



November 7, 2022

1041 Regulations – Project Update

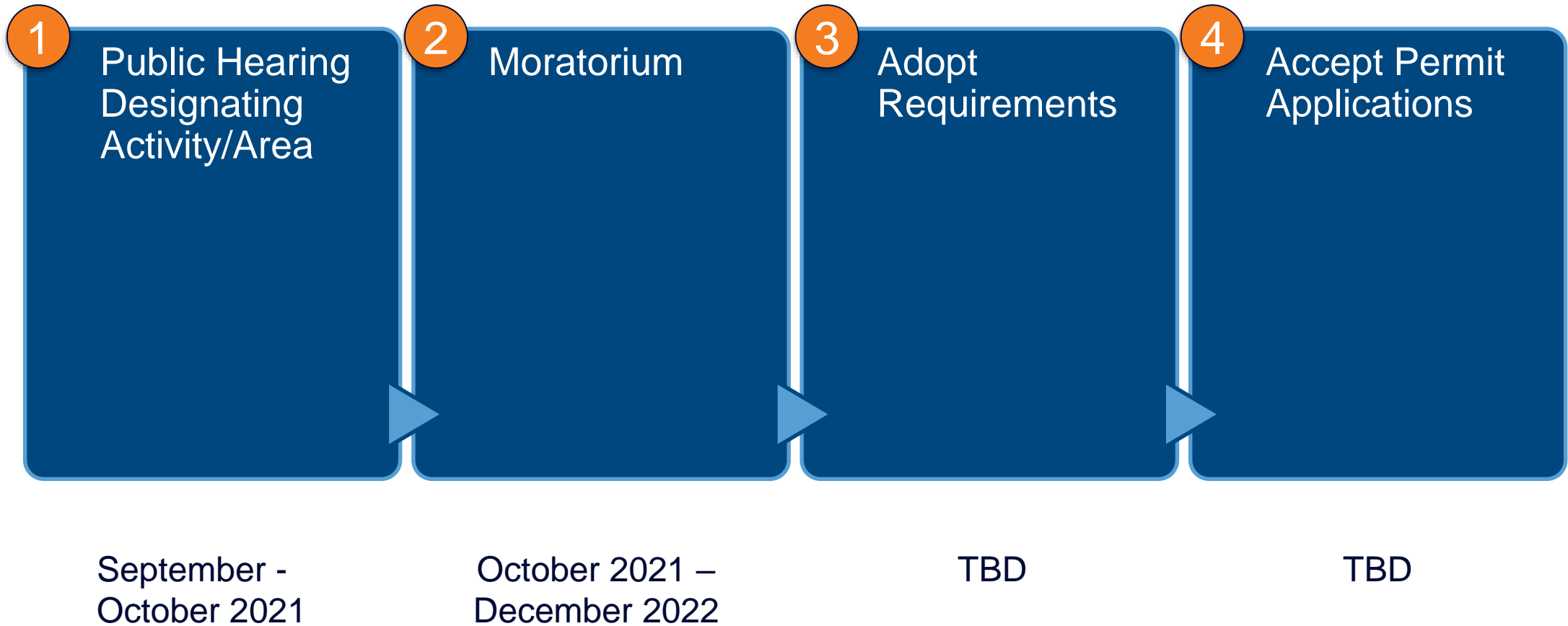
local participation, transparency
and improved environmental
outcomes

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Planning Manager



1. Do Councilmembers support extending the length of the moratorium to allow for final refinements to the code and additional outreach?
2. Do Councilmembers have feedback on the proposed scope to focus on the greatest areas of impacts rather than major projects?
3. Do Councilmembers support exempting projects previously approved through Site Plan Advisory Review (SPAR), while still requiring 1041 permitting for projects not approved through SPAR?



- ✓ September/October/December 2021
Council designated activities and imposed
a moratorium on activities of Statewide
Interest

Activities of Statewide Interest

New/Expanded Domestic
Water/Wastewater

Highways and
Interchanges

Moratorium (January 2022)

Thresholds

Water and Sewer Systems

- Easements greater than 30 feet in width, or
- Within new permanent easements greater than 20 feet in width that are adjacent to existing easements, or
- Two or more parallel lines that are within 120 square inches of each other when viewed in cross-section.

Project to upgrade existing water and sewer facilities, including repairing and/or replacing old or outdated equipment, or installing new equipment

Interchanges associated with arterial highways located within City natural areas or City parks

2022



Stakeholder Feedback

Unnecessary burden
&
Ambiguous approval process

1041 Parameters	Version 2 update
Pre- Submittal Requirements	Adds a 28 day requirement for Director to make FONAI determination and a 60 day time frame for staff to review and deem application complete
Decision Maker	Eliminates the administrative permit; makes City Council the sole decision maker

Stakeholder Feedback

How does 1041 lead to a better project outcome and enhance overall community benefits?

