



May 2, 2023

1041 Regulations

Local participation,
Transparency & Improved
Environmental Outcomes

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City Comprehensive Plan

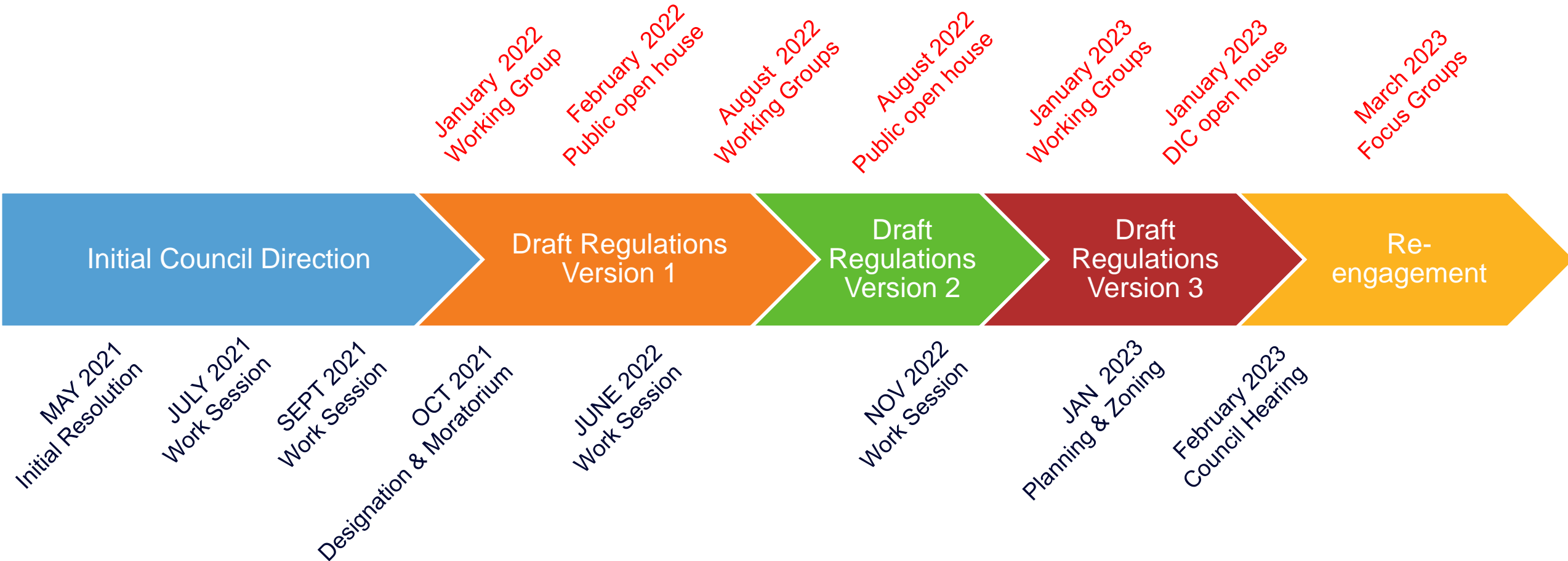
Conserve, protect and enhance natural resources and high-value biological resources throughout the GMA by directing development away from natural features to the maximum extent feasible.

City Council Resolution

1041 Regulations may better allow the City to achieve its policy and regulatory goals in furtherance of the best interest of the citizens of Fort Collins.

City Regulatory Goals

- ✓ Address deficiencies with SPAR
- ✓ Establish applicant predictability
- ✓ Establish a meaningful public process
- ✓ Incentivize project designs that avoid impacts to critical natural habitat and cultural resources.



