



Community Development and Neighborhood Services Department
281 N. College Ave., Fort Collins, CO 80524
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WORK SESSION MEMORANDUM

Date: September 3, 2024

To: Mayor and City Councilmembers

Through: Kelly DiMartino, City Manager ^{Initial} *KD*
 Tyler Marr, Deputy City Manager ^{DS} *TM*
 Caryn Champine, PDT Director ^{Initial} *CC*

From: Kim Meyer, Interim Community Development and Neighborhood Services Director ^{Initial} *KM*

Subject: August 27, 2024, Work Session Summary - Quasi-Judicial Appeals Process

BOTTOM LINE

The purpose of this memo is to document the summary of discussions during the August 27, 2024, Work Session. All Councilmembers were present, with Mayor Jeni Arndt attending remotely.

DISCUSSION SUMMARY

Council discussed the content for this work session in multiple segments, to discuss and provide feedback on several elements of the current Quasi-Judicial (QJ) appeal process. Staff provided a current state, alternatives, and a recommendation for drafting updated code language on each of these main issues. A robust discussion on this overall topic provided general support from councilmembers for updating the process in a variety of ways.

To summarize each of the issues addressed:

1. **Decision-maker:** Council voiced both support and concerns on this issue but overall communicated that a well-designed and -considered threshold clarifying the boundaries of staff decisions, versus what would move to hearing and be determined by the Council, could help streamline the process. Council would want notification of any remand for a new (de novo) hearing or decision with an original decision maker. Focus on simplifying the process and minimizing/avoiding impact to the timeline, while balancing access to Council with ensuring appeals meet the City's standards such as merit and standing. A list of recommended decision types that staff consider appropriate for pre-hearing staff review and decision-making is listed in the Follow Up Items section. In addition to the topic of staff decision-making, it was clarified that there is flexibility in which Councilmembers could be part of a Council committee that decides appeals, and that those committee appointments could shift on a set schedule.
2. **Standing to Appeal:** General acceptance of the staff recommendation to require appellants to participate in the original hearing/decision (oral/written) was communicated by Council. Concerns expressed were largely related to ensuring community members

receive sufficient notice of projects and hearings. This item elicited questions and discussion related to the number of instances of neighborhood notifications, overall timelines, and opportunities to participate. This was a requested Follow Up Item, which is attached.

3. **Permitted Grounds for Appeal:** The recommendation is that any stated grounds for appeal be based on the current record, and that the issue on appeal was raised with the original decision-maker. Discussion also included a desire to see additional educational efforts by staff during development review and hearing efforts, and at appeals pre-hearing conferences, as well as including the ability for staff to screen Notices of Appeal to ensure the stated grounds were introduced at an original hearing/decision process.
4. **Multiple Levels of Appeals:** This item generated a request for a chart or table to more clearly illustrate the various decision makers and the path of appeals to be able to more fully understand and determine the best options to address any issues related to administrative/staff, hearing officers, and boards and commission decisions. The requested table is attached.
5. **Evidence & Arguments:** This was an expansive discussion centered on ensuring that the main arguments in an appeal are narrow in focus and relate directly to the record of the decision being appealed. Council expressed general support for not accepting new evidence at hearing and removing the Council site visit. Staff was encouraged to work towards a more predictable hearing experience for all involved.
6. **Process Improvements:** A variety of topics were brought up in this space aimed at ensuring better clarity, awareness, and education: pre-hearing conference encouraged, but not required; utilize technology and recorded webinars to educate and inform; work on a more streamlined scheduling system; pre-register respondents to improve predictability.

The best opportunity for impactful participation and community input is during the development process, and the appeal process can be misleading and create unrealistic expectations and frustrations. Council provided feedback that staff should focus heavily on communication, look into creating an informational video of the process, and developing other opportunities for education, support, and navigation assistance. Council also noted the difficult role they play during these QJ appeals, which is quite different than their typical community advocacy work.

Council cautioned both that the community will need some time to understand and process any updates to the appeal, but also voiced an eagerness to keep up momentum in drafting a proposed amendment to the code language as the issue has lagged over time. Staff needs to analyze and weigh the cumulative impacts of any proposed changes when drafting new code language.

The proposed amendment would be intended for regular adoption and effectiveness date and would therefore impact any new appeal filed after that date.

NEXT STEPS

Staff will synthesize the responses and discussions on this issue into proposed code language with the purpose of updating the City's appeal process to simplify and streamline the process of quasi-judicial appeals. Proposed code language will be provided to the Council in advance of a follow up work session, to be quickly followed by a proposed ordinance for hearing.