1041 Parameters	Version 2 update
Thresholds	Added geographic based thresholds to designated activities impacting City Parks, Natural Areas, Natural Habitat Buffer Zones, Cultural resources

Stakeholder Feedback

Concern about term
“significant”

1041 Parameters	Version 2 update
Definitions	<p>Reworking of the FONSI to become the FONAI or finding of negligible adverse impact.</p> <p>1.) Change from a significant impact standard to a review of whether there are adverse impacts of any kind.</p> <p>2.) To the extent there are adverse impacts, mitigation can compensate for the adverse impacts in order to meet a standard.</p>

Stakeholder Feedback

Concern about IGA
Option

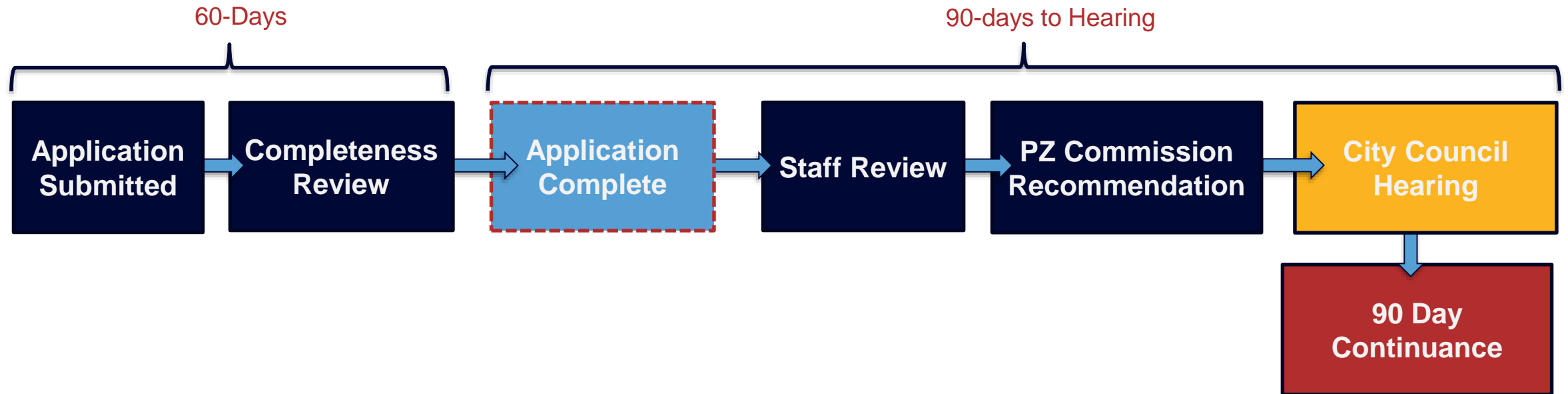
1041 Parameters	Version 2 update
IGAs	Section Removed

Stakeholder Feedback

Requirements for water conservation go beyond the City's appropriate reach

1041 Parameters	Version 2 update
Review Standards	Removes requirements related to the applicant's system that are not physically within the scope of the regulations

28-Days pre-application review (determine whether permit is required)



Revised Approach: Changes in Scope



Major Water Projects

- Transmission & Distribution Mains
- Water Diversions
- Water Treatment Facility
- Reservoirs
- Storage Tanks



Major Wastewater Projects

- Wastewater Treatment Plants
- Interceptor & Collector Lines
- Lift Stations



Highway Projects

- New Highways/ Interchanges/ Collector Highways
- Expansions by 1 Vehicular Lane
- Expansions of Interchanges or Bridges

Proposed Approach: Geography-Based Thresholds

Water and Wastewater Projects

Located in Natural Area, Park or Other City Property

Located in Natural Habitat Buffer Zone (NHBZ)

