



LOVELAND PLANNING COMMISSION MEETING AGENDA

**Monday, August 26, 2013
500 E. 3rd Street – Council Chambers
Loveland, CO 80537**

THE CITY OF LOVELAND DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY, RACE, CREED, COLOR, GENDER, SEXUAL ORIENTATION, RELIGION, AGE, NATIONAL ORIGIN OR ANCESTRY IN THE PROVISION OF SERVICES. FOR DISABLED PERSONS NEEDING REASONABLE ACCOMODATIONS TO ATTEND OR PARTICIPATE IN A CITY SERVICE OR PROGRAM, CALL 962-2523 OR TDD 962-2620 AS FAR IN ADVANCE AS POSSIBLE.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. REPORTS:

a. Citizen Reports

This is time for citizens to address the Commission on matters not on the published agenda.

b. Staff Matters

c. Committee Reports

d. Commission Comments

IV. APPROVAL OF MINUTES

Review and approval of the 8/12/2013 Meeting minutes

V. REGULAR AGENDA:

1. CanDo Coalition Presentation

The CanDo presentation will provide an overview of the CanDo Coalition, the sectors they work in, and information on how they hope to partner with the City of Loveland on their Built Environment strategy. The purpose of the presentation is to educate the Commission on the coalition and explain more about the partnership with the city.

2. Aspen Knolls

This is a public hearing concerning the Aspen Knolls First and Second Subdivisions. The property owner, McWhinney, is seeking to vacate all established public rights-of-way, re-plat the property to remove all lots, outlots, and easements, and rezone the property from P-50—Aspen Knolls PUD to

DR—Developing Resource. The Aspen Knolls property was originally approved as a two-phased residential development; the owner at the time of plan approval was KB Homes.

These applications are being requested because the developer has no intention of developing the property under the approved development plans. Rather, the applicant is interested in utilizing existing raw water credits associated with the Aspen Knolls property for a different development project. The transfer of raw water credits can only be allowed if the property is stripped of its entitlements.

Applications for vacation of public right-of-way are legislative and rezoning is considered quasi-judicial; in both cases, the Planning Commission provides a recommendation to City Council. The application for re-platting the property is administrative and not being considered by the Planning Commission. The re-plat will however not receive approval unless the corresponding vacation and rezoning applications are approved.

VI. ADJOURNMENT

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
August 12, 2013

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on August 12, 2013 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Massaro, Molloy, Dowding, Crescibene, Krenning, Ray and Prior. Members absent: Commissioner Middleton. City Staff present: Bob Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney.

These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.

CITIZEN REPORTS

Ms. Kim Orr, P.O. Box 2504, Loveland, CO addressed the Commission and distributed two handouts to the Commissioners in response to **Commissioner Krenning's** request at the 07/22/2013 Planning Commission meeting, asking for scientific data proving ground water contamination associated with drilling and fracking. The materials contained information on oil and gas spills, provided by the Oil and Gas Commission, which included two sample reports dated November of 2012 and November 2009. Each report indicated drilling associated with oil development was marked "yes" in regards to groundwater impact. **Ms. Orr** noted all the information she provided is public information. She stated that there are 350 similar reports a year regarding spills related to oil and gas drilling and fracking. **Mr. Krenning** thanked **Ms. Orr** for providing the information and assured her that he would read the reports carefully. He went on to say he felt questions surrounding fracking are serious, and he would not take the matter lightly.

STAFF MATTERS

1. **Mr. Bob Paulsen, Current Planning Manager** conveyed to the Commission that there was an item on the agenda for the scheduled 08/26/2013 Planning Commission meeting.

COMMITTEE REPORTS

There were no committee reports.

COMMISSIONER COMMENTS

There were no comments or questions regarding the 06/20/2013 ZBA meeting materials that were included in the Planning Commission packets.

APPROVAL OF THE MINUTES

Chair Meyers asked if any corrections were needed to the 07/22/13 Planning Commission Meeting Minutes. **Commissioner Massaro** stated that on page 10, the acronym for the Colorado Oil and Gas Commission needed to be changed from COGC to COGCC. The correction was

noted and **Chair Meyers** asked for a motion to approve the minutes. **Commissioner Molloy** moved to approve the minutes. Upon a second by **Commissioner Crescibene**, the meeting minutes were approved unanimously with **Commissioner Ray** abstaining since he was absent from the 07/22/13 Planning Commission meeting.

REGULAR AGENDA

1. Giuliano PDP Amendment

This is a public hearing to consider an amendment to the Giuliano First Subdivision PUD Preliminary Development Plan (PDP). The Amendment would modify the architectural standards and side yard setbacks in area SF-4, which is the approved and platted single family residential phase located east of Ponderosa Elementary School. The applicant is proposing an alternative design option for this phase that would allow a front oriented garage design with the garage doors comprising up to 50% of the ground floor elevation. Additional design standards for the garages are incorporated in the amendment to lessen the visual impacts of the doors on the streetscape. This includes recessing garages behind a front porch or living portion of the house and incorporating windows into the garage doors.

Ms. Kerri Burchett, Principal Planner, addressed the Commission and stated that the property impacted is located north of 43rd Street, and west of Wilson Avenue. The PUD is 169 acres in size. The amendment is for SF-4, which is roughly 23 acres, and is platted for 106 single family homes, and is one of the remaining phases of the PUD. There are two amendments being requested. The first is to modify architectural standards for garages with front oriented design with garage doors 50% of the ground floor façade. Currently there is a 40% limitation of the ground floor façade. The applicant will add design standards to the development in an effort to mitigate the design elements of the streetscape. The standards would include recessing the garage behind the front porch with a width of at least ten feet. In addition, the width of the driveway would be limited to 18 feet.

Ms. Burchett explained that the second request is to modify the measurements of the side yard setbacks. The existing PUD requires 1:3 ratio (one foot of setback for every three feet of building height). In this instance, a single story house would result in in a 5 foot setback, (10 feet between structures), and a 7 foot setback for a two-story house, (14 feet between structures). The purpose of the amendment would adjust how the setback is measured, but would maintain separation distance that results from the current ratio. The first story setback measurement would be calculated as it is currently done today as per the municipal code. The applicant has created a model that shows the 2nd story of the home recesses roughly 4 feet behind the front side elevation. Measurements would then be taken at the 2nd story element with the same ratio setback. The end result of the 2nd story would be 14 feet of separation between the 2 story elements of the home. This would keep the air space compatible with the city municipal code. The applicant has provided a setback diagram to assist with the administration per each block.

City staff is recommending approval with conditions listed in the staff report. The Planning Commission's action will be the final decision in this matter, and would not forward to the City Council.

Ms. Burchett shared that she received a letter of concern regarding the amendment proposal and asked that it be included as an exhibit in the Planning Commission packet.

Mr. Landon Hoover, Vice-President of Encore Homes, thanked the Commission for the opportunity to address questions or concerns regarding the proposed amendments. He explained that Encore Homes were not the previous builders in the existing PUD, but going forward, they will be the exclusive builders. **Mr. Hoover** stated that SF-4 is currently approved for similar products that were constructed in SF-3. He pointed out that this product has several distinct disadvantages in the marketplace, including side loaded garages with shared access easements (driveways) and small backyards. This design has historically caused problems with homeowners in relation to the care of the shared driveway concept including weed control and snow removal. Encore Homes hopes to address these concerns by providing front loaded, private garages, while aligning with the original intent of side-loaded garages.

Mr. Hoover pointed out that the current lot size is 42 feet wide, with 5 foot minimum side yard setback requirements, resulting in a 32 foot building envelope. A standard 2 car garage is 16 feet wide, so in order to have a front load private drive; the builder would need to have 50% front elevation. He shared that Encore Homes understands the 40% requirement in order to control a non-dominant garage streetscape, but feels that the enhanced design elements will mitigate the increase in the garage portion of the façade. **Mr. Hoover** explained the design being proposed would allow the structure to be stacked on one side of the house, versus having both sides of the house offset by 2 feet. He went on to say that the Giuliano subdivision is an affordable housing project and Encore Homes feels this design change is a significant way to provide a quality product at an affordable price point. **Mr. Hoover** communicated that Encore Homes is a subsidiary of Hartford Homes, which has been building quality homes in Northern Colorado for more than 25 years.

Mr. Hoover responded to the concerns submitted by **Mr. Bruce Frohman, P.O. Box 1623, Modesto, CA**. **Mr. Frohman**, who owns homes in the existing PUD. **Mr. Frohman** stated that he has concerns that constructing houses on a substandard lot would result in an increased pavement area, and potentially cause drainage and flood problems during storm events. **Mr. Hoover** pointed out that front loaded driveways require less concrete than a longer, shared drive, and reminded the Commission that the PUD was designed to withstand historical flooding events. In response to **Mr. Frohman**'s request to interview neighborhood residents, **Mr. Hoover** pointed out that a neighborhood meeting was held and explained that Encore Homes received resounding support from Giuliano community members. He finished by pointing out that this PUD amendment would not increase the current density nor alter the existing lot configuration.