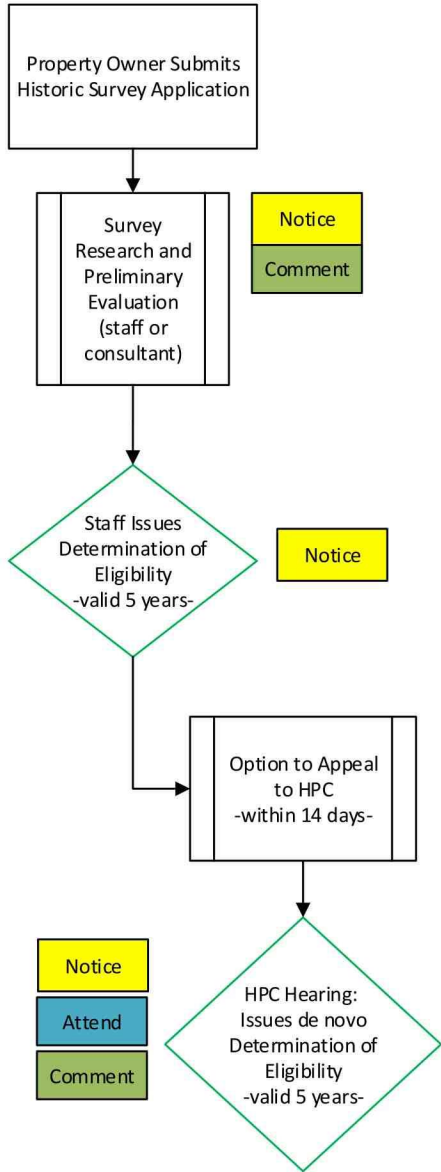
FOLLOW-UP ITEMS

Several items were requested as follow-up items to better clarify and inform Council of the current state and proposed changes.

- A) List of recommended pre-hearing decisions to be determined by authorized City staff:
 - i) Determine Standing of Appellant(s).
 - ii) Pre-register Respondents prior to an appeal hearing and verify their standing.
 - iii) Administrative review of Notice of Appeal for completeness including whether issues raised were addressed before the original decision-maker. To the extent a Notice of Appeal is not complete, staff would return the Notice to the appellant with the insufficiencies identified and allow a brief opportunity to correct and resubmit the Notice.
 - iv) Administrative review of Notice of Appeal in relation to alleged Fair Hearing issues – to allow any remand to the original decision-maker as quickly as possible, or to dismiss for lack of evidence.
 - v) Administrative review of all materials submitted by parties-in-interest to ensure they do not contain new evidence.
- B) Timeline of projects and notifications:
 - i) Attachment A – Timeline of Historic Preservation projects
 - ii) Attachment B – Timeline of Development Review projects
 - iii) Attachment C – Print-out of Webpages re: Resident's Role in Development Review
- C) Appeals Flowchart – Current and Proposed:
 - i) Attachment D - Current Path of Decisions Appealable to City Council
 - ii) Proposed/TBD – To be provided at follow up Work Session, to illustrate proposed code amendments.

Attachment A - Timeline of Historic Preservation projects

Determination of Landmark Eligibility



Property Owner Submits Application (online, email, or in person)

Design Assistance Mini-Grant (if needed)

Staff determines level of review

Staff Design Review

Over the Counter/ Instant Approval

Weekly Staff Design Review Meeting

HPC Design Review

Conceptual Design Review Hearing

Notice
Attend
Comment

Final HPC Hearing and Decision on COA

Notice
Attend
Comment

Notice

Decision: Issue or Deny Certification of Appropriateness (COA) -valid for 1 year-

