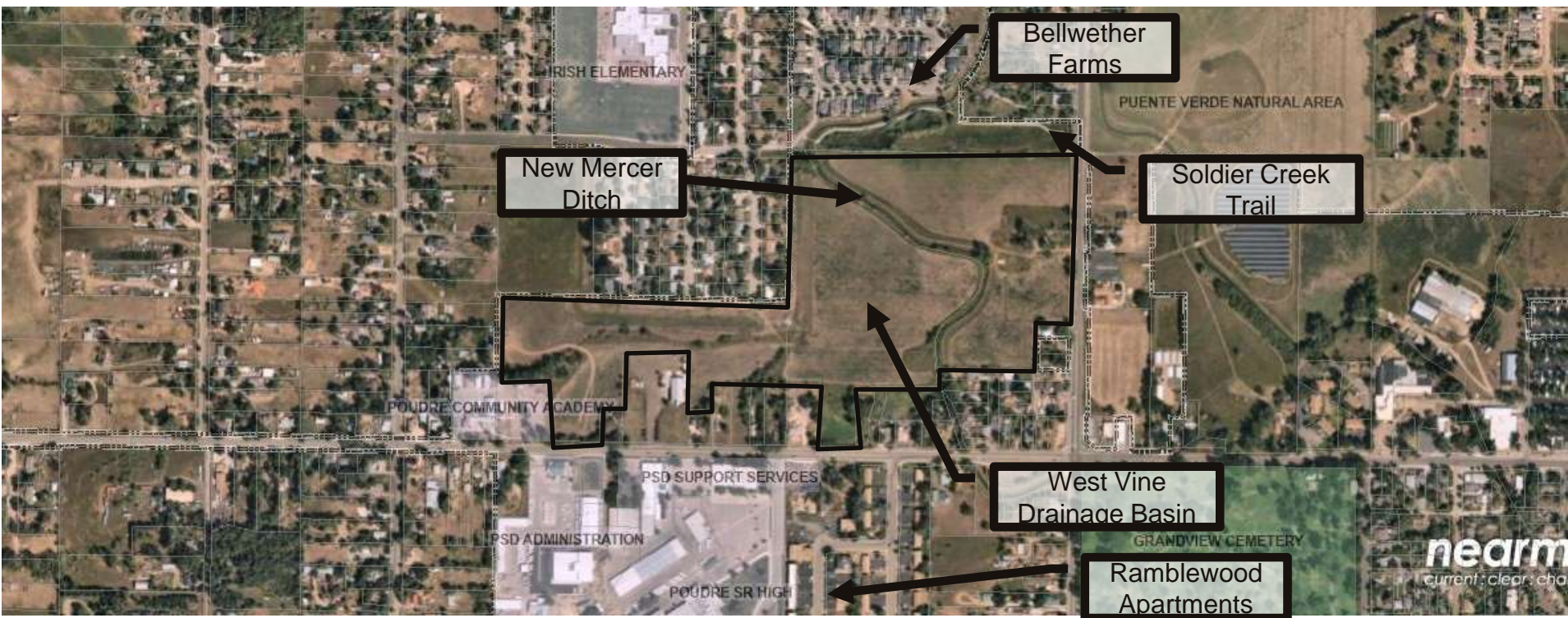


Sanctuary on the Green PDP - Appeal
Paul Sizemore – CDNS Director

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)







212 dwellings total

Three housing types:

32 alley-loaded single family dwellings

14 two-family dwelling
units

166 single-family attached dwelling units (8 two-story buildings and 28 three-story buildings)

Overall density – 5.13 dwelling units per gross acre

Key Dates:

Prior PDP (PDP190003)

- February 15, 2019:

Prior Application Submitted

Two-story multi-family: 87 dwellings

Two and three-story single family attached: 106 dwellings

Two-family: 26 dwellings

Single family detached alley loaded: 32 dwellings

251 total dwelling units

- June 17, 2021:

Planning and Zoning Commission Hearing

Application withdrawn following hearing

Current PDP (PDP210018)

- September 13, 2021:

Neighborhood Meeting

- November 5, 2021:

Application Submitted

Two-story multi-family: 0 dwellings

Two and three-story single-family attached: 166 dwellings

Two-family: 14 dwelling units

Single family detached alley loaded: 32 dwelling units

212 total dwelling units

Key Dates:

- May 2, 2022: Administrative Hearing for the PDP with two requests for modifications, alternative compliance for LUC Section 3.6.3 (D) – (F)
- May 16: Decision issued by Hearing Officer approving the PDP with two modifications of standards, alternative compliance for LUC Section 3.6.3 (D) – (F), and two conditions along with an advisory urging continued collaboration between the applicant and neighbors
- May 31: A Notice of Appeal was filed by the Sanctuary Field Neighborhood Network
- August 16: City Council Hearing for Appeal

Alleges the Hearing Officer committed the following errors:

1. *Failure to conduct a fair hearing in that the Hearing Officer considered evidence relevant to their findings which was substantially false or grossly misleading.*
2. *Failure to conduct a fair hearing in that the Hearing Officer was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Hearing Officer's independence of judgement.*

Alleges the Hearing Officer committed the following errors:

3. *Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter.*
 - *Section 1.2.2 (Purpose)*
 - *Section 3.5.1 (Building and Project Compatibility)*
 - *Section 4.5.D.1 (Low Density Mixed-Use Neighborhood District Density)*
 - *Section 3.4.7 (Historic and Cultural Resources)*
 - *Section 3.5.2(D)(1) (Orientation to a Connecting Walkway)*
 - *Section 4.5 (D)(2)(a) (Mix of Housing)*

Failure to conduct a fair hearing in that the Hearing Officer considered evidence relevant to their findings which was substantially false or grossly misleading.

This includes misrepresentations and mischaracterizations of:

From the Applicant

- Collaboration with the Neighbors
- Efforts to create open space and buffers
- Historic sites and historic natural resources
- Prior density reductions
- Stepping down of buildings and comparisons to local structures
- Need for housing in Fort Collins

From City Staff

- Access to documents and notifications in a timely manner
- Residential unit number discrepancy in the Hearing Officer's Decision

Failure to conduct a fair hearing in that the Hearing Officer was biased against the appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Decision Maker's independence of judgement ***because the application was allowed to go through a Type 1 hearing.***

The appellant also believes the public hearing structure which does not allow rebuttal from the public to final statements made by the applicant or staff is unfair.

The Notice of Appeal alleges failure to properly interpret the Land Use Code Section 1.2.2 (Purpose), specifically subsections:

- (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.
- (E) avoiding the inappropriate development of lands and providing for adequate drainage and reduction of flood damage.
- (I) minimizing the adverse environmental impacts of development.
- (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.

The Notice of Appeal alleges failure to properly interpret the Land Use Code Section 3.5.1 (Building and Project Compatibility) specifically that that City staff did not perform due diligence in allowing the applicant to use the following two comparable properties:

- Bellwether Farms to the north
- Ramblewood Apartments to the south

The Notice of Appeal alleges failure to properly interpret the Land Use Code Section 4.5.D.1 (Low Density Mixed-Use Neighborhood District Density Standard) specifically that the project exceeds the maximum density allowed at 13 dwelling units per acre. The code section states:

- (b) The maximum density of any development plan taken as a whole shall be nine
(9) dwelling units per gross acre

3.8.18 (1) Determining the gross acreage. The gross acreage of all the land within the boundaries of the development shall be included in the density calculation except:

- (a) any interest in land which has been deeded or dedicated to any governmental agency for public use prior to the date of approval of the development plan; provided, however, that this exception shall not apply to any such acquisition of an interest in land solely for open space, parkland or stormwater purposes; and
- (b) land devoted to nonresidential uses such as commercial, office, industrial or civic uses.