Full Permit Review

- Application checklist
- Completeness Check
- Third-Party analysis
- Common Review Standards
- Exemptions

Applicability of Standards - FONAI

- Project size thresholds (Definitions)
- Conceptual Review
- Pre-submittal meeting
- Neighborhood meeting
- Director Decision (FONAI - evaluation criteria including geographic based thresholds)

Permit Decision Making

- Planning and Zoning Commissions (Hearing)
- City Council (Hearing)
- Issuance of a permit; conditions

Designated Activities and Defined Project Size



Domestic Water

- 12" diameter pipe and 1,320 linear feet
- New (or expanded) easement of 30-feet or greater in width and 1,320 linear feet
- Increase the rated capacity from the Colorado Department of Public Health and Environment



Wastewater/Sewage

- 15" diameter pipe and 1,320 linear feet
- New (or expanded) easement of 30-feet or greater in width and 1,320 linear feet
- Increase the rated capacity from the Colorado Department of Public Health and Environment

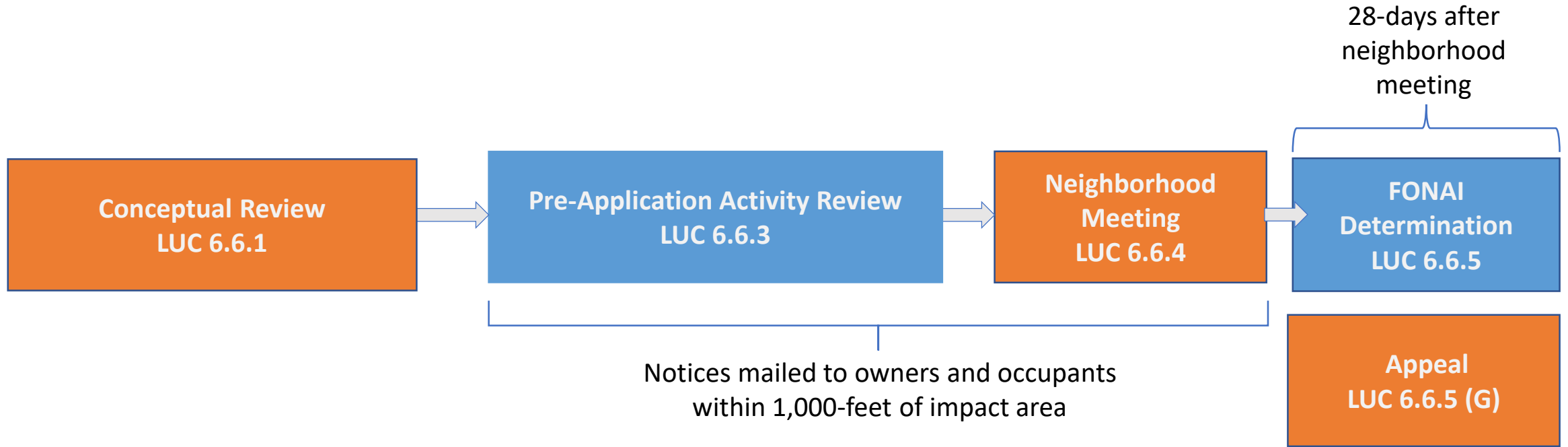


Highway Projects

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

****Excluded****

- (1) Any maintenance, repair, adjustment;
- (2) Existing pipeline or the relocation, or enlargement of an existing pipeline within the same easement.