Commissioner Ray stated that he looked at the SF-4 elevations versus the SF-3 elevations and questioned if the plans moved the house slightly forward on the lots, allowing for a larger back yard. **Mr. Hoover** replied that the plans maintain the same front yard setbacks as originally approved, and shared that what allows for a larger back yard is the front loaded

garage design. He explained that when a garage is set sideways on a property, it takes up a much larger part of the building envelope.

Commissioner Massaro asked if all of the planned lots were designed for either a 1 or 2 story home. **Mr. Hoover** responded that 1 or 2 story homes could be built on any lot, except for one lot in the PUD.

Commissioner Molloy questioned what the square footage of the homes would be. **Mr. Hoover** stated that final design plans were forthcoming; however, the homes would average from 1,200 square feet to 2,100 square feet.

Chair Meyers opened the meeting up for Public Comment.

Ms. Gail Zirtzlaff, 4511 Stump Ave, Loveland, CO expressed concerns that the proposed garages of the homes were too small to accommodate 2 vehicles, storage, and garbage bins and would result in homeowners parking their cars directly on the street.

Given that there were no other citizen comments, **Chair Meyers** closed the public hearing.

Mr. Hoover responded to the concerns raised by **Ms. Zirtzlaff** and explained that each of the proposed garages would have a designated area for trash and recycle receptacles. He pointed out that the garage door is 16 feet wide; however the actual garage will be between 18 and 20 feet wide.

Mr. Massaro asked how deep the proposed garages would be. **Mr. Hoover** replied that the garages would be between 21 and 31 feet deep. In addition there are plans to add a tandem three car garage to some of the homes.

Mr. Crescibene explained that having a designated area for trash receptacles did not ensure that homeowners would utilize that space for such, and questioned if there were provisions in the HOA bylaws that would require residents to put trash and recycle bins off the street once trash has been removed. **Mr. Hoover** answered that he believed that the HOA requirements would require homeowners to remove their trash bins within 24 hours of removal.

Ms. Dowding commented that following HOA rules was important and stated she was grateful the builder designed a designated space for trash bins.

Chair Meyers questioned if Encore Homes had a plan to respond to condition #2 in the staff report, which would require a letter of approval from the HOA to be submitted to the city with each building permit submittal. **Mr. Hoover** assured the Commission that Encore has a process in place to ensure an expedited turnaround time.

Mr. Krenning queried **Ms. Burchett** and asked if she had any other contact with **Mr. Frohman**, other than the email he sent. **Ms. Burchett** replied that she had several phone conversations with **Mr. Frohman** and shared that he was comparing what the proposed subdivision could evolve into with similar subdivisions in California. She explained that the

PUD would not be increasing in density, and that she had provided that information to **Mr. Frohman**.

Ms. Dowding stated that she felt the proposed amendment is a good compromise on a very narrow lot situation, and felt that the applicant addressed the issues that were raised and commended them for their efforts. She continued that there are few buyers in the market who would prefer a home with only a one car garage.

Mr. Prior thanked everyone for working with homeowners to address their concerns.

Mr. Ray shared that 6 years earlier he participated in the Planning Commission's tour of area neighborhoods in Loveland with front loaded garages with a greater than 50% façade. He explained that those designs had a negative effect on the aesthetics of the area, as well as resale values of the homes. He felt the excellent efforts put forward by the builder helped mitigate those concerns in his mind and stated he would support the amendment.

Mr. Massaro stated that areas in his neighborhood have common driveways, and in his observation, the design also encouraged vehicle street parking and echoed his approval of the proposed design changes.

Mr. Molloy shared that his previous house had a shared driveway and stated he did prefer the front loaded design concept based on his own personal experience. He also appreciated the additional back yard space that a front loaded garage would allow.

Mr. Krenning questioned if there was anything that would prohibit two garages from being side by side of each other. **Mr. Hoover** responded that generally speaking, there would be few instances when this would occur, maybe 3 or 4 lots in total. **Mr. Krenning** queried if a tapered driveway could be considered in those few instances. **Mr. Hoover** stated that the request would be considered as an excellent option.

Mr. Crescibene commented that a tapered driveway frequently leads to the homeowner putting down rock in place of the absent concrete in the driveway. He went on to say that building an affordable home on a 42 foot lot requires an innovative and creative approach, and thanked **Mr. Hoover** on a job well done.

Chair Meyers agreed that the plans looked innovative and aesthetically pleasing. and indicated he would be in support of the amendment.

Mr. Molloy asked if the tapered driveway approach could require a condition to have live landscaping to prevent the homeowners from putting down rock. **Ms. Burchett** said that condition could be added if the Commissioner's felt that was appropriate.

Mr. Crescibene commented that he did not agree to the condition of live landscaping, due to the amount of irrigation and maintenance that would be required. **Mr. Molloy** clarified he would recommend shrubs and bushes rather than grass.

Mr. Ray recommended that landscaping ideas for tapered driveways be given to the builder for consideration rather than adding another condition. **Mr. Hoover** explained that all of the options discussed would be taken under consideration.

Ms. Dowding shared that she felt shared space issues in a tapered driveway should be left to the homeowners to work out as a neighbor to neighbor issue.

Mr. Crescibene commented that the Commission's purpose was not to redesign the existing architecture standards.

Chair Meyers queried the Commissioner's and asked if a condition of a tapered driveway should be added to the amendment, or be left as is with the builder agreeing to consider the recommendations. The Commission unanimously agreed to leave the amendment as is without adding a new condition.

Mr. Ray made a motion to make the findings listed in Section VIII of the Planning Commission staff report dated August 12, 2012 and, based on those findings, adopt resolution #R 13-03 approving the Giuliano First Subdivision PUD First Amendment, subject to the conditions listed in Section IX, as amended on the record. **Mr. Molloy** seconded the motion. After **Mr. Hoover** verbally agreed to accept the conditions, the motion was unanimously approved.

ADJOURNMENT

Commissioner Crescibene made a motion to adjourn. Upon a second by **Commissioner Dowding**, the motion was unanimously adopted and the meeting was adjourned.

Approved by: _____
Buddy Meyers, Planning Commission Chairman

Kimber Kreutzer, Planning Commission Secretary



CanDo

Our Vision:

To create a **model community**
that supports **healthy eating**
and **active living.**

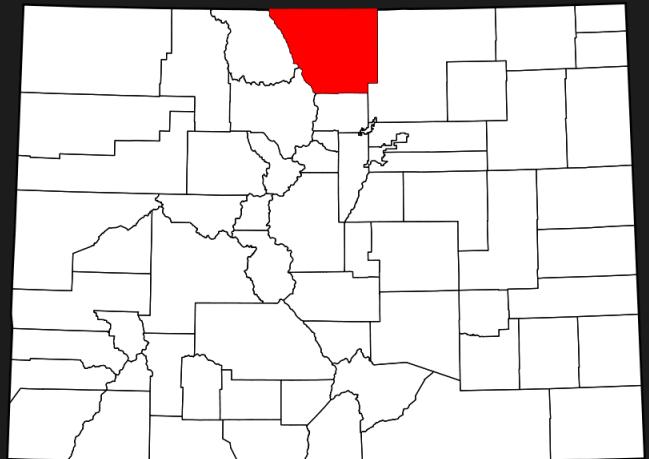
CanDo

Our Mission:

To *engage* community members & organizations
*in **obesity prevention***
through support, **advocacy** and *education*.

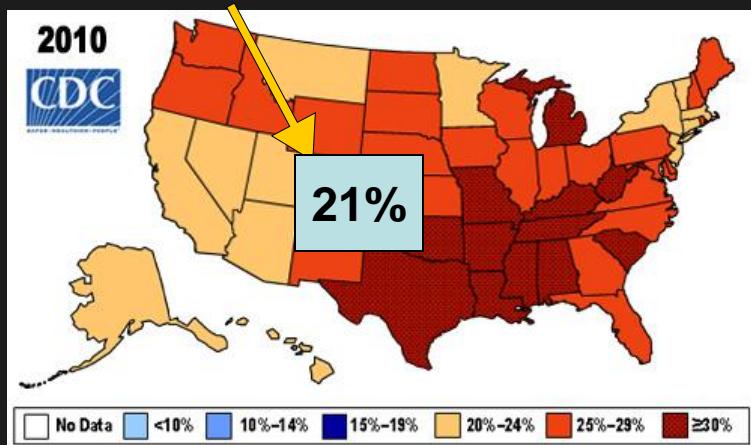
History of CanDo:

- Initiated by the PVH Foundation in 2004
- Funded by the Foundation, UC Health Community Health, and grants (LiveWell Colorado)
- Expanded into Loveland in 2008/09
- 300+ Coalition Partners strong



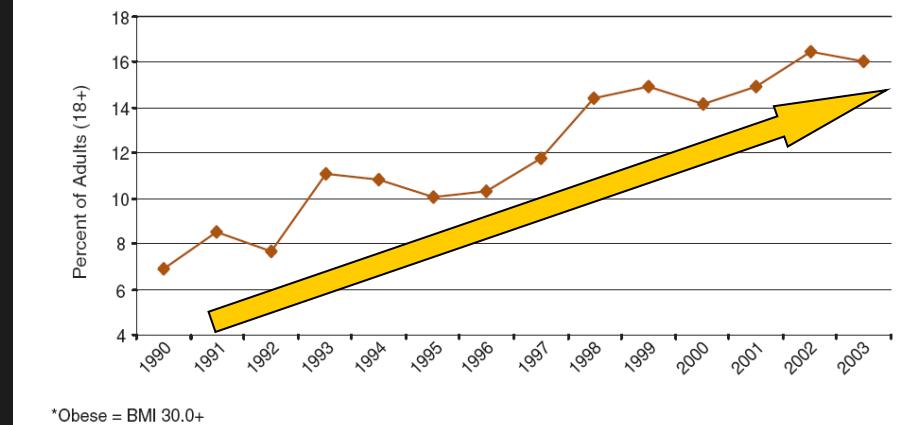
Why CanDo Exists

While Colorado boasts the lowest rates of obesity in the nation,



it also has one of the fastest growing obesity rates in the US.