The Notice of Appeal alleges failure to properly interpret the Land Use Code Section 3.4.7 (Historic and Cultural Resources) specifically that the VonLong/Slagle House (5LR.14498) was ignored by the Applicant and not properly considered in the area of adjacency by Staff because it is located across an arterial roadway, N. Taft Hill.

The Notice of Appeal alleges failure to properly interpret the Land Use Code Section 3.5.2(D)(1) (Orientation to a Connecting Walkway) and Section 4.5 (D)(2)(a) (Mix of Housing) in the granting of the two Modifications of Standards for the PDP.

- Modification to Section 3.5.2(D)(1) Orientation to a Connecting Walkway, requesting that building entrances to dwellings be oriented to a walkway that is longer than 350 feet, and within walkway open space that is narrower than 35 feet.
- Modification to Section 4.5(D)(2)(a)3. Housing Types, requesting approval of three housing types instead of four.

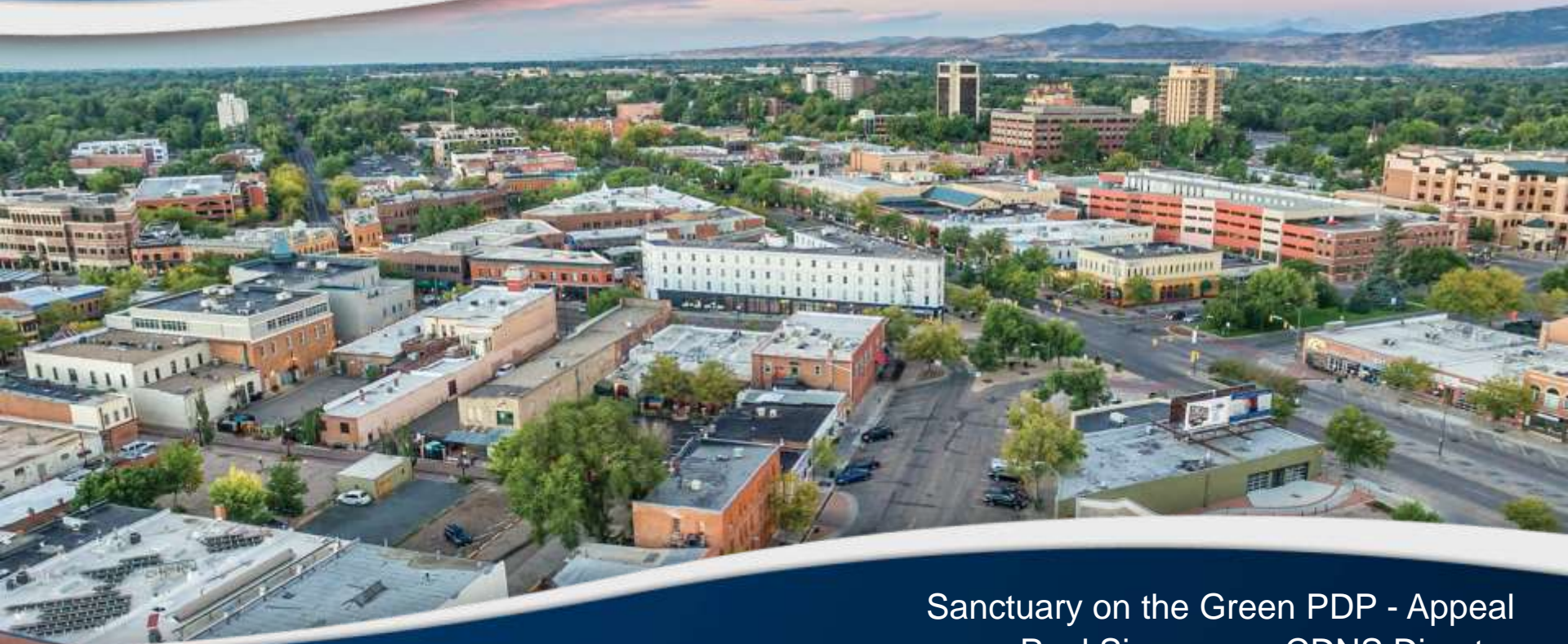
Modification of Standards: Required Findings