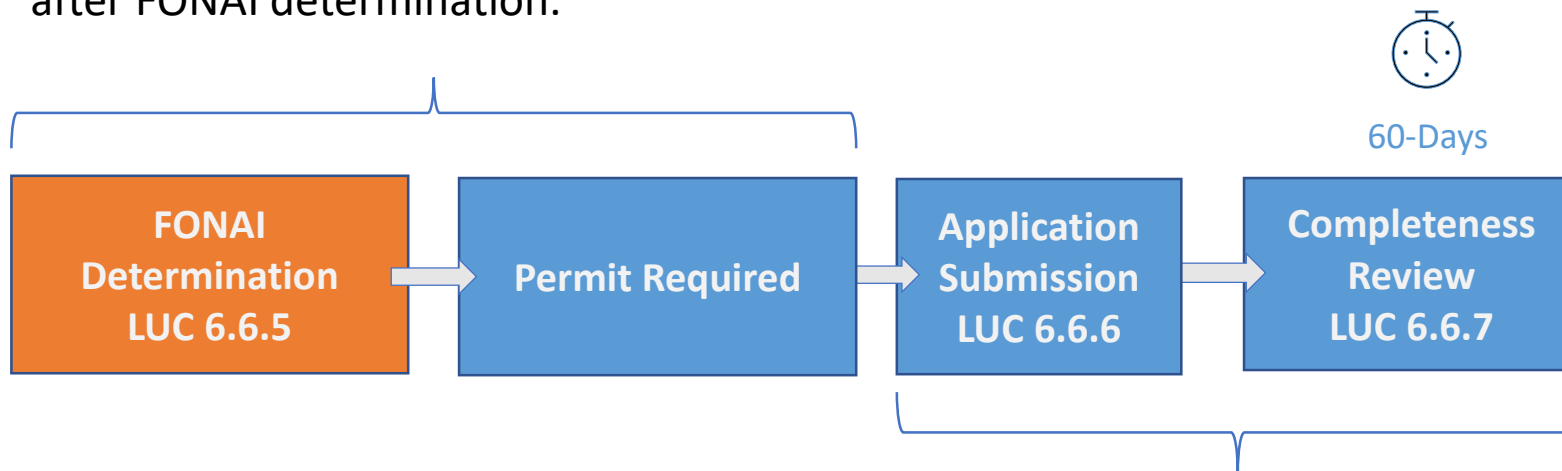


Key Submittal Requirements

1. Three (3) siting and design alternatives (including feasibility)
2. Ecological Characterization Study (1/2-mile radius)
3. Cumulative Impacts Summary (1/2-mile radius)