Option to Appeal Staff Decision to HPC

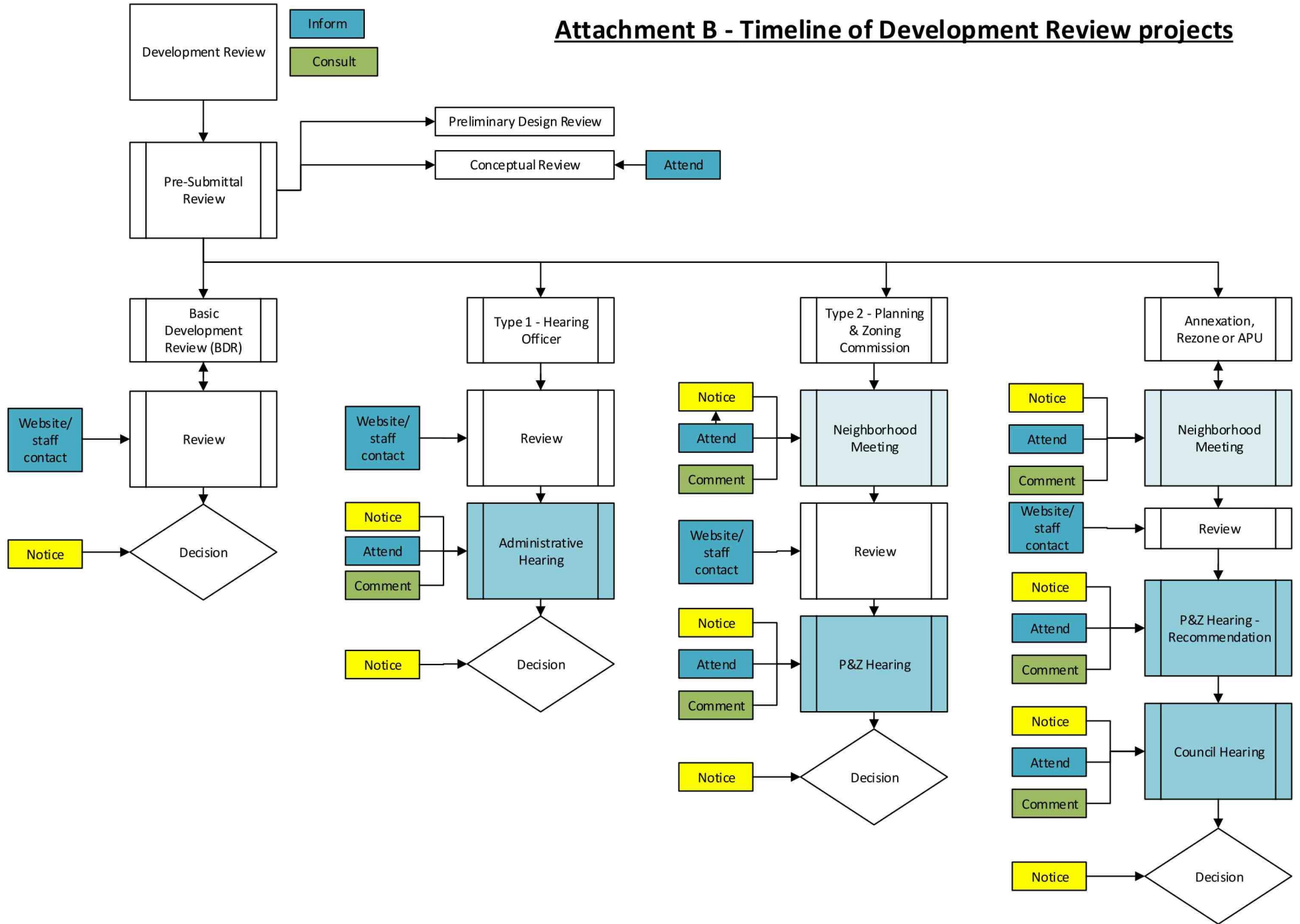
Option to Appeal HPC Decision to Council

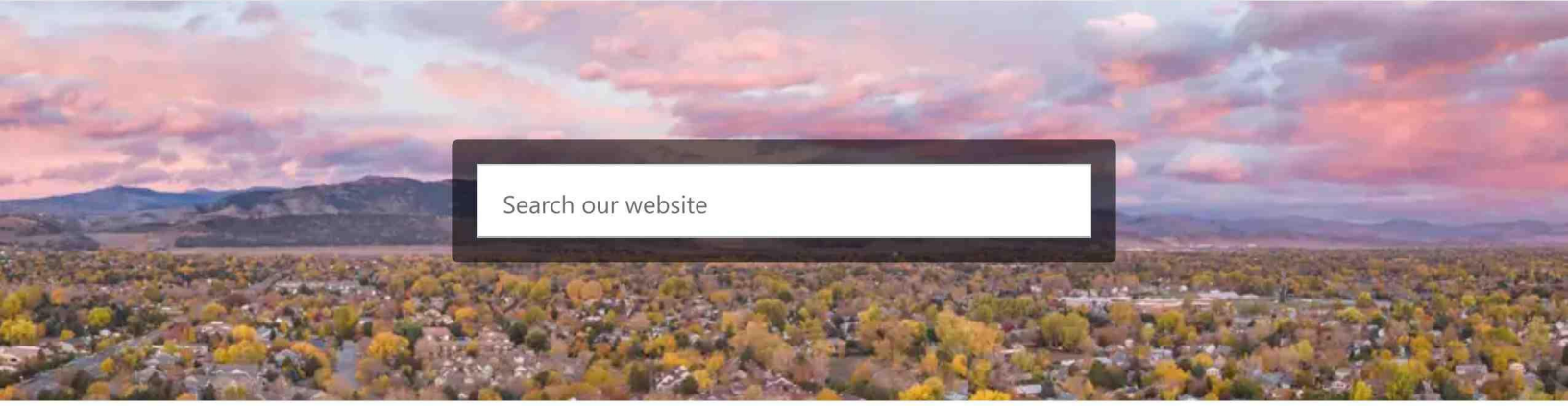
Council Hearing and Decision on COA -valid 1 year-