Figure 4. Prevalence of Obesity,* 1990-2003 Colorado BRFSS



If these trends continue, by 2020....

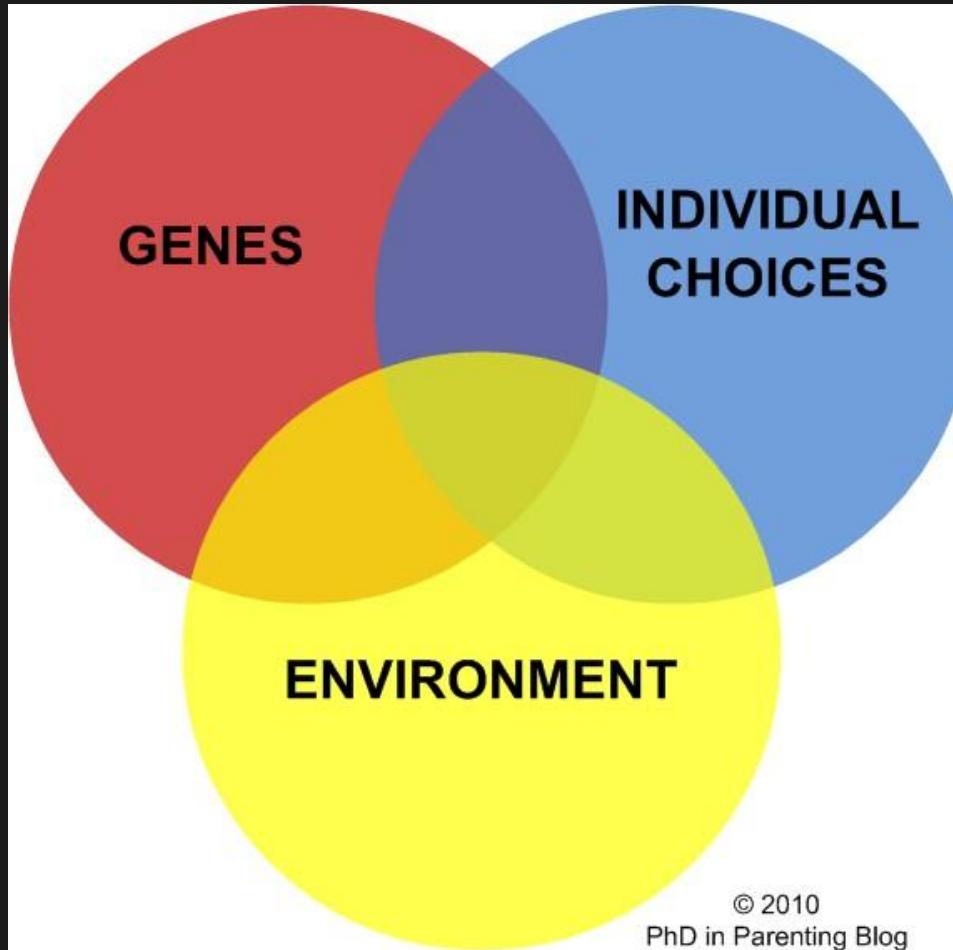
76%

of Coloradans will be
overweight or obese.

Though we rank #1 for having the
leanest adults,
our kids rank...

#23

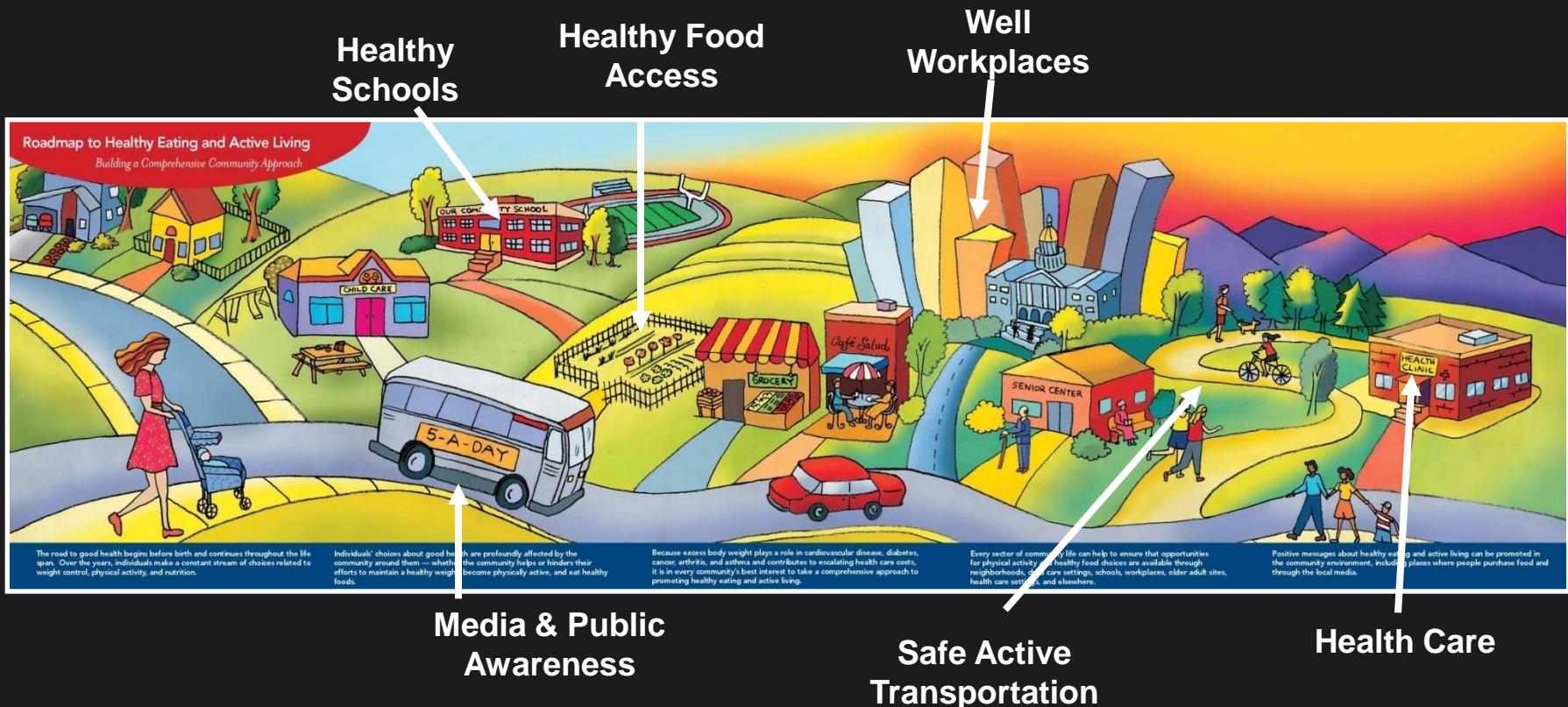
Factors of Influence



“Although ultimately it is individuals who must change their behavior, individuals need environments and policies that support the health behavior that they are attempting...”

- Kolasa, K et al. *Moving Toward Healthier-Eating Environments...Nutrition Today* March/April 2010

What does a community that supports **HEALTH** look like?



CanDo Focus Areas

Schools

Goal: Create school environments that support healthy eating and physical activity.

Worksites

Goal: Create work environments that support healthy eating and physical activity.

Built Environment

Goal: Ensure that city planning policies create environments that support health.

Food Environment

Goal: Increase the availability, affordability, and consumption of healthy foods.

Built Environment

- **Definition:** The human-made surroundings that provide the setting for where we *live, work and play*. It ranges in scale from:
 - homes and apartments
 - neighborhoods and cities
 - sidewalks and interstate highways
 - backyards and regional parks

The built environment includes all of the places and spaces created or modified by people.

Healthy Community Design

- The way we design and build our communities can affect our physical and mental health.
- **Definition:** The planning and designing of communities to make it easier for people to live healthy lives.

Healthy Community Design

- Principles
 - Build **complete neighborhoods** where homes, businesses, schools, churches and parks are closer to each other so that people have the option to walk or bike between them.
 - Provide opportunities for people to be **physically active and socially engaged** as part of their daily routine, improving their physical and mental health.
 - Ensure access to affordable and healthy food, especially **fruits and vegetables**.