4. Conceptual mitigation plans
5. Historic documentation pursuant to Chapter 14 of the Code

Completeness Check

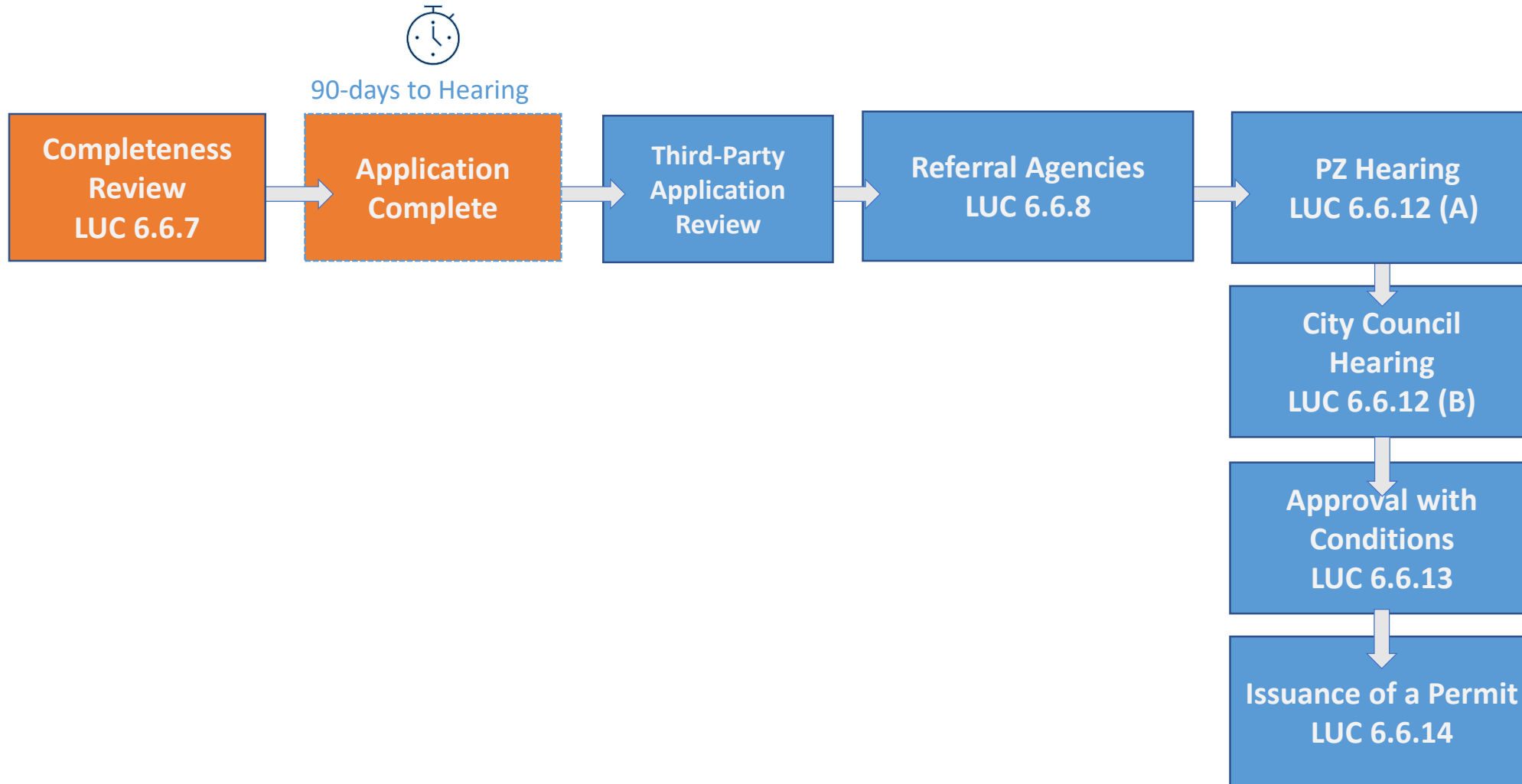
Permit Application Submittal 14-days
after FONAI determination.