Notice
Attend
Comment

Landmark Design Review Process

Attachment B - Timeline of Development Review projects





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Residents' Role in Development Review

Welcome to the Residents' Role in Development Review page!



The City of Fort Collins is committed to supporting you in understanding new development projects happening our community.

Learn how to stay informed about new development projects and how your feedback will be used.

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Stay informed and give feedback

Looking for more ways to get involved? Find opportunities related to [Planning and Development here.](#)

Why Development Review?

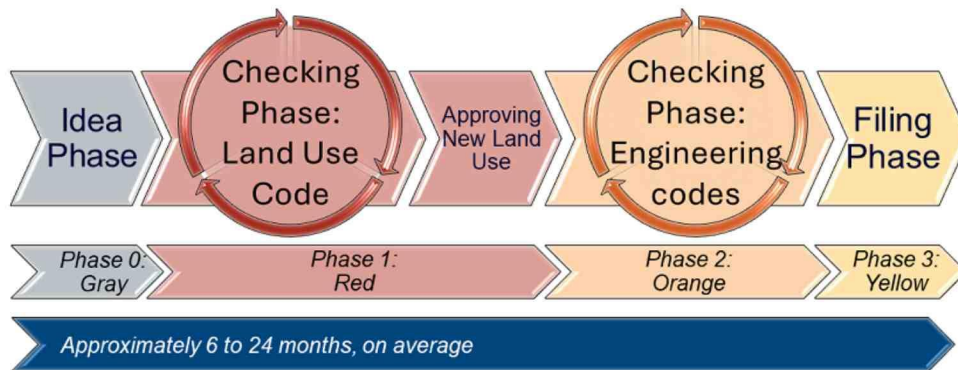
As cities and towns grow and change, local governments make sure these changes meet the needs of the community. These needs can include:

- safety and welfare of residents
- high-quality, consistent design
- protection of environmental resources
- public roads, sewers, streetlights and other infrastructure

Why Development Review? Learn more.

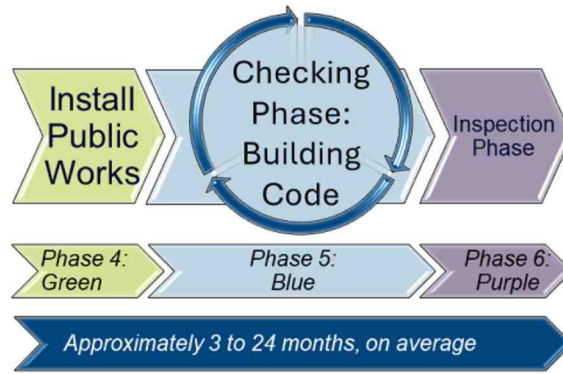
Learn about the process and how to plug in:

The Development Review Process



** Timeline is for an "average" project. Depending on the project, it could take 2-4 months or up to 5-10 years.*

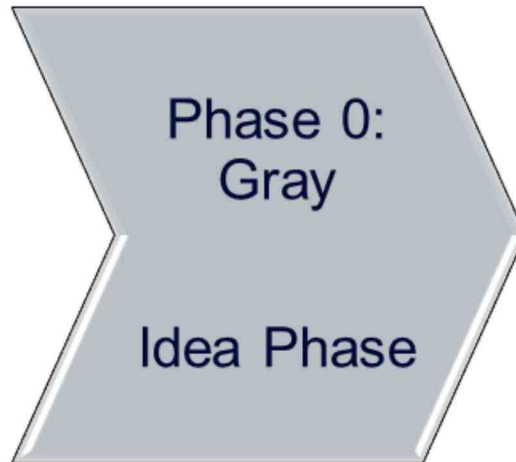
The Building Review Process



**Timeline is for an "average" project. Depending on the project, this could take 1 month or up to several years.*

The Development Review Process and the Building Review Process

^ Phase 0: Gray - Idea Phase



Someone has an idea about building something new on land they own or would like to buy.