Healthy Community Design

- Benefits
 - Promotes physical activity
 - Improves air quality
 - Lowers risk of injuries
 - Improves healthy eating habits
 - Increases social connection and sense of community

CanDo's Work in the Built Environment

- (2) Lunch-N-Learn Series, in partnership with City staff
 - Spring 2012 “Designing Healthy Communities”
<http://designinghealthycommunities.org/>
 - Summer 2013 “Weight of the Nation”
<http://theweighthofthenation.hbo.com/>

CanDo's Work in the Built Environment

- Community outreach efforts in partnership with the City and the Housing Authority:
 - Youth Engagement Project using PhotoVoice
 - “Stories from the Terrace”, Maple Terrace Youth, Summer 2012
 - “OP Presents: Operation Snapshot”, Orchard Place Youth, Summer 2013
 - “Exploring high school built environments (just underway with the Youth Advisory Commission)

Maple Terrace

“Stories from the Terrace”

“She didn’t have anywhere to walk. There was not a sidewalk nor any grass. There was no sidewalk on the other side of the street either.”



~ Odalys, 12-yrs old

Orchard Place

“OP Presents: Operation Snapshot”

“I enjoyed making the fruit & cheese kabobs and the tangy “healthy soda.” I learned about healthy choices and not healthy choices – fruits and vegetables are good and I learned that cheese can be healthy too.”



~ MacKenzie, 10-yrs old

www.CanDoOnline.org

Search

Home Schools Worksites Health Care Parents Community Healthy You Contact

Vision
The vision of the [Coalition for Activity and Nutrition to Defeat Obesity](#) is to create a model community that supports healthy eating and active living.

Mission
The mission of [CanDo](#) is to engage community members and organizations in obesity prevention through support, advocacy and education.

Goals

1. Reduce the prevalence of overweight and obesity among citizens
2. Increase the percent of citizens who engage in regular physical activity
3. Increase the percent of citizens who practice healthy eating habits
4. Create environments and policies that support healthy eating, active living, and healthy weights.

CanDo spotlight!
Watch a great video from the CDC about the



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Development Services Current Planning

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www.cityofloveland.org

Planning Commission Staff Report

August 26, 2013

Agenda #: Regular Agenda - 2

Title: Aspen Knolls First and Second Subdivisions (PZ #13-00094 and #13-00095)

Applicant: Cole Evans/McWhinney

Request: **Vacation and Rezoning**

Location: East side of Taft Avenue between 23rd Street SW and County Road 16

Existing Zoning: P-50 – Aspen Knolls

Proposed Zoning: DR – Developing Resource

Staff Planner: Troy Bliss

Staff Recommendation

APPROVAL of the vacation and rezoning.

Recommended Motions:

1. *Move to make the findings listed in Section VIII of the Planning Commission staff report dated August 26, 2013 and, based on those findings, recommend that City Council approve the Aspen Knolls Vacation and Rezoning, subject to the conditions listed in Section IX, as amended on the record.*

Summary of Analysis

This is a public hearing concerning the Aspen Knolls First and Second Subdivisions. The property owner, McWhinney, is seeking to vacate all established public rights-of-way, re-plat the property to remove all lots, outlots, and easements, and rezone the property from P-50 – Aspen Knolls PUD to DR – Developing Resource. The Aspen Knolls property was originally approved as a two-phased residential development; the owner at the time of plan approval was KB Homes.

These applications are being requested because the developer has no intention of developing the property under the approved development plans. Rather, the applicant is interested in utilizing existing raw water credits associated with the Aspen Knolls property for a different development project. The transfer of raw water credits can only be allowed if the property is stripped of its entitlements.

Applications for vacation of public rights-of-way are legislative matters and rezoning is considered quasi-judicial; in both cases, the Planning Commission provides a recommendation to City Council. The application for re-platting the property is administrative and not being considered by the Planning Commission. The re-plat will however not receive approval unless the corresponding vacation and rezoning applications are approved.

I. SUMMARY

Applications for vacation of rights-of-way and rezoning were submitted to the City for review in June 2013 by McWhinney (owners of the subject property referred to as Aspen Knolls). Aspen Knolls is generally located on the east side of Taft Avenue between 23rd Street SW and County Road 16 containing approximately 120.8 acres. The property is within the City's municipal area, zoned P-50 Aspen Knolls PUD. McWhinney has no plans to pursue development of the property at the present time. Rather, their intent is to eliminate existing development entitlements through the applications being considered.

The vacation request is legislative matter, while the re-zoning is quasi-judicial. The role of the Planning Commission is to determine conformance with the adopted City of Loveland criteria as outlined in Section VIII of this report. Through findings of such criteria, the Planning Commission shall provide a recommendation which will be presented to the City Council at a future public hearing. Because the Planning Commission only provides a recommendation with respect to these applications, there is no appeal provisions associated with their decision. City Council's decision will become final on the vacation of an obsolete subdivision and rezoning and may only be appealed to a Colorado Court of Law.

The application for vacation would eliminate all public-rights-of way in the Aspen Knolls First and Second Subdivision (see **Attachment 2**). In conjunction with the application to vacate public rights-of-way, a re-plat of the property will be completed to remove all lots, outlots (except Outlot A), and easements. The re-plat will dedicate any necessary rights-of-way on the roadways along the perimeter of the Subdivisions and any necessary utility or similar easements. The associated re-plat is an administrative action not being considered by Planning Commission.

The companion application to rezone the property would change the zoning designation of P-50 Aspen Knolls PUD to DR – Developing Resource (see **Attachment 3**). This is a highly atypical approach to rezoning a property. Essentially it would be viewed as “down” zoning because no development rights are given to properties zoned DR. The rezoning request would also make null and void existing approved development plans. Because Aspen Knolls was initially zoned as a PUD, development plans were prepared with specific requirements for future development, including density, building design, building setbacks, and landscaping. DR zoning has two primary functions. It provides zoning for open lands where no development is planned. Or, it can serve as a holding zone until future development plans are pursued. Section VI of this report helps clarify the reasoning behind these application requests and the perceived benefits to the current property owner for pursuing them.

Because the current owner has no intention of developing the property as currently entitled, they seek to remove the entitlements and use the water bank credits associated with this property to serve other properties they are developing in east Loveland.

II. ATTACHMENTS

1. Aspen Knolls First and Second Subdivision color illustration
2. Vacation exhibit map
3. Rezoning map

III. VICINITY MAP



IV. SITE DATA

ACREAGE OF SITE - GROSS	+/- 120.8 ACRES
ACREAGE OF SITE-NET	+/- 120.8 ACRES
ACREAGE OF RIGHT-OF-WAY	+/-23.9 ACRES (TO BE VACATED)
EXISTING ZONING	P-50 ASPEN KNOLLS PUD
PROPOSED ZONING	DR – DEVELOPING RESOURCE
MASTER PLAN DESIGNATION	LDR-LOW DENSITY RESIDENTIAL
EXISTING USE	AGRICULTURAL/DETENTION
PROPOSED USE.....	AGRICULTURAL/DETENTION
ACREAGE OF OPEN SPACE PROPOSED	+/-120.8 ACRES
EXISTING ADJACENT ZONING AND USE - NORTH.....	R1 – DEVELOPING LOW DENSITY RESIDENTIAL (STAMP ADDITION AND SUN POINT ADDITION – SINGLE FAMILY DETACHED DWELLINGS)
EXISTING ADJACENT ZONING AND USE - EAST	R1 – DEVELOPING LOW DENSITY RESIDENTIAL (ROLLING KNOLLS ESTATES SUBDIVISION – SINGLE FAMILY DETACHED DWELLINGS)

EXISTING ADJACENT ZONING AND USE - SOUTH	UNINCORPORATED LARIMER COUNTY (AGRICULTURAL/FARMING)
EXISTING ADJACENT ZONING AND USE - WEST	R1 – DEVELOPING LOW DENSITY RESIDENTIAL, R1-UD – DEVELOPING LOW DENSITY RESIDENTIAL UNIT DEVELOPMENT, AND P-6 – LAKESIDE TERRACE PUD (LAKESIDE TERRACE SUBDIVISION – SINGLE FAMILY DETACHED DWELLINGS)
UTILITY SERVICE PROVIDER - SEWER	PROPOSED: CITY OF LOVELAND (NO EXISTING SERVICES)
UTILITY SERVICE PROVIDER - ELECTRIC.....	PROPOSED: CITY OF LOVELAND (NO EXISTING SERVICES)
UTILITY SERVICE PROVIDER - WATER	PROPOSED: CITY OF LOVELAND (NO EXISTING SERVICES)
WATER RIGHTS PAID	PAID IN CONJUNCTION WITH FINAL PLAT APPROVALS OF BOTH ASPEN KNOLLS FIRST AND SECOND SUBDIVISIONS

V. KEY ISSUES

No key issues have been identified with the vacation and rezoning requests. It is however important to point out that Outlot A of the Aspen Knolls First Subdivision is owned by the City of Loveland and is not a part of the vacation since no public right-of-way is contained within it. Outlot A is anticipated to become a regional detention pond which is designed to serve Aspen Knolls if and when it develops and is also designed to detain run-off from abutting subdivisions. Rezoning Outlot A from P-50 Aspen Knolls PUD to DR is appropriate given the characteristics and function of this outlot.