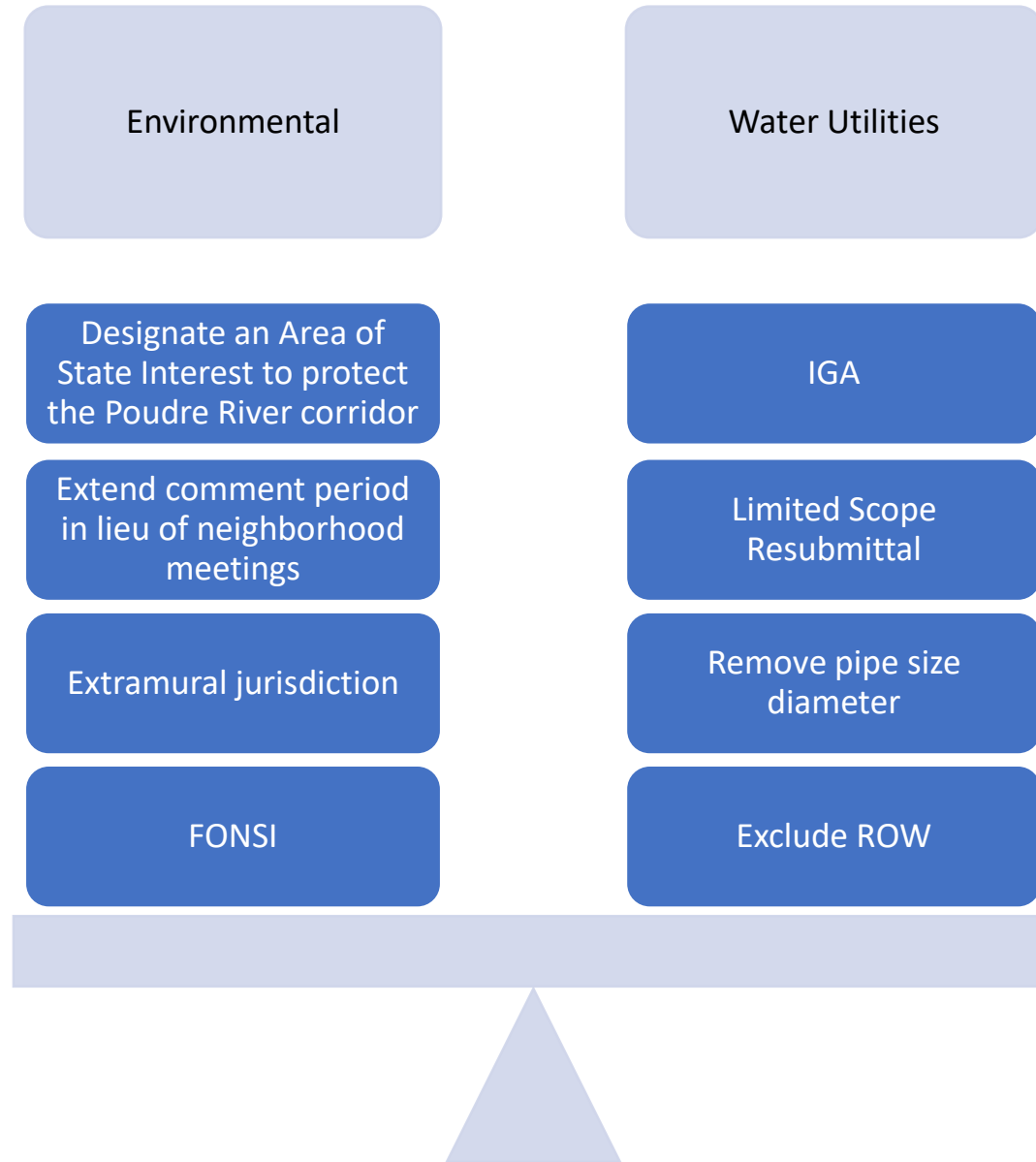
Administrative program design

- ✓ Submittal checklist provided by staff
- ✓ What makes an impact “significant”
- ✓ Additional analysis and third-party scope provided with FONAI determination

Full Permit Process



Feedback Themes



Decision Point #1 UPDATE Definitions

Council amendments ready to make changes

	Council Decision	Key Consideration
a.	(Staff recommendation) Remove pipe-size diameter from defined project thresholds	<ul style="list-style-type: none"> ✓ Narrows the focus and reduces the number of potential projects. ✓ Major Project = one-acre of impact
b.	(Staff recommendation) Add definition for Public Right of Way and exclude projects in Public Right of Way from covered projects.	<ul style="list-style-type: none"> ✓ Eliminating overlap with existing process (i.e., ROW permit) ✓ Also excludes existing Natural Area easements
c.	(Staff recommendation) Add definitions that redefine the Applicability of Standards determination (FONAI → FONSI) <ul style="list-style-type: none"> i. Impact ii. Cumulative impacts iii. Significant iv. Finding of No Significant Impact (FONSI) 	<ul style="list-style-type: none"> ✓ Aligns with stakeholder understanding of impact. ✓ Significant requires further staff analysis to determine <i>magnitude, duration or likelihood of an impact.</i>

Decision Point #2 - UPDATE Application Procedures

Adopt the Code and direct staff to amend the Code between first and second reading

	Council Decision	Key Consideration
a.	<u>(Staff recommendation)</u> Add conceptual submittal document that summarizes the potential for a significant impact.	✓ Aligns submittal documents with potential changes from FONAI to FONSI.
b.	<u>(Staff recommendation)</u> Move neighborhood meeting requirements to after review of the applicability of standards (i.e., FONAI determination), and extend comment period during the pre-application activity review.	✓ Shifting to a longer comment period rather than one singular event may allow for more meaningful public engagement.
c.	Remove requirements that conceptual design be drafted at thirty-percent completeness	✓ May require an earlier investment in design fees
d.	Add Optional Pre-Application Review by Council.	✓ Allows applicants early feedback directly from decision makers prior to submittal
e.	Allow a “limited scope resubmittal” after a final denial decision.	✓ Discourages work with staff to mitigate potential adverse impacts prior to Council Hearing.

Decision Point #3 - Update Review Standards to account for construction activities outside the jurisdiction and designate Poudre River (other geographic limits).