They can talk to City departments all at once during a Conceptual Design Review meeting.

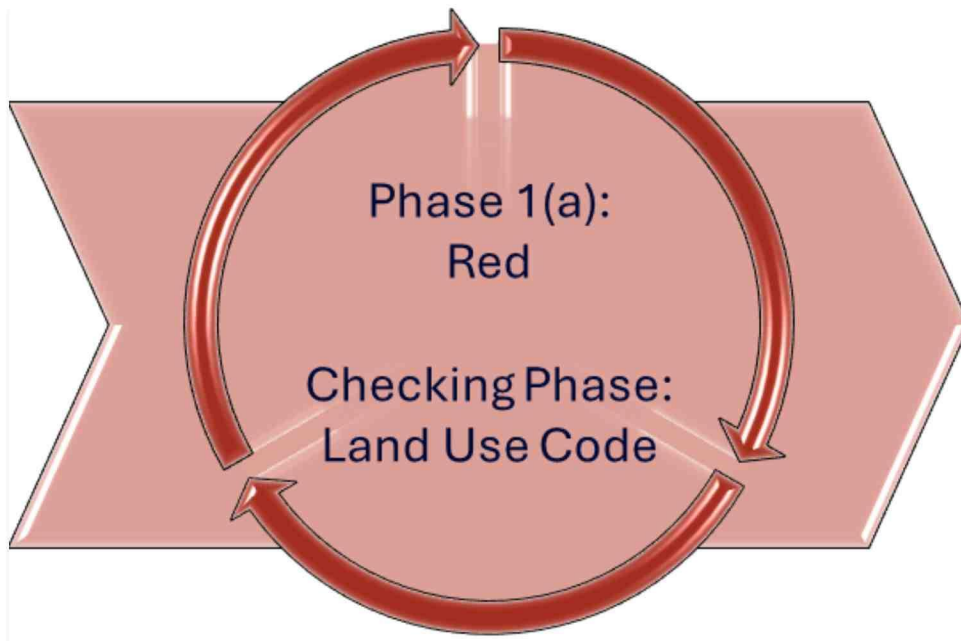
During this meeting they will learn if their idea might work.

The person with the idea might need to have a meeting with neighbors too.

*About half of the project ideas in this phase will not move forward.

Our Promises to Residents:

- **We will keep you informed** when we have Conceptual Design Review meetings.
 - Email newsletter, [This Week in Development Review](#).
 - Application summaries posted on our [webpage](#).
- **We will keep you informed and listen to your concerns** if there is a Neighborhood Meeting.
 - Invitation letters mailed to property owners within 800 feet (or about 1-2 city blocks).
 - Meeting time, date and location posted on our [webpage](#).
 - You may attend a neighborhood meeting and have a conversation with the applicant.
 - Recording of the meeting will be posted on our [webpage](#).

Phase 1(a): Red - Checking Phase: Land Use Code

Someone decides they will build something new on land they own or would like to buy. They send their plans to the City and pay their fees. The person or team who are hoping to build something new are called Applicants.

City staff check the plans to see if they meet all the City's rules.

City staff returns the plans with a list of changes that need to be made in order to follow the City's rules.

The Applicant fixes the plans.

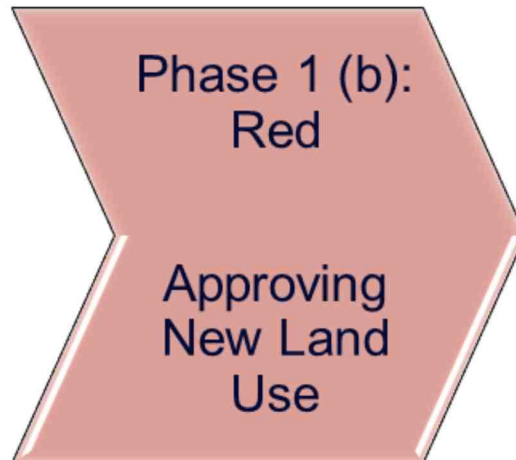
This happens again and again until the plan meets all the rules.

[Learn more about the Red Phase: Review and Approval](#)

Our Promises to Residents:

- **We will keep you informed** when someone applies to do a project.
 - Email newsletter, [This Week in Development Review](#).
 - Plan summaries posted on our [webpage](#).

^ [Phase 1\(b\): Red - Approving a New Land Use](#)



When a project meets all the city's rules, it can be approved.

Projects making smaller changes may be approved by the Director of the Community Development and Neighborhood Services Department.