VI. BACKGROUND

Aspen Knolls was previously the focus of much neighborhood involvement when KB Homes had acquired the property and was proposing development on the approximate 120 acre parcel. From December 2004 to July 2005, final plat and final development plans were approved through the City for Aspen Knolls (see **Attachment 1**). This included two components based on a phasing schedule, the Aspen Knolls First Subdivision and the Aspen Knolls Second Subdivision. The Aspen Knolls First Subdivision was structured to develop 56 single family detached residential units on roughly 30 acres. The Aspen Knolls Second Subdivision included 451 units on the remaining 90 acres (352 single family detached units and 99 multi-family units).

Up until the first quarter of 2008, KB Home was the owner of the property but had not obtained any permits to begin construction. At this time, McWhinney purchased the property and subsequently submitted applications for vacation of public rights-of-way and rezoning. McWhinney has indicated that it has no intent to develop the property at this time. Instead, McWhinney has confirmed, after negotiations with the City of Loveland Water/Wastewater Department, that if the rights-of-way are vacated, the property is rezoned DR, and the property is re-platted, the raw water requirements that were previously satisfied would be credited back to the current property current owner in the form of water bank credits. Essentially what this means is that there is no monetary amount paid to the owner by the City. Rather, the number of water rights applicable to this property (i.e. water per acre foot) is kept by the City in its “water bank” for the benefit of the owner of the property, which is currently McWhinney. The property owner would have the ability to use such water bank credits and would not necessarily only have to apply them to this property. For example, the water bank credits resulting from the relinquishment of development rights for this property could be used to satisfy any off-site water requirements on other

properties within the City. Through the planning process, a substantial amount of positive feedback has been provided for this approach from nearby neighborhood residents.

VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

A. Notification

An affidavit was received from Cole Evans, McWhinney which certifies that the surrounding property owners within 1,000 feet of the property were mailed notice and signs posted in prominent locations on the perimeter of the project site on August 2, 2013 in reference to the Planning Commission hearing. In addition, a notice was published in the Reporter Herald on August 10, 2013. All notices stated that the Planning Commission will hold a public hearing on August 26, 2013.

B. Neighborhood Interaction/Response

Neighborhood Meeting 2008 - A neighborhood meeting was held on September 3, 2008. At the onset of the neighborhood meeting, primary concerns focused on anticipations for future development since attendees did not understand the intent of the proposal. Upon clarification that no development is being proposed, the following questions and general statements made by meeting attendees:

- Would rezoning to DR allow for commercial development?
- Would infrastructure improvements occur with the applications?
- Water rights (i.e. how much and can they be used elsewhere).
- Assurance for continued maintenance of the open field (i.e. keeping grass and weeds cut).
- Considerations of the applicant for creating a community park.
- Storm drainage and run-off patterns.
- Types of uses that could occur on the property with DR zoning other than agricultural.
- Euthanizing of prairie dogs.

Neighborhood Meeting 2013 – A neighborhood meeting was held on August 19, 2013 as required for processing the current vacation and rezoning applications. Property owners within a 1,000 feet were mailed notice and signs were posted in prominent locations on the perimeter of the project site. Approximately 30 neighbors attended the meeting. A lot of the same questions came up during this neighborhood meeting as did in 2008. However, there were some additional questions from the neighbors:

- What are the long term plans for the property?
- Will the lots/buildings on 16th Street be removed?
- Is there a tax benefit for the property owner in taking this approach with the land?

VIII. FINDINGS AND ANALYSIS

The chapters and sections cited below are from the Loveland Municipal Code.

A. VACATION RIGHTS-OF-WAY

Finding 1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way connecting said land with another established public or private right-of-way.*

Current Planning

By vacating all of the public rights-of-way that were dedicated in conjunction with the Aspen Knolls First and Second Subdivisions, there will not be any land left without public or private connections. This is because the rights-of-way were never built to establish connections with adjoining land. No physical change would occur from the vacation.

Finding 2. *That the right-of-way to be vacated is no longer necessary for the public use and convenience.*

Transportation

If the rights-of-way in the subdivision are vacated, no land adjoining the right-of-way to be vacated will be left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way. Also, the right-of-way to be vacated is no longer necessary for the public use and convenience.

Fire

The proposed vacation request can be supported by the fire department based upon the fact that at this time no infrastructure has been constructed and no development is reliant upon the easements or right-of-ways.

Power

There is one span of three-phase 200-amp overhead power line located on the East side of South Taft Avenue which then becomes an underground line along a portion of the obsolete subdivision. The underground line crosses Taft Avenue and continues south along the West side of South Taft Avenue. This power line would have been the source of power for the obsolete subdivision. It is located within the City's right-of-way and therefore no concern with vacating the obsolete subdivision.

Stormwater

The Aspen Knolls Subdivision is located in the South Loveland Basin as defined by the City of Loveland Master Drainage Plan. The existing plat, to be vacated, is not used to convey historic stormwater and thus is not necessary for the public use and conveyance of historic stormwater.

Water/Wastewater

This development is situated within the boundaries of and accommodated by the City's water and wastewater master plans. It is also within the City's current service area for both water and wastewater.

The previous final plat being hereby vacated had water rights dedicated to the said platted area. The Department determines that the existing easements and rights-of-way to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development. Thus the Department finds that the existing easements and rights-of-way to be vacated are no longer necessary for public use and convenience.

Finding 4. *The application filed at the Development Center was signed by the owners of at least 50% of property abutting the right-of-way or easement to be vacated.*

Current Planning

The application was signed by 100% of the owners (McWhinney) abutting all rights-of-way and/or easements to be vacated within the subdivision.

B. ZONING

Finding 1. *The purposes set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any of the uses permitted by right in the zone district were developed on the subject property.*

Current Planning

In consideration of a rezoning from P-50 Aspen Knolls PUD to DR – Developing Resource, no uses would be permitted by right.

Finding 2. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.*

Current Planning

No uses are permitted by right in the DR – Developing Resource zoning district and ultimately limit the use of the property to its current state. Given the historic nature and use of the property, it would be considered compatible because nothing is changing. No use is being evaluated in relation to existing land uses adjacent to and in close proximity to the subject property. It is to remain an open field until such time a request to develop comes forward.

Finding 3. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and services master plans.*

Transportation

Re-zoning a parcel or property does not warrant compliance with the City's Adequate Community Facilities (ACF) ordinance. All future development or land applications within this proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application. Moreover, as identified in the City Municipal Code Title 16, a Traffic Impact Study shall be required with all future development or other land use applications. Therefore, pending future proposed development within this property, of which review and approval by the City is required, the Engineering Staff does not object to the proposed re-zoning.

Fire

The proposed rezoning of the property to DR limits the developable uses for the property. As such, the zoning to DR is actually a reduction of intensity and hazard and can therefore be supported by the fire department.

The furthest point within this development is approximately 2 3/4 miles from the first due Engine Company (Station 3). In order to comply with the response distance requirements in the ACF

ordinance, the first due Engine Company should be within 1 ½ miles of the furthest point within the development. However, at this time no development is proposed with the subdivision.

Power

There is one span of three-phase 200-amp overhead power line located on the East side of South Taft Avenue which then becomes an underground line along a portion of the subdivision. The underground line crosses Taft Avenue and continues south along the West side of South Taft Avenue. This power line would have been the source of power for the subdivision. It is located within the City's right-of-way and therefore no concern with vacating the obsolete subdivision or rezoning the property.

Stormwater

The Aspen Knolls Third Subdivision is located within the South Loveland Outfall Basin as defined by the City of Loveland Master Drainage Plan. Development of the subject property pursuant to any of the uses permitted by right under the zoning district will not impact any existing City of Loveland infrastructure and services.

Water/Wastewater

This development is situated within the boundaries of and accommodated by the City's water and wastewater master plans. It is also within the City's current service area for both water and wastewater.

The development has water rights dedicated upon it by the previous final plats. The proposed zoning request to Developing Resource (DR) will negate the requirement for water rights necessary to be dedicated upon the platted area. With the approval of this zoning request the Water and Power Department will create a water bank account in the name of the land owner to be credited the amount of existing water rights on the land.

The proposed zoning request is consistent with the Department's Water and Wastewater master plan and is consistent with the 2005 Comprehensive Plan.

Finding 4. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is consistent with relevant philosophies contained in the Loveland Comprehensive Master Plan, particularly those philosophies included in Section 4.0 Land Use.*

Current Planning

The request of DR - Developing Resource zoning is consistent with the LDR (Low Density Residential) land use designation of the Loveland Comprehensive Master Plan Land Use Plan. DR zoning can be applied to any type of land use designation on the City of Loveland Future Land Use Plan. This is because no uses are permitted by right in the DR zoning district which complies with any type of land use category particularly when being requested to preserve environmentally sensitive areas or use as a "place holder" when no development is being proposed. Moreover, since the city still believes that this property remains suitable for low density residential development, the LDR Comprehensive Plan designation continues to be the most appropriate land use designation.