	Council Decision	Key Consideration
a.	<p><u>(Staff Recommendation)</u> No Change to the Code</p> <p><i>If Council is interested in exploring designating areas of statewide interest outside the jurisdiction and/or the Poudre River (other geographic limits) staff recommends a Work Session to analyze policy implications and establish parameters for a new work stream.</i></p>	<p>✓ Council has not set parameters on how this provision should be applied to the Code.</p> <p>✓ Peer communities that use this approach set geographic limits which Council has not done at this time.</p>
b.	<p>Direct staff to bring forward options amending the Code to account for construction activities outside the jurisdiction.</p> <p><i>If Council is interested in exploring designating the Poudre River (other geographic limits), staff recommends a Work Session to establish parameters and advance setting those limits via ordinance</i></p>	

Decision Point #4 - Consider Intergovernmental Agreement in lieu of 1041 regulations

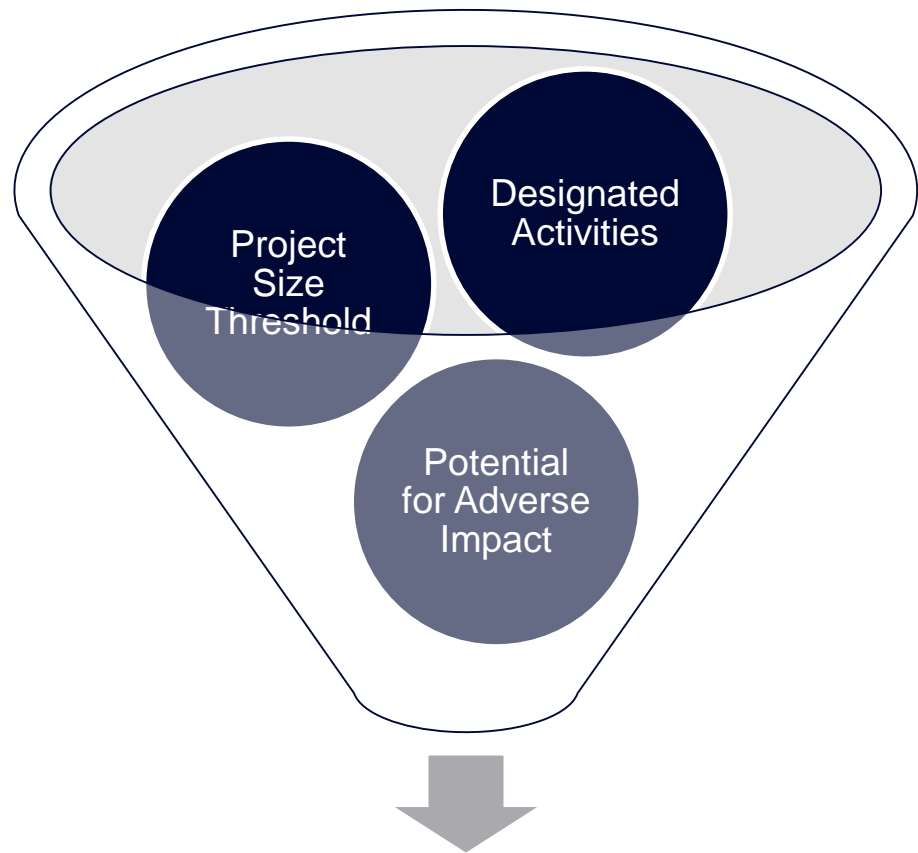
	Council Decision	Key Consideration
a.	(Staff recommendation) No Change to the Code	✓ Does not create a permit program that is binding in its decision-making authority.
b.	Postpone adoption of the Code.	✓ Time to implement such agreement ✓ Uncertain criteria

Decision Point #5 - Consider Permit Administration

	Council Decision	Key Consideration
a	Direct staff to bring back a supplemental appropriation for permit administration.	Scope of Work: <ol style="list-style-type: none">1. On-call development review support2. Tools to support customers3. Annual program evaluation
b.	Postpone Adoption of the Code and provide direction to staff on how to proceed	

Back up Slides

Applicability of Standards



Finding of Negligible
Adverse Impact (FONAI) OR FULL PERMIT

Is the project subject to a Fort Collins 1041 permit?