“The decision maker may grant a modification of standards only if it finds that the granting of the modification would not be detrimental to the public good, and that the modification:

- (1) is “as equally good or better” in achieving the general purpose of the standard than a plan which complies; or
- (2) “alleviate a defined community need”
- (3) “unusual or exceptional physical hardship”; or
- (4) “nominal and inconsequential”

Concluding questions

- *Did the Hearing Officer fail to conduct a fair hearing by considering evidence, presented by the Applicant and City Staff, that was substantially false or grossly misleading?*
- *Did the Hearing Officer fail to conduct a fair hearing because he was biased against the Appellant by reason of a conflict of interest or other close business, personal or social relationship that interfered with the Hearing Officer's independence of judgement?*
- *Did the Hearing Officer fail to properly interpret and apply the six relevant provisions of the Land Use Code?*



Sanctuary on the Green PDP - Appeal
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(2) The following uses are permitted in the L-M-N District, subject to administrative review:

(a) **Residential Uses:**

1. Single-family detached dwellings.
2. Two-family dwellings.
3. Single-family attached dwellings.
4. Two-family attached dwellings.
5. Any residential use consisting in whole or in part of multi-family dwellings (limited to eight [8] or less dwelling units per building) that contain fifty (50) dwelling units or less, and seventy-five (75) bedrooms or less.
6. Group homes for up to eight (8) developmentally disabled or elderly persons.
7. Mixed-use dwellings.
8. Extra occupancy with four (4) or more tenants.

(3) The following uses are permitted in the L-M-N District, subject to Planning and Zoning Board review:

(a) Residential Uses:

1. Manufactured housing communities.
2. Group homes, other than allowed in subparagraph (2)(a)5 above.
3. Any residential use consisting in whole or in part of multi-family dwellings that contain more than eight (8) units per building, or more than fifty (50) dwelling units, or more than seventy-five (75) bedrooms.

(D) *Relationship of Dwellings to Streets and Parking.*

- (1) *Orientation to a Connecting Walkway.* Every front facade with a primary entrance to a dwelling unit shall face the adjacent street to the extent reasonably feasible. Every front facade with a primary entrance to a dwelling unit shall face a connecting walkway with no primary entrance more than two hundred (200) feet from a street sidewalk and the address shall be posted to be visible from the intersection of the connecting walkway and public right of way. The following exceptions to this standard are permitted:

 - (a) Up to one (1) single-family detached dwelling on an individual lot that has frontage on either a public or private street.
 - (b) A primary entrance may be up to three hundred fifty (350) feet from a street sidewalk if the primary entrance faces and opens directly onto a connecting walkway that qualifies as a major walkway spine.**
 - (c) If a multi-family building has more than one (1) front facade, and if one (1) of the front facades faces and opens directly onto a street sidewalk, the primary entrances located on the other front facade(s) need not face a street sidewalk or connecting walkway.

- (2) *Mix of Housing*. A mix of permitted housing types shall be included in any individual development plan, to the extent reasonably feasible, depending on the size of the parcel. In order to promote such variety, the following minimum standards shall be met:
- (a) A minimum of housing types is required on any project development plan as follows:
1. a minimum of two (2) housing types is required on any project development plan containing at least fifteen (15) acres and less than twenty (20) acres.
 2. a minimum of three (3) housing types is required on any project development plan containing twenty (20) acres and less than thirty (30) acres, including such plans that are part of a phased overall development; and
 3. **a minimum of four (4) housing types is required on any such project development plan containing thirty (30) acres or more.**