Projects making larger changes may be approved by an Administrative Hearing Officer.

Projects making the largest changes allowed under the Land Use Code may be approved by the Planning and Zoning Commission.

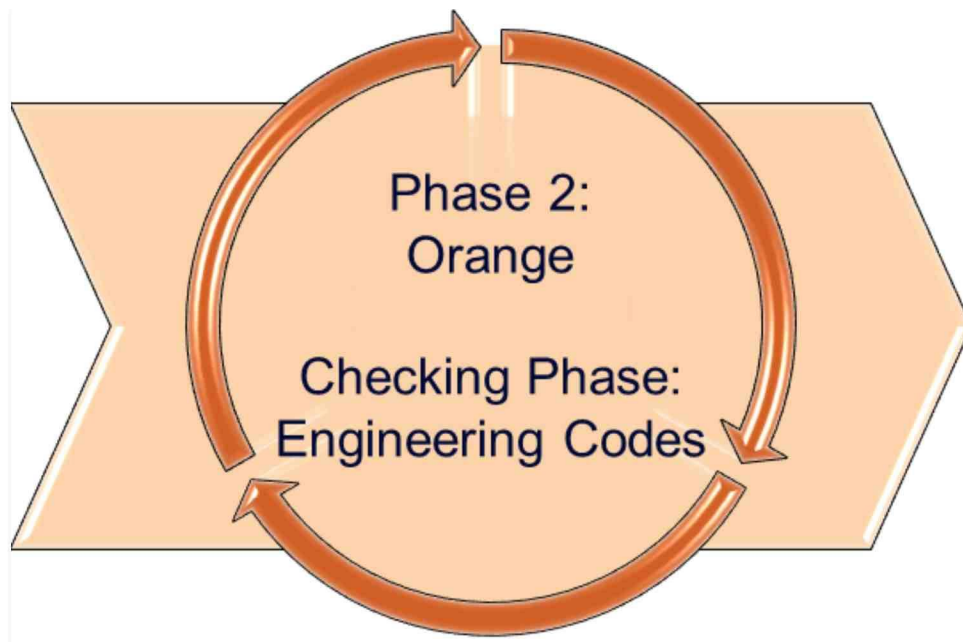
[Learn more about the Red Phase: Review and Approval](#)

Our Promises to Residents:

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- **We will keep you informed** when a project has been approved by the Director of the Community Development and Neighborhood Services Department.
 - Letters will be mailed to neighboring property owners when a decision has been made.
 - Decisions posted on our [webpage](#).
- **We will keep you informed and listen to your concerns** when a project is being considered by an Administrative Hearing Officer or by the Planning and Zoning Commission. We will keep you informed if a project is approved by either of these.
 - Letters will be mailed to neighboring property owners prior to a hearing.
 - You may attend a hearing and speak to the decisionmaker. You may also email, mail, or drop off your written comments prior to the hearing.
 - You may watch a recording of the hearing.
 - Letters will be mailed to neighboring property owners when a decision has been made.
 - Hearing information and decisions will be posted on our [webpage](#) and in the [This Week in Development Review](#) newsletter.

^ Phase 2: Orange - Checking Phase: Engineering Codes



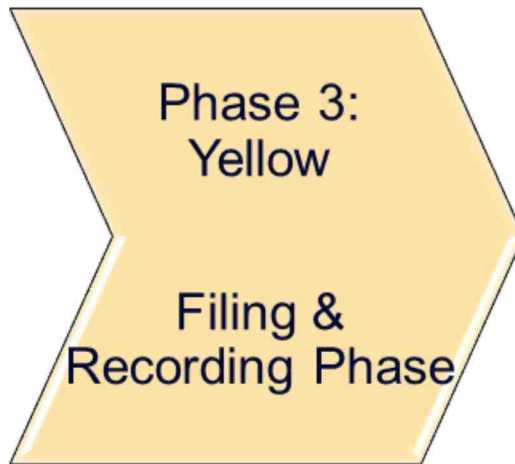
If a new land use has been approved, the project plans will need to meet more rules for very technical details. These are things like the type of concrete used to build sidewalks, or the height of curbs and gutters around driveways.

City staff will check the plans and return edits to the applicant. This will happen again and again until the plan meets all the rules.

Learn more about the Orange Phase: Final Development Plans

There is no public participation in this phase. It is strictly an interaction finalizing technical drawings and plans between the City and a private property owner.