1. Is the project designated by the Fort Collins Code?
Major new (expansion) domestic water system
Major new (expansion) sewage system
Highways & Interchanges
2. Does the project meet the defined project size thresholds?
If yes; neighborhood meeting & FONAI review
If no; no additional action
3. Does the project intersect with a geographic thresholds?
if yes; no FONAI without mitigation
if no; no permit

Review Standards

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

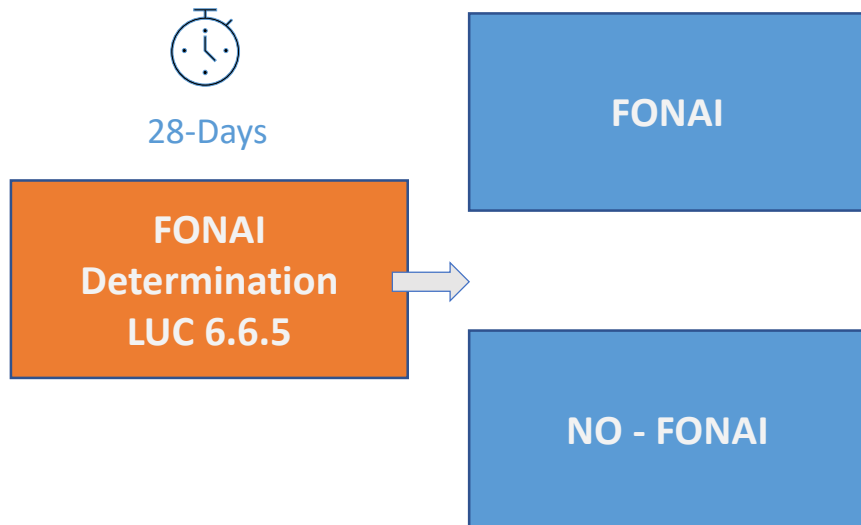
Evaluate Impacts to:

- 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

1. Nonconforming Uses and Structures with the exception of enlargement or expansion of any such project
2. Any project previously approved by the Planning and Zoning Commission pursuant to the Site Plan Advisory Review (SPAR) process.
3. Proposed development plan otherwise subject to Development Review
4. Any proposed development plan issued a FONAI

- ✓ City Council is the sole decision maker (Including City projects)
- ✓ Project not covered by Article 6 may be subject to SPAR (including FONAI determination)
- ✓ Optional Pre-Application Area and Activity Proposal Review
- ✓ Cost of specialized consultants
- ✓ Notice required – 1000-feet mailer
- ✓ FONAI Appeal
- ✓ Definition of Development