Impacts to Historic/Cultural Resources

Highway Projects

Located in Natural Area, Park or Other City Property

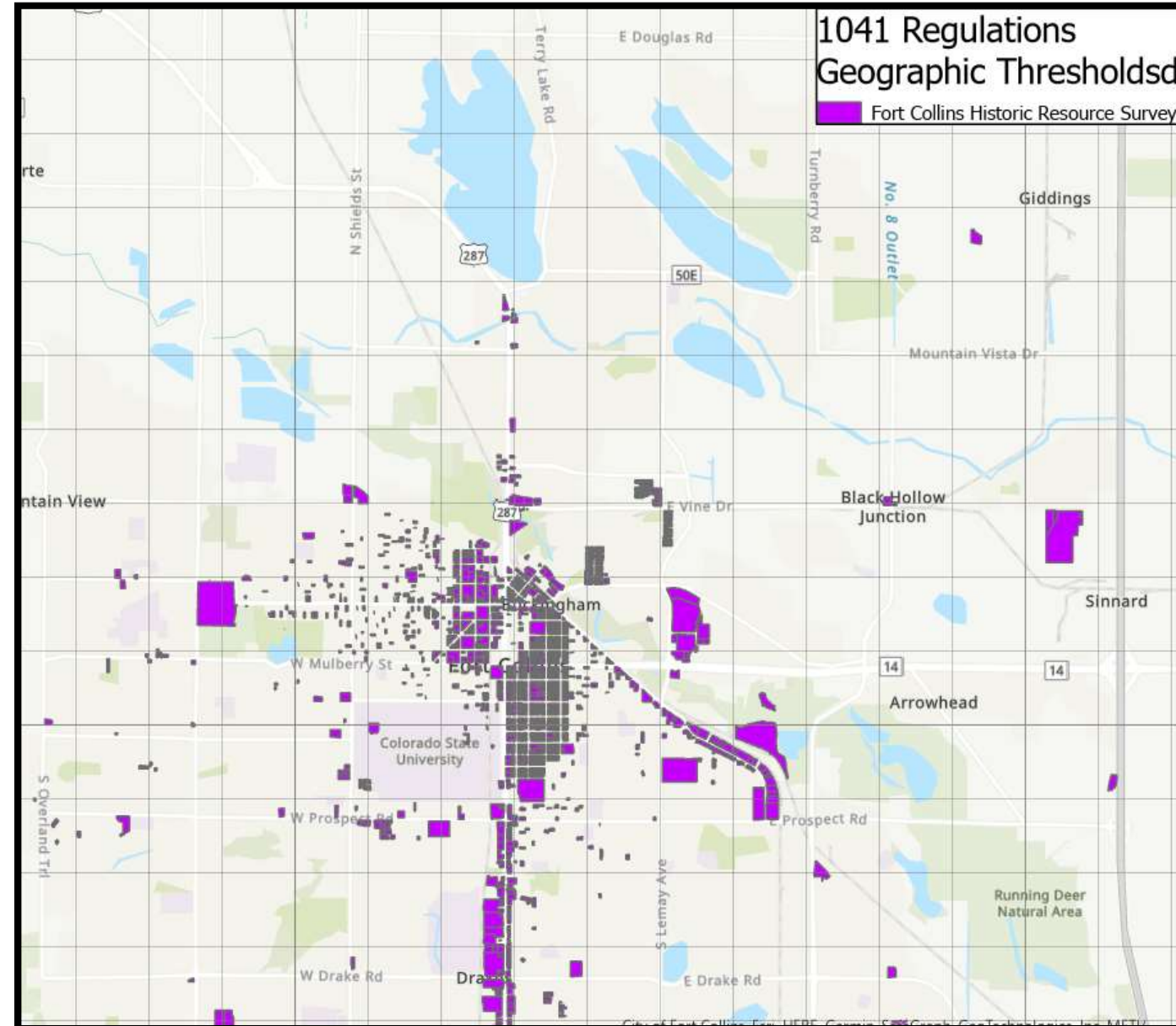
Located in Natural Habitat Buffer Zone (NHBZ)