Finding 5. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would not be detrimental to the health, safety, or welfare of the neighborhood or general public.*

Current Planning

No development would be permitted on the property by rezoning to DR therefore finding that the zoning district would not be detrimental to the health, safety, or welfare of the neighborhood or general public.

IX. RECOMMENDED CONDITIONS

The following annexation conditions are recommended by city staff and would be incorporated into an annexation agreement if recommended by Planning Commission and adopted by City Council:

VACATION

CURRENT PLANNING

1. An ordinance vacating all public rights of way within Aspen Knolls First and Second Subdivisions shall not become effective until the Aspen Knolls Third Subdivision (re-plat) and Aspen Knolls rezoning is approved and recorded with Larimer County.

REZONING

CURRENT PLANNING

1. Rezoning of the property from Aspen Knolls Planned Unit Development (P-50) to DR - Developing Resource, shall be conditioned on approval of the ordinance vacating all public rights of way within Aspen Knolls First and Second Subdivisions and approval of the proposed re-platting processes. If these processes are not approved, the rezoning shall not be approved.

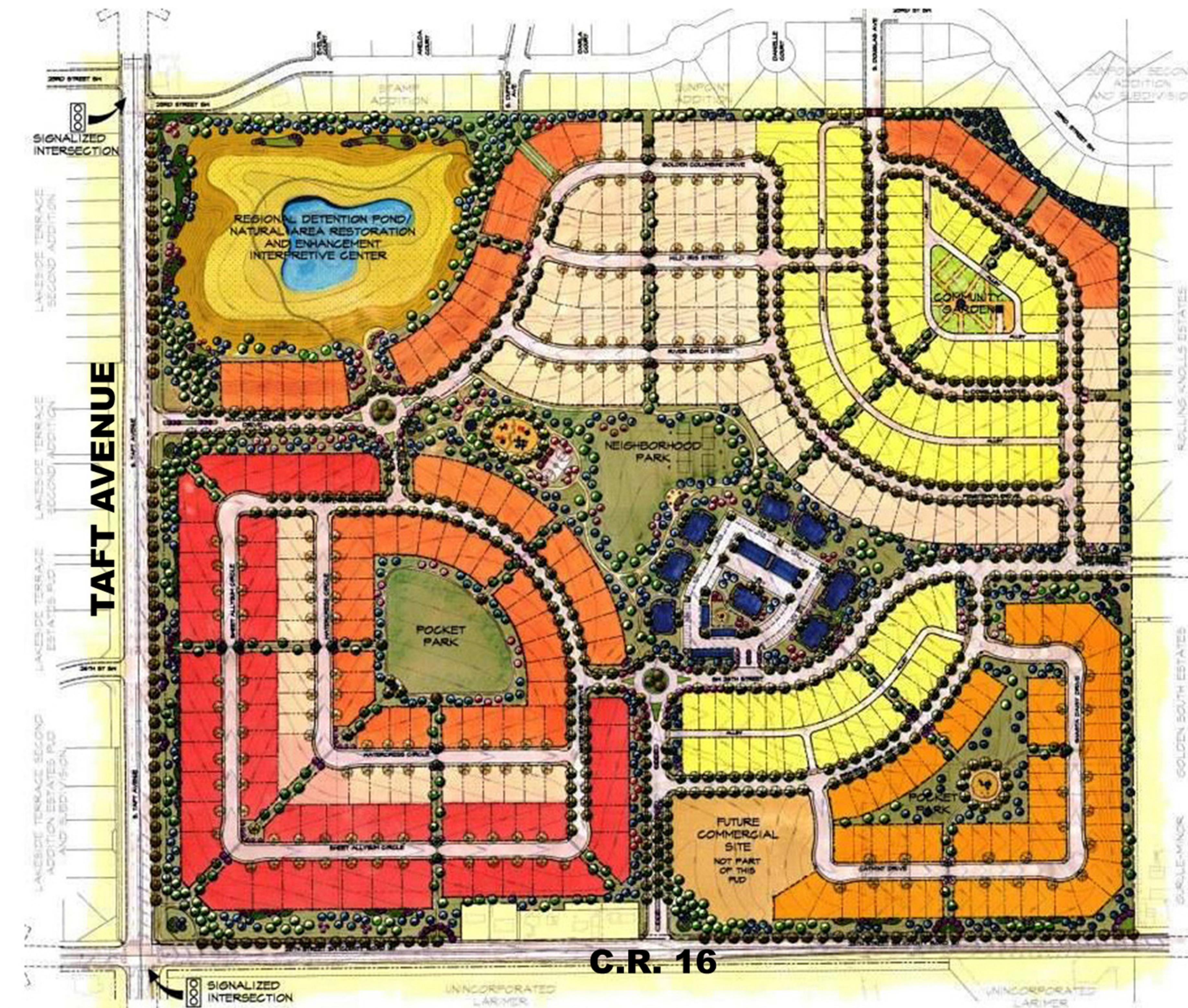
2. In accordance with LMC Section 18.72.080 Waiver of Vested Property Right, an ordinance vacating all public rights of way within Aspen Knolls First and second Subdivisions shall not become effective until the property owner has waived the vested rights associated with the Preliminary/Final Development Plans for Aspen Knolls First and second Subdivisions and the approved Public Improvements Construction Plans. Such rights shall be waived by separate agreement with the City, which agreement shall be recorded with the County Clerk and Recorder. The Agreement shall be recorded after the vacation and rezoning ordinances become effective and the re-platting of the property is approved and upon such recording, the vested rights associated with shall be deemed to have expired.

3. The affordable designation and associated fee reduction granted and extended by the City shall terminate.

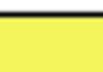
ASPEN KNOLLS

Loveland, Colorado

ILLUSTRATIVE PLAN



LEGEND:

	99	Multi-Family (Affordable)
	108	35 - 45' x 100 - 110'
	106	55' x 100-110'
	136	55 - 65' x 100 - 110'
	58	75 - 85' x 100 -110'

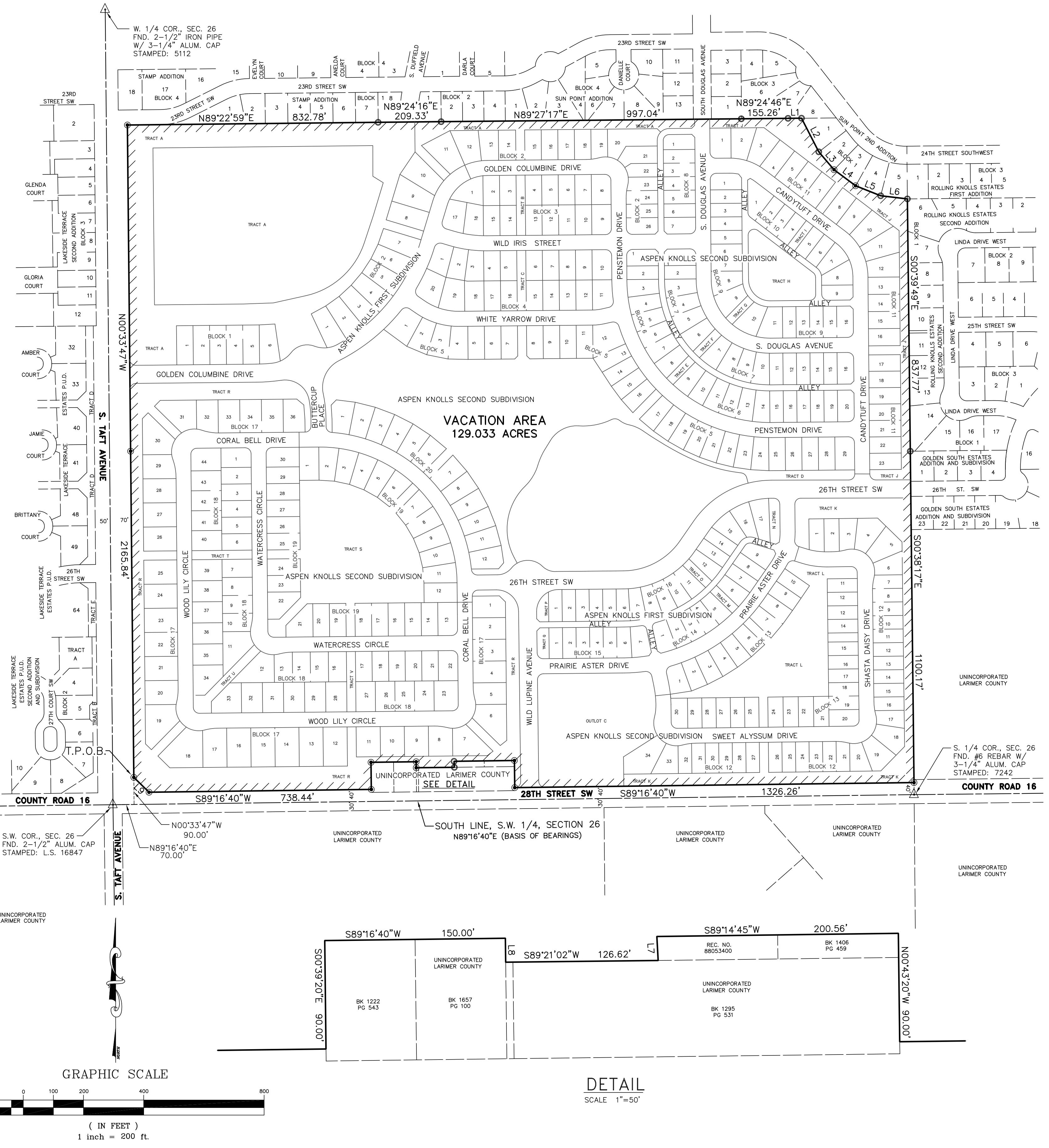
507 TOTAL D.U.



