

City Council Appeal Process Overview

201 Linden Street Appeal

- City Code appeals procedure (Sections 2-46 to 2-56) governs appeals to the Council.
- This appeal was filed on September 3, 2024, by the Applicant/Appellant seeking review of the Historic Preservation Commission's August 21 decision to deny a certificate of appropriateness for replacement of upper story windows at 201 Linden Street, a Fort Collins landmark.
- Under this appeal process, the City Council's role is not to make a new decision. The Council's role is to review the decision made by the Commission and evaluate whether the appellant's arguments are persuasive that the Commission did not conduct a fair hearing and did not properly apply the specified provisions of the Land Use Code in its decision.
- **Because of this limited review, sometimes called "review on the record," the City Code requires the Council to review this matter based on the factual record of the decision of the Commission and arguments presented in the appeal hearing.**
- **While the parties may make arguments based on the evidence in the record, no *new* evidence may be considered, except:**
 1. The appellant and opponents to the appeal were allowed to submit new evidence in very limited circumstances under the process and deadlines in the City Code. No such new evidence was submitted.
 2. Councilmembers may:
 - Provide new evidence through observations from any individual site visit (there was no organized site visit for this appeal); and
 - Ask questions of staff and parties-in-interest during the hearing and receive evidence in response to those questions.
- The Council will review and consider the decision appealed, the evidence that was presented to the *Commission* before the decision, the verbatim transcript of the *Commission's* hearing, and the arguments, responses and discussion in the appeal hearing.
- **The subject matter of the appeal hearing and decision is limited to only the issues identified in the notice of appeal.**
- **The appellant or party(ies) opposing the appeal, may submit presentation materials presenting their arguments (but not additional new evidence) for the appeal hearing no later than noon on the day of the hearing.**

- The presentation materials are then posted on the City Clerk’s appeal page. **If the submitting party also wants those materials to be distributed to Council, they must provide 20 hard copies for distribution in advance of the hearing.**
- **Only parties-in-interest are allowed to participate in the appeal hearing and only at the specified time.**
- Parties-in-interest include:
 1. The appellant(s);
 2. The applicant;
 3. Any party with a proprietary or possessory interest in the land that is the subject of the application;
 4. Any person to whom the City mailed notice of the Commission hearing;
 5. Any person or organization that provided written comments prior to or at the Commission hearing; or
 6. Any person or organization that appeared before the Commission at that hearing.
- At the beginning of the appeal hearing, staff will make a presentation giving an overview of the issues on appeal.
- If there are procedural issues to be addressed, the presiding officer (Mayor or Mayor Pro Tem) will consider and determine them prior to the parties’ presentations.
- The presiding officer will ask any members of Council who visited the site for this appeal hearing to provide a summary of what they observed.
- **The presiding officer will specify the amount of time for presentation by the Appellant and the time for presentation by those opposing the appeal, and time for rebuttals if needed. This is usually 20 minutes for each “side” and 10 minutes for rebuttal by each, but sometimes is set for a shorter or longer time depending on the circumstances.**
- At the conclusion of the presentations and any follow up questions from Council, the Council will review the evidence included in the record, the arguments and discussion from the hearing, and then will act by motion to address the issues raised in the Notice of Appeal.
- A resolution documenting the Council’s findings and decision will be presented to the Council for approval no later than the Council’s next regular meeting after completion of the appeal hearing.