Impacts to Historic/Cultural Resources

May Result in Relocation of Homes or Businesses

1041 Regulations Geographic Thresholds

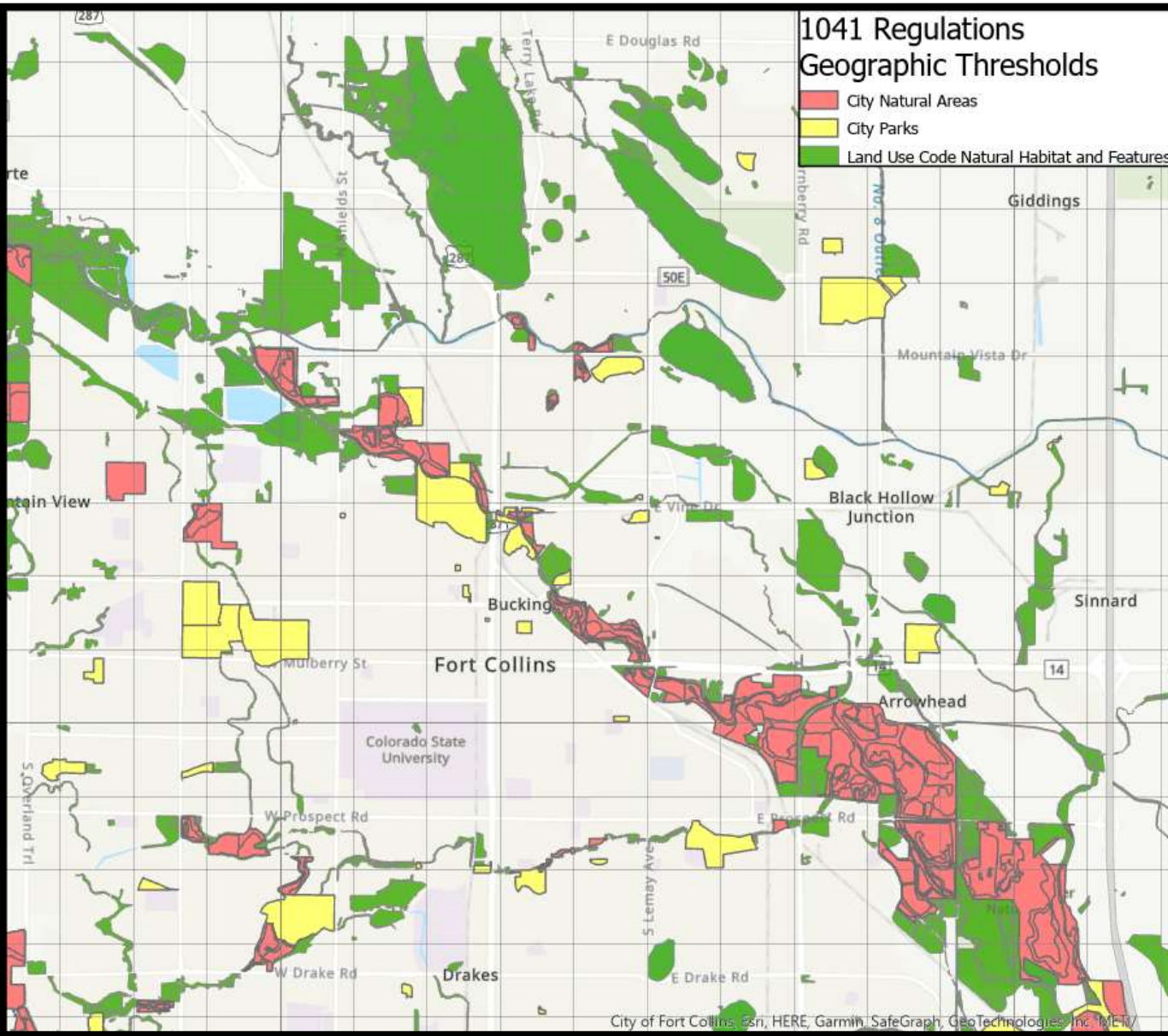
Fort Collins Historic Resource Survey



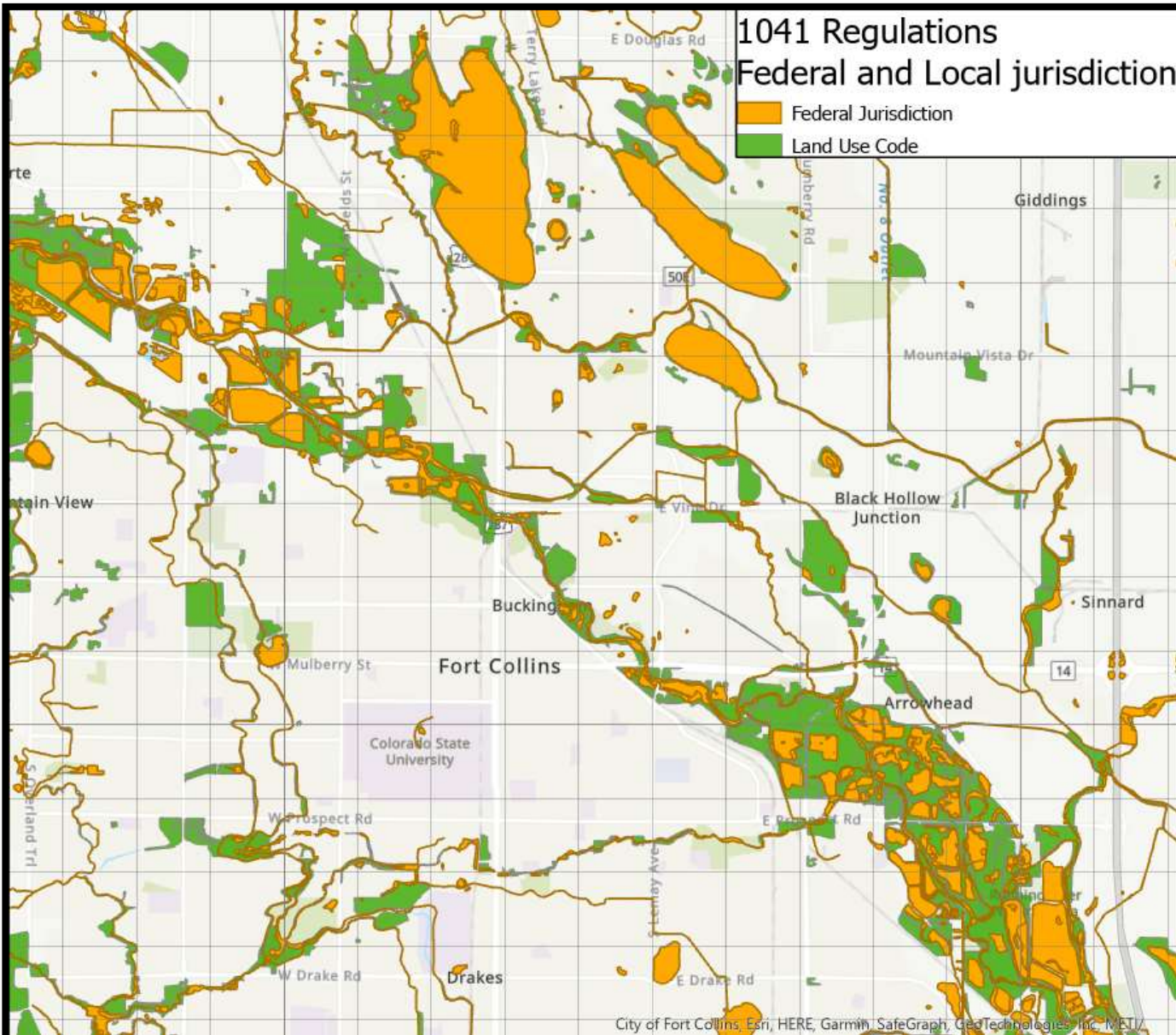
Historic/Cultural Resources

200' Buffer

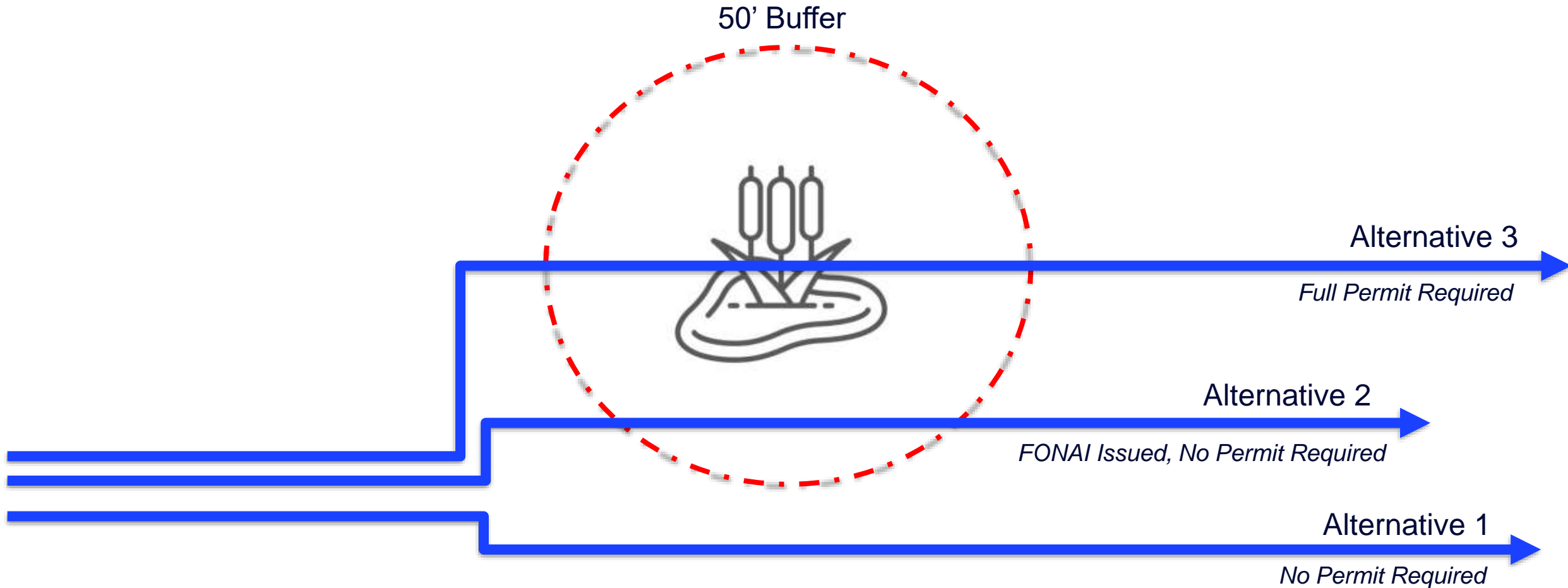
- Designated (City, State, or Federal)
- Eligible (City, State, or Federal)
- Local Corridors consistent with NHBZ (e.g., Spring Creek, Cache la Poudre, etc)



Example: Natural Habitat Features	Buffer Zone Standard
Isolated Areas	
Shrubland	50 feet
Riparian forest	50 feet
Lakes or reservoirs	100 feet
Wetlands < 1/3 acre in size	50 feet
Stream Corridors	
Boxelder Creek	100 feet
Cache la Poudre	300 feet
Cooper Slough	300 feet
Dry Creek	100 feet
Fossil Creek and Tributaries	100 feet
Spring Creek	100 feet