McWHINNEY

ASPEN KNOLLS FIRST & SECOND SUBDIVISION VACATION

BEING ALL OF ASPEN KNOLLS FIRST & SECOND SUBDIVISIONS,
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH,
RANGE 69 WEST OF THE 6TH P.M., CITY OF LOVELAND, LARIMER COUNTY, COLORADO.



LEGAL DESCRIPTION

Legal Description of a tract of land being a portion of Section 26, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:
Beginning at the Southwest Corner of said Section 26 and considering the South line of the Southwest Quarter of said Section 26 as bearing North 89°16'40" East and with all bearings contained herein relative thereto; thence along said South line North 89°16'40" East 70.00 feet to a point on the Southerly prolongation of the Easterly right-of-way line of S. Taft Avenue; thence along said Southerly prolongation North 00°33'47" West 90.00 feet to the TRUE POINT OF BEGINNING; thence continuing along said Easterly right-of-way line North 00°33'47" West 2165.84 feet to a point on the South line of Stamp Addition to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County; thence along said South line and the South line of Sun Point Addition to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County the following five courses and distances; North 89°22'59" East 832.78 feet; thence North 89°24'16" East 209.33 feet; thence North 89°27'17" East 997.04 feet; thence North 89°24'46" East 155.26 feet; thence North 89°27'49" East 44.73 feet to a point on the Southwesterly line of Sun Point Second Addition and Subdivision to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County; thence along said Sun Point Second Addition and Subdivision the following five courses and distances; South 27°12'30" East 125.52 feet; thence South 40°27'28" East 77.69 feet; thence South 53°20'27" East 89.62 feet; thence South 68°14'58" East 89.62 feet; thence South 83°18'04" East 89.41 feet to a point on the Westerly line of Rolling Knolls Estates Second Addition to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County; thence along the Westerly line of said Rolling Knolls Estates Second Addition and the West lines of Golden South Estates First Addition and Subdivision to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County and the Gurule - Minor Residential Development according to the plat on file in the office of the Clerk and Recorder said County the following two courses and distances; South 00°39'49" East 837.77 feet; thence South 00°38'17" East 1100.17 feet to a point on the North right-of-way line of 28th Street Southwest, from which point the South One Quarter Corner of said Section 26 bears South 00°38'17" East 40.00 feet; thence along said North right-of-way line South 89°16'40" West 1326.26 feet to a point on the East line of that certain parcel of land described in deed, recorded in Book 1295, Page 531, records of said County; thence along said East line and the East line of that certain parcel of land described in deed, recorded in Book 1406, Page 459 North 00°43'20" West 90.00 feet; thence along the North lines of those certain parcels of land recorded in deed, under Reception No. 88053400 and Book 1406, Page 459, South 89°14'45" West 200.56 feet; thence along the West line of said Reception No. 88053400 South 03°03'26" East 19.94 feet to a point on the North line of said Book 1295, Page 531; thence along said North line and its Westerly prolongation, South 89°21'02" West 126.62 feet to a point on the East line of that certain parcel of land described in deed, recorded in Book 1657, Page 100; thence along said East line North 00°39'20" West 19.88 feet to the Northeast Corner of said parcel of land; thence along the North line of said parcel of land and the North line of that certain parcel of land described in deed, recorded in Book 1222, Page 543, records of said County; South 89°16'40" West 150.00 feet; thence along the West line of said Book 1222, Page 543 South 00°39'20" East 90.00 feet to a point on the North right-of-way line of said 28th Street Southwest; thence along said North right-of-way line South 89°16'40" West 738.44 feet; North 45°38'34" West 70.61 feet to THE TRUE POINT OF BEGINNING.

containing 129.033 acres more or less,

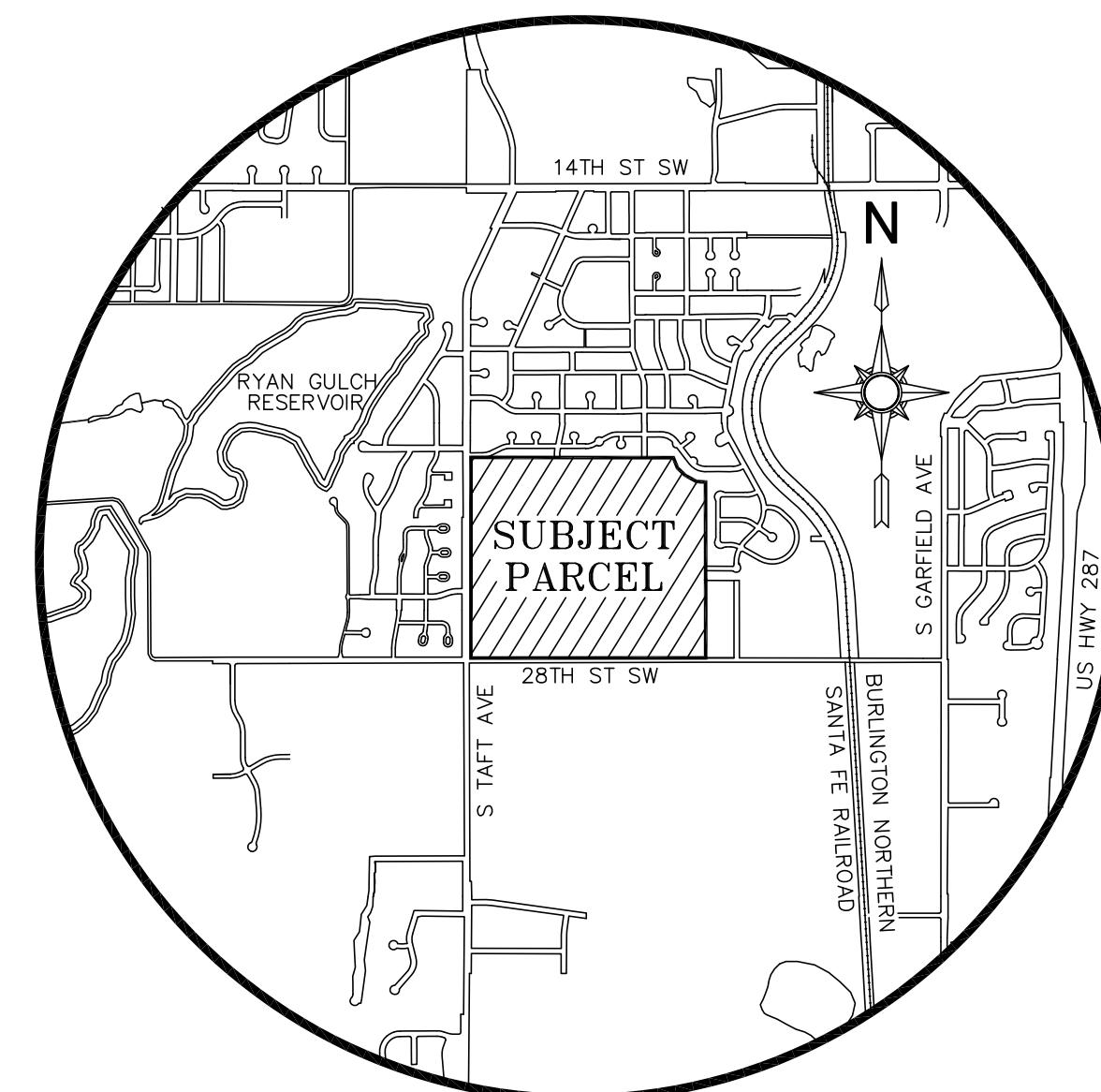
SURVEYOR'S CERTIFICATE:

I, Paul A. Hernandez, being a registered Professional Land Surveyor in the State of Colorado, do hereby certify that this VACATION MAP OF ASPEN KNOLLS FIRST AND SECOND SUBDIVISIONS was made by me or under my direct supervision and that the survey is accurately represented on this map and that the statements contained hereon were read by me and the same are true to the best of my knowledge.