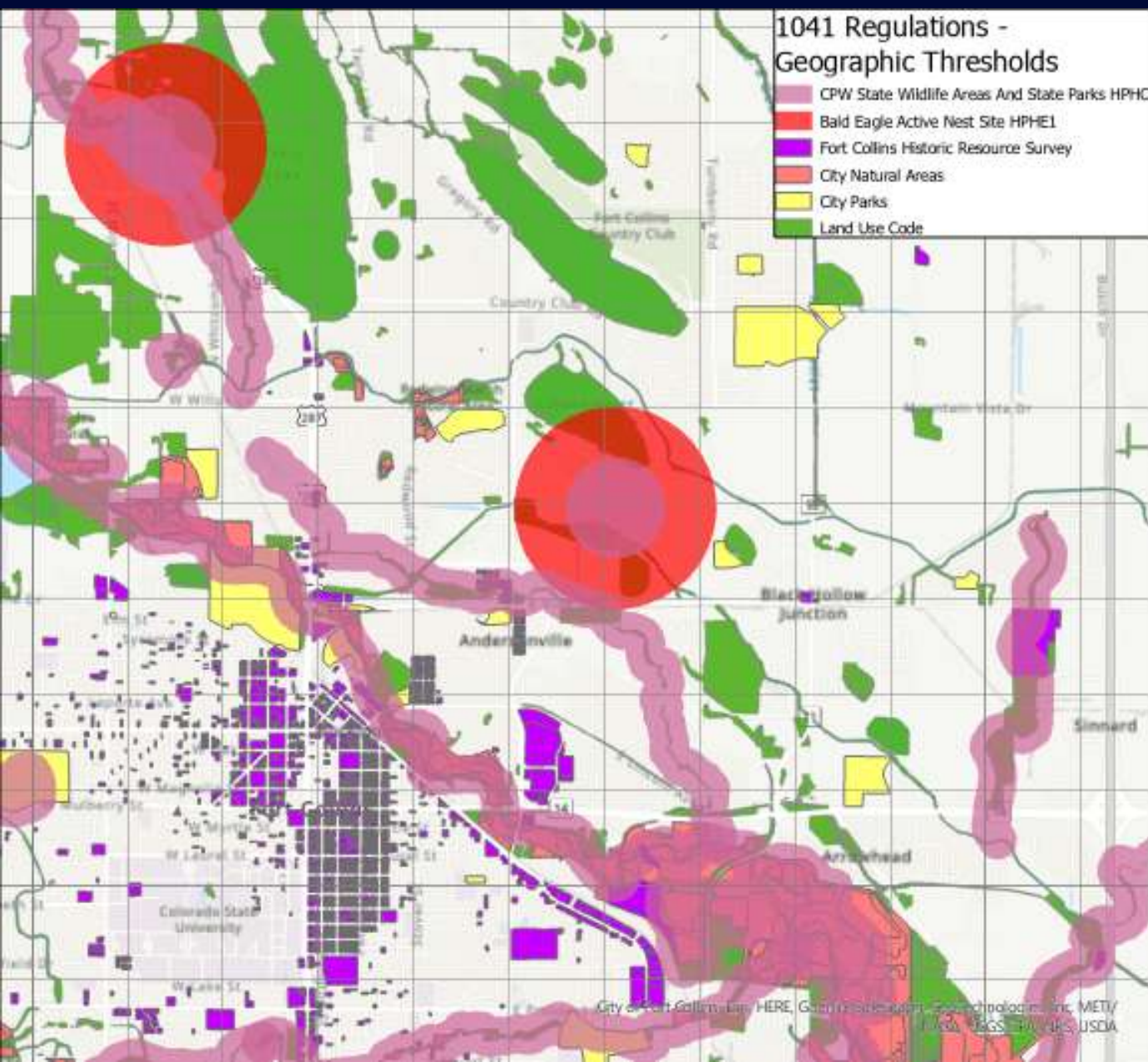
Finding of Negligible Adverse Impact Determination



Has potential to adversely impact:

- City natural area or park
- City-owned property
- High Priority Habitat and Natural Habitat Corridors
- Natural habitat features and buffer zones
- Historic and cultural resources
- Disproportionally Impacted Communities





The High Priority Habitat (HPH) table was developed by CPW to ensure that our land use development recommendations are consistent statewide.

- Aquatic Resources
- Migratory Birds
- Big Game

The Planning and Zoning Commission recommend that City Council **NOT ADOPT** the proposed 1041 regulations until the public has sufficient time to review staff's Version 3 and to comment fully on its impact.

The Planning and Zoning Commission believes the proposed regulation is directionally correct; however, additional input is needed by affected parties on at least the following areas:

- Potential consequences of the proposed regulation, as currently written
- The extent to which the regulation could legally extend to impacts created by components of the project outside the jurisdictions but that affect the natural resources and natural areas of Fort Collins
- Whether the scope of projects to be regulated is appropriate, relative to what would be considered material in the scope of such projects.

This recommendation could require that more time be allowed between first and second readings, or that the current moratorium be extended, if necessary. This decision is based upon the agenda materials, the information and materials presented during the work session and this hearing, and the Commission discussion on this item.