- ✓ Federal Permitting documents are identified and reviewed during pre-application
- ✓ Review for concurrence with mitigation plans covered by another agency
- ✓ Buffers are applied and Mitigation is required for any adverse impacts to non jurisdictional wetlands



Review Standards

- Consider anticipated adverse impacts + mitigation
- Conformance to City Plans and policies
- Natural hazard risk
- Nuisances
- Hazardous materials risk

Evaluate Impacts to:

- Local infrastructure and service delivery
- Recreational opportunities & experience
- Viewsheds & visual character
- Air quality
- Water quality
- Wetlands & riparian areas
- Terrestrial & aquatic animal life
- Terrestrial & aquatic plant life
- Other natural habitats & features
- Significant trees
- Historic & cultural resources
- Soils & geologic conditions
- Disproportionately impacted communities

Key Considerations:

- ✓ Advisory vs regulatory
- ✓ SPAR projects are not evaluated for compliance with Land Use Code
- ✓ “Location, Character, and Extent” review
- ✓ Less rigorous documentation and analysis

Staff proposed options:

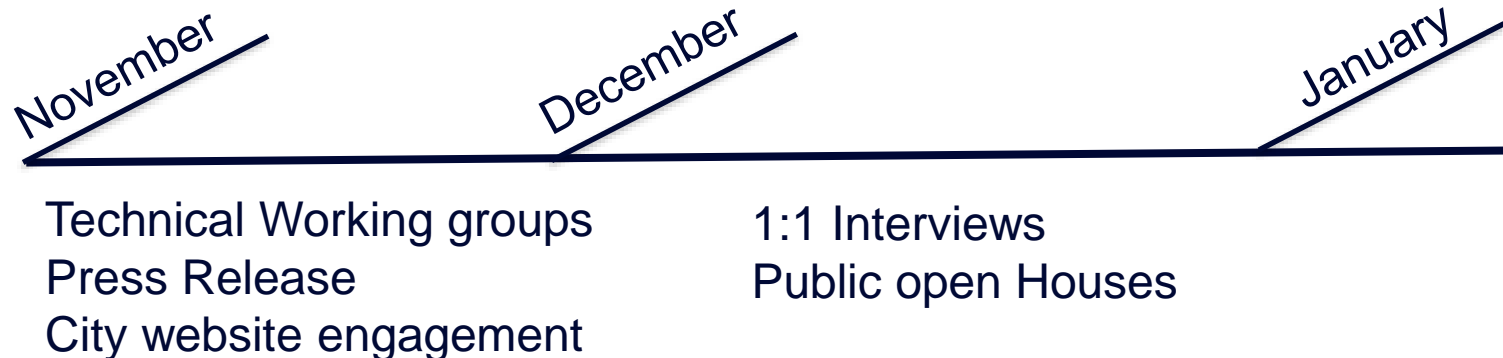
- ☐ Option 1 – **Exempt all** projects previously reviewed through the SPAR process.
- ☐ Option 2 - Exempt projects **previously approved** through the SPAR process.
- ☐ Option 3 – **No exemptions** for previously reviewed SPAR projects.

Timing for Council Consideration

Recommended Next Steps

- November 15 Consent Agenda Item extending the length of moratorium for 3 months
- Additional time for stakeholder review
- First Reading – December or January
- Second Reading – January or February

Continued Public Engagement



1. Do Councilmembers support extending the length of the moratorium to allow for final refinements to the code and additional outreach?
2. Do Councilmembers have feedback on the proposed scope to focus on the greatest areas of impacts rather than major projects?

Geographic Thresholds:

- Parks, natural areas, and other city-owned properties
 - Natural habitat buffer zones
 - Historic and cultural resources
3. Do Councilmembers support exempting projects previously approved through Site Plan Advisory Review (SPAR), while still requiring 1041 permitting for projects not approved through SPAR?



For Questions or Comments, Please Contact:

Kirk Longstein

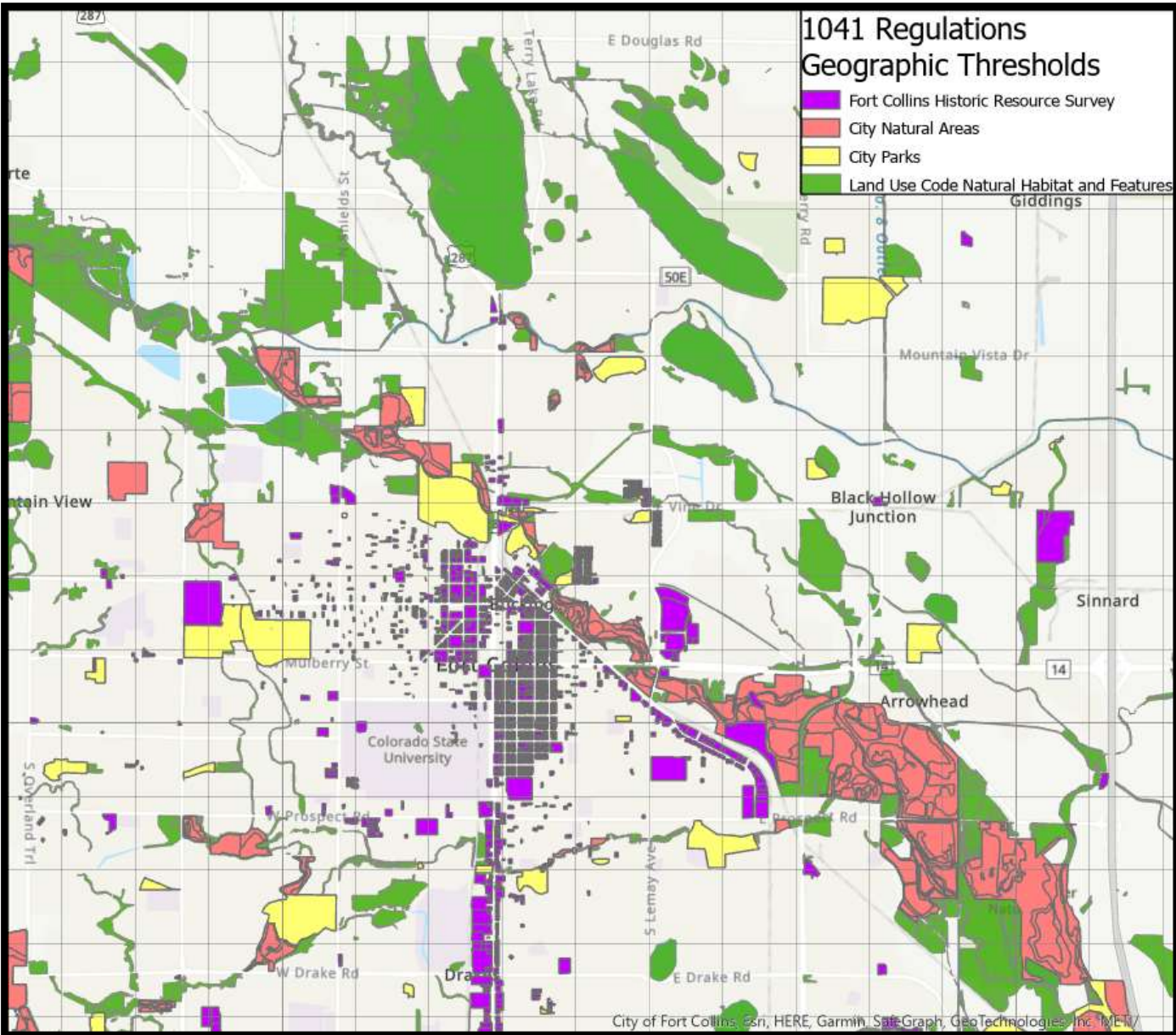
klongstein@fcgov.com



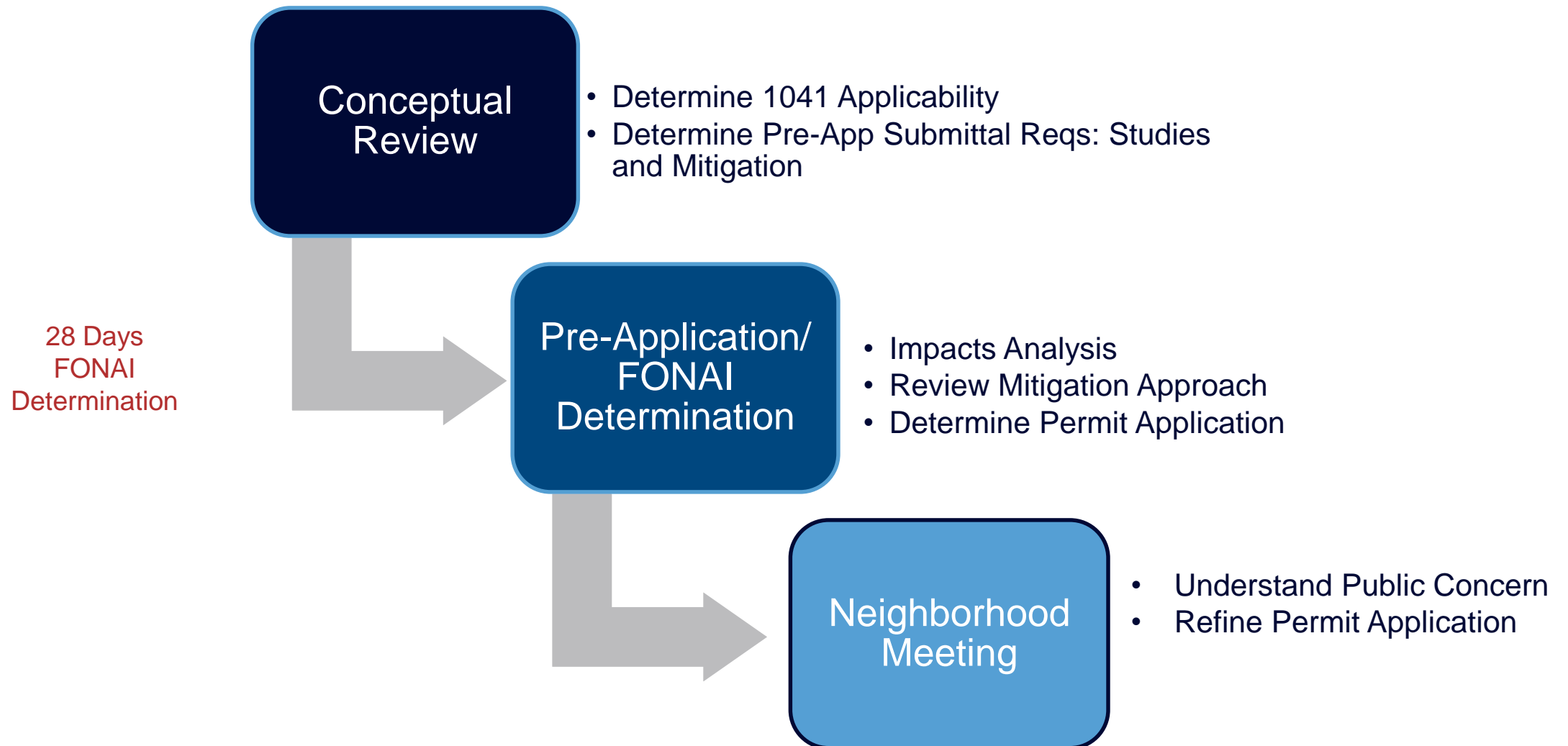
BACKUP SLIDES

Parameters	SPAR	1041 Regulations
Applicability	only public entities covered by statute	Council designated activities include water, wastewater and highway projects
Pre-Submittal Required	60 Day total review period	adds a 28-day requirement for Director to make FONAI determination and a 60 day time frame for staff to review and deem application complete
Review Standards	Evaluates Location, Character and Extent And conformity with the City's Comprehensive Plan	Cumulative impact analysis
Decision Maker	Planning and Zoning Board Decision Can Be Overruled	City Council is the sole decision maker Decision is binding
Financial Security Required	None	More detailed requirements regarding inspection and monitoring of projects.

1041 Parameters	Version 1 (June 2022)	Version 2 (October 2022)
Pre-Submittal Required	No specific time requirement	adds a 28-day requirement for Director to make FONAI determination and a 60-day time frame for staff to review and deem application complete
Using Term Significant	Used in various standards and as a way to differentiate projects subject to the regulations	Reworking of the FONSI to become the FONAI or finding of negligible adverse impact. 1.) Change from a significant impact standard to a review of whether there are adverse impacts of any kind. To the extent there are adverse impacts, mitigation can compensate for the adverse impacts in order to meet a standard.
IGAs	Provided as an option to reduce procedural burden on applications	Section Removed
Thresholds	No specific thresholds	Narrowing of the scope of projects to which the 1041 regulations apply. They include City Parks, Natural Areas, Natural Habitat Buffer Zones, Cultural resources