^ Phase 3: Yellow - Filing & Recording Phase

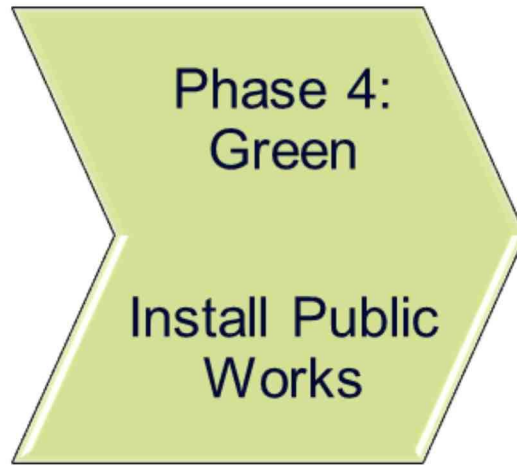


When the final plans have been approved, they will be filed and recorded with Larimer County and/or with the City.

There is no public participation in this phase. When the final plans have been filed and recorded, they will be public records which are available for anyone to find.

Find Public Records

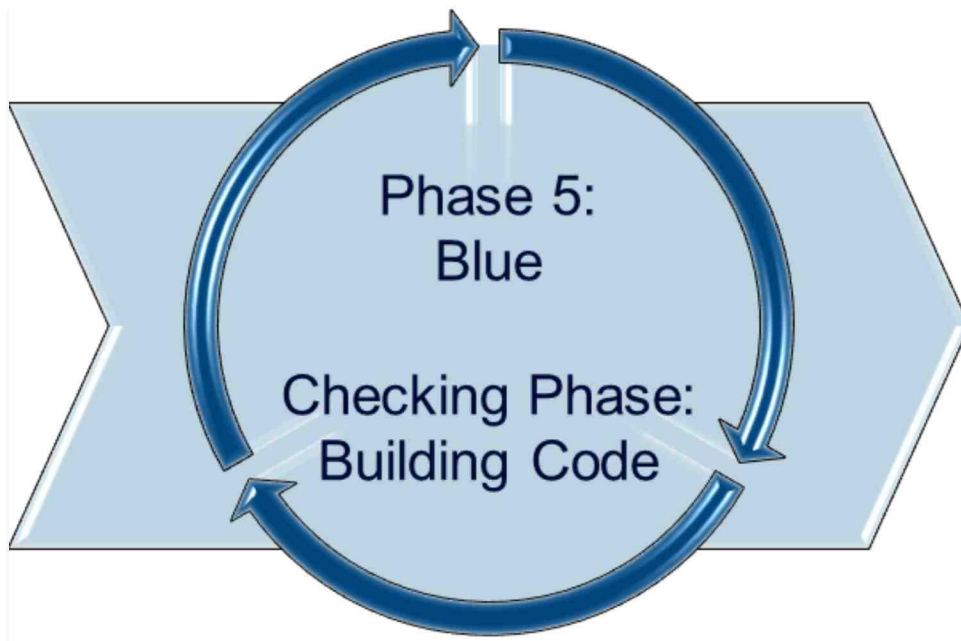
^ Phase 4: Green - Install Public Works



Now things like roads or sidewalks may be built. Street trees may be planted. Erosion and sediment controls may be put in.

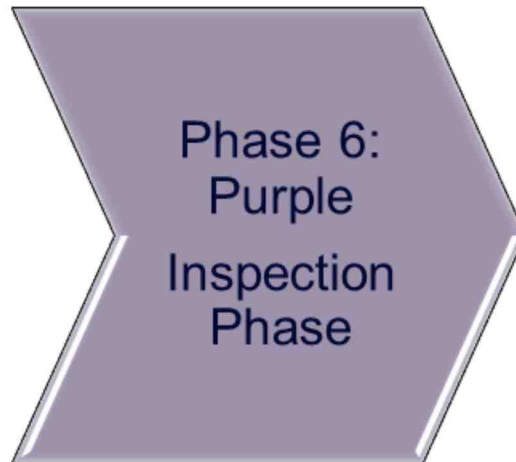
There is no public participation in this phase.

^ Phase 5: Blue - Checking Phase: Building Code



Building plans will be checked for safety to make sure they meet all the City's rules.

You may check on the status of any building permit.

[^ Phase 6: Purple - Inspection Phase](#)

While the project is being built, the City will inspect it to make sure it is being built according to the plans and codes.

After the project is built and has passed all of its final inspections, the project will get a Certificate of Occupancy. This means the project is ready for people to start using it.

There is no public participation in this phase.