Dated this _____ day of _____, 19_____, REC'D. _____

By: _____
Paul A. Hernandez
Colo. L.S. 32829

LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°27'49"E	44.73
L2	S27°12'30"E	125.52
L3	S40°27'28"E	77.69
L4	S53°20'27"E	89.62
L5	S68°14'58"E	89.62
L6	S83°18'04"E	89.41
L7	S03°03'26"E	19.94
L8	N00°39'20"W	19.88
L9	N45°38'34"W	70.61



VICINITY MAP

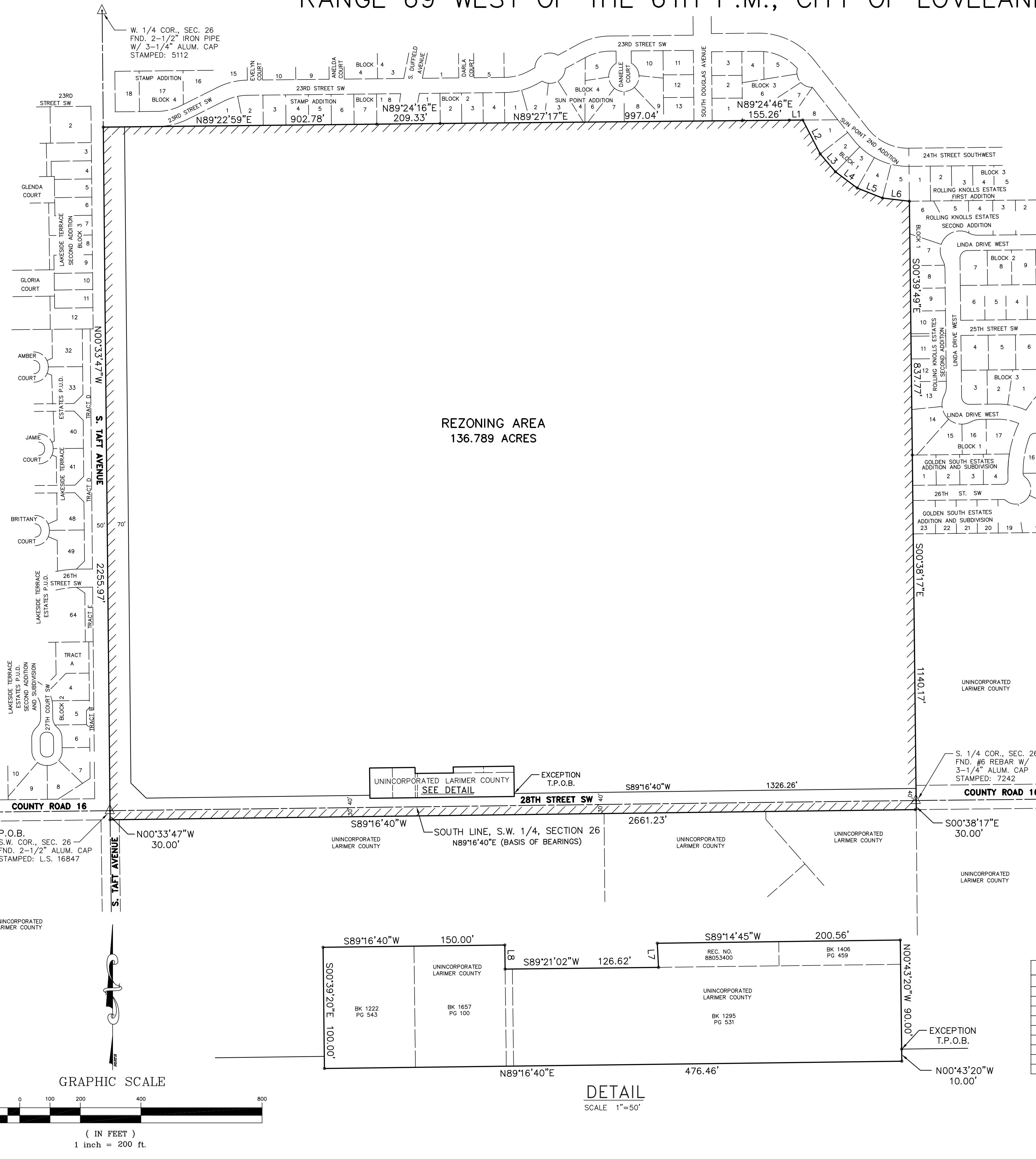
ASPEN KNOLLS SUBDIVISION VACATION LOVE! AND CO McWHINNEY

DATE: JUNE 2013
SCALE: 1"=200'
DRAWN: P.A.H.
CHECKED: E.J.S.
APPROVED: P.A.H.

ASPEN KNOLLS ADDITION

REZONING NO.

BEING A PORTION OF ASPEN KNOLLS ADDITION,
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH,
RANGE 69 WEST OF THE 6TH P.M., CITY OF LOVELAND, LARIMER COUNTY, COLORADO.



LEGAL DESCRIPTION: D-R DISTRICT

Legal Description of a tract of land being a portion of Section 26, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:

Beginning at the Southwest Corner of said Section 26 and considering the South line of the Southwest Quarter of said Section 26 as bearing North 89°16'40" East and with all bearings contained herein relative thereto; thence along the West line of the Southwest Quarter of said Section 26 North 00°33'47" West 2255.97 feet to a point on the Westerly prolongation of the South line of Stamp Addition to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County; thence along said South line and the South line of Sun Point Addition to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County the following five courses and distances; North 89°22'59" East 902.78 feet; thence North 89°24'16" East 209.33 feet; thence North 89°27'17" East 997.04 feet; thence North 89°24'46" East 155.26 feet; thence North 89°27'49" East 44.73 feet to a point on the Southwesterly line of Sun Point Second Addition and Subdivision to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County; thence along said Sun Point Second Addition and Subdivision the following five courses and distances; South 27°12'30" East 125.52 feet; thence South 40°27'28" East 77.69 feet; thence South 53°20'27" East 89.62 feet; thence South 68°14'58" East 89.62 feet; thence South 83°18'04" East 89.41 feet to a point on the Westerly line of Rolling Knolls Estates Second Addition to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County; thence along the Westerly line of said Rolling Knolls Estates Second Addition and the West lines of Golden South Estates First Addition and Subdivision to the City of Loveland according to the plat on file in the office of the Clerk and Recorder said County and the Gurule - Minor Residential Development according to the plat on file in the office of the Clerk and Recorder said County the following two courses and distances; South 00°39'49" East 837.77 feet; thence South 00°38'17" East 1140.17 feet to the South Quarter Corner of said Section 26; thence continuing South 00°38'17" East 30.00 feet a point on the South right-of-way line of 28th Street Southwest, thence along said South line South 89°16'40" West 2661.32 feet; North 00°33'47" West 30.00 feet to the Point of Beginning;

Excepting therefrom the following parcels of land:

Beginning at the South Quarter Corner of said Section 26, thence North 00°38'17" West 40.00 feet to a point on the North right-of-way line of 28th Street Southwest; thence along said North right-of-way line South 89°16'40" West 1326.26 feet to the True Point of Beginning; said point being a point on the East line of that certain parcel of land described in deed, recorded in Book 1295, Page 531, records of said County; thence along said East line and the East line of that certain parcel of land described in deed, recorded in Book 1406, Page 459 North 00°43'20" West 90.00 feet; thence along the North lines of those certain parcels of land recorded in deed, under Reception No. 88053400 and Book 1406, Page 459, South 89°14'45" West 200.56 feet; thence along the West line of said Reception No. 88053400 South 03°03'26" East 19.94 feet to a point on the North line of said Book 1295, Page 531; thence along said North line and its Westerly prolongation, South 89°21'02" West 126.62 feet to a point on the East line of that certain parcel of land described in deed, recorded in Book 1657, Page 100; thence along said East line North 00°39'20" West 19.88 feet to the Northeast Corner of said parcel of land; thence along the North line of said parcel of land and the North line of that certain parcel of land described in deed, recorded in Book 1222, Page 543, records of said County; South 89°16'40" West 150.00 feet; thence along the West line of said Book 1222, Page 543 South 00°39'20" East 100.00 feet to a point on the North right-of-way line of said 28th Street Southwest; thence along said North right-of-way line North 89°16'40" East 476.46 feet; thence North 00°43'20" West 10.00 feet to THE TRUE POINT OF BEGINNING.

containing 136,789 acres more or less.

ZONING DESIGNATION:

EXISTING ZONING: PLAT, ASPEN KNOLLS

PROPOSED ZONING: DR (DEVELOPING RESOURCES)

DATE: JUNE 2013
SCALE: 1"=200'
DRAWN: P.A.H.
CHECKED: E.J.S.
APPROVED: P.A.H.

McWHINNEY ASPEN KNOLLS REZONING MAP LOVELAND CO

McWHINNEY

14TH ST SW

RYAN GULCH RESERVOIR

S GARFIELD AVE

S TAFT AVE

28TH ST SW

BURLINGTON NORTHERN

SANTA FE RAILROAD

US HWY 287

SUBJECT PARCEL

N

LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°27'49"E	44.73
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L7	S03°03'26"E	19.94
L8	N00°39'20"W	19.88
L9	N45°38'34"W	70.61

VICINITY MAP
SCALE 1" = 3000'

MAP