Exemptions	Used current definition of development to determine which projects would be subject to regulations. Definition contains exemptions for CDOT and utility work within the ROW or existing easements	update the definition of development to include work with right away and existing easements; included a new exemption for private development required to perform utility or roadwork as part of development project subject to LDC
Arterial & Collector Hwys, Interchanges		Added geographic based thresholds to designated activities
New Water & Sanitation		1. Are located on (or cross through) an existing or planned future City natural area or park, whether developed or undeveloped; or
Water Extensions		2. Are located within an existing or potential future buffer zone of a natural habitat or feature, as defined in the Land Use Code; or
Decision Maker	Administrative permit and Full permit	3. Have potential to adversely impact historic resources.
Financial Security Required	Yes	Eliminated the administrative permit; made City Council the sole decision maker
		1.) Language that allows the City to retain third party experts to assist in review at the applicant's cost.
		2.) More detailed language regarding inspection and monitoring of projects.



Proposed Pre-Application Process



Proposed Approach: Exemptions

Operations and
Maintenance

Private Development
Subject to LUC

Approved Development
with Vested Rights

Revised Approach: Definitions & Exemptions

Operations and
Maintenance

Approved Development
with Valid Building Permit

Approved Development
with Vested Rights

Does Not Meet Definition
of Development

UPDATES
Definition of
Development
include:

1. CDOT projects within existing ROW
2. City or Public utility work within existing easements/ ROW

Revised Draft: Permit Hierarchy