Residents' Toolbox

[^ Find Out What Development Proposals are Being Reviewed](#)

The [Proposals Page](#) contains a complete list of all development proposals that are currently being reviewed by City staff, as well as information on upcoming events where the public can engage:

- [Conceptual/Preliminary Design Reviews](#)
- [Neighborhood Meetings](#)
- [Development Proposals currently under review](#)

- [Hearings and Decisions](#)
- [Minor Amendments](#)

To search for development proposals currently being reviewed and to learn more about them, scroll to the "[Development Proposals Under Review](#)" section and search by address, name, project number, sign number or keyword. Each proposal entry includes a brief description, a link to the public records archive to view documents related to the submittal, and staff and applicant contact information.

**The Proposals page only includes proposals from the current year.*

For information on proposals from previous years, visit:

<https://www.fcgov.com/developmentreview/proposals/archive#amendments-heading>

[Visit the Proposals Page](#)

[^ Find Documents Related to Development Proposals](#)

All documents submitted by applicants for a development proposal and responses from City staff are public documents. They can be found in the City's Public Records Archive. These documents often include:

- Site plans
- Transportation Impact Studies
- Utilities Plans
- A narrative about the project from the applicants
- And much more...

Hint- when searching in the Archive, using the project's name or address may not work. The best way to search is by clicking "Project Number Search" and using the alpha-numerical project number. You can find these numbers in mailings sent by the City or on the Proposals page.

[Visit the Public Records Portal](#)

[^ Get Help From City Staff](#)

If you find that this website doesn't fully answer your questions or give you the tools you need, City staff is always available to help.

The first person to reach out to is the Neighborhood Development Liaison. This person is the public face of Development Review, and exists to support members of the public throughout the process by hosting neighborhood

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meetings, sharing important information, providing customer service and collecting public input.

Email the Neighborhood Development Liaison

This Week in Development Review Newsletter



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elpful Resources

Codes &

Click the Newsletters button at the top of this page to subscribe to our This Week in Development Review email newsletter

Don't miss out on upcoming events! Subscribe to our newsletter to receive weekly information on development that may impact you.









Every week, there are new proposals going through the Development Review process at the City of Fort Collins, and every week the City hosts events for residents to get involved in them. The **TWIDR** email newsletter was created to help any member of the public learn more about Development Review and stay in the loop about what's going on in their City.

[Development Review Home](#) | [Planning Home](#) | [Environmental Planning Home](#) | [Zoning Home](#) | [FAQ Page](#)

-  Local Facts and Demographics
-  Poudre School District
-  Colorado State University
-  Front Range Community College
-  Convention & Visitor's Bureau

- Mission, Vision, Values
- "City of Fort Collins MVP"
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Social Media Accounts

-  Facebook [14] ▾
-  Twitter [12] ▾
-  Youtube [6] ▾
-  Instagram [11] ▾
-  Flickr [2] ▾
-  Pinterest [1] ▾
-  LinkedIn [1] ▾
-  Nextdoor [2] ▾

Performance Excellence



Employee Resources

- CityHub
- Support Portal

ATTACHMENT D
Current Path of Decisions Appealable to City Council

Code	Section	Decision Type	Initial Appeal	Secondary Appeal
Municipal Code	2-47	Certain appeals to be taken to City Council		
DEVELOPMENT	RELATED:			
Land Use Code	6.3.12 6.14.2	Director decision (Minor Amendment, Change of Use, Basic Dev Review, FONSI)	Planning & Zoning Commission	City Council
	6.3.12	Hearing Officer	City Council	
	6.3.12	Planning & Zoning Commission	City Council	
	6.18.1	Director decision (applicable to 11 decision types)	Land Use Review Commission	City Council
	6.14.3 6.18.1	Land Use Review Commission (Variances, Director decisions)	City Council	
	6.19.5 - .8	Hearing Officer decision – Vested Rights	City Council	
Municipal Code	5-27.13 18-3	Building Official decision	Building Review Commission	City Council
	5-3	Building Review Commission decision	City Council	
Municipal Code	14-23(b)	Historic Preservation Staff determination of eligibility	Historic Preservation Commission	City Council
	2-174(b) 14-32 14-55	Historic Preservation Commission decision	City Council	
OTHER:				
City Charter	Sec.14	Licenses & Permits, and fees “may be appealed”	City Council	
Municipal Code	10-28 26-520	Utilities Exec Director decision	Water Commission	City Council
	10-28	Water Commission	City Council	
	15-265, - 298, -318, -394	City Manager decision (Pawnbroker, Place of Entertainment, Secondhand dealer, outdoor vendor)	City Council	
	26-351	Utilities Executive Director decision	City Council	
	26-692	City Engineer decision (Utility install license)	City Council	